

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0160
Responsible Officer:	Anne-Marie Young
Land to be developed (Address):	Lot A DP 411784, 3 Berith Street WHEELER HEIGHTS NSW 2097
Proposed Development:	Modification of Development Consent DA2019/1173 granted for demolition of existing development and construction of a Seniors Housing development comprising 6 x infill self care housing units and basement parking, and strata subdivision
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Ming Hong Zhou
Applicant:	Ming Hong Zhou

Application Lodged:	13/04/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	21/04/2021 to 05/05/2021
Advertised:	21/04/2021
Submissions Received:	6
Clause 4.6 Variation:	Nil
Recommendation:	Approval

EXECUTIVE SUMMARY

The application seeks consent for minor modifications to the design approved under DA2019/1173 for a Seniors Housing Development comprising six (6) self care housing units and basement car parking. The modifications are generally a result of design changes required to satisfy condition 11 of the consent (DA2019/1173).

The application is required to be determined by the DDP as six (6) submissions have been received which raised concerns about cumulative impact, overdevelopment, density, height, bulk and scale, streetscape, residential amenity, parking and road safety, excavation and construction, tree removal,

insufficient information. The modification does not seek to increase the density, bulk, scale or massing and issues regarding overdevelopment and cumulative impacts are not specifically relevant to the subject modification and were considered under the original DA.

Council's Transport and Waste Unit have confirmed that the proposal addresses the requirements of condition 11 and have no objections to the application. Council's Landscape Officer has no objection to the removal of the liquid amber street tree, an exempt species, which presents a safety issues for pedestrians. A condition requires replanting of two (2) native trees in the road reserve. As a consequence of the provision of two (2) visitor parking spaces there is a minor extension of the basement towards the frontage. An updated geotechnical report has been submitted in support of this change. The extension of the basement will require the removal of tree No. 4. Council's Landscape Officer has no objections to the removal of the tree subject to a replacement species and on balance the benefit of providing the extra visitor parking spaces to address community concern has been assessed as positive outcome.

In summary, the assessment of the modification against the applicable planning controls and related legislation reveals that there are no significant breaches of the controls and the application is therefore recommended for approval.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for minor modification to the design approved under DA2019/1173 for a Seniors Housing Development comprising six (6) self care housing units and basement car parking. The modifications are generally a result of design changes required to satisfy condition 11 of the consent (DA2019/1173). In detail the application requires:

A02_Basement:

- The single sided aisle in the basement car parking increased to be minimum 6.1m wide in accordance with Condition 22;
- The basement (extended 3.3m to the west) to accommodate a total of ten (10) car parking spaces, eight (8) residential car parking spaces, two (2) visitor spaces, one (1) residential car park space to be increased to 3.8m in width and all car parking spaces to comply with the requirements for parking with a disability as set out in AS 2890 and in accordance with Condition 11(c)(v);
- The provision of AC units for all 6 apartments;
- High level louvred windows added to the basement for mechanical ventilation, and
- Details of the fan, exhaust riser and ducting for basement car-park ventilation provided.

A03_Site and Ground Floor Plan:

- Waste Room setback 1.0m from the southern side boundary and the bulky store deleted in accordance with Condition 11(b)(i));
- Fixed privacy screens - angled to prevent direct overlooking to neighbours proposed to living room windows of Units 5 and 6 in accordance with Condition 11(c)(iv);
- Kitchen windows Units 5 and 6 reduced from 1500mm in height to 600mm and the awning above the window deleted.
- Retaining walls along south and north boundary positioned where required maintaining 1 metre setback to boundary, southern retaining wall Unit 6 moved in to be 1 metre from boundary in accordance with Condition 11(a)(i))

- Face block (south and north walls of living rooms Units 1 and 2) replaced with face brick to match balance of building.
- Details of the fire (Hydrant + dual check valve) and hydraulic (gas & water meters) services provided;
- Concrete columns added to support the first-floor terraces to achieve structural requirements;
- Sky light added to bathrooms to Units 5 and 6;
- The north-west corner of living room Unit 6 realigned to simplify construction;
- Area calculation for Unit 6 corrected from 83.6sqm to 81.2sqm;
- Details of hot water units, down pipes, louvres covering bathroom/ kitchen exhausts on facades, carpark exhaust, electrical/ NBN cupboards and other services provided;
- Construction for single storey Units 5 and 6 is brick veneer changed from proposed cavity brick. BASIX updated.
- Roof added to bedrooms 2 and 3 – Units 1 and 2, this was created when first floor bed 2 and 3 were setback an additional 500mm required under Condition 11(c)(i)).
- RWT Unit 5 moved further west along building façade.
- Minor changes to the Unit 1 and Unit 2 bedroom 1 windows to create a highlight windows;
- Minor changes to materials and finishes on the southern and northern facades, and
- New pedestrian egress provided along southern side for occupants of Units 5 and 6 noting that 2 alternative exits required (BCA C3.11g).

A04_First Floor Plan:

- The outer wall recessed (Bed 2 and 3) Units 3 and 4 for an additional 500mm from the side boundaries in accordance with Condition 11(b)(i);
- Modification to “Slatted Timber Screen” proposed for First Floor windows have to be substituted with alternative non-combustible material (Certifier required) and to be fixed privacy screens angled to prevent direct overlooking to neighbours. These screens installed on the following windows / balconies: Unit 3 and 4 bedrooms 1, 2 and 3 and the northern and southern edge of the balconies to Units 3 and 4 in accordance with Condition 11(c)(iv);
- The front balconies for the upper level to Units 3 and 4 modified to include 50% open style or glazed or lightweight (infill) balustrade sections facing the street in accordance with Condition 11(b)(ii);
- The kitchen window to Unit 3 on the southern elevation modified to a high level window in accordance with Condition 11(c)(iv);
- Hot water units, down pipes, louvres covering bathroom/ kitchen exhausts on facades, carpark exhaust, electrical/ NBN cupboards and other services located;
- Sky light added to the Unit 3 corridor and to Unit 4 and slight changes in the location of the approved skylights to Units 5 and 6 and
- Construction for first floor units 3 and changed to brick veneer, previously double brick. BASIX updated.

A05_Roof Plan:

- Roof slope to front building revised – single slope towards the central corridor replaced with 2 degree slopes towards North and South.

External / Other

- Removal of Tree 1, being a liquid amber tree located within the road reserve.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 6.2 Earthworks
 Warringah Development Control Plan - B9 Rear Boundary Setbacks
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - D6 Access to Sunlight
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D9 Building Bulk
 Warringah Development Control Plan - D14 Site Facilities
 Warringah Development Control Plan - E1 Preservation of Trees or Bushland Vegetation

SITE DESCRIPTION

Property Description:	Lot A DP 411784 , 3 Berith Street WHEELER HEIGHTS NSW 2097
Detailed Site Description:	The subject site is legally described as Lot A in DP 203378 and Lot 4 in DP411784 no 3 Berith Street, Wheeler Heights. The site is located on the eastern side of Berith Street, approximately 55m south of the intersection with Rose Avenue. The site has a total area of 1,269sqm, it is rectangular in shape with a 20.13 metres (m) frontage to Berith Street and a depth of 63.0m. The site slopes gently toward the north-east corner having a (diagonal) cross fall of 4m and average gradient of 5% from front to rear.

