

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1431
Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot 1 DP 28219, 635 Warringah Road FORESTVILLE NSW 2087 Lot 15 DP 212195, 633 Warringah Road FORESTVILLE NSW 2087
Proposed Development:	Demolition works and construction of seniors housing
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Rohani UT Holdings Pty Ltd
Applicant:	Rohani Investments Pty Ltd
Application Lodged:	12/09/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	30/09/2022 to 14/10/2022
Advertised:	30/09/2022
Submissions Received:	2
Clause 4.6 Variation:	SEPP Housing: Clause 108(2) Floor space ratio, Clause 85(1) Private car accommodation
Recommendation:	Approval
Estimated Cost of Works:	\$ 1,856,004.48

EXECUTIVE SUMMARY

Development consent is sought for demolition works and construction of a seniors housing development comprising of six dwellings. The provisions of *State Environmental Planning Policy (Housing)* 2021 (**SEPP Housing**) are applicable to this application.

The application is referred to the Northern Beaches Local Planning Panel (**NBLPP**) due to the development breaching the Private car accommodation and Floor Space Ratio development standards under SEPP Housing.

The 4.6 request for the non-compliance with the FSR standard under SEPP Housing arises from the development presenting a bulk and scale which is consistent with the area when viewed from the public

domain. The increased floor space is consistent with the objectives of the control and much of the bulk arising from the floor space which is not visible from neighbouring properties and Warringah Road. The development is consistent with the remaining primary controls of bulk and scale under SEPP Housing, Warringah Local Environmental Plan 2011 (**WLEP**) and the Warringah Development Control Plan (**WDCP**).

The 4.6 request for the non-compliance with the private car accommodation standard under SEPP Housing arises from a minor variation to AS 2890.6 in relation to parking space width. Notwithstanding the variation, the application meets the minimum number of parking required and Council's Traffic engineer supports the variation.

Two (2) objections were received in response to the proposal, with concerns raised in regards to amenity and built form non-compliance. A detailed assessment has been conducted and the matters raised in the submissions have been addressed in detail, and no matters were found to warrant the refusal of the subject application.

This report concludes with a recommendation that the NBLPP should grant approval to the application, subject to the conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for demolition works and construction of a 6 dwelling (independent living units) seniors housing development, pursuant to SEPP Housing.

- Demolition of an existing structures; and
- Construction of a two-storey seniors housing development comprising of:
 - i 3 x self-contained three-bedroom dwellings, with attached double garages
 - i 3 x self-contained three-bedroom dwellings; with single garages
 - i Driveway; and
 - i Supporting waste storage, stormwater and landscaping works.

AMENDED PLANS

Following a preliminary assessment of the application Council wrote to the applicant on 19 December 2022 outlining concerns that would not allow for Council to support the application in its current form. The concerns related to built form non-compliance have regard to proposed rear setback, landscaping and the Design and Sustainability Advisory Panel comments . The applicant lodged amended plans to address concerns on 21 December 2022 and additional information (Clause 4.6) on 10 February 2023.

The amended plans incorporate the following changes:

- Increased rear setback from 3m to 6pm, compliant with the WDCP setback control.
- Increase planting and deep soil zone within the rear setback.
- Privacy screen to windows to the rear boundary.
- Reduced floor space (Reduction of bedroom to TH3 and TH4).

The proposed amendments will have a reduced environmental impact on the adjoining properties and public open space than the original proposal. The amended plans result in a significant reduced size

development. Therefore, re-notification was not required in accordance with Northern Beaches Community Participation Plan.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings

Warringah Local Environmental Plan 2011 - 4.4 Floor space ratio

Assessment - Concurrence – NSW Roads and Maritime Services - SEPP Infrastructure (cl 101 Development with frontage to classified road)

Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential

Warringah Development Control Plan - B7 Front Boundary Setbacks

Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting

Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 1 DP 28219 , 635 Warringah Road FORESTVILLE NSW 2087 Lot 15 DP 212195 , 633 Warringah Road FORESTVILLE NSW 2087
Detailed Site Description:	The subject site for this development application consists of two (2) allotments located on the eastern side of Warringah Road. The site has a surveyed area of 1,455.1m ² . The site is located within the R2 Low Density Residential zone and accommodates a part one and part two storey building which spans across two (2) allotments and

has been historically used as a veterinary hospital.

The site is relatively level with a slight fall from the rear boundary towards the street.

The site has a mixture of medium and tall canopy trees within the site, some of which locally native and some listed as 'exempt' species. There are two trees of 7m and 17m in height in the front setback area. A tree existing on the Council road reserve at the site frontage 6m in height.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by detached dwelling houses of one and two stories. Immediately to the north is a two storey dwelling. Immediately to the south is the remainder of the building which forms the veterinary clinic. To the rear of the site (west) are a mixture of single storey and double storey dwellings. Across the road to the east is a single storey and double storey dwelling.

Map:



SITE HISTORY

A search of Council's records has revealed the following relevant history:

- **DA2014/0963** - Use as the premises as a Veterinary Hospital approved by Warringah Council on 19/12/2014.
- **DA2020/0745** - Demolition works and construction of a Boarding House with new shared

accessway was refused by the NBLPP on 11 November 2020. The application was appealed in the Land and Environment Court and approved by the LEC on 3 September 2021.

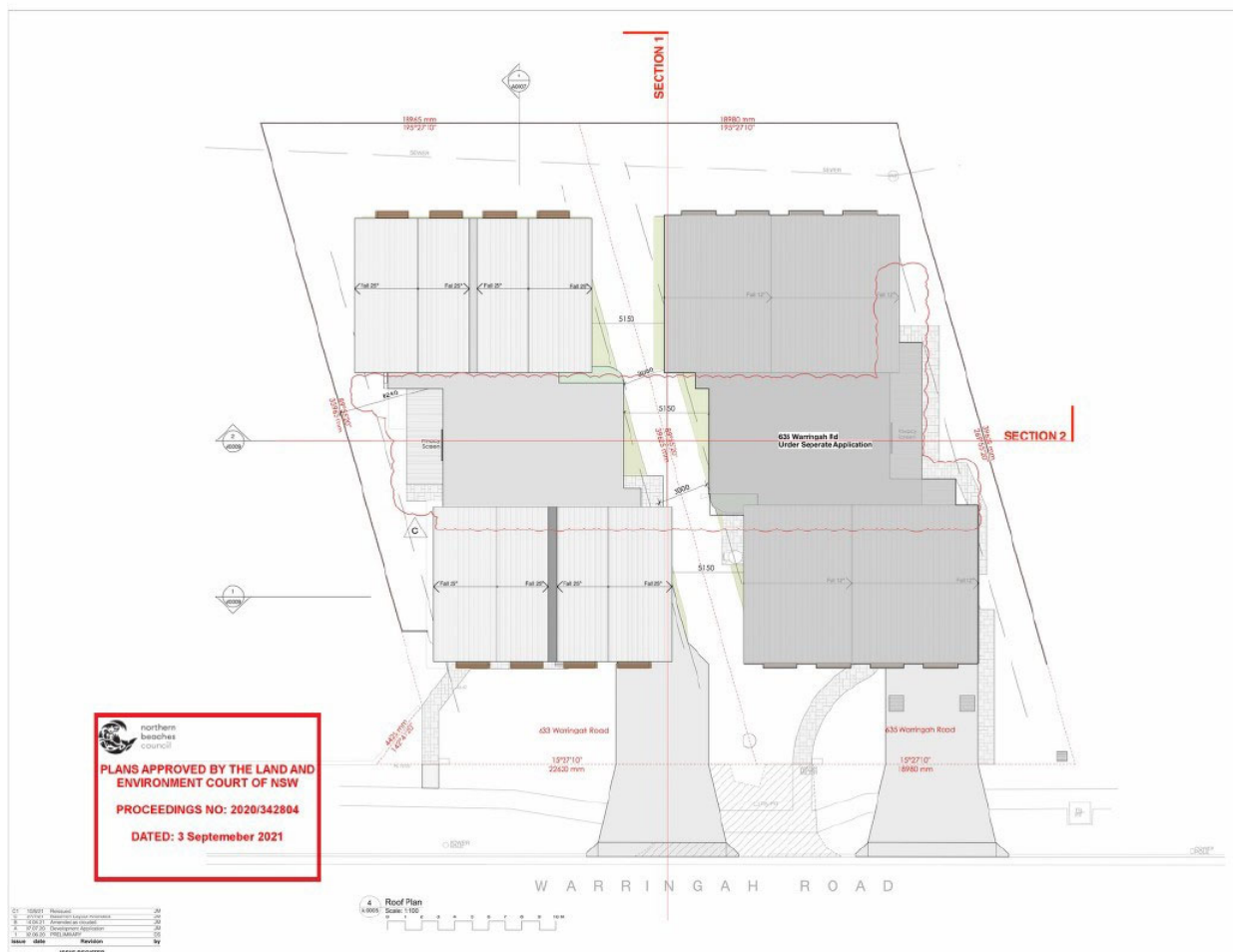


Image 1 - LEC Approved Boarding House - September 2021

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.

Section 4.15 (1) (a)(iii) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to bulk and scale and parking.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>

Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 30/09/2022 to 14/10/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Keith Matthew Mcauley	10 Mavor Crescent FRENCHS FOREST NSW 2086
Ms Michelle Sowter Douglas John Alchin	637 Warringah Road FORESTVILLE NSW 2087

The following issues were raised in the submissions:

- **Privacy**
- **Air-conditioning units**
- **Landscaping**
- **Solar Access**
- **Building Bulk**

The above issues are addressed as follows:

- **Privacy**

Concern was raised by neighbouring properties in regards to the potential overlooking between the subject site and adjoining properties.

Comment:

The proposal has been assessed against the privacy provisions of Part D8 Privacy of the WDCP 2011. The proposed windows and balconies proposed allow for reasonable levels of privacy

between properties, subject to conditions.

- **Air-conditioning units**

The submissions raised concerns about potential air-condition units being placed on top of the building post approval.

Comment:

A condition of consent has been imposed as part of this recommendation ensure all air-conditioning units are located at ground level.

- **Landscaping**

The submission notes that the courtyard should be located to the front of the dwellings.

