

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/1869
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Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 5B DP 158658, 58 Beaconsfield Street NEWPORT NSW 2106 Lot 6 DP 1096088, 56 Beaconsfield Street NEWPORT NSW 2106 Lot 7B DP 162021, 54 Beaconsfield Street NEWPORT NSW 2106
Proposed Development:	Demolition works and construction of a Residential Flat Building including the consolidation of 3 lots into 1 lot
Zoning:	R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	Jak Newport Pty Ltd

Application Lodged:	08/01/2024
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Residential - New multi-unit
Notified:	16/01/2024 to 13/02/2024
Advertised:	16/01/2024
Submissions Received:	6
Clause 4.6 Variation:	4.3 Height of buildings: 17.6% 4.5A Density controls for certain residential accommodation: 18.7%
Recommendation:	Deferred Commencement Approval

Estimated Cost of Works:	\$ 13,630,814.00
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EXECUTIVE SUMMARY

This proposal seeks consent for demolition of existing dwellings, consolidation of three lots into one lot, and the construction of a new 13-unit residential flat building.

The application has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to proposing a departure from the development standards of greater than 10% for 'Building height' and 'Density controls for certain residential accommodation' of the Pittwater LEP (Clause 4.3 and 4.5A respectively). These variations are further discussed below.

The application was referred to the Design and Sustainability Advisory Panel who were broadly supportive of the scheme. The Panel suggested a number of changes to the plans, most of which have been incorporated into the amended plans including improvements to internal amenity, physical separation and an improved landscape outcome.

A 'Request for information' letter was sent to the applicant on 27 March 2024. This letter raised a number of issues that have since been addressed through the submission of amended plans and additional information (summarised in the body of this report). Notably, the letter suggested that, if issues relating to built form, amenity and expert referral issues were resolved, a variation to the development standard for Density for certain residential accommodation, may be supported. The proposal (as amended) complies with all built form controls under the P21DCP, does not provide any unreasonable amenity impacts, and provides a site responsive design that satisfies the requirements and criteria under the Apartment Design Guide.

A Clause 4.6 request is made in relation to the non-compliance with the standard '*Density controls for certain residential accommodation*' with the proposal providing 1 dwelling per 162sqm (13 dwellings), and the standard requiring 200sqm (10.57 dwellings, based on the site area). The variation is addressed within the Clause 4.6 assessment within the body of this report and is supported on merit. In summary, it is accepted that the term "planned residential density" under the objectives of the clause is indicative rather than absolute. It also considered that variation to the development should be assessed on merit and subject to the tests of Clause 4.6, rather than considered as a prohibition. There is also a lack of any unreasonable or material impact caused by or linked to the variation to the density standard, with compliant residential parking spaces provided, as well as a building envelope and footprint that complies with the planning controls under the P21DCP.

The Clause 4.6 request in relation to the non-compliance with the building height standard arises from a minor portion of the building (lift overruns), being above the 8.5m standard and up to 10.0m (17.6% variation). The lift overruns provide access to the Communal Open Space (required by ADG), will have no unreasonable amenity or visual impact, and is supported by information from a lift manufacturer to show that the height of the structures size have been minimised. The breach is addressed within the Clause 4.6 assessment within the body of this report and is supported on merit.

During the course of the assessment, Council's Development Engineers and Assessment Officer drafted conditions that related to Stormwater, including a deferred commencement condition to ensure that appropriate consent is provided from the neighbours to extinguish the two existing easements, and rely on newly constructed stormwater infrastructure over a third easement to the west of the site. Council's Development Engineer is supportive of the design for the new easement in terms of the minimisation of stormwater impacts (subject to conditions).

Various concerns have been raised in the submissions to the notification. In particular, the concerns relate to Biodiversity and Landscaping, impact caused by the height of the lift overruns, impact caused by density, traffic and construction impacts, and impact on amenity, including visual impact. These matters have been addressed in the body of the assessment report, and some have been addressed through conditions of consent. Notably, amended plans provide improvements to landscaping and traffic, to the satisfaction of the relevant experts.

Various conditions have been imposed to mitigate traffic and construction related impacts, including the requirement for a Construction and Traffic Management Plan to be approved by Council prior to

issue of the Construction Certificate.

A variation to the front building line control for the bin structure is acceptable due to the context of the street. There is a similar structure at the neighbouring property, 60 Beaconsfield Street, and proposed structure is provided with landscaping integrated in to the design, it also meets Council's Waste requirements, and provides opportunity for all of the front setback area to the east of the structure to be landscaped (except for paths and driveway etc.). A condition is also imposed to require the height of the front fence to be reduced to ensure it is contextually appropriate. The deficiency of one visitor car parking space is also supported on merit.

Aside from the above variations, the proposal complies with relevant controls under the P21DCP, providing a highly responsive design to the form of development anticipated by the controls.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. In particular, the compliant nature of the footprint will provide a building that is a positive addition to the area, providing substantial areas of landscaping to contribute to desired future character, whilst also providing for housing needs to meet the objectives of the medium density residential zone.

This report concludes with a recommendation that the NBLPP grant **approval** to the development application, subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for demolition works and construction of a residential flat building development.

Specifically, the development comprises of the following:

- Demolition of existing structures
- Excavation and groundworks
- Site preparation works including the removal of trees
- Construction of a three-storey residential flat building atop one level of basement car parking consisting of:
 - 13 x 3 bedroom apartments across three (3) storeys
 - Basement parking for 31 vehicles (26 residential spaces, 1 Disabled space and 4 visitor spaces), including car wash bay, waste storage area and apartment storage areas
 - Communal roof terrace including stair and lift access and planter boxes
- Associated landscaping, retaining walls and planter boxes.
- Vehicular and pedestrian access off Beaconsfield Road.
- Stormwater infrastructure works
- Amalgamation of lots

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements

Pittwater 21 Development Control Plan - B8.6 Construction and Demolition - Traffic Management Plan

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.7 Private Open Space

Pittwater 21 Development Control Plan - C1.25 Plant, Equipment Boxes and Lift Over-Run

Pittwater 21 Development Control Plan - D10.4 Building colours and materials

Pittwater 21 Development Control Plan - D10.7 Front building line (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.14 Fences - General

SITE DESCRIPTION

Property Description:	Lot 5B DP 158658 , 58 Beaconsfield Street NEWPORT NSW 2106 Lot 6 DP 1096088 , 56 Beaconsfield Street NEWPORT NSW 2106 Lot 7B DP 162021 , 54 Beaconsfield Street NEWPORT NSW 2106
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Detailed Site Description:

The subject site consists of three existing lots, each containing a detached dwelling house at 54-58 Beaconsfield Street. These dwelling houses are the last remaining dwelling houses on the western side of Beaconsfield Street and within the R3 Medium Density Residential area. The proposal includes all three lots and therefore there is no issue regarding site isolation.

The sites have a combined frontage of approximately 62m and a variable depth of between 31.155m and 38.975m and a total site area of 2,113.5sqm. The topography slopes down from the north-east (rear) to the south-west (street) with a fall of approximately 8.0m across the length of the site.

There are a number of significant trees primarily located at the front of the site.

The land is zoned R3 Medium Density Residential and a 'Residential Flat Building' is permitted with consent in the zone.

Detailed Description of Adjoining/Surrounding Development

As stated above, the subject site is zoned R3 and is the last of the lots to be developed in this south-eastern end of the R3 zone.

No. 60 Beaconsfield Street - to the west is No. 60 Beaconsfield Street, a dual frontage site amalgamated from six (6) individual lots. This site contains a recently approved and constructed Multi-Unit Housing development (DA2019/1280). The development comprises a townhouse-style building with 18 x 3-bedroom dwellings and basement car parking for 43 vehicles. Approval was granted by the *Northern Beaches Local Planning Panel* on 23 April 2020. Key elements of this development include a 12.9% (9.6m) building height variation for the canopies above rooftop terraces.

No. 15-17 Queens Parade - to the north is 15-17 Queens Parade, consists of multi-unit housing development comprising 7 townhouses.

The subject site adjoins low density residential to the south and east and will be the transitional site to the low-density residential zone extending to the east.

Other adjoining development within the Locality consists of:

- Newport Hotel (on Kalinya Street to the west)
- Kalinya Street E1 Local Centre zone to the west
- Newport Public School (60m to the east)
- Newport Anchorage Marina (on Beaconsfield Street to the southwest)

Map:

Could not find land

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:

- **PLM2023/0084** - Pre-lodgement for demolition works and construction of a Residential Flat Building.

HISTORY OF CURRENT APPLICATION

22 February 2024 - Design and Sustainability Advisory Panel Meeting

The Panel provided the following comments:

The Panel is broadly supportive of the scheme, and the changes that have been made since it last came to the Panel. However, it recommends that several outstanding items, as listed above, be addressed to ensure optimal amenity for all residents and an appropriate landscape and architectural

fit to the local context. If these issues can be resolved to Council's satisfaction the Panel does not need to review the proposal again.

As discussed under the referrals section of this report, Council's assessing officer is satisfied the issues are satisfactorily addressed.

27 March 2024 - Request for Information

Council wrote to the applicant in the form of a Request for Information (RFI), raising concerns primarily in relation to height, density, setbacks, privacy, internal amenity, size of rooftop communal open space, internal referral issues and insufficient information.

In this letter, in relation to the density control (under 4.5A of the PLEP), it was stated:

"A variation to this control may be supported if other issues and matters raised within this letter are appropriately resolved."

All other issues and matters in the RFI have been satisfactorily addressed (as outlined in the amended plans sections below).

With exception of the front fence and bin area, the proposal also complies with all relevant built form controls under the Pittwater DCP.

3 May 2024 - Amended Plans V1

Amended plans were submitted to Council on 3 May 2024. As summarised by the applicant, these plans involved the following changes:

"DA100 - Ground Floor Plan

- 1. Internal amenity of G01-G03 amended as follow,
 - a. Reduced apartment depth of open living/ dining and kitchen space by repositioning the kitchen.*
 - b. In G03, relocation of the third eastern bedroom to the south to eliminate subterranean condition.*
 - c. Fixing of graphical error for window on Bed 3 of G01**
- 2. Redesign of lobby spaces to improve arrival experience for residence, increased lobby size to improve circulation and reduced size of plant room.*
- 3. Waste comments:
 - a. Increased size of street level holding bay to contain the requirement no. of bins and maintain sufficient circulation space of min. 1.2m**
- 4. Traffic comments:
 - a. Increased length of first ramp of 1:20 transition**
- 5. Refer to landscape architect's drawing on tree removal and replacement.*

DA101 - DA102 - Level 1 and Level 2 Floor Plan

- 1. Improved circulation clearance in common areas/ lobby A and B*
- 2. Slight increase in size for northern communal open spaces*
- 3. Increase dimension for secondary living spaces in 103, 104, 105 and 203, 204, 205 to meet ADG min. dimension of 4m in width for living spaces to maximum solar access.*

DA103 - Roof Plan

- 1. Reduce bulk and area of rooftop communal open space.*
- 2. Minimise lift-overrun and height of stair access.*
- 3. Refer to updated landscape plan for landscaped design.*

4. Refer to DA540 on updated communal open space diagrams.

DA104 - Basement

1. Car wash bay with bunding included.
2. Garbage waste and bulky waste room rearranged.
3. Bicycle parking rearranged.
4. Bollard added to shared zone of accessible parking bay with note stating min. 2.5 clearance above.
5. Refer to updated traffic report from engineer for further response to traffic referral.
6. Refer to updated waste report from waste consultant for further response to waste referral.

DA200 - DA201 & DA 300 - DA301 - Elevations and Sections

1. Privacy screen to windows alongside boundaries as appropriate
2. Additional sections to demonstrate building height, building separation, setback and privacy/view impact based on surveyed levels on neighbouring properties.
3. Existing ground level reviewed to match surveyed information with variation in building height updated consistent with CI 4.6

DA520 - Height Limit Diagram

1. Existing ground level and height plane reviewed to match surveyed information with variation in building height updated consistent with CI 4.6

DA521 - Building Height Analysis

1. Additional drawing/ diagram to show location of the new buildings relative to existing RIs.

DA540 - Communal Open Space

1. Updated calculations to reflect changes.

DA600 - DA601 - Solar Access Diagrams

1. Detailed neighbouring building context modelled to demonstrate no additional impact on solar access to proposed development. Solar access complies with ADG requirement."

In accordance with the Community Participation Plan, the plans did not require re-notification.

2 July 2024 - Amended Plans V2

Amended plans were submitted to Council on 2 July 2024. The amendments are summarised as follows:

- Reduction in the size of the rooftop Communal open space
- Privacy screens on the western façade
- Re-configuration of Units 204 and 205 to provide for greater physical separation
- Internal amendments to ensure all north facing secondary living areas have a minimum 4 metre width with the view from the sun
- Amendments to Landscape Plan including planting
- Alterations to design for waste
- Reconfiguration of Unit G03
- Addition of planter boxes to rear balconies for eastern units
- Removal of rear balcony at Unit 205 and replacement with planter box

In accordance with the Community Participation Plan, the plans did not require re-notification.

5 September 2024 - Amended Plans V3

Amended plans were submitted to Council on 2 July 2024. The amendments involved the extension of the planter box to surround Communal roof space.

In accordance with the Community Participation Plan, the plans did not require re-notification.

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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&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 Matters for Consideration	Comments
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 Pittwater 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	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 16/01/2024 to 13/02/2024 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 process council is in receipt of 6 submission/s from:

Name:	Address:
Mr Andy Wigan	1 / 58 Beaconsfield Street NEWPORT NSW 2106
Ms Judyth Erica Boyle	57 Beaconsfield Street NEWPORT NSW 2106
Gerard Sibbald Wallace	18 / 60 Beaconsfield Street NEWPORT NSW 2106
Mr Thomas Andrew Green	11 / 69 Beaconsfield Street NEWPORT NSW 2106
Ms Jelena Mrkich	59 Beaconsfield Street NEWPORT NSW 2106
Alison Lynne Schell	3 / 9 Queens Parade NEWPORT NSW 2106

The issues raised in submissions are addressed as follows:

- **Building height; view of lift overruns**

The submissions raised concerns that the proposal does not comply with building height due to lift overruns protruding the height plane.

Comment:

The majority of the building footprint and envelope complies with the development standard for Building Height. The non-compliance with the numerical standard for Building Height relates to a section of the lift overrun. These lift overruns, provide access (including disability access) to communal open space (which is required by the Apartment Design Guide).

The applicant has sought to vary the development standard for building height under Clause 4.6 of the PLEP. An assessment of this request can be found later in this report, which finds the proposed variation to the standard to be reasonable. In summary, the proposed height will not cause any unreasonable visual or amenity impacts.

An assessment of views later in this report has also found that the proposal would not have any unreasonable impact on views.

- **Tree removal, tree protection and biodiversity**

The submissions raised concerns regarding tree removal, tree protection, and raised concerns with impacts on Biodiversity (including fauna).