The site currently contains a part one / part two storey detached dwelling house with integrated garage, pool and minor structures, including a shed located adjacent to the rear boundary. Medium to large trees are located on the property. Vehicle and pedestrian access to the site is available via Berith Street. The site is located within the R2 Low Density Residential zone.

Surrounding development primarily comprises low density detached one and part one and two storey dwellings in landscaped settings. The dwelling to the immediate north is single storey detached with a hipped roof and the dwelling to the immediate south is a part one / part two storey dwelling with a pitched roof and a detached garage to the front. The tennis court to Wheeler Heights Primary School adjoins the site to the east (rear) and Augusta Shopping centre on Veterans Parade is located approximately 400m due east (via Berith Street and Rose Avenue).

The site is not subject to natural hazards of landslip, flooding, bushfire or acid sulfate soils and does not contain any significant natural rock outcrops.

Map:



SITE HISTORY

A search of Council's records has revealed the following:

DA2019/1173

On 4 March 2020, Deferred Commencement approval was granted for DA2019/1173 for:

The demolition of existing development and construction of a Seniors Housing development comprising

6 x infill self care housing units and basement parking, and strata subdivision. The Deferred commencement condition required the surrender of the DA2018/1828.

On 30 April 2020, the Deferred Commencement conditions, were satisfied, DA2018/1828 was surrendered, and DA2019/1173 became operational.

Condition 11 of DA2019 (Amendments to the Approved Plans) required the following amendments to the approved plans:

a) Excavation

i) No excavation for retaining walls / terraces within 1.0m of the north and south side boundaries, or within 3.0m of the east (rear) boundary.

b) Ancillary Structures

i) The waste room shall be redesigned to comply with Councils Waste Management Plan, noting that bulky goods storage is not required, and be setback 1.0m from the southern side boundary.

ii) Plans detailing the footpath installation along Berith Street are to be amended to reflect the recommendations of the Arboricultural Impact Assessment Report dated 12 June 2019 prepared by Jackson Nature Works with regards to tree protection, offsets from trees and pavement materials to be used. Amended landscape plans are required to show the revision to the accessible footpath.

c) Seniors Living Buildings

i) The outer wall & roof recess for bedrooms 'B2' and 'B3' for Units 3 and 4 (upper storey) shall be set back an additional 500mm from the side boundaries.

ii) The front balconies for the upper level to Units 3 and 4 are to include 50% open style or glazed or lightweight (infill) balustrade sections facing the street to reduce visual impact on the streetscape.

iii) Secondary colours and material change is to be made to the upper wall side walls for Units 5 and Unit 6 to improve visual interest and design, consistent with the external colours and materials used for Unit 1 to Unit 4.

iv) Privacy treatment to windows and balconies. The kitchen window to Unit 3 on the southern elevation shall be modified to a high level window. Fixed privacy screens angled to prevent direct overlooking to neighbours shall be installed on the following windows / balconies: Unit 3 and 4 bedrooms 1,2 and 3 and Units 5 and 6 the kitchen and living room windows. The northern and southern edge of the balconies to Units 3 and 4.

v) The basement car park design shall be amended to requiring a total of ten (10) car parking spaces, eight (8) residential car parking spaces, two (2) visitor spaces, one (1) residential car park space to be increased to 3.8m in width and all car parking spaces to comply with the requirements for parking with a disability as set out in AS 2890.

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

The plans submitted with the subject modification generally demonstrate compliance with the conditions. As a consequence of compliance with the condition some additional minor modification are required. The proposal also refers to the removal of the liquid amber street tree, an exempt species

DA2018/1828

On 9 September 2019, consent was granted for DA2019/1173 by the Northern Beaches Local Planning Panel for the construction of a Seniors Housing development comprising six (6) x infill self care housing units and basement parking.

Issues identified post determination of development application (DA2018/1828) related to the geotechnical

report resulted in the applicant submitting a fresh development application (DA2019/1173) with a new geotechnical report. It is noted that the proposal remains to be the same as that sought in the original development application DA2018/1828.

PLM2018/0095

Pre-lodgement Meeting PLM2018/0095 for "Demolition works and the construction of a Seniors Living Development State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004" was held with Council on 29 May 2018. The pre-lodgement meeting was held in respect of the original development application DA2018/1828. No pre-lodgement meeting was held in respect of the subject application DA2019/1173.

DA2012/0670

On 28 August 2012, consent was granted for alterations and additions to an existing dwelling and subdivision of one lot into two lots.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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

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

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2019/1173 in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	<p>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <p>The height, setback and general form of the development is maintained with the proposed modifications not compromising the streetscape,</p>

Section 4.55(1A) - Other Modifications	Comments
	<p>landscape or residential amenity outcomes afforded through approval of the original application.</p> <p>The proposal includes minor changes to the design as a result of modifications required to address the conditions of the original consent. The minor changes include:</p> <p>A 3.3m increase in the excavation to provide the required car parking spaces, the addition of high level louvered windows to the basement, concrete columns added to support the first floor terraces, minor internal alterations to the living room within unit 6, roof added to bedroom 2 and 3 as a result of the increased set back of units 1 and 2, minor internal changes,</p> <p>The proposed changes are considered to result in minimal environmental impacts and will not result in unreasonable impacts on neighbouring properties or the external design of the approved development.</p> <p>The previously approved building height, setbacks and envelope are not materially altered with a majority of the proposed modifications undertaken to comply with the conditions of development consent.</p>
<p>(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and</p>	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2019/1173 for the following reasons:</p> <p>The modifications primarily address condition 11 of the consent which required design modification. As a consequence of compliance with the condition some additional minor design changes have been proposed as detailed above.</p>
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan.</p>
<p>(d) it has considered any submissions</p>	<p>See discussion on "Notification & Submissions"</p>

Section 4.55(1A) - Other Modifications	Comments
made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	Received" in this report.

