

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/0008
<b>Responsible Officer:</b>	Renee Ezzy
<b>Land to be developed (Address):</b>	Lot 27 DP 9151, 3 Central Road AVALON BEACH NSW 2107
<b>Proposed Development:</b>	Demolition works and construction of a seniors housing development
<b>Zoning:</b>	R2 Low Density Residential
<b>Development Permissible:</b>	Yes, under SEPP Housing for Seniors or People with a Disability (HSPD) 2004
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Roger Ashley Carrothers Sandra Elizabeth Carrothers
<b>Applicant:</b>	Avalon Central Pty Ltd
<b>Application Lodged:</b>	08/01/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Seniors Living
<b>Notified:</b>	05/06/2020 to 19/06/2020
<b>Advertised:</b>	05/06/2020
<b>Submissions Received:</b>	19
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Deferred Commencement Approval
<b>Estimated Cost of Works:</b>	\$ 4,419,250.00

### EXECUTIVE SUMMARY

Northern Beaches Council is in receipt of Development Application DA2020/00 made by Cottee Parker Architects for demolition works and construction of self contained seniors housing development pursuant to State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 at No. 3 Central Road, Avalon Beach. The development containing seven (7) self-contained dwellings and includes a basement carpark for eight (8) vehicles. The works as originally proposed also includes removal of nineteen (19) prescribed trees.

The subject site is zoned R2 Low Density Residential under the *Pittwater Local Environmental Plan*

2014 (PLEP 2014). Development for the purposes of seniors housing is prohibited with the zone. The application has been lodged pursuant to SEPP HSPD.

Public exhibition of the development resulted in seventeen (17) submissions objecting to the proposal and raising concerns relating to overshadowing, traffic and parking, character, density, pedestrian safety, tree removal and compliance with SEPP HSPD.

Following notification, the applicant sought to amend their proposal reducing the number of units to seven (7), consolidating the parking into a single basement area, lowering the overall height of the development and increasing the setback to Central Road to facilitate the retention of an additional three (3) trees within the front setback area.

The applicant on 23 November submitted a formal offer to enter into a Voluntary Planning Agreement (VPA) for the dedication of land adjoining Patterson Lane road reserve to facilitate the construction of suitable access path connecting Central Road with Dunbar Park. This VPA forms part of the recommendation of this assessment.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) for determination with a recommendation for deferred commencement consent approval.

## **PROPOSED DEVELOPMENT IN DETAIL**

The proposed development includes the demolition of the existing dwelling and construction of eight (8) units for Seniors Living over 3 storeys.

Specifically, the proposal includes the following:

### **Lower Ground Floor Plan (RL 8.61)**

Seven (7) car spaces (access from Patterson Lane)  
Individual apartment storage,  
Mechanical plant  
Lift access  
Apartments 1, and 2  
Pedestrian access to Patterson Lane (east)

### **Ground Floor Plan (RL 11.5)**

Waste storage area in northern corner of the site adjoining Central Road  
Accessible pathway accessing northern side Central Road  
Apartment 4 and 5 to the north  
Apartment 3 to the south

### **Level 01 Floor Plan (RL 13.1)**

Apartment 6 and 7 to the north  
Communal roof garden to the south with pergola

One metre of the frontage to Patterson Lane will be dedicated as road reserve to increase the pedestrian footpath and improve pedestrian access that flows between Dunbar Park and Central Road.

## **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

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - D1.11 Building envelope

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 27 DP 9151 , 3 Central Road AVALON BEACH NSW 2107
<b>Detailed Site Description:</b>	<p>The subject site consists of one allotment located on the southern side of Central Road, Avalon Beach.</p> <p>The site is irregular in shape with frontages of 23.25m along Central Road, 70.44m along Patterson Lane. The site has a surveyed area of 1,416m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates two-storey residential flat building in a landscaped setting.</p> <p>The site slopes approximately 7m from north to south and contains a variety of small, medium and large vegetation types.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by seniors housing, residential flat buildings, and detached dwelling houses. To the south is unformed road Elba Lane and Dunbar Park.</p>

Map:



## SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

### PLM2019/0147

Pre-lodgement Meeting PLM2019/0147 was held on 6 August 2019 to discuss construction of a seniors living development. The notes from this meeting identified a need for greater setbacks to all boundaries and a reduction in the FSR and overall bulk of the building.

### DA2020/0008

Development Application No. DA2020/0008 was lodged with Council on 8 January 2020. The application as lodged generally incorporated the advice provided at the pre-lodgement meeting.

On 15 April 2020, Council sent the applicant a letter requesting the withdrawal of the application for the following reasons:

- Height breach of PLEP 2014 (14.12%) and SEPP (HSPD) (21.25%)
- Floor Space Ratio breach (0.65:1) of SEPP (HSPD)
- Setback and Building Envelope
- Removal of prescribed trees
- Road Assets - provision of connectivity with footpaths along Patterson Lane
- Traffic - two basement entrances proposed
- Water Management
- Waste storage area

On 1 June 2020, amended plans were submitted in response to the issues raised in Council's letter. This assessment is based on these amended plans.

## 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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 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 50(1A)</u> of the EP&amp;A Regulation 2000 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 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. Additional information was provided to address concerns raised by the relevant internal referral bodies and to address the issues outlined in Council's letter dated 15 April 2020.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 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 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 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>

Section 4.15 Matters for Consideration'	Comments
	<p><u>Clause 98</u> of the EP&amp;A Regulation 2000 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> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</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) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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 05/06/2020 to 19/06/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 19 submission/s from:

Name:	Address:
Avalon Preservation Trust	24 Catalina Crescent AVALON BEACH NSW 2107

Name:	Address:
Incorporated as Avalon Preservation Association	
Mr Peter Philip Krantz	PO Box 311 AVALON BEACH NSW 2107
Mr Maurice John Overy	3 / 5 Central Road AVALON BEACH NSW 2107
Mr Robert Gordon Bain	58 Central Road AVALON BEACH NSW 2107
Jennifer Sharleen Raine	PO Box 109 ST IVES NSW 2075
Mr Stephen William Bennett	PO Box 832 AVALON BEACH NSW 2107
Ms Claudette Anne Moffatt	54 Central Road AVALON BEACH NSW 2107
Mr Robert Henry Waites	5 / 5 Central Road AVALON BEACH NSW 2107
Mrs Carol Ann Layton	94 Central Road AVALON BEACH NSW 2107
Mr Peter Selwyn Squires	6 / 65 Old Barrenjoey Road AVALON BEACH NSW 2107
Mr Donald James Imison Beryl May Imison	4 / 5 Central Road AVALON BEACH NSW 2107
Carolyn Mary Beckenham	2 / 5 Central Road AVALON BEACH NSW 2107
Mrs Anna Heath	1 Central Road AVALON BEACH NSW 2107
Alexander Edward Austin	12 / 63 Old Barrenjoey Road AVALON BEACH NSW 2107
Mr Geoffrey Thomas Tye	1 / 691 Barrenjoey Road AVALON BEACH NSW 2107
Mrs Susan Jane Humphreys	4 / 691 Barrenjoey Road AVALON BEACH NSW 2107
Ms Margaret Rita Baulman	4 / 693 Barrenjoey Road AVALON BEACH NSW 2107
Mr Iain Allan Leeson	PO Box 470 AVALON BEACH NSW 2107
Mr Terry Moskios Ms Maria Moskios	8 Smith Street WENTWORTHVILLE NSW 2145

The matters raised within the submissions are addressed as follows:

- ***Compliance with SEPP (HSPD)***

- ***Over the height limit***

- ***Exceeds FSR***

- Comment:

A full assessment of the merits of the development in terms of its compliance with the SEPP (HSPD), height and FSR is provided under Clause 4.6 of this assessment. The proposed development is considered acceptable assessed on its merits in terms of its compliance with the SEPP requirements.

- ***Number of dwellings at 7 is too many. No.691 and 693 Barrenjoey Road and No. 5 Central Road contain only 5 dwelling. No 695 Barrenjoey contains only 3 dwellings.***

- ***Bulk and size of development***

- Comment:

The amended proposal for seven (7) dwellings results in a more conservative built form than originally proposed. The SEPP (HSPD) in its aims seeks to provide beneficial and facultative incentives for development proposed pursuant to the policy. In its application it allows a greater density and form of development than would normally be approved under the local controls (Pittwater LEP 2014 and Pittwater 21 DCP) subject to successfully meeting a test for compatibility with local character. This issue has been dealt with in greater detail within this

report. The proposed development with seven (7) dwellings is considered acceptable on this site and commensurate in bulk and scale with other development within the visual catchment of the site.

- ***Increase traffic within Patterson Lane will create a safety hazard. Currently used by the community including school children and mums with prams as a shortcut to Dunbar Park.***

Comment:

Council's Traffic Engineer has raised no objection to the proposed development in terms of traffic generation or safety. The provision of a formalised paved footpath providing connecting access from Central Road along Patterson Lane to the pathways within Dunbar Park is considered to provide a broad public benefit with the improved infrastructure. This issue is not considered to hold determining weight.

- ***The reduction of parking in the amended scheme and lack of visitor parking will impact on parking and traffic in Central Road.***

Comment:

The proposed development has been reviewed by Council's Traffic Engineer and has been assessed as acceptable in terms of traffic generation, driveway access, number of spaces and potential for pedestrian/vehicle conflict. This issue does not warrant refusal of the application.

- ***The revised proposal for a footpath is sub-optimal as there is insufficient area to accommodate a pathway.***

Comment:

The Applicant has submitted to Council an 'offer' to enter into a Voluntary Planning Agreement (VPA) for the provision of a pedestrian pathway 1.5m wide along the western side of Patterson Lane which will require dedication of land from the subject site in order to accommodate the path and not impact on the existing paved road section. This requirement forms a deferred commencement condition contained within the recommendation of this assessment.

