

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1828
----------------------------	-------------

Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot A DP 411784, 3 Berith Street WHEELER HEIGHTS NSW 2097
Proposed Development:	Construction of a Seniors Housing development comprising 6 x infill self care housing units and basement parking
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Ming Hong Zhou
Applicant:	Boston Blyth Fleming Pty Ltd

Application lodged:	15/11/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	05/12/2018 to 13/01/2019
Advertised:	08/12/2018
Submissions Received:	17
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 2,829,900.00
---------------------------------	-----------------

Executive Summary

This development application (DA) seeks approval for a "seniors living" development, pursuant to State Environmental Planning Policy (SEPP) Housing for Seniors or People with a Disability (HSPD). The SEPP prevails over the Warringah Local Environmental Plan (WLEP) 2011 that prohibits HSPD within the R2 Low Density Residential zone. The application is referred to the NBLPP as more than ten (10) submissions have been received.

In summary, the proposal is configured as 4 dwelling Units at the front with 2 Units at the rear and a basement carpark. The topography of the site is considered suitable to meet geotechnical and engineering requirements. However some assessment concerns are raised with respect to landscaping works, excavation and maintaining 'local character' and continuity of the surrounding environment.

Principal assessment issues with the development proposal relate to floorspace (FSR) variation, streetscape impact, traffic access, adequacy of parking, landscaped setbacks, privacy, compliance with SEPP HSPD, building bulk, access to transport and the intensity of the development within the character of a low density residential area. In the context of the full assessment these specific issues have been considered within the report and detailed comments provided with respect to engineering, traffic, landscaping, building accessibility, urban design and waste management. Conditions are recommended to address issues where appropriate, including any minor changes for construction work or changes to Council assets in the road reserve.

Seventeen (17) public submissions were received following notification and issues raised include concerns relating to neighbours amenity, streetscape character, construction impact, visual bulk, privacy, spatial separation, public consultation, traffic, pedestrian safety, dilapidation risk, visitor parking and tree protection have been considered and addressed in the report. Conditions are recommended to appropriately address those concerns raised in the public interest. On balance, the proposal is recommended for approval having considered relevant issues and the assessment of the design plans submitted.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - B9 Rear Boundary Setbacks
Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
Warringah Development Control Plan - D2 Private Open Space
Warringah Development Control Plan - D8 Privacy
Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot A DP 411784 , 3 Berith Street WHEELER HEIGHTS NSW 2097
Detailed Site Description:	<p>The subject site is on the eastern side of Berith Street, near the intersection with Rose Avenue. The site is a rectangular shape with a width of 20.13 metres (m), depth of 63.0m, and total area of 1,269 square metres (sqm). The land slopes gently toward the north-east corner having a (diagonal) cross fall of 4m and average gradient of 5% from front to rear.</p> <p>Vehicle and pedestrian access is available from Berith Street. A low gradient footpath exists along Rose Avenue (55m north of the site) and bus stops are located within 400m of the site, near the corner of Wheeler Parade and Rose Avenue.</p> <p>The site currently contains a single detached dwelling house, pool, garage and minor structures. Some medium to large trees are located on the property and some will be required to be removed to facilitate the proposal. No threatened species habitat has been identified on the site.</p> <p>Adjacent development consists of low density detached dwellings in landscaped settings. Other land uses in the vicinity of the site include Wheeler Heights Primary School (adjoining the rear boundary), Wheeler Heights shops (250m due east) and St Rose Catholic School at No.32 Rose Avenue.</p> <p>The site is not subject to natural hazards of landslip, flooding, bushfire or acid sulfate soils and does not contain any significant natural rock outcrops.</p>

Map:



SITE HISTORY

There are no heritage items on the land and the site will be completely cleared of all structures for the proposal, therefore the history of previous development on the land is not relevant, except for the ensuring the appropriate demolition and safe handling of waste materials to be removed.

Pre-lodgement Meeting PLM2018/0095 for "Demolition works and the construction of a Seniors Living Development *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*" was held with Council on 29 May 2018. The DA proposal is consistent with the pre-lodgement written advice.

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves the construction of six (6) dwellings (in-fill self-care housing) for aged and disabled persons housing including the following manner:

- Demolition of all on-site structures (house, swimming pool, ancillary works), including tree removal;
- Excavation and site works, including driveway areas, on-site detention and drainage works;
- **RL72.0 Basement:** Carparking for eight (8) cars with disabled persons accessibility, stair and lift, plant/services, bike parking space and storage.
RL76.0 to 77.0 Ground Floor: Entry area, stairs & lift, four (4) Units of 2 x 3 bedroom and Two (2) x 2 bedroom, bathrooms, kitchen / dining / living areas, storage, deck / terrace areas, ramped paths, outdoor space;
RL79.0 First Floor: Entry area, stairs & lift, Two (2) x 3 bedroom Units, bathrooms, kitchen / dining / living areas, storage, deck / terrace areas;
- Landscaping works including fencing, bins storage, ancillary structures and access paths.
- (Strata subdivision by separate application)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iiia) – Provisions of any planning	None applicable.

Section 79C 'Matters for Consideration'	Comments
agreement	
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&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>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations. Some supplementary additional information was submitted to provide clarity on some assessment issues. This detailed information was regarding tree assessment impacts and stormwater. This information does not require re-notification (at Council's discretion) in accordance with the WDCP.</p> <p><u>Clause 92</u> of the EP&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&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent, as applicable.</p> <p><u>Clause 98</u> of the EP&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> <p><u>Clause 98</u> of the EP&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>
Section 79C (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) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) 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 79C (1) (c) – the suitability of the site for the development	<p>The subject land is considered suitable for the proposed development in that the land is gently sloping, with access to public transport, local services and shops. The proposal is designed in 1 x 2 storey building (central opening appearing as 2 'modules') at the front with a single storey building at the rear within a landscaped setting. Basement parking is situated below the buildings.</p>

Section 79C 'Matters for Consideration'	Comments
	<p>Stormwater disposal will be addressed by on-site detention (front setback area) and drainage of water to Council's street drainage infrastructure.</p> <p>The site is located within suitable distance and gradient to public bus stops, near Wheeler Heights shops.</p>
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest, subject to conditions. Issues raised in public submissions have been considered and addressed in summary within the detail of this report.

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 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 17 submission/s from:

Name:	Address:
Henry Van Long Chin	9 Berith Street WHEELER HEIGHTS NSW 2097
Diane Moira McNatty	11 Berith Street WHEELER HEIGHTS NSW 2097
Mr David John Collett Mrs Wendy Collett	7 Berith Street WHEELER HEIGHTS NSW 2097
Amanda Louise Spencer	1 Berith Street WHEELER HEIGHTS NSW 2097
Ms Rebecca Catherine Plester	8 Berith Street WHEELER HEIGHTS NSW 2097
Mr Adam Paul Gibbs	16 Berith Street WHEELER HEIGHTS NSW 2097
Mr Robert Guy Barnes Mrs Christine Helen Barnes	10 Berith Street WHEELER HEIGHTS NSW 2097
Ms Joan Elizabeth Catherine Croydon	5 Berith Street WHEELER HEIGHTS NSW 2097

Name:	Address:
Ms Jan Margaret Hawthorn	20 Berith Street WHEELER HEIGHTS NSW 2097
Mrs Helen Elizabeth Millichamp	29 Rose Avenue WHEELER HEIGHTS NSW 2097
Mr Neil Angus Macinnes	12 Berith Street WHEELER HEIGHTS NSW 2097
Mrs Jill Carolyn Clouston	14 Kirkstone Road WHEELER HEIGHTS NSW 2097
Mrs Dorothy Susan Waterhouse	56 Rose Avenue WHEELER HEIGHTS NSW 2097
Ms Dorothy Elizabeth Cordery	25 Rose Avenue WHEELER HEIGHTS NSW 2097
Peter Leslie Knoechel	38 Rose Avenue WHEELER HEIGHTS NSW 2097
Mr Andrew John Musgrove Mrs Rachel Frances Musgrove	2 Berith Street WHEELER HEIGHTS NSW 2097
Mr Eric Duncan Ward Rogers Mrs Noreen Rogers	31 Rose Avenue WHEELER HEIGHTS NSW 2097

The following issues were raised in the submissions and each have been addressed below:

- Neighbourhood amenity and streetscape character
- Visual and acoustic privacy
- Traffic and safety
- Visitor and service parking
- Overdevelopment
- Construction / excavation impacts
- Geotechnical risks
- Public consultation
- Amenity impacts (light, bulk, outlook)

The matters raised within the submissions are addressed as follows:

- ***Concern that the proposal is out of character with surrounding development and will reduce neighbourhood amenity, including streetscape presentation and neighbourhood character of apartment style development, including building bulk and visual impact.***

Comment:

In assessing the proposal Council has been mindful of the following matters in terms of local streetscape or neighbourhood character (including the relevant requirements of SEPP HSPD and assessment principles by the NSW LEC in *GPC No.5 (Wombarra) Pty Ltd v Woollongong City Council [2003] NSWLEC 268*):

- What is the relevant area?
- What does “consistent” mean?
- What is the local character?
- What is the character of the proposed development?
- Is the character of the development consistent with the local character?”

Surrounding development is dominated by low density residential development of either one or two storeys, mostly with hipped / gable roofs in a landscape setting. Building styles of the homes are mostly post war period within the relevant area that includes the visible surroundings from the site and extended to the immediate local surrounds within 400m (being the connection route to local transport that the proposal depends on). The schools and shops within this area have a mixture of buildings but are non-residential uses in terms of character and therefore less implied as defining residential form. There are a number of HSPD and dual occupancy developments in the vicinity (within a direct 400m of the site), indicating the current or past development approval of these medium density style of housing.

Despite the higher density of the proposal, the architectural style including external materials and colours are broadly consistent with the residential character of the area, which includes the common use of external colours such as white, brown, grey, and earthy colours. The use of external materials of brick or rendered walls, glass sliding doors and timber / weatherboard cladding and the like appears in the streetscape. The architectural style of the proposed building is however more contemporary in appearance than the existing surrounding housing stock, due to the proposed flat roof style, window fenestration, balcony style and wall treatment used. The use of a flat roof is supported in this case as it has less impact than a hipped roof would toward No.5 Berith Street in terms of visual impact, overshadowing and building bulk. The building maintains a consistent landscape setback to the street and a residential character by the use landscaped surrounds, pedestrian entry treatment and dividing the mass of the building into 'modules'.