Section 4.15 Assessment

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

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 21/04/2021 to 05/05/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 6 submission/s from:

Name:	Address:
Mrs Dorothy Susan Waterhouse	56 Rose Avenue WHEELER HEIGHTS NSW 2097
Ms Joan Elizabeth Catherine Croydon	5 Berith Street WHEELER HEIGHTS NSW 2097
Amanda Louise Spencer	1 Berith Street WHEELER HEIGHTS NSW 2097
Mr Robert Guy Barnes Mrs Christine Helen Barnes	10 Berith Street WHEELER HEIGHTS NSW 2097
Ms Rebecca Catherine Plester	8 Berith Street WHEELER HEIGHTS NSW 2097
Ms Jan Margaret Hawthorn	20 Berith Street WHEELER HEIGHTS NSW 2097

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

- Cumulative Impact / Overdevelopment
- Contrary to Draft Local Housing Strategy
- The topography is not suitable for Seniors
- Traffic, parking and road safety
- Insufficient restriction on occupation
- Construction impacts
- Impact on solar access
- Impact on privacy
- Impact on views
- Excessive bulk and height
- Impacts on the streetscape
- Contrary to the low density zone
- Excessive excavation
- Issues with vermin prior to the demolition
- Boundary fence
- Trees
- Insufficient waste management
- Insufficient information

The matters raised within the submissions are addressed as follows:

- **Cumulative Impact / Overdevelopment of Seniors Housing in Wheeler Heights**

Comment:

The application is for a modification to an approved Seniors Housing development. The modification does not seek to increase the density, bulk, scale or massing and issues regarding

overdevelopment and cumulative impacts are not specifically relevant to the subject modification and were considered under the original DA.

- **The proposal is contrary to the Draft Local Housing Strategy. The application should be refused and a moratorium on non R2 DA's including Seniors Housing should be imposed.**

Comment:

As noted above, the Seniors Housing development has already been approved and the subject application seeks minor changes to the design primarily to address conditions of the original consent. The Draft Local Housing Strategy is on public exhibition, it has not been adopted and provides no power to require a moratorium on Senior Housing developments in R2 zone.

- **The topography is not suitable for Seniors.**

Comment:

The topography of the site is not a matter for consideration under the subject modification for minor design changes.

- **Additional traffic in the area and impacts on availability of on street car parking and road safety including the safety of school children attending local schools.**

Comment:

The proposal has been amended to include two (2) visitor parking spaces, as required under condition 11. The condition was imposed to address concerns from neighbouring regarding the impact of the development on the availability of kerb side parking.

Both the original application and subject modification have been reviewed by Council's Transport Unit who offer no objections to the proposal in respect to road safety. Conditions included in the original consent to address such concerns include the requirement for a Traffic Management Plan. These conditions are still relevant in the modified application.

- **The "Seniors" development can be occupied by people over 50 and their families.**

Comment:

A condition in the original consent limits the occupancy of the development in accordance with the SEPP (HSPD). It is agreed that this allows for family members of individual over 50 years of age to occupy the development.

- **Construction impacts.**

Comment:

This is not a material consideration to the subject modification as the application does not seek to alter the conditions imposed in the original consent to manage the construction.

- **Impact on neighbouring amenity in terms of solar access to northern windows and private open space, privacy and views.**

Comment:

The subject modification primarily address condition 11 of the original consent which was imposed, in part, to help reduce impacts on neighbouring amenity. Privacy devices, including screens and high level windows, are included in the proposed plans and the first floor of the front building has been set back in reduce the bulk of the front building as viewed from either

side of the site.

There is no increase in overshadowing and it is noted that the approved scheme was compliant with clause D6 of the WDCP. There will be no additional impacts on outlook, noting that view loss was previously assessed as minor in the original DA.

- **Excessive bulk and height which will impact on the streetscape and contrary to the low density zone.**

Comment:

The bulk, scale and massing of the development is generally consistent with the approved development and compliant with the SEPP (HSDP) which allows for a greater density in the R2 Low Density zone which would otherwise not be permitted in the WLEP.

- **Excessive excavation and potential structural impacts on neighbouring properties.**

Comment:

The proposal seeks consent for a minor increase in the basement to allow for the parking required under condition 11 of the original consent. The additional excavation extends 3.3m towards the frontage, there is no increase in the depth of excavation or in the extent of excavation to the side boundaries. On balance, the addition of two (2) visitor parking spaces is considered to be a benefit over the minor increase in the excavation. The conditions relating to excavation imposed in the original consent remain valid and the recommendation of the updated geotechnical report have been included in the modified consent which will ensure that there is no unreasonable impacts on the structural stability of neighbouring properties.

- **Issues with vermin underneath existing house need to be addressed prior to the demolition of the house.**

Comment:

Details on the management of the demolition will be considered under the construction certificate.

- **The existing boundary fence to No. 1 Berith Street requires supporting metal post and rails on the side of No. 1 Berith Street.**

Comment:

As this relates to land outside the subject application it is not reasonable to require this work as a condition of consent.

- **The boundary fence between No. 3 and 5 Berith Street requires clarification. The height of the boundary fence should be maintained to be consistent with the existing fence.**

Comment:

The plans submitted with the modification application does not show any changes to the boundary fence. Accordingly, it is recommended that a condition be imposed that requires the proposed 1.8m high timber boundary fence between No. 3 and 5 Berith Street to follow the slope of the land to maintain the height of the existing boundary fence.

- **The gumtree on the reserve outside No. 1 Berith Street poses a risk to the safety of the elderly.**

Comment:

The gum tree is a street tree and is not directly related to the subject site given its location outside the adjoining property.

- **Insufficient waste management 12 bins are required 8 are provided.**

Comment:

The application has been amended to satisfactorily address the concerns from Council's Waste Officer, refer above.

- **Loss of trees including the removal of the liquid amber street tree helps screen the development the removal of the tree will expose the development and impact on wildlife habitat.**

Comment:

The removal of the liquid amber street tree is supported by Council's Landscape Officer. While the removal of the tree will temporarily expose the development from the street a condition requires two (2) native trees to be planting in the reserve which in the long terms will help soften the visual bulk of the development and be a more appropriate species which will help minimise safety issues to pedestrians. The site is not identified as a protected wildlife corridor.

- **No artist impressive provided showing the changes to the cladding, roof design and frontage. The application should be rejected as it is does not contain all the required information.**

Comment:

An artist impression of the external changes to the materials and frontage is not required and sufficient information has been submitted to assess the application without the need to reject it.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Landscape Officer	<p>The modification includes application to remove one street tree (<i>Liquidambar styraciflua</i>) located forward of the property. The tree is located adjacent to the pedestrian entry to the development and the required new public footpath. Concern has been raised regarding the safety of residents and the public caused by the seed pods of the tree. As pedestrian traffic is likely to increase as a result of the public and private works, the concern raised is considered legitimate. Additionally, the new footpath works are likely to impact on tree roots, Liquidambar being noted for extensive shallow roots. Liquidambar is also an exempt tree species as listed under WDCP E1 Preservation of</p>