- ***Excessive Tree Removal  
Removal of Angophoras***

Comment:

The original proposal included the removal of nineteen (19) prescribed trees. Following the comments from Council's Landscape Architect, the proposed development as amended has retained a further three (3) trees with high retention value. The amended proposal includes the removal of sixteen (16) prescribed trees from the site. The retention of these trees and the proposed replacement planting has satisfied Council's Landscape Architect. Trees 8, 9, 10, 11 and 15 are all *Angophora costata* of a substantial size. All trees contain a high retention value in the Arborist report and these are to be retained.

Council's Landscape Architect has reviewed the Arborist report, Landscape Plan and tree removal in detail and raises no issue with the development subject to specific conditions.

- ***Overshadowing***

Comment:

The proposed development is not considered to result in any unacceptable impact in terms of



overshadowing.

- ***Privacy - rear yard and bedroom of No. 691 Barrenjoey Road***  
***Privacy impacts from windows and balcony of Apartment 7 into Unit 1, 5 Central Avenue.***  
***Privacy impacts from the terraces of Apartment 2 and 3 and living area of Apartment 2***

Comment:

In terms of impacts on No. 691 Barrenjoey Road, the only apartment which would be at an elevation and orientation to be a concern is Apartment 6. The east facing lounge room window and balcony edge are finished with a full height timber screen referenced as TS01.

Notwithstanding, this balcony is located more than 15.7m from the face of the building at 691 Barrenjoey Road. Privacy impacts from this position are considered adequately addressed.

In relation to Apartment 7, this dwelling contains a small west facing balcony (1.6m deep) adjoining the master bedroom. This balcony also contains a full height timber screen detail (TS01) which extends the full length of the sliding door opening to prevent overlooking to and from this space. The second area facing into No. 5 Central Avenue is the balcony return at the northern end of the apartment adjoining the lounge/dining room. The space contains the same full height timber screen detailing extending from the face of Bedroom 2 for a length of 5.1m effectively addressing any overlooking concerns in this location.

Apartments 2 and 3 are located at the lower ground floor level at the southern end of the building facing Dunbar Park. 5 Central Avenue contains Unit 1 at Lower Ground Floor Level with a finished floor height of RL9.85. Apartment 2 within the proposed development has a FFL of RL 8.619 which is 1.2m lower than the adjacent apartment within No. 5 Central Avenue. Accordingly, overlooking from the subject site into No. 5 is considered unlikely and not a reason to justify refusing the application.

***View loss of tree canopy and ocean beyond from Unit 1, 5 Central Avenue***

Comment:

The tree visible in the site photos of the tree canopy is identified as Tree 5 consists of an 11m high *Citharexylum spinosum* Fiddlewood. Unfortunately this species is an exempt tree species and not on the prescribed tree species list. The Arborist report identifies this tree for removal and describes its condition as "*appears stressed with lower epicormic shoots throughout and minor junction faults*". Council's Landscape Architect has not raised any objection to the removal of this tree and is supportive of the replacement planting options.

View loss has been considered in detail under Section C1.3 of Pittwater 21 DCP. View loss is not considered a determining factor for this application.

- ***Visual impact of lift overrun, its height and appearance of solar panels.***  
***Visual impact of waste area at Central Road frontage from 693 Barrenjoey Road***

Comment:

While the lift overrun on the development is the source of the building height breach, this element has been designed using materials which will reduce the dominance of this feature assisting it to recede into the background. The solar panels located on the northern roof section are not considered to be an unacceptable element in this location.

The location of the waste storage area in the northern corner of the site at Central Road has been

designed to recess into the landscaped setting. Its appearance is designed to blend with the materials palette of the development using timber slatted screening to assist its integration. This facility is an essential inclusion for any form of medium density housing and its location is considered acceptable.

- ***Reduction of Property Value***

Comment:

Property values are not a relevant consideration under Section 4.15 of the EP & A Act, 1979.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<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>
Building Assessment - Fire and Disability upgrades	<p><b>SUPPORTED</b></p> <p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Environmental Health (Acid Sulphate)	<p><b>SUPPORTED</b></p> <p>Acid Sulfate Soil Management Plan is to be submitted to Council prior to a Construction Certificate being issued.</p> <p>Reason: Development is within a Class 4 and 5 Acid Sulfate soil and the information provided indicate excavation to 2 to 3 meters and deeper for the lift overrun; and with results provided in the report by JK Environments indicating some of the soil samples "identified acidic conditions greater than the active Criteria to triggers the need for a Acid Sulfate Soil Management Plan.</p>
Landscape Officer	<p><b>SUPPORTED</b></p> <p>The development application proposes the demolition of existing building and structures and the construction of a seniors housing</p>

Internal Referral Body	Comments
	<p>development under SEPP65 - Seniors Housing.</p> <p>In the landscape assessment of this application, consideration of the submitted Amended Landscape Documents dated 23 October 2020 and prepared by Place Design Group, and the updated Arboricultural Impact Assessment dated 2 September 2020 and prepared by RainTree Consulting is assessed for compliance with the following relevant controls and policies:</p> <p><u>Housing for Seniors or People with a Disability:</u></p> <p>Clause 33 Neighbourhood amenity and streetscape; and Clause 34 Visual and acoustic privacy.</p> <p><u>Pittwater 21 DCP Controls:</u></p> <p>B4.22 Preservation of Existing Trees and Bushland Vegetation; C1.1 Landscaping; C1.21 Seniors Housing; and C1.24 Public Road Reserve - Landscaping and infrastructure</p> <p>The amended plans with changes/deletion to the front setback paths, structures and walling allows for additional trees to be retained as well as reduced encroachment to the tree protection zone of 7 trees (T8, T9, T10, T11, T14, T15 and T16) that as a group are valuable in maintaining the existing landscape character and also soften the built form. The quantity of deep soil is now adequate to support the existing trees for the long term, and/or, to support any replacement tree planting in the future.</p> <p>The existing Central Road street trees (T12, T13 and T17) are proposed for retention and shall be subject to tree sensitive design as recommended in the updated Arboricultural Impact Assessment, and the retention of the street trees maintains the existing streetscape amenity value.</p> <p>Sufficient deep soil is available for additional tree planting in the rear of the property. The Landscape Documents provide a scheme that retains existing trees within the front and rear setbacks to satisfy the landscape controls of Housing for Seniors or People with a Disability, and provides additional landscape treatments at natural ground level including trees and shrubs, and a common open space area for residential amenity to satisfy the landscape controls of Pittwater 21 DCP.</p> <p>Based on the Amended Landscape Documents and the updated Arboricultural Impact Assessment, Landscape Referral is of the view that the application can be supported.</p>
NECC (Development Engineering)	<b>SUPPORTED</b>

Internal Referral Body	Comments
	<p><b>Amended Referral Comment</b></p> <p><b>Amended plans and advice provided regarding VPA for footpath.</b>  The revised stormwater plans have been assessed and are considered satisfactory subject to conditions. Council's Traffic Engineers have supported the revised driveway design subject to conditions. They have also included conditions for the provision of the footpath to the nearest bus stops.</p> <p><b>Development Engineers raise no objection to approval, subject to conditions as recommended.</b></p> <p><b>First Referral Comment</b>  The proposed development comprises a double basement which have separate entrances off Patterson Lane on the eastern boundary of the site. This lane has a one way cross-fall from east to west with a 150mm high kerb and gutter along the entire frontage of the site. The proposed driveway crossings must include a fall from each basement to the existing kerb invert level to ensure no stormwater collected in the kerb and gutter enters the property. The applicant's traffic consultant has provided turning paths for each of the crossings and as the existing lane is only wide enough to permit a single vehicle to enter or exit the lane, the driveway crossings need to be extended. Due to the existing grade along the invert of the laneway and the required width of each of the crossings and the distance between the lane and basement which is quite short, the proposal cannot achieve the required incline grade required to ensure no stormwater enters each of the basements. In this regard it will be necessary for the applicant to redesign the driveway crossings and basement levels to ensure a minimum 150mm crest above the invert level is achieved at all points along the each of the crossings prior to transitioning into the basements.</p> <p>The proposal requires access to the nearest bus stops with suitable grades in accordance with clause 26 of the SEPP. The applicant's access consultant has provided a report addressing this requirement which is satisfactory. To achieve this requirement the proposal include a footpath along the entire frontage of the site and a connecting path from the boundary of the site to the footpath. The survey plan indicates a level difference of approximately 1 metre between the kerb and boundary where this connecting path is shown. In order to meet the grade required for this path it will be necessary to fill the nature strip in this area. Also to meet Council's requirements the footpath will need to be a minimum of 1.5 metres wide. A review of the arborist's report indicates that trees 12 and 13 are to remain. As a result of the proposed footpath works these trees may be impacted. It is considered that this issue must be assessed by Council's Tree Management Officer.</p> <p>The applicant also includes a narrow path along the frontage to Patterson Lane. As the access report does not rely upon this path for compliance it is considered that this path can be deleted. If it is</p>

