

20 December 2024

**The CEO
Northern Beaches Council
PO Box 82
MANLY NSW 2095**

Dear Sir,

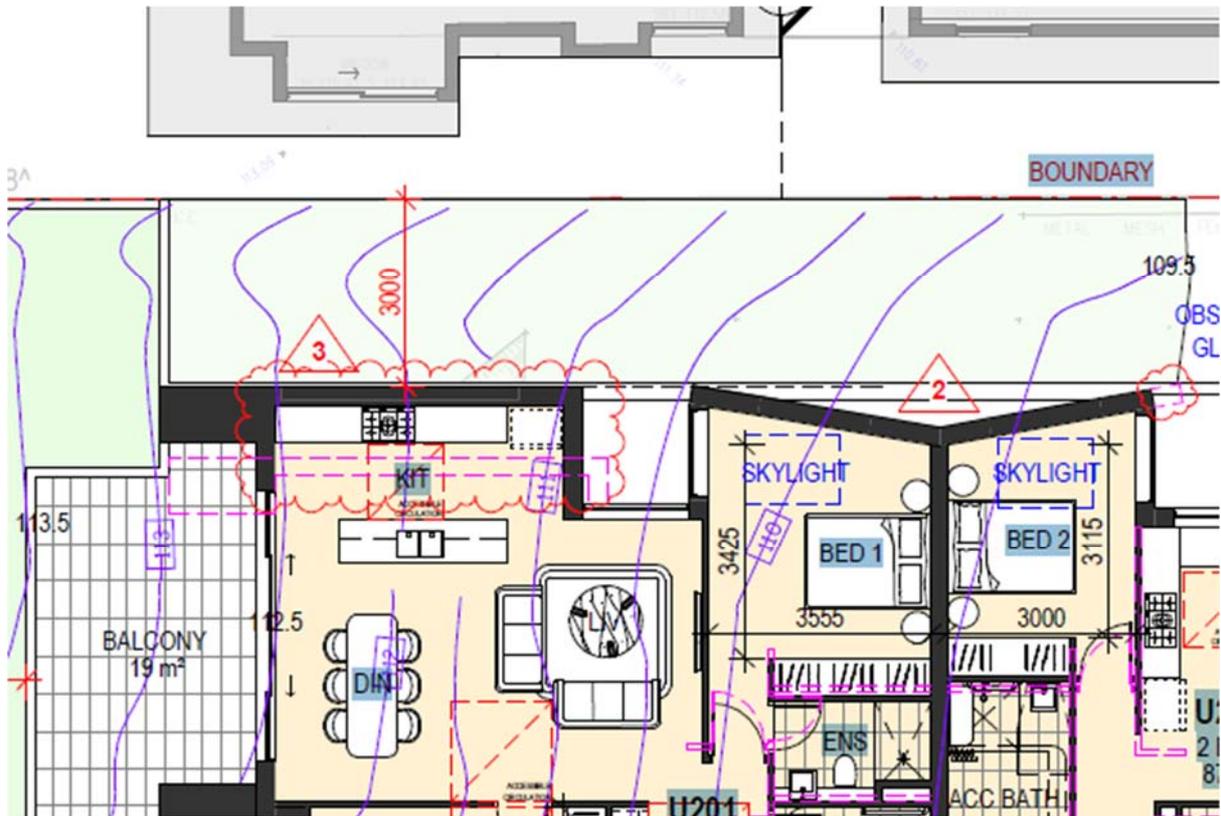
**Statement of Environmental Effects
Modification of Land and Environment Court issued consent
Melwood Avenue Pty Ltd v Northern Beaches Council [2024] NSWLEC 1771
Seniors Housing
69 Melwood Avenue, Forestville**

1.0 Introduction

On 29 November 2024 the NSW Land and Environment Court (the Court) granted development consent for development application DA2022/2181, involving the demolition of the existing dwelling and the construction of a seniors housing development incorporating 3 x 3 bedroom and 4 x 2 bedroom in-fill self-care housing units and carparking for 9 cars on 69 Melwood Avenue, Forestville, being Lot 1 in Deposited Plan 208183 (the subject site).

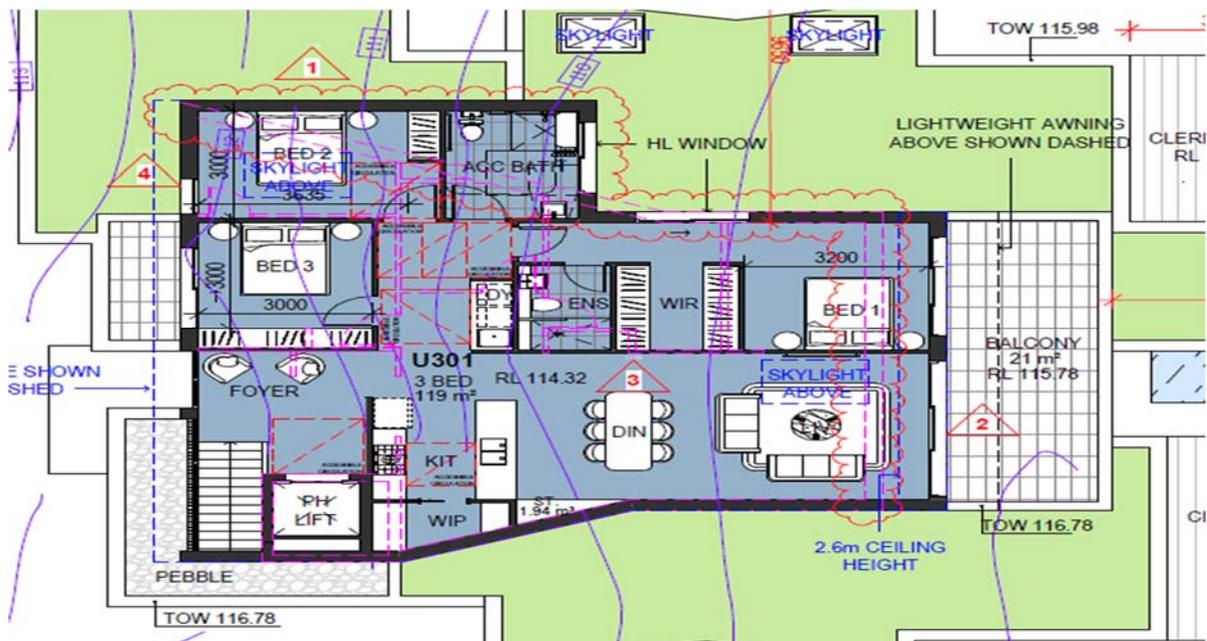
We have been engaged to prepare an application to modify the consent pursuant to s4.55 (8) of the Environmental Planning and Assessment Act 1979 (the Act). Specifically, the modifications provide for a development incorporating 4x3 bedroom and 3x2 bedroom in-fill, self-care housing units and carparking for 11 cars. A copy of the proposed modification plans is **Attachment A** to this Statement of Environmental Effects. The modifications provide for the refinement in the architectural plan, including the addition of a bedroom to Unit 301, the provision of an additional 2 car parking spaces and other amendments to enhance internal layout efficiency, serviceability and constructability. Such modifications include an increase in the floor space ratio and minor decreases in the setbacks to north and adjoining no. 67 Melwood Avenue.

The modifications on the Ground level, Level 1 and Level 2 are generally contained within the approved envelope such that the 3-dimensional form, the streetscape appearance and the landscape outcomes as approved, are not compromised as a consequence of the modification sought. The image below shows the changes to Unit 201's northern setback provides for a 1 metre reduction in setback.



There is no change to landscaped area and a minimum setback of 3 metres is achieved.