Internal Referral Body	Comments
	<p>Trees or Bushland Vegetation.</p> <p>In consideration of the above, removal of the tree is not objected to, subject to replanting of 2 native trees in the road verge forward of the property, as conditioned below.</p> <p>The requirement of condition of consent to provide additional basement carparking results in the basement wall being extended further toward the street. The result is that the works will impacts on a tree previously conditioned for retention (Tree 4). The tree is only in fair condition and it is recommended that approval to remove the tree be included in conditions, subject to replacement as conditioned below.</p> <p>No objections are raised to the modification, subject to amended conditions as indicated below.</p>
NECC (Development Engineering)	No objections to the modification as the stormwater drainage /detention storage is unchanged . No additional/amended conditions required.
Traffic Engineer	<p>The proposal comprises the following transport-related modifications:</p> <ul style="list-style-type: none"> - In accordance with Condition 22 the proposed single-sided aisle within the basement car parking area increased to be minimum 6.1m wide. - In accordance with Condition 11(c)(v) the modification of the basement geometry to accommodate a total of ten (10) car parking spaces, eight (8) residential car parking spaces, two (2) visitor spaces, one (1) residential car park space to be increased to 3.8m in width and all car parking spaces to comply with the requirements for parking with a disability as set out in AS 2890. <p>The proposed modification has satisfactorily addressed the requirements of conditions 11(c) (v) and the second part of condition 22 noting that the first part of the condition regarding the construction of the footpath is yet to be satisfied.</p> <p>Given the above, the proposed modification is supported on traffic grounds.</p>
Waste Officer	<p>Updated comments June 2021</p> <p>Proposal is approved with conditions</p> <p>Previous comments Recommendation – Refusal</p> <p>This proposal does not comply with Council’s waste management design guidelines. To comply with Council’s design guidelines the following requirements must be met.</p> <p>Specifically:</p> <p><u>Bin Storage and Bin allocation</u></p> <p>The current waste storage room configuration requires some bins to</p>

Internal Referral Body	Comments
	<p>be double stacked in the room. Stacked bins are inaccessible to residents wanting to dispose of waste. It is unacceptable for the waste collection staff to have to shuffle bins around to access the bins needed for collection.</p> <p>As the waste storage room is large enough to accommodate the required 8 x 240 litre waste bins, this will be resolved if the waste storage room door is centered rather than in its current location to one side. This would allow for unimpeded access to each bin for the residents and collection staff, as a row of 4 bins on either side of the doorway and an isle directly in front of the doorway and between each row of bins could be accommodated.</p> <p><u>Bin Room Facilities</u></p> <p>A tap for washing out the waste storage room is to be provided. The tap must not obstruct aisles, access ways and placement of bins. Wash water to be drained to the garden or sewer. The Waste storage area must not be used to store any other items including bulky goods and can't be used for any other infrastructure including gas meters, water meters, air con plant, etc.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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 have already been included as a condition of consent in the original DA and they remain valid.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted and approved with the original consent which remains valid.

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

The development application has been lodged pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (HSPD)) as the development is for in-fill self-care housing (also referred to as 'Seniors Living').

The application has generally been submitted to satisfy the conditions of consent and some minor changes including new skylights, changes to highlight windows and changes in the external material. The original assessment of the development against the SEPP (HSPD) is still relevant and is included below.

Chapter 1 – Preliminary

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

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

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

Comment:

a) Supply - The proposal includes six (6) units for self-contained living of seniors housing or people with a disability. As such, the proposal will increase the supply and diversity of residences that meet the needs of seniors and people with a disability within the area;

b) Infrastructure - The proposal is within an established residential area with access to public transport (buses) and a main road to enable travel to the central business areas of Dee Why, Narrabeen / Mona Vale, Brookvale and the City. The site is located within 400m of the nearest bus stop and the local retail centre, (Augusta Shopping Centre) at Veterans Parade which provides a range of essential retail and commercial services, see maps below which show the shopping centre being located 397.8m from the site and the bus stops 285m and 370m from the site. As such, the development makes efficient use of existing infrastructure and services, this is discussed in greater detail below.

c) Design - The development is of a contemporary design comprising a two storey building / pavilion to the front and a single storey building / pavilion to the rear located within a landscape setting. The development is well articulated and subject to conditions provides a good level of residential amenity and meets the accessibility requirements of the SEPP.

The proposal generally complies with the built form controls of the SEPP and the height, bulk and

massing is appropriate within the streetscape. The modification address the design modification conditions imposed in the original consent relating to the side set back of the two storey building and windows, the development will not have unreasonable amenity impacts on neighbouring properties in terms of visual privacy and bulk and scale. In summary, the design of the development is acceptable for the reasons discussed in detailed within this report.

Chapter 2 – Key Concepts

Comment:

Key concepts of SEPP HSPD include:

- The definition of "Seniors" as persons aged 55 or more years, including a facility of residential care or those eligible for aged housing provided by a social housing provider.
- The provision of purpose built housing for "people with a disability" that includes persons with long term or permanent impairment, limitation or activity restrictions that affect their capacity to participate in everyday life.
- The provision of purpose built "Seniors housing" with the intent that such housing includes a residential care facility, a hostel, a group of self contained dwellings or a combination of these, but not a hospital.

The proposal falls within the definition of "***in-fill self-care housing***" which is seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.

The proposal satisfies this element of the SEPP HSPD in that the development is for purpose built self-contained dwellings that are for self-care accommodation of seniors or persons with a disability.

Chapter 3 – Development for seniors housing

Chapter 3 of SEPP HSPD contains a number of development standards applicable to development applications made pursuant to SEPP HSPD. Pursuant to Clause 18 of SEPP HSPD a condition requires a positive covenant to be placed on title restricting the occupation of seniors housing to seniors or people who have a disability, people who live within the same household with seniors or people with a disability or staff employed to assist in the administration of and provision of services to housing provided under the Policy.

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

Development Criteria			
Clause	Requirement	Proposal	Complies
PART 2 - Site Related Requirements			
26(1)	Satisfactory access to: (a) shops, banks and other retail and commercial services that residents may reasonably require, and	An Accessibility Report has been submitted in the original DA by Accessibility Solutions which concludes that the development has satisfactory access to a range of shops, services and public transport. The site has access to public transport (buses) services (see map above) to the central	Yes

Development Criteria			
Clause	Requirement	Proposal	Complies
	(b) community services and recreation facilities, and (c) the practice of a general medical practitioner	business areas of Dee Why, Brookvale, Narrabeen / Mona Vale and connecting services to the City. These local centres all contain a range of services for banking and finance, shopping and groceries, postal and government offices, community services, medical services and recreation facilities.	
26(2)	Access complies with this clause if: (a) the facilities and services referred are located at a distance of not more than 400 metres from the site or (b) there is a public transport service available to the residents not more than 400 metres away.	<p>Clause 26(2) (a) of the SEPP requires the site to be within 400m walking distance of shops, services and public transport. It is noted that the accessible report refers to the site being located approximately 425m from the shopping centre at Veterans Parade. The distance to shopping centre has been calculated as being less than 400m.</p> <p>The accessibility report calculates the site being 120m to 370m to the relevant bus stops (both having benches and one being sheltered) on Rose Avenue to access bus routes 146 / E79 which travel to Dee Why, Brookvale, Warringah Mall and Military Road to Sydney City. It is noted that the bus stops have benches and one is sheltered to allow passengers to rest and have shelter.</p> <p>With respect of footway access the gradient of Berith Street and Rose Street has been assessed as compliant with Clause 26(2) of the SEPP. The original consent included a condition which requires the applicant to construct a 1.5m wide footpath to be constructed on the east side of Berith Street to provide a level connection to the footpath on Rose Avenue which connects to the bus stops along the street. This condition remains valid.</p>	Yes
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	Not applicable	N/A
28	Consideration is given to the suitability of the site with regard to the availability of reticulated water and sewerage	Reticulated water and sewerage is available. The proposal is subject to Sydney Water requirements via a "Section 73 Certificate". This issue was addressed by conditions in the original DA which remain valid.	Yes

