

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/1399
Responsible Officer:	Tony Collier
Land to be developed (Address):	Lot 18 DP 21872, 34 Adams Street FRENCHS FOREST NSW 2086
Proposed Development:	Demolition and construction of a seniors housing development comprising 4 dwellings
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	Yes
Owner:	Prattenmoore Pty Ltd
Applicant:	Prattenmoore Pty Ltd
Application Lodged:	06/12/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	11/01/2020 to 25/01/2020
Advertised:	11/01/2020
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 1,220,201.00

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks consent to demolish all existing structures on the site and construct a new building which will accommodate four (4) self-contained dwellings pursuant to State Environmental Planning Policy ((Housing for Seniors or People with a Disability) 2004.

The development consists of the following:

Unit 01 (GFA 113.5m²)

Ground Floor (FL 153.55)

- Combined living, dining and kitchen;
- Bedroom 1 and ensuite;
- Laundry;
- Single garage; and
- Outdoor terrace (15.75m²).

Upper Floor (FL 156.55)

- Bedroom 2;
- Loft; and
- Bathroom and storage.

Unit 02 (GFA 115.0m²)

Ground Floor (FL 153.80)

- Combined living, dining and kitchen;
- Bedroom 1 and ensuite;
- Laundry;
- Single garage; and
- Outdoor terrace (15.75m²).

Upper Floor (FL 156.80)

- Bedroom 2;
- Loft; and
- Bathroom.

Unit 03 (GFA 119.5m²)

Ground Floor (FL 154.15)

- Combined living, dining and kitchen;
- Bedroom 1 and ensuite;
- Laundry;
- Single garage; and
- Outdoor terrace (15.00m²).

Upper Floor (FL 157.15)

- Bedroom 2;
- Loft; and
- Bathroom.

Unit 04 (GFA 107.00m²)

Ground Floor (FL 154.30)

- Combined living, dining and kitchen;
- TV Room;
- Bedroom 1 and ensuite;
- Laundry;
- Single garage; and
- Outdoor terrace (15.00m²).

Upper Floor (FL 157.30)

- Bedroom 2 and ensuite.

External Works

Vehicle access is via a 3.0m wide driveway along the western side of the site.

Pedestrian access is via a separate pathway which extends along the eastern side of the proposed driveway.

Landscaping consists 34.7% of the site and includes extensive lawn areas to the front and rear of the site framed at the front boundary by a row of Lilly Pilly trees. Screen and decorative planting is also included along the side and rear boundaries.

A separate bin enclosure is situated within the front setback area adjacent to the pedestrian pathway.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B9 Rear Boundary Setbacks

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

Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 18 DP 21872 , 34 Adams Street FRENCHS FOREST NSW 2086
Detailed Site Description:	<p>The subject site consists of one allotment located on the northern side of Adams Street, Frenchs Forest.</p> <p>The site is upon land zoned for R2 Low Density Residential development pursuant to the Warringah Local Environmental Plan 2011 (WLEP 2011).</p> <p>The site is irregular in shape (trapezoidal) with a 19.81m frontage, 22.3m rear boundary, sides of 41m and 51m respectively and an overall surveyed area of 917.2m².</p> <p>Currently the allotment accommodates a detached single storey brick dwelling and mature landscaping throughout.</p> <p>Topographically the site inclines by approximately 2m from south to north (front to rear).</p> <p>Developments surrounding the subject site consist of other forms of residential accommodation in the form of detached dwelling houses, duplexes, secondary dwellings and estate developments.</p> <p>Developments along Adams Street are generally within a landscaped setting on irregularly shaped and proportioned allotments.</p>

Map:



SITE HISTORY

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

DA2018/1292

This application was lodged on 1 August 2018 for demolition works and Construction of a Seniors Housing development.

The development included 3 x self contained dwelling pursuant to State Environmental Planning Policy ((Housing for Seniors or People with a Disability) 2004.

The application was approved on 4 February 2019.

DA2019/1023

This application was lodged on 16 September 2019 for demolition works and Construction of a Seniors Housing development.

The development included 4 x self contained dwelling pursuant to State Environmental Planning Policy ((Housing for Seniors or People with a Disability) 2004.

The application was withdrawn by the applicant on 7 November 2019.

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	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iia) – 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&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the</p>

Section 4.15 Matters for Consideration'	Comments
	<p>consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received in response to the public exhibition of this application.
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 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 of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department.</p> <p>There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Landscape Officer	<p>The application is for the proposed demolition of the existing structures and the construction of a multi-dwelling development pursuant to Seniors Housing SEPP.</p> <p>A Landscape Plan is submitted that satisfies the landscape objectives of Warringah DCP 2011, including:</p> <ul style="list-style-type: none"> • B7 Front Boundary Setbacks • B9 Rear Boundary Setbacks • D1 Landscaped Open Space and Bushland Setting • D9 Building Bulk • D13 Front Fences and Front Walls • E1 Preservation of Trees or Bushland Vegetation <p>Key components of the proposed landscape plan include planting of screening vegetation around the boundaries of the site and replenishment tree planting to the front and rear of the site, with low front fencing comprising masonry and timber construction.</p> <p>An Arboricultural Assessment Report has been prepared by Hugh the Arborist, Revision B dated 25 November 2019, which addresses the trees within the site. The proposal addresses the potential impacts on sixteen (16) trees within the site, with thirteen (13) trees to be removed. Three (3) trees are to be retained and recommendations are provided to ensure the remaining trees are retained and protected throughout the works.</p> <p>Of the trees that are suggested for removal, Trees 5, 7, 11 & 15 are high retention value species located within the building footprint, and are thus unable to be viably retained within the proposed development.</p> <p>Of these trees, Tree 11 (Eucalyptus saligna - Sydney Blue Gum) is the most significant, indicated in the Arborist's Report to be 22m high with an 8m canopy spread. The tree is located in the rear yard. Removal of the tree has been recommended due to the extent of impacts within the Tree Protection Zone and Structural Root Zone caused by the proposed development.</p>

Internal Referral Body	Comments
	<p>It is noted that the development proposes a compliant 6 metre rear building setback. This setback is not however sufficient clearance for the tree root system of Tree 11 as indicated in the Arborist's Report.</p> <p>In order for T 11 to be retained, Unit 3 would need to be deleted. Whilst a significant tree, Tree 11 is not a locally native species and has the potential to grow in excess of 30m in height at maturity. Sufficient space is available for replanting of other trees in the rear yard to compensate for the removal of T11, which is also noted to have some decay in the trunk.</p> <p>In view of the above, no objection is raised to removal of T11 subject to consent conditions for replanting to provide replacement canopy in the long term with a more suitable species.</p> <p>A further nine trees being removed as a result of the development include Trees 2, 3, 4, 6, 8, 9, 12, 13 and 14 are noted as low retention value, and comprise exempt species and exotics.</p> <p>The proposed landscaping schedule includes substantial screening planting as perimeter hedges and understory planting which will assist in maintaining privacy for the dwelling owners and neighbours and softening the visual appearance of the proposed built form.</p> <p>The landscape proposal is therefore considered to be consistent with the aims of the SEPP, and is acceptable subject to protection of existing trees nominated for retention, and the completion of landscape works.</p>
NECC (Development Engineering)	<p>The proposal is for demolition of existing structures and construction of 4 Senior living dwellings.</p> <p>The proposed stormwater concept plan is satisfactory.</p> <p>In addition, proposed driveway levels are compliant with AS2890.1:2004. Footpath, pram ramp and kerb & gutter are required to be upgraded as per Council's requirements.</p> <p>No objections are raised to the proposed development, subject to conditions.</p>
Strategic and Place Planning	<p>The subject site is not identified for rezoning under the Hospital Precinct Structure Plan.</p> <p>No objections are raised to the proposed development.</p>
Traffic Engineer	<p>In accordance with RMS comments (2019/579149) the proposed driveway needs to be widened to allow safe simultaneous entry/exit on the local road network. In particular, the driveway shall provide a 5.5 meter width for at least the first 6 meters within the property boundary.</p> <p>The driveway/access ramp grades, access and car parking facilities must comply with the Australian/ New Zealand Standard AS/NZS</p>