Comment:

Council's Landscape Officer and Biodiversity Officer have assessed the application. After the provision of amended plans, these sections support the application for the reasons outlined in the referrals section of this report. Relevant conditions have also been imposed for protection of the natural environment, including conditions for tree protection.

- **Density**

Concern's are raised with the proposed density and the residential flat building typology.

Comment:

Residential Flat Buildings are a permissible use within the R3 Medium Density Residential zone under the PLEP, and contribute to providing housing needs for the community.

The application has sought to vary the development standard for density under Clause 4.6 of the PLEP. An assessment of this request which can be found later in this report, concludes that the proposed variation to the standard is reasonable. In summary, it is concluded that the term 'planned residential density' is not absolute and does not operate as a prohibition under the PLEP. It follows that the proposed variation is contextually appropriate, including that it is consistent with the desired future character, contributes to achieving the objects under

the *Northern Beaches Local Housing Strategy 2021*, and does not provide any unreasonable direct or indirect impact (including that the associated built form complies with the relevant controls).

- **Traffic**

The submissions raised concerns with impacts on traffic including congestion and parking.

Comment:

Council's Traffic Officer has assessed this application. After the provision of amended plans and additional information, Council's Traffic Officer supports the application for the reasons outlined in the referrals section of this report and subject to conditions.

The proposal also provides for residential parking spaces that comply with the numerical requirements of the P21DCP.

- **Matters regarding property value and estimations as to possible future purchasers**

Comment:

These matters are not relevant for consideration under the *Environmental Planning and Assessment Act, 1979*.

- **Construction impacts**

The submissions raised concerns with construction impacts.

Comment:

Relevant conditions have been imposed to require adherence to construction hours and to minimise construction impacts.

A condition has also been imposed to require the provision of a Construction and Traffic Management Plan to be approved by Council's Traffic Team prior to CC.

- **Privacy**

A submission raises concern in relation to privacy impacts, due to the removal of trees.

Comment:

Council's Landscape Officer has provided conditions for additional planting. Further, the proposal complies with the P21DCP provisions for privacy and provides good spatial separation, as discussed under the *SEPP Housing 2021* section of this report.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p>SUPPORTED (WITH CONDITIONS AND AMENDMENTS)</p> <p>General This proposal has been previously reviewed by the Panel at a pre-lodgement meeting.</p> <p>The application is for a 2-3 storey residential flat building with a level of basement parking and a roof-top communal open space.</p> <p>Strategic context, urban context: surrounding area character Attention is drawn to comments and recommendations listed in the previous DSAP Panel report. The Panel is not convinced that these have been adequately addressed; in particular the concerns regarding landscape and the R2 residential zone transition. Generally, the applicant has addressed the concern regarding the eastern boundary by predominantly setting back the façade, with a smaller incursion into the setback, with windows facing north-south.</p> <p>See comments below regarding landscaping and removal of trees.</p> <p><u>Recommendations</u></p> <ol style="list-style-type: none"> 1. Surrounding landscape context to be considered with a view to providing a more appropriate level of tree retention and canopy cover. <p>Scale, built form and articulation In the pre-lodgement DSAP panel, the applicant was asked to set back the eastern portion of the building 9m from the side boundary to provide for the zone transition, as well as provide habitable windows and rooms to the façade. While not meeting the 9m, the proposed 6m setback with habitable windows is generally acceptable. A portion of this façade is pushed toward the boundary approximately 8.75m long. While an improvement on the previous design, this wall still presents as a large unarticulated mass to a low density residential area, and should be set back further to provide an appropriate transition to the low density zoning. This is particularly relevant as this is the only area on site which would provide 6m for deep soil planting without any structures (noting the large amount of retaining walls to the front setback required for the lowered POS areas).</p> <p>Additionally, the western wall is only 4.5m from the boundary with large operable windows to the southern apartment's living spaces. The ADG requires 6m, and it is the Panel's view that an incursion on this setback would affect the privacy of the neighbouring property. This is particularly of concern as the neighbouring 4 storey building is only 4.1m from the boundary, providing only 8.6m between habitable rooms rather than the required 12m.</p>

Internal Referral Body	Comments
	<p>The applicant has provided only 3100mm floor-to-floor heights. This has become increasingly difficult to do due to changes to the NCC, including 1:80 falls to drains, screed thickness, and fireproofing requirements.</p> <p><u>Recommendations</u></p> <p>2. Provide short sections north-south through ground floor units and basement, and update all sections to show neighbouring property interfaces to demonstrate privacy impacts. Alternatively, increase setbacks to minimum 6m.</p> <p>3. Provide 1:20 detail through wall to ensure 3100mm floor to floor is sufficient to meet NCC requirements.</p> <p>Access, vehicular movement and car parking</p> <p>The previous Panel was concerned with the location of the driveway and design of the basement parking to incorporate two levels. The applicant has addressed by relocating the driveway and bin storage and reducing the basement to a single level. The Panel is generally supportive of these changes.</p> <p>While the inclusion of open stairs is generally supported for development up to 3 storeys, the introduction of the rooftop communal open space now requires that the stairwells be fire isolated.</p> <p>The communal open space is broken into 3 levels, connected via a series of stairs. This does not provide equitable access to spaces, and ramping would need to be provided within the proposed configuration. Alternatively, two distinct COS areas, each associated with a lift core, may be more appropriate.</p> <p><u>Recommendations</u></p> <p>4. Provide fire isolated stairs from the rooftop to ground floor to meet NCC requirements.</p> <p>5. Provide equitable access to all areas of the communal open space</p>

Internal Referral Body	Comments
	<p>Landscape</p> <p>Although the proposed basement plan is primarily within the nominated setbacks for this type of development, 2 x AA1 rated, highly significant trees are proposed for removal, that being T28 – Eucalyptus paniculaata and T29 – Syncarpia golumulifera. This is not supported, and an alternate building design should be considered that has less than 10% incursion into the Tree Protection Zones of these trees. Root mapping by non-destructive means should be conducted by the Project Arborist.</p> <p>The landscape response does propose 7 replacement canopy trees which is a positive element of the revegetation of the site however, the most valuable tree on any site is an existing tree in good health and of good form and vigour with a long useful life expectancy such as T28 & T29. The Panel does not support the removal of these trees.</p> <p>The reduced setback of 4.5 meters along the western side needs to be maintained as an unencumbered planting trench with species appropriate soil profile to ensure the specified Paper Bark trees will grow to their full potential. The proposed Melaleuca quinquenervia adjacent to the north east unit should be planted at grade and not within the retained area as this limits the available room for proper development of the root plate of this tree.</p> <p>The planting areas need to contribute to the management of stormwater, and stormwater plans must be developed to ensure they do not conflict with the any existing trees to be retained or proposed. A revised landscape documentation package will need to be in accordance with the submission requirements of Council.</p> <p>The proposal is not supported in its current form by the Panel Landscape Architect.</p> <p><u>Recommendations</u></p> <p>6. Consider retention of the AA1 rated trees (T28 and T29) through a redesign of the built form and basement.</p> <p>7. Ensure minimum 4.5m planting to the western boundary, rather than the 4m setback shown on basement plans.</p> <p>8. The roof top communal open space should have</p> <ol style="list-style-type: none"> a. 1 x unisex DDA compliant toilet b. Retractable shade awning c. Utility sink and power point d. Shade from natural planting in raised garden beds e. Planter boxes need to be 3.5m x 3.5m with a soil depth of not less than 800mm <p>9. A variety of small, medium, and large trees should be considered to help revegetate the site.</p>

Internal Referral Body	Comments
	<p>Amenity</p> <p>The applicant has created more connected north-south living areas which is supported. While it may be appropriate to face primary living areas towards the views, secondary living spaces should meet minimum dimensions for living rooms if they are to be considered as the primary source of solar access. Additionally, insufficient information has been provided to demonstrate solar access compliance. Sun eye view diagrams only show the proposed site, and not the neighbouring buildings to the north. These are likely to have an impact on solar access for the first storey units to the rear of the site, as it appears neighbouring properties sit 3m above the proposal's communal open space as shown in elevations. These sun eye view diagrams may demonstrate a 4.5m rear setback is insufficient to achieve solar access to residents.</p> <p>While improved, the Panel still has concerns regarding the amenity of ground floor units. All are south facing with no ventilation and are likely to be prone to damp and mould, with a reliance of mechanical heating, cooling, and ventilation. Additionally, unit G01 has over 9m to the back of the kitchen and G02 is over 11m. This is unacceptable in terms of light and ventilation of units which are already constrained. Finally, the third eastern bedroom of Unit G03 is fully subterranean, requiring excessive excavation and retaining walls to provide habitable windows to the space. This bedroom should be removed.</p> <p>While the entry lobbies have improved from the previous scheme, the Panel believes there is still the opportunity for improvement. Movement through the eastern lobby is still convoluted with no sight lines to the lift, and is relatively narrow in width. This is likely to create pinch points in accessing the lifts, particularly for those with prams or mobility assistant devices such as walkers or wheelchairs. Noting the requirement above to include fire isolated stairs, it is suggested these lobby spaces could be better designed to provide clear open spaces.</p> <p>The introduction of communal open space on the roof provides more amenity for residents, despite the encroachment on the height plane. However, in its current form the COS requires some refinement to ensure access as outlined above and shade for those using the space. Further consideration for rear small spaces labelled as COS is required. These should provide a specific function and be designed as such. To be counted towards COS calculations they also require a minimum width of 3m.</p> <p>The proposed development does not support housing diversity, and would benefit of the introduction of one or two bedroom units to support more affordable and diverse housing choices.</p>

Internal Referral Body	Comments
	<p><u>Recommendations</u></p> <p>10. Ensure secondary living spaces meet ADG minimum dimensions for living areas.</p> <p>11. Include neighbouring properties in sun-eye diagrams to demonstrate solar access compliance.</p> <p>12. Remove the third subterranean bedroom to the east in unit G03.</p> <p>13. Ensure open plan living spaces are no deeper than 8m to the back of kitchens.</p> <p>14. Increase the amenity of lobby spaces to ensure clear site line to lifts.</p> <p>15. Provide shade for communal open space having regard to building height and view impacts</p> <p>Façade treatment/Aesthetics</p> <p>As noted in the previous DSAP report:</p> <p>The southern elevation is well articulated and goes some way to reducing the appearance of overall building bulk. However, some of the proposed architectural and landscape features may not achieve their potential when built. The proposed planter boxes are unlikely to allow for luxuriant plant growth due to being permanently in shade and relying upon private apartment owners to plant species that would grow. Consultation with your landscape architect is recommended to establish whether planter boxes are a realistic feature. The proposed screens to balconies seem to have no real benefit, as they would not screen the sun and would create a visually enclosed and barred appearance when closed. The proposed bi-fold leaves conflict with planter box vegetation.</p> <p>It appears that many of the issues arising from these comments remain, with the exception of bifold windows being replaced with awning windows. Awning windows also likely to conflict with planting and provide very little to no ventilation with planters blocking the flow of air to openings. These should be replaced with sliding or top hung windows if planters are not removed.</p> <p><u>Recommendations</u></p> <p>16. Remove planter boxes along the southern elevation in consultation with landscape architect;</p> <p>17. Reconsider the cladding details around the balconies to ensure buildability and longevity of the façade.</p> <p>Additionally, concern was raised regarding the detail of the façade treatment around the balcony “frames.” Further consideration and detailing is recommended.</p>

Internal Referral Body	Comments
	<p>Sustainability</p> <p>Generally, comments from the previous Panel have been addressed. The applicant is commended for the inclusion of a central heat pump hot water system, rainwater recycling, PV on the western roof, and the reduction in basement levels.</p> <p>However, there are still items missing from the proposed plans which would increase the amenity and sustainability of the proposal including removal of all gas appliances, introduction of clerestory windows, inclusion of EV parking, and increased bicycle parking.</p> <p>As noted above, the lower level units as receive no solar access or ventilation, and are likely to have a strong reliance on mechanical heating, cooling, and ventilation which is not supported.</p> <p><u>Recommendations</u></p> <p>18. Replace gas cooktops with induction 19. Introduce clerestory windows to increase northern light to south facing top floor apartments 20. Include EV charging bays within basement parking 21. Provide 1 space bicycle parking per unit</p> <p>PANEL CONCLUSION</p> <p>The Panel is broadly supportive of the scheme, and the changes that have been made since it last came to the Panel. However it recommends that several outstanding items, as listed above, be addressed to ensure optimal amenity for all residents and an appropriate landscape and architectural fit to the local context.</p> <p>If these issues can be resolved to Council's satisfaction the Panel does not need to review the proposal again.</p> <p><u>Assessment Officers Comments</u></p> <p>Since the application was referred to the Design and Sustainability Advisory Panel, the proposal has been amended on a number of occasions. The proposal (as amended) has resolved the issues above to the satisfaction of Council's Assessment Officer, having particular regard with the compliance with built form controls under the Pittwater 21 Development Control Plan.</p>

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>SUPPORTED (WITH CONDITIONS)</p> <p>The application has been investigated with respects to aspects relevant the Building Certification and Fire Safety Department. 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><i>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.</i></p>
Environmental Health (Contaminated Lands)	<p>SUPPORTED (WITH CONDITIONS)</p> <p>General Comments</p> <p>This application is seeking consent for a proposed residential flat building at 54-58 Beaconsfield Street, Newport. Basement car parking is proposed to allow space for 32 vehicles.</p> <p>There is no indication of land contamination on 54-58 Beaconsfield and the three properties have historically been used for residential purposes. Although the proposed excavation is approximately 4.7m to 11.7m there is no indication that contamination is a concern at this location.</p> <p>Environmental Health recommends approval subject to conditions.</p>
Environmental Health (Industrial)	<p>SUPPORTED (WITH CONDITIONS)</p> <p>General Comments</p> <p>This application is seeking consent for a proposed residential flat building at 54-58 Beaconsfield Street, Newport. Basement car parking is proposed to allow space for 32 vehicles.</p> <p>During demolition there will be excavation for the propped basement carparking and rock excavation. There will demolition of the existing site structures and the construction of a residential flat building containing 13 x 3-bedroom apartments with basement car parking for a total of 32 vehicles.</p> <p>There will be a plant room/services area, lift, roof top communal open space areas. Environmental Health have provided a condition for a Demolition and Construction Management Plan.</p>