Internal Referral Body	Comments
	<p>deemed necessary from a Road Assets perspective then it can remain. The kerb alignment appears to be in the correct location with respect to the levels and drainage. Due to the width between the kerb and boundary this footpath will not meet Council's minimum standards.</p> <p>The submitted stormwater management plan including on-site stormwater detention (OSD) has been reviewed and is not acceptable. The proposed volume and discharge rate meets Council's DCP however as the point of connection is to a Council pit in Patterson Lane and the invert level of the orifice plate is lower than the kerb at the point of connection the system is deemed to have a drowned orifice which is not acceptable. In this regard the applicant's engineer will need to relocate the OSD tank to ensure the invert of the orifice plate is higher than the kerb level adjacent to the Council stormwater pit that the site is proposing connection.</p> <p>The Geotechnical report meets the requirements of the DCP.</p> <p>Development Engineers cannot support the application due to insufficient information to address Clauses B5.7, B6.1 of Pittwater 21 DCP 2014.</p> <p>Note: The proposed vehicular access to this development is via Patterson Lane which is a single lane, two way road which also acts as a pedestrian access way between Avalon Village and the primary school in Central Road. It is considered that the conflict of vehicles and pedestrians must be assessed by Council's Traffic Engineers. In order to avoid this conflict it is considered that access to this site should be via Central Road where the existing crossing to the site is located.</p>
NECC (Water Management)	<p><b>SUPPORTED</b></p> <p>Amended scheme - The response was discussed with the applicant several months ago, and the use of filter cartridges has been accepted with the addition of an infiltration swale at the boundary of the lot. The development has incorporated a rainwater tank that will be used principally for irrigation. The applicant is encouraged to extend its use to flushing toilets in the apartments to better apply water sensitive urban design principles to the development. Sediment and erosion controls must be installed prior to any work on the site and maintained until groundcover has been re-established. Council proactively monitors sediment controls.</p> <p>17/6/20 - Second referral The issues I raised in my first referral have not been addressed. The use of filter cartridges for water treatment on this site is not acceptable for the reasons outlined below.</p> <p>5/3/20 - First referral</p>

Internal Referral Body	Comments
	<p>This application has been assessed under Pittwater 21 DCP B5.9</p> <p>In the PLM report it was noted that "Use of filtration cartridges is not supported for this development due to the need for infiltration".</p> <p>The downstream catchment is significantly affected by flooding, and all development occurring in this catchment is therefore required to use water treatment measures that achieve infiltration and evaporation, to reduce the amount of runoff entering the stormwater system and Careel Creek during storm events. Equally, the creek experiences reduced baseflows due to the increased imperviousness of the catchment. Lower baseflows exacerbate issues with odour downstream.</p> <p>The applicant has not provided a solution for water quality that also achieves infiltration. There has been no compensation for lack of infiltration by decreasing connected impervious areas or providing pervious pavements. It is believed that the site is not constrained and there is sufficient space to incorporate some infiltration in the setback or landscaped areas at the lower end of the site. There are WSUD standard drawings publicly available that provide solutions for steeper sites.</p>
Parks, reserves, beaches, foreshore	<p><b>SUPPORTED</b></p> <p>The southern boundary of the subject lot abuts Dunbar Park. Topography of the site falls south towards the park, so sedimentation control has been conditioned to minimise erosion impacts on public reserve.</p> <p>No other issues with the proposal.</p>
Road Reserve	<p><b>SUPPORTED</b></p> <p><b>Amended plans comment</b> - earlier comments remain valid for consideration.</p> <p>Wider footpath along Patterson Lane is noted at 1.5m although it straddles the road/private property boundary. If the public access way relies on private property, an right of carriageway or right of footway may be required in Council's benefit for the ongoing preservation of pedestrian access.</p> <p>There is limited impact on existing road infrastructure assets. The proposed development will need to ensure pedestrian connectivity is maintained and augmented to ensure there is a continuous accessible path of travel to nearby bus services on Barrenjoey Road. The bus shelters on Barrenjoey Road may require upgrades by the applicant to meet accessibility requirements.</p> <p>Given the lack of kerb on the eastern side of Patterson Lane, and low lying properties, careful assessment will be needed of the stormwater drainage characteristics of the proposed development.</p> <p>Council's Development Engineering and Certification Team are</p>

Internal Referral Body	Comments
	<p>requested to provide suitable conditions to give effect to the above assessment in consultation with Transport and Civil Infrastructure teams.</p> <p><b><u>Original submission Comments:</u></b></p> <p>There is limited impact on existing road infrastructure assets. The proposed development will need to ensure pedestrian connectivity is maintained and augmented to ensure there is a continuous accessible path of travel to nearby bus services on Barrenjoey Road. The bus shelters on Barrenjoey Road may require upgrades by the applicant to meet accessibility requirements.</p> <p>Assuming the width of the Patterson Lane carriageway is sufficient for the additional traffic requirements (eg passing), then the provision of pedestrian access along Patterson Lane requires more detail. It would appear from the plans that the proposed 1.0m wide footpath straddles road reserve and private property boundaries. The proposed path width is insufficient to meet Council's standard footpath width requirements, especially for wheelchair and motorised scooter use. If the public access way relies on private property, an right of carriageway or right of footway may be required in Council's benefit for the ongoing preservation of pedestrian access.</p> <p>Given the lack of kerb on the eastern side of Patterson Lane, and low lying properties, careful assessment will be needed of the stormwater drainage characteristics of the proposed development.</p> <p>Council's Development Engineering and Certification Team are requested to provide suitable conditions to give effect to the above assessment in consultation with Transport and Civil Infrastructure teams.</p> <p><b>ASSESSING OFFICER COMMENTS</b></p> <p>The application has been supported by an offer to enter into a Voluntary Planning Agreement or the dedication of land from the subject site for use to construct a public footpath along the western side of Patterson Lane. Subject to a deferred commencement condition reflecting this requirement the proposal is considered satisfactory in relation to road assets.</p>
Strategic and Place Planning (Urban Design)	<p><b>SUPPORTED</b></p> <p><b>Urban Design Comments June 2020</b></p> <p>Generally the builtform proposed has improved in terms of bulk and scale but the proposal has not demonstrated compliance with the side building envelope control of 45 degree splay at 3.5m height. There are also discrepancy with the documents submitted not being updated with the latest design eg. excavation diagrams, elevations, view from sun diagrams and landscape plans.</p> <p><b>Previous Comments</b></p> <p>1. Built form controls</p>

Internal Referral Body	Comments
	<p>Proposal to demonstrate compliance with side building envelope control 45 degree splay at 3.5m height. Proposal does not comply with the SEPP seniors requirement of 8m building height and buildings located in the rear 25% area of the site to be one storey in height.</p> <p>2. Proposed FSR of 0.65:1 is an over-development (Permissible FSR 0.5:1). Suggestion to reduce proposal to single storey facing Dunbar Park will resolve this issue. Stepping built forms to the south-west will also allow more sunlight access to rear gardens and terraces of the proposed units fronting Dunbar Park.</p> <p>3. Basement car park structure should not protrude above existing ground line by more than 1m in height in order not to be counted as a storey above ground.</p>
Traffic Engineer	<p><b>SUPPORTED</b></p> <p><u>Comments provided on amended plans:</u> The proposed amended plans have addressed the issues regarding the driveway arrangements and minimising pedestrian and vehicular conflict within Paterson Lane by provision of footpath along the lane way. Therefore, the proposal can be supported by traffic team subject to conditions.</p> <p><u>Earlier comments:</u> The proposal is for demolition of an existing residence and the construction of a seniors living self-contained development comprising 8 two bedroom dwellings in accordance with the Seniors Living SEPP.</p> <p>Parking</p> <p>The proposal includes the provision of 16 parking spaces which satisfies the parking requirements of 8 spaces. However, the proposed car spaces are not in compliance with the SEPP requirement regarding provision of accessible parking spaces and the compliance may reduce the parking provision.</p> <p>Traffic generation</p> <p>The proposal anticipates the total traffic generation of 4 vehicle trips in traffic peak hours. This is considered to have minimal impact on the road network and is acceptable.</p> <p>Access</p> <p>The proposal comprises two separate car parking accessing from two single width driveways off Patterson Lane.</p>



Internal Referral Body	Comments
	<p>considering the location of the site within close proximity to a school and considerable pedestrian activity in Patterson Lane including school's children, local residents and other road users, the applicant shall consider the pedestrian safety and is to minimise the conflict between vehicular movement and pedestrians within the lane. Given the above, the proposed short length of driveways resulting in reversing movement within the road reserve to enable vehicles to enter and exit in forward direction is considered unsafe. All reversing movement are to be conveniently occurred within the site, and the design and width of driveway is to allow for convenient access in and out of the site in forward direction. Also, given the size of the development requiring only 8 parking spaces, the number of driveways shall be limited to one driveway with adequate width to provide a passing bay within the site. In this relation, the proposed car parking arrangement proposed at the pre-lodgement stage is considered to be a better option.</p> <p>Pedestrian access</p> <p>The proposal requires the provision of access to the nearest bus stops with suitable grades in accordance with clause 26 of the SEPP. The applicant's access consultant has provided a report addressing this requirement which is satisfactory. The proposal also includes the construction of footpath along the northern frontage on Central Road to achieve the connectivity to the nearest bus stop. The applicant is to provide a plan detailing the proposed pedestrian connection to the nearest bus stop is designed in accordance with the SEPP and Council's requirements as indicates in the Engineering Referral Response.</p> <p>The plans provided by the applicant comprises the provision of 1m wide footpath along the site frontage on Patterson Lane. The statement of Environmental Effects (SoEE) report however indicated that the proposal will dedicate 1.0m wide strip of land along the Patterson Lane site frontage to provide for a widening of the current road verge to improve the pedestrian footpath which is currently only 600mm wide. The plan and the SoEE include inconsistent information requiring clarification.</p> <p>Given the lane way has considerable pedestrian activities, the proposed provision of footpath along Patterson Lane will improve safety for pedestrians and is considered to be vital, however, the applicant shall provide the minimum width requirements of 1.5m and address the requirements indicated in the Engineering Referral Response.</p> <p>Conclusion</p> <p>In view of the above, the proposal cannot be supported by Traffic</p>

Internal Referral Body	Comments
	Team. - <b>NOW ADDRESSED</b>
Waste Officer	<p><b>SUPPORTED</b> Proposal is approved with conditions.</p> <p><b>Previous Waste Services Comments</b></p> <p>The applicant has not completed the Northern Beaches Waste Management Plan Section 3: Ongoing waste management. A completed Waste Management Plan is required.</p> <p>The applicant has not complied with the Northern Beaches Waste Management Guidelines. The following is required to ensure compliance:</p> <p>To provide unobstructed access between the Waste Storage Area and Collection Point for all, including residents in wheelchairs, any doors fitted on the waste storage area, pathway and access must be:</p> <ul style="list-style-type: none"> <li>a) A minimum width of 1200mm</li> <li>b) Able to be latched in an open position for servicing without obstructing access and manoeuvring of bins</li> <li>c) Unobstructed by any locks and security devices</li> </ul> <p>The pathway and access between the Waste Storage Area and Collection Point must be solid, concrete, continuous, non-slip and clear of any obstructions and steps.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	Ausgrid have provided comments on the application. A condition of consent has been applied requiring compliance with the recommendations made in the comments.

#### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

All, Environmental Planning Instruments (SEPPs, REPs 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, REPs 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 55 - 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 has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. 1056875M dated 9 December 2019). The BASIX Certificate indicates that the development will achieve the following:

<b>Commitment</b>	<b>Required Target</b>	<b>Proposed</b>
<b>Water</b>	40	40
<b>Thermal Comfort</b>	Pass	Pass
<b>Energy</b>	45	45

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

### **SEPP (Housing for Seniors or People with a Disability) 2004**

The development application has been lodged pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (HSPD)) as the development is for self-contained dwellings seniors housing apartments.

## **Chapter 1 – Preliminary**

The aims of the Policy are set out in Clause 2 and are as follows;

This Policy aims to encourage the provision of housing (including residential care facilities) that will:

- (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and
- (b) make efficient use of existing infrastructure and services, and
- (c) be of good design.

**Comment:** The proposed development is considered to be consistent with aim (a) of the Policy as the development for Seniors Housing will provide an increase supply of accommodation to meet the needs of seniors or people with a disability.

The proposed development is considered to satisfy aims (b) and (c) in terms of the provision for efficient use of existing infrastructure and services. The site adjoins Patterson Lane which connect to Dunbar Park to the south. Currently, there is no existing footpath within the Patterson Lane road reserve suitable for use to make this connection through Dunbar Park down to Barrenjoey Road. The Applicant has submitted an offer to enter into a Voluntary Planning Agreement (VPA) which will require a land dedication to Council of part of the Applicant's land along Patterson Lane in order to facilitate a suitable footpath construction. This offer is considered to provide greater public benefit for access in this location.

When considered against the aim of achieving a good design, the development must also be considered in context with the provisions of SEPP (HSPD). The aim of the policy is to encourage seniors housing achieving a good design outcome which respects the character of the locality it is located in and seeks to minimise the impacts on amenity and the character of the area. The proposed built form is considered to minimise impacts on the character as detailed within this report and is therefore considered consistent with the aims of this policy.

## **Chapter 2 – Key Concepts**

**Comment:** The proposed development is consistent with the key concepts contained within SEPP (HSPD). The development comprises self-contained dwellings which are to be occupied by seniors or people with a disability. On this basis, the proposed development is considered consistent with Chapter 2 of SEPP (HSPD).

## **Chapter 3 – Development for seniors housing**

Chapter 3 of SEPP HSPD contains a number of development standards applicable to development applications made pursuant to SEPP HSPD. Clause 18 of SEPP HSPD outlines the restrictions on the occupation of seniors housing and requires a condition to be included in the consent if the application is approved to restrict the kinds of people which can occupy the development. If the application is approved the required condition would need to be included in the consent. The following is an assessment of the proposal against the requirements of Chapter 3 of SEPP (HSPD).

<b>Development Criteria</b>			
<b>Clause</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Complies</b>
<b>PART 2 - Site Related Requirements</b>			
26(1)	Satisfactory access to: (a) shops, banks 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	The supporting documentation submitted with this application identify bus services located within Central Road that provide a transport link to the services listed.	Yes
26(2)	Access complies with this clause if: (a) the facilities and services referred are located at a	The application has adequately demonstrated that it is serviced by public transport not more than 400m from the site.	Yes

<b>Development Criteria</b>			
<b>Clause</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Complies</b>
	distance of not more than 400 metres from the site or (b) there is a public transport service available to the residents not more than 400metres away.		
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	Not located on bushfire prone land.	N/A
28	Consideration is given to the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure.	Reticulated water and sewerage infrastructure is presently available to the site. The proposed seniors housing development is capable of connecting to a reticulated water system, in accordance with the provisions of Clause 28.	Yes
29	<p>Consideration must be given to whether the proposal is compatible with the surrounding land uses having regard to the following criteria specified in Clauses 25(5)(b)(i), 25(5)(b)(iii), and 25(5)(b)(v):</p> <p>i) the natural environment and the existing uses and approved uses of land in the vicinity of the proposed development</p> <p>iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development and any proposed financial arrangements for infrastructure provision,</p> <p>v) the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.</p>	<p>The proposed development on balance is considered compatible with the surrounding land uses consistent with the requirements of Clause 25 (5) for the following reasons:</p> <p>i) The existing and approved uses of the land surrounding the development include residential flat buildings to the east and west, a school to the north and a public park to the south provide a compatible setting for the proposed development.</p> <p>iii) The site is serviced by adequate existing services suitable for the development. The applicant has made an offer to enter into a VPA to dedicate land along the western side of Patterson Lane for the purpose of providing a public footpath to connect Central Road to Dunbar Park.</p> <p>v) The proposed building design provides a well considered response to the site location and topography and is not considered to result in any unacceptable adverse impacts on surrounding land uses.</p>	Yes
<b>PART 3 - Design Requirements – Division 1</b>			
30	A site analysis is provided.	A suitable site analysis has been provided.	Yes

### **Clause 31 Design of in-fill self-care housing**

Pursuant to Clause 31 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 Division 2, Part 3 of SEPP HSPD. A detailed assessment of the proposals inconsistencies with regards to the requirements of SLP is undertaken hereunder.

<b>Section</b>	<b>Requirements</b>	<b>Comment</b>
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>	<p><b>Built Environment</b></p> <p>The existing residential development surrounding this site provides a mix of residential flat buildings, dwelling houses and a school. The proposed seniors housing development provides a commensurate built form that will complement the streetscape. The building form has been designed so that it steps down the site reducing the overall building mass.</p> <p><b>Policy Environment</b></p> <p>The Avalon Beach Locality makes the following comment:</p> <p><i>"Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport. Vehicular and pedestrian access into and through the locality is good. Pedestrian links, joining the major areas of open space (Angophora Reserve, Stapleton Park and Hitchcock Park) and along the foreshores, should be enhanced and upgraded. Similarly, cycle routes need to be provided through the locality. Carparking should be provided on site and where possible integrally designed into the building.</i></p> <p><i>Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale.."</i></p> <p>The proposed development seeks to support the improvement of pedestrian links and infrastructure</p>

Section	Requirements	Comment
		<p>through the voluntary dedication of land to facilitate construction of a suitable access path from Central Road to Dunbar Park.</p> <p>Further, the development provides a height which is generally below the maximum height limit with the exception of a small part of the lift overrun. The scale of the development is below the tree canopy and will benefit from new planting which will provide further screening.</p>
2. Site Planning and design	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> <li>-Minimise the impact of new development on neighbourhood character</li> <li>-Minimise the physical and visual dominance of car parking, garaging and vehicular circulation.</li> </ul>	<p>The proposed development will have a subtle and complementary impact on the neighbourhood character of this locality.</p> <p>Parking for the development is contained within a basement accessed from Patterson Lane. The parking arrangement will have no visual dominance from surrounding vantage points.</p>
3. Impacts on streetscape	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> <li>-Minimise impacts on the existing streetscape and enhance its desirable characteristics</li> <li>-Minimise dominance of driveways and car park entries in streetscape.</li> </ul>	<p>The proposed building design will provide a sympathetic presentation with the streetscape and to Dunbar Park providing visual surveillance to three public interfaces.</p> <p>The location of parking within the basement accessed off Patterson Lane minimises the dominance of the onsite parking and satisfies these objectives.</p>
4. Impacts on neighbours	The proposal is generally in accordance with the requirements of this section.	Notwithstanding the issues raised in the public submissions, the proposal is considered acceptable in terms of its impact on neighbouring properties.
5. Internal site amenity	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> <li>-Provide safe and distinct pedestrian routes to all dwellings and communal facilities.</li> </ul>	The internal site layout and accessibility have been well designed and are considered satisfactory in terms of this requirement.

### **Clause 32 Design of residential development**

In accordance with Clause 32 of SEPP HSPD a consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed

development demonstrates that adequate regard has been given to the principles set out in Division 2 of Part 2.

The following table outlines compliance with the principles set out in Division 2, Part 3 of SEPP HSPD.