Internal Referral Body	Comments
	<p>2890.1.2004 – Parking facilities – Off Street Car Parking. The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/ New Zealand Standard AS/NZS 2890.1.2004 – Parking facilities – Off Street Car Parking</p> <p>Reason Adams Street, Frenchs Forest is a collector road with larger vehicular traffic. The proposed development site is also within 100 meters of a signalised intersection with arterial State Road (Forest Way). The wider driveway would reduce vehicular conflicts and congestion by allowing simultaneous entry/exit of vehicles. This will enhance safety and improve traffic flow.</p> <p>The traffic team cannot support the application in its current form.</p> <p>The proposal is therefore unsupported.</p>
Traffic Engineer	<ul style="list-style-type: none"> • The proposal is for the demolition of the existing structure and erection of 4 senior living dwellings. • The traffic generation of the site is not anticipated to have any negligible impacts on the local road network. • The parking provisions are in line with the SEPP requirements which is satisfactory. • The parking layout is compliant with AS 2890.1:2004. <p>In accordance with RMS comments (2019/579149) the proposed driveway needs to be widened to allow safe simultaneous entry/exit on the local road network. In particular, the driveway shall provide a 5.5 meter width for at least the first 6 meters within the property boundary.</p> <p>The driveway/access ramp grades, access and car parking facilities must comply with the Australian/ New Zealand Standard AS/NZS 2890.1.2004 – Parking facilities – Off Street Car Parking. The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/ New Zealand Standard AS/NZS 2890.1.2004 – Parking facilities – Off Street Car Parking</p> <p>Reason Adams Street, Frenchs Forest is a collector road with larger vehicular traffic. The proposed development site is also within 100 meters of a signalised intersection with arterial State Road (Forest Way). The wider driveway would reduce vehicular conflicts and congestion by allowing simultaneous entry/exit of vehicles. This will enhance safety and improve traffic flow.</p> <p>The traffic team cannot support the application in its current form.</p> <p>The proposal is therefore unsupported.</p> <p>Planning Comment</p>

Internal Referral Body	Comments
	The applicant has amended the design to include a 5.0m wide passing bay within the first 6.0m of the site.
Waste Officer	Recommendation Approval subject to conditions.

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses.

In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 931430M-05 dated 4 December 2019).

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

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

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

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

The development application has been lodged pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (**SEPP HSPD**) as the development is for demolition works and the construction of a seniors housing development (self-contained dwelling).

Chapter 1 – Preliminary

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

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

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

Comment:

The proposed development satisfactorily achieves the aims of the SEPP HSPD, as assessed in detail under Part: Clause 4.3 of this report.

Chapter 3 – Development for seniors housing

Chapter 3 of SEPP HSPD contains a number of development standards applicable to development applications made pursuant to SEPP HSPD. Clause 18 of SEPP HSPD outlines the restrictions on the occupation of seniors housing and requires a condition to be included in the consent if the application is approved to restrict the kinds of people which can occupy the development.

The following is an assessment of the proposal against the requirements of Chapter 3 of SEPP HSPD.

Development Criteria			
Clause	Requirement	Proposal	Complies
PART 2 - Site Related Requirements			
26(1)	Satisfactory access to: (a) shops, banks and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner	Each proposed dwelling is afforded with a car space to enable satisfactory access to services. Additionally, the site is located within 600m walking distance from Forest Way Shopping Centre, and is serviced by public transport (bus) between the site and Chatswood, North Sydney, Sydney City etc.	Yes
26(2)	Access complies with this clause if: (a) the facilities and	The site is within 150m of two bus stops northbound and southbound on Forest Way which has safe pedestrian access to and	Yes

Development Criteria			
Clause	Requirement	Proposal	Complies
	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.	from the site.	
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	The site is not located upon land identified as bush fire prone land.	Yes
28	Consideration is given to the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure.	The site is afforded sufficient infrastructure to accommodate the availability of reticulated water and sewerage.	Yes
29	Consideration must be given to whether the proposal is compatible with the surrounding land uses having regard to the following criteria specified in Clauses 25(5)(b)(i), 25(5)(b)(iii), and 25(5)(b)(v): i) the natural environment and the existing uses and approved uses of land in the vicinity of the proposed development 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, 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	<ul style="list-style-type: none"> the proposed development for the purpose of Seniors Housing is considered to be compatible with the natural environment as it does not seek consent for any works that would be deemed detrimental to any ecosystems in the vicinity. The development also is compatible with surrounding residential land uses by being an alternate form of residential land use in a residential zone. the proposed development will be compatible and not detrimental to the provision of services and infrastructure to service the development. the assessment of this development application has found that the bulk, scale, built form and character of the development is likely to have a negligible impact on existing surrounding developments and future developments, as detailed throughout this report. 	Yes

Development Criteria			
Clause	Requirement	Proposal	Complies
	uses of land in the vicinity of the development.		
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	A site analysis has been provided to accompany the development application.	Yes

Clause 31 Design of in-fill self-care housing

Pursuant to Clause 31, in determining a development application to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development (SLP)* by the former NSW Department of Infrastructure, Planning and Natural Resources dated March 2004.

The provisions of the SLP have been taken into consideration in the assessment of the application against the design principles set out in Division 2, Part 3 of SEPP HSPD. An assessment of the proposal against the provisions of SLP is undertaken hereunder.

Section	Objectives / Requirements	Comment
1. Responding to context	<p>Built Environment – New development is to follow the patterns of the existing residential neighbourhood in terms of built form.</p> <p>Policy Environment – Consideration must be given to Councils own LEP and/or DCPs where they may describe the character and key elements of an area that contribute to its unique character.</p>	<p>Consistent</p> <p><u>Built Environment</u> The proposed development is located in the highly-urbanised street of Adams Street which accommodates alternate forms of residential accommodation including detached dwelling houses, secondary dwellings, duplex/townhouse developments and estate developments.</p> <p>The prevailing built form of surrounding buildings consists of either older style, single storey detached dwelling houses, or two storey dwelling houses/multi-dwelling houses. On surrounding sites it is apparently common that car parking generally takes place within the front setback area, either on paved hardstand surfaces or informally on turf.</p> <p>A review of aerial photography of the locale reveals that nearby sites generally have a landscaped area that would be deemed deficient by the WDCP 2011 or the SEPP HSPD (with the exception of the few large allotments remaining to the west of</p>

Section	Objectives / Requirements	Comment
		<p>the subject site).</p> <p>The same aerial review also evidences that the general pattern of building is inconsistent with the WDCP 2011 controls for the zone (being 6.5m front, 6m rear and 0.9m side setback limitations).</p> <p>The proposed development is a predominantly single storey building with comparatively small first floor areas situated within the proposed roof form (i.e. lofts).</p> <p>The Built Form Control Table found elsewhere in this report demonstrates that the proposal exceeds the required level of compliance and incorporates setbacks that are generally greater than surrounding developments (particularly with regards to side setbacks).</p> <p>The architecture of the proposal could be described as contemporary and residential in appearance by virtue of the massing, form and material palette used in the design.</p> <p>Accordingly, it is found that the proposed development responds to the context of existing residential built form patterns in the vicinity of the site.</p> <p><u>Policy Environment</u> An assessment of the proposed development against the Objectives of the R2 Low Density Residential zone can be found in Part: Clause 4.6 of this report, and thereby need not be repeated under this Section.</p> <p>However, several other considerations of the proposal in the context of the policy environment are pertinent to understand in the assessment of the development application.</p>