Internal Referral Body	Comments
	<p>Environmental Health recommends approval subject to conditions.</p> <p>Amended information does not alter Environmental Health's original conclusion above. No further conditions required.</p>
Landscape Officer	<p>SUPPORTED (WITH CONDITIONS)</p> <p>The development application is assessed by Council's Landscape Referral against the following relevant landscape controls and policies:</p> <ul style="list-style-type: none"> • State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP65) under: clause 28(2) (a) (b) and (c), including Schedule 1, Principle 5: Landscape, • the associated Apartment Design Guide, including the objectives of control 3E Deep Soil Zones, 4O Landscape Design, 4P Planting on Structures, and • Pittwater Local Environmental Plan (PLEP) and the following Pittwater Development Control Plan (PDCCP) controls (but not limited to): B4.22 Preservation of Trees and Bushland Vegetation; C1.1 Landscaping; D10 Newport Locality <p>Further updated and final comments 09/07/2024: Amended reports and plans are submitted to address the previous concerns.</p> <p>The amended Landscape Plans as documented are able to be supported subject to conditions, including: conformance to Council's standard street tree planting requirements; and minor substitution of selected species. Street tree planting shall be the subject of documentation under a separate application under Section 138 and 139 of the Roads Act for works in the road reserve. It is noted that the Landscape Plans provide an adequate planting scheme to satisfy SEPP65 landscape requirements, landscape objectives of the ADG, and the landscape controls of PDCCP C1.1, and it is noted that the planting scheme includes like for like replacements for the removal of existing trees 9,10, 11, 13, 28 and 29.</p> <p>Both the amended Landscape Plans and amended Architectural Plans have removed the walling encroachment into public land along Beaconsfield Street, with the exception of the architectural plans that show graphic representation (Cover page, DA400, DA410, and DA411) of walling encroachment and these plans shall be disregarded.</p>

Internal Referral Body	Comments
	<p>Should the application be approved the following prescribed trees will require removal within the property and within the road reserve: 8, 9, 10, 11, 13, 18, 19, 23 to 27 inclusive, 28, 29 and 40. It is noted that all other existing trees upon the development property are exempt species (by species type or by height) and do not require Council consent for management or removal. Of the existing prescribed trees impacted by the development proposal the following are considered valuable trees: 9, 10, 11, 13, 28 and 29; and as noted the amended Landscape Plan provide for replacement.</p> <p>Updated comments: <i>Amended reports and plans are submitted and it is noted that the report titled 'Issues response/ Supplementary Statement of Environmental Effects' provides comments as follows regarding the amended landscape plans: "the accompanying amended landscape plans have been prepared in consultation with Council's Landscape Officer to ensure that the concerns raised have been appropriately addressed and that the development will sit within a landscape setting".</i></p> <p><i>However the concerns expressed have not been attended to in totality in the amended landscape plans, including:</i></p> <ul style="list-style-type: none"> <i>• encroachment of structures and landscape works into the public road reserve verge whereby the advice give was to provide for full pavement across the road reserve verge with the inclusion of street tree planting across the development site; and</i> <i>• removal of proposed lawn areas that are too small to function for outdoor use / or establish appropriately due to aspect.</i> <p><i>Furthermore, Landscape Referral support the Bushland and Biodiversity referral to include like for like replacements for the removal of trees 9,10, 11, 13, 28 and 29 in line with the outcomes of PDGP B4.5.</i></p> <p><i>The architectural site planning to include structures (ie. walling) into the public road reserve verge, as previously mentioned is not supported by Landscape Referral. The site planning through the architectural plans is required to demonstrate how the proposal is feasible without encroachments into public land.</i></p> <p>Previous comments: <i>Landscape Plans and an Arboricultural Impact Assessment (AIA) report is provided with the development application in accordance with Council's DA Lodgement requirements.</i></p>

Internal Referral Body	Comments
	<p><i>The properties are zoned R3 Medium Density Residential and for consideration of the landscape outcome and interface with adjoining properties it is noted the adjoining properties are either R3 Medium Density Residential (60 Beaconsfield Rd to the east and 15-17 Queens Parade to the north), and R2 Low Density Residential (52 Beaconsfield Street to the east and 19 Queens Parade at the north east corner).</i></p> <p><i>The development proposal includes encroachment into the public road reserve verge through walling as shown on the Architectural Plan and planting as shown on the Landscape Plans. The encroachments are not supported and place liability within the public road reserve verge upon Council.</i></p> <p><i>The intent to preserve the trees within the existing embankment is problematic as the extent of basement excavation in proximity is likely to have tree impacts in the long term as opposed to during construction where retention may be feasible, as opined in the AIA report. Along the Beaconsfield Rd frontage two existing trees are proposed for retention as recommended in the AIA report: T13 Eucalyptus capitellata and tree 40 Melaleuca quinquenervia, and it is noted that tree 40 is observed with a deep inclusion structural issue that will be problematic in the future likely to lead to removal. Based on the excavation for basement and the encroachment of these trees into the public road reserve verge, removal may provide a more sensible solution in terms of the long term landscape setting, including the opportunity to widen the existing footpath which is inadequate for safe passage and connection to the local shops and services, and does not meet design standards.</i></p> <p><i>The site planning layout results in the more prominent existing trees being removed and these are trees 9 and 10 Eucalyptus capitellata, tree 28 Eucalyptus paniculata, and tree 29 Syncarpia glomulifera.</i></p> <p><i>The Landscape Plans provide adequate deep soil and other landscape areas to achieve a landscape setting in consideration of State Environmental Planning Policy No. 65, the associated Apartment Design Guide, Pittwater Local Environmental Plan and Pittwater Development Control Plan controls. However the proposed landscape scheme as represented in the Landscape Plans requires additional landscape intent including: potential for street tree planting amongst a full width footpath; the frontage to Beaconsfield Rd shall support locally native canopy trees as replacement for any removed native trees; side and rear boundary garden areas shall incorporate small native tree planting for screening of the development and for residential privacy to adjoining properties; small (or all) lawn areas shall be replaced with mass planted gardens; the areas nominated for only groundcover planting shall be replaced with a mixed planting regime; and all landscape works shall be contained within the property (excluding street tree planting).</i></p>

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>SUPPORTED (WITH CONDITIONS)</p> <p>AMENDED COMMENTS</p> <p>A Flora and Fauna Assessment (Narla Environmental, May 2024) has been submitted with the application and concluded that the proposed development does not trigger entry into the Biodiversity Offsets Scheme and is unlikely to have an impact on threatened flora or fauna. The proposal would result in the removal of 0.05 Ha of native vegetation classified as Central Coast Escarpment Moist Forest and an additional 0.04 Ha of exotic vegetation.</p> <p>The amended landscape plan (Wyer and Co, May 2024) submitted with the application includes a number of trees that is sufficient to compensate the removal of trees for the proposed works. However, amendments will be required to include a number of like for like replacements for the removal of prescribed trees that are also identified as diagnostic species of the ecological community identified on site in the submitted Flora and Fauna Assessment. This will be conditioned.</p> <p>The development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p> <p>ORIGINAL COMMENTS</p> <p>The comments in this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> • Pittwater 21 DCP - Clause B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land <p>An arboricultural impact assessment (EZI Grow, November 2023) has been submitted with the application and concluded that a total of 39 trees would need to be removed if the application is approved in its current form. Therefore, a Flora and Fauna Assessment as per the will be required as per the <i>Biodiversity Requirements for Development Applications</i> found on Council's website: https://www.northernbeaches.nsw.gov.au/planning-and-development/building-and-renovations/environmental-and-community-protections.</p> <p>The Biodiversity Referral will recommence upon reception of a Flora and Fauna Assessment prepared by a suitably qualified ecologist.</p>

Internal Referral Body	Comments
NECC (Development Engineering)	<p>SUPPORTED (WITH CONDITIONS)</p> <p>Updated Comments. 2/9/24 The extinguishment of the existing easements as discussed with Thomas Prosser can be dealt with via a deferred commencement condition. Development Engineering conditions will be provided.</p> <p>Comments 21/6/24 Development Engineering is still waiting on the previously requested information, whilst a draft proposed drainage easement was supported this information is still required to complete the referral.</p> <p>Previous comments The proposed residential apartment development has been reviewed and the following information/actions are required.</p> <p>1) The existing lots have 3 drainage easements denoted as x y and z running through the properties which benefit rear properties including Strata Plan 66704. Consent from the beneficiaries of the easements is required for there part extinguishment and relocation noting all costs including any stormwater line re diversion/upgrade are to be borne by the applicant.</p> <p>2) In relation to the stormwater management plan the following further information is required;</p> <p>a) the connection point to the outlet pipe to Councils stormwater inlet pit is to be provided together with a long section through the footpath area demonstrating that the outlet line has adequate clearances to all footpath services. The Hydraulic grade line id to be detailed on the pipe long section also.</p> <p>b) Details of the rediverted inter allotment drainage easement is to be provided including a pipe long section and hydraulic calculations.</p>

Internal Referral Body	Comments
NECC (Water Management)	<p>SUPPORTED (WITH CONDITIONS)</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Northern Beaches Water Management for Development Policy (WMD Policy); and • Relevant LEP and DCP clauses <p>Proposal is for demolition, consolidation of 3 lots into 1, and construction of a multi-unit dwelling.</p> <p>Section 4.1 of the WMD Policy applies. Under this section the proposal must achieve Table 5 - General Stormwater Quality Requirements. The proposed water management includes combined underground OSD and rainwater tank that exceeds volume requirements, filtration pit and cartridges.</p> <p>Council will only consider cartridges for addressing water quality if they are part of an integrated water management treatment chain that includes other measures to address water quality. It is desirable that the proposal maximises water infiltration on site. It is noted that the proposal includes rainwater tank that exceeds the 5000L BASIX requirement. Through reuse of water on site, a rainwater tank contributes to maximising water infiltration on site. Planter boxes have also been included in the design, though not specifically for water treatment.</p> <p>A MUSIC model output was provided but not the MUSIC file. Review of the MUSIC model output raised no questions and as such the output was sufficient for this specific assessment. On review, the water treatment chain is considered acceptable.</p> <p>Referral has been made to Water NSW, which has provided General Terms of Approval (GTAs), and as such the proposal is integrated development. It is noted that the proposal will likely require dewatering.</p> <p>No objections regarding water management.</p>
Traffic Engineer	<p>SUPPORTED (WITH CONDITIONS)</p> <p>Further comments - dated September 2024</p> <p>The applicant has provided additional information addressing the concerns except for the swept path analysis of parking spaces no. P15 and P17. The swept paths of these spaces are not correct because the vehicle positions of entry and exits do not match and the exit manoeuvre of P17 has 4 turning points (maximum turning points permissible is 3). While the swept paths are non-compliant, it is noted that the parking spaces and aisle widths are designed in accordance with AS 2890.1:2004, so Council believes that adequate turning ability has been provided.</p>

Internal Referral Body	Comments
	<p>The DA can now be supported subject to conditions.</p> <p>Further comments - dated July 2024</p> <ul style="list-style-type: none"> • It is noted that an amended master set has been provided dated 12/06/2024, followed by a traffic letter dated 18 June 2024. • The amended architectural plans show some of the parking spaces are changed into single garage and double garage. The traffic letter states that the proposed garages are in accordance with AS 2890.1:2004. A swept path analysis for either P15 or P26, P21 and P17 should be provided. • There is a shortfall of 1 visitor space due to the changes in car parking layout. The traffic letter provides justification for the shortfall. Given the close proximity to public transportation and availability of on-street parking, this shortfall of 1 visitor space is acceptable. • It is noted that the length of 5% ramp is now 6m, which is in accordance with AS 2890.1:2004. The ramp grades shown on the plans are 5% @ 6m, 12.5% @2m, 25% @ 11.16m and 12.5% @ 2m, with RL 16.49 at the boundary and RL 13 at the basement. Calculation shows that with RL 13 in the basement, the 12.5% @2m transition cannot be correct. The grade is 7.5% instead of 12.5% or the RL is 12.9 instead of 13. If the RL is to be 12.9, then this should be updated in the architectural plans. However, if the grade is to be 7.5% instead of 12.5% then a ground clearance check must be provided for a B99 vehicle as there is concern that the grade change may be too steep and lead to scraping or bottoming. • The door clearance of Visitor Bay 2 is within the access aisle way. Although there is less traffic, it is considered unsafe to have door opening within a traffic aisle. Hence, there should be some hatching provided around the parking space to separate the car door opening clearance and the access aisleway. • It is noted that there is storage provided next to car parking spaces P21 and P22. The door clearances of these car parking spaces encroach within the storage area. Hence, the architectural plans should be amended to show the door clearances of P21 and P22 to be clear of the storage or any other obstruction. <p>The DA remains unsupported until the above mentioned information is provided.</p>

Internal Referral Body	Comments
	<p data-bbox="529 340 1043 376">Further comments - dated June 2024</p> <ul data-bbox="564 407 1423 1774" style="list-style-type: none"> <li data-bbox="564 407 1423 474">• It is noted that a response in a form of traffic letter responding to the original Traffic referral comments has been provided. <li data-bbox="564 474 1423 654">• It is noted that the location of intercom has been left on the egress side of the driveway. Council accepts this provision given the proposed development is only residential development and as per the response provided by the applicant, i.e that the intercom will be used by visitors only. <li data-bbox="564 654 1423 900">• It is noted that the architectural plans now show a reoriented location of the bicycle parking spaces, which is a safer option than originally proposed. However, attachment 2 of the provided response letter still shows the old bicycle parking layout in the base plans (pages 14, 16, 17, 18, 19). In addition, dimensions of the bicycle parking spaces must be annotated on the plans. This can be conditioned. <li data-bbox="564 900 1423 1034">• It is noted that a sliding door has been provided at the lobby for ease of access by cyclists. This door width must be 1.5 metres minimum, and dimension must be shown on the plans. This can be conditioned. <li data-bbox="564 1034 1423 1317">• It is noted that sight triangles are annotated on both sides of the driveway in the updated plans. The sight triangle is required only on the exiting side (egress side) of the driveway and is to be clear of any obstructions as per AS 2890.1:2004. It appears that part of the hydrant booster encroaches within the sight triangle. While this is not fully compliant with AS 2890.1:2004, Council accepts this encroachment given it is very minor. <li data-bbox="564 1317 1423 1563">• It is noted that an updated swept path analysis has been provided on page 17 which shows the exiting vehicle waiting at the bottom of the ramp to give way to the entering vehicle. A convex mirror has been provided to assist the exiting vehicles. A stop holding line must be provided at the location where the vehicles would wait to give way to mark the location. This can be conditioned. <li data-bbox="564 1563 1423 1774">• It was previously requested to update the long section for ground clearance to start from the centre of the road and extend to the basement. The applicant has responded advising that this will be provided at CC stage when vehicle crossover details will be available. The Traffic team accepts this response. <p data-bbox="529 1774 1423 2038">It is noted that the ramp from the property boundary with a maximum of 5% slope is provided for 5m length instead of the required 6m. Although, the grade has been reduced to 4%, Council is still unable to accept non-compliance in the required length of minimum 6 metres due to the high pedestrian activity in the area as the site is in close proximity to Newport Public school, Newport hotel, close to bus stops. Hence, a compliant grade as per AS2890.1:2004 must be provided.</p>

- It is noted that a sight line assessment showing a full length of 45 metres of Safe Sight Distance (SSD) achieved for the egressing vehicle in accordance with AS25890.1:2004 is provided. This is acceptable.
- It is noted that one accessible parking space has been provided. It is recommended that the dedicated disabled parking space and shared zone be swapped so that the shared zone is next to the lift. This ensures wheelchairs can travelling to the lift without need to traverse along the circulation aisle.