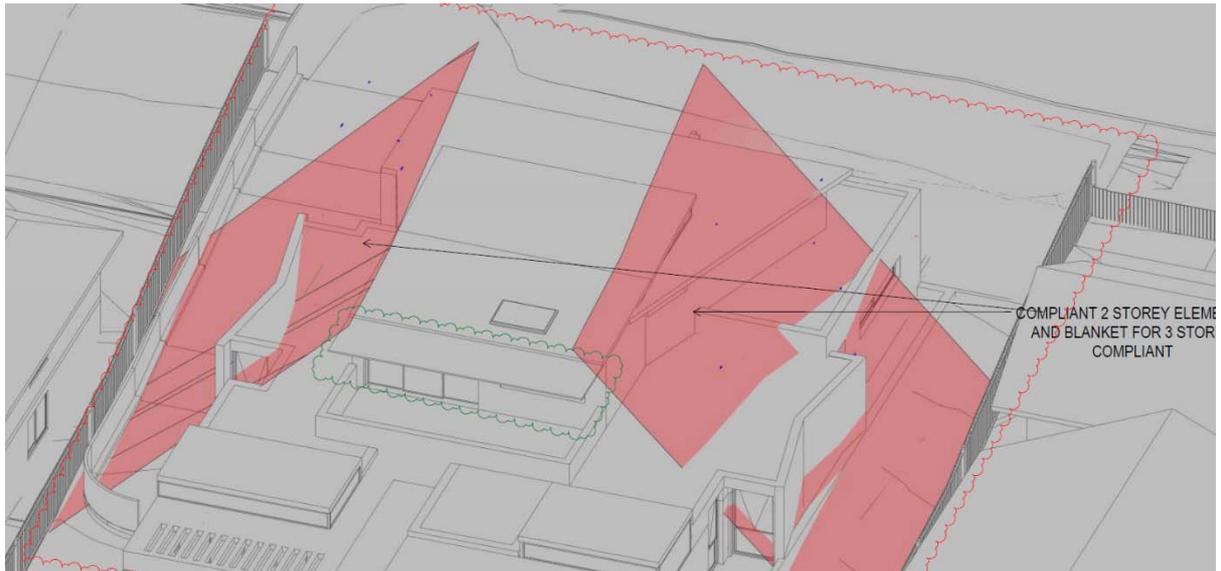
Level 3 seeks a modification to properly align Unit 301 to be parallel with the subdivision layout and extend the eastern wall by 1.2m. The relevant part of these plans is shown below:



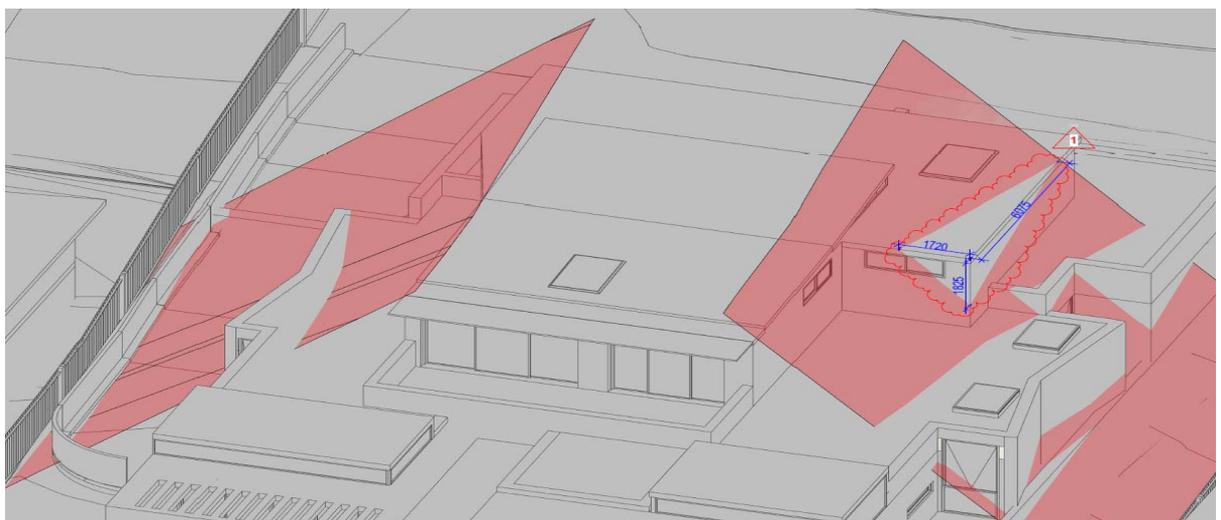
It is relevant to note that the planning and urban design experts joint conferenced on the plan which is now proposed as part of the modification. There was no contention or concern raised by Council experts in relation to the streetscape presentation of the unit now proposed as part of the modification.

To assist in Council's assessment of the impact of the proposed modification to unit 301 we set out the SEPP (Housing) 3 storey building envelope diagrams for the approved DA and modification below:

Approved DA –



Proposed Modification -



Importantly, the modification to the original development maintains an appropriate spatial relationship of the proposal to adjoining development. Appropriate residential amenity outcomes including privacy shadowing and the external envelope are maintained by the modification. There is no change to the landscape area or plan.

2.0 Details of modifications sought

Architectural Modifications

The proposed modifications are shown clouded and noted on the architectural plans prepared by CDA Architects. The modifications can be summarised as follows:

All levels:

1. Lift and central corridor have moved to the north by 250mm
2. Internal replanning of all units to achieve improved amenity, buildability and respond to the proposed modification
3. Aligning elevation design with floor plan changes

Ground floor:

1. Wall between G01 and storage room – to be aligned with lobby wall
2. Aligning of south (G01) and north (G02) dining room walls to achieve minor increase in floor area
3. U201 storage reduced from 16m³ to 15m³, U203 storage reduced from 14m³ to 13m³, U301 storage reduced from 17m² to 15m³.
4. G01 & G02 storage relocate, kitchen pantry provided.

Level 1:

1. Modification to basement to achieve an additional 2 car spaces - deletion of penthouse lift
2. Lobby reduced in area, service area deleted
3. Bedroom 2 & 3 increased in width by 300mm
4. Bedroom 1 walk-in robe added
5. Original Laundry replaced by storage and relocated next to accessible bathroom
6. Ensuite and accessible bathroom panned to the left7. Kitchen highlight window deleted to north, window to east narrowed, pantry relocated
8. Pergola area for G01& G02 reduced; landscape area increased

Level 2:

1. Skylights added to Unit 201 – Bed 1 and Unit 202 Bed 2
2. Highlight window (sill height 1.6) – Unit 203 Bed 1 & Bed 2
3. Powder room and open study added (above basement) to rear of penthouse lift.
4. Unit 201 - kitchen northern wall of kitchen moved north to provide for island bench. Delete kitchen north sill window. Add full height window for living.
5. Northern column moved to align with new north elevation
6. Internal wall between Units 203 and 301 lobby moved east to provide for study plus powder room for unit 301

7. U301 lift sized reduced to 1.5m x 1.5m
8. U203 layout replanned, study area deleted
9. Southern and northern articulated splay wall corner optimised
10. U202 & 203 privacy screen reduced in height to 1.5m
11. Entry corridor widen and moved 250mm to north

Level 3:

1. Wall plan – northern wall aligned with boundary to create additional third bedroom
2. East facing wall moved east by 1m
3. Balcony area reduced from 25m² to 21m²
4. U301 lift sized reduced to 1.5m x 1.5m
5. Skylight added for U301 Bed 2

Roof plan:

1. Roof plan updated to capture floor plan changes
2. skylight location updated for U301 for solar compliance
3. Skylight added for U301 Bed 2
4. Southern and northern articulated splay wall corner optimised

Modifications to conditions:

The application also seeks the modification/deletion of the following conditions:

Condition 1 – approved plans and supporting documentation

This condition is to be amended to reflect the modified plans and documentation referenced above.

