

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/0816
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<b>Responsible Officer:</b>	Adam Croft
<b>Land to be developed (Address):</b>	Lot 38 DP 7236, 23 Bassett Street MONA VALE NSW 2103 Lot 2 DP 748426, 33 Bassett Street MONA VALE NSW 2103
<b>Proposed Development:</b>	Demolition works and construction of a Seniors Housing Development (Residential Care Facility)
<b>Zoning:</b>	R2 Low Density Residential
<b>Development Permissible:</b>	Yes, under SEPP (Housing for Seniors or People with a Disability) 2004
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Thompson Health Care Pty Ltd
<b>Applicant:</b>	Thompson Health Care Pty Ltd

<b>Application Lodged:</b>	22/07/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Seniors Living
<b>Notified:</b>	13/11/2020 to 27/11/2020
<b>Advertised:</b>	13/11/2020
<b>Submissions Received:</b>	37
<b>Clause 4.6 Variation:</b>	4.3 Height of buildings: 10.625%
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 23,600,000.00
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### EXECUTIVE SUMMARY

The proposal is for the demolition of an existing nursing home and the construction of a new 118 bed residential aged care facility at Nos. 23-33 Bassett Street, Mona Vale.

The cost of works for the proposal is \$23,600,000 and the Council received 37 objections to the development. As such, the application is referred to the Northern Beaches Local Planning Panel for determination.

The proposed two-storey aged care facility comprises 118 rooms, resident and staff amenities, and off-

street parking for 39 vehicles plus an ambulance bay. Whilst the proposal has a comparably large facade and footprint in comparison to the surrounding low-density residential development, the proposed building is well articulated with generous setbacks and landscaped treatments. The proposal is considered to be a suitable and appropriate development within the context of the site.

The key planning issues raised during the assessment process relate to built form and setbacks, streetscape and character, traffic and parking impacts, water and flood management, visual and amenity impacts, and construction impacts.

The proposal has been lodged under the provisions of SEPP HSPD, and the consent authority can be satisfied that the policy relevantly applies to the site. The development breaches the Pittwater LEP height of buildings control, but is capable of compliance with the SEPP HSPD height control, subject to a condition requiring deletion/lowering of several roof elements. The proposal is reliant upon a variation to SEPP HSPD Section 26 Location and access to facilities, and the application is supported by a Clause 4.6 written request. The applicant's request is considered to be well-founded, and the proposed aged care facility is in the public's interest.

The building largely complies with the built form controls contained within the Pittwater DCP, with the exception of the front building line and landscaped area. The front building line breach relates only to relatively minor elements of the building at and below ground level, with the majority of the facade remaining compliant. Despite the extent of the DCP landscaped area non-compliance, the development results in a shortfall of only 166m<sup>2</sup> (1.4m<sup>2</sup> per bed) with the SEPP HSDP landscaped area control. The proposal is considered to satisfy the objectives of the SEPP and is acceptable with regard to the Design Principles and site related requirements such as building height, carparking, accessibility, support services and infrastructure.

Thirty-seven (37) submissions were received in response to the advertisement of the development, and are addressed in detail within the report. Suitable conditions are applied where necessary to address the concerns raised.

A number of minor amendments were made to the development, generally in response to concerns raised by Council's internal referrals. A summary of these amendments is provided under the detailed description of the development. That section also includes a discussion of the re-notification of the application.

Assessment of the amended application against the Pittwater LEP and DCP, and SEPP HSPD finds that the development suitably addresses the concerns raised and is acceptable in regard to the relevant numerical controls and amenity considerations.

Based on the assessment undertaken within this report, the application is recommended for approval.

## **PROPOSED DEVELOPMENT IN DETAIL**

The proposal is for demolition work and construction of an Aged Care Facility (AFC) including site works as follows:

- Demolition of the existing two-storey Nursing Home and site improvements
- Demolition of two detached dwellings (Nos. 23 & 25 Bassett Street)
- Excavation, site preparation and drainage works
- Construction of a two-storey Aged Care Facility with a basement level

### **Basement & Carpark RL2.0**

- Car parking for 39 vehicles, loading and vehicle ramp access
- Store and Plant rooms
- Kitchen & Laundry
- Staff areas, amenities and courtyard

### **Ground Floor RL5.0**

- 59 Aged care rooms for residents (including ensuite & storage)
- Entry, reception, office and admin areas
- Communal lounge, kitchen dining facilities
- Communal terrace areas
- Salon for residents
- Nurse stations and kitchenettes
- Store and utility rooms
- Loading dock and bin area

### **First Floor RL8.1**

- 59 Aged care rooms for residents (including ensuite & storage)
- Office and admin areas
- Communal lounge, kitchen dining facilities
- Function room, cinema & gym for residents
  
- Nurse stations and kitchenettes
- Store and utility rooms

### **External**

- Landscaping works, pathways and planting
- Vehicle entry, porte cochere & ambulance bay
- Relocated electricity substation

### **Operation**

The facility is to operate 24 hours, 7 days a week, and employ a maximum of 50 staff during the day across several shifts.

### **Amendment and Re-notification of Application**

The applicant submitted minor amendments on 17 November 2020 in response to referral comments received from Council's Traffic and Landscape Officers. The amendments were generally limited to minor realignments to driveway locations, the western path and northern terrace fence. The Basement Plan was also revised to reflect the levels described in the Geotechnical Report. Given the minimal extent of the amendments, the application was not required to be re-notified.

The application was re-notified from 10 November - 27 November 2020 due to an error in the address description in the previous notification.

### **ASSESSMENT INTRODUCTION**

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

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

## SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Zone R2 Low Density Residential  
 Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings  
 Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards  
 Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils  
 Pittwater Local Environmental Plan 2014 - 7.3 Flood planning  
 Pittwater 21 Development Control Plan - A4.9 Mona Vale Locality  
 Pittwater 21 Development Control Plan - B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)  
 Pittwater 21 Development Control Plan - B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land  
 Pittwater 21 Development Control Plan - B4.22 Preservation of Trees and Bushland Vegetation  
 Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements  
 Pittwater 21 Development Control Plan - C1.3 View Sharing  
 Pittwater 21 Development Control Plan - C1.4 Solar Access  
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy  
 Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy  
 Pittwater 21 Development Control Plan - C1.7 Private Open Space  
 Pittwater 21 Development Control Plan - C1.21 Seniors Housing  
 Pittwater 21 Development Control Plan - C5.19 Food Premises Design Standards  
 Pittwater 21 Development Control Plan - D9.3 Building colours and materials  
 Pittwater 21 Development Control Plan - D9.6 Front building line  
 Pittwater 21 Development Control Plan - D9.10 Landscaped Area - General

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 38 DP 7236 , 23 Bassett Street MONA VALE NSW 2103 Lot 2 DP 748426 , 33 Bassett Street MONA VALE NSW 2103
<b>Detailed Site Description:</b>	The subject site consists of two allotments located on the

southern side of Bassett Street, approximately 50m to the east of the intersection of Barrenjoey Road.

- 23 Bassett Street, Mona Vale - Lot 38 Sec F DP 7236
- 33 Bassett Street, Mona Vale - Lot 2 DP 748426

No. 23 Bassett Street has a frontage of 15.24m along Bassett Street with a site area of 929m<sup>2</sup>, and accommodates a single-storey dwelling.

No. 33 Bassett Street has a frontage of 91.44m<sup>2</sup> to Bassett Street with a site area of 5574m<sup>2</sup>, and accommodates a two-storey, 63 bed aged care facility known as Mona Vale House Nursing Home. No. 33 also accommodates a single-storey dwelling at the east of the site (formerly No. 25 Bassett Street). The existing facility provides 34 car parking spaces at the rear and an electrical substation is located in the the north western corner of the site.

When combined, the site is regular in shape with a frontage of 106.68m along Bassett Street and a depth of 60.96m. The site has a surveyed area of 6503m<sup>2</sup>.

The site is located within the R2 Low Density Residential zone.

The site is generally flat and falls away approximately 1m at the rear of the existing building.

The site contains 10 prescribed trees and a further 21 non-prescribed/exempt trees.

#### **Detailed Description of Adjoining/Surrounding Development**

The adjoining property to the east No. 21 Bassett Street is occupied by a dwelling house. The adjoining property to the west No. 37 Bassett Street is occupied by a dual occupancy. Properties adjoining the rear of the subject site are occupied by dwelling houses (6, 12-18 Heath Street) and dual occupancies (8 & 10 Heath Street).

Adjoining and surrounding development is characterised by a range of residential development including dwelling houses, dual occupancies and residential flat buildings.

Map:





## SITE HISTORY

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

N0153/05 - Alterations and additions to existing building and change of use to a nursing home - Approved 26 July 2005.

N0153/05 - Modification of Development Consent N0153/05 for alterations and additions to existing building and change of use to a nursing home - Approved 16 March 2007.

PLM2019/0251 - A pre-lodgement meeting was held in relation to the development in December 2019.

The subject application was lodged on 22 July 2020 and subsequently referred to Council's internal referral teams, Ausgrid and NSW RMS.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not

Section 4.15 Matters for Consideration'	Comments
	considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested under the EP&amp;A Regulation in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in	<p>(i) <b>Environmental Impact</b></p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p>

Section 4.15 Matters for Consideration'	Comments
the locality	<p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 13/11/2020 to 27/11/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 37 submission/s from:

Name:	Address:
Ross Harris	13 Bassett Street MONA VALE NSW 2103
Mr Adam Robert Byrnes Mrs Nicole Anne Byrnes	11 Bassett Street MONA VALE NSW 2103
Mr Sam Papandrea Mrs Miranda Papandrea	4 Heath Street MONA VALE NSW 2103
Mr Paul Christopher Breakspear Mrs Christie Marie Breakspear	10 B Heath Street MONA VALE NSW 2103
Brittany Treloar	Address Unknown
Mr Jacob Simon Dossett	2 / 38 Bassett Street MONA VALE NSW 2103
Mr Nicholas David Shea Bowen Mrs Allira Michelle Bowen	16 Heath Street MONA VALE NSW 2103



<b>Name:</b>	<b>Address:</b>
Mr Trevor Mark Swadling	15 Bassett Street MONA VALE NSW 2103
Mrs Kathleen Cairnes Swadling	15 Bassett Street MONA VALE NSW 2103
Mr Gordon Alden Smith	17 Bassett Street MONA VALE NSW 2103
Mrs Christine Johnston	15 Surfview Road MONA VALE NSW 2103
Mr Stephen Shane Latham	37 Bassett Street MONA VALE NSW 2103
Mr Timothy Anthony Malakou	Po Box 1312 MONA VALE NSW 1660
Mrs Mellisa Karen Dossett	2 / 38 Bassett Street MONA VALE NSW 2103
Proprietors of Strata Plan 16587	38 Bassett Street MONA VALE NSW 2103
Ms Barbara Vera Jones	19 Bassett Street MONA VALE NSW 2103
Mr Terence Paul Dawe	3 / 38 Bassett Street MONA VALE NSW 2103
Debbie Dawe	3 / 38 Bassett Street MONA VALE NSW 2103
Mr Giles William Dossett	19 Bassett Street MONA VALE NSW 2103
Mr Philip Rosati	34 Heath Street MONA VALE NSW 2103
Ms Toni Herriot Hamilton-Abba	1 / 38 Stanley Street MONA VALE NSW 2103
Mr Neil Colin Berrell	20 Heath Street MONA VALE NSW 2103
Mr Craig John Berrell	10 A Heath Street MONA VALE NSW 2103
Mrs Alison Gail Gardner Crispin John Gardner	44 A Bassett Street MONA VALE NSW 2103
Mrs Vivienne Grace Lewis	21 Bassett Street MONA VALE NSW 2103
Mr Stephen John Hart	9 Bassett Street MONA VALE NSW 2103
Calum Rose	Address Unknown
Mr Jeffery John Freeman	39 Surfview Road MONA VALE NSW 2103
Joanna Burn	Address Unknown
Turnbull Planning International Pty Ltd	2301 / 4 Daydream Street WARRIEWOOD NSW 2102
Lee Shane Aitken	6 Heath Street MONA VALE NSW 2103
Janelle Stocken Mr Gregory Robert Stocken	39 Bassett Street MONA VALE NSW 2103
Ms Vanessa Anne Hawkes Mr David George Hawkes	18 Heath Street MONA VALE NSW 2103
Shaun Grant McCausland Ms Philippine Bodineau	3 Orana Road MONA VALE NSW 2103
Mr Zeltan Tomasich Mrs Linda Tomasich	1 Orana Road MONA VALE NSW 2103
Mr Trevor Mark Swadling	7 Walsh Street NORTH NARRABEEN NSW 2101
Mr Jeffrey Philip Golder	Po Box 514 MONA VALE NSW 1660

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

- Streetscape character, building height, facade length, bulk & scale, overdevelopment of site

Comment:

The proposed ACF is considered to incorporate suitable design features to maintain a consistent appearance with the residential context of the site. Despite the breach of the PLEP height of buildings control, the development is largely compliant with the SEPP HSPD height control, and is capable of achieving full compliance, subject to a condition requiring a reduction to various ceiling heights.