The proposal is able to maintain some selected trees as practicable in the front setback, and conditions are recommended to reduce radical change to site levels abutting the boundaries. It is also recommended to provide a minor change for more light weight residential (open-style) appearance of the front balcony. These changes are considered to be appropriate to assist in a "good fit" for the development to adjacent land, and design considerations of SEPP HSPD. Further detailed assessment of streetscape is made under the DCP and SEPP HSPD assessment within this report and in conclusion the proposal is considered to be satisfactory, subject to conditions addressing the relevant issues.

In summary, this issue has been addressed by the design and does not warrant refusal of the application.

- ***Concern that the proposal will cause a loss of visual privacy and create overlooking impacts to adjoining neighbours from the development toward adjoining residential land.***

Comment:

Visual and acoustic privacy is managed by ensuring private open spaces (balconies or terraces) are adjacent other private open space areas or oriented toward the street / rear boundary (school). In addition, ground level areas along the side and rear boundaries are protected by 1.8m high fencing and may also be partly lower than adjacent land due to site excavation work. The side, rear and front setbacks contain landscape screen planting with appropriate planting to assist privacy. For the upper storey the proposal has adopted the use of fixed privacy screens to minimise any overlooking opportunities and ensure no unreasonable impact. The access is centralised for pedestrian movements at the front of the property and to / from the basement that ensures no unreasonable loss of privacy from the carparking area or the public entry to the building.

In summary, this issue has been addressed by conditions and does not warrant refusal of the application.

- ***Concern that the proposal will generate increased traffic and create safety issues in the adjacent street, compounded by other recent Senior's development nearby and school traffic within Rose Avenue and Berith Street.***

Comment:

The proposal has been submitted with a detailed "Traffic Impact Assessment" prepared by Apex Engineers. This report addresses local road capacity for traffic volumes, access to public transport, vehicle access, parking layout, road conditions, parking and general traffic safety considerations. Council's Traffic Engineer has assessed the proposal and raises no objection to approval of the development, subject to conditions. The proposal is required to comply with current Australian Standards to ensure safe sight distances for vehicle access / egress, parking and manoeuvring space. The available parking is considered to warrant some minor changes to address planning concerns and neighbours concerns for off-street parking and visitors. This has been addressed by conditions to increase the standard visitor spaces and provide 1 disabled access carspace for each Senior's Living unit. The traffic volumes for the proposal will cause an unreasonable impact on parking. Traffic issues during demolition and construction and short term impacts and therefore do not warrant refusal of the application. In addition, Rose Avenue and Berith Street are local roads with normal low standard residential speed limits (including school zones) and the road alignment, width and road conditions are of a good standard, being not dilapidated or steep and difficult to navigate.

In summary, this issue has been addressed by conditions and does not warrant refusal of the application.

- ***Concern that the proposal does not have adequate parking for visitors and the higher volume of deliveries/carer/service traffic generated by HSPD development.***

Comment:

The SEPP HSPD prevails over the Warringah DCP for carparking requirements and SEPP HSPD contains overriding standards that "cannot be used to refuse development consent for self contained dwellings". In this case the proposal satisfies the requirements of the SEPP HSPD disabled persons car parking access and for "0.5 car parking spaces per bedroom per dwelling". For 'self-contained dwellings' the SEPP HSPD does not require or specify that visitor spaces or "pickup/set-down" spaces are required to service the six (6) HSPD dwellings collectively. However, with a development containing 10 bedrooms and 6 dwelling, only one visitor space is likely to be insufficient due to the additional health service or carer visitation for seniors living which is addressed by conditions. Notwithstanding this, the design shows that cars can enter and leave the site in a forward direction and the driveway will comply Council's driveway access requirements and Australian Standards for sight distances for safe driveway access. In addition, the site is within a low density area and while kerbside parking may be taken up during various peak daytime periods, such as due to the adjacent school traffic. Normally the adjacent streets have kerbside parking available for short term visitors to the site that are adjacent too, or a convenient distance from the site, and a footpath exists along Rose Avenue for safe pedestrian access. Conditions are included for the construction of a footpath connection to ensure pedestrian connection to a local bus stop and thereby provide an option to travel by car use.

In summary, pursuant to SEPP HSPD, the density of the proposal is recommended to dedicate 3 parking for visitors (including 1 disabled persons space) and 6 resident car spaces. Therefore subject to conditions this issue does not warrant refusal of the application.

- ***Concern that the density of the development is an overdevelopment of the site, will***

create a precedent for this type of development and is not consistent with the Warringah LEP.

Comment:

The proposal is submitted pursuant to State Environmental Planning Policy (Housing for Seniors or Persons with a Disability) 2004, (SEPP HSPD) "the SEPP". The SEPP *prevails* above the Warringah LEP 2011 by making HSPD permissible in the R2 Low Density Residential Zone despite being prohibited under the WLEP. In addition, the SEPP has its own development standards that prevail over the WLEP and allows a higher density of development than the LEP permits the R2 Low Density Residential Zone. A detailed assessment of the proposal under the SEPP is provided within this report and demonstrates that the proposal complies with built form controls of the SEPP and is compatible and consistent with the character and streetscape by its visual appearance, landscaping and design layout, subject to conditions.

Therefore, this issue is not considered to have determining weight to warrant refusal.

- ***Concern that construction impacts will create dust, dilapidation and excavation work will remove trees that may include street trees or trees on adjacent land.***

Comment:

Conditions are recommended to address site construction and potential dilapidation risk issues, including the appropriate safe handling of asbestos, control of dust and noise. In addition this, conditions are required to ensure the development adequately contains erosion and sediment and does not create unreasonable impacts on the amenity of adjacent land during construction.

Detailed information regarding the proposed removal of trees is provided within the Arborist Report submitted with the application. Details are also provide to address pathway construction to minimise impacts on street trees. No trees on adjacent private property are proposed to be removed and conditions are included to minimise excavation within 1.0m of the side boundary. Council's Landscape Officer has reviewed the Arborist Report, Landscape plan and development application details and has no objection to the proposed tree removal and replacement planting, subject to conditions.

Therefore, this issue is addressed by conditions and is not considered to have determining weight to warrant refusal.

- ***Concern that there was insufficient public consultation or notification time for the development application.***

Comment:

The development application as notified and advertised in accordance with the WDCP 2011 and the EP&A Act 1979. All submission have been considered in detail including any submissions received after the notification / advertising period during the assessment period (prior to completion of this assessment report). Issues of public interest are also considered as part of any telephone inquiries made in response to Council's DA notification information / details.

Therefore this issue is considered to have been adequate for the proposal and does not warrant refusal.

- ***Concern that the proposal will have amenity impacts on adjacent land in terms of overlooking, building bulk, loss of natural light and outlook.***

Comment:

This issue is considered in the context of the dwelling configuration for No.5 Berith Street and No.1 Berith Street in particular. Consideration is also given to the rear yard areas for No.25 and No.27 Rose Avenue.

The dwelling house for No.5 Berith Street contains a large living room window facing the north (side setback) that affords northern outlook and direct sunlight to the principal living area within that dwelling. The house has a narrow side setback and therefore the proximity of any two-storey building beside the large side window will impact on the amenity of the living room / kitchen area within No.5 Berith Street because the large side window overlooks the existing roof for No.3 Berith street (the site). The proposed development is compliant with the side boundary envelope and permits sunlight to the window area on the 21 June (mid winter), as shown on Elevations / Section A-A drawing A09 drawn by *Barry Rush & Associates Pty Ltd*. The top storey of the building however also restricts the north facing outlook from No.5 Berith Street.

It is recognized that views from side facing windows are difficult to protect (being over a side boundary) the proposal will have a considerable impact on the general amenity of this existing outlook due to the building bulk and close spatial proximity of the side wall. In order to address this issue it is recommended that part of the side wall (mid-section) for Unit 3 setback 500mm further to improve the existing articulation, reduce building bulk and assist with morning solar access to adjacent land. This is addressed by conditions.

The dwelling house for No.1 Berith Street is on a lot that is not as long as the subject site and therefore the proposed development extends along the side boundary for the full depth of the rear yard. In order to reduce the impacts of building bulk and scale it is considered that, similar to the recommended change to Unit 3, a change to the side wall setback will reduce the amenity impacts on No.1 Berith Street. Therefore, it is recommended that the side wall (mid section) for Bedroom 2 & 3 within Unit 4 be setback an additional 500 millimetres (along the existing articulation) to give a better spatial relief and amenity to 3 Berith Street. This is addressed by conditions.

Figure 1: Side window 3 Berith Street St.



Figure 2: Outlook north across the site from 3 Berith St.



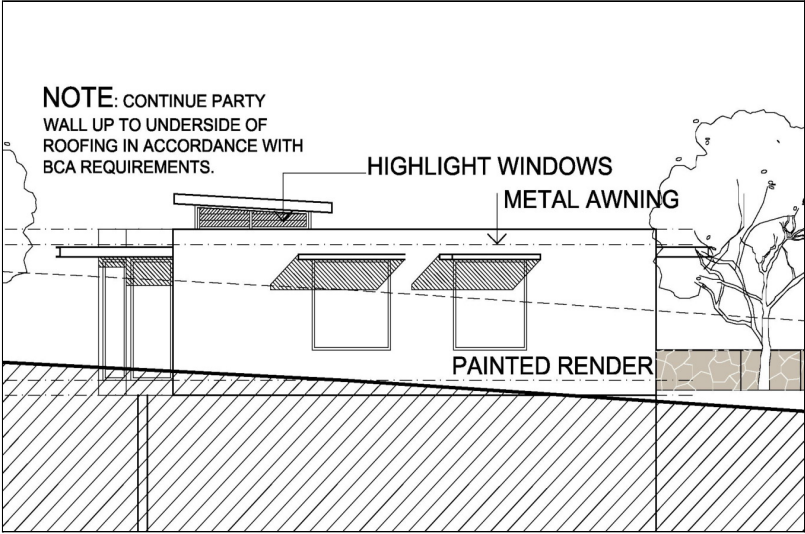
The rear yard for No.25 and No.27 Rose Avenue face south toward the side boundary of the subject proposal. At the rear, the proposal is single storey and therefore no unreasonable privacy issue is created. The upper floor side windows for bedrooms for Unit 3 and Unit 4 have timber privacy screens ("TPS") to restrict overlooking. Concern has been raised that excavation for pathways and courtyard terraces within the side setback areas and rear setback may affect adjacent trees, drainage or fence stability. In order to minimise impacts from these concerns it is recommended that excavation along the side boundaries for the proposed be graduated and stepped down in tiers with no excavation or backfill for retaining wall within 1.0m of the side boundary or rear boundary to maintain continuity of cross boundary site levels pursuant to Part C7 of the Warringah DCP. This issue is addressed by conditions to ensure no unreasonable amenity impact on adjacent property.