Comment:

The courtyard are best located to the rear of each dwelling to ensure it adjoins living rooms. Further, locating the courtyard to the rear of the site ensures there is a area of private open space for each dwelling, required under SEPP (Housing) 2021.

- **Solar Access**

Concerns have been raised in relation to the potential overshadowing created by the proposed development.

Comment:

The revised shadow diagrams detail the shadowing impacts upon the adjoining southern property. A detailed assessment has been undertaken against the solar access provisions within this report. In summary, the development does not unreasonably overshadow adjoining properties living room windows and private open space of adjoining units. The proposal complies with the requisite provisions of Part D6 of the WDCP 2011.

- **Building Bulk**

Submissions have been received raising concern with regards to the bulk and scale of the development.

Comment:

The proposed development is consistent with the development standards under the WLEP and requirements of *SEPP Housing*, the primary standards that control the bulk and scale of this type of development. General compliance with these controls indicates that the proposed development is suitable for this site. While there are areas of non-compliance with regard to floor space, these breaches are minor and acceptable on merit.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<i>Original proposal not supported, amended proposal lodged to address concerns.</i>
	<p>The Panel does not support the proposal due to excessive bulk, low amenity and impacts on adjoining properties.</p> <p>The Panel considers the proposal an overdevelopment of the site without any justification provided for exceeding the FSR of 0.5:1 that, if complied with cannot be the reason for refusal. A comprehensive re-design that improves internal amenity, useability of private open space, improved solar access, entry experience, shading and softening of the carparking entry and arrangements, privacy and minimisation of impacts on neighbours is required.</p> <p>The re-design should refer to, and be guided by the Seniors Living Policy: Urban Design Guidelines for Infill Development 2004.</p>
Building Assessment - Fire and Disability upgrades	<p><i>Supported, subject to conditions</i></p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Environmental Health (Contaminated Lands)	<p><i>Supported, subject to conditions</i></p> <p>Application is for the demolition of structures at 633 to 635 Warringah Road FORESTVILLE and construction of seniors housing.</p> <p>The site comprises of a former Veterinary Hospital that appears to have previously been residential housing. Given the site's former uses, the risk of contamination is low. As such, there is no need for an assessment of contamination. However, given the age of the building there is likely to be the presence of hazardous building materials such as asbestos. As such, Environmental Health recommends that a Hazardous Building Materials Survey be carried out prior to the issue of the Construction Certificate.</p>

Environmental Health (Industrial)	<p><i>Supported, subject to conditions</i> Application is for the demolition of structures at 633 to 635 Warringah Road FORESTVILLE and construction of seniors housing.</p> <p>The applicant has provided an Acoustic Assessment by Blackett Acoustics dated August 2022 (reference: Report No. BA200114A Version A).</p>
Landscape Officer	<p><i>Supported, subject to conditions</i> Amended Plans, including amended landscape plans, are noted.</p> <p>The plans now provide for a 6m rear setback which incorporates tree, shrub and groundcover planting.</p> <p>No objections are raised with regard to landscape issues subject to conditions</p>
NECC (Development Engineering)	<p><i>Supported, subject to conditions</i> The submitted stormwater management plans are acceptable. The proposed driveway crossing is also acceptable.</p> <p>The required access to the bus stops must be assessed by Council's Traffic Engineers to ensure compliance with the SEPP. Any upgrading of the footpaths, pram ramps and bus stops must be conditioned by Traffic and the Roads Act condition amended to suit.</p> <p>Development Engineering support the proposal, subject to conditions as recommended.</p>

NECC (Water Management)	<p>Supported, subject to conditions</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Northern Beaches Water Management for Development Policy (WM Policy); and • Relevant LEP and DCP clauses. <p>The proposal would create a significant amount additional runoff that would flow downstream to the littoral rainforest. Runoff from the development must be retained at natural discharge rates and sediments controlled at the source.</p> <p>Under the Northern Beaches Water Management for Development Policy, Table 5 – General Stormwater Quality Requirements apply. The applicant has demonstrated how they will mee the water quality requirements.</p> <p>The applicant must install a filtration device that removes organic matter and coarse sediments from stormwater prior to discharge from the land. All stormwater treatment measures must make provision for convenient and safe regular inspection, periodic cleaning, and maintenance.</p> <p>Sediment and erosion controls must be installed prior to any work on site and maintained until the work is complete and groundcover re-established. Council proactively inspects construction sites to ensure sediment controls are in place.</p> <p>No concerns regarding water quality provided all conditions are implemented in full.</p>
Traffic Engineer	<p>Supported, subject to conditions</p> <p>The amended plans Rev B dated 8/12/22 now provided for 6 x 3 bedroom units served by 9 off-street parking spaces. The amended proposal still provides adequate parking to meet the requirements of SEPP (Housing) 2021 and allows for access to and from the site from all parking spaces in a forwards direction. A B85 and B99 vehicle can pass each other to/from the kerbside lane when using the proposed developments driveway.</p> <p>The development proposal remains supportable from a traffic engineering perspective.</p>
Waste Officer	<p>Supported, subject to conditions</p> <p>Recommendation - Supported, with conditions</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>Supported, subject to conditions</p> <p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. <1262286M_03 dated 16 December 2022).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	42
Thermal Comfort	Pass	Pass
Energy	50	50

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Housing) 2021

Part 5 – Housing for seniors and people with a disability

Clause 84 – Development Standards (General)	
Standard	Compliance/Comment
2) Development consent must not be granted for the development unless:	
a) The site area of the development is at least 1,000m ² .	Compliant The site has a surveyed area of 1,455.1m ² .
b) The frontage of the site area of the development is at least 20m measured at the building line.	Compliant The frontage of the site measured at the building line is 41.6m.

c) For development on land in a residential zone where residential flat buildings are not permitted - the development will not result in a building: <ul style="list-style-type: none"> i) with a height of more than 9.5m, or ii) with more than 2 storeys if the building is adjacent to the boundary of the site area. 	Compliant The building height does not exceed 9.5m being 7m in height.
3) The development may result in a building with a height of no more than 11.5m if servicing equipment on the roof of the building:	
a) Is fully integrated into the design of the roof or contained and suitably screened from view from public places.	Compliant The plans do not detail any rooftop servicing equipment.
b) Is limited to an area of no more than 20% of the surface area of the roof.	Compliant

Clause 85 – Development Standards for Hostels and Independent Living (Self-Care) Units	
Standard	
1) Development consent must not be granted for development for the purposes of a hostel or an independent living unit unless the hostel or independent living unit complies with the following under Schedule 4.	
2) An independent living unit, or part of an independent living unit, located above the ground floor in a multi-storey building need not comply with the requirements in Schedule 4 (being Sections 2, 7 - 13 and 15 – 20) if the development application is made by, or by a person jointly with, a social housing provider.	

An assessment against Schedule 4 has been completed in the following tables:

Part 1 - Standards applying to hostels and independent living units	
Section 2 - Siting Standards	
1) If the whole of the site has a gradient of less than 1:10, 100% of the dwellings must have wheelchair access by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road.	Compliant The whole of the site adjoins a public road and wheelchair access via a continuous accessible path of travel is provided to all dwellings, as confirmed by the Access Report.
2) If the whole of the site does not have a gradient of less than 1:10: <ul style="list-style-type: none"> a) the percentage of dwellings that must have wheelchair access must equal the b) proportion of the site that has a gradient of less than 1:10, or 50% (whichever is 	N/A

greater), and the wheelchair access provided must be by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road or an internal road or a driveway accessible to all residents.	
3) Access must be provided in accordance with AS 1428.1 so that a person using a wheelchair can use common areas and common facilities associated with the development.	N/A as no communal facilities are proposed
Section 3 - Security	
Pathway lighting: a) must be designed and located so as to b) avoid glare for pedestrians and adjacent dwellings, and must provide at least 20 lux at ground level.	Capable of compliance
Section 4 - Letterboxes	
Letterboxes: a) must be situated on a hard standing area and have appropriate wheelchair access b) by a continuous accessible path of travel, c) (within the meaning of AS 1428.1); and must be lockable, and must be located together in a central location adjacent to the street entry or, in the case of independent living units, must be located together in one or more central locations adjacent to the street entry.	Capable of compliance
Section 5 - Private Car Accommodation	
If car parking (not being car parking for employees) is provided: a) car parking spaces must comply with the requirements for parking for persons with a disability set out in AS 2890.6, and b) 10% of the total number of car parking spaces (or at least one space if there are fewer than 10 spaces) must be designed to enable the width of the spaces to be increased to 3.8 metres, and any garage must have a power-operated door, or there must be a power point and an area for motor or control rods to enable a power-operated door to be installed at a later date.	Non-compliant, see clause 4.6.
Section 6 - Accessible Entry	

Every entry (whether a front entry or not) to a dwelling, not being an entry for employees, must comply with sections 4.3.1 and 4.3.2 of AS 4299.	Compliant
Section 7 - Interior - General	
Internal doorways must have a minimum clear opening that complies with AS 1428.1.	Compliant
Internal corridors must have a minimum unobstructed width of 1m.	Compliant
Circulation space at approaches to internal doorways must comply with AS 1428.1.	Compliant
Section 8 - Bedroom	
<p>At least 1 bedroom within each dwelling must have:</p> <ul style="list-style-type: none"> a) an area sufficient to accommodate a wardrobe and a bed sized as follows: <ul style="list-style-type: none"> i) for a dwelling in a hostel - a single-size bed, ii) for an independent living unit - a queen-size bed, and b) a clear area for the bed of at least: <ul style="list-style-type: none"> i) 1.2m wide at the foot of the bed, ii) and 1m wide beside the bed between it and the wall, wardrobe or another obstruction, and c) 2 double general power outlets on the wall where the head of the bed is likely to be, and d) at least 1 general power outlet on the wall opposite the wall where the head of the bed is likely to be, and e) a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and f) wiring to allow a potential illumination level of at least 300 lux. 	Capable of compliance
Section 9 - Bathroom	