Section	Objectives / Requirements	Comment
		<p>It has been established that the WLEP 2011 does not permit Seniors Housing on this land, however the prevailing SEPP HSPD does. The WLEP 2011 could permit the same built form on the site for the purpose of a boarding house, child care facility, dwelling house, group home etc.</p> <p>Development for an alternate land use but retaining the same built form would likely be consistent with the relevant policies and controls contained in the WLEP 2011 and WDCP 2011 and could be supported (with the exception of landscaping).</p> <p>Development for the purpose of a dwelling house may also be possible via SEPP Exempt and Complying Development Code which could permit a larger building than that being currently proposed.</p> <p>The intent of this policy environment section is to demonstrate that, regardless of land use, the built form of the development itself is generally consistent with that envisioned by the WLEP 2011, WDCP 2011 and other SEPPs.</p> <p>Accordingly, it is found that the development sits appropriately on the site in terms of policy controls. This section should be read in conjunction with the assessment of the Zone Objectives that can be found in Part: Clause 4.6 of this report.</p>
2. Site Planning and Design	<p>Objectives of this section are:</p> <ul style="list-style-type: none"> <i>to minimise the impact of new development on neighbourhood character</i> <i>to retain existing natural features of the site that contribute to neighbourhood</i> 	<p>Consistent</p> <p>The proposed design of the development has taken into consideration the principles of site planning to minimise impacts upon the topography of the land, vegetation and surrounding properties.</p>

Section	Objectives / Requirements	Comment
	<p><i>character</i></p> <ul style="list-style-type: none"> • <i>to provide high levels of amenity for new dwellings</i> • <i>to maximise deep soil and open space for mature tree planting, water percolation and residential amenity</i> • <i>to minimise the physical and visual dominance of car parking, garaging and vehicular circulation</i> • <i>to provide housing choice through a range of dwelling sizes</i> 	<p>The proposed development is found to be of a scale, massing, quality and form that will compliment the neighbourhood character and provide sufficient landscaped space (in accordance with SEPP HSPD) to accommodate deep soil landscaping. The proposed driveway to the individual garages of the development runs parallel to the western property boundary and is considered to be of an acceptable appearance given the surrounding landscape buffers.</p> <p>The design of the proposed development has taken into consideration site constraints and surrounding developments to ensure that a high level of amenity is achieved for occupants of the dwellings, and provide alternate housing choices in a residential area for seniors or people with a disability.</p>
3. Impacts on streetscape	<p>Objectives of this section are:</p> <ul style="list-style-type: none"> • <i>to minimise impacts on the existing streetscape and enhance its desirable characteristics</i> • <i>to ensure that new development, including the built form, front and side setbacks, trees, planting and front fences, is designed and scaled appropriately in relation to the existing streetscape</i> • <i>to minimise dominance of driveways and car park entries in the streetscape</i> • <i>to provide a high level activation and passive surveillance to the street.</i> 	<p>Consistent</p> <p>The proposed development is considered to compliment the streetscape by virtue of design and landscaping. The built form (when viewed from the street) is reminiscent of detached style housing and has a material palette that is consistent with the streetscape character.</p> <p>The opportunities for landscaping afforded in the front setback area allow for various scales and variety of plantings that will be appropriate commensurate to the scale of the development, and compatible with vegetation on surrounding sites.</p> <p>The development has an active street frontage including the entrance into the car park / entry of the building, and is faced by the living room and kitchen space by one of the proposed dwellings (Unit 01).</p>

Section	Objectives / Requirements	Comment
		Therefore, it is considered that the development has an appropriately minimal impact on the streetscape for the context of the site.
4. Impacts on neighbours	<p>Objectives of this section are:</p> <ul style="list-style-type: none"> • <i>to minimise impacts on the privacy and amenity of existing neighbouring dwellings</i> • <i>to minimise overshadowing of existing dwellings and private open space by new dwellings</i> • <i>to retain neighbours' views and outlook to existing mature planting and tree canopy</i> • <i>to reduce the apparent bulk of development and its impact on neighbouring properties</i> • <i>to provide adequate building separation</i> 	<p>Consistent</p> <p>The assessment of this development application has demonstrated that the proposed building will have no adverse or unreasonable impacts on neighbouring properties by virtue of privacy, amenity, overshadowing, outlook, visual bulk and spatial separation.</p>
5. Internal site amenity	<p>Objectives of this section are:</p> <ul style="list-style-type: none"> • <i>to provide quality useable private and communal open spaces for all residents</i> • <i>to provide dwellings that have distinct identity and safe entries</i> • <i>to provide safe and distinct pedestrian routes to all dwellings and communal facilities</i> • <i>to ensure adequate solar access to living areas and private open space</i> • <i>to reduce the dominance of parking, garaging and vehicular circulation space on the internal character of new development</i> 	<p>Consistent</p> <p>The proposed development is considered to provide an adequate level of amenity to occupants of the four proposed dwellings.</p>

Section	Objectives / Requirements	Comment

Clause 32 Design of residential development

In accordance with Clause 32 of SEPP HSPD, a consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 of Part 2.

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

Control	Requirement	Proposed	Compliance
CL33 Neighbourhood amenity and streetscape	a. Recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area.	The locales character applicable to this development includes residential land uses in landscaped settings with a diverse and subdued materials palette (brick, stone, weatherboard etc).	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.	The design of the proposed development is a suitably scaled residential development composed of rendered walls, timber weatherboard and FC cladding. The building has a landscaped buffer surrounding it to reinforce the landscaped character and quality of the area.	N/A
	c. Maintain reasonable neighbour amenity and appropriate residential character by; (i) providing building setbacks to reduce bulk and overshadowing (ii) using building form and siting that	<ul style="list-style-type: none"> the development provides greater than required building setbacks to reduce bulk and overshadowing to surrounding properties. the form and siting of the building on the site is considered appropriate with regards to topography, surrounding 	Yes

Control	Requirement	Proposed	Compliance
	<p>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 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>developments and built form controls.</p> <ul style="list-style-type: none"> the height of the proposed development is compatible with surrounding developments and achieves a lesser height than many surrounding buildings. no portion of the proposed building is located on a boundary or has a nil setback to a boundary. <p>The design of the proposed development provides a compliant front boundary setback (with the exception of the bin room which must be within the front setback area) that is considered to be in sympathy and with compatible with surrounding developments on Adams Street, and the wider R2 zone.</p> <p>The development application is accompanied by a detailed landscape plan and planting schedule which will be in sympathy with and enhance the streetscape.</p> <p>Tree removal associated with the development has been assessed as acceptable by Council's Landscape Officer.</p> <p>N/A</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
CL 34 Visual and acoustic privacy	<p>The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:</p> <p>(a) Appropriate site planning, the location and design of windows and balconies, the use of</p>	<p>The development provides a satisfactory provision of visual and acoustic privacy both between dwellings on the subject site, and surrounding properties. The placement of windows and courtyards ensure that surrounding properties aren't detrimentally impacted by the development.</p> <p>The usage of the driveway is</p>	Yes