Conclusion

There are minor non compliances that remain with minor adjustments to the plans required to ensure the plans can be supported.

Original Comments - dated April 2024

Proposal description: Proposed Residential Flat Building at 54-58 Beaconsfield Street, Newport

The traffic team has reviewed the following documents:

- Plans (Master set) – Revision A, designed by PBD Architects, dated 28/11/2023.
- Traffic Impact Assessment, prepared by Genesis Traffic, dated 13 November 2023 (Reference No. GT23082)
- The *Statement of Environmental Effects* prepared by Boston Blyth Fleming Town Planners, dated November 2023

Parking requirements and design

- The Pittwater DCP applies to the subject site. According to the DCP, car parking spaces should be provided at a rate of 2 spaces for each 3-bedroom units, visitor parking at a rate of 1 for each 3 dwellings, a wash bay and min 3% accessible parking spaces.
- The proposed development provides a total of 32 car parking spaces consisting of 27 residential spaces and 5 visitors spaces, including 1 wash bay and 1 accessible parking spaces. The provided number of car parking spaces meet the minimum requirements of the DCP.
- However, the submitted traffic report shows 4 disabled parking spaces on pages 26, 28, 29, 30 and 31. The total number of disabled spaces must be clarified, and consistent reports and plans must be provided. In addition, bollard should be placed in the shared zone as per AS2890.6 to ensure the shared zone remains available for loading/unloading of persons in a wheelchair. Furthermore, a height clearance of minimum 2.5m must be provided over the disabled space as required by AS2890.6 clause 2.4 This must be confirmed on the plans.

- The intercom is provided along the wall on the eastern side of the driveway. This means the entering vehicles would be driving on the right to access the intercom. The intercom must be moved to the middle where it can be accessed from the drivers side without impeding egress from the carpark . The driveway width shall be increased to accommodate a median with intercom.
- It is noted that 5 bicycle parking spaces are provided. This number satisfies the DCP requirement. However, the location of bicycle parking next to the accessway without any line of sight for the drivers would be considered as unsafe location. Hence, the bicycle parking spaces should be relocated in a safer place. All the bicycle parking spaces should be in accordance with AS2890.3:2015.
- It is understood that cyclists will use the 1:20 ramp at the lobby entry and lift B to access bicycle parking spaces, because the 1:4 ramp to basement is too steep for cyclists. The hinged door providing access to lobby B must be widened to minimum 1.5 metres to accommodate cyclists access into the lift while accessing the bicycle parking spaces. Consideration should be given to a sliding door instead of hinged door for ease of access for cyclists.
- It is noted that sight triangles are shown on the architectural plans. The dimensions of these sight triangles must be annotated. In addition, the sight triangles must be clear of any obstruction and in accordance with AS 2890.1: 2004.
- It is noted that there are four tandem parking spaces provided. These tandem spaces should be allocated to the same unit. This can be conditioned.
- It is noted that there is a car wash bay provided which complies with the DCP requirement. This car wash bay should be provided with bunding and a floor waste. This should be shown on the plans.
- It is noted that the Traffic Report mentions loading and deliveries activities to be carried out on on-street using the kerbside parking. Given the small size of proposed development and the development being only residential development, this provision is acceptable.
- In page 28 of the Traffic Report, swept path for B85 passing B99 at the bottom of the ramp are overlapping each other. This means there is no passing achieved. Passing should either be achieved or if not possible, a stop holding line must be provided for vehicles exiting the basement, giving way to the entering vehicles. Swept paths must be amended and provided to Council's satisfaction.
- In page 29 of the Traffic Report, a simultaneous passing of B85 and B99 is shown. However, the bodies of two vehicles

Internal Referral Body	Comments
	<p>are overlapping each other. This means there is no simultaneous passing achieved. This page should be amended for compliance with AS2890.1.</p> <ul style="list-style-type: none"> • It is noted that there is a long section showing ground clearance provided on page 32 of the Traffic Report. An updated long section with ground clearance using B85 starting from the centre of the road and extending into the basement must be provided to demonstrate suitable access without scraping. • It is noted that the first ramp from the property boundary with a maximum of 5% slope is provided for 4m length instead of the required 6m. The required 6m should be available in accordance with AS 2890.1:2004, given the high pedestrian activity in the area and to allow a margin for driver error. Also, grade changes across a footpath and within the property, designed in accordance with AS2890.1 must be shown on the plans. • It is noted that table 5-1 on page 12 of the traffic report mentions that there is adequate sight distance, but no diagram of the sight distance has been provided with the report. Although the sight distance is expected to be compliant, Council requires a diagram of the sight distance assessment to demonstrate compliance. <p>Conclusion Given the concerns outlined above, the development cannot be supported at this time.</p>

Internal Referral Body	Comments
Waste Officer	<p>SUPPORTED (WITH CONDITIONS)</p> <p>Waste Management Assessment - amended plans (submitted 2/7/24) Supported - subject to conditions</p> <p>Waste Management Assessment - amended plans (submitted 8/5/24) Unsupported - the proposal is unacceptable.</p> <p>1) Street Level Holding Bay: The location of, access to, and size of this bay now complies with Council design requirements. - acceptable</p> <p>2) Bulky Goods Storage Room: Access to this room does <u>not</u> comply with Council requirements. Access to the room is via the bin storage room - this is unacceptable. This room must have a separate access. It is suggested that the bin room and bulky goods room be swapped. The bulky goods room can be made smaller than the current proposal. This would then allow the creation of two rooms with an aisle between. The large room adjacent to the lift for bins and the smaller room adjacent to the stairs for bulky goods.</p> <p>3) Transfer of Bins between the Basement Bin Room and Street Level Holding Bay: The proposal to transfer bins to street level via the resident lift, whilst a technical compliance with the requirements, is a very poor outcome for the building owners/occupants. The placing of dirty, smelly, wet bins in the resident lift and then wheeling them through the foyer and through the security door is not a procedure that future owners will find palatable.</p> <p>A pathway that is separate to the vehicular driveway must be provided for the transfer of bins.</p> <p>4) Basement Bin Storage Room: Please see notes in point 2) regarding bulky goods room..</p> <p>Waste Management Assessment Unsupported - the proposal is unacceptable.</p> <p>Specifically: The proposal requires the provision of 14 x 240 litre bins.</p>

1) Street Level Holding Bay:

The location of, and access to, this bay complies with Council design requirements.

The size of this bay does not comply with Council requirements.

The bin storage area will need to be enlarged to contain 14 x 240 litre bins - 2 rows of 7 bins.

This bin storage area will need to have minimum internal dimension of 4.2 metres long at the narrowest point.

Increasing the length of the bay must not impact on the width of the service access path - minimum 1.2 metres.

2) Bulky Goods Storage Room:

The location and size of this room comply with Council design requirements.

Access to this room does not comply with Council requirements.

The doors must open outwards from the room.

If using a split door, the larger door must open away from the direction of travel for residents entering and leaving the room.

3) Transfer of Bins between the Basement Bin Room and Street Level Holding Bay:

The proposed method does not comply with Council requirements.

To avoid conflict between vehicles and pedestrians bins must not be wheeled on the vehicular driveway.

A pathway that is separate to the vehicular driveway must be provided for the transfer of bins.

4) Basement Bin Storage Room:

The location and size of this room comply with Council design requirements.

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.
Nominated Integrated Development - WaterNSW - Water Management Act 2000, s90(2) - Water management works approval to construct and use a specified water supply/drainage/flood work at a specified location	Water NSW provided General Terms of Approval (GTAs) on 12 February 2024. After amended plans were provided, Water NSW also provided further comments on 31 May 2024 to state that the amendments had no effect on the GTAs issued on 12 February 2024. These GTAs have been included in the conditions 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 (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. 1376303M_03).

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

SEPP (Housing) 2021

Application of Chapter

Clause 144 of State Environmental Planning Policy Housing 2021 (SEPP Housing) stipulates that:

(1) This chapter applies to development only if:

(a) the development consists of:

- (i) the erection of a new building,
- (ii) the substantial redevelopment or the substantial refurbishment of an existing building, or
- (iii) the conversion of an existing building, and

(b) the building concerned is at least 3 or more storeys, not including underground car parking storeys, and

(c) the building contains at least 4 dwellings.

As previously outlined, the proposed development is for the erection of a three storey residential apartment development, plus basement car parking for the provisions of 13 self-contained dwellings. As per the provisions of Clause 144 outlining the application of the policy, the provisions of Chapter 4 SEPP Housing are applicable to the assessment of this application.

As previously outlined within this report Clause 29 of the Environmental Planning and Assessment Regulation 2021 requires the submission of a Design Verification Statement from the qualified designer at lodgement of the development application. This documentation has been submitted with the development application.

Referral to design review panel for development applications

Clause 145 of SEPP Housing requires:

(2) Before determining the development application, the consent authority must refer the application to the design review panel for the local government area in which the development will be carried out for advice on the quality of the design of the development).

Comment: Northern Beaches Council has an appointed Design and Sustainability Advisory Panel (DSAP). Refer to the DSAP referral comments section within this report.

Determination of development applications and modification applications for residential apartment development

Clause 147 of SEPP Housing requires that:

(1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—

(a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,

(b) the Apartment Design Guide,

(c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.

Comment: The below part of the report makes an assessment against the design quality principles contained within Schedule 9 (a) and an assessment is carried out against the ADG below (b).

Overall, the proposal meets the design quality principles of Schedule 9 for the reasons outlined below. The proposal appropriately responds to the design guidelines within the ADG and where strict compliance is not achieved numerical requirements, reasonable alternative solutions are provided to meet the objectives of the ADG.

The consent authority has considered the advice received from the DSAP and the applicant has amended the proposal where necessary to respond to the DSAP advice. Overall, the DSAP was supportive of the proposal subject to minor changes for the consideration of Council.

Non-discretionary development standards for residential apartment development

Clause 148 of SEPP Housing contain non-discretionary development standards that, if complied with, prevent the consent authority from requiring more onerous standards for the matters (i.e 'must not refuse' standards).

The following are non-discretionary development standards under sub clause (2):

- (a) the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide
- (b) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide,
- (c) the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

Comment: As noted in the below assessment, the proposal meets the minimum requirements of the ADG in relation to Part 3J, 4D and 4C. This assessment has not required more onerous standards and does not recommend refusal of any of these reasons.

DESIGN QUALITY PRINCIPLES - Schedule 9

Principle 1: Context and Neighbourhood Character

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

Comment:

The proposal provides a footprint that corresponds well with existing development and desired character of the area due to compliance with front, side and rear setbacks, and also extends on the existing footprint by providing lower levels including a basement area to provide compliant residential parking for the site. This provides a positive contribution to the desired character, by providing a situation in which parking is setback from the street, and allows for landscaping to be provided in the front setback area.

The building is also designed with an orientation away from neighbouring properties, and with suitable screening and separation provided to the rear neighbours. The compliant setbacks also allow significant opportunity for planting to each boundary of the site.

The siting and height of the building also fits well into the subdivision pattern, with a compliant height for the majority of the built form, and a minor protrusion caused by lift overruns.

Overall, the proposal appropriately responds to the character of the area, and is consistent with the existing and desired character.

Principle 2: Built Form and Scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Comment:

The height, bulk, scale and setbacks of the proposed development are generally consistent with existing development in the surrounding area and the planning controls for the site. This includes compliant setbacks, and compliant side boundary envelope. As such, the proposal is consistent with the established character, as well as the character that can be reasonably expected given planning controls that apply to the site and surrounding sites. Further, the front, side and rear setbacks generally align with the existing subdivision pattern.

The proposal also complies with the landscaped area control to allow for a generous area of landscaping to the front, sides, and rear of the site, reminiscent of the common allocation of landscaped area on lower density sites.

Overall, the proposal provides a good design, having regard to the planning controls, existing context and desired character. As such, the proposed bulk and scale is deemed to be reasonable.

Principle 3: Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Comment:

Extended discussion of the appropriateness of the density is undertaken under the PLEP Clause 4.6 section of this report. Further, the proposal provides a good response to the ADG for internal amenity by providing units with appropriate design, including solar access and ventilation (as further discussed below).

As such, the proposed density will maintain a high level of amenity, and is contextually appropriate.

Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.

Comment:

The application is supported by a BASIX certificate. The proposal also provides compliant cross-ventilation for each of the units and provides suitable sunlight and daylight access.

Principle 5: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.

Comment:

The proposal provides a landscaped area that is compliant with the control under the P21DCP. This includes an outcome that involves generous areas of landscaping to the front, sides and rear of the building to appropriately respect the desired character of the area.

Principle 6: Amenity

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.

Comment:

The building is well orientated to take advantage of light, district views, and amenity whilst also respecting neighbourhood amenity by providing suitable separation from, and orientation away from neighbouring properties.

The proposal also provides compliant storage, indoor space, private open space, and communal open space.

The proposal also provides suitable access for various ages and degrees of mobility.

Principle 7: Safety

Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

Comment:

The public and private domain is well defined for the site and the private open space is protected from the street. Passive surveillance is provided over the street from windows and balconies.

Principle 8: Housing Diversity and Social Interaction

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.

Comment:

The proposal provides a mix in the style and design of apartments with various internal designs. The proposal provides communal open space to the rooftop with landscaping suitably integrated into the design.

Principle 9: Aesthetics

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

Comment:

The proposal provides a variety of materials colours and textures as a part of the built form. The proposal also provides setbacks and landscape elements that are consistent with the desired character of the area.

APARTMENT DESIGN GUIDE

The following table is an assessment against the criteria of the 'Apartment Design Guide' as required by SEPP Housing.