Development Criteria			
Clause	Requirement	Proposal	Complies
	infrastructure.		
29	<p>Consideration must be given to whether the proposal is compatible with the surrounding land uses having regard to the following criteria specified in Clauses 25(5)(b)(i), 25(5)(b)(iii), and 25(5)(b)(v):</p> <p>i) the natural environment and the existing uses and approved uses of land in the vicinity of the proposed development.</p> <p>iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development and any proposed financial arrangements for infrastructure provision.</p> <p>v) the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.</p>	<p>A site compatibility certificate is not required. Despite this, Clause 29 requires consideration of certain criteria specified in clause 25 (clause 25 relates to site compatibility and cumulative impacts). An assessment of the relevant criteria was detailed in the original DA and is summarised below:</p> <p>i) The proposed self contained infill seniors housing is compatible with the natural environment and the existing / surrounding residential land use and the neighbouring school. Potential environmental hazards, such as those associated with excavation and stormwater are managed through appropriate conditions to ensure that there are no unreasonable impacts to neighbouring uses.</p> <p>ii) The site is accessible to a range of retail, community, medical and transport services subject to a condition requiring the construction of an accessible footpath along Berith Street. The original DA was also subject to a condition requiring the payment of Section 7.12 contributions to assist in providing future demand for local services and infrastructure as appropriate. Stormwater will be connected to Councils infrastructure in Berith Street and conditions are included in the original DA requiring the stormwater design to be amended to comply with Council Policy. All these conditions remain valid.</p> <p>Condition imposed in the original consent relating to parking have been included in the subject DA and will result in 10 car parking spaces, including 2 visitor spaces. Details have been submitted to satisfy the conditions to the satisfaction of Council's Transport Officer.</p> <p>v) The SEPP (HSPD) allows for a higher density than that normally permitted within low density residential areas. The combination of single storey and two storey elements is generally compliant with the built form controls of the SEPP, the WLEP and WDCP. The average 14.5m setbacks and landscape setting combined with building articulation, external</p>	Yes

Development Criteria			
Clause	Requirement	Proposal	Complies
		<p>materials, balconies and fenestration generally help reduce the building bulk and minimises the impact of the front two storey building on the neighbouring character.</p> <p>In order to further ensure the proposal is consistent with the neighbourhood character conditions are recommended to modify the materials of the balcony to a more create a more lightweight structure and increase side set backs to improve spatial separation issues that affect the visual and amenity of the neighbouring dwellings. Shadow diagrams confirm that the bulk and massing will not result in unreasonable impacts on solar access to neighbouring properties and impacts on visual privacy are addressed by condition requiring highlight windows and angled fixed privacy screens attached to upper floor windows and perimeter planting and new fencing.</p> <p>Details have been submitted in the subject modification to satisfy the conditions relating to windows and privacy screens and require a more lightweight structure to the front balcony. In summary, for the reasons outlined above and elsewhere within this report, the modification satisfies the conditions and is considered acceptable. The development remains to be compatible with the bulk, scale built form and character of the surrounding area.</p>	
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	A site analysis has been provided.	Yes

Clause 31 Design of in-fill self-care housing

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

The provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* have been taken into consideration in the assessment of the application against the design principles set out in Division 2, Part 3 of SEPP HSPD. A detailed assessment of the proposals inconsistencies with regards to the requirements of SLP is undertaken hereunder.

Section	Requirements	Comment
1. Responding to context	Built Environment – New development is to follow the patterns of the existing	<p><u>Built Environment:</u></p> <p>The pattern of development in the</p>

Section	Requirements	Comment
	<p>residential neighbourhood in terms of built form.</p> <p>Policy environment – Consideration must be given to Councils own LEP and/or DCPs where they may describe the character and key elements of an area that contribute to its unique character.</p>	<p>neighbourhood can be described as contains a mix of low density development with places of higher density housing interspersed.</p> <p>The development typology remains to consist of contemporary one and two storey buildings / pavilions. The articulation of the proposed development will maintain semi-detached appearance from the street. The proposal follows the orientation and pattern of development in the street. There is no change to the footprint or set back which generally follows the set back of other developments along the east side of Berith Street allowing the development to sit within a landscaped setting. The front balconies have been modified to be a more light weight construction to ensure the character of the area is preserved.</p> <p><u>Policy Environment:</u> The site is located with a R2 Low Density Residential zone within the Warringah LEP. The objectives for the zone include:</p> <ul style="list-style-type: none"> • To provide for the housing needs of the community within a low density residential environment, • To enable other land uses that provide facilities or services to meet the day to day needs of residents; and • To ensures that low density residential environments are characterised by landscape settings in harmony with the natural environment. <p>The proposal achieves these objectives for the character of the area in that it will provide to the needs of the community for HSPD housing. The proposed one and two</p>

Section	Requirements	Comment
		<p>storey built form set within a landscape setting is generally compatible with the built form bulk and height to surrounding development.</p> <p>There is no change to the height, bulk and scale of the development which remains to be compliant with the maximum 8m building height contained in the SEPP and the 8.5m height of building development standard contained in the WLEP. The proposal also remains to be generally complies with the built form controls contained within the WDCP.</p> <p>The modification includes the removal of a liquid amber tree located within the road reserve adjacent to the proposed accessible footpath. This is an exempt species and presents hazards for residents in terms of access to and from the site. Council's Landscape Officer has no objections to the removal of this tree subject to condition requiring its replacement with an appropriate tree species. Subject to this condition, the site provides a sufficient landscape set back to allow for additional planting to maintain the character of the area and comply with landscaping requirements of the SEPP.</p>
2. Site Planning and design	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Minimise the impact of new development on neighbourhood character; -Retain existing natural features of the site that contribute to neighbourhood character; -Provide high levels of amenity for new dwellings and a range of housing choice; -Maximise deep soil and open space; 	<p>There is no change to the bulk of the development which is located towards the frontage and reduced to the rear in compliance with the recommendations of the Policy. The setbacks and landscape setting allows for landscape planting to maintain the existing pattern and character of gardens and trees in the locality. The principle deep soil zone is located to the rear in accordance with the design principles. The existing driveway location and crossing is retained and the basement parking will ensure there will be no visual impact of car</p>