Condition 11

We note that condition 11 sets out amendments to the approved plans. We propose no amendment to condition 11 but wish to note for completeness that the amended plans do address the sixth bullet point in that they incorporate the disabled access ramp, which is contained in a sketch prepared by Peter Smith and included in Condition 11.

The 8th bullet point is to be deleted, all other bullet points in this condition will be maintained and are not proposed to be modified.

The other amendments will be dealt with at the construction certificate stage.

Condition 62 – Environmental Report Certification

An updated BASIX certificate will be included in the table. In addition, the updated traffic impact statement by PDC Consultants, attached to this SEE will also be included in this table.

3.0 Section 4.55(2) and 4.55(8) of the Environmental Planning and Assessment Act 1979

Section 4.55(2) of the Act provides that:

(2) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) it has notified the application in accordance with—
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and**
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Section 4.55(8) of the Act provides that:

(8) The provisions of this section extend, subject to the regulations, to enable the Court to modify a consent granted by it but, in the extension of those provisions, the functions imposed on a consent authority under subsection (1A)(c) or subsection (2)(b) and (c) are to be exercised by the relevant consent authority and not the Court.

In answering the above threshold question as to whether the proposal represents “substantially the same” development, the proposal must be compared to the development for which consent was originally granted, and the applicable planning controls. In order for Council to be satisfied that the proposal is “substantially the same”, there must be a finding that in a “holistic” assessment that, on balance, the two developments remain substantially the same.

The leading case is the Chief Judge's recent decision in *Realize Architecture Pty Ltd v Canterbury-Bankstown City Council* [2023] NSWLEC 1437 and *Canterbury-Bankstown Council v Realize Architecture Pty Ltd* [2024] NSWLEC 31 (*Realize*).

What can be discerned from the findings in the above matters is that the Court approached its interpretation of the 'substantially the same' test in the following ways (consistent with the guidance of earlier Court decisions quoted throughout the Judgments).

- *Comparing the quantitative differences between the proposed modified development against the original approved development.*
- *Comparing the qualitative differences between the proposed modified development against the original approved development.*
- *Comparing the critical elements of the proposed modified development against the original approved development.*
- *Most importantly, by then balancing the evidence in respect of all of those factual comparisons before forming a subjective opinion as to whether the proposed modified development was 'substantially the same' as the original approved development.*

Having regard to the above considerations we provide the following analysis.

The Court in these judgments clearly provides that the quantitative differences between the two developments is not the test and is not of itself conclusive for the purpose of s4.55(2) of the *Environmental Planning and Assessment Act 1979*. The test in s4.55(2) of the Act requires a simple and holistic comparison of the two developments, being the modified development and the originally approved development (Preston CJ at [26] of *Realize*). As held by the Chief Judge in *Realize*, "the opinion of satisfaction that s4.55(2)(a) requires is that the two developments being compared are substantially the same development, not that either the quantitative features or the qualitative features of the two developments are substantially the same".

On the basis of these judgments, it is my opinion that the minor envelope amendments to the north on Level 2 and Level 3, when compared against the original approval, the developments are substantially the same.

In forming this opinion, we have relied on the following:

- The proposed use does not change nor the number of units;
- The overall design quality of the development is not compromised nor its contribution to the streetscape;
- The external building appearance, envelope and volume as perceived from the adjoining properties in the public domain are not significantly altered;
- The modifications maintain and improve the previously approved amenity outcomes in terms of privacy, visual bulk and overshadowing;
- The proposed changes to the floor space ratio and the northern elevation of the building.

On the basis of the above analysis, we regard the proposed application as being the same as the approved development such that the application is appropriately categorised as being “substantially the same” and is appropriately dealt with by way of Section 4.55(2) and Section 4.55(8) of the Act.

5.0 State Environmental Planning Policy (Housing) 2021

2.1 Clause 108(2)(c) – Density and scale (FSR)

Pursuant to clause 108(2)(c) of SEPP Housing the consent authority cannot require a more onerous standard in relation to FSR were the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less.

There are no stated objectives in relation to this SEPP Housing development standard and accordingly the objectives of the floor space ratio standard at clause 4.4 of Warringah Local Environmental Plan 2011 (WLEP), being the environment planning instrument applicable to development on the land, have been adopted as reflecting the objects or purpose of the FSR standard as it applies to development within the Northern Beaches LGA. That said, there is no underlying FSR standard applicable to development on this particular site.

The stated objectives of clause 4.4 WLEP are as follows:

- (a) to limit the intensity of development and associated traffic generation so that they are commensurate with the capacity of existing and planned infrastructure, including transport infrastructure,*
- (b) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,*
- (c) to ensure that buildings, by virtue of their bulk and scale, are consistent with the desired character of the locality,*
- (d) to manage the visual impact of development when viewed from public spaces,*
- (e) to maximise solar access and amenity for public areas.*

I also consider an implicit objective to be to ensure that buildings, by virtue of their bulk and scale, maintain reasonable amenity to surrounding residential properties.

It has been determined that the proposal result in a total gross floor area, as defined, of 844.31m² representing an FSR of 0.59:1. This represents an exceedance of the FSR standard of 144m².

The changes to the FSR are identified on each plan where the previous approval is clearly identified, thereby highlighting where the additional FSR is proposed. The FSR is both within the current envelope and takes advantage DA7001.

I also note that no FSR standard applies to development on this particular land and accordingly, the desired future character in terms of bulk and scale is determined through compliance with the applicable building height, setbacks, building envelope and landscaped area controls.

In this regard, the proposed development is generally compliant with the height, setbacks, building envelope and landscaped area controls applicable to dwelling house development on the land noting that the senior's housing provisions contained within SEPP (Housing) 2021 anticipates residential infill development displaying a different building form to that of detached style housing. That said, the proposal is compliant with the building height and landscaped area standards contained within SEPP (Housing) 2021 with the minor 3rd storey northern setback breach directly attributable to the topography of the site. Accordingly, the bulk and scale of the proposal, established through compliance with the envelope controls, is consistent with that anticipated through strict compliance with the applicable standards.

The 27.43 metre frontage/ width and 1,421m² site area of the allotment exceed the minimum 20 metre frontage and minimum 1000m² development standards within SEPP (Housing) 2021 with the size and geometry of the allotment facilitating the contextually appropriate distribution of the quantum of floor space proposed ensuring that the building, by virtue of its bulk and scale, is consistent with the desired character of the locality in terms of streetscape, building form, landscaping and residential amenity outcomes.

This objective is achieved notwithstanding the exceedance of the FSR standard.

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

Response: The building is compliant with the front setback and building height provisions with the proposal designed to present as a complimentary and compatible 2 storey element as viewed from the street. The street facing building façade has been highly articulated and modulated with the articulation zone provided adjacent to the entry assisting in breaking the horizontal massing of the development and ensuring a contextually appropriate streetscape presentation.

Landscaping has integrated into the front façade of the development to soften and screen the building as viewed from the street as depicted in the following image.



Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of *Project Venture Developments v Pittwater Council (2005) NSW LEC 191* I have formed the considered opinion that most observers would not find the proposed development by virtue of its visual bulk and scale offensive, jarring or unsympathetic in a streetscape context nor having regard to the built form characteristics of development within the site's visual catchment. The development is compatible with surrounding development with the built form and landscape outcomes enabling development to co-exist in harmony.

This objective is achieved notwithstanding the exceedance of the FSR standard.

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

Response: The shadow diagrams demonstrate that shadowing of the public domain is limited to between 9am and approximately 11:30am on 21st June with the majority of shadowing during this period falling across the adjacent road network. No public recreation areas are overshadowed by the proposed development and to that extent solar access and amenity for public areas has been maximised in the design of the development.

This objective is achieved notwithstanding the exceedance of the FSR standard.

I have also given consideration to the following implicit objective:

To ensure that buildings, by virtue of their bulk and scale, maintain reasonable amenity to surrounding residential properties.