In summary, the above matters have been fully considered as part of the public submission issues and the objectives and requirements of the SEPP HSPD, WDCP 2011 and WLEP 2011.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application proposes demolition of existing structures and the construction and strata subdivision of a seniors housing development incorporating 2 x 2 bedroom and 4 x 3 bedroom self-care housing units and basement car parking area pursuant to the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.</p> <p>The application has been reviewed and no objections raised to approval of the development subject to conditions.</p> <p><u>Planning Comment:</u> Recommended conditions to address Building Assessment (Fire & Disability) matters are concurred.</p>
Landscape Officer	<p>Insufficient information has been provided to assess the application with regard to impacts on trees indicated to be retained on site and along the proposed footpath alignment fronting Berith Street to Rose Avenue.</p> <p>Assessment indicates that trees indicated for retention are not considered to be viable based on the works proposed.</p> <p>As a result, proposal at this stage is considered to be incompatible with the existing streetscape and front landscape treatments in the street.</p> <p>The proposal is not able to be supported with regard to landscape issues at this stage.</p> <p><u>Planning Comment:</u> The preservation of Trees "T1", "T4", "T2", "T9", "T10" and "T11" are considered important to the screening and landscaped setting of the building and specific conditions are warranted to ensure they are adequately protected during works to prevent removal or post work decline. The conservation of tree "T3" (young Norfolk Island Pine) is achievable by relocation of the drainage pit (P3) to a more suitable position and providing adequate tree protection measures within the CRZ during construction.</p>
NECC (Development Engineering)	<p><u>Council Stormwater Assets:</u></p> <p>The Stormwater Concept Plan proposes the construction of a Kerb Inlet Pit (KIP) over Council's road drainage network. The applicant shall demonstrate compliance with Council's Building Over or Adjacent to Constructed Drainage Systems and Easements Technical Specification for the minor works in the road reserve (may be</p>

Internal Referral Body	Comments
	<p>addressed with condition for an application for works within the Council's road reserve to be submitted). This consists of accurately locating, confirming dimensions and plotting Council's stormwater pipelines and associated infrastructure in accordance with <i>Section 8.1 of the Technical Specification</i>. Council has public stormwater drainage maps online as a reference for detailed investigation, available under "Stormwater" overlay map: https://services.northernbeaches.nsw.gov.au/icongis/index.html</p> <p>Reference is made to the DRAINS computer model and plans that will required minor adjustment to pit locations to be clear of the driveway area and with respect to the Council's stormwater drainage infrastructure and re-location of the proposed kerb inlet pit. In this regard, a revised stormwater drainage plan is to be submitted to Council's Development Engineers for consideration.</p> <p>The proposed KIP within Berith Street shall not be located within the proposed driveway. A minimum clearance of 1 metre from driveways is typically required. The location of the proposed pit may impact on the internal OSD design and location, as tailwater conditions from the receiving drainage system shall be considered. In addition, it shall be demonstrated that there will be no adverse impact on Council's road drainage system by design with an application for works in the road reserve (addressed by recommended conditions of consent).</p> <p><u>Further assessment dated 13/8/2019</u> A <i>Disability Discrimination Act</i> (DDA) compliant footpath is to be constructed between the development site and footpath in Rose Avenue. An appropriate condition related to construction of the above footpath will be issued once Council's Development Engineers are satisfied with the stormwater drainage proposal.</p> <p><u>Further assessment dated 22/8/2019</u> Development Engineers have completed assessment considerations for the proposal, including final review of the plans and documents and raise no objections to the proposal subject to conditions as recommended.</p> <p><u>Planning Comment:</u> Council's Development Engineers have reviewed the development application and engineering stormwater concept plans, DRAINS, including supplementary information and are generally satisfied with the proposal subject to some minor design changes for final approval. The revisions relate to connection with Council assets in the Road reserve and minor civil design adjustments. Therefore, this information is appropriate to be addressed as conditions.</p>
Strategic and Place Planning (Urban Design)	The proposal in its current form can be generally supported. Please find following comments for consideration.

Internal Referral Body	Comments
	<p>Rear Setback It is noted that the built form encroaches the rear setback by approximately 950mm. Considering the rear building is a single story semi-detached dwelling containing 2 x 2 bed units and the peripheral planting zone allows for deep soil planting for large trees enabling visual and acoustic privacy to both the adjoining property and the proposed development, the proposal is supportable. The applicant is to ensure there is no further encroachment within the rear setback zone.</p> <p>Built Form and Articulation The general form, articulation and material palette is generally supported. However we note the rear single storey dwelling has not been paid too much attention. The applicant is encouraged to explore further articulation in design and material selection at a fine grain level, similar to the design attention paid to the two storey building to the front of the site.</p>  <p><u>Planning Comment:</u> Urban design comments are concurred with and additional appropriate conditions recommended to address minor changes to materials and finishes treatment for the rear single storey building. It is noted there is also inconsistency with the external colours PR1, PR2 and colorbond colours between the selection palette and drawings.</p>
Traffic Engineer	<p>The proposal is for a 6 unit (2 x 2 bedroom units + 4 x 3 bedroom units) seniors' living development at 3 Berith Street in Wheeler Heights.</p> <p>Traffic: Negligible.</p> <p>Parking: Numbers are in accordance with the SEPP and Affordable Housing</p>

Internal Referral Body	Comments
	<p>Controls. Adequate.</p> <p>Car park Layout: In accordance with AS2890.1:2004. Satisfactory.</p> <p>Servicing: Quiet street with large street frontage. All servicing can be accommodated on-street. No concerns raised.</p> <p>Pedestrian Access: The footpath joining the site to Rose Avenue is deemed adequate provided it complies with the Council development engineering standard details. Input from Council's Development Engineers should be sought.</p> <p>The only concern for those with accessible needs is that the will generally tend to the closest walking option. As such, it is envisaged that the majority will utilise the bus stop one Rose Avenue, west of Berith Street. Therefore, the applicant will be required to provide a safe crossing opportunity for those users.</p> <p><u>Planning Comment:</u> Traffic Engineering Referral comments have been considered in context with public submissions received and Part C2 and Part C3 of the WDCP including the objectives of the WLEP 2011 and SEPP HSPD. The recommendations and conditions of Council's Traffic Engineer are concurred with for the development assessment.</p>
Waste Officer	<p>No comments subject to conditions as recommended.</p> <p><u>Planning Comment:</u> Waste Services conditions are concurred with for garbage and recycling service requirements.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.</p>

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 (Housing for Seniors or People with a Disability) land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.952573M).

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

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

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

SEPP (Housing 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 in-fill self-care housing (also referred to as 'Seniors Living').

in-fill self-care housing is seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.

Policy Note: The concept of seniors housing is intended to be a shorthand phrase encompassing both housing for seniors and for people with a disability.

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:

a) The proposal includes six dwelling Units for self-contained living of seniors housing or people with a disability. Each Unit has access to a compliant disabled persons parking space in the basement garage. The development will increase the supply of seniors housing in Warringah and has been designed to meet the demand for independent living for seniors as "in-fill self-care housing".

b) The proposal is within an established low density residential area with access to public transport (buses) and a main road to enable travel to the central business areas of Dee Why, Narrabeen / Mona Vale, Brookvale and the city. The site drains to the street and sewer, reticulated water, electricity and telecommunication's services are available to the site.

c) The development is of a contemporary design with for (4) dwellings grouped at the front for one two storey building and two (2) dwelling at the rear as single storey. A landscaped setting is retained toward the street frontage and for the rear setback. An internal lift and stairs provides access to the basement carpark from the front building.

The proposal complies with the built form controls of the SEPP and, subject to conditions, is considered to be consistent with general detached style character of the area, albeit with a higher dwelling density (permitted by the SEPP). Subject to conditions, the use of landscaped setbacks and building design has been made to ensure no unreasonable amenity impacts from overshadowing, privacy, stormwater, building bulk and visual appearance on the surrounding land or streetscape.

Chapter 2 – Key Concepts

Comment:

Key concepts of SEPP HSPD include:

- The definition of "Seniors" as persons aged 55 or more years, including a facility of residential care or those eligible for aged housing provided by a social housing provider.
- The provision of purpose built housing for "people with a disability" that includes persons with long term or permanent impairment, limitation or activity restrictions that affect their capacity to participate in everyday life.
- The provision of purpose built "Seniors housing" with the intent that such housing includes a residential care facility, a hostel, a group of self contained dwellings or a combination of these, but not a hospital.

The proposal satisfies this element of the SEPP HSPD in that the development is for purpose built self-contained dwellings that are for self-care accommodation of seniors or persons with a disability.

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).