This matter is not considered to warrant refusal of the application.

- Performance with SEPP HSPD controls

Comment:

The proposal performs acceptably against the relevant controls contained within SEPP HSPD. A full assessment is contained within this report.

This matter is not considered to warrant refusal of the application.

- Solar access impacts

Comment:

The shadow diagrams demonstrate full compliance with the requirements of Pittwater DCP C1.4 Solar Access. The development is also considered to comply with SEPP HSPD Section 35, being sufficiently set back to retain sunlight access to adjoining properties.

This matter is not considered to warrant refusal of the application.

- Visual privacy impacts

Comment:

The proposed development is generally acceptable in relation to visual privacy by virtue of the physical separation and landscape screening provided, and the siting of living and communal areas away from adjoining properties. A condition is included requiring screening of several first floor bedroom windows.

This matter is not considered to warrant refusal of the application.

- Acoustic privacy impacts

Comment:

The acoustic impacts of the development are considered under Pittwater DCP C1.6 Acoustic Privacy. The noise generating elements of the development, including communal areas, the commercial kitchen, laundry and plant rooms are generally located centrally within the site or within the basement. Concerns relating to vehicle entry and exit from the site are addressed via a condition requiring further driveway screening and a plan of management for the facility.

This matter is not considered to warrant refusal of the application.

- Driveway levels and headlight spill/glare

Comment:

The relocation of the primary driveway further to the east was raised as a significant concern in the submissions received. It is noted that the the required driveway crest up to RL5.0 AHD for flood protection will raise part of the driveway approximately 1.5m above the natural ground level. However, screening to the adjacent property is provided in the form of a boundary fence, landscaping and a driveway wall/fence. The proposed driveway wall/fence is conditioned to provide solid screening up to the full height. As discussed above, a plan of management is also required to minimise traffic movements during sensitive night time hours.

This matter is not considered to warrant refusal of the application.

- Traffic and car parking

Comment:

Concerns were raised that the proposal will significantly impact on-street parking and traffic flow on surrounding streets. The proposed car parking and access complies with the requirements for staff, visitors and loading facilities pursuant to SEPP HSPD and Pittwater DCP. A Traffic and Parking Report has been prepared by the applicant for assessment. Council's Traffic Engineer is satisfied with the design and layout of the driveways and car parking facilities, and impact to the local road system. RMS raised no objection to the development. Detailed assessments are provided in this report under 'Referrals', and conditions are included as recommended.

This matter is not considered to warrant refusal of the application.

- New substation location

Comment:

Concern is raised in relation to the proposed relocation of the existing electricity substation in the north-western corner of the site. The application was referred to Ausgrid for assessment, with suitable conditions recommended regarding the substation design. Further, the proposed substation is conditioned to be relocated to the eastern side of the adjoining pedestrian entry path. This condition is imposed to ensure that the substation location is no closer to adjoining properties than the existing location.

This matter is not considered to warrant refusal of the application.

- Odour impacts

Comment:

Council's Environmental Health Officer has included suitable conditions to ensure compliance with the relevant Australian Standards in relation to mechanical ventilation and design, construction and fit out of food premises. In accordance with NSW health requirements, smoking is not permitted in within residential care facilities.

This matter is not considered to warrant refusal of the application.

- Ground and floor levels on site

Comment:

It is noted that the site has been subject to previous alteration and the existing ground levels do not reflect the natural ground levels. Further, as the development is a vulnerable use under Pittwater DCP, the floor levels of the development are required to be above the FLP. However, the side and rear setbacks are proposed to be returned to the approximately the natural pre-development levels of the site. The proposed floor levels of the development are considered to be acceptable given the flood affectation of the site and the related flood requirements.

This matter is not considered to warrant refusal of the application.

- Flooding and water table impacts

Comment:

Concerns were raised about the potential for the development to exacerbate flood impacts to adjoining properties. A Flood Risk Management Plan has been prepared by the applicant for assessment. Council's Flood Officer has assessed the proposal against the relevant controls contained within the Pittwater LEP and DCP, and raised no objection subject to conditions. The flood report notes that the western part of the building envelope is designed to allow for

inundation and temporary storage of flood waters to compensate for flood storage post-development. The side and rear setback areas of the site are also flattened to the approximate pre-development levels to accommodate flood waters. The report also concludes that the proposal will result in an increased flood storage capacity of 25% compared with the existing site development.

A Geotechnical Investigation has also been prepared for the development. This report states that the water table was encountered at a depth of approximately 2.2m below the current surface, which is below the base of the proposed basement excavation level. As such, impact to the water table is not anticipated as a result of the development.

This matter is not considered to warrant refusal of the application.

- Excavation works and dilapidation impacts, construction impacts

Comment:

A condition of consent is included requiring the preparation of dilapidation reports for all adjoining properties and adjacent council infrastructure. Further conditions require all that all demolition and construction works occur only within the permitted hours, and be in accordance with relevant Australian Standards. The Geotechnical Report includes suitable recommendations in relation to excavation works and must be complied with during works.

This matter is not considered to warrant refusal of the application.

- Maintenance of vegetation

Comment:

The proposed tree removal and retention is indicated on drawing DA-L02. The existing hedge along the western boundary is to be retained and the existing trees and vegetation along the rear (southern) boundaries are also proposed to be retained. It is noted on the plan that T17 in the south-western corner of the site is no longer located on the site. The retained vegetation is considered to maintain the existing outlook to and from the subject site and adjoining properties.

This matter is not considered to warrant refusal of the application.

- Changes to pedestrian path from Bassett Street to Barrenjoey Road

Comment:

The applicant has advised that the new pedestrian path shown on drawing DA-L01 is not intended to form part of this application. A condition is included requiring the deletion of the path from the plan.

This matter is not considered to warrant refusal of the application.

- Use of tennis court - 21 Bassett Street

Comment:

Concern was raised that the proposed development may prohibit use of the tennis court located on the adjoining property, No. 21 Bassett Street due to amenity impacts. Any complaints received by Council are investigated on receipt. The concern raised is not specifically relevant to this proposal, and the development would not alter Council's response to such a complaint.

This matter is not considered to warrant refusal of the application.

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p>The application was referred to the Design and Sustainability Advisory Panel (DSAP) for comment.</p> <p>The application was presented to the DSAP and the following recommendations were provided for consideration of Council and the applicant. No amendments were made by the applicant in response to these recommendations. Council has addressed several of the recommendations via condition, and a response is provided to each matter below:</p> <p><i>1. Investigation of the external envelope to develop a better performing building – thermal mass/lightweight skin/shaded glazing more strategically placed</i></p> <p><u>Comment:</u> The development is considered to perform appropriately, with suitably glazed areas including a central glazed roof with sun shade screening.</p> <p><i>2. Explore changes to the building form to address orientation and admit more northern sun into the rear of the building via roof modulation</i></p> <p><u>Comment:</u> The northern orientation of the building does restrict solar access to the rear of the development during midwinter. However, the glazed roof sections enable sufficient sunlight to the southern communal areas, and sufficient lounge and dining areas are provided at the northern elevation.</p> <p><i>3. Further consideration should be given to privacy and overlooking impacts from the western elevation</i></p> <p><u>Comment:</u> A condition of consent requires the provision of privacy screening to several first floor windows at the western elevation to minimise overlooking of the adjoining property.</p> <p><i>4. Further consideration should be given to privacy for all rooms opening to the courtyards. The courtyards are relatively small and if actively used may impinge on the privacy of the room opening to them. There is a difficult trade-off between the amenity of the outlook provided to the rooms and the use of the courtyards. Outlook and amenity for the rooms may be given precedence.</i></p> <p><u>Comment:</u> The proposed landscape scheme includes planting around the periphery of the courtyards, which is considered to maintain outlook from the adjoining bedrooms while providing sufficient privacy.</p> <p><i>5. Most of the common areas are on the ground level. Consideration could be given to providing shaded terraces at the upper level opening to the north (from the western dining area) and rearranging the eastern portion to relocate the dining area from the south east to</i></p>



Internal Referral Body	Comments
	<p><i>the north. Such a re-arrangement could further articulate the building. Similarly the canopy over the entrance could become a shaded open air terrace.</i></p> <p><u>Comment:</u> The proposal is considered to provide sufficient communal areas at first floor level. The glazed central roof will allow central first floor lounge and dining areas.</p> <p><i>6. Although the courtyards have good solar access, give detailed consideration to eave overhangs, wall colours and planting to ensure adequate and maximise natural light to rooms.</i></p> <p><u>Comment:</u> The design allows sufficient solar access to the courtyard. It is agreed that the courtyard wall could be selected to enhance amenity and natural light.</p> <p><i>7. Although ramps are provided, external stairs could also be designed to less than the maximum permissible gradient for ease of use.</i></p> <p><u>Comment:</u> The development incorporates suitable access for residents, as stated in the access report submitted.</p> <p><i>8. Very high priority should be given to the protection of existing trees</i></p> <p><u>Comment:</u> The proposed tree retention is acceptable, particularly given the extensive planting included in the landscape regime. Council's Landscape Officer concluded that the landscape element of the proposal is satisfactory.</p> <p><i>9. Give detailed consideration to how the privacy and amenity of rooms opening directly to common areas can be improved.</i></p> <p><u>Comment:</u> The internal configuration is designed to maximise separation between bedroom openings and common areas.</p> <p><i>10. The number of rooms may need to be reduced, or the plans may need to be reconfigured to improve the amenity of a number of rooms, specifically:</i></p> <ul style="list-style-type: none"> <li>• <i>Rooms 109, 159 (lowest amenity)</i></li> <li>• <i>Rooms 101, 158</i></li> </ul> <p><u>Comment:</u> The internal amenity afforded to rooms 101, 109, 158 and 159 is satisfactory. The amenity impact of these room locations are mitigated by the proposed configuration and dimensions.</p>
Building Assessment - Fire and Disability upgrades	The application proposes demolition of an existing 63 bed nursing home (residential care facility) and construction of a new 118 bed residential care facility with basement parking pursuant to the

Internal Referral Body	Comments
	<p>provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD) together with site landscaping.</p> <p>No objections subject to conditions.</p>
Environmental Health (Acid Sulphate)	<p><b>General Comments</b></p> <p>The proposal seeks to construct a nursing home with basement car park on a property mapped as class 3 &amp; 4 Acid Sulfate soils.</p> <p>An acid sulfate soil preliminary assessment accompanies the development application. Based on the assessment undertaken the consultant advises that an acid sulfate management plan is not required based on low risk of encountering acid sulfate soils indicated by their testing.</p> <p>Based on this assessment Environmental Health recommend approval with no conditions imposed.</p> <p><b>Recommendation</b></p> <p>APPROVAL - no conditions</p>
Environmental Health (Contaminated Lands)	<p><b>General Comments</b></p> <p>The development does not trigger requirements for remediation of land under SEPP 55. Previous uses are unlikely to have caused contamination. However in the Geotechnical report the first 1.3 m of soil was indicated to be fill. A condition is to be imposed requiring the reporting of any unexpected contamination finds to Council.</p> <p>As the excavated material consists of historic fill that was used to level the site originally. Any soil taken to a waste facility will require classification. As the soil is being removed as part of the demolition &amp; construction process further testing is not required for the assessment of the development application as the soil is not being retained on-site.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>
Environmental Health (Industrial)	<p><b>General Comments</b></p> <p>A proportion of the development includes a commercial kitchen. As detailed plans have not been submitted for the fit out of the food premise a condition has been imposed requiring a final inspection and certification of works of the food premise to ensure it complies with Australian Standards. A further condition has been imposed requiring registration of the food business with the appropriate regulatory authority.</p> <p>The development includes a salon. As detailed plans have not been submitted for the fit out of the salon a condition has been imposed</p>

Internal Referral Body	Comments
	<p>requiring a final inspection and certification of works of the salon to ensure it complies with schedule 2 of the local government (general) regulations.</p> <p>Based on the existing use of the site and the proposed use a noise assessment has not been undertaken. This is despite the intensification of the use of the land. Noise sources may include plant items within the facility. Nursing homes are generally a quiet use and an acoustic report may not be required. Should Environmental Health receive complaints surrounding noise in the future, investigations will be carried out through the compliance and enforcement policy and protection of the environment operations Act.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>
Landscape Officer	<p>The development application proposes the demolition of existing buildings and structures and the construction of a new 118 bed residential care facility with basement parking under the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD).</p> <p>In the Landscape Referral assessment of this application, consideration of the submitted Landscape Plan prepared by Trish Dobson Landscape Architect and the Arboricultural Impact Assessment prepared by Urban Forestry Australia is assessed against State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD) design requirements including neighbourhood amenity and streetscape, visual and acoustic privacy, existing vegetation, major trees, and built form and character, as well as the following relevant controls:</p> <ul style="list-style-type: none"> <li>• Pittwater 21 DCP Controls: B4.22 Preservation of Existing Trees and Bushland Vegetation, and C1.1 Landscaping.</li> </ul> <p>Landscape Referral raise no objections to the landscape proposal, subject to conditions of consent.</p>
NECC (Development Engineering)	<p><b>Planning Comments</b></p> <p>The new footpath shown on the engineering plan C3.01 and the landscape plan DA-L01 is inconsistent with the architectural plan set, and the applicant has advised that the footpath is not intended to form part of this application. As such, a condition of consent is included requiring the deletion of this path from the plans.</p> <p>It is noted that the development is non-compliant with the sectional gradient requirements under SEPP HSPD Section 26, and the applicant has submitted a Clause 4.6 written request in this regard. This request is considered to be well founded and is supported, as discussed under Clause 4.6 of this report. Further, there are additional environmental concerns relating to removal of native trees and vegetation to accommodate the new path, whereas the existing path</p>