In this regard, I am satisfied that the design and orientation of apartments and associated private open space, including the privacy attenuation achieved through a combination of setbacks, fixed privacy screening and landscaping, will prevent direct and immediate overlooking opportunities into the principle living areas and adjacent private open space areas of the adjoining properties. That is the bulk and scale of the building does not contribute to unreasonable privacy impacts.

Further, the shadow diagrams prepared in support of the application demonstrate the maintenance of at least 3 hours of direct solar access to the principal living rooms and adjacent open space areas of all surrounding residential properties in particular the dwelling to the south of the site. That is the bulk and scale of the building does not contribute to unreasonable shadowing impacts.

I am also satisfied that the proposal, by virtue of its bulk and scale will not result in adverse public or private view affectation.

Finally, I am also satisfied that the highly articulated building form, which maintains generous deep soil setbacks to surrounding development, will not give rise to unreasonable visual impacts by virtue of its bulk and scale and predominant 2 storey stepped building form. I am satisfied that this implicit objective is satisfied notwithstanding the FSR non-compliance proposed.

Having regard to the above, the proposed building form which exceeds the FSR standard will achieve the objectives/ implicit objectives of the standard to at least an equal degree as would be the case with a development that complied with the FSR standard. Given the developments consistency with the objectives of the FSR standard strict compliance has been found to be both unreasonable and unnecessary under the circumstances.

Clause 84 – Development Standards – 3 Storey Building height plane

Pursuant to clause 84(2) of SEPP Housing, development consent must not be granted for development proposed under Part 5 of SEPP Housing unless

(c) for development on land in a residential zone where residential flat buildings are not permitted—

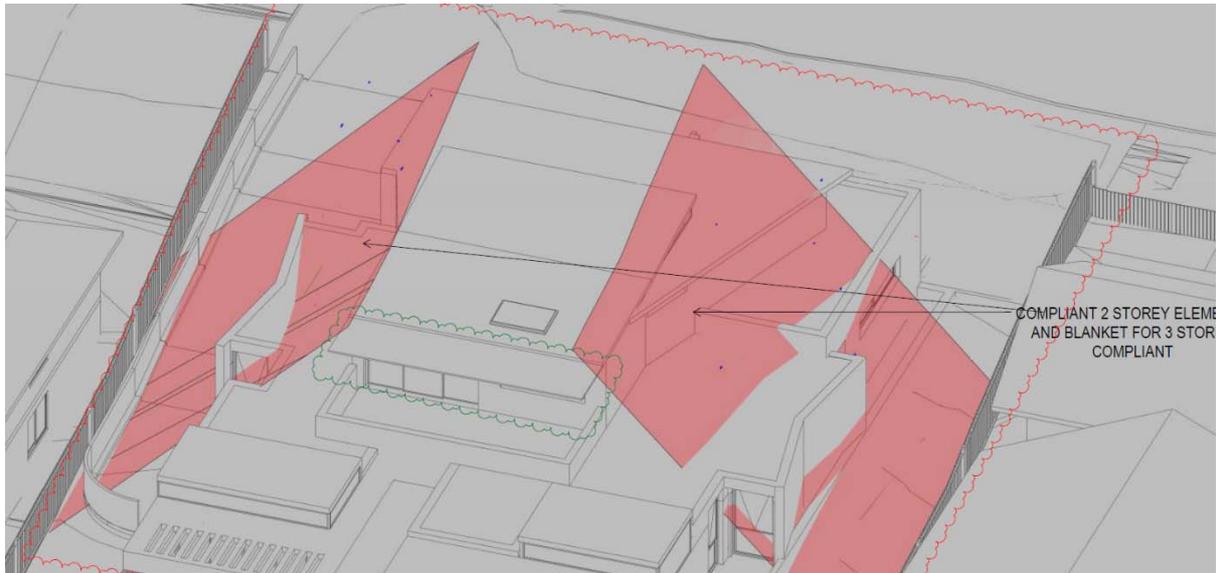
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- iii. if the development results in a building with more than 2 storeys—the additional storeys are set back within planes that project at an angle of 45 degrees inwards from all side and rear boundaries of the site.*

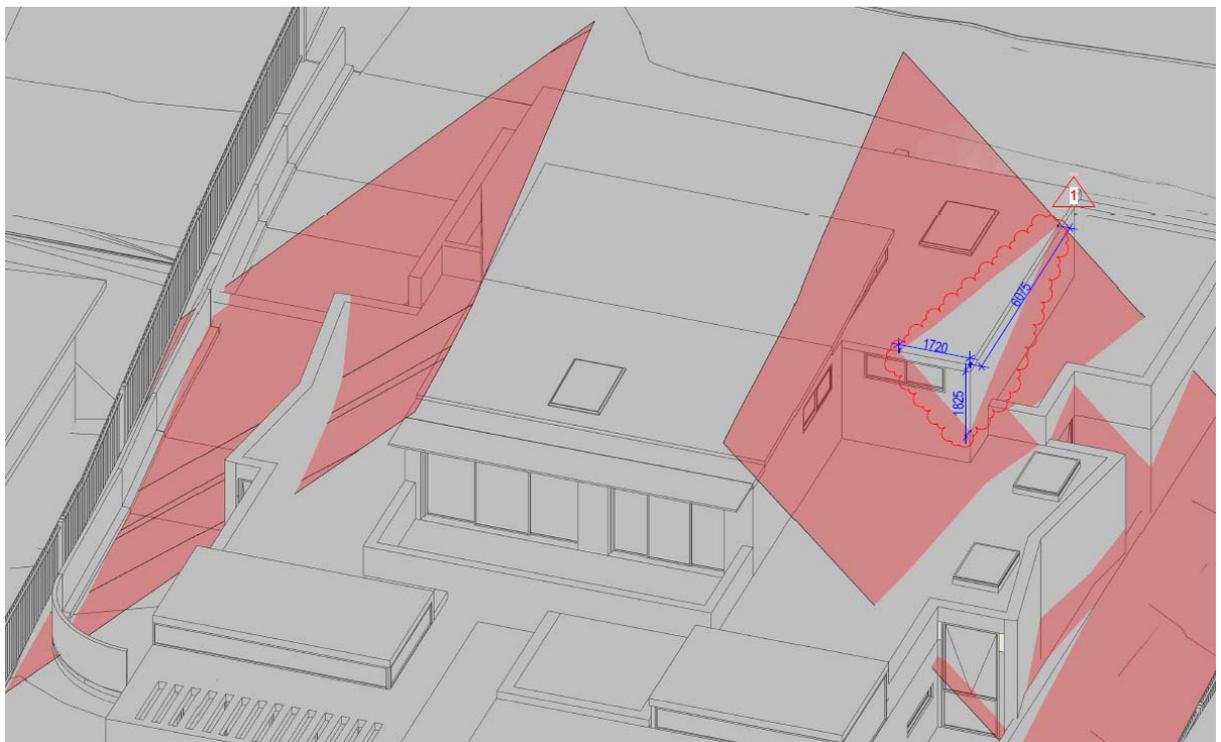
Note: For ease of reference, the requirements of this clause will be referred to as the prescribed building planes.

Portions of the proposed 3rd storey elements protrude beyond the prescribed building plane as shown in the Building Planes Diagram as follows:

Approved DA –



Proposed Modification -



The breach occurs on the northern side of the Level 3 apartment where a portion of the northern facade exceeds the standard by a maximum of 3.1 metres. I note that the western street facing façade and southern façade of the Level 3 apartment are 2 storeys in height.

I also note that all building elements are compliant with the maximum 9.5 metre prescribed building height standard with a compliant 2 storey built form presentation provided to the street.

Consistency with objectives of the building planes development standard

There are no stated objectives in relation to the building plane development standard prescribed by clause 84(2) of SEPP Housing.