Development Criteria			
Clause	Requirement	Proposal	Complies
PART 2 - Site Related Requirements			
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 site has access to public transport (buses) services to the central business areas of Dee Why, Brookvale, Narrabeen / Mona Vale and connecting services to the City. These local centres all contain a range of services for banking and finance, shopping and groceries, postal and government offices, community services, medical services and recreation facilities.	Yes
26(2)	Access complies with this clause if: (a) the facilities and services referred are located at a 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 400 metres away.	<p>The site is within 400m walking distance of two bus stops (including one (1) sheltered bus stop) on Wheelers Parade for access to regular services for Narrabeen / Mona Vale and the northern beaches, and southbound for Dee Why, Brookvale and connecting services to the city.</p> <p>A pedestrian crossing is located for safe access to bus services near the intersection of Wheelers Parade and Rose Avenue. Wheeler Heights shopping centre (with a supermarket, chemist, newsagent, butcher, cafe's, hairdresser and a variety of local shops / services) is also located 450m east of the site on Wheelers Parade.</p> <p>The secondary bus stops on Rose Avenue adjacent the Wheeler Heights Public School are not relied on for this application assessment.</p>	Yes
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	Not applicable	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 is available. The proposal is subject to Sydney Water requirements via a "Section 73 Certificate". This issue is addressed by conditions.	Complies
29	Consideration must be given to whether the proposal is compatible with the surrounding land uses having regard	i) The existing site has a landscaped setting with a single dwelling houses adjacent and a primary school adjoining the rear boundary. The proposal is regarded as "infill" development under SEPP HSPD within low	Complies

Development Criteria			
Clause	Requirement	Proposal	Complies
	<p>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>density residential environment. A landscaped setting will be maintained for the proposed buildings by the use of perimeter plantings in the front, side and rear setbacks, including the retention of suitable existing trees on site that are clear of excavation works.</p> <p>ii) All stormwater will be connected to Councils infrastructure in Berith Street and the site will use on-site stormwater detention to manage stormwater flow. Off-street carparking is not required where SEPP HSPD development has less than 8 dwellings however one (1) visitor space is provided. The availability of kerbside parking varies significantly due the adjacent primary school times and local resident parking on the street. The proposal will also be subject to Section 94A contributions to assist in providing future demand for local services and infrastructure as appropriate.</p> <p>v) The proposal is designed as a dwelling Units with the front Units in a duplex arrangement. The building uses flat a flat roof with a contemporary appearance. The adjacent housing stock has a mixed appearance with most building constructed in Australian post-war styles, some having undergone substantial renovation / alterations over time. The combination of single storey and two storey elements is consistent with the surrounding character. The building bulk is concentrated to the front building and the density of the development is therefore impacts on the landscaped setting.</p> <p>Subject to conditions to reduce some impacts on landscaping, building bulk and external materials the character of the development is compatible with the surrounding residential uses.</p>	
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	Site analysis provides detail of the site features and surroundings.	Complies

Clause 31 Design of in-fill self-care housing

Pursuant to Cause 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.

Section	Requirements	Comment
1. Responding to context	<p>Built Environment – New development is to follow the patterns of the existing residential neighbourhood in terms of built form.</p> <p>Policy environment – Consideration must be given to Councils own LEP and/or DCPs where they may describe the character and key elements of an area that contribute to its unique character.</p>	<p><u>Built Environment:</u></p> <p>The pattern of neighbourhood development in the vicinity of the site is dominated by detached style dwellings in landscaped settings. While the minimum lot size individual dwellings is 600 sqm within the zone, the SEPP permits higher density of housing for the purposes of the SEPP. Increased densities of housing also exist in proximity to the site in the form of other medium density / dual occupancy developments that are a legacy of past planning controls or policies. (Examples of higher density residential development in proximity of the site include; No.34 Rose Avenue (Seniors Living), No.38 Wheelers Parade (Seniors Living) No.22 / 22A Rose Avenue, No.42 to 44A Wheelers Parade, No.6A-62C Rose Avenue).</p> <p>Also the Narrabeen "RSL War Veterans" village is located 350m due north of the site.</p> <p>Therefore, the pattern of development contains a mix of low density development with places of higher density housing interspersed. The development will maintain semi-detached appearance within a landscaped setting. The use, for residential purposes, is compatible with the context of surrounding residential development, subject to conditions.</p> <p><u>Policy Environment:</u></p> <ul style="list-style-type: none"> The Warringah LEP has objectives for the zone that determine the character of

Section	Requirements	Comment
		<p>the area be made up of housing that provides for the needs of the community within a low density environment.</p> <ul style="list-style-type: none"> • That enables other land uses that provide facilities or services to meet the day to day needs of residents; and • Ensures that low density residential environments are characterised by landscape settings in harmony with the natural environment. <p>The proposal achieves these objectives for the character of the area in that it will provide to the needs of the community for HSPD housing. That housing is provided in detached style of villa units that have a compatible built form bulk and height to surrounding development. The units are designed with pitched roofs to be compatible will the visual appearance of surrounding low density dwellings.</p> <p>The proposal does not have an adverse impact on the provision of other facilities and service uses in the locality.</p> <p>The site complies with landscaping requirements of the SEPP and will maintain a landscape setting that includes native plants and trees to maintain harmony with the natural environment of Warringah and wider Northern Beaches area.</p>
2. Site Planning and design	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Minimise the impact of new development on neighbourhood character -Minimise the physical and visual dominance of car 	<p>The design of the proposal presents as a two storey building with 4 Units and a single storey building at the rear, containing 2 Units. The setbacks and landscape setting combined with building articulation, external materials, balconies and fenestration are balanced between</p>

Section	Requirements	Comment
	parking, garaging and vehicular circulation.	<p>two-storey and single storey elements. Conditions are however recommended to address impacts on adjacent land that are reflected by building bulk and non-compliant floor space ratio which translates to spatial separation issues that affect the amenity of adjacent development.</p> <p>Carparking is located within a basement area that provides adequate carparking and access to comply with the SEPP. All cars are able to enter and leave in a forward direction.</p>
3. Impacts on streetscape	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Minimise impacts on the existing streetscape and enhance its desirable characteristics -Minimise dominance of driveways and car park entries in streetscape. 	<p>Subject to conditions, the proposal will provide for appropriate levels of amenity for HSPD without creating unreasonable impacts on the adjoining properties, particularly as a result of building scale, overshadowing or privacy concerns. Subject to conditions, the front setback and landscaping is also compatible with the existing character of Berith Street.</p> <p>A new driveway entry point will be used for the principal access to the basement. Thus, the parking area is partly concealed from the street with the entry points remaining in the same location as the existing driveway access.</p>
4. Impacts on neighbours	The proposal is generally in accordance with the requirements of this section.	<p>Subject to conditions, the proposal will not cause unreasonable impacts on neighbours amenity by the use of landscaping, building design to minimise overlooking, adequate spatial separation to minimise overshadowing, plus the provision of parking and drainage works accordance with Council's policy.</p> <p>Conditions of consent are also recommended to address potential environmental impacts during construction (such as safe handling of asbestos and dilapidation risks)</p>

Section	Requirements	Comment
		and ensure compliance with relevant environmental controls.
5. Internal site amenity	Objectives of this section are to: -Provide safe and distinct pedestrian routes to all dwellings and communal facilities.	Safe pedestrian access is provided from the public domain and internally for the development by ramps and pathways. Off street parking for residents is provided and complies with <i>Australian Standards</i> and the SEPP HSPD. The site has a moderate cross fall and therefore safe pedestrian gradients are available within the site.

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.	Desirable amenity elements of the location include visual and acoustic privacy, detached style of development in landscaped settings, open space buffers of rear setbacks and private living environment with minimal overshadowing, parking availability and good road access to services and facilities.	Complies
	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.	No heritage items are on the site or in close proximity.	Complies
	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	Reasonable neighbour amenity will be maintained in that the proposal has been designed: i) to satisfy the objectives of the building setback controls and height controls to minimise overshadowing impacts. ii) to provide a site layout that	Complies

Control	Requirement	Proposed	Compliance
	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 neighbours.	is practical and has an orderly and efficient layout that maintains opportunities for deep soil landscaping. iii) to comply with building height and ensures the landscaped front setback and fencing are compatible with the appearance of other residential development along Berith Street. iv) to ensure no dwellings are located on the boundary.	Complies
	d. Be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line,	The proposal is consistent with setbacks on adjacent land for corner sites and complies with the 6.5m setback requirement. The wide front setback proposed is consistent with the established larger setbacks for dwellings on either side of the site.	
	e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.	Small to medium sized trees and shrubs are used that include perimeter planting and landscaping within the spaces between the dwellings.	Complies
		Landscaped open space and deep soil zones are provided at the front of the site and toward the rear of the site to enable continuity with adjacent gardens.	
	f. retain , wherever reasonable, major existing trees, and	A mix of native small to medium canopy trees will be used for replacement tree planting on the site. The major trees in the centre area of the site cannot be effectively retained as this area will be dedicated for buildings and basement excavation.	Complies
	g. be designed so that no building is constructed in a riparian zone.	The site is not within a riparian zone.	Complies
CL 34 Visual and acoustic privacy	The proposed development should	Visual and acoustic privacy is managed by ensuring private	Complies

Control	Requirement	Proposed	Compliance
	<p>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>open spaces at ground level are adjacent other private open space areas and separated by fencing and landscape screening. Upper floor balconies are provided with fixed privacy screens. The upper floors contain a secondary bedrooms and bathrooms along the side setbacks with living areas oriented toward the street or internal courtyards.</p> <p>Changes to site levels along the boundary are recommended to remain compatible with adjacent natural levels to minimise overlooking at ground level such as from rear terrace areas.</p> <p>Pathways will use bollard / directional lighting to minimise glare from security lighting.</p> <p>Conditions are recommended that the applicant provide replacement "lapped and capped" timber fencing where existing sections are dilapidated or require replacement to ensure acoustic and visual privacy between adjacent land. (This is shown on the plans as "1800mm high lapped and capped timber failing fence to boundary" by the applicant).</p>	
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</p>	<p>Solar access requirements are maintained that will comply with the Warringah DCP controls in relation to neighbour's properties and private open space within the development. Details of overshadowing are shown on plans A10 drawn by <i>Barry Rush & Associates</i>, dated 7/11/2018.</p>	Complies

Control	Requirement	Proposed	Compliance
	planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.	The proposal has been submitted with a BASIX certificate and energy rating assessment to demonstrate that the dwellings will meet performance standard for thermal and cooling condition for sustainable building design and comfortable living.	
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	<p>A new stormwater connection will be required direct to the kerb pit in Berith Street.</p> <p>The the OSD design is satisfactory to manage stormwater in accordance with Council's stormwater policy, and <i>Technical Specification</i>.</p>	Complies. Subject to standard engineering conditions.
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	<p>The driveway access is provided for the site that can be observed from within the site.</p> <p>Bollard lighting will be provided to ensure pathway areas are lit for safety and security.</p> <p>Access entry area are limited to two dwellings where doorways are close to each other. Visibility of approach is maintained.</p>	Complies.