<p>1) At least 1 bathroom within a hostel or independent living unit must be on the ground or main floor and have the following facilities arranged within an area that provides for circulation space for a wheelchair around sanitary facilities in accordance with AS 1428.1:</p> <ul style="list-style-type: none"> a) a slip-resistant floor surface, b) a washbasin with plumbing that c) would facilitate clearances that comply with AS 1428.1, a shower that complies with AS 1428.1, except that the following must be able to be accommodated: <ul style="list-style-type: none"> i) a grab rail, ii) a portable shower head, iii) a folding seat, <p>Note: Sub-section (1)(c) does not prevent the installation of a shower screen that can easily be removed to facilitate future accessibility.</p> d) a wall cabinet sufficiently e) illuminated to be able to read the labels of items stored in it, a double general power outlet beside the mirror. 	<p>Capable of compliance</p>
<p>Section 10 - Toilet</p>	
<p>A dwelling must have at least 1 toilet on the ground (or main) floor and be a visitable toilet that complies with the requirements for sanitary facilities of AS 4299.</p>	<p>Capable of compliance</p>
<p>Section 11 - Surface Finishes</p>	
<p>Balconies and external paved areas must have slip-resistant surfaces.</p>	<p>Capable of compliance</p>
<p>Section 12 - Door Hardware</p>	
<p>Door handles and hardware for all doors, (including entry doors and other external doors), must be provided in accordance with AS 4299.</p>	<p>Capable of compliance</p>
<p>Section 13 - Ancillary Items</p>	
<p>Switches and power points must be provided in accordance with AS 4299.</p>	<p>Capable of compliance</p>

Part 2 - Additional Standards for Independent Living Units	
Section 15 - Living Room and Dining Room	
1) A living room must have: <ul style="list-style-type: none"> a) a circulation space in accordance with b) clause 4.7.1 of AS 4299, and a telephone adjacent to a general power outlet.	Capable of compliance
2) A living room and dining room must have wiring to allow a potential illumination level of at least 300 lux.	Capable of compliance
Section 17 - Access to kitchen, Main Bedroom, Bathroom and Toilet	
In a multi-storey independent living unit, the kitchen, main bedroom, bathroom and toilet must be located on the entry level.	Compliant The primary bedroom for all dwellings is located on the ground floor
Section 18 - Lifts in Multi-Storey Buildings	
In a multi-storey building containing separate independent living units on different storeys, lift access must be provided to dwellings above ground level of the building by way of a lift complying with clause E3.6 of the Building Code of Australia.	N/A
Section 19 - Laundry	
An independent living unit must have a laundry that has: <ul style="list-style-type: none"> a) a circulation space at door approaches b) that complies with AS 1428.1, and c) provision for the installation of an d) automatic washing machine and a e) clothes dryer, and a clear space in front of appliances of at least 1,300mm, and a slip-resistant floor surface, and an accessible path of travel to any clothesline provided in relation to the dwelling.	Capable of compliance
Section 20 - Storage for Linen	
Linen storage must be provided in accordance with clause 4.11.5 of AS 4299.	Capable of compliance
Section 21 - Garbage	
A garbage storage area must be provided in an accessible location.	Compliance The proposed development is supported by acceptable bin storage within the front setback.
Clause 88 – Restrictions on Occupation of Seniors Housing	
Standard	Compliance/Comment

1) Development permitted under this Part may be carried out for the accommodation of only the following:	Compliant The proposed seniors housing development is to only be occupied by seniors, noting that conditions of consent reinforce this.
a) seniors or people who have a disability,	Compliance
b) people who live in the same household with seniors or people who have a disability,	N/A
c) staff employed to assist in the administration and provision of services to housing provided under this Part.	N/A
2) Development consent must not be granted under this Part unless the consent authority is satisfied that only the kinds of people referred to in sub-section (1) will occupy accommodation to which the development relates.	As above.

Division 4 – Site-related requirements

Clause 93 – Location and access to facilities and services (independent living units)	
Standard	Compliance/Comment
1) Development consent <i>must not</i> be granted for development for the purposes of an independent living unit unless the consent authority has considered whether residents will have adequate access to facilities and services :	
a) by a transport service that complies with sub-section (2), or	Compliance
b) on-site.	N/A
Note: Facilities and services means: a) shops and other retail and commercial services that residents may reasonably require, and b) community services and recreation facilities, and c) the practice of a general medical practitioner.	
2) The transport service must:	
a) take the residents to a place that has adequate access to facilities and services, and	Compliance Bus services within close proximity of the subject site service both the CBD and Chatswood. The site not more than 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.

b) for development on land within the Greater Sydney region: <ul style="list-style-type: none"> i) not be an on-demand booking service for ii) the transport of passengers for a fare, and be available both to and from the site at least once between 8am and 12pm each day and at least once between 12pm and 6pm each day. 	Compliance As above
3) For the purposes of sub-sections (1) and (2), access is adequate if:	
a) the facilities and services are, or the transport service is, located at a distance of not more than 400m from the site, and	Compliant As above, Bus stop, with buses accessing the city directly is located at outside of No. 627 Warringah Road (Departure) and No. 564 Warringah Road (Arrival- Coming home).
b) the distance is accessible by means of a suitable access pathway, and	Compliant Footpath access to both bus stops mentioned above.
c) the gradient along the pathway complies with sub-section (4)(c).	-
4) In sub-section (3):	
a) a suitable access pathway is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and	-
b) the distance is to be measured by reference to the length of the pathway, and	-
c) the overall average gradient must be no more than 1:14 and the gradients along the pathway must be no more than: <ul style="list-style-type: none"> i) 1:12 for a maximum of 15m at a time, or ii) 1:10 for a maximum length of 5m at a time, or iii) 1:8 for a maximum length of 1.5m at a time. 	-

Clause 95 – Water and sewer	
Standard	Compliance/Comment
1) A consent authority must not consent to development under this Part unless the consent authority is satisfied the seniors housing will:	
a) be connected to a reticulated water system, and	Complies The subject site is serviced by existing water and sewerage infrastructure.
b) have adequate facilities for the removal or disposal of sewage.	As above, The subject site is serviced by existing water and sewerage infrastructure.

2) If the water and sewerage services will be provided by a person other than the consent authority, the consent authority:	
a) must consider the suitability of the site in relation to the availability of reticulated water and sewerage infrastructure, or	N/A
b) if reticulated services are not available—must satisfy the relevant authority that the provision of water and sewerage infrastructure, including environmental and operational considerations, is satisfactory for the development.	N/A

Division 5 – Design requirements

Clause 97 – Design of in-fill self-care housing	
Standard	Compliance/Comment
In determining a development application for development for the purposes of in-fill self-care housing, a consent authority must consider the <i>Seniors Living Policy: Urban Design Guideline for Infill Development</i> published by the Department of Infrastructure, Planning and Natural Resources in March 2004.	Compliant See comments below under table
Clause 98 – Design of seniors housing	
Standard	Compliance/Comment
A consent authority must not consent to development under this Part unless the consent authority is satisfied that the development demonstrates adequate regard has been given to the principles set out in Division 6 (see table below).	Compliant See comments below

Division 6 – Design Principles

Clause 99 – Neighbourhood amenity and streetscape	
Standard	Compliance/Comment
Development for the purposes of seniors housing should:	
a) recognise that the operational, functional and economic requirements of residential care facilities typically require a different building shape from other residential accommodation, and	-

<p>b) recognise the desirable elements of:</p> <ul style="list-style-type: none"> i) the location's current character, or ii) for precincts undergoing a transition - the future character of the location so new buildings contribute to the quality and identity of the area, 	<p>Compliant</p> <p>The subject site is located within the R2 Low Density Residential zone and is adjoined exclusively by detached dwelling houses.</p> <p>The development recognises the desirable elements of the subject sites current character and adopts a design that is consistent in built form with that of detached style housing in the local area.</p>
<p>c) complement heritage conservation areas and heritage items in the area, and</p>	<p>N/A</p>
<p>d) maintain reasonable neighbourhood amenity and appropriate residential character by:</p> <ul style="list-style-type: none"> i) providing building setbacks to reduce ii) bulk and overshadowing, and iii) using building form and siting that relates iv) to the site's land form, and adopting building heights at the street frontage that are compatible in scale with adjacent buildings, and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and 	<p>Compliant</p> <p>The proposal is compatible with the existing low density built form character of the immediate locality by proposing a 2 storey residential development, with the proposal complying with the maximum height control under the Warringah Local Environmental Plan 2011. The proposal will also be compatible with the existing and future character of the locality and will contribute towards enhancing the existing streetscape by providing an appropriate front, side and rear building setback that will positively contribute to the cohesiveness and visual appreciation of the streetscape.</p>
<p>e) be designed so the front building on the site is set back generally in line with the existing building line, and</p>	<p>Compliant</p> <p>The dwelling house while slightly non-compliant with the front setback WDCP control, is generally consistent with other development within Warringah Road.</p>
<p>f) include plants reasonably similar to other plants</p>	<p>Compliant</p>

in the street, and	The areas identified as soft landscaping provide a satisfactory level of landscaping through the provision of trees and shrubs which will assist in softening the appearance of the development when viewed from the street and neighbouring properties.
g) retain, wherever reasonable, significant trees, and	As above
h) be designed so no building is constructed in a riparian zone.	Compliant

Clause 100 – Visual and acoustic privacy	
Standard	Compliance/Comment
Development for the purposes of seniors housing should consider the visual and acoustic privacy of adjacent neighbours and residents by:	
a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and	Compliant Visual privacy to the northern and southern neighbours has been mitigated through sill height windows and privacy screening. Conditions have been imposed to ensure the screening is suitable to mitigate sightlines between properties. No balconies are proposed.
b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	Compliant The proposed bedrooms are suitably set away from noise sources which in this case in Warringah Road.

Clause 101 – Solar access and design for climate	
Standard	Compliance/Comment
Development for the purposes of seniors housing should:	
a) for development involving the erection of a new building provide residents of the building with adequate daylight in a way that does not adversely impact the amount of daylight in neighbouring buildings, and	Compliant The proposed development is compliant with the solar access requirements of both the WDCP 2011 and the SEPP Housing 2021.
b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation, solar heating and lighting by locating the windows of living and dining areas in a northerly direction.	Compliant The proposed development provides suitable natural ventilation, heating and lighting. The proposed development is supported by a BASIX Certificate demonstrating these matters.