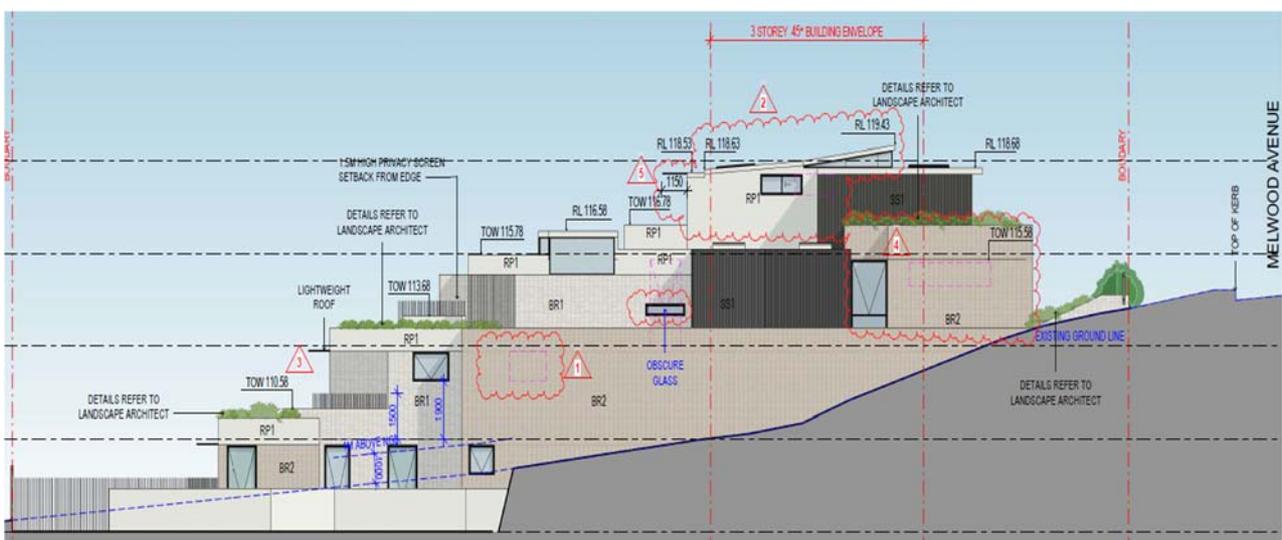
The clause is limited to any portion of the building that is more than 2 storeys in height and prescribes that the additional storeys are to be set back inwards from all sides and boundaries of the site.

It is reasonably assumed that this standard seeks to minimise the visual impact of the portions of the development that exceed 2 storeys in height, to ensure compatibility with the scale of surrounding development and to minimise impacts upon the amenity of adjoining properties.

Visual impact & Compatibility

The proposed development has a 2-storey presentation to Melwood Avenue with northern eastern portion of the upper most Level 3 apartment defined as 3 storeys as the site falls away to the east towards the rear of the property. Development beyond has been designed to step down the slope of the site in response to topography.

The elevation below shows the extent of the 3 storey parts of the building as defined.



The development is highly articulated and comprises varied setbacks, materiality and integrated landscaping to reduce the apparent size of the development and to break down the massing of the development as seen from Melwood Avenue and adjoining properties.

Whilst inconsistent with the building plane prescribed, the portions of the development that protrude beyond the building planes are generally set further back from the level below, with no continual three storey element readily discernible as viewed from the street.

The side setbacks comprise deep soil landscaping and integrated landscaping at the upper levels to ensure that the development is screened and softened by landscaping. As evident on the elevations, differing materials are also proposed at different levels of the building to emphasise the horizontal form over the vertical.

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of *Project Venture Developments v Pittwater Council (2005) NSW LEC 191*, I have formed the considered opinion that most observers would not find the height and scale of the development, notwithstanding the building plane breaching elements, offensive, jarring or unsympathetic in a streetscape and urban context.

The breaching elements are setback between 6 and 9 metres from the northern boundary of the property with such setbacks ensuring that the non-compliant building façade elements maintain setbacks well in excess of those anticipated for development on the land where Warringah DCP anticipates a minimum 900mm side boundary setback with upper level is setback within a 45° building envelope projected at a height of 4 metres above ground level at the side boundaries.

The highly articulated and modulated building form which steps down the site in response to topography and provides a compliant 2 storey presentation to Melwood Avenue ensure that the non-compliant 3rd storey building plane elements will not be perceived as inappropriate or jarring as viewed from surrounding development.

In this regard, it can be reasonably be concluded that, notwithstanding the building height breaching elements, the development is compatible with surrounding development and capable of existing together in harmony.

Amenity Impacts

Despite the non-compliance with the building envelope planes proposed, the development provides generous setbacks to the side and rear boundaries, consistent with or in excess of the minimum setbacks prescribed by WDCP 2011. The generous setbacks provide sufficient spatial separation between properties and enable the implementation of high-quality landscaping in both the deep soil areas around the perimeter of the building and upper-level integrated planters along the side elevations.

As evident on the Sun Angle View Diagrams by CD Architects, the proposed side boundary setbacks to the breaching elements ensure that ample sunlight is maintained to the primary areas of private open space of the adjoining dwelling to the south at 71 Melwood Avenue, with direct sunlight maintained to the majority of the rear yard, the rear upper-level balcony and the lower deck during midwinter, with no impact to

windows associated with the primary living area of the dwelling. Council can be satisfied that the building plane non-compliances along the northern elevation do not contribute to any impacts upon solar access to the neighbouring dwelling at 71 Melwood Avenue.

The development has also been designed to minimise visual privacy impacts upon adjoining dwellings, with minimal openings along the side elevations and the incorporation of privacy screens and integrated landscaping, where required. The breaches to the building plane do not attribute to any unreasonable impacts upon privacy afforded to the adjoining neighbouring dwellings at 67 or 71 Melwood Avenue.

Upon an inspection of the site and a review of the proposed plans, the non-compliant elements are also unlikely to result in any adverse impacts upon views, noting that no views corridors were identified over the subject site.

Overall, the portions of the development that protrude beyond the 3rd storey building planes do not attribute to any unreasonable impacts upon the amenity of adjoining properties.

As such, I have formed the considered opinion that the development is consistent with the assumed objectives of the building plane development standard.

Consistency with zone objectives

The subject property is zoned R2 Low Density Residential pursuant to WLEP 2011. The developments consistency with the stated objectives of the R2 zone is as follows:

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

Comment: The proposal provides housing which will meet the needs of seniors within the community within a low-density residential environment. I note that the North District Plan indicates that there will be a 47% increase in the number of people aged 65 years and older in the next 15 years. In this regard, the proposal will meet a clear and increasing demand for seniors housing on the Northern Beaches enabling existing residents to age in place. The proposal achieves this objective notwithstanding the building planes variation proposed.

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

Comment: The proposal provides a compliant quantum of landscaped area, as defined, with the proposed landscaping achieving a setting that is in harmony with the natural environment of Warringah. The proposal achieves this objective notwithstanding the building planes variation proposed.

The non-compliant development, as it relates to building planes, demonstrates consistency with objectives of the zone and the assumed objectives of the standard. The non-compliant to be the non-compliant element is minor and as part of a modification to the development, as it relates to building planes demonstrates consistency.

Car Parking

“s.108 Non-Discretionary Development Standards for independent living units – the Act s.4.15

(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of independent living units that, if complied with, prevent the consent authority from requiring

(k) if paragraph (j) does not apply—at least 0.5 parking spaces for each bedroom.

Increasing car parking spaces.

The modification has proposed 2 additional car spaces. 1 as a tandem car space taking advantage of the clearance under the proposed driveway. The 2nd space has been achieved by the deletion of the proposed penthouse lift from the car parking level to accommodate additional car spaces.

PDC Consultants have provided a short report which confirms that the proposed basement design complies with the Australian Standards.