Development Control	Criteria / Guideline	Comments
Part 3 Siting the Development		
Site Analysis	Does the development relate well to its context and is it sited appropriately?	<p>Consistent</p> <p>The proposal provides an appropriate siting which provides compliant setbacks to allow for suitable landscape buffers.</p> <p>The residential flat building also respects the characteristics of the R3 Medium Density residential zone through compliance with the built form controls applicable to the site.</p>
Orientation	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	<p>Consistent</p> <p>The proposal has large open balconies and windows that have an orientation toward the north to take advantage of sunlight.</p> <p>The building is also orientated to take advantage of district views whilst suitably respecting privacy and amenity for neighbouring properties.</p>
Public Domain Interface	<p>Does the development transition well between the private and public domain without compromising safety and security?</p> <p>Is the amenity of the public domain retained and enhanced?</p>	<p>Consistent</p> <p>Clear entrances are provided and boundaries between the private and public domain are delineated through landscaping, paths and openings at each street boundary.</p> <p>Windows and balconies also allow for passive surveillance.</p>

<p>Communal and Public Open Space</p>	<p>Appropriate communal open space is to be provided as follows:</p> <ol style="list-style-type: none"> 1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter) 	<p>Does not Comply - Acceptable on Merit</p> <p>The proposed development provides 11.4% (241sqm) of communal open space (COS), which is located primarily on the roof. This COS will receive 50% direct sunlight or a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter).</p> <p>The non-compliance is considered acceptable in this instance as the development provides more than compliant areas of private open space to each apartment and the development is in close proximity to areas of high quality public open space (notably Trafalgar Park located to the north).</p>												
<p>Deep Soil Zones</p>	<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1" data-bbox="443 1352 1066 1944"> <thead> <tr> <th>Site area</th> <th>Minimum dimensions</th> <th>Deep soil zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>Less than 650m²</td> <td>-</td> <td rowspan="4">7% (148sqm)</td> </tr> <tr> <td>650m² – 1,500m²</td> <td>3m</td> </tr> <tr> <td>Greater than 1,500m²</td> <td>6m</td> </tr> <tr> <td>Greater than 1,500m² with significant existing tree cover</td> <td>6m</td> </tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m ²	-	7% (148sqm)	650m ² – 1,500m ²	3m	Greater than 1,500m ²	6m	Greater than 1,500m ² with significant existing tree cover	6m	<p>Consistent</p> <p>The proposed development would have 15.9% deep soil areas with dimensions of 6m.</p>
Site area	Minimum dimensions	Deep soil zone (% of site area)												
Less than 650m ²	-	7% (148sqm)												
650m ² – 1,500m ²	3m													
Greater than 1,500m ²	6m													
Greater than 1,500m ² with significant existing tree cover	6m													

<p>Visual Privacy</p>	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="451 394 1067 555"> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </table> <p><i>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</i></p> <p><i>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</i></p>	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>Partly does not Comply - Acceptable on Merit</p> <p>The separation of the building at the rear of the site varies from 4.5m-8m. Due to the highly articulated nature of the rear elevation, there are only minor sections of the footprint that do not comply with the 6m separation requirement. These sections are well separated from neighbouring living spaces, well orientated or screened with planter boxes.</p> <p>The proposal also fully complies with the rear setback control, and for a large part of the rear elevation, is well in excess of the requirement for rear setback.</p> <p>Overall, a mix of suitable screening, orientation and physical separation provides a good design for visual privacy.</p>
Up to 25m (5-8 storeys)	9m	4.5m						
Over 25m (9+ storeys)	12m	6m						
<p>Pedestrian Access and entries</p>	<p>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>	<p>Consistent</p> <p>Pedestrian access is identified through openings to the public domain at the road frontage.</p>						
<p>Vehicle Access</p>	<p>Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?</p>	<p>Consistent</p> <p>Vehicle access is provided to the eastern end of the frontage. The design is to the satisfaction of Council's Development Engineer and Traffic Officer.</p>						

<p>Bicycle and Car Parking</p>	<p>For development in the following locations:</p> <ul style="list-style-type: none"> On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>	<p>Consistent</p> <p>The proposal complies with car parking requirements, with the exception of one visitor space.</p> <p>As stated by Council's Traffic Officer, the deficiency of one visitor parking space is acceptable due to the close proximity of the site with bus services (within a few hundred metres travelling both directions) and other facilities.</p>
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Part 4 Designing the Building

Amenity

<p>Solar and Daylight Access</p>	<p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter. 	<p>Consistent</p> <p>76.9% (10 of 13) of apartments receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter.</p> <p>Consistent</p> <p>Two apartments (G01 and G02) receive no solar access between 9 am and 3 pm at mid winter. This equates to 15%.</p>
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Natural Ventilation	<p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:</p> <ul style="list-style-type: none"> At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed. 	<p>Consistent</p> <p>69% or 9/13 units</p>												
	<ul style="list-style-type: none"> Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line. 	<p>Consistent</p>												
Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="448 996 1070 1585"> <thead> <tr> <th colspan="2">Minimum ceiling height</th> </tr> </thead> <tbody> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td>For 2 storey apartments</td> <td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td> </tr> <tr> <td>Attic spaces</td> <td>1.8m at edge of room with a 30 degree minimum ceiling slope</td> </tr> <tr> <td>If located in mixed used areas</td> <td>3.3m for ground and first floor to promote future flexibility of use</td> </tr> </tbody> </table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	<p>Consistent</p>
Minimum ceiling height														
Habitable rooms	2.7m													
Non-habitable	2.4m													
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area													
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope													
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use													

Apartment Size and Layout	<p>Apartments are required to have the following minimum internal areas:</p> <table border="1"> <thead> <tr> <th>Apartment type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m²</td> </tr> <tr> <td>1 bedroom</td> <td>50m²</td> </tr> <tr> <td>2 bedroom</td> <td>70m²</td> </tr> <tr> <td>3 bedroom</td> <td>90m²</td> </tr> </tbody> </table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	Consistent
	Apartment type	Minimum internal area										
	Studio	35m ²										
	1 bedroom	50m ²										
2 bedroom	70m ²											
3 bedroom	90m ²											
<p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p>	Consistent											
<p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p>	<p>Acceptable on Merit</p> <p>Despite minor variations to this numerical requirement, the apartments are designed to provide good internal</p>											

		amenity with suitable private open space, access to sunlight and ventilation.															
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	Consistent															
	Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension.	Consistent															
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 	Consistent															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Consistent															
Private Open Space and Balconies	All apartments are required to have primary balconies as follows: <table border="1" data-bbox="448 1144 1070 1444"> <thead> <tr> <th>Dwelling Type</th> <th>Minimum Area</th> <th>Minimum Depth</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m²</td> <td>-</td> </tr> <tr> <td>1 bedroom apartments</td> <td>8m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom apartments</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>12m²</td> <td>2.4m</td> </tr> </tbody> </table>	Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	Consistent
	Dwelling Type	Minimum Area	Minimum Depth														
	Studio apartments	4m ²	-														
1 bedroom apartments	8m ²	2m															
2 bedroom apartments	10m ²	2m															
3+ bedroom apartments	12m ²	2.4m															
	The minimum balcony depth to be counted as contributing to the balcony area is 1m																
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.																
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	Consistent															
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	N/A															

Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1" data-bbox="443 360 1064 730"> <thead> <tr> <th data-bbox="443 360 754 405">Dwelling Type</th> <th data-bbox="759 360 1064 405">Storage size volume</th> </tr> </thead> <tbody> <tr> <td data-bbox="443 412 754 456">Studio apartments</td> <td data-bbox="759 412 1064 456">4m²</td> </tr> <tr> <td data-bbox="443 488 754 566">1 bedroom apartments</td> <td data-bbox="759 488 1064 566">6m²</td> </tr> <tr> <td data-bbox="443 573 754 651">2 bedroom apartments</td> <td data-bbox="759 573 1064 651">8m²</td> </tr> <tr> <td data-bbox="443 658 754 730">3+ bedroom apartments</td> <td data-bbox="759 658 1064 730">10m²</td> </tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling Type	Storage size volume	Studio apartments	4m ²	1 bedroom apartments	6m ²	2 bedroom apartments	8m ²	3+ bedroom apartments	10m ²	Consistent
Dwelling Type	Storage size volume											
Studio apartments	4m ²											
1 bedroom apartments	6m ²											
2 bedroom apartments	8m ²											
3+ bedroom apartments	10m ²											
Acoustic Privacy	<p>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.</p>	Consistent										
Noise and Pollution	<p>Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.</p>	Consistent										
Configuration												
Apartment Mix	<p>Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.</p>	Acceptable on Merit <p>The proposal only provides for 3 bedroom units, however, provides a wide variety of internal and private open space designs. Some apartments also have the provision of studies. This provides an appropriate mix in the circumstances.</p>										
Ground Floor Apartments	<p>Do the ground floor apartments deliver amenity and safety for their residents?</p>	Consistent <p>The entrances are well separated from the street and provide a safe design with ability to enclose and lock.</p>										

Facades	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	Consistent The facades are well articulated, the building is well stepped, and a mix of materials is used to provide suitable visual interest.																				
Roof Design	Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top.	Consistent The roof design is consistent with surrounding development and consists of common open space and sustainability features including PV Cells and planting.																				
Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	Consistent The landscape plan responds well to the context, retaining large areas for landscaping to the front, sides and rear of the site.																				
Planting on Structures	<p>When planting on structures the following are recommended as minimum standards for a range of plant sizes:</p> <table border="1" data-bbox="427 1350 1091 2087"> <thead> <tr> <th data-bbox="427 1350 549 1429">Plant type</th> <th data-bbox="549 1350 695 1429">Definition</th> <th data-bbox="695 1350 810 1429">Soil Volume</th> <th data-bbox="810 1350 943 1429">Soil Depth</th> <th data-bbox="943 1350 1091 1429">Soil Area</th> </tr> </thead> <tbody> <tr> <td data-bbox="427 1429 549 1653">Large Trees</td> <td data-bbox="549 1429 695 1653">12-18m high, up to 16m crown spread at maturity</td> <td data-bbox="695 1429 810 1653">150m³</td> <td data-bbox="810 1429 943 1653">1,200mm</td> <td data-bbox="943 1429 1091 1653">10m x 10m or equivalent</td> </tr> <tr> <td data-bbox="427 1653 549 1877">Medium Trees</td> <td data-bbox="549 1653 695 1877">8-12m high, up to 8m crown spread at maturity</td> <td data-bbox="695 1653 810 1877">35m³</td> <td data-bbox="810 1653 943 1877">1,000mm</td> <td data-bbox="943 1653 1091 1877">6m x 6m or equivalent</td> </tr> <tr> <td data-bbox="427 1877 549 2087">Small trees</td> <td data-bbox="549 1877 695 2087">6-8m high, up to 4m crown spread at maturity</td> <td data-bbox="695 1877 810 2087">9m³</td> <td data-bbox="810 1877 943 2087">800mm</td> <td data-bbox="943 1877 1091 2087">3.5m x 3.5m or equivalent</td> </tr> </tbody> </table>	Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Large Trees	12-18m high, up to 16m crown spread at maturity	150m ³	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m ³	1,000mm	6m x 6m or equivalent	Small trees	6-8m high, up to 4m crown spread at maturity	9m ³	800mm	3.5m x 3.5m or equivalent	Consistent
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	<table border="1"> <tr> <td>Shrubs</td> <td></td> <td></td> <td>500-600mm</td> <td></td> </tr> <tr> <td>Ground Cover</td> <td></td> <td></td> <td>300-450mm</td> <td></td> </tr> <tr> <td>Turf</td> <td></td> <td></td> <td>200mm</td> <td></td> </tr> </table>	Shrubs			500-600mm		Ground Cover			300-450mm		Turf			200mm		
Shrubs			500-600mm														
Ground Cover			300-450mm														
Turf			200mm														
Universal Design	Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features	<p>Consistent The application is accompanied by an Access Report which confirms compliance.</p> <p>The following 3 units G03, 102 & 202 are capable of providing compliance with the features of Silver level of Livable Housing Guidelines as noted in the Access Report.</p>															
Adaptable Reuse	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.	N/A															
Mixed Use	<p>Can the development be accessed through public transport and does it positively contribute to the public domain?</p> <p>Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.</p>	N/A															
Awnings and Signage	<p>Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development.</p> <p>Signage must respond to the existing streetscape character and context.</p>	N/A															
Performance																	
Energy Efficiency	Have the requirements in the BASIX certificate been shown in the submitted plans?	Yes															
Water Management and Conservation	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	Yes															
Waste Management	Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?	Yes															

Building Maintenance	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	Yes
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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.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
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Height of Buildings	8.5m	10m (lift overrun)	17.6%	No (see comments)
Density controls for certain residential accommodation	1 dwelling per 200m ² Site area: 2113.5sqm *this equates to 10.57 dwellings	1 dwelling per 162.6m ² (13 dwellings)	18.7%	No (see comments)

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	No
4.5A Density controls for certain residential accommodation	No
4.6 Exceptions to development standards	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

(i) Building Height

The application seeks consent to vary a development standard as follows:

Development Standard: Clause 4.3 Height of buildings

Requirement: 8.5m

Proposed: 10m

Percentage of Variation: 17.6%

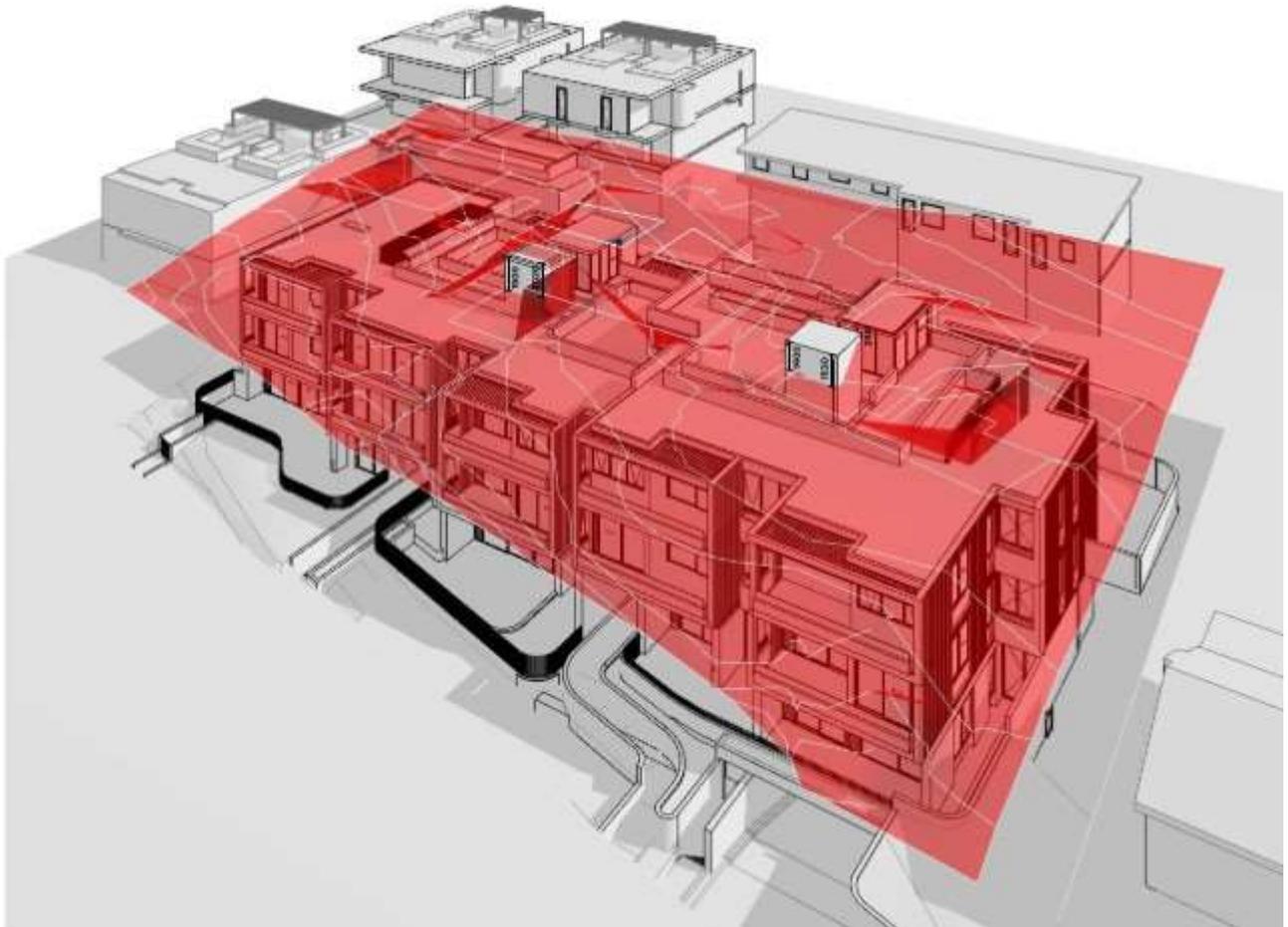


Figure 1: Height blanket diagram (provided by applicant)

With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the development application is accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the PLEP 2014 (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:

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

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

Comment:

The objectives of this clause have been considered pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*.