Internal Referral Body	Comments
	<p>is deemed to be acceptable despite the non-compliance.</p> <p><b>Engineering Comments dated 3/12/2020</b>  The proposal relies upon the requirement to meet the objectives of clause 26 of SEPP HSPD 2004. The applicant's engineering consultant has provided a drawing which proposes to construct a footpath between the existing footpaths at the corner of the intersection of Bassett St and Barrenjoey Road. A review of the submitted survey plan indicates that this path will meet the requirements of Clause 26. Also the other sections of the path detailed on the submitted survey meets the requirements of Clause 26. Suitable conditions for the provision of this new footpath have been provided to ensure compliance with SEPP HSPD 2004.</p> <p>The submitted drainage plans including the connection of stormwater from the site into Council's piped drainage system is satisfactory subject to conditions.</p> <p>The proposed driveway crossings are also satisfactory subject to conditions.</p> <p>The submitted Geotechnical report addresses the relevant DCP controls.</p> <p>No objection to approval, subject to conditions as recommended.</p> <p><b>Engineering Comments dated 23/11/2020</b>  The submitted pathway access plan provided with the amended plan may not comply with SEPP Senior Living Part 26 " Access to Facilities" requirement with regards to the pathway slopes, in particular the pathway grades are not be exceed more than 1:14. Applicant has not demonstrated that this can be achieved for the development. Detail survey plan with pathway grades to the nearest transport facilities are to be provided to Council.</p> <p>Council Traffic Engineers comments are still pending with respect to the above matter and access requirements for the development.</p> <p>As result Development Engineers is unable to finalise comments,</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The proposal is to construct a new 118 bed residential care facility with basement car parking. The proposal involves "intensification of development", so climate change must be considered, as per Clause B3.12 of the Pittwater DCP.</p> <p>The property is flood affected, with the following relevant flood data:  1% AEP flood level: 4.34m AHD  1%CC AEP flood level (including consideration of climate change): 4.37m AHD  Flood Planning Level (FPL): 4.87m AHD  Probable Maximum Flood (PMF) level: 4.91m AHD</p>

Internal Referral Body	Comments
	<p>Flood Risk Precinct: Medium Flood Life Hazard Category: H1-H4</p> <p>The proposed finished ground floor level of 5.0m AHD is above the PMF. The driveway crest of 5.0m AHD is above the PMF. The available flood storage on the site has not been reduced, with the undercroft (the underfloor area in the western half of the building envelope) designed to allow for inundation and temporary storage of flood waters. A restriction as to user will be required, prohibiting the enclosure of the undercroft.</p> <p>The proposed development generally complies with the requirements of Parts 7.3 and 7.4 of the Pittwater LEP, and Clauses B3.11, B3.12 and B3.13 of the Pittwater DCP.</p>
NECC (Water Management)	<p><b>Referral comments 18/11/20 - recommended for approval</b></p> <p>The applicant has provided revised stormwater plans and a written response. The only change is to include two small swales. Due to the highly impervious nature of the site and the water use expected from the large number of residents, the concern remains that this development does not meet Council's objectives for water sensitive urban design.</p> <p>The applicant has claimed that biofiltration is not possible in flood-affected areas. Bio-filtration is designed to capture and treat flows during normal, small rainfall events and therefore they are suitable for use in flood-affected areas. The swales that have been added to the design do not make a significant difference to water quality due to their small area and the lack of roof catchment draining to them, but they will contribute to increased infiltration.</p> <p>The applicant has claimed that rainwater/stormwater reuse is not possible in aged care due to infection risk. The Seniors SEPP specifies in Clause 36 that re-use should be incorporated where practical for second quality water uses (this includes toilets and laundry). The NSW Health guidelines for stormwater re-use state that rainwater/stormwater in aged care developments only needs to be treated to a very high level if being used for drinking. It is not accepted that re-use will create an unacceptable maintenance load.</p> <p>While this proposal meets Council's requirements for water quality, it does not meet the requirements for water sensitive urban design. The addition of the swales is welcomed and must be retained, as infiltration is necessary to supplement flows to the coastal sands aquifer under the site.</p> <p>The applicant is conditioned to include water re-use for toilets as a minimum (laundries should be included as well), which will reduce their consumption of potable water and the quantity of runoff from the site.</p> <p>This referral supports the increase of deep soil landscaped area of the site wherever or however possible, as this will contribute to further infiltration of stormwater.</p>



Internal Referral Body	Comments
	<p><b>Referral comments 15/8/20</b></p> <p>The applicant was provided with additional advice on what Council's expectations were for water management (email to Shebak Khan, ACOR Consultants):</p> <p>"You will note that Pittwater 21 DCP B5.9 requires that you demonstrate application of water sensitive urban design principles in your approach.</p> <p>In the Northern Beaches, we consider the WSUD principles to be represented in development through:</p> <ol style="list-style-type: none"> <li>1. Protecting and enhancing receiving environments</li> <li>2. Appropriate treatment for reuse or discharge to receiving environments</li> <li>3. Reducing potable water demand</li> <li>4. Minimising wastewater generation and treating for reuse</li> <li>5. Integrated vegetated stormwater treatment and harvesting systems into the landscape</li> <li>6. Increased biodiversity, amenity and micro-climate benefits</li> <li>7. Providing green infrastructure and green links.</li> </ol> <p>While you have met the 'targets' for water quality, filters are not the best solution and may not remove as many pollutants (especially dissolved nutrients) as a vegetated device given equal maintenance conditions.</p> <p>The design includes a 30kL rainwater tank. 1500sqm of landscaping typically requires 30kL water a year, perhaps less when a percentage of your landscaped area is paving, shaded, and the site is on the coast and receives a fair amount of rainfall. There is likely to be insufficient demand for the water in the external areas.</p> <p>Filters are below ground and therefore owners cannot easily determine when they require maintenance.</p> <p>The landscaping is all narrow strips around the perimeter of the lot, and is unlikely to provide any significant biodiversity or micro-climate benefits.</p> <p>There is limited capacity to reduce potable water demand, and there is no recycling proposed.</p>

Internal Referral Body	Comments
	<p>There is no green infrastructure, although rainwater is being captured for use on landscaping.</p> <p>To apply water sensitive design to a greater degree the development must consider one or more of the following:</p> <ul style="list-style-type: none"> <li>• reduce their footprint to allow the incorporation of a vegetated stormwater device. This would need to be approximately 85sqm and could include swales, bio-retention strips alongside roads/paths. There are many ways to include treatment without having one large basin.</li> <li>• Reuse rainwater internally for toilets and laundry and cooling towers (if used). Treatment is not required for any of these uses, and with the number of residents expected, will significantly increase reuse and reduce potable water demand.</li> <li>• Incorporation of a roof garden, or green roof given the significant roof space available."</li> </ul> <p><b>Referral comments 30/7/20</b></p> <p>The use of filter cartridges for the removal of stormwater pollutants is not accepted for this development. The lot is located over a coastal sands groundwater aquifer and infiltration is important to maintain a balance against sea water ingress. Filters also fail to remove dissolved nutrients, and do not meet other objectives of water sensitive urban design.</p> <p>The applicant must incorporate a vegetated infiltration device that removes pollutants according to the targets GPT 90, TSS 85, TP 65, TN 45 and a MUSIC model file to allow Council to check the parameters used.</p>
Strategic and Place Planning (Urban Design)	<p>The applicant has addressed the following issues brought up in the Pre-Lodgement Meeting:</p> <p>1. The general resort style conceptual layout can be supported. Areas for further investigation are:</p> <p>a. Moving the upper level lounges to have a northern orientation to allow for more sun access and offer variety in window outlook into different parts of the garden and surroundings. Response: The upper floor lounge has been moved to the northern facade.</p> <p>b. The extensive garden design should offer a range of different experiences and themes to cater for a more stimulating outdoor environment for the aged residents. Response: The garden design proposes a variety of themes.</p> <p>c. Façade treatment can be made less monotonous to add interest and variety to fit contextually into the existing low residential density</p>

Internal Referral Body	Comments
	<p>streetscape of single and double storey houses. Response: The proposed facade treatment is well articulated and contextually fitting.</p> <p>d. In addition to the generous rear building setback proposed, the predominantly double storey rear façade should have more single storey elements incorporated to help bring down the scale of building gradually which will minimise the impacts on adjoining properties further. Response: Single storey elements have been introduced to break down the building scale.</p> <p>e. Sun penetration to internal courtyards and rooms opening into courtyard should be investigated further to maximise solar access. Response: Solar access has been considered for the courtyard.</p> <p>2. The loading dock and car parking vehicle entry area should have a clear demarcation of truck manoeuvring area separated from vehicles entering and exiting the basement carpark. Response: The loading dock area has been demarcated.</p> <p>3. Consideration for vehicle movement after dropping off elderly passengers at the front entrance porte-cochere to access the car parking basement and vice versa should be planned for in conjunction with the one-way road loop system due to the wide median strip in Bassett Street. Response: Vehicle movement for drop-offs has been considered.</p>
Traffic Engineer	<p><b>Referral comments 23/11/20</b></p> <p>Concerns were previously raised regarding impacts to the existing on-street parking. The original proposal removes additional on-street parking spaces along the same frontage, due to the new locations of the driveways and the wider main driveway to the car park area and waste/delivery area. The applicant has indicated that their preference is to maintain separate driveways for the ambulance parking and dropoff area under the porte cochère.</p> <p>The revised plan includes modifications to the width and location of the separate driveway. The indent adjacent to the main driveway located at the eastern end of the site has also been removed to make it easier to access the on-street parallel parking. The amended proposal improves the retention of on-street parking and does not result in any net increase to the number of driveway crossings.</p> <p>There are no major impacts to Council's local roads being Bassett Street, however the site is located near a signalized intersection and Barrenjoey Road which is a Main Road under the authority of TfNSW. Management of construction traffic can be addressed in the approval of the Construction Traffic Management Plan, which could require the truck vehicle route to utilise the right turn from Darley Street to access the site from the eastern side. However, TfNSW has</p>

Internal Referral Body	Comments
	<p>indicated that there is insufficient information regarding the trip distribution for this development and potential impacts on the right turn storage on Barrenjoey Road during peak periods.</p> <p>The revised proposal is acceptable, subject to conditions as recommended and any further requirements from TfNSW.</p> <p><b>Referral comments 15/10/20</b></p> <p>The proposal is not acceptable in its current form due to impacts on the existing on-street parking, however a modified proposal could be supported. It is recommended that instead of the provision of a separate driveway exit for the ambulance parking and dropoff area under the porte cochère, that the existing shared driveway arrangement be retained with properties No.37 and 39 Bassett Street.</p> <p>Reasons for the retention of the shared driveway at the western end of the site include:</p> <ul style="list-style-type: none"> <li>- Minimise loss of on-street parking</li> <li>- Minimise conflict points between vehicles exiting the property with pedestrians and vehicles along Bassett Street.</li> <li>- The exit is directly aligned with the road for a vehicle to turn right out of the driveway to avoid the traffic lights at the intersection of Bassett Street and Barrenjoey Road.</li> </ul> <p>The on-site parking provided complies with the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, and the car park is designed in accordance with Australian Standard AS/NZS2890.1-2004 and AS/NZS2890.6:2009.</p> <p>The additional traffic generated by the proposed development during peak periods of 12 vph is not considered to have a significant impact to the local road network in Bassett Street.</p> <p>It is therefore requested that the Applicant consider the above comments regarding driveway access and provide an updated plan so that it can be reviewed to minimise the impact to the existing off-street parking.</p>
Waste Officer	<p>Waste Management Assessment Recommendation - Approval subject to conditions.</p> <p>As this is a business property a private contractor will be used to provide waste collection services.</p>

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

External Referral Body	Comments
Ausgrid: (Substation)	Suitable conditions are included to ensure compliance with the Ausgrid referral requirements.
Concurrence – NSW Roads and Maritime Services - SEPP Infrastructure (cl 100 Development on proposed classified road)	<p><b>Planning Comments</b></p> <p>Council attempted but was unable to contact the relevant RMS Officer to clarify whether any additional information was required from the applicant in relation to point No. 1 below. The RMS referral includes conditions of consent and does not explicitly request the submission of additional information. As such, Council considers no objection is raised by RMS in relation to the development.</p> <p><b>RMS Comments</b></p> <p>Transport for NSW provided the following advice in response to Council's request for comments on the proposed development:</p> <p>Reference is made to Council's correspondence dated 12 October 2020, regarding the abovementioned Application which was referred to Transport for NSW (TfNSW) for comment in accordance with Schedule 3 of <i>State Environmental Planning Policy (Infrastructure) 2007</i>.</p> <p>TfNSW has reviewed the submitted application and provides the following comments for Council's consideration in the assessment of this application:</p> <ol style="list-style-type: none"> <li>1. The submitted Traffic Report does not provide information regarding the trip distribution for this development and potential impacts from the development on the right turn storage bay on Barrenjoey Road (at the Barrenjoey Road and Bassett Street signalized intersection) during peak periods on the road network.</li> <li>2. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system on Barrenjoey Road are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to <a href="mailto:development.sydney@rms.nsw.gov.au">development.sydney@rms.nsw.gov.au</a>.  A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.</li> <li>3. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.</li> </ol>



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 (dwellings and aged care) purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use for aged care.