Control	Requirement	Proposed	Compliance
CL33 Neighbourhood amenity and streetscape	a. Recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area.	The visual catchment for the location consists of a variety of building styles and scales. The proposed building form is considered a discreet transition of building form which provides good casual surveillance and a high level of articulation and architectural merit.	Yes
	b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that re identified in a local environmental plan.	Not applicable.	N.A
	c. Maintain reasonable neighbour amenity and appropriate residential character by; (i) providing building setbacks to reduce bulk and overshadowing (ii) using building form and siting that relates to the site's land form, and (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, (iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbors.	The proposed development provides compliant setbacks and facade articulation to reduce the appearance of bulk from surrounding sites. The design presents as a two storey development from all neighbouring properties and from the street and includes generous setbacks at both the front northern boundary and the southern boundary adjoining Dunbar Park.	Yes
	d. Be designed so that the front building of the development is set back in sympathy with,	The front setback of the proposed development provides a sympathetic setback to the adjoining	



Control	Requirement	Proposed	Compliance
	<p>but not necessarily the same as, the existing building line,</p> <p>e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.</p> <p>f. retain , wherever reasonable, major existing trees, and</p> <p>g. be designed so that no building is constructed in a riparian zone.</p>	<p>neighbour at 5 Central Avenue at a minimum of 8.5m.</p> <p>The proposal is considered satisfactory in relation to proposed planting.</p> <p>The amended design has enabled the retention of additional trees within the front setback provided additional space to support replacement planting.</p> <p>The site is not within a riparian zone.</p>	<p>Yes</p> <p>N/A</p>
CL 34 Visual and acoustic privacy	<p>The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by: (a) Appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and (b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</p>	<p>The living areas and attached balconies within the development are oriented toward Central Road and Dunbar Park. For the small balconies which are west facing, these adjoin bedroom areas and contain fixed timber privacy screens.</p> <p>The common open space area is located on the southern side of the development at Level 01 and is bound by planter beds to provide some vegetated screening of the area.</p>	Yes
CL35 Solar access and design for climate	<p>The proposed development should: (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and (b) involve site planning, dwelling design and</p>	<p>Based on the shadow diagrams submitted with the application, the extent of overshadowing resulting from the amended design is considered minor with a small amount of additional overshadowing occurring on the eastern side of no. 5 Central Road at 9am. This additional shadow impact has completed moved off this property by 10am and does</p>	Yes

Control	Requirement	Proposed	Compliance
	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.	not result in any further overshadowing impact.	
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	No objections have been raised by Council's Development Engineers in relation to the proposed stormwater and OSD design.	Yes
CL 37 Crime prevention	The proposed development should 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 any such area, driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	The development provide a high level of casual surveillance to Patterson Lane Central Road where the primary access points to the development are located.	Yes
CL 38 Accessibility	The proposed development should: (a) have obvious and	The site planning includes a sculptural accessible path which provides appropriate	Yes

Control	Requirement	Proposed	Compliance
	safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.	access at the front of the site to the bin storage area and connecting pathways to public transport links.	
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	The proposed waste storage area is consistent with the requirements of Council's Waste Management Guidelines.	Yes

#### **Part 4 - Development standards to be complied with**

##### **Clause 40 – Development standards – minimum sizes and building height**

Pursuant to Clause 40(1) of SEPP HSPD a consent authority must not consent to a development application made pursuant to Chapter 3 unless the proposed development complies with the standards specified in the Clause.

The following table outlines compliance with standards specified in Clause 40 of SEPP HSPD.

Control	Required	Proposed	Compliance
Site Size	1000 sqm	1417m2	Yes
Site frontage	20 metres	23.255m	Yes
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	8m	Yes
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.		
	A building located in the rear 25% of the site must not exceed 1 storey in height (development within 15.51 metres of the rear boundary).	The development includes only single storey elements within the rear 25% of the site adjoining Dunbar Park.  Apartment 1 includes part of Bedroom 1, lounge/dining and terrace	Yes

Control	Required	Proposed	Compliance
		<p>with a total footprint of 64.5m<sup>2</sup> within the setback area.'</p> <p>Aparlment 2 includes part of the lounge/dining room and terrace with an area measuring 34m<sup>2</sup>.</p>	

#### Clause 41 Standards for hostels and self contained dwellings

In accordance with Clause 41 a consent authority must not consent to a development application made pursuant to Chapter 3 unless the development complies with the standards specified in Schedule 3 for such development. The following table outlines compliance with the principles set out in Schedule 3 of SEPP HSPD.

Control	Required	Proposed	Compliance
Wheelchair Access	If the whole site has a gradient less than 1:10, 100% of the dwellings must have wheelchair access by a continuous path of travel to an adjoining public road. If the whole of the site does not have a gradient less than 1:10 the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10 or 50% whichever is the greater.	Accessible access provided.	Yes
Security	Pathway lighting (a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and (b) Must provide at least 20 lux at ground level	Capable of compliance in accordance with Access Report. Details to be provided with Construction Certificate.	Yes
Letterboxes	Letterboxes: (a) must be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel, and	Capable of compliance in accordance with Access Report. Details to be provided with Construction Certificate.	Yes

Control	Required	Proposed	Compliance
	(b) must be lockable, and (c) must be located together in a central location adjacent to the street entry.		
Private car accommodation	(a)Carparking space must comply with AS2890 (b)One space must be designed to enable the width of the spaces to be increased to 3.8 metres, and (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.	Complies	Yes
Accessible entry	Every entry to a dwelling must comply with Clause 4.3.1 and 4.3.2 of AS4299	Capable of compliance in accordance with Access Report. Details to be provided with Construction Certificate.	Yes
Interior general	Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.	Capable of compliance in accordance with Access Report. Details to be provided with Construction Certificate.	
Bedroom	At least one bedroom within each welling must have: (a) An area sufficient to accommodate a wardrobe and a queen size bed (b) A clear area for the bed of at least 1200 mm wide at the foot of the bed and 1000mm wide beside the bed between it and the wall, wardrobe or any other obstruction. (c) Power and telephone outlets and wiring described in Clause 8 of Schedule 3.	Capable of compliance in accordance with Access Report. Details to be provided with Construction Certificate.	Yes
Bathroom	The bathroom is to	Capable of compliance in	Yes

Control	Required	Proposed	Compliance
	comply with the requirements described in Clause 9 of Schedule 3.	accordance with Access Report. Details to be provided with Construction Certificate.	
Toilet	The toilet is to comply with the requirements described in Clause 9 of Schedule 3.	Capable of compliance in accordance with Access Report. Details to be provided with Construction Certificate.	Yes
Surface finishes	Balconies and external paved areas must have slip resistant surfaces.	Capable of compliance in accordance with Access Report. Details to be provided with Construction Certificate.	Yes
Door hardware	Door handles and hardware for all doors must be provided in accordance with AS4299.	Capable of compliance in accordance with Access Report. Details to be provided with Construction Certificate.	Yes
Ancillary items	Switches and power points must be provided in accordance with AS4299.	Capable of compliance in accordance with Access Report. Details to be provided with Construction Certificate.	Yes
Living & dining room	A living room must have a circulation space in accordance with Clause 4.7.1 of AS4299, and a telephone adjacent to a general power outlet. Also a living and dining room must have a potential illumination level of at least 300 lux.	Capable of compliance in accordance with Access Report. Details to be provided with Construction Certificate.	Yes
Kitchen	The kitchen must comply with the requirements of Clause 16 of Schedule 3	Capable of compliance in accordance with Access Report. Details to be provided with Construction Certificate.	Yes
Access to kitchen, main bedroom, bathroom & toilet	The kitchen, main bedroom, bathroom and toilet must be located on the entry level.	Capable of compliance in accordance with Access Report. Details to be provided with Construction Certificate.	Yes
Laundry	The laundry must comply with the requirements of Clause 19 of Schedule 3.	Capable of compliance in accordance with Access Report. Details to be provided with Construction Certificate.	Yes
Storage	A self-contained	Capable of compliance in	Yes

Control	Required	Proposed	Compliance
	dwelling must be provided with a linen storage in accordance with Clause 4.11.5 of AS4299	accordance with Access Report. Details to be provided with Construction Certificate.	
Garbage	A garbage storage area must be provided in an accessible location.	Capable of compliance in accordance with Access Report. Details to be provided with Construction Certificate.	Yes

### Clause 50 Standards that cannot be used to refuse development consent for self-contained dwellings

In accordance with Clause 50 of SEPP HSPD a consent authority must not refuse consent to a development application made pursuant to Chapter 3 for the carrying out of development for the purpose of a self contained dwelling on any of the grounds listed in Clause 50.

The following table outlines compliance with standards specified in Clause 50 of SEPP HSPD.

Control	Required	Proposed	Compliance
Building height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	8m	Yes
Density and scale	0.5:1	0.563:1	No
Landscaped area	30% of the site area is to be landscaped	40.5%	Yes
Deep soil zone	15% of the site area Two thirds of the deep soil zone should be located at the rear of the site. Each area forming part of the zone should have a minimum dimension of 3 metres.	38.9%	Yes
Solar access	Living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter	Complies	Yes
Private open space	(i) in the case of a single storey	Each apartment contains more than	Yes

Control	Required	Proposed	Compliance
	<p>dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and</p> <p>(ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area</p>	15m <sup>2</sup> of private open space.	
Parking	(15 bedrooms proposed – 8 carparking spaces required)	8 spaces provided	Yes
Visitor parking	None required if less than 8 dwellings	7 dwellings	Yes

## Density and Scale

The density and scale requires a floor space ratio (FSR) measuring 0.5:1. The amended proposal results in an FSR of 0.563:1 or 5.1% variation. As the requirements of Clause 50 are not development standards, a Clause 4.6 variation is not required. The proposal is however, considered on its merits given it does not satisfy the numerical requirement.

The non-compliance represents an additional 89.2m<sup>2</sup> of calculable floor area within the development. While there are no stated objectives provided for Clause 50 of SEPP (HSPD), the controls encapsulated in Clause 33, 34 and 35 of the SEPP seek to demonstrate the proposal's suitability and compatibility within the streetscape and impacts on neighbourhood amenity, privacy and solar access. The stated FSR of 0.5:1 for development within a low density residential environment seeks to ensure



infill seniors housing development located in an established low density location reflects the density of the predominant building form of low density detached style dwelling houses. The visual catchment for this site is demonstrably not a low density character.

The FSR proposed by this development is considered contextually appropriate given the surrounding density of development and its proximity within walking distance to the Avalon shopping precinct to the south-east.

## **SEPP (Infrastructure) 2007**

### Ausgrid

Clause 45 of the SEPP 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. Ausgrid have provided comments on the application. A condition of consent has been applied requiring compliance with the recommendations made in the comments.

## **Pittwater Local Environmental Plan 2014**

Is the development permissible?	No
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	9.59m	12.8%	No

\* As the proposed development complies with the maximum height for buildings specified within SEPP (HSPD) of 8.0m measured from the ceiling of the topmost floor to the ground level below, a variation to the building height controls is not required.

### Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes

Clause	Compliance with Requirements
4.3 Height of buildings	N/A
4.6 Exceptions to development standards	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

#### Detailed Assessment

### **Pittwater 21 Development Control Plan**

#### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line (Central Avenue)	6.5m	8.5m	Nil	Yes
Secondary street setback (Patterson Lane)	3.25m	3.25m to face of building	Nil	Yes
Rear building line	6.5m	No applicable - corner lot	N/A	N/A
Side building line	South - 2.5m	6.2m	N/A	Yes
	West - 1m	1m to face of building	N/A	Yes
Building envelope	East - 4.2m	Complies	N/A	Yes
	West - 4.2m	Outside envelope - 0.5m (Lift overrun) 0.5m (Pergola)	N/A	No
Landscaped area Site Area - 1416m <sup>2</sup>	60% (849.6m <sup>2</sup> )	40.5% (574m <sup>2</sup> )	32.4%	No Complies with SEPP (HSPD) which overrides P21 DCP.

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.1 Water Management Plan	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B5.9 Stormwater Management - Water Quality - Other than Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.20 Undergrounding of Utility Services	Yes	Yes
C1.21 Seniors Housing	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.4 Scenic protection - General	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	Yes	Yes
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	No	Yes
D1.15 Fences - General	Yes	Yes

#### Detailed Assessment

#### **C1.3 View Sharing**

#### Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *All new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.*

Comment:

As demonstrated below with the test against the Tenacity principles for view loss, the proposed development provides a reasonable sharing of views from the adjoining western property.

- *The proposal must demonstrate that view sharing is achieved through the application of the Land and Environment Court's planning principles for view sharing*

Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

**1. Nature of the views affected**

*"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".*

Comment to Principle 1:

The view in this case is from Unit 1 in No. 5 Central Avenue to the west of the site. The view includes a green canopy of trees mostly on the adjoining site and a very distant ocean/horizon view. The view is not considered iconic and is not considered a 'whole view'.



Photograph 1 - View across the subject site from the balcony of Unit 1.

## **2. What part of the affected property are the views obtained**

*“The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic”.*

### Comment to Principle 2:

The views are obtained from the east facing balcony adjoining the living area of Unit 1, No. 5 Central Avenue. The view is obtained across the side boundary of the site and across the roof line of the subject site.

## **3. Extent of impact**

*“The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating”.*

#### Comment to Principle 3:

The extent of impact in this instance is varied. In terms of the impact on the green canopy, the trees currently in the line of sight of this apartment which are on the subject site (Tree 5) is an exempt species identified for removal. In terms of the distant ocean views it is likely due to the difference in levels between the sites that some of the horizon will remain visible from a standing level.

It is quite likely that with the removal of Tree 5, and with the southern half of the building stepping down substantially from the northern end that a new 'view' out toward the horizon may become available. Given the obscured nature of the views in this instance the impact is considered negligible.

#### **4. Reasonableness of the proposal that is causing the impact**

*"The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."*

#### Comment to Principle 4:

The outlook directly east across the site complies with the built form controls for the site and is not considered to be a substantial impact on views which varies depending on where on the balcony you stand. As this element of the development complies, the extent of impact is considered acceptable.

- *Where a view may be obstructed, built structures within the setback areas are to maximise visual access through the structure e.g. by the provision of an open structure or transparent building materials.*

#### Comment:

The view in this instance is not impacted by any non-complying elements or structures within the setbacks.

- *Views are not to be obtained at the expense of native vegetation.*

#### Comment:

The vegetation identified in this instance is not a native species.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent / 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.

#### **D1.11 Building envelope**

The development being multi dwelling housing is subject to a building envelope control of 4.2m with a 45 degree projection measured from the side boundaries to the maximum building height. The proposed development (as modified) will result in a minor breach of the envelope control which is demonstrated in the diagram below.

The breach is limited to the lift overrun and pergola structure on the western elevation. The lift results in a breach of 0.54m with the 4.2m envelope (when measured using the low density height of 3.5m there is a 1.2m breach).

For the pergola structure to the south of the lift over part of the communal roof garden, part of the top line of this structure will have a 0.5m breach of the 4.2m envelope (1.2m using the 3.5m envelope). The diagrams provided by the applicant has shown the breach using the 3.5m envelope.



**Figure 1 - Envelope Breach at 8m height limit (SEPP HSPD).** Source: Cottee Parker Architect

As the proposal results in a breach of the envelope, an assessment against the desired outcomes of the control are considered below:

*To achieve the desired future character of the Locality.*

The proposed development provides a built form which is complementary to the adjoining and surrounding developments. The development has included an offer to provide improved infrastructure in the form of a pedestrian path along Patterson Lane and has sought to maintain important endemic trees on the site.

*To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.*

The building as proposed sits predominantly below the maximum building height for the locality which is below the established tree canopy.

*To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.*

The site contains two (2) street frontages and adjoins a public reserve to the south. The architecture has successfully provided an integration with each of these contexts.

*The bulk and scale of the built form is minimised.*

The development contains two (2) main building sections at the northern and southern ends of the footprint which connects in the centre to provide accessible entry points. The building steps down the

site from Central Road to Dunbar Park and includes generous physical and material articulation providing visual relief and interest to the facades.

*Equitable preservation of views and vistas to and/or from public/private places.*

A view loss assessment has been undertaken of the apartment to the west and concluded that the impact in this instance is not unreasonable. There are no other identified views which could be considered impacted by the proposal.

*To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.*

The design of the development has considerably addressed issues relating to potential privacy concerns through the use of permanently fixed screening in areas where any real or perceived privacy impact may occur. In addition, due to the siting of the development, orientation and topography of the site, there is no material overshadowing impacts on adjoining properties.

*Vegetation is retained and enhanced to visually reduce the built form.*

The amended design has a reduced footprint and scale to enable the retention of seven (7) high value trees within the front setback which have been identified as valuable to the site. The proposal is considered acceptable in terms of satisfying the outcomes of the control.

## **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 2019**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$44,193 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$4,419,250.

## **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 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater 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

This report provides a comprehensive assessment of the application for the redevelopment of the site as a self contained seniors housing development with seven (7) dwellings pursuant to SEPP (HSPD).

The site has been inspected and the application assessed having regard to the provisions of Section 4.15 of the EP&A Act, 1979, the provisions of relevant EPIs, SEPP 55, SEPP (Infrastructure), PLEP 2014, the relevant codes and policies of Council, the relevant provisions of the Pittwater 21 DCP.

#### Public Exhibition

The proposal seeks a variation to the building height development standard pursuant to PLEP 2014 and the floor space ratio standard within SEPP (HSPD). The extent of variation for both requirements is considered minor and supports the aims of the Policy to provide an increase in supply and diversity of residences that meet the needs of seniors or people with a disability by invoking the beneficial and facultative application of these controls.

The public exhibition of the DA resulted in a total of seventeen (17) submissions. Objections to the proposed development include concerns relating to building height, floor space ratio, noise, parking, vehicular access, safety, privacy, overshadowing, tree removal and over-development of the site.

The issues raised in the submissions have been addressed in the 'Public Exhibition & Submissions' section of this report.

Based on the assessment contained in this report, it is recommended that the Northern Beaches Local Planning Panel approve the application as a deferred commencement consent to enable the process associated with the VPA to be undertaken for the dedication of land adjoining Patterson Lane for the purpose of a public footpath.

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

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

## **RECOMMENDATION**

### **DEFERRED COMMENCEMENT APPROVAL**

A. THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant a Deferred Commencement Development Consent being subject to a two (2) year time frame for Deferred Commencement Consents detailed within Section 95 of the EP&A

Regulation 2000 to DA2020/0008 for Demolition works and construction of a seniors housing development on land at Lot 27 DP 9151,3 Central Road, AVALON BEACH, subject to the conditions printed below:

B. THAT once the matters detailed within the Deferred Commencement Development Consent conditions are satisfactorily addressed then an operational development consent be issued subject to the time frames detailed within Part A of this recommendation.

## DEFERRED COMMENCEMENT CONDITIONS

1. **VPA for dedication of land to relevant roads authority**

The developer shall enter into a Voluntary Planning Agreement (VPA) pursuant to s7.4 of the Environmental Planning and Assessment Act, 1979 (NSW) to dedicate the land referred to in the developer's offer dated 24 November 2020.

Evidence required to satisfy the deferred commencement condition must be submitted to Council within five (5) years of the date of this consent, or the consent will lapse in accordance with section 95 of the *Environmental Planning and Assessment Regulation 2000*.

2. **Plan Amendments**

The applicant is to update their plans demonstrating the following:

- a widened driveway of 5.5m for the first 6.0m within the property boundary
- reconfiguration of the basement car park to comply with AS2890.1, in particular the blind aisle width of 1.0m near parking space 3.

Reason: To ensure adequate accessibility to and from the site (DACTRAD1)

3. **Pedestrian Signal Phase**

The applicant is to engage with Roads and Maritime Services (RMS) regarding the inclusion of a pedestrian phase on the east leg of the signals at Barrenjoey Road and Central Road.

The applicant is to submit to Council, for concurrence, evidence of correspondence with RMS detailing the initial discussions relating to the inclusion of the pedestrian phase.