Subclause (2) of this clause provides that:

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

Comment:

Clause 4.3 is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

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

Comment:

Council is satisfied that the applicant has demonstrated that compliance with Clause 4.3 of the PLEP is unreasonable or unnecessary in the circumstances of this application as the applicant has demonstrated that the objectives of Clause 4.3 of the PLEP are achieved, notwithstanding the contravention of the development standard. The matter of *Wehbe v Pittwater Council [2007] NSWLEC 827* has established that this is an appropriate method to demonstrate that compliance with the development standard is unreasonable or unnecessary.

Council's assessment against the objectives of Clause 4.3 of the PLEP is provided below:

(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,

Comment:

The proposal is for a building that is generally two storeys, and that complies with all relevant built form controls under the Pittwater DCP. The proposal is also surrounded by landscaped area that complies with the relevant control to allow for substantial landscaping to contribute to local character. Further, the building is well articulated and suitably separated from neighbouring properties and the street. The numerically non-compliant elements with the height standard, being the lift overruns are centrally located on the site, and occupy a small area within the total footprint. As such, the proposal is consistent with the desired future character.

(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

Comment:

The significant majority of the built form and envelope, including the whole of the top level, complies with the height standard. The proposal also complies with the relevant built form controls; including envelope, setbacks, and landscaped area. Despite sections of the lift overruns not complying with the standard, this provides a situation in which the built form is consistent with what can be reasonably expected based on the planning controls for the site. As such, the proposal is compatible with surrounding development, which is a mix of one and two storeys.

The proposal will also be compatible with the neighbouring development approved under DA2019/1280 (as in the photo below). This development was approved with canopies above the roof terraces that did not comply with the height standard. A variation to the front setback control, to allow built form to be 3.0m from the street was also approved. The proposed development, complying with the front setback, provides greater opportunity for landscaping to integrate with the built form.



Photo 1: Photo of neighbouring development to the west (DA2019/1280)

(c) to minimise any overshadowing of neighbouring properties,

Comment:

The proposal complies with the numerical requirements for Solar Access under the P21DCP. Along with the compliant setbacks and a compliant envelope, this provides a situation in which overshadowing to neighbouring properties is suitably minimised.

(d) to allow for the reasonable sharing of views,

Comment:

An assessment of impacts on views under, *C1.3 View sharing*, of this report has found that the proposal allows for reasonable sharing of views.

(e) to encourage buildings that are designed to respond sensitively to the natural topography,

Comment:

The proposed built form steps with the topography of the land, and excavation is limited to one level of apartments and one level of basement parking, with deep soil areas surrounding the basement at each boundary. This is a reasonable response to the topography, having regard to the building typology and the zone.

(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.

Comment:

The proposal will not have any unreasonable visual impact due to the compliant nature of the built form (with relevant DCP controls), and the relative minor extent of built form that exceeds the height standard.

Comment:

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

Comment:

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

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

The Clause 4.6 Request argues the following:

"Ground 1 - Objectives of the Act

Objective (g) to promote good design and amenity of the built environment Approval of the variation to the building height standard will facilitate the provision of appropriately designed, located and landscape communal rooftop open space able to be accessed by all occupants including persons with a disability in accordance with Objective 3D-1 of the Apartment Design Guide. In this regard, approval will facilitate the provision of an adequate area of communal open space to enhance residential amenity and provide opportunities for landscaping. The provision of disabled access also satisfies the relevant provisions of the BCA/ DDA. Approval of the building height variation will achieve this objective.

Ground 2 - Minor nature of breach and topography

The extent of building height breach is confined to the upper portion of the lift extensions with the building height breaching elements quantitatively and qualitatively appropriately described as minor. Consistent with the findings of Commissioner Walsh in Eather v Randwick City Council [2021] NSWLEC 1075 and Commissioner Grey in Petrovic v Randwick City Council [202] NSW LEC 1242, the particularly small departure from the actual numerical standard and absence of impacts consequential of the departure constitute environmental planning grounds, as it promotes the good design and amenity of the development in accordance with the objects of the EP&A Act. While strict compliance could be achieved by removing the roof top communal open space and associated lift access such outcome would significantly compromise the design quality and amenity of the development in circumstances where the building height breaching elements do not give rise to adverse streetscape, residential amenity or environmental consequences. The building is of appropriate design quality and represents the orderly and economic use and development of the land consistent with objectives 1.3(c) and (g) of the Act."

Council is satisfied that the applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 4.3 for the following reasons:

- The proposed lift structures will provide compliant access to the communal open space (as required by the Apartment Design Guide).
- It is agreed that there is an absence of any material impacts.

The proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, thereby satisfying objects 1.3(c) and (g) of the EPA Act.

Public Interest:

Matters relevant to the public interest in respect of the development are considered in the relevant sections of this report as per Section 4.15(1)(e) of the EPA Act.

Conclusion:

Council is satisfied as to the matters set out in Clause 4.6 of the PLEP 2014.

It is considered on balance, that having regard to the particular circumstances the extent of non-compliance with the development standard is minor and relates to lift overruns that have no material impact, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

(ii) Density Controls for Certain Residential Development

The application seeks consent to vary a development standard as follows:

Development Standard: Clause 4.5A Density controls for certain residential accommodation

Requirement: 1 dwelling per 200sqm (10.57 dwellings based on site area)

Proposed: 1 dwelling per 162.6m² (13 dwellings)

Percentage of Variation: 18.7%

With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the

development application is accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the PLEP 2014 (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

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

Comment:

The objectives of this clause have been considered pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*.

Subclause (2) of this clause provides that:

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

Comment:

Clause 4.5A is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

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

Comment:

Council is satisfied that the Applicant has demonstrated that compliance with Clause 4.5A is unreasonable or unnecessary in the circumstances as the application has demonstrated consistency the objectives of Clause 4.5A of the PLEP as below:

(a) to achieve planned residential density in certain zones,

Comment:

The site is zoned R3 Medium Density Residential pursuant to PLEP 2014. Residential flat buildings are permissible with consent in the zone.

'Planned residential density' is not a defined term under the PLEP. However, the clause is drafted as a development standard rather than a prohibition. So it can be reasonably assumed that the intention of the LEP is to allow flexibility in some circumstances, subject to the tests provided under Clause 4.6 of

the PLEP.

The written request to vary the standard provided an argument that *"density and yield assumptions used to determine the notional housing capacity contained within the Northern Beaches Local Housing Strategy 2021 (NBLHS), and upon which Council relies to satisfy its housing targets, are estimates which can only be indicative rather than absolute."*

This is supported by the following statement in the Northern Beaches Local Housing Strategy 2021:

Housing capacity estimates the quantum of housing that could be accommodated in an area, based on what would be allowed under existing planning controls and recent housing supply trends. Estimates can only be indicative rather than absolute.

It is therefore agreed that the planned residential density is indicative rather than absolute. There is also a lack of any unreasonable or material impact caused by the variation to the density standard, with compliant residential parking spaces provided and a building envelope and footprint that complies with planning controls under the P21DCP.

The proposed residential density is therefore contextually appropriate.

(b) to ensure building density is consistent with the desired character of the locality.

Comment:

The proposal complies with the following section that is relevant to density under the desired future character statement:

Any medium density housing will be located within and around commercial centres, public transport and community facilities.

The site is within close proximity to bus stops (within a few hundred metres) and has a local centre within close proximity at Kalinya Street. As such, the proposal is deemed to comply with the desired future character statement.

Further, and as discussed the building responds well to the planning controls, complying with all relevant controls under the P21DCP. As such, the proposed density and associated built form is acceptable under the circumstances.

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

Comment:

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

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

The Clause 4.6 Request argues, the following:

Ground 1 - Objectives of the Act

Objective (c) to promote the orderly and economic use and development of land and objective (g) to promote good design and amenity of the built environment.

As detailed within this variation request, approval of the dwelling density proposed will enable the compliant building envelope and associated floor space to be utilised for the provision of 13 apartments on a site identified as appropriate for medium density residential accommodation. The resultant dwellings are of a design and size which will reasonably cater for the floor space requirements/expectations of down sizers or young families looking for accommodation in the Newport area.

Strict compliance with the dwelling density standard (allowing for a rounding up to 11 dwellings) and noting an available internal floor area of 1870m², would result in 11 dwellings having a floor area of 170m². Apartments of this size would neither be affordable or economically viable to build and sell and to that extent would not provide for the orderly and economic use and development of the land.

The residential density variation provides for the orderly and economic use and development of the land consistent with planned residential density for of the zone with such outcome providing for the attainment of objectives 1.3(c) and (g) of the Act.

Council is satisfied that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 4.5A for the following reasons:

- The proposal provides a number of dwellings for the site that relates to a compliant building envelope and footprint. The internal floor areas are well in excess of the requirements under ADG, and it is believed larger apartments would provide a worse outcome in terms of being viable and providing suitable housing.
- There is also an absence of any material impacts.

The proposed development is an orderly and economic use and development of the land, providing suitable residential density for the site, thereby satisfying objects 1.3(c) and (g) of the EPA Act.

Public Interest:

Matters relevant to public interest in respect of the development are considered in the relevant sections of this report as per Section 4.15(1)(e) of the EPA Act.

Conclusion:

Council is satisfied as to the matters set out in Clause 4.6 of the PLEP 2014.

It is considered on balance, that having regard to the particular circumstances of a complying building envelope and the provision of additional housing, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

7.2 Earthworks

The objective of Clause 7.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality (subject to conditions).

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics

Comment: The site is not mapped as being a potential location of Aboriginal or other relics.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area

Comment: The development has been assessed by Council's Water Management Officer, and Biodiversity Officer, who have raised no objection to the proposal subject to conditions.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment: Conditions are included in the recommendation of this report that will minimise the impacts of the development.

(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.

Comment: The site is not a heritage item, in the vicinity of a heritage item or in a conservation area or archaeological site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

7.6 Biodiversity protection

Before determining a development application for development on land to which this clause applies, this clause requires the consent authority to consider:

(a) whether the development is likely to have:

(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and

(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and

(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and

(iv) any adverse impact on the habitat elements providing connectivity on the land, and

Comment:

The development has been reviewed and assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. Council is also satisfied that the development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land.

(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the proposal includes appropriate measures to avoid, minimise, or mitigate the impacts of the development.

Before granting development consent, this clause also requires the consent authority to be satisfied that:

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development is designed, sited and will be managed to any significant adverse environmental impact.

7.7 Geotechnical hazards

Under Clause 7.7 Geotechnical Hazards, before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks:

- (a) site layout, including access,*
- (b) the development's design and construction methods,*
- (c) the amount of cut and fill that will be required for the development,*
- (d) waste water management, stormwater and drainage across the land,*
- (e) the geotechnical constraints of the site,*
- (f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment:

The proposed development is supported by a geotechnical risk assessment, architectural plans, an excavation plan, and stormwater management plans that demonstrate all geotechnical risks have been taken into account. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

Development consent must not be granted to development on land to which this clause applies unless:

- (a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and*

Comment:

The proposed development is supported by a geotechnical risk assessment and stormwater management plans that demonstrate waste water, stormwater and drainage are suitably managed on site. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

- (b) the consent authority is satisfied that:*

- (i) the development is designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, or*
- (ii) if that risk or impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that risk or impact, or*
- (iii) if that risk or impact cannot be minimised - the development will be managed to mitigate that risk or impact.*

Comment:

The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent. As such, Council can be satisfied that the proposed development has been designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	6.5m (Building)	N/A	Yes
		3.4m – 10.2m (Basement)	0-47% 100%	No
		Nil (Hydrant booster and bin holding area)		
Rear building line	3m (below 3m in height)	3.0m - 6.0m (Basement)	N/A	Yes
	4.1m (above 3m in height - based on wall height at rear)	4.5m	N/A	Yes
Side building line (East)	3m (below 3m in height)	6.2m (Basement) 4.0m - 6.0m (Building)	N/A	Yes
	3.5m - 4.3m (above 3m in height - based on wall height)	4.0m - 6.0m (Building)	N/A	Yes
Side building line (West)	3m (below 3m in height)	4.5m	N/A	Yes
	4m - 4.5m (above 3m in height - based on wall height)	4.5m	N/A	Yes
Building envelope	East - 45 degrees from a height of 4.2m	Within envelope	N/A	Yes
	West - 45 degrees from a height of 4.2m	Within envelope	N/A	Yes
Landscaped area	50% (1056.8sqm)	50% (1060sqm)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B2.5 Dwelling Density and Subdivision - Medium Density Residential	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	No	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	No	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.18 Car/Vehicle/Boat Wash Bays	Yes	Yes
C1.20 Undergrounding of Utility Services	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	No	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	Yes	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	Yes	Yes
D10.12 Landscaped Area - General	Yes	Yes
D10.14 Fences - General	Yes	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

B6.3 Off-Street Vehicle Parking Requirements

The following table summarises the car parking requirements for the proposed development:

Parking type	Requirement	Proposed	Complies
Residential	26 1 space per 3	26	Yes
Visitor Parking	dwelling rounded up (5 spaces)	4 spaces	No (deficient by 1 space)
Wash Bay	1	1	Yes
Accessible space	1 space	1 space	Yes

As stated by Council's Traffic Officer, the minor deficiency of one visitor parking space (noting one less dwelling would require only 4 visitor spaces) is acceptable due to the close proximity of the site to bus services (within a few hundred metres travelling in both directions) and other facilities.

B8.6 Construction and Demolition - Traffic Management Plan

A condition has been imposed requiring the Applicant to submit an application for a Construction Traffic Management Plan (CTMP) to Council for approval prior to issue of the Construction Certificate.

The CTMP shall be prepared to RMS standards by an appropriately certified person and further conditions are imposed to ensure this will be implemented during demolition and construction works.