A copy of the PDC report dated 20 December 2024 is attachment B to this SEE.

Conclusion

The modifications provide for the addition of a bedroom 2 the penthouse unit 301. In addition, there are minor changes to the building envelope at Level 2 to enhance internal layout efficiency, serviceability and constructability.

The modifications are generally contained within the approved building envelope such that the 3-dimensional form, streetscape appearance and landscape outcomes are as approved are not compromised as a consequence of the modifications sought. The minor changes in the relationship between the proposed development and number 67 Melwood is reasonable in the circumstances with a set back to the new corner element of 6 metres being maintained.

The modification will not perceptively change the street scape presentation and will maintain appropriate residential amenity outcomes including privacy, solar access and landscaping.

To that extent Council can be satisfied that the modifications involve minimal environmental impacts, and the development as modified represents substantially the same development as originally approved. Accordingly, the application is appropriately dealt with by way of s.455(2) and 4.55(8) of the Act.

Having given due consideration to the relevant matters pursuant to s.415(1) of the Act is considered that the application, the subject of this document succeeds on merit and is appropriate for the granting of consent.

Yours sincerely

BOSTON BLYTH FLEMING PTY LIMITED

A handwritten signature in black ink, appearing to read 'Greg Boston', written over a horizontal line.

Greg Boston

B Urb & Reg Plan (UNE) MPIA

Director

ATTACHMENT 1 - **BASIX**® Certificate

Building Sustainability Index www.basix.nsw.gov.au

Multi Dwelling

Certificate number: 1762389M

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Definitions" dated 10/09/2020 published by the Department. This document is available at www.basix.nsw.gov.au

Secretary

Date of issue: Friday, 30 August 2024

To be valid, this certificate must be submitted with a development application or lodged with a complying development certificate application within 3 months of the date of issue.



Project summary		
Project name	Development @ 69 Melwood Avenue, Forestville	
Street address	69 MELWOOD AVENUE FORESTVILLE 2087	
Local Government Area	NORTHERN BEACHES	
Plan type and plan number	Deposited Plan 208183	
Lot No.	1	
Section no.	-	
No. of residential flat buildings	1	
Residential flat buildings: no. of dwellings	7	
Multi-dwelling housing: no. of dwellings	0	
No. of single dwelling houses	0	
Project score		
Water	✓ 41	Target 40
Thermal Performance	✓ Pass	Target Pass
Energy	✓ 67	Target 67
Materials	✓ -24	Target n/a

Certificate Prepared by
Name / Company Name: opus
ABN (if applicable):

Description of project

Project address

Project name	Development @ 69 Melwood Avenue, Forestville
Street address	69 MELWOOD AVENUE FORESTVILLE 2087
Local Government Area	NORTHERN BEACHES
Plan type and plan number	Deposited Plan 208183
Lot No.	1
Section no.	-

Project type

No. of residential flat buildings	1
Residential flat buildings: no. of dwellings	7
Multi-dwelling housing: no. of dwellings	0
No. of single dwelling houses	0

Site details

Site area (m ²)	1421
Roof area (m ²)	571
Non-residential floor area (m ²)	-
Residential car spaces	9
Non-residential car spaces	-

Common area landscape

Common area lawn (m ²)	0
Common area garden (m ²)	105
Area of indigenous or low water use species (m ²)	0

Assessor details and thermal loads

Assessor number	1472
Certificate number	0008272190
Climate zone	56

Project score

Water	✔ 41	Target 40
Thermal Performance	✔ Pass	Target Pass
Energy	✔ 67	Target 67
Materials	✔ -24	Target n/a

Description of project

The tables below describe the dwellings and common areas within the project

Residential flat buildings - Building_1, 7 dwellings, 3 storeys above ground

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
G-01	3	102	0	0	0
U-202	2	91	0	0	0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
G-02	3	103	0	0	0
U-203	2	96	0	0	0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
U-101	3	118	0	0	0
U-301	3	103	0	0	0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
U-201	2	87	0	0	0

Description of project

The tables below describe the dwellings and common areas within the project

Common areas of unit building - Building_1

Common area	Floor area (m ²)
Level_1 Car Parking	344
Services_Level-1	5
GF Lobby_2	18
Level-2 Lobby_2	23

Common area	Floor area (m ²)
Waste room_Level-1	10
Storage room_Ground floor	55
Level-1 Lobby	8
Lift bank (No. 1)	-

Common area	Floor area (m ²)
Service Cupboard_Ground floor	7
GF Lobby_1	8
Level-2 Lobby_1	15
Lift bank (No. 2)	-

Schedule of BASIX commitments

1. Commitments for Residential flat buildings - Building_1

(a) Buildings

(i) Materials

(b) Dwellings

(i) Water

(ii) Energy

(iii) Thermal Performance

(c) Common areas and central systems/facilities

(i) Water

(ii) Energy

2. Commitments for common areas and central systems/facilities for the development (non-building specific)

(b) Common areas and central systems/facilities

(i) Water

(ii) Energy

Schedule of BASIX commitments

The commitments set out below regulate how the proposed development is to be carried out. It is a condition of any development consent granted, or complying development certificate issued, for the proposed development, that BASIX commitments be complied with.

1. Commitments for Residential flat buildings - Building_1

(a) Buildings

(i) Materials	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The details of the proposed development on the Assessor Certificate must be consistent with the details shown in this BASIX Certificate, including the details shown in the "Floor types", "External wall types", "Internal wall types", "Ceiling and roof types", "Frames" and "Glazing" tables below.			✓
(b) The applicant must show on the plans accompanying the application for a construction certificate (or complying development certificate, if applicable), all specifications included in the tables below.		✓	
(c) The applicant must construct the floors, walls, roof, ceiling and roof, windows, glazed doors and skylights of the development in accordance with the specifications listed in the tables below. In the case of glazing, a 5% variance from the area values listed in the "Frames" and "Glazing" tables is permitted.	✓	✓	✓
(d) The applicant must show through receipts that the materials purchased for construction are consistent with the specifications listed in the below tables.			✓

Floor types

Floor type	Area (m2)	Insulation	Low emissions option
floors above habitable rooms, frame: suspended concrete slab	700	polystyrene	-

External wall types

External wall type	Construction type	Area (m2)	Low emissions option	Insulation
External wall type 1	AAC veneer, frame: timber - untreated softwood	360	-	fibreglass batts or roll

Internal wall types

Internal wall type	Construction type	Area (m2)	Insulation
Internal wall type 1	single skin masonry, frame: timber - untreated softwood	217	-

Reinforcement concrete frames/columns

Building has reinforced concrete frame/columns?	Volume (m ³)	Low emissions option
yes	175	-

Ceiling and roof types

Ceiling and roof type	Area (m ²)	Roof Insulation	Ceiling Insulation
concrete - plasterboard internal, frame: no frame	571	-	polystyrene

Glazing types

Frame types

Single glazing (m ²)	Double glazing (m ²)	Triple glazing (m ²)	Aluminium frames (m ²)	Timber frames (m ²)	uPVC frames (m ²)	Steel frames (m ²)	Composite frames (m ²)
50	-	-	50	-	-	-	-