Reason: To ensure RMS is included in the initial discussions to upgrade the traffic signals to improve accessibility(DACTRAD2)

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

4. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition

of consent) with the following:

a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
SD1008 - Issue A - Bench Mark Finishes	17/12/2019	Cottee Parker Architects
SD1201 - Issue A - Demolition Plan	17/12/2019	Cottee Parker Architects
SD2007 - Issue C - Floor Plan - Lower Ground	08/07/2020	Cottee Parker Architects
SD2008 - Issue C - Floor Plan - Ground Floor	08/07/2020	Cottee Parker Architects
SD2009 - Issue C - Floor Plan - Level 01	08/07/2020	Cottee Parker Architects
SD2010 - Issue C - Floor Plan - Roof	08/07/2020	Cottee Parker Architects
SD2802 - Issue B - Landscape, Private Open Space & Deep Soil	29/05/2020	Cottee Parker Architects
SD2804 - Issue A - Tree Protection Zone	17/12/2019	Cottee Parker Architects
SD3001 - Issue C - Street Elevations	08/07/2020	Cottee Parker Architects
SD3002 - Issue C - Street Elevations	08/07/2020	Cottee Parker Architects
SD3003 - Issue A - Elevations	17/12/2019	Cottee Parker Architects
SD3004 - Issue A - Section 1 and 2/ Building Height at Boundary Analysis	29/05/2020	
SD3101 - Issue C - Sections 1 - Section A	08/07/2020	Cottee Parker Architects
SD3102 - Issue A - Sections 2	17/12/2019	Cottee Parker Architects
Waste Bins Location - Option 2	13/7/2020	Cottee Parker Architects

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Energy Efficiency Performance Report	9 December 2019	Gradwell Consulting
Building Code of Australia 2019 Compliance Report	12 December 2019	McKenzie Group
Access Report	2 December 2019	Accessible Building Solutions
Acid Sulfate Soil Assessment	5 December 2019	JK Environments
Geotechnical Investigation and Assessment	27 November 2019	JK Environments
Traffic and Parking Impacts Report	13 December 2019	TEF Consulting

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Landscape Plan	23/10/2020	Place Design Group

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.

5. **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:

<b>Other Department, Authority or Service</b>	<b>EDMS Reference</b>	<b>Dated</b>
Ausgrid	Ausgrid Referral Comments	6/02/2020

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

6. **Telecommunications in New Developments**

Prior to the issue of the Construction Certificate in connection with the development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

(i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.

and

(ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

Reason: To ensure that telecommunications infrastructure is considered early in the planning process.

7. **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 Certifying Authority 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 Certifying Authority 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 Certifying Authority 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.

## 8. 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 a final 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) 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 2008
  - (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.

9. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$44,192.50 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 2019. The monetary contribution is based on a development cost of \$4,419,250.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

10. **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 Certifying Authority 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](http://www.northernbeaches.nsw.gov.au)).

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

11. **Construction, Excavation and Associated Works Bond (Drainage works)**

The applicant is to lodge a bond of \$5,000 as security against any damage or failure to complete



the construction of stormwater drainage works as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

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

The applicant is to lodge a Bond of \$25,000 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 Certifying Authority 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**

13. **Planting Plan**

A Planting Plan shall be issued to the Certifying Authority prior to the issue of a Construction Certificate, based on the Amended Landscape Documents, to include the following details:

i) proposed species and design arrangement, based on the Typical Planting Palette (drawing 13 of the Amended Landscape Documents), consistent with the nominated pot sizes and planting densities.

Certification shall be provided to the Certifying Authority that the the Planting Plan is consistent with the design intent of the Amended Landscape Documents.

Reason: landscape amenity.

14. **On Slab Landscape Works**

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided, based on the Detail Plan 2 - Level 01 Communal Space (drawing 10 of the Amended Landscape Documents).

Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The following soil depths are required to support landscaping as proposed:

- i) 300mm for lawn
- ii) 600mm for shrubs

Design certification shall be submitted to the Certifying Authority by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: to ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

15. **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 prepared by JKGeotechnics dated 27 November 2019 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 Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

16. **Detailed Design of Stormwater Treatment Measures**

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with Revision 3 of the Stormwater Concept Management plans prepared by Sparks + Partners Consulting Engineers and Council's Water Management for Development Policy.

The certificate shall be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment.

17. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

18. **Building Code of Australia Requirements and Fire Safety Measures**

The Building Code of Australia works and fire safety measures for the building as detailed and recommended in the Building Code of Australia Audit Report prepared by McKenzie Group, dated 12 December 2019, Report Ref No. 190178(C) are to be carried out in full to the building. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

19. **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 Policy and generally in accordance with the concept drainage plans prepared by Sparks + Partners, drawing number 197279 DA1.01, DA4.01, DA4.02, DA4.10, DA4.11 and DA4.12

Revision 3, dated 8/09/20. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority 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.

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, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

21. **Shoring of Council's Road Reserve (Temporary road anchors)**

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.

Written approval from Council under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Council's road reserve. The Owner's approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

22. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. 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 Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

23. **Stormwater Drainage Application**

The applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of the stormwater connection from the site into the

existing Council drainage pit in Patterson Lane which is to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au) > Council Forms > Stormwater Drainage Application Form. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges.

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

Reason: To ensure appropriate provision for disposal and maintenance stormwater management and compliance with the BASIX requirements, arising from the development.

**24. Provide Acid Sulfate Soil Management Plan prior to construction certificate**

An Acid Sulfate Soil Management Plan is to be prepared in accordance with the requirements of the "Acid Sulfate soil manual" and submitted to Council and the PCA prior to a Construction Certificate being issued.

Reason:

Development is within a Class 4 and 5 Acid Sulfate soil and the information provided indicate excavation to 2 to 3 meters and deeper for the lift overrun; and with results provided in the report by JK Environments indicating some of the soil samples "identified acidic conditions greater than the active Criteria to triggers the need for a Acid Sulfate Soil Management Plan.

**25. Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

Techniques used for erosion and sediment control on site 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 the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

**26. Pier footing design near existing trees T8 to T17 inclusive**

a) The pier footing structural layout plans for the suspended timber ramp/walkway, in proximity to existing trees identified as T8 to T17 inclusive, shall be developed in co-ordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture.

b) The Arborist shall review, comment, recommend design revision as required and approve the pier footing layout, to ensure the locations of piers will be manageable in terms of tree protection measures.

c) The Arborist shall submit certification to the Certifying Authority, that the locations of the pier footings are accepted and based on suitable trunk clearances to allow for future growth.

d) The agreed pier footing structural layout plans shall be submitted to the Certifying Authority for approval prior to the issue of a Construction Certificate.

Reason: tree protection.

27. **Compliance with Standards**

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

(Note: At the time of determination the following (but not limited to) Australian Standards applied:

- (a) AS2601.2001 - Demolition of Structures\*\*
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings\*\*
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting\*\*
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) \*\*
- (e) AS 4970 - 2009 'Protection of trees on development sites'\*\*
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking\*\*
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities\*\*
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities\*\*
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking\*\*
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities\*\*
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set\*\*
- (l) AS 1428.1 – 2009\* Design for access and mobility - General requirements for access – New building work\*\*
- (m) AS 1428.2 – 1992\*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities\*\*

\*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website [www.hreoc.gov.au/disability rights /buildings/good.htm](http://www.hreoc.gov.au/disability%20rights%20/buildings/good.htm). <[www.hreoc.gov.au/disability%20rights%20/buildings/good.htm](http://www.hreoc.gov.au/disability%20rights%20/buildings/good.htm)>

\*\*Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to.)

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

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

28. **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 Certifying Authority prior to the issue of the Construction Certificate.

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

29. **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 Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- “Tap in” details - see <http://www.sydneywater.com.au/tapin>
- 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.

30. **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 an RMS 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 throughout the town centre, truck movements will 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 and Development Engineer prior to submission of the CTMP.

The CTMP must address following:-

- The proposed phases of construction works on the site, and the expected duration of each construction phase;
- 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;
- Make provision for all construction materials to be stored on site, at all times;
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- 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;
- 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;
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Specify that, due to the proximity of the site adjacent to Maria Regina Catholic School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic.
- 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.
- 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.
- 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.

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

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. Confirming appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner’s property rights and protects amenity in the locality, without unreasonable inconvenience to the community. The CTMP 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.

(DACTRCPC1)

### 31. **Submission of Engineering Plans**

The submission is to include four (4) copies of Civil Engineering plans for the design of:

- Upgraded footpaths along all frontages of the site and along all paths leading to the allocated Bus Stops
- Footpaths of 1.5m clear widths
- Upgraded Bus Stops to be DDA compliant

These are to be generally in accordance with the civil design approved with the Development Application and Council’s specification for engineering works - AUS-SPEC #1 and or Council’s Minor Works Policy. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Section 138 and/or 139 applications are to be submitted to Council for Local Traffic Committee approval.

Reason: To ensure compliance with Council’s specification for engineering works and improve

safety for the intended users. (DACTRCPC2)

**32. Waste and Recycling Requirements**

Details demonstrating compliance with Northern Beaches Development Control Plan – Part C9 Waste Management, including the required Northern Beaches Waste Management Plan, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with Northern Beaches Development Control Plan – Part C9 Waste Management, 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. (DACWTC01)

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

**33. Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with 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.

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.

The Project Arborist shall be in attendance and supervise all works including but not limited to section 1.4.2 of the updated Arboricultural Impact Assessment dated 2 September 2020:

- i) design review of pier footings for the suspended walkway in proximity to existing trees identified as T8 to T17 inclusive,
- ii) tree protection fencing for existing trees identified as T3, T10, T11, and T15 as shown within Appendix E01 and E02,
- iii) tree sensitive design for the Central Road footpath in proximity to existing trees identified as T12, T13 and T17,
- iv) trunk protection for existing tree identified as T20 within Patterson Lane,
- v) excavation works in proximity to existing trees identified as T30 to T35 inclusive, to select location of path near T30 and select fence post footings for T31-T35, within Dunbar Park,
- vi) tree protection fencing for existing tree identified as T36 within Dunbar Park.

All tree protection measures specified must:

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

The Project Arborist shall provide certification to the Certifying Authority 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.

34. **No Access Through Adjoining Park/Reserves**

Access to the site through an adjoining park/reserve is prohibited without the written approval of the Council.

Reason: To ensure protection of council parks/reserves.

35. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority 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.

**Property: 5 Central Road, Avalon Beach**

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority 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 Certifying Authority 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 Certifying Authority prior to the commencement of any works on site.

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

36. **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.

37. **Tree removal within the property**

This consent approves the removal of the following trees within the property impacted by development (as recommended in the updated Arboricultural Impact Assessment dated 2 September 2020):

- trees numbered 4, 4a and 18 (Cheese Tree), 6 (Bloodwood), 7 (Lillypilly), 19 (Lemon Scented Gum), 23, 26 and 28 (Bottlebrush), 24, 25, 28a and 29 (Lemon Scented Tea Tree), and 37 (Swamp Mahogany).

