

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2023/0432
<b>Responsible Officer:</b>	Kye Miles
<b>Land to be developed (Address):</b>	Lot 25 DP 11209, 27 Gulliver Street BROOKVALE NSW 2100
<b>Proposed Development:</b>	Modification of Development Consent DA2022/1176 granted for Demolition works and construction of a multi dwelling housing development comprising three (3) dwellings over basement car parking
<b>Zoning:</b>	Warringah LEP2011 - Land zoned R3 Medium Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Predrag Loncar Bojana Loncar
<b>Applicant:</b>	Predrag Loncar

<b>Application Lodged:</b>	17/08/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	25/08/2023 to 08/09/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

Modification of Development Consent DA2022/1176 granted for Demolition works and construction of a multi dwelling housing development comprising three (3) dwellings over basement car parking. The modifications comprise:

#### Basement:

- Raise basement by 0.7 metres.
- Relocation basement stair.

- Reallocation of parking spaces.

**Ground floor:**

- Replace eastern courtyard turfed areas with paving and planters.
- Changes to windows and doors as indicated on elevations.
- Minor internal layout changes.

**First floor:**

- Construction of pergola above fire stair.
- Changes to windows and doors as indicated on elevations.
- Reduction of metal cladding along western elevation.

**AMENDED PLANS**

Following a preliminary assessment of the application, Council issued an RFI to the applicant outlining concerns with the application.

The concerns related to a reduction of landscaped open space and referral issues (Landscaping Water Management).

The applicant lodged amended plans and additional information to address the concerns on 25 March 2024.

The amended plans incorporated the following changes and additional detail:

- Revised layout of the eastern terraces.
- Provision of additional deep soil planters along the eastern boundary.
- Additional survey detail for the eastern boundary, particularly the height of the existing boundary fence.

**Community Participation Plan**

The proposed amendments will have a reduced environmental impact on the adjoining properties when compared to the original proposal. Therefore, formal re-notification was not required in accordance with Northern Beaches Community Participation Plan.

**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 - B5 Side Boundary Setbacks

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

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 25 DP 11209 , 27 Gulliver Street BROOKVALE NSW 2100
<b>Detailed Site Description:</b>	<p>27 Gulliver Street, Brookvale (the subject site) is on the southern side of Gulliver Road.</p> <p>The site is regular in shape and has a surveyed area of 594.6m<sup>2</sup> with a 12.2m frontage Gulliver Street and a depth of 48.8m.</p> <p>The site is zoned for R3 Medium Density Residential development. Adjoining properties to the east and west are similarly zoned. Other properties to the north and south are zoned for R2 Low Density Residential development. The site is also within a 100m proximity to two schools, 100m to Brookvale Oval and 330m to Pittwater Road.</p> <p>Presently the site accommodates a detached residential dwelling that is older in style. Surrounding developments on R2 land are similar detached dwelling houses, and developments on the R3 zoned land are much larger in scale consisting of residential flat buildings.</p> <p>Topographically the side inclines towards the south west by approximately 4m via a gradual slope.</p> <p>The site has several matures trees throughout and smaller shrubbery.</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:

### **PLM2021/0362**

Pre-lodgement discussions for the subject development between the applicant and Council, held on 24 February 2022. In summary, concern was raised by Council with the following matters:

- Setbacks,
- Parking,
- Built form,
- Ground levels,
- Landscape Open Space,
- Accessibility,
- Privacy.

### **DA2022/1176**

Application for demolition works and construction of a multi dwelling housing development comprising three (3) dwellings over basement car parking approved on 7 December 2022.

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

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

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2022/1176, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2022/1176 for the following reasons:</p> <ul style="list-style-type: none"> <li>• No change is proposed to the approved use or density.</li> <li>• The proposed extensions to the building footprint are commensurate with the approved built form.</li> <li>• The modifications do not give rise to any unacceptable environmental impacts.</li> </ul>
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA2022/1176 did not require concurrence from the relevant Minister, public authority or approval body.
(c) it has notified the application in accordance with:	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental



Section 4.55 (2) - Other Modifications	Comments
(i) the regulations, if the regulations so require,  or  (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

### Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 (2) the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of 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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 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	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of