Control	Requirement	Proposed	Compliance
	need to open the front door.		
CL 38 Accessibility	The proposed development should: (a) have obvious and 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.	<p>Berith Street will require a concrete footpath connection to be made to Rose Avenue. Engineering conditions are included to ensure compliant safe pathway access connection is made to the bus stop.</p> <p>Carparking and driveway areas are landscaped along their edges and the carparking area within the basement that includes resident and visitor parking that complies with AS2890. Parking for residents and visitors is addressed by considerations made specific to the site. This requires some minor adjustment to parking as detailed within this report.</p> <p>An access report has been provided by <i>Accessibility Solutions</i>, dated 15 October 2018, demonstrating appropriate access requirements have been met to satisfy SEPP HSPD.</p>	Complies
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	A garbage bin storage room is located at the front of the site with accessible entry within the site. The bin storage room complies with Council's Policy under the <i>Part C9 Waste Management</i> of the Warringah DCP.	Complies

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	1,269 sqm	Complies
Site frontage	20 metres	20.13m (Berith Street)	Complies

Control	Required	Proposed	Compliance
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	7.7m	Complies
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	All buildings are 2 storey. All buildings are 2.0m or greater setback from the side boundary.	Complies
	A buildings located in the rear 25% of the site must not exceed 1 storey in height. Consideration of the objectives of the 25% rear height control setback is made to assess consistency against the urban design objectives sought by the SEPP HSPD.	Applies to zones where residential flat buildings are not permitted. The rear 25% of the site covers an area 15.7m x 20.1m = 315.5 sqm. Within this area there are 2 single storey Units. <ul style="list-style-type: none"> Setback to the two storey elements is 23.3m Second storey elements do not encroach. 	Complies.

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	Proposal is able to comply as demonstrated on the plans	Complies

Control	Required	Proposed	Compliance
	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.		
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	Bollard style lighting is to be used. Condition of compliance is recommended for external paths.	Condition recommended to ensure compliance
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 (b) must be lockable, and (c) must be located together in a central location adjacent to the street entry.	Proposal is able to comply	Condition recommended to ensure compliance
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.	A compliant disabled persons carparking space is provided for each dwelling. All parking is located within a basement carpark.	Complies. Allocation of parking as per condition recommended.
Accessible entry	Every entry to a dwelling must comply with Clause 4.3.1 and 4.3.2 of AS4299	Each dwelling has an accessible path of travel to the front entry. Upper floor Units rely on lift and stair access.	Complies

Control	Required	Proposed	Compliance
Interior general	Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.	Open plan living areas, bathrooms and bedrooms comply.	Condition recommended to ensure compliance
Bedroom	At least one bedroom within each dwelling 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.	Proposal is able to comply	Condition recommended to ensure compliance
Bathroom	The bathroom is to comply with the requirements described in Clause 9 of Schedule 3.	Proposal is able to comply	Condition recommended to ensure compliance
Toilet	The toilet is to comply with the requirements described in Clause 9 of Schedule 3.	Proposal is able to comply	Condition recommended to ensure compliance
Surface finishes	Balconies and external paved areas must have slip resistant surfaces.	Proposal is able to comply	Condition recommended to ensure compliance
Door hardware	Door handles and hardware for all doors must be provided in accordance with AS4299.	Proposal is able to comply	Condition recommended to ensure compliance
Ancillary items	Switches and power points must be provided in accordance with AS4299.	Proposal is able to comply	Condition recommended to ensure compliance
Living & dining room	A living room must	Proposal is able to comply	Condition

Control	Required	Proposed	Compliance
	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.		recommended to ensure compliance
Kitchen	The kitchen must comply with the requirements of Clause 16 of Schedule 3	Proposal is able to comply	Condition recommended to ensure compliance
Access to kitchen, main bedroom, bathroom & toilet	The kitchen, main bedroom, bathroom and toilet must be located on the entry level.	Proposal is able to comply	Complies
Laundry	The laundry must comply with the requirements of Clause 19 of Schedule 3.	A laundry facility is provided for each dwelling. Private open space terraces are available for open air clothes drying also.	Condition recommended to ensure compliance
Storage	A self-contained dwelling must be provided with a linen storage in accordance with Clause 4.11.5 of AS4299	Not identified on the plans.	Condition recommended to ensure compliance
Garbage	A garbage storage area must be provided in an accessible location.	Garbage bin storage room is located at the front of the site with accessible entry within the site. The bin storage room complies with Council's Policy under the Warringah DCP.	Condition recommended to ensure compliance and that the bin room is clear of the minimum 0.9m setback to a side boundary.

Part 5 Development on land adjoining land zoned primarily for urban purposes
This part is not applicable to the subject site.

Part 6 Development for vertical villages
This part is not applicable to the proposed development.

Part 7 Development standards that cannot be used as grounds to refuse consent
Clause 46 Inter relationship of Part with design principles in Part 3

Clause 46 states that nothing in Part 7 permits the granting of consent pursuant to the Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.

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).	7.0m	Complies
Density and scale	0.5:1	0.57:1	Does not comply. This non-compliance impacts the building bulk by the inclusion of additional floor space the affects the spatial between adjacent dwellings. The additional bulk thereby affects overshadowing and visual amenity for neighbours. A reduction in the FSR is recommended by a minor adjustment to the mid section of the site wall. This will increase the existing recess of the side setback by 500mm (external wall to Bedroom 2 & 3), to improve neighbours amenity (including addressing neighbours objection concerns regarding bulk & scale, sunlight and spatial separation).
Landscaped area	30% of the site area is to be landscaped.	32% 411 sqm of site area is landscaped	Complies, however there are some minor anomalies between the landscape plans and the architectural

Control	Required	Proposed	Compliance
			<p>plans, to be addressed by conditions.</p> <p>In addition to this, the natural ground level changes at the rear of the site are severe creating a 3.1m height between the top of the fence and excavated courtyard level. A condition is recommended that landscape excavation within 2.0m of the boundary fence be graduated in steps / terraces. In summary there should be no excavated change to the existing ground level within 1.0m of the rear or side boundaries to reduce issues of drainage, fencing, tree damage, privacy and maintain continuity between adjacent property levels.</p>
Deep soil zone	<p>15% of the site area deep soil (190 sqm).</p> <p>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.</p>	<p>32% (411 sqm) of site area is deep soil of 1m depth or more. 160 sqm is at the rear of the site (surrounding the rear dwellings).</p> <p>Landscape widths included in calculation vary from 2.0m to 5.0m wide, and areas that are 3.0m wide total 186sqm</p>	Complies for site area and distribution of landscaping including depth and width.
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	<p>Dwelling 1: 3 hours direct light between midday to 3pm 21 June available to the private open space.</p> <p>Dwelling 2: 3 hours direct light between midday to 3pm 21 June</p>	<p>Complies for >70% of dwellings.</p> <p>(Dwelling 5 has less solar access in the POS area, partly shadowed by the adjoining Unit and by</p>

Control	Required	Proposed	Compliance
	9am and 3pm in mid winter.	<p>available to the private open space.</p> <p>Dwelling 3: 3 hours direct light between midday to 3pm 21 June available to the private open space.</p> <p>Dwelling 4: 3 hours direct light between midday to 3pm 21 June available to the private open space.</p> <p>Dwelling 5: 2 hours direct light between 9am to 12pm 21 June available to the private open space. (Does not comply)</p> <p>Dwelling 6: 3 hours direct light between 9am to 12am 21 June available to the private open space.</p>	being east facing, receiving less afternoon sun to the courtyard.)
Private open space	15sqm of private open space per dwelling not less than 3 metres long and 3 metres wide.	<p>Dwelling 1: 43 sqm</p> <p>Dwelling 2: 33 sqm</p> <p>Dwelling 3: 19 sqm</p> <p>Dwelling 4: 19 sqm</p> <p>Dwelling 5: 85 sqm</p> <p>Dwelling 6: 84 sqm</p> <p>(only areas 3m x 3m included)</p>	Complies
Parking	0.5 spaces per bedroom. (16 bedrooms proposed – 8 carparking spaces required)	8 carspaces for 16 bedrooms.	Complies
Visitor parking	None specified.	<p>Applicant has provided visitor parking spaces. Conditions are recommended to improve visitor access / convenience and reduce the reliance on kerbside parking.</p> <p>Driveway area has adequate visibility for visitors, if entering the site to reverse / exit in a forward direction safely.</p>	Complies.

Chapter 4 – Miscellaneous

Comment: No miscellaneous provisions apply to the proposal.

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 application was referred to *Ausgrid* who did not raise any comment or objection to the proposal.

Other Service Authorities

The application was not required to be referred to the Roads and Maritime Service (RMS) and no other referral requirement issues are raised pursuant to the SEPP.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings*: RL83.7	8.5m	7.7m	N/A	Yes

SEPP HSPD *prevails* against this development standard. Refer to the heading SEPP HSPD within this assessment report.

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes

Clause	Compliance with Requirements
4.6 Exceptions to development standards	Yes
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height (Measured to underside of ceiling along outer wall plane)	7.2m	6.2m	N/A	Yes
		6.9m (to clerestory)	N/A	Yes
B3 Side Boundary Envelope	45 degrees at 4m	Within envelope	N/A	Yes
B3 Side Boundary Envelope	45 degrees at 4m	Within envelope	N/A	Yes
B5 Side Boundary Setbacks - North	0.9m	3.0m to 4.6m Basement wall	N/A	Yes
		2.5m to 3.0m Ground floor	N/A	Yes
		2.5m to 3.0m First floor	N/A	Yes
B5 Side Boundary Setbacks - South	0.9m	1.5m to 3.0m Basement wall / steps	N/A	Yes
		2.5m to 3.0m Ground floor**	N/A	Yes
		2.5m to 3.0m First floor	N/A	Yes
		0.0 Bin storage area	100%	No*
				*Condition for 1.0m side setback)
B7 Front Boundary Setbacks	6.5m	16.3m Basement wall	N/A	Yes
		9.4m to 12.6m Terrace structure	N/A	Yes
		16.7 to 17.7m Ground floor	N/A	Yes

		wall 0.0m Entry portico over letterbox / entry gate	100%	No** (**Condition for 1m setback)
B9 Rear Boundary Setback	6.0m	7.9m Basement wall 3.0m Terrace area 5.5m to 6.7m Rear wall	Yes <50% rear setback 9%	Yes Yes No
D1 Landscaped Open Space (LOS) and Bushland Setting* (Site area 1269sqm)	40% 507sqm	32% 411sqm	19%	No

*SEPP HSPD *prevails* against *Part D1 Landscaped Open Space*. Refer to the heading SEPP HSPD within this assessment report.