The following Exempt Species do not require Council consent for removal:

- trees numbered 5, 5a, and 27.

Reason: to enable authorised building works

Note: Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by an Arborist with minimum AQF Level 5 in arboriculture that determines that the tree presents an imminent risk to life or property.

## CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

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) and the Erosion and Sediment Control Plan prepared by Sparks + Partners Consulting Engineers 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 Measure**

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

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

#### 41. **Dewatering Management**

Where a one-off instance of dewatering of groundwater or tailwater is required during works, Council's Catchment Team must be notified of the intention to discharge. Discharges should meet the water quality requirements below. Notification must be via the Team's email address - [catchment@northernbeaches.nsw.gov.au](mailto:catchment@northernbeaches.nsw.gov.au).

If continuous dewatering or dewatering on multiple events is expected, a dewatering permit is required from Council's Catchment Team at [catchment@northernbeaches.nsw.gov.au](mailto:catchment@northernbeaches.nsw.gov.au).

To obtain a permit, the following information must be contained in a dewatering management plan and provided to Council's Catchment Team. The dewatering management plan must be certified by a suitably qualified civil engineer who has membership of Engineers Australia and appears on the National Engineering Register (NER).

1. Preliminary testing of groundwater/tailwater must be conducted by a NATA accredited laboratory to establish a correlation between NTU and TSS. This will allow the use of grab sampling at short notice prior to planned discharges.
2. Grab samples must be collected **within 1 hour before planned discharge** that comply with the parameters in the table below.
3. The groundwater/tailwater to be discharged must be compliant with the water quality requirements below, the General Terms of Approval/Controlled Activity permit issued by WaterNSW (if applicable), Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

#### **Water Quality (<one hour of planned discharge)**

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Oil and grease, not visible

pH, 6.5-8.5

Total Suspended Solids (TSS), <50mg/L NTU from a meter/grab sample

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4. All approvals, water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.

5. Tailwater must be discharged to the nearest stormwater pit in accordance with Council's Auspec1 Design Manual and must not spread over any road, footpath and the like. Discharge to the kerb and gutter will not be accepted. Where there is no stormwater pit within 100 metres of the site, Council's Catchment Team must be contacted to discuss alternative arrangements.

On receipt of a satisfactory dewatering management plan, Council's Catchment Team will issue a permit that will allow dewatering for up to one year. This permit should be provided to WaterNSW for their permit. Once a permit has been received from WaterNSW, dewatering may commence.

Reason: Protection of the receiving environment

42. **Civil Works Supervision**

The Applicant shall ensure all civil works approved in the Section 138 and Section 68 application approvals are supervised by an appropriately qualified and practicing Civil Engineer.

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

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

43. **Footpath Construction**

The applicant shall construct a 1.5 metre wide footpath. The works shall be in accordance with the following:

(a) All footpath works are to be constructed in accordance with the Section 138 Road Act approval.

(b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Section 138 Road Act approval for footpath.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

44. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

45. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 5.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 Normal and the driveway levels 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 Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

46. **Protection of existing street trees**

All existing street trees in the vicinity of the works shall be retained during all construction stages.

Existing street trees within the frontage of the development site shall be protected by tree protection fencing to the extent and alignment as determined by an Arborist with minimum AQF Level 5 in arboriculture, and 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.

Unless identified by the development consent, no tree roots at or >25mm (Ø) diameter are to be damaged or cut and all structures are to be bridged over such roots.

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

Reason: tree protection.

**47. Tree and vegetation protection**

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site not approved for removal (existing trees numbered and identified for retention as 3 (Rough Barked Apple), 8, 9, 10, 11 and 15 (all Angophora), 14 (Bloodwood), 16 (Swamp Mahogany) and 36 (Cheese Tree) in the updated Arboricultural Impact Assessment dated 2 September 2020, and as located on the Tree Removal Plan number 7 of the Amended Landscape Documents),
- ii) all trees and vegetation located on adjoining properties, including but not limited to existing trees numbered and identified for retention as 1, 1a, 2, 20, 21, 22, 30, 31, 32, 33, 34, and 35,
- iii) all road reserve trees and vegetation not approved for removal, including but not limited to existing trees numbered and identified as 12, 13 and 17.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with 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 an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- 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 an Arborist with minimum AQF Level 5 in arboriculture 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, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- 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.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the updated Arboricultural Impact Assessment dated 2 September 2020, as listed in the following sections: 1.4 and 2.0 inclusive (with particular attention to section 2.2.2 part 5 Hold Points, and Appendix E01 and E02.

The Certifying Authority must ensure that:

d) 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.

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

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan dated 20 September 2020.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided. (DACWTE01)

**49. 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. (DACWTE02)

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

**50. Landscape works completion**

Landscaping is to be implemented in accordance with the Amended Landscape Documents dated 23 October 2020 and the Planting Plan, inclusive of the following conditions:

- i) tree planting shall be located within a 9m<sup>2</sup> deep soil area and be located a minimum of 4metres from existing and proposed buildings,
- ii) tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight,
- iii) the *Cupaniopsis anacardioides* nominated on the plans shall be replaced with a locally native canopy tree,
- iv) landscape materials shall be in accordance with drawing number 14 'Materials Look and Feel'.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: environmental amenity.

51. **Condition of retained vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, 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.

52. **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 Revision 3 of the Stormwater Concept Management plans prepared by Sparks + Partners Consulting Engineers. 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 Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

53. **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 Certifying Authority prior to the issue of any final 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.

54. **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 visitsAdditionally 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 Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

55. **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 Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.



56. **Strata Management Statement**

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

Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the release of the **Occupation** Certificate.

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

57. **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:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- 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 Certifying Authority prior to the issuing of any Occupation Certificate.

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

58. **Reinstatement of Kerb**

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

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

Reason: To facilitate the preservation of on street parking spaces.

59. **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 Hydraulic 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 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 Certifying Authority prior

to the issue of the Occupation Certificate.

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

60. **Maintenance contract for stormwater filtration cartridges**

A minimum of a five-year contract with a suitably qualified provider is required for the maintenance of the stormwater filtration cartridges.

A copy of the maintenance contract must be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

Reason: To ensure maintenance of the stormwater treatment measures.

61. **Geotechnical Certification Prior to Occupation Certificate**

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

62. **Certification of Council Drainage Works and Works as Executed Data**

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works have been constructed in accordance with this consent and the Section 68 approval. Works as Executed data (details overdrawn on a copy of the approved drainage plans) certified by a registered surveyor prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Stormwater Assets' shall be submitted to Council for acceptance 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 the Occupation Certificate.

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

63. **Completion of Pedestrian Pathway**

The pedestrian pathway along Patterson Lane adjoining the subject site is to be installed and certified by Council prior to the issue of an Occupation Certificate.

Reason: To ensure all infrastructure is complete and operational for the safety of all pedestrians using Patterson Lane.

64. **Garbage and Recycling Facilities**

All internal walls of the storage area 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.

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

Reason: To prevent pollution of the environment and to protect the amenity of the area.  
(DACPLF03)

65. **House / Building Number**

House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

66. **Unit Numbering for Multi Unit Developments (Residential, Commercial and Industrial)**

The units within the development are to be numbered in accordance with the Australia Post Address Guidelines  
([https://auspost.com.au/content/dam/auspost\\_corp/media/documents/Appendix-01.pdf](https://auspost.com.au/content/dam/auspost_corp/media/documents/Appendix-01.pdf)).

In this regard, the numbering is to be as per the Unit Numbering for Multi Unit Development Table available on Council's website Unit Numbering for Multi-Unit Developments Form

External directional signage is to be erected on site at driveway entry points and on buildings and is to reflect the numbering in the table provided. Unit numbering signage is also required on stairway access doors and lobby entry doors.

It is essential that all signage throughout the complex is clear to assist emergency service providers in locating a destination within the development with ease and speed, in the event of an emergency.

Details are to be submitted with any Interim/Final Occupation Certificate or Strata Subdivision Certificate certifying that the numbering has been implemented in accordance with this condition and the Unit Numbering for Multi Unit Development Table.

Reason: To ensure consistent numbering for emergency services access.

67. **Undergrounding of Telecommunications Services**

Arrangements are to be made for the provision of underground telecommunications services to the building.

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

Reason: Provision of telecommunication facilities in a manner that facilitates the future underground provision of cable services. (DACPLF06)

68. **Sydney Water**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

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

69. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

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

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

70. **Pedestrian Signal Phasing - installation**

The applicant shall be required to undertake any upgrades to the Traffic Signals as per any stamped RMS plans relating to the Traffic Signals.

All costs associated with any upgrade shall be borne by the applicant.

The works shall be undertaken prior to the issue of any Occupation Certificate, to the satisfaction of RMS.

Reason: To ensure safe connectivity for the Seniors and Mobility impaired when accessing the Bus Stop on the east side of Barrenjoey Road (DACTRFPOC1)

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

The proposal shall be constructed in accordance with Northern Beaches Development Control Plan – Part C9 Waste Management

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

Reason: To ensure waste and recycling facilities are provided. (DACWTF01)

72. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled. (DACWTF02)

73. **Positive Covenant for Waste Services**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to provide access to the waste storage facilities prior to the issue of an Interim/Final Occupation Certificate. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Northern Beaches Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. 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 (DACWTF03)

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

The original completed request form (Department of Lands standard form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final 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 Certifying Authority, 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. (DACWTF04)

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

75. **Maintenance of Stormwater Treatment Measures**

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

Vegetated stormwater treatment measures must maintain an 80 percent survival rate of plantings and limit weed cover to no more than 10 percent of the total area of the stormwater treatment measure.

Reason: Protection of the receiving environment.

76. **Landscape maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.

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.

Reason: to maintain local environmental amenity.