Section 4.15 'Matters for Consideration'	Comments
Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p>development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to amended plans.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 2001: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 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) <b>Environmental Impact</b> 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) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 25/08/2023 to 08/09/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p><i><u>Note:</u> The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</i></p>
Landscape Officer	<p>The application is for modification to development consent DA2022/1176.</p> <p><u>Additional Information Comment 26/03/24:</u> The amended plans are noted.</p> <p>The landscaped area remains deficient and this matter will be assessed and determined on merit consideration by the Assessing Planning Officer. The following conditions will be amended as part of this modification; 45 Landscape Completion, and 64 Landscape Maintenance. Condition 10 Amended Landscape Plan will be deleted as part of this modification. All other conditions remain.</p> <p><u>Original Comment:</u> Landscape Referral cannot support the modification due to the significant reduction in landscaped area and the proposed changes to the eastern boundary screen planting. The landscaped area will be reduced to approximately 18% whereas 40% was approved and 50% is required. The installation of the eastern boundary planting in pots is not supported. The proposed vegetation will not be successful due to lack of soil volume in this arrangement which will result in a failure of the required boundary screening. Furthermore, pots can be moved/removed more easily. Vegetation along the eastern boundary shall be installed in minimum 1 metre soil depth and for this area to be included in the landscaped area calculations it must be a minimum width of 2 metres.</p>



Internal Referral Body	Comments
NECC (Development Engineering)	<p>The proposed modification to the garage level and driveway is acceptable.</p> <p>Development Engineering support the proposal subject to the amendment of conditions 1, 19 and 20 of consent DA2022/1176 to reflect the amended civil and stormwater drawings by Smart Structures Australia.</p> <p>19. On-site Stormwater Detention Details The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy and generally in accordance with the concept drainage plans prepared by Smart Structures Australia, drawing number 220098 D00, D01, D02, D04,D05, D09 and D10 Issue C dated 21.07.2023. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering. The drainage plans must address the following: 1. The OSD basin is to include subsoil drainage lies connected to the control pit</p> <p>Detailed drainage plans, including engineering certification, are to be submitted to the Principal Certifier for approval prior to the issue of the Construction Certificate. Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.</p> <p>20. Submission Roads Act Application for Civil Works in the Public Road The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.</p> <p>The application is to include Civil Engineering plans for the design of the driveway crossing and footpath 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:</p> <p>1. A 3.3 metre wide concrete driveway crossing generally in accordance with the concept design by Smart Structures Australia, drawing 220098 C01 issue D dated 28.07.23 2. A 1.5 metre wide footpath along the frontage of the site.</p> <p>The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.</p>

Internal Referral Body	Comments
	Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.
NECC (Water Management)	<p>Supported</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Northern Beaches Water Management for Development Policy (WMD Policy); and</li> <li>• Relevant LEP and DCP clauses</li> </ul> <p>On review, the proposed modification has been amended to accommodate water management comments.</p> <p>No objections regarding water management.</p>
Strategic and Place Planning	<p>Council's Strategic Planning business unit provided comments in regard to the previous application (DA2022/1176), which raised no objection to the proposed development as the site was located outside the area subject to change under the Brookvale Structure Plan.</p> <p>The comments raised previously remain. The site is located outside the area subject to change under the Brookvale Structure Plan. No objections are raised from Strategic Planning.</p>
Traffic Engineer	<p>The proposed modifications involve a) an increase if the number of offstreet parking spaces from 7 to 9 including 1 additional resident parking space and one additional visitor parking space b) increasing the carpark aisle gradient from 1:23 to 1:20. There is no accompanying increase in development yield.</p> <p>The parking supply is in excess of the DCP requirement which, noting the high demand for on-street parking on Gulliver Street is not opposed. The increased gradient within the basement level is not opposed and remains within limits outlined in AS/NZS 2890.1 clause 2.4.6</p> <p>There are therefore no traffic engineering issues preventing approval of the modification</p>
Waste Officer	Waste Management Assessment Supported, subject to conditions

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

All, Environmental Planning Instruments (SEPPs 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 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 (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. 1316820M\_03 dated 3 August 2022).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	45

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

#### **SEPP (Transport and Infrastructure) 2021**

##### Ausgrid

Section 2.48 of Chapter 2 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 who raised no objections, subject to conditions which have been

included in the recommendation of this report.