Section	Requirements	Comment
	-Minimise the physical and visual dominance of car parking, garaging and vehicular circulation.	parking on the street.
3. Impacts on streetscape	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Minimise impacts on the existing streetscape and enhance its desirable characteristics -Ensure that new development, including the built form, front and side setbacks, trees, planting and front fences, is designed and scaled appropriately in relation to the existing streetscape; -Minimise dominance of driveways and car park entries in streetscape. -Provide a high level activation and passive surveillance to the street. 	As details above, the setbacks do not change and the landscaped setting, with the requirement of additional planting, will enhance the desirable characteristics of the street. The development, as modified, retains clearly defined open private and communal spaces which allows for passive surveillance to the street.
4. Impacts on neighbours	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Minimise impacts on the privacy and amenity to neighbouring dwellings; -Minimise overshadowing; -Retain neighbours' views and outlook to mature planting and tree canopy -Reduce the apparent bulk and -Provide adequate building separation. 	The modification provides sufficient details in the form of amended plans to satisfy the conditions relating to privacy screens, setbacks and landscaping. The proposal, as amended, will not cause unreasonable impacts on neighbours amenity in terms of loss of visual or acoustic privacy. There is no change to impacts on solar access or views and the building separation at the upper level has been improved with the amended plans which show a 500mm increase in the set back of the first floor to the side boundaries.
5. Internal site amenity	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Provide quality usable private and communal open space to all residents; -Provide dwellings that have distinct identity and safe entries; -Provide safe and distinct pedestrian routes to all dwellings and communal 	There is no change in the size of the private terraces and decks or communal courtyard which all exceed the SEPP requirements. The proposal remains to have compliant solar access and all dwellings have distinct identity and safe entries.

Section	Requirements	Comment
	facilities; -Ensure solar access to living areas and private open space; -Reduce the dominance of parking, garaging and vehicular circulation space.	

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

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

Control	Requirement	Proposed	Compliance
CL33 Neighbourhood amenity and streetscape	a. Recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area.	<p>There is no change to the density of the development and it is noted that the SEPP allows for a greater density of development than provided under the WLEP and WDCP. The proposal remains generally compliant with the density / FSR controls.</p> <p>The original DA was assessed as contributing to the quality and identity of the area. The modification includes some minor design changes which will not change the original assessment. The development remains to present a two storey building / pavilion which is well articulated with front and side setbacks and a landscape setting that is consistent with the subdivision pattern in the area. The modification includes some minor changes to the materials which will help enhance the proposal / streetscape. The subject application includes an increase in the spatial separation of the two storey building to the side boundaries to minimise impacts in neighbouring amenity.</p>	Complies
	b. Retain,	No heritage items are on the	N/A

Control	Requirement	Proposed	Compliance
	<p>complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that re identified in a local environmental plan.</p> <p>c. Maintain reasonable neighbour amenity and appropriate residential character by;</p> <p>(i) providing building setbacks to reduce bulk and overshadowing</p> <p>(ii) using building form and siting that relates to the site's land form, and</p> <p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development,</p> <p>(iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours.</p>	<p>site or in close proximity.</p> <p>The subject application includes changes to the windows to ensure that neighbour amenity will be maintained.</p> <p>(i) there is no change to the built form / shadow impacts.</p> <p>(ii) the built form and siting of the development remains to be the same as the original approval and provides a site layout that is practical and has an orderly and efficient layout that maintains opportunities for deep soil landscaping.</p> <p>(iii) the two storey front building / pavilion complies with the maximum 8m height development standard and is generally compatible with the height of other residential development in the area.</p> <p>(iv) both buildings are sited between a 2.5m and 3m to the side boundaries and between 5m to 6.7m to the rear. The proposal increases the set back of the upper floor of the two storey building in part from the side boundaries, in compliance with the conditions to reduce impacts on neighbouring amenity. The proposal includes details on the earthwork adjacent to the rear boundary to ensure the height of boundary fencing is minimised.</p>	Complies
	<p>d. Be designed so that the front building of the development is set back in sympathy</p>	<p>The siting of the front building remains to be consistent with the established building line along the east of Berith</p>	Complies

Control	Requirement	Proposed	Compliance
	<p>with, but not necessarily the same as, the existing building line.</p> <p>e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.</p> <p>f. retain , wherever reasonable, major existing trees, and</p> <p>g. be designed so that no building is constructed in a riparian zone.</p>	<p>Street.</p> <p>Landscaped open space and deep soil zones are provided to the front and rear of the site to enable continuity with adjacent gardens.</p> <p>The modification includes the removal of the liquid amber street tree which is supported by Council's Landscape Unit subject to conditions, refer to discussion under the heading Referrals.</p> <p>The site is not within a riparian zone.</p>	<p>Complies</p> <p>Complies</p> <p>N/A</p>
CL 34 Visual and acoustic privacy	The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by: (a) Appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and (b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	The modification includes amendment to windows to ensure visual and acoustic privacy is managed in compliance with the conditions in the original consent.	Complies
CL35 Solar access and design for climate	The proposed development should: (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and (b) involve site	The height, footprint and density of the development has not changed therefore there is no material change to the shadow impacts. It is noted that the approved scheme complied with the Warringah DCP controls in relation to neighbour's properties and private open space.	Complies

Control	Requirement	Proposed	Compliance
	planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.	A condition requires compliance with the BASIX certificate submitted with the original DA which remains valid.	
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention (OSD) and water re-use.	A new stormwater connection will be required direct to the kerb pit in Berith Street. A condition in the original DA requires the stormwater and OSD to be redesigned in accordance with Council's stormwater policy, and <i>Technical Specification</i> . This condition remains valid.	Complies. Subject to engineering conditions in the original consent.
CL 37 Crime prevention	The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and (c) providing dwellings designed to allow residents to see who	The proposed driveway access can be observed from within the site allowing for passive surveillance from the front courtyards, balconies and windows. Bollard lighting will be provided to ensure pathway areas are lit for safety and security. Separate access is provided to each unit via a shared central corridor.	Complies. No change

Control	Requirement	Proposed	Compliance
	approaches their dwellings without the need to open the front door.		
CL 38 Accessibility	The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.	<p>An accessibility report has been submitted with the original DA which concludes that the development complies with accessibility and adaptability requirements of the SEPP.</p> <p>It is noted a condition required the re-design of the accessible footpath adjacent to the liquid amber street tree (T1) to reflect the recommendations of the arborist report.</p> <p>The tree is proposed to be removed consequently this condition is no longer relevant.</p> <p>The condition requiring the construction of a 1.5m wide footpath along Berth Street to connect to the footpath along Rose Avenue remains valid. This will ensure that access is available to public transport to access a range of shops and services.</p> <p>Safe and convenient pedestrian and vehicular access is provided to the site. The number of car parking spaces comply with the relevant controls and details have been submitted to demonstrate compliance with the access and parking conditions to the satisfaction of Council's Traffic Engineer.</p>	Complies Condition relating to accessible footpath adjacent to street tree to be deleted.
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	The redesign of the garbage bin storage room located at the front of the site has been assessed as acceptable and compliant with the conditions in the original DA. The modified design includes the removal of the bulky good	Complies

Control	Requirement	Proposed	Compliance
		storage as this was not required.	