Clause 102 – Stormwater	
Standard	Compliance/Comment
Development for the purposes of seniors housing should aim to:	

a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and	Compliant The proposed development is supported by engineering plans demonstrating suitable stormwater management measures
b) include, where practical, on-site stormwater detention or re-use for second quality water uses.	Compliant As above

Clause 103 – Crime prevention	
Standard	Compliance/Comment
Development for the purposes of seniors housing should be designed in accordance with environmental design principles relating to crime prevention, provide personal property security for residents and visitors and encourage crime prevention by:	
a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins the area, driveway or street, and	Compliant The proposed development is designed in such a way that occupants of the dwellings are able to observe approaching visitors from inside the dwelling.
b) providing shared entries, if required, that serve a small number of dwellings and that are able to be locked, and	Compliant The proposed development does not include shared entries to the dwellings.
c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	Compliant The proposed development is designed in such a way that occupants of the dwellings are able to observe approaching visitors from inside the dwelling, without opening the door.

Clause 104 – Accessibility	
Standard	Compliance/Comment
Development for the purposes of seniors housing should:	Compliant
a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and	The proposed development provides safe and generally level pedestrian access to nearby public transport services.
b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.	The proposed development provides direct access to the apartments from the proposed garages.

Clause 105 – Waste management	
Standard	Compliance/Comment
Development for the purposes of seniors housing should include waste facilities that maximise recycling by the provision of appropriate facilities.	Compliant The proposed development is supported by acceptable bin storage areas to the front of the site.

Division 7 – Non-Discretionary Development Standards

Clause 106 – Interrelationship of Division with design principles in Division 6	
Standard	Compliance/Comment
Nothing in this Division permits the granting of consent to development under this Part if the consent authority is satisfied that the development does not demonstrate that adequate regard has been given to the principles set out in Division 6.	Compliant

Clause 108 – Non-discretionary development standards for independent living units	
Standard	Compliance/Comment
2) The following are non-discretionary development standards in relation to development for the purposes of an independent living unit :	
Height	
a) no building exceeds a height of 9.5m, excluding servicing equipment on the roof of a building,	Compliant 7.0m
b) servicing equipment on the roof of a building, which results in the building exceeding a height of 9.5m: <ul style="list-style-type: none"> i) is fully integrated into the design of the roof or contained and suitably screened ii) from view from public places, and iii) is limited to an area of no more than 20% of the surface area of the roof, and does not result in the building exceeding a height of 11.5m. 	N/A
Density and Scale (FSR)	
c) the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less.	Non-compliant FSR 0.54:1 (786sqm) , see clause 4.6 request
Landscaped Area	
d) for a development application made by a social housing provider - at least 35m ² of landscaped area per dwelling,	N/A
e) if (d) does not apply - at least 30% of the site area is landscaped,	Compliant 39% (564sqm)
f) a deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 3m and, if practicable, at least 65% of the deep soil zone is located at the rear of the site.	Compliant 28% (406sqm)
Solar Access	
g) at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter in living rooms and private open spaces.	Compliant 83%

Private Open Space	
<p>h) for a dwelling in a single storey building or a dwelling located, wholly or in part, on the ground floor of a multi-storey building:</p> <ul style="list-style-type: none"> i) at least 15m² of private open space per dwelling, and ii) at least 1 private open space with minimum dimensions of 3m accessible from a living area located on the ground floor. <p>Note: The open space needs to be accessible only by a continuous accessible path of travel, within the meaning of AS 1428.1, if the dwelling itself is an accessible one (see Schedule 4, section 2).</p>	<p>Compliant All dwellings have greater than 15sqm of private open space.</p>
<p>i) for a dwelling in a multi-storey building not located on the ground floor – a balcony accessible from a living area with minimum dimensions of 2m and:</p> <ul style="list-style-type: none"> i) an area of at least 10m², or ii) for a 1 bedroom dwelling - an area of at least 6m². 	<p>N/A</p>
Car Parking	

j) for a development application made by, or made by a person jointly with, a social housing provider - at least 1 parking space for every 5 dwellings,	N/A
k) if (j) does not apply - at least 0.5 parking space for each bedroom.	Compliant

Seniors Living Policy: Urban Design Guideline for Infill Development

Pursuant to Clause 97 in determining a development application to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* published by the former NSW Department of Infrastructure, Planning and Natural Resources dated March 2004. The provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* have been taken into consideration in the assessment of the application against the design principles set out in the SEPP.

Section	Requirements	Comment
1. Responding to context	<p>Built Environment – New development is to follow the patterns of the existing residential neighbourhood in terms of built form.</p> <p>Policy environment – Consideration must be given to Councils own LEP and/or DCPs where they may describe the character and key elements of an area that contribute to its unique character.</p>	Consideration has been had to the policy controls of Warringah DCP and Warringah LEP in regards to built form and scale in the R2 Zone. The amended proposal, which increased the rear setback to comply with the rear setback control under the WDCP ensures that the proposed development is in keeping with residential development that surrounds the subject site.
2. Site Planning and design	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Minimise the impact of new development on neighbourhood character -Minimise the physical and visual dominance of car parking, garaging and vehicular circulation. 	The building has incorporated privacy measures to mitigate direct overlooking.
3. Impacts on streetscape	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Minimise impacts on the existing streetscape and enhance its desirable characteristics -Minimise dominance of driveways and car park entries in streetscape. 	The retention of existing vegetation within the front setback and maintenance of the existing building position retains street character.

4. Impacts on neighbours	The proposal is generally in accordance with the requirements of this section.	Visual privacy to northern and southern neighbour mitigated through sill height windows and privacy screening, however could be improved and further mitigated through increased spatial separation.
5. Internal site amenity	Objectives of this section are to: -Provide safe and distinct pedestrian routes to all dwellings and communal facilities.	Safe and distinct routes are provided to the community facilities.

Conclusion

The proposal is generally consistent with the relevant requirements and principles set out in the SEPP.

As such, approval of the application is recommended.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

Roads and Maritime Service (RMS)

Section 2.118 - Development with frontage to classified road states:

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—
- (i) the design of the vehicular access to the land, or
 - (ii) the emission of smoke or dust from the development, or
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Comment:

The application was referred to Transport for NSW who did not raise any objection to the proposal, subject to conditions.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site was used as a veterinary clinic since 1968 as a home occupation, and then formally as a veterinary clinic as approved under DA2014/0963. In this regard it is considered that the site poses low risk with regards to contamination, and Council is satisfied the site would be suitable for the proposed residential land use. In the event that the application is recommended for approval, a condition of consent could be included to address any unexpected finds during the construction of the development.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.0m*	-	Yes

Note: Clause 4.3 is overwritten by height controls under SEPP (Housing) 2021.

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
5.3 Development near zone boundaries	Yes

5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes
6.11 Affordable housing	Yes

Detailed Assessment

Zone R2 Low Density Residential

DESIGN AND SUSTAINABILITY ADVISORY PANEL (DSAP) - ASSESSMENT

DSAP provided the following comments in response to the original proposal of the application. Amended plans were submitted to address the concerns raised by DSAP. An assessment of the amended proposal against the DSAP comments is provided below:

General

The proposed development is across two existing lots which contains the Forestville Veterinary Hospital at 633 and 635 Warringah Road, Forestville.

The application seeks consent for demolition works and the construction of a two-storey seniors housing development containing 6 self-contained units. The development consists of two separate buildings and includes:

4 x 3-bedroom units with double garages; and

2 x 4-bedroom units with double garages.

1 x double width vehicle crossover and passing bay.

The site is zoned R2 Low Density Residential under the Warringah LEP 2011. The application is made pursuant to the provisions of State Environmental Planning Policy (Housing) 2021 (HSEPP).

No Pre-lodgement meeting was undertaken prior to the lodgement of this development application.

A boarding house was approved on site on 3 September 2021 by the Land and Environment Court and the Panel was informed that this design has progressed to full CC documentation and construction can commence immediately.

The SEPP refers to the Seniors Living Policy: Urban Design Guidelines for Infill Development 2004 (UDG 2004) in the following manner:

Development consent must not be granted to development to which this Division applies unless the consent authority has considered the following, to the extent to which they are not inconsistent with this Policy—

(a) the Seniors Living Policy: Urban Design Guidelines for Infill Development published by the

Department of Infrastructure, Planning and Natural Resources in March 2004,

The Panel has referred to this document in formulating the recommendations in this advice.

There are a number of non-compliances with the DCP and the FSR exceeds the 0.5:1 as stipulated by the HSEPP that if not exceeded cannot be the basis for refusal.

In this case the exceedance of the FSR results in a building bulk that has impacts on neighbours, results in minimal useable open space and as noted, does not comply with setbacks.

The Panel's approach to any non-compliance with planning controls is that the applicant should provide evidence of:

- a demonstrable improvement in amenity within the proposal, (overshadowing, privacy, access to rooftop open space etc.)*
- reduced impact on adjoining sites (either existing or in relation to future development potential)*
- contributions to the public domain or other public benefits (affordability, environmental performance)*

In order to demonstrate the benefits of non-compliance the non-compliant proposal should be benchmarked and compared to a complying 'reference scheme'.

It should be noted that this is completely separate from any process associated with a cl4.6 application.

In summary the Panel considers the proposal and overdevelopment of the site that results in low amenity and impacts on the neighbours, and that any advantages of non-compliance have not been demonstrated.

The detailed comments that follow should not be interpreted as the basis for minor amendments that would make the proposal supportable, but rather matters that should be considered if there were a significant redesign and reduction of building bulk and floor area to not exceed 0.5:1

Scale, built form and articulation

The proponent explained that providing underground parking would change the NCC requirements and together with the need to provide lift access would significantly increase construction costs.

Providing car parking at ground level which is not included in GFA has the effect of significantly adding to the building bulk.

The Panel acknowledges that the SEPP does not give consideration to the effect of carparking provided at ground level and not being counted in GFA on building bulk. The 12 car spaces are equivalent to approximately 220sqm of floor space so the overall bulk is equivalent to a GFA of 1,080 or FSR of 0.74:1 in terms of bulk.

The bulk of the building is further increased by the decision to include 4 bedrooms in TH3 and 4. This is a commercial decision that has an impact on the GFA and the bulk of the building.

Recommendations

1. Reduce the GFA to not exceed FSR 0.5:1. This could be achieved in a number of ways including reducing the number of units, reducing the number of bedrooms in TH3 and 4, eliminating unnecessary

double height voids that do not provide amenity but add to bulk etc.