The SEPP *does not* prevail against any setback controls, building envelope or wall height.

**Bin room is not permitted within the side boundary setback (addressed as part of streetfront setback area).

Footpaths, steps etc are exempt in the side setback if less than 1m above existing ground level.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	No	Yes
D9 Building Bulk	No	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B7 Front Boundary Setbacks

Description of non-compliance

The proposal has a bin room abutting the side boundary and a portico structure against the (front boundary) pedestrian access point.

Merit consideration:

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

- *To create a sense of openness.*

Comment:

The bin room is permitted in the front setback in accordance with Council requirements however setting it off the side boundary by 1.0m will less impact on neighbouring land and provide opportunity for landscaping to screen the structure from the southern side when viewed from the street. The portico structure is flat roof structure with four posts and a low letterbox structure within and is therefore considered to be appropriately open for the street.

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

Comment:

A setback of 1.0m for the portico entry is considered to be appropriate for the site since these

structures combined with multiple letterboxes are not a feature of the front pedestrian entry for the streetscape. A 1.0m setback maintains BCA compliance and reduces the precedent for other similar roofed portico structures to be abutting the street boundary.

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

Comment:

Setting back the bin room from the side boundary by 1.0m and the portico structure 1.0m from the front boundary is consistent with maintaining the visual quality of the streetscape. The bin room is required to be within 6.5m of the front setback but not abutting the side boundary. The portico structure is a lightweight, flat roofed structure and suitable to protect / cover the entry area where the letterbox facility / site entry is located.

- *To achieve reasonable view sharing.*

Comment:

The bin storage area and entry portico does not have an unreasonable impact on any coastal or district views.

Having regard to the above assessment, it is concluded that the proposed development, subject to conditions, is consistent with the relevant objectives of 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.

B9 Rear Boundary Setbacks

Description of non-compliance

The rear wall includes a setback for part of the rear dwelling wall of 5.5m

Merit consideration:

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

- *To ensure opportunities for deep soil landscape areas are maintained.*

Comment:

The proposal maintains 50% of the rear setback as deep soil zone with 3.0m to the rear fence. Excavation up to the side boundaries is not supported and a setback of at least 1.0m for retaining walls / terracing near the side boundaries is recommended by conditions.

- *To create a sense of openness in rear yards.*

Comment:

The rear yard is adjacent the Wheeler Height Public School tennis courts that are open but have no landscape buffer. Therefore a setback of 3.0m for deep soil within the subject land is recommended. Trees are also to be retains around the perimeter of the rear setback (as shown on the landscape plan). The rear building is single storey with a flat roof and therefore has a low

visible impact on the landscape for a building above the adjacent fenceline.

- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

Comment:

The applicant will be required to replace the boundary fencing with a 1.8m timber paling fence to assist in maintaining privacy to adjacent land. The minor encroachment of the rear building / roof element and courtyard area will not create an unreasonable impact on privacy and amenity, subject to conditions.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment:

The proposal is permitted under the SEPP HSPD that allows building within the rear 25% of a site. Therefore, while this may change the pattern of rear buildings in that there are no existing dwellings adjacent the SEPP requires that the rear building is single storey. A landscape setting is to be maintained around the perimeter of the rear building and therefore the variation to the rear setback is considered to be acceptable such as the seniors living proposal.

- *To provide opportunities to maintain privacy between dwellings.*

Comment:

The proposal will maintain reasonable privacy between dwellings by virtue of the gently sloping topography at the rear, side fencing, landscaping and living area arrangement with the POS at the rear adjacent the adjacent school.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C3 Parking Facilities

Merit consideration

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

- *To provide adequate off street carparking.*

Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Housing	Resident	16 bedrooms	7 parking	-1

for Senior's or persons with a disability.	parking: SEPP HSPD prevails over DCP Appendix 1. SEPP requires 0.5 carparking spaces per bedroom for residents.	requires 8 resident carparking spaces.	spaces, each with disabled persons accessibility	
	Visitor parking: SEPP does not specify, therefore DCP prevails.	DCP: 1 per 5 units. 6 Units = 2 Visitor carspaces	1 visitor space with disabled persons accessibility	-1
Total		10	8	-2

- The SEPP does not require all carparking for Seniors Living to be Conditions are recommended to ensure 3 visitor carparking spaces and one (1) AS1428 compliant car space per Unit which will provide an even distribution of carparking (1 per Unit). This is achieved by an alternate allocation of spaces "1" and "8" (which are double width), and allows for a third visitor carparking space that is AS1428 compliant. Clause 5 of Schedule 3 Part 1 of the SEPP has been considered in this assessment. In this regard, Seniors Living is may be reliant on visitor parking such as for domestic assistance, nursing care, community based care (meals on wheels) as well as family / friends visiting. Therefore, 3 visitor parking spaces for the building would provide a high level of service for the building within minimal impact on kerbside parking in the street.
- NOTE: The provisions of Clause 50 of the SEPP does not impose any limitations on the grounds on which a consent authority may grant development consent.
- Seniors housing** means a building or place that is:
 - (a) a residential care facility, or
 - (b) a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or
 - (c) a group of self-contained dwellings, or
 - (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c), and that is, or is intended to be, used permanently for:
 - (e) seniors or people who have a disability, or
 - (f) people who live in the same household with seniors or people who have a disability, or
 - (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place, but does not include a hospital.
- To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.

Comment:

The proposal is designed with a basement carpark with access on the northern side of the building facing the street. The access drive is in the same location as the existing driveway, and site excavation is required to achieve ramp gradient / distance into the basement structure. The garage vehicle entry is integrated into the building facade and setback further than the minimum front boundary setback control. The basement parking access will not have an unreasonable visual impact on the street frontage.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

The access to the garage will have a security door and the entry is recessed under the ground floor level of the building to ensure it does not dominate the street frontage.

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

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The proposal includes a variation to the DCP for landscape open space requirement. While the SEPP prevails on the numerical standards

Note: *Under SEPP Seniors Living the proposal cannot be refused if the development includes 30% landscaped open space with 15% of that area as deep soil zone (with two-thirds of the deep soil at the rear of the site). The proposal is compliant with the landscaping controls of the SEPP HSPD. Total landscaping on the site including areas less than 2.0m wide is 493 sqm (35%) with the majority (73%) deep soil.*

Merit consideration

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

- *To enable planting to maintain and enhance the streetscape.*

Comment:

Landscape planting is proposed at the street frontage and some existing trees and other small feature trees with shrub plantings are suitably located to provide a landscape setting for the buildings. Conditions are recommended to assist protection of selected trees. The existing mature street trees will be retained along Berith Street and lawn areas within the front setback areas are also provided to support a landscaped setting for the development. The is low landscaped sandstone wall with garden areas and maintains visibility of the front of the building in a landscape setting and passive observation of the street.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment:

All trees and vegetation is to be removed for the development, however new landscape planting will retain a mix of native and exotic vegetation to provide screen planting and habitat for native wildlife. Landscaping is provided around the perimeter of the site and also in open space areas adjacent the buildings to enhance the landscape setting of the development.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

Comment:

Plants selected range in height from medium trees of 15m to small shrubs and ground cover of less than 1.0m. Where planting spaces of approximately 1.0m-2.0 wide are available shrubs and screen planting with a mature height of 2.0 to 4.0+m are appropriate to be used. The plant selection and landscape design is suitable to provide plants that are commensurate with the height and setbacks available to reduce the impacts of visual bulk and scale of the buildings and assist privacy.

- *To enhance privacy between buildings.*

Comment:

Screen hedge planting is provided around the perimeter of the to enhance the privacy screening provided by boundary fencing between adjacent properties. All principle living areas and one bedroom are provided at ground floor level and therefore no unreasonable privacy issues will result from medium height landscape screening. The upper storey of the proposed dwellings contains secondary bedrooms and secondary living rooms and bathrooms with secondary balconies overlooking adjacent land. The setback perimeter is interspersed between setback private open space area. Therefore, landscaping provided will assist to enhance privacy and compliment the design and layout of the development.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment:

The proposal is for housing for aged and disabled persons and therefore extensive landscaped private open space areas for active recreation are not needed to suit the needs of the occupants. Landscaped courtyards are provided with outdoor decks facing the street or rear yard in alignment with the subdivision pattern and alignment of adjacent dwellings. The perimeter of the building also contains some with small planter box areas and landscaped side setback areas that are suitable for the landscape setting and do not adversely affect the requirements of the occupants for outdoor private open space.

- *To provide space for service functions, including clothes drying.*

Comment:

All dwellings are provided with their own private outdoor clothes drying areas and the landscaped areas are adequate to accommodate service functions for maintenance access, provision of drainage, waste collection area, pathways and carparking within a landscaped setting.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

On-site detention will be provided in a landscaped onsite detention basin in the front setback that drains to Council infrastructure in Berith Street to manage stormwater effectively. This area is a deep soil zone and a condition is recommended that the Norfolk Pine tree where "Pit 3" is located be retained and the drainage pit relocated or deleted as appropriate since the basin contains a second pit. The Norfolk Pine provides a feature within the front garden and is currently a small sized (young) tree.

Having regard to the above assessment, it is concluded that subject to conditions the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D2 Private Open Space

Description of non-compliance

The proposal includes the allocation of private open space areas for each Unit in the form of ground floor terraces and upper floor balconies. The private open space areas are oriented toward Berith Street or the rear yard. There is also a central landscaped space between the front Units and rear Units.

Merit consideration

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

- *To ensure that all residential development is provided with functional, well located areas of private open space.*

Comment:

The development is designed to provide a residential outlook toward Berith Street and toward the rear or centre courtyard. Maintaining a residential outlook with a landscaped setting provide passive observation of the street and an active streetscape. Privacy is maintained within the building by a practical floor plan and ensuring the living area are well connected to the outdoor areas. The proposal has suitably located private open space for each dwelling in regard to this objective.