Control	Requirement	Proposed	Compliance
	<p>screening devices and landscaping, and</p> <p>(b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</p>	<p>not considered to be significant (given that the development provides car parking for 4 vehicles) and this is found to cause no unreasonable acoustic impact upon neighbouring properties.</p>	
CL35 Solar access and design for climate	<p>The proposed development should:</p> <p>(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</p> <p>(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>	<p>The proposed development satisfactorily addresses solar access by providing a compliant level of access to sunlight.</p>	Yes
CL 36 Stormwater	<p>Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.</p>	<p>The proposed method of stormwater collection and dispersal has been reviewed by Council's Development Engineers who raise no objections to the proposal, subject to conditions as recommended.</p>	Yes
CL 37 Crime prevention	<p>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</p>	<p>The proposed development satisfactorily addresses the provisions of CPTED.</p>	Yes

Control	Requirement	Proposed	Compliance
	approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.		
CL 38 Accessibility	The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.	The proposed development satisfies the requisite accessibility requirements pertaining to housing for seniors development.	Yes
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	The development provides a satisfactory provision of waste management and waste facilities structures.	Yes

Part 4 - Development standards to be complied with

Clause 40 – Development standards – minimum sizes and building height

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

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

Control	Required	Proposed	Compliance
Site Size	1,000m ²	917.2m ²	No - see Clause 4.6 discussion elsewhere in this report
Site frontage	20 metres	19.81m	No - see Clause 4.6 discussion elsewhere in this report
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	3.0m to 6.2m	Yes
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	No portion of the development exceeds 2 storeys in height.	Yes
	A building located in the rear 25% of the site must not exceed 1 storey in height.	No portion of the development located in the rear 25% of the site exceeds 1 storey in height.	Yes

Clause 41 Standards for hostels and self contained dwellings

In accordance with Clause 41 a consent authority must not consent to a development application made pursuant to Chapter 3 unless the development complies with the standards specified in Schedule 3 for such development.

The following table outlines compliance with the principles set out in Schedule 3 of SEPP HSPD.

Control	Required	Proposed	Compliance
Wheelchair Access	If the whole site has a gradient less than 1:10, 100% of the dwellings must have wheelchair access by a continuous path of travel to an adjoining public road. If the whole of the site does not have a gradient less than 1:10 the percentage of	Capable of complying.	Yes

Control	Required	Proposed	Compliance
	<p>dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10 or 50% whichever is the greater.</p>		
Security	<p>Pathway lighting (a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and (b) Must provide at least 20 lux at ground level</p>	Capable of complying.	Yes
Letterboxes	<p>Letterboxes: (a) must be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel, and (b) must be lockable, and (c) must be located together in a central location adjacent to the street entry.</p>	Capable of complying.	Yes
Private car accommodation	<p>(a) Carparking space must comply with AS2890 (b) One space must be designed to enable the width of the spaces to be increased to 3.8 metres, and (c) any garage must have a power operated door or there must be a power point and an area for motor or control rods to enable a power operated door to be installed at a later date.</p>	Capable of complying.	Yes
Accessible entry	<p>Every entry to a dwelling must comply with Clause 4.3.1 and 4.3.2 of AS4299</p>	Capable of complying.	Yes

Control	Required	Proposed	Compliance
Interior general	Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.	Capable of complying.	Yes
Bedroom	At least one bedroom within each welling must have: (a) An area sufficient to accommodate a wardrobe and a queen size bed (b) A clear area for the bed of at least 1200 mm wide at the foot of the bed and 1000mm wide beside the bed between it and the wall, wardrobe or any other obstruction. (c) Power and telephone outlets and wiring described in Clause 8 of Schedule 3.	Capable of complying.	Yes
Bathroom	The bathroom is to comply with the requirements described in Clause 9 of Schedule 3.	Capable of complying.	Yes
Toilet	The toilet is to comply with the requirements described in Clause 9 of Schedule 3.	Capable of complying.	Yes
Surface finishes	Balconies and external paved areas must have slip resistant surfaces.	Capable of complying.	Yes
Door hardware	Door handles and hardware for all doors must be provided in accordance with AS4299.	Capable of complying.	Yes
Ancillary items	Switches and power points must be provided in accordance with AS4299.	Capable of complying.	Yes
Living & dining room	A living room must have a circulation space in accordance with Clause 4.7.1 of AS4299, and a telephone adjacent to a	Capable of complying.	Yes

Control	Required	Proposed	Compliance
	general power outlet. Also a living and dining room must have a potential illumination level of at least 300 lux.		
Kitchen	The kitchen must comply with the requirements of Clause 16 of Schedule 3	Capable of complying.	Yes
Access to kitchen, main bedroom, bathroom & toilet	The kitchen, main bedroom, bathroom and toilet must be located on the entry level.	The development provides the kitchen, main bedroom and bathroom on the entry level.	Yes
Laundry	The laundry must comply with the requirements of Clause 19 of Schedule 3.	Capable of complying.	Yes
Storage	A self-contained dwelling must be provided with a linen storage in accordance with Clause 4.11.5 of AS4299	Capable of complying.	Yes
Garbage	A garbage storage area must be provided in an accessible location.	Capable of complying.	Yes

Part 5 Development on land adjoining land zoned primarily for urban purposes

The development is not for serviced self-care housing and therefore Clause 42 and 43 do not apply. This assessment report demonstrates that there is adequate availability of facilities and services in accordance with Clause 44.

Part 6 Development for vertical villages

This part is not applicable to the proposed development.

Part 7 Development standards that cannot be used as grounds to refuse consent

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

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

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

Control	Required	Proposed	Compliance
Building height	8m or less (Measured vertically)	3.0m to 7.3m	Yes

Control	Required	Proposed	Compliance
	from ceiling of topmost floor to ground level immediately below)		
Density and scale	0.5:1	0.49:1	Yes
Landscaped area	30% of the site area is to be landscaped	34.7% of the site area is landscaped.	Yes
Deep soil zone	<p>15% of the site area.</p> <p>Two thirds (i.e. 154m²) of the deep soil zone should be located at the rear of the site. Each area forming part of the zone should have a minimum dimension of 3 metres.</p>	<p>The development provides approximately 231m² of deep soil zone, equating to 25.1% of the total site area. These areas existing in the front and rear setback area.</p> <p>It is calculated that approximately 59% (i.e. 137m²) of the deep soil zone is located at the rear of the site, and is thereby deficient of the 'two thirds' requirement. In the circumstances of the application, the spatial separation of the development to other buildings, the single storey nature of the building at the rear of the site, and the stepped topography of the land mean that the building will not cause any adverse impacts upon properties to the rear by virtue of the non-compliance with the two thirds deep soil zone in the rear yard.</p>	No - satisfactory on merit.
Solar access	Living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter	All developments receive the requisite provision of solar access and therefore satisfies this requirement.	Yes
Private open space	(i) In the case of a single storey	Each dwelling in the development has a	Yes

Control	Required	Proposed	Compliance
	<p>dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor; and</p> <p>(ii) In the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area,</p>	sufficient provision of private open space in accordance with the requirements of this control.	
Parking	<p>(i) 0.5 spaces for each bedroom where the application is made by a person other than a social housing provider; or</p> <p>(ii) 1 space for each 5 dwellings where the application is made by, or is made by a person jointly with, a social housing provider.</p>	8 bedrooms equates to 4 car parking spaces as the application is made by a person other than a social housing provider.	Yes
Visitor parking	Nil	Nil	Yes

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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
4.3 - Height of Buildings	8.5m	3.0m to 7.3m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

4.6 Exceptions to development standards

VARIATION 1 - SITE SIZE

Section 40 (2) of the SEPP HSPD requires that *the size of the site must be at least 1,000 square metres.*

The following assessment of the variation to Clause 40 (2) *Site Size* of the SEPP HSPD development

standard has taken into consideration the questions established in *Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46 (Winten)*.