2. *Comply with the 6m rear setback*

3. *Building bulk on the eastern end needs to respond to infill guidelines:*

- *“Protect neighbours’ amenity by carefully designed the bulk and scale of the new development to relate to the existing residential character, for example by: setting back upper storeys back behind the side or rear building line”*

- *Design second stories to reduce overlooking of neighbouring properties, for example by: incorporating them within the roof space and providing dormer windows, offsetting openings from existing neighbouring windows or doors”*

PLANNER COMMENT: The amended proposal has reduced the overall bulk and scale of the development by reducing the gross floor area 75sqm. This results in a reduction of the total GFA from 0.59:1 to 0.54:1. While still non-compliant with the 0.5:1 control the amended proposal now proposes a compliant rear setback and significantly reduced scale development. The amended application does not propose any 4 bedroom dwelling, with all dwellings proposing 3 bedrooms.

Access, vehicular movement and car parking

The whole scheme is driven by the need to provide parking at grade, which compresses space on the edge of the site.

Garage doors dominate the central space that provides a very poor entry experience and has no landscaping, shading or buffers or screen from the units

Basement parking should have been considered or garage doors be configured to reduce visual prominence.

Recommendations

4. *In any re-design set the garage doors back from the face of the building above and to the side (UDG2004: “avoid unrelieved, long, straight driveways that are visually dominant by: varying the alignment of driveways to avoid a gun barrel effect, setting back garage behind the predominant building lined reduce their visibility from the street, considering alternative site designs that avoid driveway is running the length of the site”)*

5. *Further investigate the potential for basement, semi basement and grouped parking.*

PLANNER COMMENT: The amended proposal has been amended to reduce the amount of off-street parking proposed at ground level, while still maintaining compliance with the minimum requirement under SEPP Housing.

Landscape

Although the proposal complies with the 30% open space requirement most of this provide at the front of the property, is inaccessible and subject to high noise levels. So in this case, although the proposal achieves numerical compliance, it is the Panel’s view that the proposal does not achieve the objective

of the landscape area set out in the SEPP, specifically:

if practicable, at least 65% of the deep soil zone is located at the rear of the site,

Although 65% might not be possible, compliance with the 6m setback from the rear boundary would go some way to achieving this and would provide more usable POS.

Private open space amenity is poor:

- *TH5 POS is overshadowed and faces south*
- *TH6 POS is exposed to road noise and with a single door opening to it- not usable*
- *TH3 + 4 POS not paved*

Recommendations

6. *Increase the amount of open space at the rear of the site by complying with the 6m setback requirement (an increase in open space of approximately 110 sqm)*

7. *Redesign the central access to include tree planting and other planting.*

PLANNER COMMENT: The amended application now provides a compliant 6m setback at both ground and first floor level. The development exceeds the minimum landscape area requirement of the SEPP Housing and the landscape design has generally been supported by Council's Landscape Officer, subject to conditions. With regard to the central access, this area is to be clear of any structures including planting to ensure safe and efficient vehicular access to and from the site. Therefore, it is not considered reasonable or feasible for additional planting in this part of the site.

Amenity

The overall amenity of the principal living areas on the ground level is poor.

Entries are directly off the shared driveway.

TH4 dining area directly abuts the driveway with no screening or vegetation

TH5 has no lobby, with entry directly into the kitchen and the only northern light is through the front door and side light on the ground level

Upper habitable areas look directly into the habitable areas of other dwelling across the central access away as shown on Section BB. Even if screened this means the amenity of the rooms are severely compromised.

What is the impact of solar access to the rear houses v a compliant scheme.

Most of the floor area in each dwelling, including the largest living areas is on the upper level, but this is meant to be accessible housing for seniors which raises the issue of cleaning and maintenance.

North, South and East Elevations show windows in the upper levels looking directly into the neighbouring properties.

(UDG2004:” designed dwellings so they do not directly overlook neighbours’ private open space or look into existing dwellings”

There are many other aspects of the design that could be improved, including provide a skylight to TH5, stepping back of the upper levels of TH4,5,6 to incorporate entry courtyards at ground level etc, but it is not the Panel’s role to redesign the proposal that falls short in

Recommendations

8. *Give consideration to privacy for adjoining neighbours and mitigate overlooking*
9. *Give consideration to a more fragmented built form that would provide better light and sun penetration, improve privacy and useable open space and entry sequences.*

PLANNER COMMENT: Privacy screens have incorporated onto the first floor windows on high use windows of each dwelling which directly overlook adjoining neighbouring properties. The amended first floor has been increased the setback to the first floor, which as a result will increase solar access to the adjoining properties the private open space of the dwellings along the southern side of the subject site. The amended proposal complies with the solar access provisions of both SEPP Housing and WDCP.

Sustainability

SEPP BASIX explicitly precludes the setting of either higher or lower targets by other Environmental Planning Instruments or Development Control Plans.

However, we are living in a climate emergency – all new dwellings should be designed to be as naturally comfortable as possible without heating and cooling (passive design) and should not rely on energy from fossil fuels.

Arguably, the impacts of climate change and the changes to energy supply and security are out-pacing policy and regulation.

There are several aspects of design and servicing that could be easily and cost effectively considered for inclusion in all developments:

- *Decarbonisation of energy supply*
 - *All services should be electric – gas for cooking, hot water and heating should be avoided.*
 - *Heat pump systems for apartments or other ways of providing electric hot water should be considered.*
 - *The storage of hot water can be considered a de-facto battery if heated by PVs during the day.*
 - *Until technologies for the use of hydrogen are developed and introduced, note the risk of gas reticulation becoming a ‘stranded asset’ and the possibility of additional costs to remove gas and rewire the building*

- *Guidance is also provided by the Australian Green Building Council <https://gbca-web.s3.amazonaws.com/media/documents/a-practical-guide-to-electrification.pdf>*
- *Onsite power generation and storage*
 - *Unshaded roof space is a valuable resource*
 - *Using PV to provide shade to roof top common areas will generally be supported by the Panel if there are no additional adverse impacts*
 - *PVs over green roofs perform better due to the local lower ambient air temperature*
 - *On site battery storage has benefits for the grid and may be a highly desirable back-up during the transition to a de-carbonised grid.*
- *EV charging*
 - *Provide EV charging points for each unit*
 - *Allow for bi-directional (2-way) charging of EV battery for powering the building.*

Recommendations

10. *Provide PV on the roof with the aim of achieving carbon neutrality in operation*
11. *Provide heat pump hot water and induction cooktops – remove gas*
12. *Consider ceiling fans to improve low-energy comfort options for the apartments, they will also improve the NatHERS scores*
13. *Provide EV charging points for each unit*
14. *Allow for bi-directional (2-way) charging of EV battery for powering the building.*

PLANNER COMMENT: The recommendations above have been provided to the applicant to consider, however the above recommendations are not legislated/required at DA stage. A BASIX certificate has been lodged and condition to be imposed as part of this recommendation.

PANEL CONCLUSION

The Panel does not support the proposal due to excessive bulk, low amenity and impacts on adjoining properties.

The Panel considers the proposal an overdevelopment of the site without any justification provided for exceeding the FSR of 0.5:1 that, if complied with cannot be the reason for refusal.

A comprehensive re-design that improves internal amenity, useability of private open space, improved solar access, entry experience, shading and softening of the carparking entry and arrangements, privacy and minimisation of impacts on neighbours is required.

The re-design should refer to, and be guided by the Seniors Living Policy: Urban Design Guidelines for Infill Development 2004.

PLANNER COMMENT: The amended application has incorporated the balance of recommendations from the DSAP Report, and as such **satisfy** DSAP concerns.

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Floor Space Ratio under Clause 108(2)(c) of the <i>State Environmental Planning Policy</i> (Housing) 2021
Requirement:	0.5:1 (727.55sqm)
Proposed:	0.54:1 (786sqm)
Percentage variation to requirement:	8%

Assessment of request to vary a development standard:

The following assessment of the variation to the site size development standard under Clause 108(2)(c) of the State Environmental Planning Policy (Housing) 2021 ('the SEPP'), has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

Clause 4.6 Exceptions to development standards:

(1) *The objectives of this clause are as follows:*

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) *Development consent must not be granted for development that contravenes a development standard unless:*

- (a) *the consent authority is satisfied that:*

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained.*

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

Comment:

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

In this regard, the Applicant's written request has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act (cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*

(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,

(c) to promote the orderly and economic use and development of land,

(d) to promote the delivery and maintenance of affordable housing,

(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,

(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),

(g) to promote good design and amenity of the built environment,

(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,

(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,

(j) to provide increased opportunity for community participation in environmental planning and assessment.

The applicants written request argues, in part:

"The departure to the FSR demonstrates sufficient environmental planning grounds as follows:

- *In order to provide amenity to residents of the dwellings they have been sized and designed with a particular floor area and FSR compliance could be achieved but this would compromise the design and configuration of the Seniors Housing buildings.*
- *The extent of FSR is comparable to recent approvals in the broader Northern Beaches LGA for Seniors Housing developments as nominated in the list below. The development presents a suitable density and bulk and scale demonstrated by consistency with other planning controls applying to the development. Further the density and extent of GFA and FSR is comparable to a number of examples of other development with much greater FSR's than 0.5:1 in the LGA- as set out below and these pertain to Seniors Housing developments approved by Council over the past 24 months:*
 - i *DA2021/1901- 21 Mona Street, Mona Vale: 0.56:1*
 - i *DA2021/1841- 7 Coronation Street, Mona Vale: 0.63:1*
 - i *DA2021/1805- 4 Alexander Street, Collaroy: 0.65:1*
 - i *DA2020/1320- 681 Warringah Road, Forestville: 0.59:1*
 - i *DA2020/1172- 54 Bardo Road, Newport: 0.569:1*
- *The bulk and scale is consistent with the desired future character noting consistency with the remaining development controls.*

Therefore the departure to the FSR control is a function of achieving a suitable design outcome on the site that demonstrates sufficient environmental planning grounds to support the variation as it aligns with the Objects of the Act."