Matters relating to safe handling of and potentially hazardous materials, if present and identified during demolition, (such as asbestos, lead paint etc) are addressed by conditions. The site is not located adjacent any industrial style land uses that may have caused potential contamination of the site such as petroleum or chemical storage.

#### **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 a Residential Care Facility.

*In this Policy, a residential care facility is residential accommodation for seniors or people with*  
*(a) meals and cleaning services, and*  
*(b) personal care or nursing care, or both, and*  
*(c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommo*

#### **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 site is currently occupied by a Nursing home (aged care facility (ACF)) with 63 beds and a maximum of 28 employees. The site also incorporates two additional buildings at Nos. 23 and 25 Bassett Street, both under the ownership of the applicant. The new ACF will provide and increase in the supply of aged care services with a total of 118 accommodation rooms in a two-storey building with nursing, living and communal/ancillary areas on each accommodation floor. The building is accessible with lifts, stairs, reception areas, service rooms and car parking to meet the aged care needs of residents within the new facility.

(b) The proposal has been designed to make more efficient use of the site and associated infrastructure through the provision of basement carparking, connection to essential services infrastructure and utilities. Access is provided for off street parking with the new through driveway design.

(c) The building is of good design and promotes sunlight access and ventilation to the various communal living areas and open spaces. The development contains a range of facilities and amenities for residents and staff, with noise sources appropriately located away from bedrooms. The design incorporates suitable articulation of building bulk to present as a modern residential development consistent with the surrounding locality. The proposed building setbacks provide generous physical separation and enable planting to screen the development from the streetscape and adjoining properties. The 118 bedrooms are provided with an ensuite bathroom, storage, and large windows offering access to light, air and landscape outlook. All bedrooms are located in close proximity to the communal areas, nursing and recreation facilities.

## **Chapter 2 – Key Concepts**

### Comment:

The proposal satisfies the key concepts for a Residential Care Facility pursuant to the SEPP being that the proposed facility will provide meals and cleaning services, personal care and nursing care, appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care.

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

### Comment:

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).

### **Part 1 - General**

<b>Development Criteria</b>			
<b>Clause</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Complies</b>
<b>PART 1 - General</b>			
14	The objective of this Chapter is to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and	The proposed development provides suitable accommodation, access and recreational facilities for residents with a range of	Yes

Development Criteria			
Clause	Requirement	Proposal	Complies
	active as well as those who are frail, and other people with a disability regardless of their age.	levels of mobility and activity.	
15	This Chapter allows for development on land zoned primarily for urban purposes for any form of seniors housing despite the provisions of any other environmental planning instrument if the development is carried out in accordance with this Policy.		Yes
18	<p>Development allowed by this Chapter may be carried out for the accommodation of the following only:</p> <p>(a) seniors or people who have a disability,</p> <p>(b) people who live within the same household with seniors or people who have a disability,</p> <p>(c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.</p> <p>A consent authority must not consent to a development application made pursuant to this Chapter unless:</p> <p>(a) a condition is imposed by the consent authority to the effect that only the kinds of people referred to above may occupy the building to which the application relates, &amp;</p> <p>(b) the consent authority is satisfied that a restriction as to user will be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919 , limiting the use of any accommodation to which the application relates to the kinds of people referred to above.</p>	Subject to conditions.	Yes

## Part 2 - Site Related Requirements

Development Criteria			
Clause	Requirement	Proposal	Complies
<b>PART 2 - Site Related Requirements</b>			
26(1)	<p>Satisfactory access to:</p> <p>(a) shops, banks and other retail and commercial services that residents may reasonably require, and</p>	<p>Mona Vale Town Centre is located to the south of the subject site, accessible via public transport links situated a maximum of 180m from the site on Barrenjoey Road. Mona Vale contains retail, commercial, and community services and medical practices. Further transport links are also available from Mona Vale.</p>	Yes

<b>Development Criteria</b>			
<b>Clause</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Complies</b>
	(b) community services and recreation facilities, and (c) the practice of a general medical practitioner		
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>An accessible path of travel along Bassett Street and Barrenjoey Road is available for appropriate access to the north and south bound bus stops on Barrenjoey Road. The distance to these bus stops is a maximum of approximately 145 metres to the south bound bus stop and 180 metres to the north bound bus stop.</p> <p>The proposal does not fully comply with Section 26 as a section of the access path exceeds the sectional grade requirements under 26(3). Section 26(3) is considered to be a development standard and the applicant has provided a Clause 4.6 written request in relation to the variation. The applicant's written request is assessed under Clause 4.6 of this report, and is considered to adequately justify the non-compliance.</p> <p>The bus stops provide the minimum servicing requirements of the SEPP including access to the services such as banks, shops, retail and commercial uses located within the Mona Vale Town Centre.</p>	No (see Clause 4.6)
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	N/A	N/A
28	Consideration is given to the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure.	Water and sewerage infrastructure connections are available from Sydney Water assets.	Yes
29	Consideration must be given to whether the proposal is compatible with the surrounding land	i) The site is mapped as being flood affected and the development is designed in accordance with the relevant flood controls for vulnerable uses.	Yes

<b>Development Criteria</b>			
<b>Clause</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Complies</b>
	<p>uses having regard to the following criteria specified in Clauses 25(5)(b)(i), 25(5)(b)(iii), and 25(5)(b)(v):</p> <p>i) the natural environment and the existing uses and approved uses of land in the vicinity of the proposed development</p> <p>iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development and any proposed financial arrangements for infrastructure provision,</p> <p>v) the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.</p>	<p>Part of the development site has been used as a nursing home facility for many years and is adjacent to/in the vicinity of a variety of developments other than dwelling houses, including dual occupancies adjoining the site to the south and the west. There are a number of residential flat buildings to the south, east and north of the site on Bassett Street, Heath Street, Stanley Street and Surfview Road. The land to the immediate east is occupied by a dwelling house. The ACF development is provided within a landscape setting with substantial setbacks and deep soil areas providing a buffer consisting of small, medium and large trees and vegetation to enhance the natural environment within the urban setting.</p> <p>iii) Service and infrastructure will be provided for the building, including basement parking, electricity, sewer, water and telecommunications.</p> <p>v) The proposed development is designed with suitable articulation of the built form to maintain consistency with the pattern of surrounding residential development. The facade, roof form and range of materials and finishes reflect the surrounding streetscape and assist in reducing the visual bulk of the building. The proposal is compatible with adjacent land uses and, subject to conditions, will not unreasonably impact the surrounding locality in relation to parking, access, noise, privacy, overshadowing, views, and residential amenity. Further, the provision of adequate physical separation through performance against the relevant built form controls ensures that the future development of surrounding land is not compromised.</p>	
<b>PART 3 - Design Requirements – Division 1 General</b>			
30	The consent authority must not grant consent unless the consent authority is satisfied that the applicant has taken into account a site analysis prepared by the applicant in accordance with this clause.	A site analysis plan has been provided (Drawing A-01) including a written summary considerations within the Statement of Environmental Effects.	Yes

## Division 2 - Design Principles

### 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.

Design Principles	Requirement	Proposed	Compliance
33 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.	<p>The site is within the Mona Vale locality that is described within the Pittwater 21 DCP. The proposal is consistent with the key elements relevant to building in the context of the character statement.</p> <p>The proposal is designed to be compatible with the residential streetscape character, which is primarily one and two-storey developments, and provides a significant improvement to the appearance of the existing facility.</p> <p>The two-storey height, facade articulation and landscape design results in a scale appropriate in the low density context of the site. The use of variety of roof forms and materials also contributes to the quality of the design.</p>	Yes
	b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that re identified in a local environmental plan.	<p>No heritage conservation areas or heritage items are identified in the vicinity of the site.</p>	Yes
	c. Maintain reasonable neighbour amenity and appropriate residential character	<p>i) The development readily complies with the applicable Pittwater 21 DCP built form controls for side and rear setbacks and building envelope.</p>	Yes



Design Principles	Requirement	Proposed	Compliance
	<p>by;</p> <p>(i) providing building setbacks to reduce bulk and overshadowing</p> <p>(ii) using building form and siting that relates to the site's land form, and</p> <p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development,</p> <p>(iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbors.</p> <p>d. Be designed so</p>	<p>Compliance with these controls ensures that sufficient spatial separation is maintained, while varied side setbacks and a greater first floor rear setback provide further modulation of bulk. Suitable landscaping of the curtilage of the site further reduces the visual bulk of the building.</p> <p>ii) The site is generally flat and the primary constraint on the built form is the flood affectation of the site. The floor levels are required to be raised above the flood planning level, however the development maintains compliance with the relevant DCP built form controls and with the SEPP HSPD building height control (as conditioned). The design of the building in accordance with the flood planning requirements does not give rise to any unreasonable visual or amenity impacts.</p> <p>iii) The immediately adjoining properties to the east and west contain single-storey developments, however the broader Bassett Street visual catchment generally contains a mix of one and two-storey developments. The proposed ACF is a maximum of two-storeys and is compatible in scale with adjacent development at the street frontage. Further, the proposal results in a reduction in overall height in comparison to the existing nursing home on the site.</p> <p>iv) The proposed building is not located on any boundaries and the proposed landscaping provides suitable buffers to adjoining properties.</p> <p>The proposal maintains</p>	<p>Yes</p>

Design Principles	Requirement	Proposed	Compliance
	<p>that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line,</p> <p>e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.</p> <p>f. retain , wherever reasonable, major existing trees, and</p> <p>g. be designed so that no building is constructed in a riparian zone.</p>	<p>consistency with the front building line of the existing nursing home on the site and the adjoining dwellings to the east and west.</p> <p>The development is proposed in a landscape setting, including extensive planting within the front and side setback areas, resulting in a landscape outcome consistent with the desired future character.</p> <p>The proposal includes the removal of trees that are within the development footprint and/or are listed as exempt species. New proposed landscaping and planting including native trees is considered to sufficiently compensate for the tree removal and enhance the landscape quality of the site</p> <p>The site is not within a riparian zone.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
34 Visual and acoustic privacy	<p>The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by: (a) Appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and (b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</p>	<p>a) The design of the proposed ACF is generally acceptable in relation to visual and acoustic privacy. High use common facilities, open space areas and balconies are located centrally or orientated to the front and rear of the site, and privacy measures and landscape screening are incorporated/conditioned where required.</p> <p>b) The proposal includes basement car parking and a loading dock at grade adjoining the driveway entry to the site. The driveway location provides adequate protection from noise associated with vehicle access and will not cause unreasonable noise impacts to bedrooms.</p>	Yes
35 Solar access	The proposed	a) The ACF is designed with	Yes

Design Principles	Requirement	Proposed	Compliance
and design for climate	development should: (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and (b) involve site planning, dwelling design and 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.	<p>suitable setbacks and modulation to minimise overshadowing impacts to neighbouring properties. The shadow diagrams provided demonstrate compliance with the relevant Pittwater DCP control, and the shadow impacts of the proposal to be acceptable, as assessed in detail under DCP control C1.4.</p> <p>The design incorporates north-facing living areas, a glazed central roof and atrium void, and central courtyards to maximum solar access to bedrooms and private open space areas within the development.</p> <p>b) The subject site benefits from a northerly orientation and is designed to maximise sunlight access and cross ventilation to bedroom and common areas.</p>	
36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	The stormwater impacts of the development have been assessed by Council's Development Engineer and Water Management Officer, with suitable conditions of consent included.	Yes
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,	<p>a) The building facade is designed to address the street and maximise casual surveillance of the entry and public areas. The front desk is located within the reception area and the main building entry is designed for vehicle and pedestrian access with high visibility.</p> <p>The basement is access controlled and contains various staff and operational facilities in addition to car parking.</p> <p>b) N/A</p>	Yes

Design Principles	Requirement	Proposed	Compliance
	driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	c) N/A	
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.	a) The pedestrian link to public transport facilities is considered to be appropriate, as discussed under SEPP HSPD Section 26 and Clause 4.6 of this report.  b) The development includes suitable vehicle and pedestrian access at the front of the site, and provides a well articulated and landscaped facade.	Yes
39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	The ACF incorporates a dedicated garbage room adjacent to the loading dock at grade at the front of the site. Waste is to be collected by a private contractor.	Yes

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

##### Division 1 General

##### 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
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Control	Required	Proposed	Compliance
(2) Site Size	1000 sqm	6503m <sup>2</sup>	Yes
(3) Site frontage	20 metres	106.68m <sup>2</sup>	Yes
(4) Building Height	(a) 8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	8m (as conditioned)	Yes
	(b) A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	Building is a maximum of 2 storeys in height and complies with the relevant setback controls for the site.	Yes
	(c) A building located in the rear 25% of the site must not exceed 1 storey in height.	The portion of the building located within the rear 25% is single-storey in height.	Yes

Division 2 - Residential care facilities - standards concerning accessibility and usability.