Requirement:	Minimum 1,000m ²
Proposed:	917.2m ²
Is the planning control in question a development standard?	Yes
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	8.28% (82.8m ²)

Clause 40 of the SEPP HSPD does not have any underlying objectives and accordingly, to ensure consistency between the proposed development and the envisioned form of development on this site, an assessment against Clause 2 *Aims of Policy* of SEPP HSPD and the zone objectives in WLEP 2011 is undertaken below.

Is the planning control in question a development standard?

Clause 40 of SEPP HSPD pertains to Development Standards and accordingly, Clause 40(2) which prescribes a minimum site size is a development standard.

What are the underlying objectives of the development standard?

The underlying Aims of Policy of the SEPP HSPD are:

(1) 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,

Comment:

The development is for the construction of four self-contained dwellings for the purpose of seniors housing. The development appropriately increases the density of the allotment to provide residences for seniors or people with a disability that are at a scale smaller than a traditional dwelling house. Accordingly, it is considered that the development as proposed encourages the provision of alternate housing choices to need the needs of seniors or people with a disability.

b) make efficient use of existing infrastructure and services,

Comment:

The site is afforded with sufficient existing infrastructure and services that can accommodate the proposed development, without the development unreasonably burdening the existing infrastructure or service network. Therefore, by virtue of having sufficient infrastructure and services, the development encourages the provision of housing in accordance with the aims of the policy.

c) be of good design,

Comment:

The assessment of this development proposal has found that the proposed building (regardless of its use) is of a scale, massing and design that is complementary to the Adams Street streetscape and is consistent with the objectives of the R2 Low Density Residential zone (as

detailed below). The design of the building is considered to be non-offensive and modest in comparison to other forms of development that could be placed on the site and retain 100% compliance with the requisite built form controls and Principal Development Standards.

Therefore, by virtue of compatibility, scale and modesty, the development is found to be of a good design.

What are the underlying objectives of the zone?

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the R2 Low Density Residential zone.

The underlying objectives of the R2 Low Density Residential zone:

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

Comment:

It is common for development applications for a land use with a greater density than a standard dwelling house to create some angst and concern in the local community; particularly those dwellings which directly adjoin the subject site.

In the circumstances of this application, the scale of the development is considered modest in that whilst it is four dwellings on one allotment, there are only eight bedrooms in the whole development. A detached dwelling house could, in theory, accommodate even more bedrooms than this development and still comply. Thus it is demonstrated that the *density* of the development is consistent with the prevailing pattern of land use in the streetscape as detached dwelling houses and could suitably be described as *low density*.

The use of the development for the purpose of seniors housing or housing for persons with a disability will afford members of the community with alternate housing choices to accommodate varying needs and lifestyles.

The variation to the lot size sought via Clause 4.6 is not found to detract from the intent of this objective.

Therefore, with regards to density and the provision of housing, 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:

This development is for residential accommodation. The SEPP HSPD requires particular distances and accessibility to various services to meet the needs of residents of the development, and this matter has been addressed earlier in this report (see Section: SEPP HSPD). Accordingly, the site is afforded with access to other land uses which provide facilities or services to meet the day to day needs of residents. The variation sought to the lot size does not impinge upon the opportunity to satisfy this objective.

It is considered that the development satisfies this objective.

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

Comment:

The provision of landscaping in the subject development scheme has several facets that must be considered, both formally and informally, in the assessment of landscaped setting. These facets include compliance with the WDCP 2011 landscape controls, compliance with the SEPP HSPD landscape controls, consistency with the surrounding landscaped character and, whilst not strictly for consideration under this application, what provision of landscaping a complying development could require on the site.

The development complies with the SEPP HSPD landscape provisions which prevail over the WDCP 2011 landscape controls (which thus don't hold determinative weight in this assessment). If a standard dwelling house were to be done under complying development on the site, the provision of landscaping currently proposed would be deemed acceptable.

The surrounding streetscape is characterised by allotments that have some greenery and mature canopy trees, but historical subdivision patterns and access handles have significantly reduced the ability for allotments to comply with the requisite landscaping controls that existing at this time.

The front yard of the subject development is of a scale that is generally consistent with that of surrounding allotments and affords opportunities for the establishment and maturity of large trees in longevity. The development also provides much larger side setbacks than other surrounding buildings which allows a landscaped buffer around the site. If the allotment were to be 1,000m² as required by this control it is not found that it would correlate to a greater landscaped setting as the proposed built form would likely be larger in scale.

Therefore, in consideration of all the above facets, it is considered that the development satisfies this objective.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the WLEP 2011?

(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.

Comment:

The mechanism of Clause 4.6 applies to Section 40 of SEPP HSPD as they are classified as Development Standards. As development for the purpose of seniors housing is prohibited via the WLEP 2011, but Permitted with Consent via the prevailing SEPP HSPD, it is considered warranted to allow a degree of flexibility in applying the SEPP HSPD development standards in order to ensure that a development will meet the objectives and aims of both the WLEP 2011 and the SEPP HSPD.

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Comment:

In the current circumstance, if flexibility to the Development Standard were not to be granted, the development could not be approved. It has already been demonstrated that the development achieves compliance with the R2 Low Density Residential zone objectives, and the overall Aims of the SEPP HSPD, and thus there is no reason *not* to allow flexibility. It has been demonstrated

that the development is modest, appropriate and even small comparative to what is permissible on the land, and therefore enabling flexibility to provide housing for seniors or persons with a disability in the current design scheme is seen to provide a better outcome than other alternatives.

Therefore, it is considered that the development satisfies the objectives of this clause.

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

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

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

Comment:

In *Wehbe v Pittwater Council [2007] NSWLEC 827* CJ Preston formulated five methods in which a development standard can be shown to be unreasonable or unnecessary in the circumstances of particular cases.

The methods in *Wehbe* can be summarised as:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard (Method 1).
2. The underlying objective of purpose of the standard is not relevant to the development, and therefore compliance is unnecessary (Method 2).
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Method 3).
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Method 4).
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable or unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (Method 5).

In the applicant's Clause 4.6 submission they summarise the recent judgement of *Micaul Holdings Pty Limited v Randwick City Council [2015] NSWLEC 1386* whereby it is expressly noted that *the consent authority did not have to be directly satisfied that compliance with the development standard was unreasonable or unnecessary but that the applicant's written request adequately addresses the matters in Clause 4.6(3)(a)*. Therefore the assessment of Clause 4.6 (3)(a) of the WLEP 2011 is derived from the applicant's submitted Clause 4.6 Variation by Vaughan Milligan Development Consulting Pty Ltd dated November 2019

The applicant's written request comprehensively addresses the objectives of the clause, the zone and the methods of *Wehbe* and concludes with the following statements that the Clause 4.6 variation demonstrates that:

- *As sought by the zone objectives, the proposal will provide for additional housing that will meet the needs of the community and which has been designed to be sensitive to the location and the topography of the locality.*
- *The proposal includes modulated wall lines and a consistent palette of materials and finishes in order to provide for high quality development that will enhance and complement the locality.*
- *Notwithstanding the non-compliance with the minimum site area and minimum site width, the new works will provide an attractive residential development that will add positively to the character and function of the local residential neighbourhood.*
- *The development will maintain a compatible scale relationship with the existing residential development in the area. Development in the vicinity has a wide range of architectural styles and the given the variety in the scale of development, this proposal will reflect a positive contribution to its streetscape.*
- *The proposed design confirms that the site area of 917.2m² & site width of 19.81m do not unreasonably constrain the opportunity to provide for a high quality Seniors Living development, with excellent levels of residential amenity for the future occupants.*
- *If the lot area and site width and lot area were to be complaint with the controls, the additional 82.2m² in site area and 190mm in site width would not result in a significantly different design to the current proposal before Council.*

Accordingly, with regard to Micaul, it is considered that the development as proposed with accompanying documentation satisfies Clause 4.6(3).