- *To ensure that private open space is integrated with, and directly accessible from, the living area of dwellings.*

Comment:

All private open space areas are integrated to the living areas of each dwelling unit and are directly accessible from the same floor level of unit the open space serves. Street access is also available directly from Berith Street providing connection to the public domain at the front entry area. Each terrace or balcony area is of sufficient area and dimensions to be practically usable

in conjunction with the indoor living area. The development does not have an unreasonable design approach to this objective.

- *To minimise any adverse impact of private open space on adjoining buildings and their associated private open spaces.*

Comment:

The private open space areas that encroach within the front setback area and the balconies and ground floor terraces are to be fitted with fixed timber (louvered) screens to minimise any adverse impact of the open space area. Adjacent land uses to the north and south are detached dwelling houses and Wheeler Heights adjoins the eastern boundary. A combination of landscaping, replacement fencing, privacy screens and spatial separation will assist to ensure not unreasonable impacts on adjacent or nearby private open space areas. Therefore, subject to conditions, the proposal will not have an unreasonable impact on adjoining buildings or their associated private open space areas for the surrounding residential living environment.

- *To ensure that private open space receives sufficient solar access and privacy.*

Comment:

The dwelling design does permit all units to have compliant solar access due to the East-West orientation of the Lot. In this regard the Units on the northern side of the site received more sunlight than the Units on the southern side. However, the proposal has been designed as a front and rear building with a central open space area, including and the

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D8 Privacy

Merit consideration

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

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

Comment:

The proposal involves the demolition and clearing of the site including all structures (house, pool, garage, sheds, paving and the like) and most of the existing vegetation. Replacement landscaping and new boundary fencing (subject to adjacent property requirements) will be provided to assist privacy at ground level. In addition, to this some of the finished site levels for ground level areas are excavated / levels and where they are below existing ground level this may assist privacy, subject to conditions to ensure excavation works do not have an adverse impact on adjacent tree roots or drainage management or building foundations. Upper storey privacy screens are shown along the side elevations ("timber screens") for selected windows where overlooking or adjacent window spaces may reduce visual and acoustic privacy for most

side windows. However, the closeness of windows to bedroom 3 to the adjacent living area (north facing side window) raises some concerns for No.5 Berith Street which is addressed in further details under the "submissions" section of this report. The detail of the siting and design are shown on the Plans No. A08, A09 and A11, drawn by *Barry Rush Associates Pty Ltd*. Therefore, privacy considerations have been addressed in accordance with this objective, subject to conditions.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The proposal has been designed to ensure a principal outlook toward the street elevation or the rear yard for outdoor open space areas. Privacy between two adjacent bedrooms is generally considered to be lower impact as these rooms are less occupied during the day compared to living / kitchen areas, and at night (during sleeping periods) bedroom areas can normally screened by closing internal blinds or curtains. The design of the building has considered privacy issues and subject to conditions the design is satisfactory.

- *To provide personal and property security for occupants and visitors.*

Comment:

The site will have suitable boundary fencing for the rear and side setbacks to assist security and privacy. for the street frontage provides passive observation to the public areas of the site from the dwellings. The proposal is satisfactory having regard to Crime Prevention Through Environmental Design considerations to ensure reasonable personal and property security for occupants and visitors.

Having regard to the above assessment, it is concluded that the proposed development, subject to conditions, is consistent with the relevant objectives of WDCP and the objectives specified in section 5 (a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D9 Building Bulk

Merit consideration

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

- *To encourage good design and innovative architecture to improve the urban environment.*

Comment:

The proposal has raised concerns with regard to building bulk (and excessive floor space under SEPP HSPD) in terms of how the size and scale of the building compares to adjacent dwelling houses, including the amenity of adjacent property. The rear dwelling units are single storey and it is considered that this rear building has no unreasonable building bulk and is consistent with the rear setback, even though there is a non-compliance with the 6.5m rear setback control. Visual appearance (colours and materials is addressed under Council's Urban Design referral response).

The front building contains 4 dwelling Units and is a much larger building, but is not inconsistent in height. However, the floorspace alignment is extended in length (along the depth of the site) and therefore the wall planes impact adjacent land. In order to reduce the impact of wall massing and improve the urban environment for adjacent amenity the deletion of Bedroom 3 is recommended so that this section of wall (and roof) is (recessed) setback 4.5m from the side boundary. This issue is addressed by conditions.

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

The visual impact of the wide and solid, double front balconies is considered to warrant a minor change to minimize impact when viewed from the street frontage. In this regard a condition is recommended for the balcony balustrade to include more lightweight elements (up to 50%) that may be a glazed section, or other suitable lightweight suitable open-style balustrade material.

Having regard to the above assessment, it is concluded that the proposed development, subject to conditions, is consistent with the relevant objectives of 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.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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 \$28,299 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,829,900.

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;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

In conclusion to the assessment, principal issues with the development proposal include FSR variation, traffic access, parking, landscaped setbacks, privacy, compliance with SEPP HSPD, building bulk, parking provisions, pedestrian safety, access to transport, and the intensity of the development within the character of a low density residential area.

These issues have been considered within the report and the appropriate "internal" and "external" referrals made with detailed comments provided with respect to engineering, traffic, landscaping, building accessibility and waste management. Council's development engineers have sought civil design for the stormwater connection pit, addressed by conditions.

Council's Traffic Engineer, Waste Services, Urban Design, Building Assessment Officer are satisfied with the development application subject to conditions to address relevant specialist assessment referral issues. Council's Landscape Officer has no objection to the tree removal proposed and landscaping plan, and conditions are recommended to ensure selected trees (T1, T2, T3, T4, T9, T10 and T11 are retained). These changes are appropriate to be included with the construction certificate.

A number of public submissions were received in respect to the proposal and issues raised include concerns relating to neighbourhood amenity, streetscape character, visual privacy, spatial separation, outlook, traffic, pedestrian safety, dilapidation risk, visitor parking and tree protection have been considered and addressed in the report. Conditions are recommended to appropriately address those concerns raised in the public interest. Overall the proposal is considered to be of an acceptable appearance and density for the site and will not have an unreasonable visual or adverse amenity impact on the streetscape character.

In summary, the proposal is recommended for approval subject to conditions, provided in accordance with the *Environmental Planning and Assessment Act 1979* and Regulations.

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2018/1828 for Construction of a Seniors Housing development comprising 6 x infill self care housing units and basement parking on land at Lot A DP 411784, 3 Berith Street, WHEELER HEIGHTS, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **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

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A03 Basement Floor Plan	7.11.2018	Barry Rush & Associates Pty Ltd
A05 Site / Ground Floor Plan*	7.11.2018	Barry Rush & Associates Pty Ltd
A06 First Floor Plan	7.11.2018	Barry Rush & Associates Pty Ltd
A07 Roof Plan	7.11.2018	Barry Rush & Associates Pty Ltd
A08 Elevations	7.11.2018	Barry Rush & Associates Pty Ltd
A09 Elevations* & Sections A-A	7.11.2018	Barry Rush & Associates Pty Ltd
A11 External Colour Schedule*	7.11.2018	Barry Rush & Associates Pty Ltd

*Subject to consistency between plans and schedule details shown on the architectural plans and conditions of consent.

Engineering Plans		
Drawing No.	Dated	Prepared By
A04 Footpath Plan	7.11.2018	Barry Rush & Associates Pty Ltd
Sheet 1A Stormwater Management Plan*	21.8.2018	Taylor Consulting
Sheet 2 Stormwater Management Details	21.8.2018	Taylor Consulting

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arborist Report - 3 Berith Street	12.6.2019	Ross Jackson

Basix Certificate 952573M	8.11.2018	Building Sustainability Assessments
Preliminary Geotechnical Assessment MN28241	25.6.2012	Jack Hodgson Consulting
Access Report - 3 Berith Street	15.10.2018	Accessibility Solutions
Design Compliance Report	4.9.2018	Private Certifiers Australia

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
1921.GD01 Landscape Plan*	10.9.2018	Greenland Design
192.GD.02 Landscape Details and Specification	10.9.2018	Greenland Design

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

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

2. **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

3. **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) 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.

- (c) 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.
- (d) 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.
- (e) 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.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.
- (j) 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.

- (j) All sound producing lift plant, door motors, air conditioning machinery or fittings and the like, to service the building must not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room (s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997
- (l) Swimming pools and spas (if installed) must be registered with the Division of Local Government and comply with relevant Australian Standards and the Swimming Pools Act (NSW).

(Note: Any open landscape / stormwater pond areas on-site deeper than 300

millimetres must be protected from potential drowning hazard)

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

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$28,299.00 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 \$2,829,900.00.

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

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.

5. 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 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, 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).

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

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

A Bond of \$5,000 as security against any damage or failure to complete the construction of Stormwater drainage works in Berith Street as part of this consent.

Reason: Protection of Council's Infrastructure

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

A Bond of \$40,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter and any footpath works required as part of this consent.

Reason: Protection of Council's Infrastructure

8. **Construction, Excavation and Associated Works Bond (Failure to Remove Waste)**

A bond of \$5,000 as security against damage to Council's road(s) fronting the site caused by the transport and disposal of materials and equipment to and from the site.

Reason: Protection of Council's Infrastructure

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

9. **Amendments to the Approved Plans**

The following amendments to the approved plans are to be included:

a) Excavation

i) No excavation for retaining walls / terraces within 1.0m of the side boundaries behind the building line, or within 3.0m of the rear boundary. (In order to maintain continuity of existing ground levels for natural runoff, residential amenity and protect trees).

b) Ancillary Structures

i) The bin room is to be setback 1.0m from the southern side boundary and the portico pedestrian entry is to be setback 1.0m from the front boundary in order to reduce impacts on the streetscape. (In order to reduce visible impacts on streetscape)

c) Seniors Living Buildings

i) The outer wall & roof recess for bedrooms 'B2' and 'B3' for Units 3 and 4 (upper storey) shall be setback an additional 500 millimetres from the side boundary. (In order to reduce floor space variation and improve the amenity of adjacent land).

ii) The front balconies for the upper level are to include 50% open style or glazed or lightweight (infill) balustrade sections facing the street to reduce visual impact on the streetscape. (In order to enhance streetscape amenity)

iii) Secondary colours and material change is to be made to the upper wall side walls for Units 5 and Unit 6 to improve visual interest and design, consistent with the external colours and materials used for Unit 1 to Unit 4. (In order to enhance visual amenity of surrounding land)

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

Reason: Maintain requirements of the WDCP and SEPP HSPD.