C1.3 View Sharing

Merit consideration

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

- *A reasonable sharing of views amongst dwellings.*

Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

15-17 Queens Parade

1. Nature of the views affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment to Principle 1:

As can be seen in the photo below, the property has small glimpses of water views toward the bay in Pittwater, being heavily obscured by existing vegetation.



Photo 1: Taken from 15-17 Queens Parade

2. What part of the affected property are the views obtained

“The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic”.

Comment to Principle 2:

The views are obtained from the rear of 15-17 Queens Parade.

3. Extent of impact

“The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more

significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating”.

Comment to Principle 3:

Glimpses of the water view are likely to be retained, and given the extremely partial nature of the view, any impact will be **negligible**.

4. Reasonableness of the proposal that is causing the impact

“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”

Comment to Principle 4:

The majority of the building is provided within a footprint that complies with the building height development standard. The lift overruns provide minor incursions, given the lack of site coverage they occupy. As such view sharing is acceptable.

- *Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced.*

Comment:

There will be no unreasonable impact to views and vistas from roads or public places.

- *Canopy trees take priority over views.*

Comment:

The canopy trees are and will continue to take priority over the views toward the water..

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979.

Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C1.7 Private Open Space

The ADG requirements for private open space for each apartment prevail over the DCP requirements.

The proposed development provides satisfactory private open space for each individual apartment, in accordance with the minimum dimensions and size stipulated within the ADG.

C1.25 Plant, Equipment Boxes and Lift Over-Run

The proposal provides for lift overruns that provide access to communal open space.

This communal open space is a requirement under the Apartment Design Guide.

The overruns are centrally located on the building and site, and lift specifications provided by the applicant have shown that they are minimised in bulk and scale for the purpose they serve.

Due to the central location and suitably minimised number of overruns, there will not have any unreasonable impact and the proposal will achieve consistency with the desired future character, as previously discussed.

The proposal will therefore comply with the relevant outcomes of the clause.

D10.4 Building colours and materials

The following variation clause applies to the site:

"Council may consider lighter coloured external walls (excluding white) only for residential development within Area 3 on the Landscaped Area Map, and for non-residential development in areas that are not visually prominent."

Comment:

The proposal incorporates a mix of colours and materials, including various blends of cream. The proposed building has a compliant front setback and opportunity for landscaping to be integrated into the design. The building will not become visually obtrusive and is contextually appropriate for location. As such, lighter colours are considered to be an acceptable option in this instance.

A condition has also been imposed to ensure the main section of the building is not white.

D10.7 Front building line (excluding Newport Commercial Centre)

The proposal complies with the front setback control, and this provides substantial opportunity for landscaping to the front of the site.

The proposed fire hydrant and bin storage area are located on a nil setback to the street.

This is acceptable as it complements the provision of a similarly approved structure at the neighbouring property, 60 Beaconsfield Street, it is provided with landscaping that is integrated into the design, it meets Council's Waste requirements, and it provides opportunity for all of the front setback area to the east of the structure to be landscaped (except for paths and driveway etc.).

D10.14 Fences - General

A condition is imposed to require the front fence is a reasonable height having regard to the streetscape.

Pursuant to the variation allowed under this clause, being fences up to 1.8m for private open space in the front setback (balconies), it is reasonable for the condition to allow a fence of up to 1.8m (with the solid part of the fence being no higher than 1.2m).

A suitable condition is imposed.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$136,308 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$13,630,814.

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

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

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

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

That Northern Beaches Council as the consent authority permits a contravention of Clause 4.3 Height of Building and Clause 4.5A Density Controls for Certain Residential Accommodation development standards pursuant to clause 4.6 of the PLEP 2014 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

PLANNING CONCLUSION

The proposal seeks consent for the demolition of existing dwellings, consolidation of three lots into one lot and the construction of a new 13-unit residential flat building.

The application has been referred to the Northern Beaches Local Planning Panel (NBLPP) due due to proposing a departure from the development standards of greater than 10% in relation to 'Building Height' and 'Density controls for certain residential accommodation' under the Pittwater LEP 2013 (Clause 4.3 and 4.5A respectively).

The concerns raised in the objections have been addressed and where appropriate resolved by amended plans and conditions.

A critical assessment issue included the consideration of the dwelling density control under the PLEP, having regard to the compliant nature of the building envelope in terms of planning controls for setbacks, building envelope, and landscaped area. Further, all of the dwellings comply with the building height development standard, with the building height non-compliance relating to a section of the lift overruns.

The lift overruns provide access to the communal open space that is a requirement under the Apartment Design Guide. The lift overruns are centralised, so as to be well separated from neighbouring properties and the street. As discussed throughout the report, this provides a situation in which the height non-compliance will non result in any unreasonable amenity impact.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment.

In particular, the compliant nature of the footprint and envelope, combined with the good levels of articulation and quality external finishes, will ensure the building will make a positive contribution to the streetscape and character of the locality, providing substantial areas of effective landscaping to contribute to the desired future character, whilst providing for the housing needs of the area to meet the objectives of the medium density residential zone.

The proposal has therefore been recommended for **approval**.

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

RECOMMENDATION

DEFERRED COMMENCEMENT APPROVAL

A. That Northern Beaches Council as the consent authority permits a contravention of Clause 4.3 Height of Building and Clause 4.5A Density Controls for Certain Residential Accommodation development standards pursuant to clause 4.6 of the PLEP 2014 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant a Deferred Commencement Development Consent being subject to a two (2) year time frame for Deferred Commencement Consents detailed within Clause 76 of the Environmental Planning and Assessment Regulation 2021 to DA2023/1869 for Demolition works and construction of a Residential Flat Building including the consolidation of 3 lots into 1 lot on land at Lot 5B DP 158658,58 Beaconsfield Street, NEWPORT, Lot 6 DP 1096088,56 Beaconsfield Street, NEWPORT, Lot 7B DP 162021,54 Beaconsfield Street, NEWPORT, subject to the conditions printed below:

B. THAT once the matters detailed within the Deferred Commencement Development Consent conditions are satisfactorily addressed then an operational development consent be issued subject to the time frames detailed within Part A of this recommendation.

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

DEFERRED COMMENCEMENT CONDITIONS

1. Extinguishment of existing Stormwater Drainage Easements

The existing stormwater drainage easements denoted below are to be extinguished with the relevant release documents signed by the dominant tenement.

1. Drainage easement Y (DP 1096088)
2. Proposed easement Z

Further, additional stormwater drainage easements are to be created in accordance with the stormwater management plan prepared by *Goldfish and Bay DRW NO C106 P1*. The easement is to be created under Sections 46 and/or 46A of the Real Property Act 1900 No 25 or under Sections 88B and/or 88K of the Conveyancing Act 1919. The applicant must provide Council with evidence of that the redundant easements have been extinguished and the newly required easement(s) created .

Stormwater drainage plans are to be submitted to Council for written approval detailing disposal of stormwater from the site in accordance with Council's Water Management Policy.

Reason: To ensure adequate provision is made for stormwater drainage from the site in a

proper manner that protects adjoining properties.

2. Demolition and Construction Management Plan (Environmental Health)

A Demolition and Construction Management Plan is to be prepared by the person responsible for site operations. The plan is to include the following but not limited to:

Noise

- o identification of all potential sources of noise disturbance during the demolition and construction phase,
- o details on effective control measures to be applied for noise disturbance,
- o estimated hours of work for rock breaking, jack hammering, and any other activity involved in demolition, that is likely to cause a noise disturbance to neighboring residential dwellings.
- o complaints protocol - identifying the person of contact and contact details.

Dust

- o identification of all potential sources of dust generation during the demolition and construction phase,
- o details on effective control measures to be applied for dust suppression, (water cannons, dust screens, etc)
- o complaints protocol - identifying the person of contact and contact details.

The plan is to be approved by Council's Environmental Health team.

Reason: To ensure all potential noise and dust sources have been identified and actioned.

Evidence required to satisfy these conditions must be submitted to Council (through the NSW Planning Portal) within two (2) years of the date of this consent, or the consent will lapse in accordance with the Environmental Planning and Assessment Regulation.

Applicants must submit a request for operational consent to Council via the NSW Planning Portal and upload all relevant documentation. This can be completed through accessing the relevant portal application ID and navigating to 'Request for Operational Consent' in the Actions dropdown menu.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

GENERAL CONDITIONS

3. Approved Plans and Supporting Documentation

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
DA02	D	Demolition Plan	PBD Architects	12/06/2024
DA04	E	Site Plan	PBD Architects	12/07/2024

DA100	E	Ground Floor Plan	PBD Architects	12/07/2024
DA101	D	First Floor Plan	PBD Architects	12/06/2024
DA102	D	Second Floor Plan	PBD Architects	12/06/2024
DA103	E	Roof Plan	PBD Architects	12/07/2024
DA104	E	Basement Plan	PBD Architects	12/06/2024
DA200	D	Elevation Sheet 1	PBD Architects	12/06/2024
DA201	D	Elevation Sheet 2	PBD Architects	12/06/2024
DA300	D	Section 1	PBD Architects	12/06/2024
DA301	D	Section 2	PBD Architects	12/06/2024
DA302	E	Driveway Section	PBD Architects	12/07/2024
DA400	D	Schedule of Colours and Materials	PBD Architects	12/06/2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Arboricultural Impact Appraisal	-	Ezi Grow	7 May 2024
Geotechnical Investigation	Rev 2	EI Australia	29 May 2024
Operational Waste Management Plan	Rev D	Consulting. An Elephants foot company.	26/04/2024
Traffic Impact Assessment	2	Genesis Traffic	18 November 2023
Traffic Engineering Statement	23082	Genesis Traffic	18 June 2024
Flora and Fauna Assessment Report	Final v1.0	Naria Environmental	May 2024

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between 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.

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

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

Other Department, Authority or Service	Reference	Dated
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Ausgrid	Ausgrid Referral Response	24/01/2024
Water NSW	Referral Response - Water NSW (IDAS1153140)	12 February 2024

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

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

5. 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 Certifier 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 Certifier 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 Certifier 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.

6. **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) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) 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.
- (d) At all times after the submission of 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 an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (e) 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.
- (f) 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.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:

- i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% 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.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) 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.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) 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.
- (m) 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.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

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

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

FEEES / CHARGES / CONTRIBUTIONS

7. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$136,308.14 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 (as amended).

The monetary contribution is based on a development cost of \$13,630,814.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

8. **Security Bond**

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

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

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

9. **Construction, Excavation and Associated Works Security Bond(s)**

The applicant is to lodge a bond with Council for the following:

Drainage Works

As security against any damage or failure to complete the construction of the external stormwater drainage works required as part of this consent a bond of \$50000.

Crossing / Kerb & Gutter / Footpath Works

As security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required as part of this consent a bond of \$15000

Security Bond

As security against damage to Council's roads fronting the site caused by the transport and disposal of materials and equipment to and from the site a bond of \$20000

Maintenance for Civil Works

A maintenance bond of \$15000 for the construction of external stormwater drainage line. The maintenance bond will only be refunded upon completion of the six month maintenance period, if work has been completed in accordance with the approved plans and to the satisfaction of Council. The maintenance bond is to be paid prior to Council prior to issuing of practical completion.

Details confirming payment of the bond(s) are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

10. Amended Landscape Plans

Amended Landscape Plans shall be issued to the Certifier prior to the issue of a Construction Certificate to include the following details:

- i) street tree planting shall consist of *Xanthostemon chrysanthus* delivered at a pre-ordered 200 litre container size minimum, installed within pavement as detailed in Council's Standard Drawing 1300 - Tree Pit Details, including strata cell subsurface with root barriers and planted understorey, (#)
- ii) the nominated *Melaleuca quinquernervia* in proximity to Unit G01 building and basement shall be relocated to the front setback forward of Unit G02 in deep soil, and a smaller native tree shall be nominated in proximity to Unit G01 building and basement,
- iii) an additional five small native trees capable of attaining at least 6 metres in height at maturity shall be planted within the front setback landscape zone in deep soil, with two forward of Unit G01, two forward of Unit G02 and one forward of Unit G03,
- iv) the nominated *Syzygium smithii* 'red tip' along the rear boundary shall be substituted with small native trees capable of attaining at least 6 metres in height at maturity.

(#) item i) shall also be documented for the section 138 and 139 application for works in the road reserve, consisting of full pavement width to the road reserve with street tree planting.

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

Reason: Landscape amenity.

11. On Slab Landscape Planters

Details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided. Landscape treatment details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, and services connections. Soil depths as listed on the approved Landscape Plans shall be provided.

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

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

12. No Clearing of Vegetation

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

13. **Amendment of Landscape Plans**

The submitted Landscape Plan is to be amended in accordance with the following:

- The landscape plan will have to include like for like replacements for the removal of trees 9,10, 11, 13, 28 and 29 in line with the outcomes of PDCP B4.5 which aim to attain "the long-term viability and enhancement of locally native flora and fauna and their habitats".

The Landscape Plan is to be amended by a qualified landscape architect and provided to the Principal Certifier prior to issue of the Construction Certificate.

Reason: To maintain and replace habitat on the site.

14. **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 TfNSW 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.

15. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy.

Stormwater shall be conveyed from the site to Council's stormwater drainage system in Beaconsfield Street. Details by an appropriately qualified and practicing Civil or Hydraulic Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with Council's policy are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

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

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

16. **Vehicle Crossings Application**

The Applicant is to submit an application with Council for driveway levels to construct one vehicle crossing 5.5 metres wide in accordance with Northern Beaches Council Standard Drawing Normal in accordance with Section 138 of the Roads Act 1993.

Note: driveways are to be in plain concrete only.

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

A Council approval is to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

17. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

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

Reason: Protection of the receiving environment.

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

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the plans prepared by Goldfish and Bay (no. P2, dated 13.11.2023) and Council's Water Management for Development Policy.

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

Reason: Protection of the receiving environment.

19. **Car Parking Standards**

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, garages and aisle widths in the car park are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1-2004.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifier prior to the issue of a construction certificate.

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

20. **Car Parking Finishes**

All driveways, car parking areas and pedestrian paths are to be surfaced and sealed. Details of treatment to these areas are to be submitted to the Principal Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

21. **Construction Traffic Management Plan**

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
 - Evidence of the legal right and terms to use the access route or provide owners consent from the owners/strata/community association.
 - Demonstrate that direct access from a public space/road is not viable for each stage of works.
 - An assessment to be carried out of the physical constraints of the Right of Carriageway to determine the maximum size of vehicle that may access the site via the Right of Carriageway during construction.
 - Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.
 - No construction vehicles, materials or plant are to be located or parked in the private road/driveway, community title road or right of way.
 - How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
 - If trees are located within or overhang the access route, a tree protection plan prepared by an Arborist with minimum AQF Level 5 in arboriculture demonstrating how any trees within the Right of Carriageway will be protected from damage by construction vehicles. Should any tree protection measures be required on private land in accordance with AS4970-2009 Protection of trees on development sites, owner's consent must be obtained.
 - A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets (including trees) or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
 - A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the

- completion of works and prior to the Occupation certificate. The report must:
- Compare the post-construction report with the pre-construction report,
 - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
 - Should any damage have occurred, identify remediation actions taken.
 - Be submitted to Council with the Occupation Certificate.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
 - Make provision for parking onsite. All Staff and Contractors are to use any basement parking once available.
 - Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
 - Due to the proximity of the site adjacent to Newport Public school, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am - 9:30am and 2:30pm - 4:00pm weekdays).
 - Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
 - The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
 - Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
 - Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
 - The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
 - Specify that the public roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
 - The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
 - Proposed protection for Council and adjoining properties.
 - The location and operation of any on site crane.