(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

Comment:

Council as the consent authority is satisfied that the applicant's written request to vary the Site Size Development Standard pursuant to Clause 4.6 of the WLEP 2011 has sufficiently demonstrated that compliance with the Development Standard is unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard.

(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:

It is considered that development for the purpose of seniors housing or housing for persons with a disability is in the public interest. The form of development sought under this proposal is consistent with the objectives of the R2 Low Density Residential zone and the Aims of Policy of the SEPP HSPD.

For reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone in the WLEP 2011.

(b) the concurrence of the Director-General has been obtained

Comment:

Planning Circular PS 17-006 dated 15 December 2017, 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 where the variation to a numerical standard is not greater than 10%. 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 Site Size Development Standard of SEPP HSPD is assumed.

VARIATION 2 - SITE FRONTAGE

Section 40 (3) of SEPP HSPD requires that *the site frontage must be at least 20 metres wide measured at the building line.*

The following assessment of the variation to Clause 40 (3) Site Frontage of the SEPP HSPD development standard has taken into consideration the questions established in *Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46 (Winten)*.

Requirement:	20m
Proposed:	19.81m
Is the planning control in question a development standard?	Yes
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	0.95% (0.19m)

Clause 40 of the SEPP HSPD does not have any underlying objectives and accordingly, to ensure consistency between the proposed development and the envisioned form of development on this site, an assessment against Clause 2 *Aims of Policy* of SEPP HSPD and the zone objectives in WLEP 2011 is undertaken below.

Is the planning control in question a development standard?

Clause 40 of SEPP HSPD pertains to Development Standards and accordingly, Clause 40(2) which prescribes a minimum site size is a development standard.

What are the underlying objectives of the development standard?

The underlying Aims of Policy of the SEPP HSPD have been addressed in the above assessment regarding Clause 40 (2) of SEPP HSPD and need not be repeated.

What are the underlying objectives of the zone?

The underlying objectives of the R2 Low Density Residential zone have been assessed against the proposed development in the above assessment regarding Clause 40 (2) of SEPP HSPD and need not be repeated.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the WLEP 2011?

(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.

Comment:

The mechanism of Clause 4.6 applies to Section 40 of SEPP HSPD as they are classified as Development Standards. As development for the purpose of seniors housing is prohibited via the WLEP 2011, but Permitted with Consent via the prevailing SEPP HSPD, it is considered warranted to allow a degree of flexibility in applying the SEPP HSPD development standards in order to ensure that a development will meet the objectives and aims of both the WLEP 2011 and the SEPP HSPD.

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Comment:

In the current circumstance, if flexibility to the Development Standard were not to be granted, the development could not be approved. It has already been demonstrated that the development achieves compliance with the R2 Low Density Residential zone objectives, and the overall Aims of the SEPP HSPD, and thus there is no reason not to allow flexibility. It has been demonstrated that the development is modest, appropriate and even small comparative to what is permissible on the land, and therefore enabling flexibility to provide housing for seniors or persons with a disability in the current design scheme is seen to provide a better outcome than other alternatives.

Therefore, it is considered that the development satisfies the objectives of this clause.

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

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

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

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

Comment:

In *Wehbe v Pittwater Council* [2007] NSWLEC 827 CJ Preston formulated five methods in which a development standard can be shown to be unreasonable or unnecessary in the circumstances of particular cases.

The methods in *Wehbe* can be summarised as:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard (Method 1).
2. The underlying objective of purpose of the standard is not relevant to the development, and therefore compliance is unnecessary (Method 2).
3. The underlying object or purpose would be defeated or thwarted if compliance was required

and therefore compliance is unreasonable (Method 3).

4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Method 4).

5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable or unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (Method 5).

In the applicant's Clause 4.6 submission they summarise the recent judgement of *Micaul Holdings Pty Limited v Randwick City Council [2015] NSWLEC 1386* whereby it is expressly noted that the consent authority did not have to be directly satisfied that compliance with the development standard was unreasonable or unnecessary but that the applicant's written request adequately addresses the matters in Clause 4.6(3)(a). Therefore the assessment of Clause 4.6 (3)(a) of the WLEP 2011 is derived from the applicant's submitted Clause 4.6 Variation by Vaughan Milligan Development Consulting Pty Ltd dated November 2019

The applicant's written request comprehensively addresses the objectives of the clause, the zone and the methods of Wehbe and concludes with the following statements that the Clause 4.6 variation demonstrates that:

- *As sought by the zone objectives, the proposal will provide for additional housing that will meet the needs of the community and which has been designed to be sensitive to the location and the topography of the locality.*
- *The proposal includes modulated wall lines and a consistent palette of materials and finishes in order to provide for high quality development that will enhance and complement the locality.*
- *Notwithstanding the non-compliance with the minimum site area and minimum site width, the new works will provide an attractive residential development that will add positively to the character and function of the local residential neighbourhood.*
- *The development will maintain a compatible scale relationship with the existing residential development in the area. Development in the vicinity has a wide range of architectural styles and the given the variety in the scale of development, this proposal will reflect a positive contribution to its streetscape.*
- *The proposed design confirms that the site area of 917.2m² & site width of 19.81m do not unreasonably constrain the opportunity to provide for a high quality Seniors Living development, with excellent levels of residential amenity for the future occupants.*
- *If the lot area and site width and lot area were to be compliant with the controls, the additional 82.2m² in site area and 190mm in site width would not result in a significantly different design to the current proposal before Council.*

Accordingly, with regard to *Micaul*, it is considered that the development as proposed with accompanying documentation satisfies Clause 4.6(3).

(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

Comment:

Council as the consent authority is satisfied that the applicant's written request to vary the Site Frontage Development Standard pursuant to Clause 4.6 of the WLEP 2011 has sufficiently demonstrated that compliance with the Development Standard is unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard.

(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:

It is considered that development for the purpose of seniors housing or housing for persons with a disability is in the public interest. The form of development sought under this proposal is consistent with the objectives of the R2 Low Density Residential zone and the Aims of Policy of the SEPP HSPD.

For reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone in the WLEP 2011.

(b) the concurrence of the Director-General has been obtained

Comment:

Planning Circular PS 17-006 dated 15 December 2017, 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 where the variation to a numerical standard is not greater than 10%. 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 Site Frontage Development Standard of SEPP HSPD is assumed.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall Height	7.2m	3.2m to 6.6m	N/A	Yes
B3 Side Boundary Envelope	4m x 45°	East: Inside envelope West: Inside envelope	N/A N/A	Yes Yes
B5 Side Boundary Setbacks	0.9m	<u>East</u> Ground Floor: 1.0m to 3.6m Upper Floor: 1.0m to 6.9m <u>West</u> Ground Floor: 1.0m to 6.4m Upper Floor: 51m to 8.3m	N/A N/A N/A N/A	Yes Yes Yes Yes
B7 Front Boundary Setbacks	6.5m	Ground Floor: 6.5m Upper Floor: 6.5m	N/A N/A	Yes Yes
B9 Rear Boundary Setbacks	6m	Ground Floor: 4.5m to 8.1m Upper Floor: 9.7m to 11.6m	25% (1.5m) N/A	No Yes

Note: Clause D1 Landscaped Open Space and Bushland Setting does not apply as the landscape controls contained within SEPP HSPD prevail.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	N/A	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	N/A	N/A
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B9 Rear Boundary Setbacks

Description of non-compliance

Clause B9 requires development to provide a rear setback of 6.0m.