Development standards concerning accessibility and useability for residential care facilities are not specified in this Policy. For relevant standards, see the Commonwealth aged care accreditation standards and the Building Code of Australia. The applicant has provided a BCA capability assessment (BCA Capability Statement dated 22 April 2020) to demonstrate that requirements under the BCA are achievable, subject to conditions and construction certificate details.

**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**

Division 1 General

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.

Division 2 Residential care facilities

Clause 48 - Standards that cannot be used to refuse development consent for residential care facilities  
A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a residential care facility on any of the following grounds -

(a) **Building Height:** if all proposed buildings 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys)

Comment:

This building height standard has been similarly addressed in Clause 40. The development includes several roof pop-outs and raked ceilings that exceed the 8m control and a condition is included requiring amendment of the design to ensure compliance with this control. In summary, the building, as conditioned, complies with the 8.0m height control measured to the underside of the ceiling from ground level, as per the SEPP.

(b) **Density and scale:** if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less

Comment:

The proposed ACF has an FSR of 0.994:1 (6463.1m<sup>2</sup>) and therefore complies with this development standard.

Note: In the case of a residential care facility the SEPP excludes any floor space below ground level (basement area) that is used for service activities provided by the facility.

(c) **Landscaped area:** if a minimum of 25 square metres of landscaped area per residential care facility bed is provided

Comment:

The proposed ACF has 118 beds and therefore requires 2,950 sqm. Total landscaped area is 2784 sqm which does not comply with the development standard.

A detailed merit assessment of the proposed landscape treatment is provided as follows:

- The proposal includes a minor non-compliance with this control, providing 23.6m<sup>2</sup> of landscaped area per bed.
- The landscaped area of the site incorporates a range of planted areas and outdoor living areas suitable for recreational activities.
- The covered outdoor terrace areas are designed and located as extensions of adjoining internal dining and lounge areas, increasing the amenity and usability of the facilities.
- Sufficient deep soil areas and planting are provided around the periphery of the development to improve the amenity of the development for occupants and visually screen the building from adjoining properties.
- Given the design and variety of landscaped and outdoor living areas offered throughout the development, the shortfall of 166m<sup>2</sup> across the site (1.4m<sup>2</sup> per bed) is not considered to result in unreasonable amenity within the development or to surrounding land.
- The proposal is supported by Council's Landscape and Urban Design Officers.

Based on this assessment, the proposal is not recommended for refusal in this regard.

(d) **Parking for residents and visitors:** if at least the following is provided—

- (i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 10 persons to be employed in connection with the development)
- (ii) 1 parking space for each 2 persons to be employed in connection with the development
- (iii) 1 parking space suitable for an ambulance.

Comment:

- 12 car parking spaces are provided for the 118 beds in the residential care facility which complies with this standard.
- 27 employee parking spaces are provided for the 50 full time equivalent staff which complies



with this standard.

- 1 suitable ambulance parking space is provided which complies with this standard.
- A loading / service delivery dock is provided at grade at the front of the site.

(A total of 40 car spaces, including a van loading bay and mini bus space at basement level, and an ambulance bay at ground level.)

The proposal complies with the required car parking revision.

#### **Chapter 4 – Miscellaneous**

Comment:

Clause 55 requires that the residential care facility include a fire sprinkler system, which addressed within the BCA Report and recommended conditions.

#### **SEPP (Infrastructure) 2007**

##### Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid with suitable conditions included as recommended.

#### **Pittwater Local Environmental Plan 2014**

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
4.3 (2A) Height of	8m above Flood Planning Level	8.85m (RL13.7	10.625%	No

Buildings:	(RL12.85 AHD)	AHD)	(0.85m)	
7.4 Floodplain Risk Management	RL4.91 AHD (Probable Maximum Flood)	RL5.0 AHD	N/A	Yes

### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.4 Floodplain risk management	Yes
7.10 Essential services	Yes

### Detailed Assessment

#### **Zone R2 Low Density Residential**

The site is zoned R2 Low Density Residential under PLEP 2014, and the proposed residential care facility, being a form of seniors housing, is prohibited development. However, the applicant seeks consent for the proposed development under the provisions of SEPP HSPD, which allows for seniors housing on land where it may otherwise be prohibited.

As the site is zoned primarily for urban purposes and as dwelling houses are permissible on the site under the provisions of PLEP 2014, the proposal is consistent with the provisions of clause 4 of SEPP HSPD, and the proposed seniors housing development is permissible with consent.

Further, the development is considered to achieve the objectives of the R2 zone in providing for the housing needs of the Pittwater community at an intensity and scale compatible with the surrounding land uses.

#### **4.3 Height of buildings**

Under the provisions of PLEP 2014, buildings shall not exceed a maximum height RL12.85 AHD, as measured between the FPL ground and the highest part of the building at any one point. In accordance with the definition of building height as defined by PLEP 2014, the proposed building reaches a maximum height of RL13.7 AHD, exceeding the height limit across a large portion of the upper level by a maximum of 850mm.

However, SEPP HSPD applies to the development and prevails where any inconsistencies occur between the two instruments. Under the provisions of SEPP HSPD, a consent authority must not refuse consent to a development application if all buildings are 8m or less in height, as measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.

The proposed building generally complies with the building height control calculated in accordance with SEPP HSPD. The development incorporates raked ceilings in various areas of the building to enable increased sunlight access and ventilation, and these elements result in areas of non-compliance with the control. As such, conditions are included requiring the replacement of the pop out roof elements with skylights, and lowering of the ceiling above atrium void to ensure compliance with the building height is maintains across the development.

As SEPP HSPD prevails over the PLEP 2014 height of buildings control, no Clause 4.6 variation request is required in relation to height.

With regard to the building height calculation, it is noted that the existing ground levels across much of the site, generally the area forward (north) of the rear building line, have been subject to previous alteration and the levels shown on the survey plan submitted do not accurately depict natural ground levels. However, the ground levels shown on the section plans provided generally reflect the natural unaltered ground level across the rear of the subject site and the adjoining properties.

#### 4.6 Exceptions to development standards

##### Description of non-compliance:

Development standard:	Section 26 Location and access to facilities
Requirement:	(3)(i) Gradient of no more than 1:12 for a max. length of 15m at a time (3)(ii) Gradient of no more than 1:10 for a max. length of 5m at a time
Proposed:	Gradient of 1:10 for a max. length of 30m

##### Assessment of request to vary a development standard:

The following assessment of the variation to SEPP HSPD Section 26 Location and access to facilities development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

##### Clause 4.6 Exceptions to development standards:

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

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

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

Comment:

SEPP HSPD Section 26 Location and access to facilities development standard is not expressly excluded from the operation of this clause.

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

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

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

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

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

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

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

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

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

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

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

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

The applicants written request argues, in part:

*"There are no stated objectives in relation to the clause 26 SEPP HSPD provisions. Notwithstanding a **suitable access pathway** is a path of travel by means of a sealed footpath or other. In this regard, I rely on the Statement of Compliance - Access for People with a Disability, dated 2019. We are of the opinion that the section of path at 1:10 would not adversely affect a person with a disability."*

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

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

*1.3 Objects of Act(cf previous s 5)*

*The objects of this Act are as follows:*

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

The applicants written request argues, in part:

- *"The proposed residential care facility is a high care facility whereby access to services or facilities by residents occurs primarily via the facilities 8 seat minibus.*
- *The existing pathway between the site and transport services has been utilised by residents of the existing residential care facility on the site for many years without incident or complaint.*
- *The overall average gradient of the pathway between the site and transport services does not exceed 1:14. In this regard, clause 26(3) of the SEPP does anticipate sections of pathway at a gradient of 1:10.*
- *The Statement of Compliance - Access for People with a Disability, dated 1st December 2020, prepared by Accessible Building Solutions contains the following expert opinion:*
  - "We are of the opinion that the section of path at 1:10 would not adversely affect a pers*
- *There are no environmental impacts arising from the non-compliance of the standard."*

The existing path provides access to the existing ACF accommodated on the subject site and the overall gradient of the path complies with overall average gradient requirement (1:14) of Section 26(3).

In fact, the path is of a significantly lower gradient than 1:14 for much of the travel distance between the site and public transport facilities. Further, the maximum overall distance of 180m (from the northbound bus stop on Barrenjoey Road to the subject site) is less than half of the maximum allowable distance of 400m. The applicant's Access Report states that the section of path at 1:10 is suitable for use despite the breach of the control. Due to the nature of the ACF providing high care, it is also anticipated that access to services and facilities will occur primarily via the facility's mini bus shuttle service.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

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

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

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

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

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

#### Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Section 26 Location and access to facilities development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

#### **Objectives of development standard**

There are no underlying objective contained within SEPP HSPD Section 26. However, the intention of the control is to ensure access of a suitable distance and gradient between the development and public transport services via a *suitable access pathway*, which is defined as:

*(a) a **suitable access pathway** is a path of travel by means of a sealed footpath or other simil*

#### Comment:

Given the above assessment and written request submitted by the applicant, the existing path is considered to provide suitable access between the site and public transport facilities of Barrenjoey Road.

#### **Zone objectives**

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

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



Comment:

The development proposes a new 118 bed residential care facility to provide for the housing needs of seniors and people with a disability under the provisions of SEPP HSPD. The proposed development standards variation is not considered to contravene this objective for the reasons discussed in this Clause 4.6 assessment.

It is considered that the development satisfies this objective.

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

Comment:

N/A. The development provides for the housing needs of the community under the provisions of SEPP HSPD.

- *To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.*

Comment:

N/A. The development provides for the housing needs of the community under the provisions of SEPP HSPD.

Conclusion:

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

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

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

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the SEPP HSPD Section 26 Development Standard is assumed by the Local Planning Panel.

**7.1 Acid sulfate soils**

The site is mapped as Class 3 & 4 Acid Sulfate Soils. An Acid Sulfate Report has been provided confirming that no acid sulfate soils were identified on the site and the development will not adversely impact the water table. The Report concludes that no management plan is required.

**7.3 Flood planning**

Council's Flood Officer has completed an assessment of the proposal and concludes that the development generally complies with the relevant LEP controls (7.3 & 7.4) and DCP controls (B3.11, B3.12 and B3.13). Suitable conditions of consent are recommended in relation to flooding.

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	Basement Courtyard: 3.4m	47.7%	No
		Basement: 6.5m - 11m	N/A	Yes
		Port Cochere: 0.8m	87.7%	No
		Building: 6.5m	N/A	Yes
Rear building line	6.5m	Basement: 12m	N/A	Yes
		Building: 7m - 15m	N/A	Yes
Side building line	East: 2.5m	Driveway, Basement: 4m, 10.3m	N/A	Yes
		Building: 8.83m - 10.3m	N/A	Yes
	West: 1m	Basement: 4m	N/A	Yes
		Building: 4m - 5.255m	N/A	Yes
Building envelope	3.5m	Within envelope	N/A	Yes
	3.5m	Within envelope	N/A	Yes
Landscaped area	50% 3251.5m <sup>2</sup>	27.4% 1781.8m <sup>2</sup>	45.2%	No

**\*Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example:  $38/40 \times 100 = 95$  then  $100 - 95 = 5\%$  variation)

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.9 Mona Vale Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.3 Greywater Reuse	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.9 Stormwater Management - Water Quality - Other than Low Density Residential	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.20 Undergrounding of Utility Services	Yes	Yes
C1.21 Seniors Housing	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
C5.17 Pollution control	Yes	Yes
C5.19 Food Premises Design Standards	Yes	Yes
C5.21 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.2 Scenic protection - General	Yes	Yes
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	No	Yes
D9.7 Side and rear building line	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D9.9 Building envelope	Yes	Yes
D9.10 Landscaped Area - General	No	Yes
D9.12 Fences - General	Yes	Yes
D9.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

#### Detailed Assessment

#### **A4.9 Mona Vale Locality**

Consideration of the development against the Mona Vale Locality desired future character is discussed within the SEPP HSPD assessment.

#### **B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)**

Council's Flood Officer comments take climate change into considerations in accordance with this clause.

#### **B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land**

The proposal, as conditioned, provides extensive landscaping new landscaping and native tree planting on the site, including locally native species. The landscape regime is sufficient to compensate to the removal of vegetation.

#### **B4.22 Preservation of Trees and Bushland Vegetation**

The landscape assessment of the proposal is based on the submitted Landscape Plan and Arboricultural Impact Assessment. Council's Landscape Officer raised no objection to the proposed tree removal. The landscape regime provides extensive new planting across the site, and further locally native species are required by the conditions of consent.

#### **B6.3 Off-Street Vehicle Parking Requirements**

The proposal demonstrates compliance with the car parking requirements of SEPP HSPD.