## SEPP (Resilience and Hazards) 2021

### Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

## 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

Development Standard	Requirement	Approved	Proposed	Complies
Height of Buildings:	8.5m	8.2m	8.1m	Yes

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
6.2 Earthworks	Yes

## Warringah Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
B2 Number of storeys	2	Part 2 / Part 3	No change	N/A
B3 Side Boundary Envelope	4m - East	Outside envelope	No change	N/A
	4m - West	Outside envelope	No change	N/A
B5 Side Boundary Setbacks	4.5m - East	Nil (Basement) 3.5m (Habitable levels)	1.0m (Terraces)	No

	4.5m - West	Nil (Basement) 2.0m (Habitable levels)	No change	N/A
B7 Front Boundary Setbacks	6.5m	6.5m	No change	N/A
B9 Rear Boundary Setbacks	6m	6.1m	No change	N/A
D1 Landscaped Open Space (LOS) and Bushland Setting	50%	39.8% (236m <sup>2</sup> )	22.1% (131.1m <sup>2</sup> )	<b>No</b>

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B2 Number of Storeys	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	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
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E10 Landslip Risk	Yes	Yes

#### Detailed Assessment

#### **B5 Side Boundary Setbacks**

### Description of non-compliance

The control requires a minimum setback of 4.5m.

The proposed terraces are set back at a minimum of 1.0m from the eastern side boundary, equating to variation of between 77.7%.

### Merit consideration

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

- *To provide opportunities for deep soil landscape areas.*

#### Comment:

A discussion on the provision of landscaping can be found in this report under Part D1 which concludes that the landscaped solution proposed is acceptable. The modification maintains suitable deep soil areas along the eastern boundary.

- *To ensure that development does not become visually dominant.*

#### Comment:

The proposed terraces align with nearby developments by virtue of their location along the eastern boundary. The proposed terraces are low-lying and are situated at a significant distance from the frontage. Furthermore, the proposed landscape plan seeks to vegetate the intervening area between these setbacks with raised planters that partially extended above the adjacent fence. As such, the structure will not appear visually dominant when viewed from the street or surrounding properties.

- *To ensure that the scale and bulk of buildings is minimised.*

#### Comment:

As above, the proposed terraces are low-lying and not considered to create any unreasonable building bulk.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

#### Comment:

The proposed elements within site's side setbacks would be below the required height limit, within the required building envelope and significantly setback from the front boundary. The proposal would also be surrounded by trees and screen vegetation. As such, the scale and bulk of the building is adequately minimised.

- *To provide reasonable sharing of views to and from public and private properties.*

#### Comment:



The proposal will not result in adverse view impacts.

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 s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **D1 Landscaped Open Space and Bushland Setting**

### Description of non-compliance

The modification has a reduced landscaped open space (LOS) of 131m<sup>2</sup> equating to 22% of the site area. The control requires 50% of the site to be LOS. It is noted that the site is relatively small at 594m<sup>2</sup>, with the building footprint, terraces, driveway and internal circulation spaces not considered to be significant areas, or those which excessively dominate the site. As such the balance of the site is considered both reasonable and acceptable in the case of landscaped open space.

It must be noted that when including the landscaped areas which do not meet the minimum requirements of this control, the proposal provides a landscape coverage of 30.1% (178.5m<sup>2</sup>).

### Merit consideration

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

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

#### Comment:

The approved streetscape planting will remain unaltered by the modification.

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

#### Comment:

The modification maintains an acceptable variety and quantum of new plantings, including compensatory native tree planting that will enhance vegetation and habitat for wildlife and maintain the character of the locality.

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

#### Comment:

The modification provides landscaped area of sufficient dimensions to accommodate adequate planting and is accompanied by a detailed landscaped plan which includes a variety of new plantings to be established across the site. Compliance with the landscape plan and conditions

of consent will ensure that the bulk and scale of the building is appropriately managed.

- *To enhance privacy between buildings.*

Comment:

The landscaped areas proposed along the eastern boundary are appropriately planted and incorporate adequate spatial separation to ensure that privacy between buildings can be maintained.

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

Comment:

The modified development maintains suitable outdoor recreational opportunities to meet the needs of occupants.

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

Comment:

The modified development maintains sufficient space for service functions, including clothes drying.

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

Comment:

The modified development maintains sufficient permeable surfaces to facilitate water management and is assessed as acceptable by Council's Development Engineers and Water Management officer.

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 s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2022**

Section 7.12 contributions were levied on the Development Application.