The development provides a setback of between 4.5m to 8.1m at the ground floor resulting in a non-compliance (at the narrowest point) of 1.5m which equates to a variation of 25%.

Merit consideration

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

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

Comment

The development concentrates its main areas of deep soil landscaping to the within the front and rear setback areas.

Because of the variable nature of the rear setback, the development is able to ensure that opportunities for deep soil landscaping is maintained with the 4.5m setback exceeding the typical 3.0m wide tree root zone which is normally required for the planting of medium sized trees (should the occupiers wish to do so in the future).

The development is consistent with this objective.

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

Comment

The non-compliant elements are triangular sections which encroach into the rear setback area which means that the remainder of the rear part of the development is setback (up to 8.1m). This format, together with the single storey built form in this area of the site, ensures that a sense of openness is maintained both from within the development and from neighbouring properties.

The development is consistent with this objective.

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

Comment

The rear part of the development is single storey and excavated into the site 1.0m (below the natural ground line) so that the rear elements are reduced in terms of bulk and scale when viewed from neighbouring properties. The impact of the rear part of the development, in terms of overshadowing and privacy is thereby reduced.

The development is consistent with this objective.

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

Comment

The rear part of the development is single storey and stepped back progressively to respond to the angle of the rear boundary. Because of the variable setback, and the single storey nature of the rear part of the development, the visual continuity, pattern of buildings, rear gardens and landscape elements evident in the local area is maintained.

The development is consistent with this objective.

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

Comment

As detailed above, the rear part of the development is single storey and excavated into the site 1.0m (below the natural ground line) so that the rear elements are reduced in terms of bulk and scale when viewed from neighbouring properties. The impact of the rear part of the development, in terms of privacy is thereby reduced.

The development is consistent with this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1 Landscaped Open Space and Bushland Setting

Part D1 Landscaped Open Space and Bushland Setting does not apply to this development as the landscape controls contained within SEPP HSPD (discussed earlier) prevail.

D8 Privacy

The upper floor windows of Units 02 and 03 were examined to determine impact upon visual privacy to the neighbouring dwellings at Nos. 32A and 36 Adams Street.

With respect to No. 32A Adams Street, the east facing upper floor windows of Unit 02 (being a window to Bedroom 2 and a void adjacent to the loft) face the western side wall of the neighbouring dwelling which contains (as direct line of sight) utility rooms which include highlight frosted glass. The east upper floor window of Unit 03 (being a Loft area) faces a recessed blank wall.

In this regard, no adverse privacy impact is caused to No. 32A Adams Street.

With respect to No. 36 Adams Street, the west facing upper floor window of Unit 02 (being a Loft area) face low level garage windows which consist of glass blocks. The west facing upper floor window of Unit 03 (being a window to Bedroom 2) faces high level windows of a living room. The neighbour at No. 36 Adams Street was approached during the site inspection of the property to confirm the use of the room and if they understood the plans with respect to privacy. The neighbour (the owner) advised that they did understand and that they did not raise any issue with regard to overlooking because the windows in question were higher and did not, in their opinion represent any privacy impact.

Therefore, no conditions are imposed with respect to enhancing privacy.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$12,202 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,220,201.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/1399 for Demolition and construction of a seniors housing development comprising 4 dwellings on land at Lot 18 DP 21872, 34 Adams Street, FRENCHS FOREST, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A.01(B) - Site Plan	27/11/2019	Gartner Trovato Architects
A.02(C) - Ground Floor	28/02/2020	Gartner Trovato Architects
A.03(B) - First Floor	27/11/2019	Gartner Trovato Architects
A.04(B) - Elevations	27/11/2019	Gartner Trovato Architects
A.05(B) - Sections	27/11/2019	Gartner Trovato Architects
A.07(B) - External Finishes	27/11/2019	Gartner Trovato Architects
Reports/Documentation - All recommendations and requirements contained within:		
Arboricultural Impact Assessment (Revision B)	25/11/2019	Hugh the Arborist
Accessibility Design Review	03/12/2019	ABE Consulting

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:

Document Title	Dated	Prepared By
001(F) - Landscape Works General Arrangement	25/11/2019	Formed Gardens
Waste Management Plan	02/03/2020	Sean Gartner

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

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

2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and

- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

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

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

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

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

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

Reason: Legislative requirement.

3. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,

- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

- v) For any work/s that is to be demolished

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

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

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

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

- (a) seniors or people who have a disability;
- (b) people who live within the same household with seniors or people who have a disability;

(c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

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

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

AND

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

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

Reason: Statutory requirements.

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$12,202.01 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 \$1,220,201.00.

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

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

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

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

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

6. **Security Bond**

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

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

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

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

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

7. **Construction, Excavation and Associated Works Security Bond (Footpath)**

The applicant is to lodge a bond with Council of \$15,000 as security against any damage or failure to complete the construction of footpath and pram ramp reconstruction works as part of this consent.

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

Reason: Protection of Council's infrastructure.

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

8. **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.

9. **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.

10. **Separating walls**

The proposed building is required to comply with Part 3.7.3.2 of the Building Code of Australia – ‘Separating Walls’.

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

Reason: To ensure adequate provision is made for fire safety and for building occupant safety

11. **Sound Insulation**

The proposed building is required to comply with Part 3.8.6.2 of the Building Code of Australia – ‘Sound Insulation’.

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

Reason: To ensure adequate provision is made for building occupant health and amenity

12. **On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council’s Warringah Water Management Policy PL850, and generally in accordance with the concept drainage plans prepared by Barrenjoey Consulting Engineers Pty Ltd, drawing number SW1 Rev A, dated 26/11/2019. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

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

13. **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 driveway, footpath, kerb and gutter which are to be generally in accordance with the Council’s specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

1. The provision of a vehicle crossing 3.0 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N and specifications.
2. The existing footpath fronting the development site in Adams Street shall be upgraded to a minimum of 1.5 metres wide (unless approved by Council) to the two nearest bus stops

including any pram ramps and the area around signalized crossing at Forest Way and Adams Street.

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.

14. **Pre-commencement Dilapidation Report**

The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

The pre-construction / demolition dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifying Authority prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

Reason: Protection of Council's infrastructure during construction.

15. **Compliance with Standards**

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

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

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

16. **External Finishes to Roof**

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

Details demonstrating compliance are to be submitted to the 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.

17. **Sydney Water "Tap In"**

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

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

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

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

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

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

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

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

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

19. **Waste and Recycling Requirements**

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

The bin enclosure is to be designed to accommodate 6 x 240L bins and have the following minimum dimensions:

- Width: 580mm plus clearance to move bins
- Depth: 735mm plus clearance to move bins
- Pathway: minimum 1,200mm clearance when doors are open.

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

Note: If the proposal, when compliant with Northern Beaches Development Control Plan – Part C9 Waste Management, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans a modification(s) to the development may be required.

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

20. **Public Liability Insurance - Works on Public Land**

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

Reason: To ensure the community is protected from the cost of any claim for damages arising

from works on public land.