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

The proposed development will result in no unreasonable impacts to views from surrounding properties.

#### **C1.4 Solar Access**

#### Compliance with control

#### **Subject site**

The design and northerly orientation of the development allows for suitable sunlight access to the north facing communal living areas at the front of the building. The glazed central roof and atrium void also provide additional sunlight access to the principal lounge/dining areas at ground and first floor levels. The courtyard voids and roof pop outs afford additional sunlight to central bedrooms and

hallways. The roof pop outs are conditioned to be replaced with skylights, which will similarly provide solar access.

The rear landscaped area will receive minimal solar access during mid-winter due to the orientation of the site. However, a range of communal indoor and outdoor spaces across the site will maintain sufficient winter sun throughout the day.

### **Adjoining properties**

The overshadowing impacts of the development on adjoining properties are acceptable and maintain compliance with this control and the relevant outcomes. The physical separation and modulation of bulk at the building elevations ensure that a minimum of 3 hours sunlight access is retained to all adjoining properties, as demonstrated on the submitted shadow diagrams.

At 9am and through the there is overshadowing of the driveway, garage and a portion of rear private open space of No. 37A & 37B Bassett Street. There are also minor impacts to the rear yards of Nos. 4-18 Heath Street and the rear (northern) elevations of No. 8B and 10B Heath Street. These properties will be unaffected after midday and therefore receive a compliant level of sunlight access.

The shadow impact at 12pm is contained within the rear setback and eastern driveway of the subject site, with no impact to adjoining properties.

During the afternoon and at 3pm there is also increasing shadow impact to the rear yard and western wall and glazing of No. 21 Bassett Street. This property is not affected until after 12pm and receives a compliant level of sunlight.

### **C1.5 Visual Privacy**

#### Merit Consideration

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

- *Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.*

#### Comment:

The proposed side and rear setbacks ensure adequate physical separation between the development and adjoining sites. The proposed rear setback and proposed landscaping, including retention of existing trees and additional planting, maintains an acceptable level of privacy to the adjoining properties to the south. At the eastern boundary the proposed driveway is set back 4m and the building setback ranges from 8.83m-10.8m. New planting is proposed within the driveway setback. A minimum side setback of 4m is proposed to the western boundary, which adjoins the driveway and garage/car parking of Nos. 1 & 2/37 Bassett Street. The established hedge vegetation extending along the western boundary is retained as a supplementary privacy measure. Due to the extent of glazing to the western boundary, in order to maintain suitable privacy measures to No. 37 Bassett Street in the event that the existing hedge fails, screening is conditioned to be provided to the windows of Rooms 242 to 249 inclusive.

- *A sense of territory and safety is provided for residents.*

#### Comment:

The proposal as conditioned provides a sense of territory for residents and does not allow for unreasonable views to or from the neighbouring properties.

Having regard to the above assessment, it is concluded the the proposed development is consistent with the relevant objectives of the P21DCP 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.

## **C1.6 Acoustic Privacy**

### Merit consideration

Acoustic privacy and noise impacts are considered to satisfy the objectives of DCP control as follows:

- Noise is generally contained within the development as a result of the location bedrooms around the perimeter of the building and the positioning of communal areas and private open spaces centrally within the site. The commercial kitchen, laundry and plant rooms are located at the basement level to minimise noise and amenity impacts to surrounding sites. The facility is staffed 24 hours and therefore noise associated with residential activities can be managed by staff at all times.
- The development is required to comply with the *Protection of the Environment Operations Act 1997*, to ensure that the operation of the facility does not give rise to offensive noise impacts. As discussed, the primary noise sources are contained within the basement and layout/design will largely limit noise carrying beyond the development.
- The western boundary fence and landscaping will provide a buffer to the basement driveway access, and the proposed driveway fence is conditioned to be solid to provide additional screening to the vehicle entry.

## **C1.7 Private Open Space**

### Compliance with control

The development does not strictly provide any private open space areas allocated specifically to individual rooms/beds within the development. Regardless, compliance with this control is considered to be achieved as follows:

- The proposal includes numerous communal open space areas in the form of front and rear terrace areas immediately adjoining the internal living and dining areas, and extensive areas of landscaped garden at the rear of the site.
- The layout allows for efficient access between bedrooms, internal communal areas and the adjoining open space areas within the rear setback and courtyards. The landscape design also provides paths and gardens for further recreational opportunities.
- The number, variety and amenity of communal open space areas incorporated into the development are considered to provide sufficient recreational opportunities to offset the lack of individually allocated private open space.

## **C1.21 Seniors Housing**

### Compliance with control



The proposal is considered to comply with the controls of the clause as follows:

- The proposed development is in keeping with the low density residential character of the locality. The proposed height and articulation of the built form results in a bulk, scale and appearance that is consistent with surrounding residential development. The landscape setting of the site further reduces the visual impact of the building
- The proposed ACF maintains the existing use of the site and does not result in dominance of the neighbourhood by seniors housing developments.
- The neighbourhood contains a mix of single residential uses and medium density developments. The proposal maintains the existing use of the site and does not create an adverse prevailing residential flat building appearance within the visual catchment or surrounding area.

The proposal performs appropriately against the relevant design requirements of the Pittwater LEP, DCP and SEPP HSPD, and the cumulative impacts of the development are considered to be acceptable.

### **C5.19 Food Premises Design Standards**

The premises contains a commercial kitchen and suitable conditions are imposed to ensure compliance with the relevant Australian Standards.

### **D9.3 Building colours and materials**

The proposed colours and materials are generally acceptable and contribute to minimising the bulk and visual impact of the development.

### **D9.6 Front building line**

#### Description of non-compliance

The proposed building facade largely complies with the 6.5m front building line control. The proposed non-compliances relate to the 3.4m basement courtyard setback and 0.8m porte cochere setbacks.

#### Merit Consideration

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

*Achieve the desired future character of the Locality.*

#### Comment:

Under A4.9 of P21 DCP, the proposal is consistent with the objectives of the desired future character of Mona Vale. The proposal will achieve a height that is below the existing tree canopy. Furthermore, the vegetation proposed to be removed as a result of the development is to be replaced with compensatory planting, including locally native species. The bulk and scale of the development is considered to be reasonable in the context and will not unreasonably impact the amenity of surrounding properties.

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

Comment:

Any existing views or vistas are unlikely to be obstructed as a result of the proposed development. Opportunities for casual and unobstructed surveillance of the street from dwellings will be retained.

- *The amenity of residential development adjoining a main road is maintained.*

Comment:

The subject site adjoins Bassett Street which is a relatively busy local road. The development is sufficiently set back and is suitably screened to the street frontage. Further, a compliant number of car parking spaces are proposed in accordance with SEPP HSPD.

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

Comment:

Extensive planting is proposed within the front setback and road reserve to compensate for the tree removal and provide screening to the development when viewed from the street frontage.

- *Vehicle manoeuvring in a forward direction is facilitated.*

Comment:

The proposed basement carpark and porte cochere driveways allow for entry and exit in a forward direction.

- *To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.*

Comment:

The design of the proposal promotes visual improvement of the existing facility and reduces the perceived bulk of the building. The height and scale of the development are acceptable in relation to the natural environment and landscape setting of the site and surrounds.

- *To encourage attractive street frontages and improve pedestrian amenity.*

Comment:

The proposed building and landscape design contribute to an attractive street frontage and pedestrian links are maintained across the width of the site.

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

Comment:

The site is flood affected and the proposed building design appropriately responds to this constraint. Generous front, side and rear setbacks are provided to the built form to maintain physical separation to the street frontage and adjoining properties. These setbacks are also suitably landscaped and provide a landscape setting consistent with the surrounding locality.

While the proposed front setback is numerically non-compliant, it is considered to be consistent with the outcomes of the control and appropriate within the locality. It is therefore determined the variation is applicable based on merit.

### **D9.10 Landscaped Area - General**

Description of non-compliance

The proposed landscaped area of 27.4% is non-compliant with the 50% of site area requirement, or a shortfall of 1470m<sup>2</sup>, when calculated in accordance with the Pittwater DCP control.

Merit consideration

With regard to the consideration for a variation, the merits of the development are considered as follows:

- The landscaped area of the development calculated in accordance with HSPD is 2784m<sup>2</sup>, or 23.6m<sup>2</sup> per bed. As the provisions of SEPP HSPD prevail over the Pittwater DCP, the extent of the landscaped area non-compliance for the development is only 1.4m<sup>2</sup> per bed.
- The landscape setting of the site is sufficient to provide a range of deep soil areas and outdoor living areas suitable for recreational activities.
- The outdoor terrace areas extend from the internal communal living and dining areas to maximise usability for the high care elderly residents.
- Sufficient deep soil areas are provided to the front, sides and rear of the site to enable suitable vegetation screening of the building, including planting of locally native tree species.

A further assessment of landscaping on the site is provided under SEPP HSPD.

### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

### **POLICY CONTROLS**

#### **Northern Beaches Section 7.12 Contributions Plan 2019**

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

A monetary contribution of \$236,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$23,600,000.

## CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify a contravention of *SEPP (Housing for Seniors or People with a Disability (HSPD)) Section 26 Location and access to facilities* has adequately addressed and demonstrated that:

a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and

b) There are sufficient environmental planning grounds to justify the contravention.

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

The proposed development is for demolition and construction of a two-storey seniors housing development (Residential Care Facility) with a basement level, at Nos. 23-33 Bassett Street.

The development is considered to be acceptable with regard to all applicable controls contained within SEPP (Housing for Seniors or People with a Disability) 2004, and the Pittwater LEP and DCP. A detailed assessment against these controls is completed within the assessment report.

Thirty-seven (37) submissions were received by way of objection in response to the notification/advertising of the application. The submissions are addressed in detail under the notification and submissions section.

The Detailed Description of Development section of this report provides a summary of the minor amendments made to the application, which include realignment of driveway locations, relocation of the path within the western setback and northern terrace fence, and revision of the levels on the basement plan to reflect the Geotechnical Report.

The application has been assessed against the Environmental Planning and Assessment Act 1979 (EP&A Act 1979), Environmental Planning and Assessment Regulations 2000 (EP&A Regulations 2000), relevant Environmental Planning Instruments (EPIs) and Council policies, including the applicable planning controls.

Accordingly, based on the detailed assessment contained in this report the development is considered to be satisfactory development for the zone and in context with the residential scale, and it is recommended that the application be approved subject to conditions attached to this report. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

That Northern Beaches Council as the consent authority vary SEPP HSPD Section 26 Location and access to facilities development standard pursuant to clause 4.6 of the PLEP 2014 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objective of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2020/0816 for Demolition works and construction of a Seniors Housing Development (Residential Care Facility) on land at Lot 38 DP 7236, 23 Bassett Street, MONA VALE, Lot 2 DP 748426, 33 Bassett Street, MONA VALE, 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
A-01 Site Analysis and Context Plan	Rev. B, 17 November 2020	Gartner Trovato Architects
A-02 Roof Plan	Rev. B, 17 November 2020	Gartner Trovato Architects
A-03 Basement Plan	Rev. B, 17 November 2020	Gartner Trovato Architects
A-04 Ground Floor Level	Rev. B, 17	Gartner Trovato

	November 2020	Architects
A-05 First Floor Level	Rev. B, 17 November 2020	Gartner Trovato Architects
A-06 Elevations - North & South	Rev. B, 17 November 2020	Gartner Trovato Architects
A-07 Elevations - East & West	Rev. B, 17 November 2020	Gartner Trovato Architects
A-08 Sections	Rev. B, 17 November 2020	Gartner Trovato Architects

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
insert		

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Statement of Compliance - Access for People with a Disability	Rev. A, 1 December 2020	Accessible Building Solutions
Geotechnical Investigation	Rev. 2, 20 July 2020	White Geotechnical Group
Arboricultural Impact Assessment	February 2020	Urban Forestry Australia
BCA 2019 Capability Statement	Rev. 3, 22 April 2020	Philip Chun Building Compliance
Flood Risk Management	Rev. 1, 3 April 2020	ACOR Consultants

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:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA-L01 Landscape Site Plan	24 March 2020	Trish Dobson Landscape Architecture
DA-L02 Tree Retention Plan	24 March 2020	Trish Dobson Landscape Architecture
DA-L03 Planting Plan West	24 March 2020	Trish Dobson Landscape Architecture
DA-L04 Planting Plan East	24 March 2020	Trish Dobson Landscape Architecture
DA-L05 Planting Schedule & Details	24 March 2020	Trish Dobson Landscape Architecture
Elevation, Section, First Floor Planter	24 March 2020	Trish Dobson Landscape



	Architecture
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Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	25 June 2020	Gartner Trovato Architects

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

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

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

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

Other Department, Authority or Service	Dated
Ausgrid	3 December 2020
Transport for NSW	4 November 2020

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

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

3. **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.

#### 4. **General Requirements**

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
  - 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are

breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or

adjustments as those Authorities may deem necessary.

- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

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

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

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

#### 5. **Compliance with Consultant Reports**

The development is to incorporate all recommendations contained within the following consultant reports referenced in this consent, including:

- Statement of Compliance - Access for People with a Disability
- Geotechnical Investigation
- Arboricultural Impact Assessment
- BCA 2019 Capability Statement
- Flood Risk Management
- Waste Management

Reason: To ensure consistency with the submitted reports.