Part 4 - Development standards to be complied with

Clause 40 – Development standards – minimum sizes and building height

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

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

Control	Required	Proposed	Compliance
Site Size	1000 sqm	1,269 sqm	Complies (no change)
Site frontage	20 metres	20.13m (Berith Street)	Complies (no change)
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	7.5m	Complies (no change)
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	The front building is 2 storey in height at the side boundary and the rear building is single storey. All buildings are set back a minimum 2.0m or greater setback from the side boundary.	Complies (no change)
	A buildings located in the rear 25% of the site must not exceed 1 storey in height. Consideration of the objectives of the 25% rear height control setback is made to assess consistency against the urban design objectives sought by the SEPP HSPD.	The rear 25% of the site covers an area 15.7m x 20.1m = 315.5 sqm. A single storey building / pavilion is located within this zone which is compliant with the height control.	Complies (no change)

Clause 41 Standards for hostels and self contained dwellings

In accordance with Clause 41 a consent authority must not consent to a development application made pursuant to Chapter 3 unless the development complies with the standards specified in Schedule 3 for such development. The following table outlines compliance with the principles set out in Schedule 3 of SEPP HSPD.

Control	Required	Proposed	Compliance
Wheelchair Access	If the whole site has a gradient less than 1:10, 100% of the dwellings must have wheelchair access by a continuous path of travel to an adjoining public road. If the whole of the site does not have a gradient less than 1:10 the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10 or 50% whichever is the greater.	An access report has been provided by Accessibility Solutions, dated 15 October 2018, demonstrating appropriate access requirements have been met to satisfy SEPP HSPD. The gradient for wheelchair access on the site and along Berith Street and Rose Avenue has been assessed as acceptable. Conditions were included in the original DA that required the construction of an accessible footpath from the subject site along Berith Street to Rose Street and the design of the accessible footpath adjacent to the liquid amber street tree to be modified in accordance with the recommendations of the arborist report. The removal of the liquid amber tree has addressed issues with the accessible footpath. It is recommended that the access condition be amended to reflect this modification.	Complies
Security	Pathway lighting (a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and (b) Must provide at least 20 lux at ground level	Bollard style lighting is to be used adjacent to the pathways.	Complies (no change)
Letterboxes	Letterboxes: (a) must be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel, and (b) must be lockable,	Letterboxes are located to the frontage of the site on a hard stand in an accessible location. A condition requires the accessible path to be designed to ensure a sufficient hard stand area is provided adjacent to the letterboxes.	Condition recommended to ensure compliance (no change)

Control	Required	Proposed	Compliance
	and (c) must be located together in a central location adjacent to the street entry.		
Private car accommodation	(a) Carparking space must comply with AS2890 (b) One space must be designed to enable the width of the spaces to be increased to 3.8 metres, and (c) any garage must have a power operated door or there must be a power point and an area for motor or control rods to enable a power operated door to be installed at a later date.	Compliant disabled persons carparking space is provided for each dwelling in the basement and the basement car park has a power operated door. Details have been submitted to address the conditions to the satisfaction of Council's Transport Engineer.	Details have been submitted to ensure compliance.
Accessible entry	Every entry to a dwelling must comply with Clause 4.3.1 and 4.3.2 of AS4299	Each dwelling has an accessible path of travel to the front entry. Upper floor units rely on lift and stair access.	Complies (No change)
Interior general	Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.	Open plan living areas, bathrooms and bedrooms comply.	Condition recommended to ensure compliance (No change)
Bedroom	At least one bedroom within each dwelling must have: (a) An area sufficient to accommodate a wardrobe and a queen size bed (b) A clear area for the bed of at least 1200 mm wide at the foot of the bed and 1000mm wide beside the bed between it and the wall, wardrobe or any other obstruction. (c) Power and telephone outlets and wiring described in Clause 8 of Schedule 3.	Proposal is able to comply	Condition recommended to ensure compliance (No change)

Control	Required	Proposed	Compliance
Bathroom	The bathroom is to comply with the requirements described in Clause 9 of Schedule 3.	Proposal is able to comply	Condition recommended to ensure compliance (No change)
Toilet	The toilet is to comply with the requirements described in Clause 9 of Schedule 3.	Proposal is able to comply	Condition recommended to ensure compliance (No change)
Surface finishes	Balconies and external paved areas must have slip resistant surfaces.	Proposal is able to comply	Condition recommended to ensure compliance (No change)
Door hardware	Door handles and hardware for all doors must be provided in accordance with AS4299.	Proposal is able to comply	Condition recommended to ensure compliance (No change)
Ancillary items	Switches and power points must be provided in accordance with AS4299.	Proposal is able to comply	Condition recommended to ensure compliance (No change)
Living & dining room	A living room must have a circulation space in accordance with Clause 4.7.1 of AS4299, and a telephone adjacent to a general power outlet. Also a living and dining room must have a potential illumination level of at least 300 lux.	Proposal is able to comply	Condition recommended to ensure compliance (No change)
Kitchen	The kitchen must comply with the requirements of Clause 16 of Schedule 3	Proposal is able to comply	Condition recommended to ensure compliance (No change)
Access to kitchen, main bedroom, bathroom & toilet	The kitchen, main bedroom, bathroom and toilet must be located on the entry level.	Proposal is able to comply	Complies (No change)
Laundry	The laundry must	A laundry facility is provided	Condition

Control	Required	Proposed	Compliance
	comply with the requirements of Clause 19 of Schedule 3.	for each dwelling. Private open space terraces also allow for open air clothes drying.	recommended to ensure compliance (No change)
Storage	A self-contained dwelling must be provided with a linen storage in accordance with Clause 4.11.5 of AS4299	Proposal is able to comply	Condition recommended to ensure compliance (No change)
Garbage	A garbage storage area must be provided in an accessible location.	Garbage bin storage room is located at the front of the site in an accessible location. Details have been submitted to demonstrate compliance with the condition which requires the bin storage room to comply with Council's Policy under the Warringah DCP and be set back a minimum of 0.9m from the southern boundary.	Complies with the conditions

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

This part is not applicable to the subject site as the site is zoned low density residential.

Part 6 - Development for vertical villages

This part is not applicable to the proposed development.

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

Clause 46 Inter relationship of Part with design principles in Part 3

Clause 46 states that nothing in Part 7 permits the granting of consent pursuant to the Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.