Planner comment:

The applicant has satisfactorily demonstrated that the works are consistent with the objects of the EP&A Act, specifically the following objects of the EP&A Act:

- The development promotes the orderly and economic use and development of the land, in so far as the proposed development provides a positive contribution to the streetscape while also providing for additional housing within the area.
- The development promotes good design and amenity of the built environment, noting that the development will not contribute to any unreasonable impact on amenity considerations (i.e. solar access, privacy and view loss) to neighbouring properties.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

Clause 108(2)(c) of the SEPP does not express any objectives. A merit assessment against the objectives of the development standard Clause 4.4 (Floor Space Ratio) under WLEP 2011 is provided below:

(a) to limit the intensity of development and associated traffic generation so that they are commensurate with the capacity of existing and planned infrastructure, including transport infrastructure,

Comment:

(b) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,

Comment:

The proposed building achieves a scale, bulk and height that is appropriate to the existing and desired future character of the street and surrounding buildings. The development allows a medium density development to be suitably sited on a site surrounded by low density development (Dwelling houses). The development provides a built form and scale that is reflective of its important corner location and is contextually appropriate when viewed in the context of other recently constructed developments within the local centre.

(c) to ensure that buildings, by virtue of their bulk and scale, are consistent with the desired character of

the locality,

Comment:

The overall building bulk and scale has been effectively controlled by way of effective building setbacks, building separation, a high level of building articulation and manipulation of building elements and through the use of appropriate materials and finishes. The proposed gross floor area will not result in unreasonable building bulk or scale and does not result in any unreasonable physical or visual impacts on surrounding lands. The proposal is also compliant with the floor space ratio control.

(d) to manage the visual impact of development when viewed from public spaces,

Comment:

The proposed building, a two storey seniors housing development, appropriately responds to, and fits comfortably within, this context. The design of the building will enhance the qualities of the area and is reflective of a seniors housing development which is a high quality design.

(e) to maximise solar access and amenity for public areas.

Comment:

The proposed development is sited away from the southern boundary and ensures that a reasonable level access is maintained to public and private open spaces and adequate sunlight access will continued to be maintained the private open spaces and habitable rooms of adjacent dwellings.

Zone objectives

The underlying objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The proposed development provides six new dwellings for the purpose of seniors housing. As such, the proposed development provides for the housing needs of the community in the low density locality.

It is considered that the development satisfies this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

The proposed development is for a residential use of the site.

It is considered that the development satisfies this objective.

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment:

The proposed development is suitably supported by landscaping and design in keeping with the character and natural environment of the locality.

It is considered that the development satisfies this objective.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Floor space ratio Development Standard is assumed by the Local Planning Panel.

Description of non-compliance:

Development standard:	<i>Private car accommodation under Clause 85(1) (Schedule 4) of the State Environmental Planning Policy (Housing) 2021</i>
Requirement:	Compliance with AS 2890.6
Proposed:	N/A
Percentage variation to requirement:	N/A

Assessment of request to vary a development standard:

The following assessment of the variation to the site size development standard under Clause 108(2)(c) of the State Environmental Planning Policy (Housing) 2021 ('the SEPP'), has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

(1) *The objectives of this clause are as follows:*

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental*

planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

Clause 85(1) of the SEPP is not expressly excluded from the operation of this clause. A merit assessment against the objectives of the development standards under the WLEP 2011 is sufficient:

Comment:

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

In this regard, the Applicant's written request has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development

standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

"The departure to the parking standard demonstrates sufficient environmental planning grounds as follows:

- The strict reading of (a) requires technically requires ALL the parking spaces to be a total of 4.8m wide being a 2.4m space and 2.4m shared zone. This is despite b) indicating that only 10% of the dwellings must be designed to achieve a width of 3.8m.*
- The proposed carparking provided throughout the building will be provided in accordance with the requirements of the former SEPP Seniors 2004 which required a 3200mm clear width being provided to the parking spaces as required by AS2890.1 which was referenced at the time of implementation of the SEPP Seniors 2004. It is understood that the intent was to continue the 3.2m requirement however the wording references the wrong part of the Australian Standard.*
- Therefore a variation is sought to allow for the use of this parking layout to achieve parking for each of the housing units that is appropriate for a Seniors Housing development of the nature*

proposed- which is not designed to be 'high care' Seniors Living for persons with disabilities but rather a product that is intended to enable older persons greater convenience as their levels of mobility decreases over time. This is as compared to dedicated housing for persons with a disability where it would be appropriate to strictly apply the 4.8m parking space requirement.

- *Strict compliance with an accessible standard for a Seniors Living development is not the intended outcome of this proposal and the parking space widths provided are suitable for a Seniors Housing development being consistent with AS2890.1 as per the prior provisions of SEPP (Seniors Living) 2004.fot*

Therefore the departure to 1 of 3 parking standards is an appropriate outcome on the site that demonstrates sufficient environmental planning grounds to support the variation as it aligns with the Objects of the Act.."

Planner comment:

The applicant has satisfactorily demonstrated that the works are consistent with the objects of the EP&A Act, specifically the following objects of the EP&A Act:

- The development promotes the orderly and economic use and development of the land, in so far as the proposed development provides suitable level of off-street parking for the development, while ensuring that the bulk and scale of the development is suitability mitigated.
- The development promotes good design and amenity of the built environment, noting that the proposed parking will still ensure accessible parking on the site.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

Clause 85(1) of the SEPP does not express any objectives. A merit assessment against the objectives of the development standard Clause 4.4 (Floor Space Ratio) under WLEP 2011 is provided below:

- (a) car parking spaces must comply with the requirements for parking for persons with a disability set out in AS 2890.6, and*
- (b) 10% of the total number of car parking spaces (or at least one space if there are fewer than 10 spaces) must be designed to enable the width of the spaces to be increased to 3.8 meters, and*

Comment:

Objective (a) and (b) are contradictory with each other, in that AS2890.6 requires all parking spaces to be at least 4.8 wide, while objective (b) requires 10 percent of parking spaces to be at least 3.8m.

Therefore given at least 50% of dwelling achieve compliance As2890.6 a suitable compromise is made between the two objectives. Council's traffic engineer has reviewed the proposal and is supportive of both the number of parking space on site and the size of the proposed parking spaces.

- (c) any garage must have a power-operated door, or there must be a power point and an area for motor or control rods to enable a power-operated door to be installed at a later date.*

The proposed garages are to incorporate power operated doors.

Comment:

Zone objectives

The underlying objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The proposed development provides six new dwellings for the purpose of seniors housing. As such, the proposed development provides for the housing needs of the community in the low density locality.

It is considered that the development satisfies this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

The proposed development is for a residential use of the site.

It is considered that the development satisfies this objective.

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment:

The proposed development is suitably supported by landscaping and design in keeping with the

character and natural environment of the locality.

It is considered that the development satisfies this objective.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Floor space ratio Development Standard is assumed by the Local Planning Panel.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	6.8m	-	Yes
B3 Side Boundary Envelope	North - 4m	within envelope	-	Yes
	South - 4m	within envelope	-	Yes
B5 Side Boundary Setbacks	North - 0.9m	Ground 1.6m - 3.2m First 1.7m - 3.1m	-	Yes
	South - 0.9m	Ground 1.6m - 3.2m First 3.2m - 5m	-	Yes
B7 Front Boundary Setbacks	6.5m	6.1m	6.2%	No
B9 Rear Boundary Setbacks	6m	6m		Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	SEPP (Housing) 2021 controls prevails	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes

B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	N/A	N/A
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B7 Front Boundary Setbacks

Description of non-compliance

Clause D7 Front Boundary Setbacks stipulate that all structures should maintain a minimum setback of 6.5m to the road frontage.

The minor portion of the ground floor is setback 6.1m from the front boundary, non-compliant with the numeric control. This represents a 6.2% variation to the numeric control.



Figure 1 - Front setback non-compliance

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To create a sense of openness.*

Comment:

The front facade of the development exhibits articulation to assist in reducing the visual dominance of the development. The open style nature of the proposed development will also contribute to a sense of openness in the front yard.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

The proposal maintains the visual continuity of the streetscape as the front setback to the development facade correlates with surrounding residential development along the Warringah Road. In addition, the proposal incorporates a landscaped-dominated front setback area, thereby maintaining the desired landscaped character of the street. Overall, the proposal achieves this objective.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

The proposed development incorporates native landscaping within the front setback to enhance the visual quality of the streetscape. As previously addressed, varied setbacks along the front facade also assist in softening the visual impact of the development when viewed from the public domain

- *To achieve reasonable view sharing.*

Comment:

The proposal is not anticipated to result in any detrimental impacts to view sharing.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1 Landscaped Open Space and Bushland Setting

Part D1 of the WDCP 2011 requires a Landscaped Open Space (LOS) ratio of a minimum of 40% of the site area, equating to an area of 290sqm for this site. The application proposes 38%, non-compliant with the numeric control. This represents a 5% variation to the numeric control.

Clause 108(2)(e) of *SEPP (Housing) 2021* states that Council cannot refuse the application if the 30% of the site is landscaped is compatible with the streetscape in which the building is located. Therefore, the proposal cannot be refused in this regard,

D8 Privacy

Concern has been raised from the adjoining property owners to the east (No 10 Mavour Crescent) and south (637 Warringah Road) have raised concern with the visual privacy impacts that result from the first floor windows. The amended proposal has incorporated privacy screen to windows off high use areas at first floor level to ensure direct sightlines are suitably mitigated between properties. To ensure that the privacy screens are fit for purpose, a condition has been imposed to ensure a maximum spacing of 20mm between the proposed louvres.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$18,560 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,856,004.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 108(2)(c) Floor Space Ratio and 85(1) Private car accommodation has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

PLANNING CONCLUSION

The assessment of this proposal for demolition works and construction of a 6 dwelling seniors housing development, pursuant to SEPP Housing.

The proposal has been amended throughout the assessment process in response to feedback from Council's Planner, Landscape Architect and Sustainability Advisory Panel.

On all occasions, the Applicant has appropriately resolved the concerns raised which ultimately has resulted in a building that will provide a high-quality development that has a minimal impact on neighbouring properties; and will enhance the surrounding natural environment.

On balance, it is found that the building will make a positive contribution to Forestville locality.

This report concludes with the recommendation that the Northern Beaches Local Planning Panel, as the consent authority, should **APPROVE** the development application.