(b) Dwellings

(i) Water	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must comply with the commitments listed below in carrying out the development of a dwelling listed in a table below.			
(b) The applicant must plant indigenous or low water use species of vegetation throughout the area of land specified for the dwelling in the "Indigenous species" column of the table below, as private landscaping for that dwelling. (This area of indigenous vegetation is to be contained within the "Area of garden and lawn" for the dwelling specified in the "Description of Project" table).	✔	✔	
(c) If a rating is specified in the table below for a fixture or appliance to be installed in the dwelling, the applicant must ensure that each such fixture and appliance meets the rating specified for it.		✔	✔
(d) The applicant must install an on demand hot water recirculation system which regulates all hot water use throughout the dwelling, where indicated for a dwelling in the "HW recirculation or diversion" column of the table below.		✔	✔
(e) The applicant must install: (aa) a hot water diversion system to all showers, kitchen sinks and all basins in the dwelling, where indicated for a dwelling in the "HW recirculation or diversion" column of the table below; and (bb) a separate diversion tank (or tanks) connected to the hot water diversion systems of at least 100 litres. The applicant must connect the hot water diversion tank to all toilets in the dwelling.		✔ ✔	✔ ✔
(e) The applicant must not install a private swimming pool or spa for the dwelling, with a volume exceeding that specified for it in the table below.	✔	✔	
(f) If specified in the table, that pool or spa (or both) must have a pool cover or shading (or both).		✔	
(g) The pool or spa must be located as specified in the table.	✔	✔	
(h) The applicant must install, for the dwelling, each alternative water supply system, with the specified size, listed for that dwelling in the table below. Each system must be configured to collect run-off from the areas specified (excluding any area which supplies any other alternative water supply system), and to divert overflow as specified. Each system must be connected as specified.	✔	✔	✔

	Fixtures					Appliances		Individual pool				Individual spa		
Dwelling no.	All shower-heads	All toilet flushing systems	All kitchen taps	All bathroom taps	HW recirculation or diversion	All clothes washers	All dish-washers	Volume (max volume)	Pool cover	Pool location	Pool shaded	Volume (max volume)	Spa cover	Spa shaded
All dwellings	4 star (> 4.5 but <= 6 L/min)	4 star	4 star	4 star	-	no washing machine taps	4 star	-	-	-	-	-	-	-

Alternative water source								
Dwelling no.	Alternative water supply systems	Size	Configuration	Landscape connection	Toilet connection (s)	Laundry connection	Pool top-up	Spa top-up
All dwellings	No alternative water supply	-	-	-	-	-	-	-

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must comply with the commitments listed below in carrying out the development of a dwelling listed in a table below.			
(b) The applicant must install each hot water system specified for the dwelling in the table below, so that the dwelling's hot water is supplied by that system. If the table specifies a central hot water system for the dwelling, then the applicant must connect that central system to the dwelling, so that the dwelling's hot water is supplied by that central system.	✓	✓	✓
(c) The applicant must install, in each bathroom, kitchen and laundry of the dwelling, the ventilation system specified for that room in the table below. Each such ventilation system must have the operation control specified for it in the table.		✓	✓
(d) The applicant must install the cooling and heating system/s specified for the dwelling under the "Living areas" and "Bedroom areas" headings of the "Cooling" and "Heating" columns in the table below, in/for at least 1 living/bedroom area of the dwelling. If no cooling or heating system is specified in the table for "Living areas" or "Bedroom areas", then no systems may be installed in any such areas. If the term "zoned" is specified beside an air conditioning system, then the system must provide for day/night zoning between living areas and bedrooms.		✓	✓
(e) This commitment applies to each room or area of the dwelling which is referred to in a heading to the "Artificial lighting" column of the table below (but only to the extent specified for that room or area). The applicant must ensure that the "primary type of artificial lighting" for each such room in the dwelling is fluorescent lighting or light emitting diode (LED) lighting. If the term "dedicated" is specified for a particular room or area, then the light fittings in that room or area must only be capable of being used for fluorescent lighting or light emitting diode (LED) lighting.		✓	✓
(f) This commitment applies to each room or area of the dwelling which is referred to in a heading to the "Natural lighting" column of the table below (but only to the extent specified for that room or area). The applicant must ensure that each such room or area is fitted with a window and/or skylight.	✓	✓	✓
(g) This commitment applies if the applicant installs a water heating system for the dwelling's pool or spa. The applicant must: (aa) install the system specified for the pool in the "Individual Pool" column of the table below (or alternatively must not install any system for the pool). If specified, the applicant must install a timer, to control the pool's pump; and (bb) install the system specified for the spa in the "Individual Spa" column of the table below (or alternatively must not install any system for the spa). If specified, the applicant must install a timer to control the spa's pump.		✓ ✓	
(h) The applicant must install in the dwelling: (aa) the kitchen cook-top and oven specified for that dwelling in the "Appliances & other efficiency measures" column of the table below;		✓	

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(bb) each appliance for which a rating is specified for that dwelling in the "Appliances & other efficiency measures" column of the table, and ensure that the appliance has that minimum rating; and (cc) any clothes drying line specified for the dwelling in the "Appliances & other efficiency measures" column of the table.		✓ ✓	✓
(i) If specified in the table, the applicant must carry out the development so that each refrigerator space in the dwelling is "well ventilated".		✓	

	Hot water	Bathroom ventilation system		Kitchen ventilation system		Laundry ventilation system	
Dwelling no.	Hot water system	Each bathroom	Operation control	Each kitchen	Operation control	Each laundry	Operation control
All dwellings	gas instantaneous - 6 star	individual fan, ducted to façade or roof	manual switch on/off	individual fan, ducted to façade or roof	manual switch on/off	individual fan, ducted to façade or roof	manual switch on/off

	Cooling		Heating		Natural lighting	
Dwelling no.	living areas	bedroom areas	living areas	bedroom areas	No. of bathrooms or toilets	Main kitchen
All dwellings	1-phase airconditioning - ducted / 3 star (average zone)	1-phase airconditioning - ducted / 3 star (average zone)	1-phase airconditioning - ducted / 3 star (average zone)	1-phase airconditioning - ducted / 3 star (average zone)	0	no

	Individual pool			Individual spa		Appliances other efficiency measures				
Dwelling no.	Pool heating system	Pool Pump	Timer	Spa heating system	Timer	Kitchen cooktop/oven	Dishwasher	Clothes dryer	Indoor or sheltered clothes drying line	Private outdoor or unsheltered clothes drying line
All dwellings	-	-	-	-	-	gas cooktop & gas oven	4.5 star	10.0 star	no	no

(iii) Thermal Performance	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must attach the certificate referred to under "Assessor details" on the front page of this BASIX certificate (the "Assessor Certificate") to the development application and construction certificate application for the proposed development (or, if the applicant is applying for a complying development certificate for the proposed development, to that application). The applicant must also attach the Assessor Certificate to the application for a final occupation certificate for the proposed development.			
(b) The Assessor Certificate must have been issued by an Accredited Assessor in accordance with the Thermal Comfort Protocol.			
(c) The details of the proposed development on the Assessor Certificate must be consistent with the details shown in this BASIX Certificate, including the details shown in the "Thermal Loads" table below.			
(d) The applicant must show on the plans accompanying the development application for the proposed development, all matters which the Thermal Comfort Protocol requires to be shown on those plans. Those plans must bear a stamp of endorsement from the Accredited Assessor, to certify that this is the case.	✓		
(e) The applicant must show on the plans accompanying the application for a construction certificate (or complying development certificate, if applicable), all thermal performance specifications set out in the Assessor Certificate, and all aspects of the proposed development which were used to calculate those specifications.		✓	
(f) The applicant must construct the development in accordance with all thermal performance specifications set out in the Assessor Certificate, and in accordance with those aspects of the development application or application for a complying development certificate which were used to calculate those specifications.		✓	✓
(g) Where there is an in-slab heating or cooling system, the applicant must: (aa) Install insulation with an R-value of not less than 1.0 around the vertical edges of the perimeter of the slab; or (bb) On a suspended floor, install insulation with an R-value of not less than 1.0 underneath the slab and around the vertical edges of the perimeter of the slab.	✓	✓	✓
(h) The applicant must construct the floors and walls of the development in accordance with the specifications listed in the table below.	✓	✓	✓
(i) The applicant must show on The plans accompanying The development application for The proposed development, The locations of ceiling fans set out in The Assessor Certificate.	✓		
(j) The applicant must show on the plans accompanying the application for a construction certificate (or complying development certificate, if applicable), the locations of ceiling fans set out in the Assessor Certificate.		✓	