21. Tree removal within the property

The following existing trees are approved for removal based on the assessment and recommendations of the Arboricultural Impact Assessment submitted by Hugh The Arborist:

- Tree 4: Brush Cherry
- Tree 5: Tibouchina
- Tree 7: Weeping Bottlebrush
- Tree 8: Photinia
- Tree 11: Sydney Blue Gum
- Tree 15: Weeping Bottlebrush

All are subject to tree replacement within the site, in accordance with the Landscape Plan and any associated conditions of consent.

note:

The following trees are exempt from protection requiring approval from Northern Beaches Council due to either their species (exempt) or height (under 5m) and are proposed to be removed to facilitate the proposed development:

- Trees 2, 3, 6, 9, 12, 13 and 14.

22. Tree Protection Measures

All trees not indicated for removal on the approved plans shall be protected during construction works and shall be retained for the life of the development or for the safe useful life expectancy of individual species, unless exempt under relevant planning instruments or legislation.

All trees and vegetation on adjoining land and within the road reserve shall be protected and retained.

a) Tree protection shall include the following measures:

- i) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified AQF Level 5 Arborist on site,
- ii) all structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by a qualified AQF Level 5 Arborist on site,
- iii) all tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures,
- iv) all tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees, and
- v) all tree protection measures, including fencing, are to be in place prior to commencement of works.

b) The tree protection measures specified in this clause must:

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

c) Additionally, the Certifying Authority or a qualified AQF Level 5 Project Arborist must ensure that:

- i) the activities listed in section 4.2 of AS4970- 2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and
- ii) 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.

d) The Project Arborist shall provide the Certifying Authority with certification details as follows:

- i) that the tree protection measures are in place at the commencement of works,
- ii) that the Project Arborist has attended the site and undertaken inspections of the works in accordance with the Arboricultural Impact Assessment recommendations.

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.

Reason: to ensure tree protection is provided and maintained.

23. **Project Arborist**

A Project Arborist with AQF minimum Level 5 qualification in arboriculture/horticulture is to be appointed to supervise and certify tree protection measures for existing trees to be retained and protected, requiring site attendance during excavation and construction works, in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4, and the recommendations of the Arboricultural Impact Assessment prepared by Hugh The Arborist: including works in the vicinity of the following trees:

- Tree 1 (Brush Cherry) within adjoining property,
- Tree 10 (Prunus) within the development site, and
- Tree 16 (Sweet Gum) within the road reserve.

The following recommendations of the Arboricultural Impact Assessment shall be specifically undertaken/supervised/approved and certified by the Project Arborist:

- Section 10: Arboricultural Work Method Statement and Tree Protection Requirements, with specific attention to Section 10.5, Table 4: Protection requirements, and
- Section 11: Hold Points.

The Arborist shall submit certification that the works described within the Arboricultural Impact Assessment have been correctly installed and adhered to during the construction period.

Reason: to ensure the protection of the existing landscape amenity.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

24. **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.

25. **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.

26. Footpath Construction

The applicant shall carry out 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.

27. 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.

28. Vehicle Crossings

The Applicant is to construct one vehicle crossing 3.0 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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.

29. Tree and vegetation protection - General

- a) Existing trees and vegetation shall be retained and protected, including:
 - i) all trees and vegetation within the site not approved for removal including T10, excluding exempt vegetation under the relevant planning instruments of legislation,
 - ii) all trees and vegetation located on adjoining properties, including T1,
 - iii) all road reserve trees and vegetation, including T16.

b) Tree protection shall be generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on

Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,

ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 minimum qualification Arborist,

iii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF Level 5 minimum qualification Arborist,

iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an AQF Level 5 minimum qualification Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,

v) to minimise the impact on trees and vegetation to be retained and protected, 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,

vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a AQF Level 5 minimum qualification Project Arborist on site,

vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 minimum qualification Arborist on site,

viii) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with a AQF Level 5 minimum qualification Arborist, including advice on root protection measures,

ix) should either or all of vi), vii) and viii) occur during site establishment and construction works, a AQF Level 5 minimum qualification Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,

x) 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 AS 4970-2009,

xi) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

c) All protected trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed by approval must be replaced with a locally native canopy tree.

Reason: to retain and protect significant planting on development and adjoining sites.

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

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

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

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

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

Reason: To ensure waste is minimised and recovered for recycling where possible. (DACWTE02)

OCCUPATION CERTIFICATE

32. **Landscape completion**

Landscaping is to be implemented in accordance with the Landscape Plan numbered 001, prepared by Formed Gardens, inclusive of the following conditions:

- i) the proposed *Angophora costata* tree planting shall be substituted with 1 x *Eucalyptus haemastoma*,
- ii) an additional 1 x *Eucalyptus haemastoma* shall be planted within the rear setback,
- iii) a total of 3 x *Tristania laurina* 'luscious' shall be planted within the front setback,
- iv) all tree planting shall be installed at minimum 75 litre pot size,
- v) tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight, existing approved buildings and structures, or where the proposed tree locations may otherwise be positioned to minimise any significant loss of views,
- vi) all *Elaeocarpus reticulatus* screen planting along the western side boundary shall be installed at minimum 75 litre pot size,
- vii) all *Rhapis excelsa* screen planting along the eastern side boundary shall be installed at minimum 75 litre pot size.

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: to ensure that the landscape treatments are installed to provide landscape amenity and soften the built form.

33. **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 any interim / final Occupation Certificate.

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

34. **Reinstatement of Kerb**

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

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

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

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

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 including a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan) and a hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater detention/disposal

structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

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

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

36. Post-Construction Road Reserve Dilapidation Report

The applicant must prepare and submit a post-construction dilapidation report. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must have been carried out in accordance with the provisions of the Building Code of Australia

Note: Where by Council is not the Principal Certifying Authority, Refund of the trust fund deposit will also be dependent upon receipt of a final Occupation Certificate by the Principal Certifying Authority, Post Construction Dilapidation Report and infrastructure inspection by Council.

Reason: To ensure security against possible damage to Council property.

37. Certification of Civil Works and Works as Executed Plans on Council Land

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works have been constructed in accordance with this consent and the approved Section 138 and/or Construction Certificate plans. Works as Executed Plans certified by a registered surveyor in relation to boundaries and/or relevant easements, prepared in accordance with Council's 'Guideline for preparing Works as Executed Plans for Council Assets' in an approved format shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Occupation Certificate.

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

38. Garbage and Recycling Facilities

All internal walls of the storage area shall be rendered to a smooth surface, covered 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 Occupation Certificate.

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

39. House / Building Number

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

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

Reason: Proper identification of buildings.

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

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

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

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

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

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

Reason: To ensure consistent numbering for emergency services access.

41. **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.

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

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

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

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

43. **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 Occupation Certificate.

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

44. **Positive Covenant for Waste Services**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to

provide access to the waste storage facilities prior to the issue of an Interim/Final Occupation Certificate. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Northern Beaches Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities (DACWTF03)

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

The original completed request form (Department of Lands standard form 13PC) must be submitted to Council for authorisation prior to the issue of the any Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

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

Reason: To create encumbrances on the land. (DACWTF04)

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

46. **Condition for on going waste service collections**

Condition for on going waste service collections:

- Bin enclosure area to be maintained accessible at all times.
- Bin enclosure doors are free of locks .

Reason: To ensure satisfactory on-going waste management. (DACHEGOG1)

47. **Landscape maintenance**

Any existing landscaping including trees required to be retained together with any additional landscaping required by this consent is to be maintained for the life of the development.

A 12 month establishment period shall apply for all new landscaping. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. All planting must be maintained for the life of the development, or for their safe useful life expectancy. Planting that may die or is approved for removal must be replaced.

Reason: to maintain local environmental amenity and ensure landscaping continues to soften the built form.

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

Signed



Tony Collier, Principal Planner

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



Anna Williams, Manager Development Assessments