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

All fees and charges associated with the review of this plan is to be in accordance with

Council's Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

A copy of the approved CTMP must be kept on-site at all times while work is being carried out.

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

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

22. Removal of Redundant Driveways

All redundant driveways shall be removed and reinstated to Council standard kerb and gutter. Suitably prepared plans shall be submitted to for an approval under and approved by Council prior to the issue of the Construction Certificate. All costs associated with the works shall be borne by the applicant.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approval.

Reason: To maximise on street car parking by removing driveways that are no longer needed in accordance with Council policy.

23. Amendments to the approved plans

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

- The proposed front fence is to be no greater than 1.8m in height from existing ground level (with the solid section of the fence being no greater than 1.2m above existing ground level).

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

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Certifier.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of a Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

25. Boundary Identification Survey

A boundary identification survey, prepared by a Registered Surveyor, shall be provided 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 Certifier 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.

26. Services and Fire Hydrant Enclosure

Prior to the issue of a Construction Certificate for works above ground level, Council's Executive Manager of Development Assessment is to be provided with plans to their satisfaction demonstrating that all Services (Gas meter, water meter & fire hydrant and sprinkler booster valves and the like) are enclosed in a manner that compliments the building, do not visually dominate the streetscape and are in accordance with the requirements of the BCA.

An updated landscape plan is also to be provided to reflect the changes resulting from the fire hydrant and sprinkler booster detailed design.

Reason: To ensure essential services are appropriately screened.

27. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the Principal Certifier:

1. Council's relevant development control plan,
2. The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time), and
3. The 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).

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

Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.

28. Building Code of Australia Fire Safety Requirements

The Building Code of Australia fire safety requirements for the building as detailed and recommended in the DA Stage BCA Report prepared by Steve Watson and Partners, dated 26/10/2023, Ref No, 2023/2093 including any required Performance Reviews, are to be considered as part of the assessment for any Construction Certificate.

Details demonstrating compliance are to be provided to the Certifying Authority, prior to the

issue of a Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

29. Access and Facilities for Persons with Disabilities

Access and facilities to and within the building are to be provided as required for Persons with a Disability in accordance with the Building Code of Australia and AS1428. In this regard the Statement of Compliance – Access for People with Disabilities prepared by Accessible Building Solutions dated 10/11/2023 is to be taken into consideration as part of the assessment of the Construction Certificate. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

30. 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 Civil Engineering plans for the design of 375mm stormwater drainage line and associated kerb inlet pits in Beaconsfield Road which are to be generally in accordance with the *Goldfish and Bay DRW C102 P3* and Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer. The design must include the following information:

1. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.
2. Potholing of all the utility services affected by the installation of the drainage line and detailing service locations on the drainage long section.

An approval is to be submitted to the Principal Certifier prior to the issue of the Construction Certificate

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

31. Pre-Commencement Dilapidation Report

The applicant must prepare and submit a 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 dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifier 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.

32. Compliance with Standards

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

At the time of determination the following (but not limited to) Australian Standards applied:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (c) AS 4970 - 2009 'Protection of trees on development sites'***
- (d) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (e) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (f) AS/NZS 2890.6 - 2022 Parking facilities - Off-street parking for people with disabilities**
- (g) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Principal Certifier to ensure compliance with this condition and that the relevant Australian Standards are adhered to.

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

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

33. External Finishes to Roof

The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.43 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

Details demonstrating compliance are to be submitted to the Certifier 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.

34. External Colours and Materials

The colour for cladding, 'James Hardie Axon', is not to be white. It may be a cream tone or mid-tone.

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

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

35. Bicycle Parking

The bicycle spaces must be designed in accordance with AS 2890.3:2015 and their dimensions must be annotated in the architectural plans.

Details demonstrating compliance must be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: To ensure bicycle parking spaces are designed as per Australian Standards.

36. Car wash bay

The car wash bay must have bunding and a floor waste connected to sewer.

Reason: To prevent contamination of stormwater disposal system by the wastewater from the car wash bay.

37. Waste and Recycling Requirements

Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifier prior to the issue of any Construction Certificate.

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

38. Tree Removal Within the Property

This consent approves the removal of existing prescribed trees on the subject site as identified in the Arboricultural Impact Assessment, approved Plans, or as listed below:

- a) 8, 9, 11, 13, 18, 19, 26, 27, 28 and 29,
- b) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

39. Tree Removal Within the Road Reserve

This consent approves the removal of existing trees within the road reserve as identified in the Arboricultural Impact Assessment, or as listed below:

- a) 10, 23, 24, 25 and 40,
- b) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Removal of the approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor, as engaged by the applicant. Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services business unit prior to removal.

Reason: Public liability.

40. Work Zones and Permits

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit

where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane

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

41. **Demolition Traffic Management Plan**

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

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

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- Include a Traffic Control Plan prepared by an TfNSW accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

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

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

Reason: This condition is to ensure public safety and minimise any impacts to the adjoining

pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

42. Pre-Construction Dilapidation Report

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

Properties: **52 Beaconsfield Street, 15-17 Queens Parade Newport, 19 Queens Parade, Newport and 60 Beaconsfield Street.**

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

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works. If access is denied, then no dilapidation report is required.

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

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

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

DURING BUILDING WORK

43. Tree and Vegetation Protection

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

- i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an

Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,

- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

- c) The arboricultural works listed in a) and b) are undertaken as complaint to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment and/or Project Arborist as applicable.

Reason: Tree and vegetation protection.

44. **Wildlife Protection**

If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a licensed wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

45. **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.

46. **Dewatering Management**

Tailwater (surface water and rainwater): Please contact catchment@northernbeaches.nsw.gov.au for advice on Council's water quality requirements for a single instance of dewatering tailwater that collects in an excavation during works. A dewatering permit application must be made for expected multiple instances or continuous dewatering of tailwater.

Groundwater: A permit from Council is required for any dewatering of groundwater. An application for interference with an aquifer is required to the Natural Resources Access Regulator. Contact catchment@northernbeaches.nsw.gov.au for more information about permits.

The groundwater/tailwater to be discharged must be compliant with the General Terms of Approval/Controlled Activity permit issued by WaterNSW (if applicable), Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

All approvals, water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.

Reason: Protection of the receiving environment and groundwater resources.

47. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prepared by Goldfish and Bay (no. P1, dated 16.11.2023) prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

48. Implementation of Demolition Traffic Management Plan

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

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

49. Implementation of Construction Traffic Management Plan

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

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic

Management procedures agreed and are held liable to the conditions of consent.

50. Ongoing Management

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

Reason: To ensure public safety.

51. Removing, Handling and Disposing of Asbestos

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

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

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

52. Geotechnical Requirements

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

53. 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 Certifier, 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.

54. **Survey Certificate**

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

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

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

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

Details demonstrating compliance are to be submitted to the Principal Certifier.

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

55. **Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

56. **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.

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

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

Reason: To protect human health and the environment.

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

During demolition and/or construction the proposal/works shall be generally consistent with the Waste Management Plan submitted on 16/12/2023.

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

59. **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.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

60. **Street Tree Planting**

Street tree planting shall be in accordance with the section 138/139 approval. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To maintain environmental and streetscape amenity.

61. **Landscape Completion**

Landscape works are to be implemented in accordance with the approved Landscape Plans, and inclusive of the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plans, unless otherwise imposed by conditions,
- c) all tree planting within the development property shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; meet the requirements of Australian Standard AS2303 - Tree Stock for Landscape Use; 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 either within garden bed or within a prepared bed within lawn,
- d) mass planting shall be in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
- e) all proposed tree planting within the property 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.

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.

62. **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

63. **Priority Weed Removal and Management**

All Priority weeds (as specified in the Northern Beaches Local Weed Management Plan) within the development footprint are to be removed using an appropriate control method.

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

Reason: To reduce the risk of site works contributing to spread of Priority weeds.

64. **Certification of Civil Works and Works as Executed Data in accordance with Road Act Approval**

The Applicant shall submit a certification by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) that the completed external stormwater drainage works have been constructed in accordance with this consent and the approved Section 138 and/or Construction Certificate plans. Works as Executed data 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 data for Council Assets' in an approved format shall be submitted to the Principal Certifier for approval prior to the issue of the Occupation Certificate.

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

65. **Stormwater Disposal**

The stormwater drainage / on site stormwater detention works shall be certified as compliant with Councils Water management for development policy and the approved construction certificate stormwater drainage plans by the design engineer. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

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

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the plans prepared by Goldfish and Bay (no. P2, dated 13.11.2023). The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. Vegetated measures must exhibit an 80 percent survival rate of plantings.

The certificate shall be submitted to the Principal Certifier prior to the release of an Occupation Certificate.

Reason: Protection of the receiving environment.

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

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

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

The terms of the positive covenant and restriction as to user are to be prepared to Council's

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

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

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

68. Stormwater Treatment Measures Operation and Maintenance Plan

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

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

1. Detail on the stormwater treatment measures:
 - a) Work as executed drawings
 - b) Intent of the stormwater treatment measures including modelled pollutant removal rates
 - c) Site detail showing catchment for each device
 - d) Vegetation species list associated with each type of vegetated stormwater treatment measure
 - e) Impervious area restrictions to maintain the water balance for the site
 - f) Funding arrangements for the maintenance of all stormwater treatment measures
 - g) Identification of maintenance and management responsibilities
 - h) Maintenance and emergency contact information

2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:
 - a) Activity description, and duration and frequency of visitsAdditionally for vegetated devices:
 - b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
 - c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure

3. Maintenance schedule and procedure - ongoing
 - a) Activity description, and duration and frequency of visits
 - b) Routine maintenance requirements
 - c) Work Health and Safety requirements
 - d) Waste management and disposal

- e) Traffic control (if required)
- f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
- g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

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

Reason: Protection of the receiving environment.

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

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

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

Reason: Protection of the receiving environment.

70. **Disabled Parking Spaces**

Where disabled parking spaces are provided they must be in accordance with AS2890.6:2022.

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

Reason: To ensure compliance with Australian Standards.

71. **Shared Zone Bollard**

A bollard is to be provided at the shared zone between disabled spaces in accordance to Australian Standards AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards.

72. **Convex Mirror at Ramps**

One (1) convex mirror is to be installed and maintained at the bottom of the ramp in basement. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To minimise vehicular conflicts at ramp.

73. **Post-Construction Dilapidation Report**

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

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

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

Details demonstrating compliance with this condition are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

74. Geotechnical Certification Prior to Occupation Certificate

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

Reason: To ensure geotechnical risk is mitigated appropriately.

75. Waste Management Confirmation

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

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

76. 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 Certifier prior to the issue of an Occupation Certificate.

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

77. 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 and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), and Civil 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 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 for on-site storm water detention as to user is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

78. **Post-Construction Dilapidation Report (Major Development)**

The applicant must bear the cost of all restoration works to Council's road, footpath and drainage assets damaged during the course of this development.

A Post Construction Dilapidation Report after the completion of all building works is to demonstrate that there is no damage to Council infrastructure prior to the refund of any security deposits.

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

79. **Garbage and Recycling Facilities**

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

Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

80. **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 Certifier prior to the issue of an Occupation Certificate.

Reason: Proper identification of buildings.

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

The units within the development are to be numbered in accordance with NSW Address Policy and User Manual.

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 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.

82. Sydney Water

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

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

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

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

83. Stop Holding Line

A stop holding line and "STOP for entering vehicle" sign must be provided in the basement for exiting vehicles. These to be provided at the location where the vehicles would wait to give way to the entering vehicle.

Reason: To prevent vehicle to vehicle conflict on the ramp

84. Waste and Recycling Facilities Certificate of Compliance

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

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure waste and recycling facilities are provided.

85. Waste/Recycling Compliance Documentation

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

86. Positive Covenant for Council and Contractor Indemnity

A positive covenant shall be created on the title of the land prior to the issue of an Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), at the applicant's expense and endorsed by Council

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

Reason: To ensure ongoing access for servicing of waste facilities.

87. Authorisation of Legal Documentation Required for Waste Services

The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of an 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. A Compliance Certificate, issued by the Certifying Authority, 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.

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

88. Landscape Maintenance

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting. If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plans and any conditions of consent.

The approved landscape area 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.

89. Control of Domestic Dogs/Cats

Domestic dogs and cats are to be kept from entering wildlife habitat areas at all times.

Dogs and cats are to be kept in an enclosed area and/or inside the dwelling, or on a leash such that they cannot enter areas of wildlife habitat, bushland or foreshore unrestrained, on the site or on surrounding properties or reserves.

Reason: To protect native wildlife and habitat.

90. Maintenance of Stormwater Treatment Measures

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

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

Where replacement cartridges or other necessary components for the system become

unavailable, an alternative system is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

91. **Fencing Height/ Vegetation**

All fencing and/or vegetation along the frontage road shall not impede pedestrian or driver visibility. This requires that vegetation does not exceed one (1) metre in height. Appropriate plants shall be selected within the 2.0 x 2.5m splay to ensure this condition is met.

Reason: To ensure maximum vehicular and pedestrian visibility.

92. **Staff and Contractor Parking**

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

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

93. **Parking Enclosure**

No parking spaces, or access thereto, shall be constrained or enclosed by any form of structure such as fencing, cages, walls, storage space, or the like, without prior consent from Council.

Reason: To ensure accessibility is maintained.

94. **Stacked Car Parking Spaces (Residential)**

Stacked parking space pairs are to be assigned to the same residential unit.

Reason: To minimize conflicts regarding parking areas.

95. **Landscaping adjoining vehicular access**

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

Reason: To maintain unobstructed sight distance for motorists.

96. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

97. **Transfer of bins between the basement bin room and the street level holding bay**

Bins are to be available for collection from the street level holding bay between 6.00am and 6.00pm on the scheduled day/s of collection.

Bins are to be transferred from the basement bin room to the street level holding bay no earlier than 4.00pm on the day prior to the scheduled day of collection.

Bins are to be transferred from the street level holding bay to the basement bin room as soon as possible after collection but no later than the evening of the day of collection.

Reason: To ensure bins are available for collection staff at the appropriate time. To ensure bins do not remain in the street level holding bay for an excessive period of time.