Thermal loads			
Dwelling no.	Area adjusted heating load (in MJ/m ² /yr)	Area adjusted cooling load (in MJ/m ² /yr)	Area adjusted total load (in MJ/m ² /yr)
All dwellings	23	17	40.000

(c) Common areas and central systems/facilities

(i) Water	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a showerhead, toilet, tap or clothes washer into a common area, then that item must meet the specifications listed for it in the table.		✓	✓
(b) The applicant must install (or ensure that the development is serviced by) the alternative water supply system(s) specified in the "Central systems" column of the table below. In each case, the system must be sized, be configured, and be connected, as specified in the table.	✓	✓	✓
(c) A swimming pool or spa listed in the table must not have a volume (in kLs) greater than that specified for the pool or spa in the table.	✓	✓	
(d) A pool or spa listed in the table must have a cover or shading if specified for the pool or spa in the table.		✓	
(e) The applicant must install each fire sprinkler system listed in the table so that the system is configured as specified in the table.		✓	✓
(f) The applicant must ensure that the central cooling system for a cooling tower is configured as specified in the table.		✓	✓

Common area	Showerheads rating	Toilets rating	Taps rating	Clothes washers rating
All common areas	no common facility	no common facility	no common facility	no common laundry facility

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a ventilation system to service a common area specified in the table below, then that ventilation system must be of the type specified for that common area, and must meet the efficiency measure specified.		✓	✓
(b) In carrying out the development, the applicant must install, as the "primary type of artificial lighting" for each common area specified in the table below, the lighting specified for that common area. This lighting must meet the efficiency measure specified. The applicant must also install a centralised lighting control system or Building Management System (BMS) for the common area, where specified.		✓	✓
(c) The applicant must install the systems and fixtures specified in the "Central energy systems" column of the table below. In each case, the system or fixture must be of the type, and meet the specifications, listed for it in the table.	✓	✓	✓

Common area	Common area ventilation system		Common area lighting		
	Ventilation system type	Ventilation efficiency measure	Primary type of artificial lighting	Lighting efficiency measure	Lighting control system/ BMS
Level_1 Car Parking	ventilation supply only	carbon monoxide monitor + VSD fan	light-emitting diode	daylight sensor and motion sensor	no
Waste room_Level-1	no mechanical ventilation	-	light-emitting diode	motion sensors	no
Service Cupboard_Ground floor	ventilation supply only	interlocked to light	light-emitting diode	motion sensors	no
Services_Level-1	ventilation supply only	interlocked to light	light-emitting diode	motion sensors	no
Storage room_Ground floor	no mechanical ventilation	-	light-emitting diode	motion sensors	no
GF Lobby_1	ventilation (supply + exhaust)	time clock or BMS controlled	light-emitting diode	daylight sensor and motion sensor	no
GF Lobby_2	ventilation (supply + exhaust)	time clock or BMS controlled	light-emitting diode	daylight sensor and motion sensor	no
Level-1 Lobby	ventilation (supply + exhaust)	time clock or BMS controlled	light-emitting diode	daylight sensor and motion sensor	no
Level-2 Lobby_1	ventilation (supply + exhaust)	time clock or BMS controlled	light-emitting diode	daylight sensor and motion sensor	no
Level-2 Lobby_2	ventilation (supply + exhaust)	time clock or BMS controlled	light-emitting diode	daylight sensor and motion sensor	no
Lift bank (No. 1)	-	-	light-emitting diode	connected to lift call button	no
Lift bank (No. 2)	-	-	light-emitting diode	connected to lift call button	no

Central energy systems	Type	Specification
Lift bank (No. 1)	permanent magnet synchronous motor (PMSM) and regenerative drive	Number of levels (including basement): 2 number of levels from the bottom of the lift shaft to the top of the lift shaft: 3 number of lifts: 1 lift load capacity: <1001 kg
Lift bank (No. 2)	permanent magnet synchronous motor (PMSM) and regenerative drive	Number of levels (including basement): 2 number of levels from the bottom of the lift shaft to the top of the lift shaft: 3 number of lifts: 1 lift load capacity: <1001 kg

2. Commitments for common areas and central systems/facilities for the development (non-building specific)

(b) Common areas and central systems/facilities

(i) Water	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a showerhead, toilet, tap or clothes washer into a common area, then that item must meet the specifications listed for it in the table.		✓	✓
(b) The applicant must install (or ensure that the development is serviced by) the alternative water supply system(s) specified in the "Central systems" column of the table below. In each case, the system must be sized, be configured, and be connected, as specified in the table.	✓	✓	✓
(c) A swimming pool or spa listed in the table must not have a volume (in kLs) greater than that specified for the pool or spa in the table.	✓	✓	
(d) A pool or spa listed in the table must have a cover or shading if specified for the pool or spa in the table.		✓	
(e) The applicant must install each fire sprinkler system listed in the table so that the system is configured as specified in the table.		✓	✓
(f) The applicant must ensure that the central cooling system for a cooling tower is configured as specified in the table.		✓	✓

Common area	Showerheads rating	Toilets rating	Taps rating	Clothes washers rating
All common areas	no common facility	no common facility	no common facility	no common laundry facility

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a ventilation system to service a common area specified in the table below, then that ventilation system must be of the type specified for that common area, and must meet the efficiency measure specified.		✓	✓
(b) In carrying out the development, the applicant must install, as the "primary type of artificial lighting" for each common area specified in the table below, the lighting specified for that common area. This lighting must meet the efficiency measure specified. The applicant must also install a centralised lighting control system or Building Management System (BMS) for the common area, where specified.		✓	✓
(c) The applicant must install the systems and fixtures specified in the "Central energy systems" column of the table below. In each case, the system or fixture must be of the type, and meet the specifications, listed for it in the table.	✓	✓	✓

Central energy systems	Type	Specification
Alternative energy supply	Photovoltaic system	Rated electrical output (min): 6 peak kW
Other	-	-

Notes

1. In these commitments, "applicant" means the person carrying out the development.
2. The applicant must identify each dwelling, building and common area listed in this certificate, on the plans accompanying any development application, and on the plans and specifications accompanying the application for a construction certificate / complying development certificate, for the proposed development, using the same identifying letter or reference as is given to that dwelling, building or common area in this certificate.
3. This note applies if the proposed development involves the erection of a building for both residential and non-residential purposes (or the change of use of a building for both residential and non-residential purposes). Commitments in this certificate which are specified to apply to a "common area" of a building or the development, apply only to that part of the building or development to be used for residential purposes.
4. If this certificate lists a central system as a commitment for a dwelling or building, and that system will also service any other dwelling or building within the development, then that system need only be installed once (even if it is separately listed as a commitment for that other dwelling or building).
5. If a star or other rating is specified in a commitment, this is a minimum rating.
6. All alternative water systems to be installed under these commitments (if any), must be installed in accordance with the requirements of all applicable regulatory authorities. NOTE: NSW Health does not recommend that stormwater, recycled water or private dam water be used to irrigate edible plants which are consumed raw, or that rainwater be used for human consumption in areas with potable water supply.

Legend

1. Commitments identified with a "✔" in the "Show on DA plans" column must be shown on the plans accompanying the development application for the proposed development (if a development application is to be lodged for the proposed development).
2. Commitments identified with a "✔" in the "Show on CC/CDC plans and specs" column must be shown in the plans and specifications accompanying the application for a construction certificate / complying development certificate for the proposed development.
3. Commitments identified with a "✔" in the "Certifier check" column must be certified by a certifying authority as having been fulfilled. (Note: a certifying authority must not issue an occupation certificate (either interim or final) for a building listed in this certificate, or for any part of such a building, unless it is satisfied that each of the commitments whose fulfilment it is required to monitor in relation to the building or part, has been fulfilled).