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause Floor Space Ratio and Private car accommodation development standard pursuant clause 108(2)(c) and 85(1)SEPP (Housing) 2021 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2022/1431 for Demolition works and construction of seniors housing on land at Lot 1 DP 28219, 635 Warringah Road, FORESTVILLE, Lot 15 DP 212195, 633 Warringah Road, FORESTVILLE, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA040/ Revision B	15 August 2022	Walsh Architects
DA050/ Revision B	8 December 2022	Walsh Architects
DA101/ Revision B	8 December 2022	Walsh Architects
DA102/ Revision B	8 December 2022	Walsh Architects
DA104/ Revision B	8 December 2022	Walsh Architects
DA 200/ Revision B	8 December 2022	Walsh Architects
DA 201/ Revision B	8 December 2022	Walsh Architects
DA 300/ Revision B	8 December 2022	Walsh Architects
DA 301/ Revision B	8 December 2022	Walsh Architects
DA 302/ Revision B	8 December 2022	Walsh Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Acoustic Assessment/ Version A	August 2022	Blackett Acoustics
Arboricultural Impact Assessment	25 November 2021	Sydney Landscape Consultants
BASIX Certificate No. 1262286M_03	16 December 2022	Building Sustainability Assessments
Traffic and Parking Impact Assessment/ Issue E	December 2022	Transport and Traffic Planning Associates

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
DAL02/ Issue D	15 December 2022	eximiadesign
DAL03/ Issue D	15 December 2022	eximiadesign
DAL04/ Issue D	15 December 2022	eximiadesign

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	18 August 2022	Rohani Investments Pty Ltd

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	N/A
Transport for NSW	SYD22/01204	26 October 2022

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. **Approved Land Use**

Nothing in this consent shall authorise the use of site as detailed on the approved plans for any land use of the site beyond the definition of a seniors housing, in accordance with the Dictionary of the Warringah Local Environmental Plan 2011, as follows:

seniors housing means a building or place that is—

(c) a group of independent living units, or

Note—

Seniors housing is a type of residential accommodation—see the definition of that term in this Dictionary.

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

4. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost

of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

5. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater

management system.

- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

6. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$18,560.04 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$1,856,004.48.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

7. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifier prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

8. **Construction, Excavation and Associated Works Security Bond (Crossing / Kerb)**

The applicant is to lodge a Bond of \$20,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required as part of this consent.

Details confirming payment of the bond are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

9. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- i Site Boundaries and contours
- i Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- i Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- i Existing and proposed drainage patterns with stormwater discharge points
- i Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- i North point and scale.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval prior to the issue of the Construction Certificate.

Reason: Protection of the receiving environment.

10. **Detailed Design of Stormwater Treatment Measures - Major**

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the Stormwater plans (SMART rev. C 15.08.22) and Council's Water Management for Development Policy.

The certificate shall be submitted to the Principal Certifier prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment.

11. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by a TfNSW accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any

Construction Certificate.

Due to heavy traffic congestion along Warringah Road, truck movements are to be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm. Truck movements must be agreed with Council's Traffic Engineer prior to submission of the CTMP.

The CTMP must address following:

- i The proposed phases of construction works on the site, and the expected duration of each construction phase
- i The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- i Make provision for all construction materials to be stored on site, at all times
- i The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- i The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- i The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- i Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- i Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- i Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety
- i The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- i Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- i Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- i The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- i Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- i The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent

- ı Proposed protection for Council and adjoining properties
- ı The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

12. Removal of Redundant Driveways

All redundant driveways shall be removed and reinstated to Council standard kerb and gutter. Suitably prepared plans shall be submitted to for an approval under and approved by Council prior to the issue of the Construction Certificate. All costs associated with the works shall be borne by the applicant.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approval.

Reason: To maximise on street car parking by removing driveways that are no longer needed in accordance with Council policy.

13. Pedestrian sight distance at property boundary

A pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 is to be provided at the vehicular access to the property and where internal circulation roadways intersect with footpaths or other pedestrian access areas.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To maintain pedestrian safety.

14. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Certifier.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of a Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

15. Access

Access to and within the building is to be provided in accordance with the Building Code of

Australia and AS1428. In this regard the recommendations contained in the BCA Access Report (Housing Seniors) dated 17/8/2022, ref 115218-SEPP-r2 are to be included as part of the Construction Certificate assessment. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

16. On-site Stormwater Detention Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Smart Structures Australia, drawing number 210651 D00B, D01C, D05C, D06C and D07C, dated 05.08.2022, 15.08.2022 respectively. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to Transport for NSW for approval in accordance with their letter dated 26 October 2022 reference SYD22/01204.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.

17. Submission Roads Act Application for Civil Works in the Public Road

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include Civil Engineering plans for the design of the driveway crossing and footpath works which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer. The design is to be approved by Transport for NSW in accordance with their letter dated 26 October 2022 ref: SYD22/01204. A copy of the approval is to be submitted with the application. The design must include the following information:

1. Driveway crossing 6.5 metres wide at the kerb to 5.5 metres wide in accordance with Council's Normal High profile.
2. 1.5 metre wide footpath for the frontage of the site in accordance with Council's standard drawings.
3. Services plan for the extent of works.
4. Concurrence from any affected service authority with all costs for the relocation of services borne by the applicant.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

18. **Vehicle Driveway Gradients**

The Applicant is to ensure driveway gradients within the private property do not exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval prior to the issue of the Construction Certificate.

Reason: To ensure suitable vehicular access to private property.

19. **Utilities Services**

Prior to the issue of the Construction Certificate, the Applicant is to obtain the following:

- (a) A letter from the utility provider confirming that satisfactory arrangements have been made for the approved development have been made; and
- (b) Evidence that notification has been received from a utility authority that, requirements for the development can be provided.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that services have been provided as required by this Consent.

20. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: To provide public and private safety.

21. **Hazardous Building Materials Survey**

A hazardous building materials survey is to be conducted by a suitably qualified and experienced person. The survey is to include a survey of hazardous building materials including but not limited to asbestos, lead, SMF and PCBs. Following the survey a Hazardous Building Materials Register is to be prepared for the premises providing recommendations for the safe management/removal of hazardous building material.

Reason: To protect human health.

22. **Noise - Design and Location of Mechanical Plant**

Prior to the issue of a Construction Certificate, the design, specifications and location of noise generating mechanical plant including air conditioning units are to be provided to the Principal Certifier. An acoustic assessment is to be undertaken by a suitably qualified professional such as an acoustic engineer to determine acoustic treatments to control noise emissions from all mechanical plant noise in accordance with the recommendations within the Acoustic

Assessment by Blackett Acoustics dated August 2022 (reference: Report No. BA200114A Version A).

Any design recommendations made by the consultant must be implemented into the plans prior to issuing the Construction Certificate in order to achieve compliance with noted conditions of this consent.

Reason: To maintain acoustic amenity to building occupants and protect surrounding residence from any noise generated by the operation of the development.

23. **Acoustic Report Recommendations**

Prior to the issuing of any Construction Certificate, documentation is to be submitted to the satisfaction of the Principal Certifier that recommendations within the Acoustic Assessment by Blackett Acoustics dated August 2022 (reference: Report No. BA200114A Version A) have been implemented/incorporated into the design of the premises.

Reason: To maintain acoustic amenity to building occupants and protect surrounding residence from any noise generated by the operation of the development.

24. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

25. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

26. **Privacy Screen**

The privacy screens to the windows on first floor level as shown on the approved plans shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: In order to maintain privacy to the adjoining properties

27. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- i "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- i Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

28. **Requirements for Seniors Housing or Housing for Persons with a Disability**

The development is for the purposes of Seniors Housing or Housing for Persons with a Disability and is required to comply with all the standards specified in Part 1 - *"Standards applying to hostels and independent living unit"* within *State Environmental Planning Policy (Housing) 2021*, with exception of Section 5 (*Private Car Accommodation*).

Details demonstrating compliance with the above requirement are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure public safety and equitable access for seniors or people with a disability.

29. **Waste and Recycling Requirements**

Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Principal Certifier prior to the issue of any Construction Certificate.

If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

30. **Project Arborist**

a) A Project Arborist, with minimum AQF Level 5 in arboriculture, shall be engaged to provide tree protection measures in accordance with the Arboricultural Impact Assessment dated 25/11/21 prepared by Sydney Landscape Consultants and Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection and ground protection.

b) The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works unless approved by the Project Arborist.

c) Existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by the Project Arborist.

d) All tree protection measures specified must:

- i) be in place before work commences on the site, and
- ii) be maintained in good condition during the construction period, and
- iii) remain in place for the duration of the construction works.

e) The Project Arborist shall provide certification to the Principal Certifier that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded including at commencement, during the works and at completion.

- Note:
- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
 - ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

31. **Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane and a Roads and Maritime Services Work Zone Permit shall be obtained for Warringah Road, a State Roads.

Reason: To ensure Work zones are monitored and installed correctly.

32. **Road Occupancy Licence**

Prior to commencement of the associated works, the applicant shall obtain a Road Occupancy License from Transport Management Centre for any works that may impact on traffic flows on Warringah Road.

Reason: Requirement of TMC for any works that impact on traffic flow.

33. **Demolition Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) shall be prepared by an suitably accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to commencing any demolition work.

Due to heavy traffic congestion throughout the area, truck movements will be restricted during

the major commuter peak times being 8.00-9.30am and 4.30-6.00pm.

The DTMP must:-

- i Make provision for all construction materials to be stored on site, at all times.
- i The DTMP is to be adhered to at all times during the project.
- i Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- i Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- i Include a Traffic Control Plan prepared by an TfNSW accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- i Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- i Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- i Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- i Specify spoil management process and facilities to be used on site.
- i Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

The DTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Demolition Traffic Management Plan is submitted.

Reason: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

34. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Properties:

Nos. 631 and 637 Warringah Road, Forestville

Nos. 10 and 11 Mavour Crescent, Frenchs Forest

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

35. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

36. Protection of Existing Street Trees

a) All existing street trees in the vicinity of the works shall be retained during all construction stages and the street trees fronting the development site shall be protected by tree protection fencing in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings and in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

b) As a minimum, the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides unless otherwise directed by the Project Arborist.

c) All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

d) Should any problems arise with regard to the existing or proposed trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: Tree protection.

37. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected including:
 - i) all trees and vegetation within the site not indicated for a removal in the Arboricultural Impact Assessment dated 25/11/21 prepared by Sydney Landscape Consultants, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with the Arboricultural Impact Assessment dated 25/11/21 prepared by Sydney Landscape Consultants and Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by the Project Arborist,
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with the Project Arborist,
 - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by the Project Arborist on site,
 - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
 - vii) should either or all of v), vi) and vii) occur during site establishment and construction works, the Project Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Principal Certifier,
 - viii) any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
 - ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
 - x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
 - xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

- c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites do not occur within the tree protection zone of any tree and any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained on the site during the construction is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking or removal of any tree(s) is prohibited.

Reason: Tree and vegetation protection.

38. **Road Reserve**

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

39. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

40. **Substitution of Stormwater Treatment Measures**

The substitution of an "equivalent" device for the stormwater treatment measure approved under the Development Consent must be submitted to the Principal Certifier for approval prior to installation.

Reason: To ensure stormwater is appropriately managed and in accordance with the Water Management for Development Policy.

41. **Implementation of Demolition Traffic Management Plan**

All works and demolition activities are to be undertaken in accordance with the approved Demolition Traffic Management Plan (DTMP). All controls in the DTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the DTMP be impacted by surrounding major development not encompassed in the approved DTMP, the DTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved DTMP is to be kept onsite at all times and made available to

the accredited certifier or Council on request.

Reason: To ensure compliance and Council's ability to modify the approved Construction Traffic Management Plan where it is deemed unsuitable during the course of the project.

42. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

43. **Ongoing Management**

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

44. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

45. **Civil Works Supervision**

The Applicant shall ensure all civil works approved in the Section 138 Roads Act approval are supervised by an appropriately qualified and practicing Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifier and/or Roads Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works.

46. **Footpath Construction**

The applicant shall construct a 1.5 metre wide concrete footpath along the frontage of the site.

The works shall be in accordance with the following:

- (a) All footpath works are to be constructed in accordance with the Section 138 Roads Act approval.
- (b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Section 138 Roads Act approval for footpath.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To ensure compliance of footpath works with Council's specification for engineering works.

47. **Notification of Inspections (infrastructure works to be handed over to Council)**

Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

- (a) Installation of Silt and Sediment control devices
- (b) Prior to backfilling of pipelines
- (c) Prior to pouring of kerb and gutter, driveway crossing and footpath

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification.

Reason: To ensure new Council infrastructure is constructed in accordance with Auspec 1 Council's design and specification standards.

48. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 6.5 metres wide at the kerb to 5.5 metres wide at the boundary in accordance with Northern Beaches Council Drawing Normal High and the Infrastructure on Council Roads application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to kerb, footpath and grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifier.

Reason: To facilitate suitable vehicular access to private property.

49. **Requirement to Notify about New Contamination Evidence**

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifier.

Reason: To protect human health and the environment.

50. **Compliance with Recommendations within Hazardous Building Materials Register**

Any recommendations within the Hazardous Building Materials Register are to be implemented during works.

Reason: To protect human health.

51. **Asbestos**

All removal, repair or disturbance of or to asbestos materials must comply with the relevant guidelines and legislation including the following:

- The Work Health and Safety Act 2011;
- The Work Health and Safety Regulation 2017;
- NSW SafeWork Code of Practice - How to Safely Remove Asbestos; and
- NSW SafeWork Code of Practice - How to Manage and Control Asbestos in the Workplace.

All asbestos waste must be disposed of at a lawful waste disposal facility that accepts asbestos waste.

Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Following the removal of asbestos containing materials an asbestos clearance certificate is to be issued by a suitably qualified and experienced professional such as an Occupational Hygienist or Licenced Asbestos Assessor before the recommencement of any work.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To protect human health.

52. **Classification of Waste & Off-site Disposal of Waste (fill and/or soil material)**

Prior to the exportation of waste (fill and/or soil) from the site, the waste materials must be tested and classified in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW EPA Waste Classification Guidelines, Part 1: Classification of Waste (November 2014).

Testing is required prior to off-site disposal. In accordance with DECC Waste Classification Guidelines (2014) materials identified for off-site disposal must be removed by a suitably qualified contractor to an appropriately licensed waste facility.

'Chain of Custody' documentation including receipts shall be kept for the exportation of waste (fill and/or soil material) from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority within seven (7) days of transport and made available to Council upon request.

Reason: Appropriate disposal of waste and protection of the environment.

53. **Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan titled dated [INSERT].

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

54. **Waste/Recycling Requirements (Materials)**

During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE
OCCUPATION CERTIFICATE**

55. **Required Tree Planting**

a) Trees shall be planted as indicated on the Tree Management Plan Dwg No. DAL02 D dated 15.12.22 prepared by Eximiadesign.

b) All trees shall be planted from stock of minimum pot size 25 litre.

c) Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To maintain environmental amenity.

56. **Landscape Completion**

a) Landscaping is to be implemented in accordance with the approved Landscape Plans prepared by Eximiadesign.

b) Prior to the issue of any Occupation Certificate details (from a qualified horticulturalist, landscape architect or landscape designer) shall be submitted to the Principal Certifier certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

57. **Condition of Retained Vegetation - Project Arborist**

Prior to the issue of an Occupation Certificate a report prepared by the Project Arborist shall be submitted to the Principal Certifier assessing the health and impact on all existing trees required to be retained including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,
- c) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree protection.

58. **Certification for the Installation of Stormwater Treatment Measures**

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the plans prepared by Smart Structures Australia. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. Vegetated measures must exhibit an 80 percent survival rate of plantings.

The certificate shall be submitted to the Principal Certifier prior to the release of an Occupation Certificate.

Reason: Protection of the receiving environment.

59. **Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater treatment measures, restricting any alteration to the measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification to the stormwater treatment measures is not carried out without Council's approval.

60. **Stormwater Treatment Measures Operation and Maintenance Plan**

An Operation and Maintenance Plan is to be prepared to ensure the proposed stormwater treatment measures remain effective.

The Plan must be attached to the Positive Covenant (and the community or strata management statement if applicable) and contain the following:

1. Detail on the stormwater treatment measures:

- a) Work as executed drawings
- b) Intent of the stormwater treatment measures including modelled pollutant removal rates
- c) Site detail showing catchment for each device
- d) Vegetation species list associated with each type of vegetated stormwater treatment measure
- e) Impervious area restrictions to maintain the water balance for the site
- f) Funding arrangements for the maintenance of all stormwater treatment measures
- g) Identification of maintenance and management responsibilities
- h) Maintenance and emergency contact information

2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:

- a) Activity description, and duration and frequency of visits

Additionally for vegetated devices:

- b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
- c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure

3. Maintenance schedule and procedure - ongoing

a) Activity description, and duration and frequency of visits

b) Routine maintenance requirements

c) Work Health and Safety requirements

d) Waste management and disposal

e) Traffic control (if required)

f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)

g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

Details demonstrating compliance shall be submitted to the Principal Certifier prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

61. **Works as Executed Drawings - Stormwater Treatment Measures**

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifier prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

62. **Community Title Management Statement**

The Community Management Statement must specifically list the stormwater treatment measures that will be maintained under community title. The statement must also include the Stormwater Treatment Measure Operation and Maintenance Plan.

Details demonstrating compliance shall be submitted to the Principal Certifier prior to the release of the Occupation Certificate.

Reason: To ensure maintenance of all stormwater management assets and protection of the receiving environment.

63. **Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- i Compare the post-construction report with the pre-construction report,
- i Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- i Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

64. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge the Legal Documents Authorisation Application with Council. The application shall include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), and Civil Engineers' certification.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgment with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

65. **Certification of Civil Works and Works as Executed Data on Council Land**

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works in the road reserve have been constructed in accordance with this consent and the approved Section 138 approval. Works as Executed data certified by a registered surveyor prepared in accordance with Council's 'Guideline for preparing Works as Executed data (details overdrawn on a copy of the approved civil plans) for Council Assets' in an approved format shall be submitted to Council for approval prior to the release of any security deposits.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Reason: To ensure compliance of works with Council's specification for engineering works.

66. **Acoustic Report Certification**

Prior to any occupation certificate being issued, a further acoustic assessment is to be undertaken by a qualified and experienced person(s) to confirm compliance with the recommendations within the Acoustic Assessment by Blackett Acoustics dated August 2022 (reference: Report No. BA200114A Version A).

Any recommendations made by the consultant must be implemented prior to issuing the Occupation Certificate, in order to achieve compliance with noted conditions of this consent.

Reason: To maintain acoustic amenity to building occupants and protect surrounding residence from any noise generated by the operation of the development.

67. **Garbage and Recycling Facilities**

All internal walls of the waste rooms shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

68. **Occupation of Seniors Housing or Housing for Persons with a Disability**

A positive covenant pursuant to Section 88E of the Conveyancing Act 1919 is to be registered on the title of the land to which this development consent applies. The covenant shall stipulate that Council is the sole authority to release or modify the covenant and that the development is only permitted to be occupied by persons detailed as follows:

- (a) seniors or people who have a disability;
- (b) people who live within the same household with seniors or people who have a disability;
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

(Note: Under *State Environmental Planning Policy (Housing)* 2021):

Seniors are people aged 60 or more years, people who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 <http://www.comlaw.gov.au/> of the Commonwealth) is provided and/or people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

AND

People with a disability are people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life.)

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue any Interim / Final Occupation Certificate.

Reason: Statutory requirements.

69. **Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure waste and recycling facilities are provided.

70. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

71. **Positive Covenant for Council and Contractor Indemnity**

A positive covenant shall be created on the title of the land prior to the issue of an Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities.

72. **Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of an Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Principal Certifier, a Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

73. **Landscape Maintenance**

a) Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

b) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

Reason: To maintain local environmental amenity.

74. **Maintenance of Stormwater Treatment Measures - Major**

Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Where replacement cartridges or other necessary components for the system become unavailable, an alternative system is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

75. **Landscaping adjoining vehicular access**

The applicant must ensure that the planting chosen for any land immediately adjacent to the driveway and adjacent to any driveway intersections must not exceed a height of 1,1m

Reason: To maintain unobstructed sight distance for motorists.

76. **Sight lines within carparks**

The required sight lines to pedestrians and other vehicles in and around the carpark and entrance(s) are not to be obstructed by landscaping or signage.

Reason: To maintain unobstructed sight distance for motorists.

77. **Air-conditioning**

All air-conditioning units are to be located at ground floor level.

Reason: To maintain reasonable amenity for neighbouring properties owners.