## FEES / CHARGES / CONTRIBUTIONS

#### 6. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$236,000.00 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 \$23,600,000.00.

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

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

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

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

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

## 7. **Security Bond**

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

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

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

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

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

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

The applicant is to lodge a bond of \$20,000.00 as security against any damage to or failure to complete the construction of stormwater drainage works in the road reserve as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to

the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

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

The applicant is to lodge a Bond of \$70,000.000 as security against any damage to or failure to complete the construction of any vehicular crossings, kerb and gutter, footpath works and removal of any redundant driveways required as part of this consent.

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

Reason: Protection of Council's infrastructure.

10. **Construction, Excavation and Associated Works Bond (Maintenance for civil works)**

The developer/applicant must lodge with Council a maintenance bond of \$10,000 for the construction of stormwater drainage works in the road reserve. The maintenance bond will only be refunded upon completion of the six month maintenance period, if work has been completed in accordance with the approved plans and to the satisfaction of Council. The maintenance bond is to be paid prior to Council issuing practical completion.

Reason: To ensure adequate protection of Council infrastructure.

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

11. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the nearest Council's drainage system. An approval for drainage and road works within the public road must be obtained from Council.

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

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White geotechnical group dated 20th July, 2020 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

13. **Traffic Management and Control**



The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

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

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the plans by ACOR Consultants, the conditions of the development consent and Council's Water Management for Development Policy.

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

Reason: Protection of the receiving environment.

15. **Construction Traffic Management Plan**

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

Truck movements must be agreed with Council's Traffic and Development Engineer prior to submission of the CTMP.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work

Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees

- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

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

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

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

#### 16. **Vehicle Access & Parking**

All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Off-street Parking standards).

With respect to this, the following revision(s) must be undertaken;

All internal driveways and vehicle access ramps must have ramp grades and transitions complying with AS 2890.1. To ensure the gradient requirements and height clearances are satisfied, a driveway profile must be prepared for all internal ramps showing ramp lengths, grades, surface RL’s and overhead clearances, taken from the crest of the ramp to the base. The driveway profile must be taken along the steepest grade of travel or sections having significant changes in grades, where scraping or height restrictions could potentially occur and is to demonstrate compliance with AS 2890 for the respective type of vehicle.

Plans prepared by a suitably qualified Engineer shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

17. **On-Street Work Zone**

The applicant shall lodge an application for a work zone for the frontage of the site to Council for consideration and approval. The provision of a work zone will require approval from Northern Beaches Local Traffic Committee. Application forms for work zones are available on Council's website or at the Customer Service section at Council's administration building. Applications shall be lodged at least 4 weeks prior to work commencing.

An application must be lodged with Council for consideration and approval for a work zone for the frontage of the site.

The provision of a work zone will require approval from Northern Beaches Local Traffic Committee. Applications must be lodged at least four (4) weeks prior to work commencing.

Reason: To ensure works vehicles do not impact on parking, traffic flows and pedestrian thoroughfares.

18. **Pedestrian sight distance at property boundary**

A pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 is to be provided at the vehicular access to the property and where internal circulation roadways intersect with footpaths or other pedestrian access areas. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To maintain pedestrian safety.

19. **Boundary Identification Survey**

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

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

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

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

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

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993. The application is to include four (4) copies of Civil Engineering plans for the design of drainage pits and pipe connection from the site into the existing Council drainage system in Bassett St, 3 vehicular crossings, reconstruction of concrete footpath and reconstruction of the redundant laybacks to kerb, footpath and turf and replacement street tree planting which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1 and the concept engineering plans by ACOR Consultants, drawing number SY140363 C3.01 Issue C dated 29.10.20. The plans shall be prepared by a qualified Civil Engineer. The design must include the following information:

- The vehicular crossing width at the boundary for the below ground car park and loading

dock shall have a maximum width of 8.0 metres and the profile is to be in accordance with Council drawing A4/3330/3 NL.

- The vehicular crossings for the entry and exit for the ambulance shall be 3.0 metres wide and the profile is to be in accordance with Council drawing A4/3330/1 N.
- All redundant laybacks shall be removed and reinstated to kerb and gutter, footpath and turf.
- Removal of existing concrete footpath and provision of a new 2.0 metre wide concrete footpath fronting the development site and extended to the bus stop located in front of 72 Barrenjoey Road to provide for safe pedestrian access to public transport. The footpath grade shall be not be greater than that of the existing footpath and shall certified by a suitably qualified access consultant as being acceptable with regards to the provisions of SEPP HSPD. Any trees/vegetation which needs to be removed must be approved by Council with suitable replacement trees provided.
- Provision of a DDA compliant bus stop outside of 72 Barrenjoey Road.
- A pit and pipe drainage system within the public road in Bassett St shall be proved for the connection of the proposed drainage system.
- All existing and proposed electrical and telecommunications servicing the site and in the adjacent road reserve are to be located underground.
- All public utility services adjustments are to be detailed with concurrence from the relevant service authority if adjustment is required with costs borne by the applicant.

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

An approval is to be submitted to the 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.

#### 21. **Tanking of Basement Level**

The basement area is to be permanently tanked. The Applicant is to submit structural details of the tanking, prepared by a suitably qualified Engineer. Where temporary dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Office of Environment and Heritage. The bore license must be obtained prior to commencement of dewatering works. All requirements of the NSW Office of Water are to be complied with and a copy of the approval must be submitted to the Certifying Authority. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To prevent ingress of sub-surface flows into the basement area and to comply with State Government Requirements.

#### 22. **Utilities Services**

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

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

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

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

23. **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.

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

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

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

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

25. **Roofwater re-use**

The applicant must capture roof water for use for toilet flushing, connecting to at least 50 percent of toilets within the building. Roof water may also be used to irrigate landscaping and internally for washing machines. All stormwater treatment measures must make provision for convenient and safe regular inspection, periodic cleaning, and maintenance.

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

Reason: To reduce potable water consumption and decrease stormwater runoff to protect receiving catchments.

26. **Dewatering permit**

A dewatering permit is required from Council's Catchment Team at [catchment@northernbeaches.nsw.gov.au](mailto:catchment@northernbeaches.nsw.gov.au) to dewater tailwater from the sediment settling tank to be used as part of the sediment and erosion controls. The dewatering permit will also cover any dewatering required due to tailwater collecting in excavations.

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

appears on the National Engineering Register (NER).

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

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

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Oil and grease, not visible

pH, 6.5-8.5

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

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4. All approvals, water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.
5. Tailwater must be discharged to the nearest stormwater pit in accordance with Council's Auspec1 Design Manual and must not spread over any road, footpath and the like. Discharge to the kerb and gutter will not be accepted. Where there is no stormwater pit within 100 metres of the site, Council's Catchment Team must be contacted to discuss alternative arrangements.

On receipt of a satisfactory dewatering management plan, Council's Catchment Team will issue a permit that will allow dewatering for up to one year.

A dewatering permit must be obtained from Council prior to the issue of the Construction Certificate.

Reason: Protection of the receiving environment

#### 27. **Amended Landscape Plans**

Amended Landscape Plans based on the landscape documents DA-L01 to DA-L06 inclusive, prepared by Trish Dobson Landscape Architecture, shall be issued to the Certifying Authority prior to the issue of a Construction Certificate to match the amended architectural plans, and specifically Ground Floor Plan A-04, and include the following details:

- i) revised landscape design for the entry area, incorporating planting theme of the landscape



documents, and removing encroachment landscape works within the road reserve,  
ii) revised landscape design along the western boundary including relocated path against the building wall, and planting within the garden area to consist of small trees and understorey planting, including at least 7 x *Syzygium leuhmannii* small trees,  
iii) the provision of 3 street trees planted at 75 litre container size within the road verge, selected as either *Banksia* or *Melaleuca* species, protected with 4 posts and top and mid rails, and shade cloth wrapping, and installed centrally between the footpath and kerb,  
iv) an additional 5 locally native small trees capable of attaining at least 6 metres in height shall be planted along the southern boundary,  
v) an additional 3 *Hibiscus tileaceus* shall be planted along the eastern boundary,  
vi) all tree planting shall be at least 3 metres from buildings for small trees and 5 metres from building for large trees,  
vii) all self-seeding invasive species such as *Rhaphiolepis* species nominated shall be deleted and replaced with non-seed spreading plants of a similar form and size.  
viii) The proposed 'Access path to public transport' between Bassett Street and Barrenjoey Road is to be deleted from DA-L01

Certification shall be provided to the Certifying Authority that these amendments have been documented.

Reason: landscape amenity.

28. **On Slab Landscape Works**

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

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

29. **Flooding**

In order to protect property and occupants from flood risk the following is required:

Building Components and Structural Soundness – C1

All new development shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – C2

All new development must be designed and constructed to ensure structural integrity up to the Probable Maximum Flood of 4.91m AHD, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion. Structural certification shall be provided confirming the above.

Building Components and Structural Soundness – C3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level of 4.87m AHD.

Storage of Goods – D1

Hazardous or potentially polluting materials shall not be stored below the Flood

Planning Level of 4.87m AHD unless adequately protected from floodwaters in accordance with industry standards.

#### Floor Levels – F7

New floor levels within the development shall be set at or above the Probable Maximum Flood Level of 4.91m AHD

#### Floor Levels – F2

The underfloor area of the building where designated as "Flood flow below ground floor" on Drawing A-03 (25.06.20) is to be designed and constructed to allow clear passage of floodwaters below the 1% AEP flood level of 4.87m AHD. The underfloor perimeter of this area is to have a minimum of 50% open area from the natural ground level up to the 1% AEP flood level. Openings should permit a 75mm sphere to pass through.

#### Car parking – G9

The basement car park must be protected from inundation up to the Probable Maximum Flood Level of 4.91m AHD. The driveway crest shall rise to at least as high as the PMF and the driveway retaining wall must also be as high as the PMF level to ensure that flood waters do not top over from the landscape setback areas and into the basement car park. All other potential water entry points such as for ventilation and access, including the lift and all stairs to the basement, shall be protected from flood waters to at least as high as the PMF level.

#### Fencing – H1

Any new fencing on the property must be designed and constructed with a minimum of 50% open area from the natural ground level up to the 1% AEP flood level, to allow flood waters to pass through.

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

**Reason:** To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

#### 30. **Pre-Construction Stormwater Assets Dilapidation Report**

The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at: <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.pdf>

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

31. **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.

32. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

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

33. **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.

34. **Roof Heights**

The proposed roof design is to be amended as follows:

- i. The proposed roof pop-out elements are to be deleted and replaced with skylights.
- ii. The proposed raked ceiling to the atrium and the skylights described in part (i) are to be a maximum of 8m above the natural ground level of the site.

Plans are to be suitably amended to demonstrate compliance and submitted to the Certifying Authority prior to the issue of a construction certificate.

Reason: To ensure compliance with the SEPP HSPD building height requirements.

35. **Electricity Substation**

The proposed electricity substation is to be relocated a minimum of 1.5m to the east of the adjoining pedestrian entry path.

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

Reason: To maintain physical separation between the substation and adjoining properties.

36. **Blank**

The proposed 'Access path to public transport' between Bassett Street and Barrenjoey Road is

to be deleted from the civil engineering drawing C3.01.

Certification shall be provided to the Certifying Authority that these amendments have been documented.

Reason: To maintain consistency with the architectural drawings.

37. **Driveway Wall/Screen**

The semi-transparent section of the driveway wall/screen extending above the stone retaining wall at the driveway crest is to be of solid construction up to the height indicated on drawing A-07.

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

Reason: To provide additional screening of the vehicle entry to the adjoining property.

38. **Waste and Recycling Requirements**

Details demonstrating compliance with the 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.

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.

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

39. **Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection.

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

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, including:

- i) works as recommended in section 5.3 Minimising Impacts on Trees to be Retained, including tree 5 (Cooks Pine), tree 6 (Chinese Elm), tree 10 (Umbrella Tree) in adjoining property, trees 11 and 12 (Old Man Banksia) within road verge, group 13 (Swamp She-Oak), group 14 (Brush Cherry), tree 15 (Paperbark), and tree 16 (Common Ash),
- ii) works as recommended in Appendix D Tree Protection Plan.

All tree protection measures specified must:

- a) be in place before work commences on the site, and

- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

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

Note:

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

Reason: tree protection.

#### 40. **Work Zones and Permits**

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

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

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

#### 41. **Demolition Traffic Management Plan**

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

Due to heavy traffic congestion throughout the area, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm.

The DTMP must:-

- o Make provision for all construction materials to be stored on site, at all times.
- o The DTMP is to be adhered to at all times during the project.
- o Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- o Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- o Specify that, due to the proximity of the site adjacent to ##### School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- o Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- o Specify that a minimum fourteen (14) days notification must be provided to adjoining

- property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

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

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

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

#### 42. **Pre-Construction Dilapidation Report**

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

Property / Properties: All adjoining properties sharing a common boundary with the development site, including any Council assets adjoining or in proximity to the site.