10. **On-site Stormwater Detention Compliance**

Certification of Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's WARRINGAH WATER MANAGEMENT POLICY PL850 and generally in accordance with the concept drawing by Taylor Consulting, drawing number SHEET - 1/A dated 10 September 2018 and SHEET - 2, dated 21 August 2018.

The stormwater drainage is to be re-designed to comply with the following requirement(s):

- 1) Connection point to Council's pipeline in Berith Street must be to the south of the proposed vehicle crossing.
- 2) Where there are any conflicts between the proposed stormwater pipeline and any utility services in the road reserve, all costs related to re-locating the affected utility services must shall be borne by the applicant.
- 3) Connection to Council's pipeline must be in accordance with Council's standard drawing A2 5476/A and must include a minimum 1.8 m lintel.
- 4) Above stormwater inlet pit and lintel must be located minimum 1 metre from the driveway.
- 5) Pit 3 (and connecting pipes) within the OSD basin is to be relocated in order to retain and protect the existing Norfolk Island Pine (T3) within the landscaped basin area.

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

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

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

An Application for Works to be approved within Council Roadway, including engineering plans is to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993. The application is to include four (4) copies of Civil Engineering plans for the design of civil works required for the development (as outlined below) which are to be generally in accordance with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and/ or Council's Minor Works Policy. The plan shall be prepared by a qualified structural engineer.

The design must include the following information:

- 1) 1.5 metre wide concrete footpath along the full frontage of the development site on Berith Street and must extend to the existing footpath in Rose Avenue,
- 2) 5.5 metre wide vehicle crossing incorporating Council's standard 'Normal' driveway profile
- 3) Stormwater inlet pit with 1.8m lintel on the south side of the vehicle crossing in Berith Street in accordance with Council's standard drawing A2 5476/A

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges. An approval is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To provide public and private safety.

12. **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.

13. **Shoring of Adjoining Property**

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings.

Council approval is required if temporary ground anchors are to be used within Council land. A Temporary Ground Anchors (Road Reserve) Application is to be submitted with Council for assessment and approval subject to Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Principal 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.

14. **Soil and Water Management Program**

A Soil and Water Management Plan prepared in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and implemented on site until the works are completed.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACHPC02)

15. **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. (DACPLC02)

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

The development is for the purposes of Seniors Housing or Housing for Persons with a Disability and is required to comply with all the standards specified in Schedule 3 - "*Standards concerning accessibility and useability for hostels and self-contained dwellings*".

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

Reason: To ensure public safety and equitable access for seniors or people with a disability. (DACPLC16)

17. **Submission of Engineering Plans**

Engineering plans are to be submitted to the Certifying Authority for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of:

- A pedestrian Refuge on Berith Avenue at Rose Avenue

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. (DACTRCPC1)

18. **Waste and Recycling Requirements**

Details demonstrating compliance with Northern Beaches Council Waste Management Guidelines, including the required Northern Beaches Council Waste Management Plan, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate. Including but not limited too:

- The garbage bin room and bulk waste room must be two separate rooms with individual access.
- The garbage bin room is suitable to accommodate 5 x 240L bins.

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

Reason: To ensure adequate and appropriate waste and recycling facilities are provided. (DACWTC01)

19. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue

of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

20. 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.

21. Tree protection

(a) Existing trees which must be retained

i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation. Specifically the Site Manager and Appointed Certifier is to ensure that Trees "T1, T2, T3, T4, T9, T10 and T11" are protected within their Critical Root Zones from adverse site work impacts and retained in situ.

ii) Trees located on adjoining land

(b) Tree protection

i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.

ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by a qualified Arborist on site.

iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.

iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause

E1 Private Property Tree Management and AS 4373 Pruning of amenity trees

v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

22. Dilapidation Report

A photographic survey of adjoining properties of adjoining property assets, detailing the physical condition of those properties, both internally and externally (as appropriate to the proximity of site work risks), including such items as walls, ceilings, roof, structural members, access and other similar items, SHALL BE submitted to Council/Accredited Certifier prior to the issue of a Construction Certificate. This survey is to be prepared by an appropriately qualified person.

On completion of the excavation and building works and prior to occupation of the building, a certificate prepared by the appropriately qualified person to the effect that no damage has resulted to adjoining premises, is to be provided to the Principal Certifying Authority.

If damage is identified by the appropriately qualified person which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible and prior to a final Occupation Certificate being issued.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council/Accredited Certifier that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

(Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible).

Reason: Proper management of records to minimize dilapidation risks (DACPLDPC1)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

23. Road Reserve

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

Reason: Public Safety.

24. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act
- Work Health and Safety Regulation
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)] and
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)]
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005.
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

25. Demolition Works - Asbestos

If any asbestos exists within the existing structures on the site then demolition works must be carried out in compliance with WorkCover *Short Guide to Working with Asbestos Cement* and Australian Standard AS 2601 2001 *The Demolition of Structures*.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

26. Civil Works Supervision

All civil works approved in the Construction Certificate are to be supervised by an appropriately qualified and practising Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority

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

27. Footpath Construction

The applicant shall construct a 1.5 m wide footpath to connect to Rose Avenue. The works shall be in accordance with the following:

(a) All footpath works are to be constructed in accordance with Council's Specification for access appropriate to Seniors Living development and include widening of the existing connection to the appropriate bus stop in Wheelers Parade within 400m of the site, and Clauses 26(2) and 38 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*

(b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Council's specification 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.

28. Notification of Inspections

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

- (a) Installation of Silt and Sediment control devices
- (b) Prior to backfilling of pipelines
- (c) Prior to pouring of stormwater gully pits
- (d) Prior to pouring of kerb and gutter
- (e) Subgrade level / basecourse level / subbase
- (f) Sealing road pavement

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification. Council approval or acceptance of any stage of the work must be obtained in writing, and will only be issued after completion of the work to the satisfaction of Council and receipt of the required certification

Reason: To ensure new Council infrastructure is constructed to Council's requirements.

29. **Vehicle Crossings**

The provision of one vehicle crossing 5.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 Normal and specifications. 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 footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

30. **Stormwater Pipeline Construction/Connection**

Where connection to Council's nearest stormwater drainage system is required, being in Berith Street, the applicant shall construct the pipeline in accordance with AUSPEC specification for engineering works (see www.northernbeaches.nsw.gov.au) and shall reconstruct all affected kerb and gutter, bitumen reinstatements, adjust all vehicular crossings for paths, grass verges and household stormwater connections to suit the kerb and gutter levels. All works shall be undertaken at the applicant's cost, and upon completion certified by an appropriately qualified and practicing Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

31. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

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

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

32. **Protection of rock and sites of significance**

a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

b) Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

33. **Traffic Management**

Traffic management procedures and systems must be in place and practiced during the course of the site works for the project to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 2009 Manual of Uniform Traffic Control Devices and Council's Development Control Plans.

Note: A Plan of Traffic Management to the satisfaction of the Certifying Authority is to be

submitted prior to the commencement of site works to ensure it remains in appropriate use throughout the works period.

Reason: To ensure pedestrian safety and continued efficient network operation. (DACTREDW1)

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

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan

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

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

35. **Authorisation of Legal Documentation Required for Onsite Detention**

The original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

36. **Registration of Encumbrances for On-site Stormwater Detention**

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

37. **On-Site Stormwater Detention Compliance Certification**

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

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 stormwater disposal is constructed to Council's satisfaction. (DACENF10)

38. **Positive Covenant and Restriction as to User for On-site Stormwater Detention**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's

delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

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 the on-site detention and/or pump system is maintained to an appropriate operational standard.

39. **Required Planting**

Trees shall be planted in accordance with the following schedule:

No. of Trees Required.	Species	Location**	Pot Size
6 (six)	Tree/s selected from Council's Plants and Trees List available at www.northernbeaches.nsw.gov.au or species capable of attaining a minimum height of 6 metres at maturity. **Planted in deep soil areas, suitably clear of services, structures and boundaries.	2 x front setback area, and 2 x south side setback area, and 2 x north side setback area.	200 millimetres (mm) minimum.

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

Reason: To maintain environmental amenity.

40. **Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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 bushland management. (DACPLF01)

41. **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.

The garbage bin room and bulk waste room must be two separate rooms with individual access.

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)

42. **House / Building Number**

House/building number is to be affixed to the building / letterbox 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. (DACPLF04)

43. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

44. **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>> 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.

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

A positive covenant pursuant to s88E of the Conveyancing Act 1919 is to be registered on the title of the land to which this development consent applies.

The covenant shall stipulate that Council is the sole authority to release or modify the covenant and that the development is only permitted to be occupied by persons detailed as follows:

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

(Note: Under State Environmental Planning Policy (Housing for Seniors or People with a Disability 2004):

Seniors are people aged 55 or more years, people who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 <http://www.comlaw.gov.au/> of the Commonwealth) is provided and/or people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

AND

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

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

Reason: Statutory requirements. (DACPLF11)

46. 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 Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Interim or Final Occupation Certificate.

Each year the Owners must send to the Council and Fire and Rescue NSW, 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.

47. Side and Rear Boundary Fencing

The applicant is to replace all side and rear boundary fencing (above ground) with the agreement of and at not cost to, adjoining property owners with 1.8m 'lapped and capped' timber paling fencing, as indicated on the plans. Any fencing forward of the building line shall transition to a 1.2m height.

Details to be provided to the satisfaction of the Certifying Authority prior to the Interim Occupation Certificate.

Reason: To maintain visual privacy and property security. (DACPLFPOC1)

48. Waste and Recycling Facilities Certificate of Compliance

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

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)

49. **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)

50. **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 Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah 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)

51. **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

52. **Allocation of Spaces**

Car parking spaces provided shall be provided, made accessible and maintained at all times. The spaces shall be allocated as follows:

- 6 - Residential* cars (as shown on the plans being spaces 2 to 7)
- 2 - Visitor* standard width carspaces
- 1 - Visitor* carspace for persons with a disability

Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking resident space allocated to a particular unit / or visitor use shall be line marked and numbered or signposted to the allocation*.

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 that adequate parking facilities to service the development are provided on

site. (DACPLG01)