## 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 2021;
- 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 approval to Modification Application No. Mod2023/0432 for Modification of Development Consent DA2022/1176 granted for Demolition works and construction of a multi dwelling housing development comprising three (3) dwellings over basement car parking on land at Lot 25 DP 11209,27 Gulliver Street, BROOKVALE, subject to the conditions printed below:

## Modification Summary

The development consent is modified as follows:

### MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-357943 - Mod2023/0432	The date of this notice of determination	<p>Modification of Development Consent DA2022/1176 granted for Demolition works and construction of a multi dwelling housing development comprising three (3) dwellings over basement car parking</p> <ul style="list-style-type: none"> <li>• <b>Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation</b></li> <li>• <b>Delete Condition No. 10 - Amended Landscape Plan</b></li> <li>• <b>Modify Condition No.19 - On-site Stormwater Detention Details</b></li> <li>• <b>Modify Condition No. 20 - Submission Roads Act Application for Civil Works in the Public Road</b></li> <li>• <b>Modify Condition No. 45 - Landscape Completion</b></li> <li>• <b>Modify Condition No. 64 - Landscape Maintenance</b></li> </ul>

### Modified conditions

#### **A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation, to read as follows:**

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA013	D	Site Plan	Walsh Architects	22 March 2024
DA100	C	Basement Plan	Walsh Architects	7 June 2023
DA101	C	Ground Floor Plan	Walsh Architects	22 March 2024
DA102	C	First Floor Plan	Walsh Architects	7 June 2023
DA103	C	Roof Plan	Walsh Architects	7 June 2023
DA200	D	Building Sections - Sheet 1	Walsh Architects	22 March 2024
DA201	D	Building Sections - Sheet 2	Walsh Architects	22 March 2024
DA300	C	Elevations - Sheet 1	Walsh Architects	22 March 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document

BASIX Certificate	1316820M_03	Building Sustainability Assessments	3 August 2023
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In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

**B. Delete Condition No. 10 - Amended Landscape Plan.**

**C. Modify Condition No.19 - On-site Stormwater Detention Details, to read as follows:**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy and generally in accordance with the concept drainage plans prepared by Smart Structures Australia, drawing number 220098 D00, D01, D02, D04,D05, D09 and D10 Issue C dated 21.07.2023. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

1. The OSD basin is to include subsoil drainage lies connected to the control pit

Detailed drainage plans, including engineering certification, are to be submitted to the Principal Certifier for approval prior to the issue of the Construction Certificate.

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

**D. Modify Condition No. 20 - Submission Roads Act Application for Civil Works in the Public Road, to read as follows:**

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 Civil Engineering plans for the design of the driveway crossing and footpath 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. A 3.3 metre wide concrete driveway crossing generally in accordance with the concept design by Smart Structures Australia, drawing 220098 C01 issue D dated 28.07.23
2. A 1.5 metre wide footpath along the frontage of the site.

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

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

**E. Modify Condition No. 45 - Landscape Completion, to read as follows:**

- a) landscape works are to be implemented in accordance with the approved Landscape Plan(s) (drawing LS501.1 Issue E by Plot Design Group), and inclusive of the following conditions:
- i) landscape works are to be contained within the legal property boundaries,
  - ii) planting shall be installed as indicated on the approved Landscape Plan(s) unless otherwise imposed by any conditions,
  - iii) all tree planting shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees; shall be planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained and watered until established; and located within garden bed,
  - iv) trees along the eastern boundary shall be located at least 2.5 metres from buildings, and all other trees at least 3.0 metres from buildings,
  - v) screen planting along the eastern boundary shall be installed at minimum 1 plant per metre square and at a 45 litre container size,
  - vi) all other mass planting shall be installed at minimum 1 plant per metre square for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at least 4 plants per metre square for grasses/groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
  - vii) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces.
- b) prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

**F. Modify Condition No. 64 - Landscape Maintenance, to read as follows:**

- a) if any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components.
- b) trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.
- c) if any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan(s) and any conditions of consent.
- d) a maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.
- e) the approved landscape planted areas, whether containing lawn, gardens or planters shall in perpetuity remain as planting under the development consent, and shall not be replaced with any hard paved surfaces or structures.



Reason: To maintain local environmental amenity.

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

**Signed**



**Kye Miles, Planner**

The application is determined on 05/04/2024, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**