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

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

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

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



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

43. **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.

44. **Tree removal within the property**

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

- number 1 (Prickly Paperbark), 3 (Bangalay), 25 (Pin Oak), 29 (Cabbage Tree Palm), and 32 (Cabbage Tree Palm)

The following Exempt Species (by type, height under 5 metres or proximity to buildings ie. 2m rule) and do not require Council consent for removal:

- number 4 (Jacaranda), 7 (Frangipani), 9 (Umbrella Tree), 18 (Weeping Bottlebrush), 19, 23, 27, 30 and 31 (Kentia Palm), 20 (Weeping Bottlebrush), 21 and 22 (Paperbark)

Note: the following trees represented on the survey do not exist and are reported in the Arboricultural Impact Assessment as 'removed': number 2, 8, 17, 24, 26, 28, 33, and 34.

Reason: to enable authorised building works.

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

45. **TfNSW - Stormwater**

Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system on Barrenjoey Road are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to [development.sydney@rms.nsw.gov.au](mailto:development.sydney@rms.nsw.gov.au).

Reason: To ensure the required information is provided to TfNSW

Note: A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.

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

46. **Road Reserve**

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

Reason: Public safety.



47. **Substitution of Stormwater Treatment Measure**

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

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

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

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

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

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

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

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

50. **Ongoing Management**

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

Reason: To ensure public safety.

51. **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)];
- 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; and
- 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.

52. **Demolition Works - Asbestos**

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.

53. **Survey Certificate**

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

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

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

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

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

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

54. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

55. **Civil Works Supervision**

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

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

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

56. **Footpath Construction**

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

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

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

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

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

Council's Development Engineer is to be given 48 hours notice when the works in the road reserve 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, footpath and driveway crossings
- (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.

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

58. **Traffic Control During Road Works**

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

Reason: Public Safety.

59. **Vehicle Crossings**

The Applicant is to construct three vehicle crossings in accordance with Northern Beaches Council Drawings No A4-3330/1 and 3 and to the approved S138 Roads Act application approval. All redundant laybacks and crossings are to be restored to kerb, footpath and grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a

satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

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

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

Reason: To protect human health and the environment.

61. **Tree and vegetation protection**

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

- i) all trees and vegetation within the site not approved for removal, including trees numbered 5 (Cooks Pine), 6 (Chinese Elm), 13 (group of Swamp She-Oak), 14 (group of Brush Cherry), 15 (Paperbark), and 16 (Common Ash),
- ii) all trees and vegetation located on adjoining properties, including trees numbered 11 and 12 (Old Man Banksia),
- iii) all road reserve trees and vegetation, including tree numbered 10 (Umbrella Tree).

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees.
- xi) the tree protection measures specified in this clause must: i) be in place before work

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

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment prepared by Urban Forestry Australia.

The Certifying Authority must ensure that:

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

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

Reason: tree and vegetation protection.

62. **Traffic Management**

Traffic management procedures and systems must be in place and practised during the course of 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 is to be submitted to and approved by the Consent Authority.

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

63. **Staff and Contractor Parking**

The applicant is to make provision for parking for all construction staff and contractors for the duration of the project. All Staff and Contractors are to use the basement parking once available. All necessary facilities are to be provided to accommodate this requirement including lighting in the basement, security cameras, etc.

Reason: To ensure minimum impact of construction activity on local parking amenity.

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

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prepared by ACOR Consultants.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

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

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan dated 25 June 2020.

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

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

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

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

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

67. **Landscape works completion**

Landscaping is to be implemented in accordance with the approved Amended Landscape Plans.

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

Reason: environmental amenity.

68. **Condition of retained vegetation - Project Arborist**

Prior to the issue of an Occupation Certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

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

Reason: tree protection.

69. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

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

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

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

The certificate shall be submitted to the Principal Certifying Authority prior to the release of the



Occupation Certificate.

Reason: Protection of the receiving environment.

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

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

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

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

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

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

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

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

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

1. Detail on the stormwater treatment measures:
  - a) Work as executed drawings
  - b) Intent of the stormwater treatment measures including modelled pollutant removal rates
  - c) Site detail showing catchment for each device
  - d) Vegetation species list associated with each type of vegetated stormwater treatment measure
  - e) Impervious area restrictions to maintain the water balance for the site
  - f) Funding arrangements for the maintenance of all stormwater treatment measures
  - g) Identification of maintenance and management responsibilities
  - h) Maintenance and emergency contact information
2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:
  - a) Activity description, and duration and frequency of visitsAdditionally for vegetated devices:
  - b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
  - c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure
3. Maintenance schedule and procedure - ongoing

- a) Activity description, and duration and frequency of visits
- b) Routine maintenance requirements
- c) Work Health and Safety requirements
- d) Waste management and disposal
- e) Traffic control (if required)
- f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
- g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

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

Reason: Protection of the receiving environment.

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

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

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

Reason: Protection of the receiving environment.

74. **Installation of Water Efficient Fittings**

The following Water Efficiency Labelling and Standards (WELS) Scheme rated fittings must be installed:

- a) 4 star dual-flush toilets
- b) 3 star showerheads
- c) 4 star taps (for all taps other than bath outlets and garden taps)
- d) 3 star urinals
- e) 3.5 star washing machines
- f) 4 star dishwashers

A certificate from a licenced plumber shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate demonstrating compliance with this condition.

Reason: To conserve potable water.

75. **Disabled Parking Spaces**

Where disabled parking spaces are provided they must be in accordance with AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards.

76. **Shared Zone Bollard**

A bollard is to be provided at the shared zone between disabled spaces in accordance to

Australian Standards AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards.

77. **Post-Construction Dilapidation Report**

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

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

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

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

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

78. **Plan of Management**

A Plan of Management (POM) is to be prepared for the operation of the Residential Aged Care Facility and is to contain details including, but not limited to:

- The maximum number of 50 staff at the facility at any one time in accordance with the approval
- The maintenance of a maximum of 118 beds in accordance with the approval
- Shift change times, which must be limited between 6:30pm and 7:30am to reduce vehicle entry and exit from the facility during sensitive hours
- Staff entry and exit procedures, including requirement for staff to utilise the basement staff car parking
- Hours of deliveries and collections by commercial vehicles, which are prohibited between the hours of 7pm and 7am
- Use of bin area is not to occur between the hours of 7pm and 7am, unless the loading dock doors are fully closed
- Other procedures ensuring compliance with conditions of consent is maintained

The POM is to be submitted to the Principal Certifying Authority for approval prior to the issue of any Occupation Certificate.

Reason: To ensure that the operation of the facility is compliant with the conditions imposed, and does not unreasonably impact the amenity of occupants of the facility and surrounding properties.

79. **Site Consolidation**

Evidence of the consolidation of the two (2) properties comprising the development site, No. 23 and No. 33 Bassett Street, is to be provided to the Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure consistency with Section 1.3 of the EP&A Act.

80. **Undergrounding of Utilities**

The adjustment and construction of all utilities, services and drainage systems, and the creation of appropriate easements are to be at the full cost of the developer, including:

- Electrical and telecommunications for the site, which are to be provided underground. The location of any trenching and if required, pad mounted substation(s), is to take into account future/proposed landscaping in the public domain.
- Street lighting facilities are to be provided to existing street frontages in accordance with the requirements of Ausgrid.
- The three spans of existing overhead infrastructure within the Bassett Street public road reserve is to be undergrounded in their entirety. Should a span continue past the frontage of the site, the undergrounding is to be continued to the next existing power pole.

Evidence of the completion of works is to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure consistency with the Pittwater DCP and allow for the required tree planting within the front setback and road reserve.

81. **Positive Covenant for the Maintenance of Stormwater Pump-out Facilities**

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

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance of the pump-out facility on the property being developed. Northern Beaches Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Northern Beaches Council's delegate shall sign these documents prior to the submission to the NSW Land Registry Services. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

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 the Occupation Certificate.

Reason: To ensure adequate provision is made for the stormwater pump out system to be maintained to an appropriate operational standard.

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

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

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

Reason: To ensure maintenance of the stormwater treatment measures.

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

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

Reason: To ensure geotechnical risk is mitigated appropriately.

84. **Certification of Drainage Works and Works as Executed Data**

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

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

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

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

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed road works have been constructed in accordance with this consent and the approved Section 138 Road Act approved plans. Works as Executed plan drawn in red over the approved plan certified by a registered surveyor in relation to boundaries shall be submitted to Council for acceptance and the acceptance is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

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

86. **Kitchen Design, construction and fit out of food premises certification**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from a person who is eligible as a 'Member' of Environmental Health Australia (EHA) that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

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

Reason: To ensure that the kitchen complies with the design requirements.

87. **Mechanical Ventilation certification**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from the installer of the mechanical ventilation system that the design, construction and installation of the mechanical ventilation system is compliant with the requirements of AS1668 The use of

mechanical ventilation.

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

Reason: To ensure that the mechanical ventilation system complies with the design requirements.

88. **Beauty salon design, construction and fit out of food premise certification**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from a person who is eligible as a 'Member' of Environmental Health Australia (EHA) that the design, construction and fit out of the beauty Salon is compliant with the requirements of the Local Government (general) regulation 2005 Schedule 2 part 3 Standards for beauty salons.

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

Reason: To ensure that the beauty salon complies with the design requirements.

89. **Registration of Food Business**

The food business must be registered with the Appropriate Regulatory Authority, prior to Occupation Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

90. **Restriction as to User**

Restriction as to User:

A restriction as to user shall be created on the title (under the provisions of Section 88B of the Conveyancing Act 1919) in order to prohibit the enclosure of the undercroft area, identified on the Basement Level Drawing A-03 (25/06/2020) as the flood flow zone. It includes all underfloor areas which are not associated with the basement car park. The undercroft must remain open to allow the clear passage of flood waters, and the screening must be flood compatible with a minimum of 50% open from the natural ground level up to the 1% AEP flood level of 4.37m AHD. Openings should be large enough to permit a 75mm sphere to pass through.

Such restrictions are to be detailed on the Section 88B instrument and submitted to Council for approval.

Northern Beaches Council shall be nominated as the sole authority empowered to release, vary or modify such restriction.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood prone property and reduce public and private losses in accordance with Council and NSW Government policy.

91. **Garbage and Recycling Facilities**

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

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



to the issue of any interim / final Occupation Certificate.

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

92. **Sydney Water**

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

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

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

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

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

93. **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.

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

Reason: Statutory requirements.

94. **Certification of completion of requirements for Seniors Housing or Housing for Persons with a Disability**

Details demonstrating that all stipulated requirements of this development consent for Seniors Housing or Housing for Persons with a Disability have been completed.

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 statutory requirements have been completed, public safety, and equitable access for seniors of people with a disability.

95. **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 Certifying Authority prior to the issue of the 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.

96. **Compliance with Consultant Reports**

Certification of compliance with the following consultant reports is required:

- Statement of Compliance - Access for People with a Disability
- Geotechnical Investigation
- Arboricultural Impact Assessment
- BCA 2019 Capability Statement
- Flood Risk Management
- Waste Management

Details demonstrating compliance must be submitted to the Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure consistency with the submitted reports.

97. **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.

98. **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.

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

### **99. Maintenance of Stormwater Treatment Measures**

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

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

Reason: Protection of the receiving environment.

### **00. Landscaping adjoining vehicular access**

The applicant must ensure that the planting chosen for any land immediately adjacent to the driveway and adjacent to any driveway intersections must not exceed a height of 1,140mm

Reason: To maintain unobstructed sight distance for motorists.

### **01. Sight lines within carparks**

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

Reason: To maintain unobstructed sight distance for motorists.

### **02. Landscape maintenance**

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

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

Reason: to maintain local environmental amenity.

### **03. Fire Sprinkler**

The residential care facility must contain a fire sprinkler system.

Reason: To ensure compliance with SEPP HSPD Section 55.

### **04. Deliveries and garbage collection**

Deliveries and garbage collection must not occur between the hours and 7pm and 7am.

The loading dock door must be closed if any use of the bin room occurs between 7pm and 7am.

Reason: To maintain the amenity of residents of the development and surrounding properties.

05. **Protection of Environmental Operations**

The ongoing operation of the facility is to be in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW EPA Industrial Noise Policy.

Reason: To maintain reasonable amenity.

06. **Staff Courtyard**

The outdoor staff courtyard must not be used between the hours of 7pm and 7am.

Reason: To maintain amenity and minimise noise levels to bedrooms.

07. **Plan of Management**

The facility is to operate in accordance with the Plan of Management for the life of the development.

Reason: To ensure consistency with the approval and maintain amenity.

08. **Car Parking Spaces**

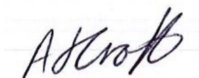
The development is to maintain a minimum of 27 car spaces for staff and 12 spaces for visitors.

The staff and visitor spaces are to be clearly marked, maintained free of obstruction and used solely for the parking of vehicles.

Reason: To maintain car parking in accordance with the approval.

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**



The application is determined on //, under the delegated authority of:

**Rebecca Englund, Acting Development Assessment Manager**

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**Peter Robinson, Executive Manager Development Assessment**