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

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

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

Control	Required	Proposed	Compliance
Building height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below).	7.0m	Complies (No change)
Density and scale	0.5:1 (634.5sqm GFA)	0.57:1 (727sqm GFA)	The proposal exceeds the 0.5:1 FSR (634.5sqm) by

Control	Required	Proposed	Compliance
			<p>92.5sqm.</p> <p>The modified proposal includes a 500mm increase in the set back to the mid section from the north and south boundaries for a length of 7.1 m along the mid-point of the side elevation which will have a slight reduction in the GFA. The modification satisfies the condition of the original consent.</p>
Landscaped area	30% of the site area is to be landscaped.	35% (493sqm) of site area is landscaped	Complies (No change)
Deep soil zone	<p>15% of the site area deep soil (190 sqm).</p> <p>Two-thirds of the deep soil zone should be located at the rear of the site. Each area forming part of the zone should have a minimum dimension of 3 metres.</p>	16% (203sqm) of site area is deep soil of 1m depth or more. The majority of deep soil planting is provided to the rear and has a minimum dimension of 3m.	Complies (No change)
Solar access	Living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter.	Three (3) hours direct light between midday to 3pm 21 June available is available to the living rooms and private open space to units 1, 2,3,4 and 6. Two (2) hours direct light between 9am to 12pm 21 June available to the living rooms and private open space of unit 5.	Complies for 83% of the units. (No change)
Private open space	15sqm of private open space per dwelling not less than 3 metres long	<p>Unit 1: 43sqm</p> <p>Unit 2: 33sqm</p> <p>Unit 3: 19sqm</p> <p>Unit 4: 19sqm</p>	Complies (No change)

Control	Required	Proposed	Compliance
	and 3 metres wide.	Unit 5: 85sqm Unit 6: 84sqm	
Parking	0.5 spaces per bedroom. (16 bedrooms proposed – 8 carparking spaces required)	8 carspaces for 16 bedrooms.	Complies (No change)
Visitor parking	Visitor car parking is not required for developments with less than 8 units.	A total of eight (8) car residential parking spaces and two (2) visitor parking spaces are provided in the basement in compliance with the condition of consent.	Complies

Chapter 4 – Miscellaneous

Comment: No miscellaneous provisions apply to the proposal.

In summary, the developments performance when assessed against the provisions of SEPP (HSPD) are not compromised as a consequence of the modifications sought.

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The original proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended. The subject modification does not trigger a referral to Ausgrid.

Warringah Local Environmental Plan 2011

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

aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.7m	7.7m (no change)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

6.2 Earthworks

The subject site falls under Area A on the Landslip Risk Map which is defined by a slope of less than 5 degrees. In this regard, the application is accompanied by an updated geotechnical site investigation report addressing the changes to the previously approved excavation which is noted to include a 3.3m increase the extent of excavation. Compliance with the recommendations of the updated geotechnical report is included in the section 4.55 conditions.

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	6.2m - 6.9m	No change	Yes
B3 Side Boundary Envelope	4m/5m (North)	Within envelope	No change	Yes
	4m/5m (South)	Within envelope	No change	Yes
B5 Side Boundary Setbacks	0.9m (North)	1.7m - 3m	1.7m - 3m	Yes
	0.9m (South)	1.5m - 3m 0 - to bin store	1.7m 0-3m 0.9m to bin store	Yes Yes
B7 Front Boundary Setbacks	6.5m	9.4m to terrace 16.7m to ground floor 0 - letterbox / entry gate	No change	Yes No
B9 Rear Boundary Setbacks	6m	3m - terrace 5m - 6.7m to rear wall	No change	No No
D1 Landscaped Open Space and Bushland Setting	40%	35% (493sqm)	No change	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B9 Rear Boundary Setbacks

There is no change in the footprint of the building which has a setback of between 5m - 6m from the rear boundary.

The proposal remains to be consistent with the objectives of the control in that it provides opportunities for deep soil landscaping. The setback provides for visual continuity and patterns of buildings to the rear it creates a sense of openness to the rear and ensures that there will be no unreasonable impacts on neighbouring amenity including privacy between dwellings.

C3 Parking Facilities

The subject application address the requirements of Council's Transport Officer providing 2 visitor car parking space which was imposed as a condition in the original consent to address the concerns from neighbours in respect of impacts of the availability of kerb side parking.

D1 Landscaped Open Space and Bushland Setting

The modification does not change the amount of landscape open space provided on the site which under the original DA equated to 35% of the site area (5% breach of the control). The proposal remains to be fully compliant with the landscaping controls of the SEPP (HSPD). The total landscaping on the site is 493sqm (35%) with the deep soil zones exceeding 15%.

The modification proposal remains to be consistent with the objectives of the control in that it will provide for sufficient space to enable planting to maintain and enhance the streetscape which will also help mitigate the height, bulk and scale of the building and allow for privacy between dwellings.

D6 Access to Sunlight

The original proposal complies with the control with more than 50% of the private open space receiving a minimum 3 hours of sunlight between 9am and 3pm on June 21 in compliance with the solar access provisions. Despite this condition 11 required that part of the side wall (midsection) of the proposed front two storey building is setback an additional 500mm from the north and south boundaries in order to help reduce the building bulk to the side and assist with solar access.

The subject modification complies with condition 11 and includes a partial set back of the upper floor of front building from the side boundaries.

D8 Privacy

In order to address issues with respect of privacy between the subject development and the adjoining properties condition 11 (c) (iv) requires windows to be modified to be either high level or have external privacy screens installed.

The subject modification provides details of the amended design which demonstrates a generally compliance with the condition. There is one exception which is noted to relate to kitchen window to units 5 and 6 located in the side elevations. The proposal includes a reduction in the height of the kitchen window from 1500mm to 600mm in lieu of the installation of privacy screens. Given that the windows relate to the ground level units located to the rear of the site it is not expected that the small kitchen window will result in unreasonable privacy impacts given the neighbouring dwellings are sited forward of units 5 and 6.

D9 Building Bulk

The height, bulk and scale of the development remains to be generally consistent with that approved in the original DA.

In order to reduce the visual impact of the continuous wall plane and improve the urban environment for

the adjacent properties, condition 11 (c) (i) required bedrooms 2 and 3 to units 3 and 4 to be recessed a further 500mm. The subject modification demonstrates compliance with this condition.

Condition 11 (c) (ii) required the balcony balustrade to include more lightweight elements (up to 50%) that may be a glazed section, or other suitable lightweight suitable open-style balustrade material in order to reduce the visual impact of the wide and solid, double front balconies when viewed from the street frontage. The subject modification demonstrates compliance with this condition.

Furthermore, condition 11(c) (iii) requires the materials and finishes to the single storey dwelling to be further¹ considered and amended in order to reduce the visual impact to adjoining properties. The subject modification demonstrates compliance with this condition providing

D14 Site Facilities

The proposal has been amended to address the requirements of Council's Waste Unit and the bin store has been reposition 1m from the side boundary and the bulky good storage deleted in compliance with condition 11 (b) (i).

E1 Preservation of Trees or Bushland Vegetation

The subject modification includes the removal of the liquid amber street tree which is located adjacent to the pedestrian entry to the development and the required new public footpath. The applicant justifies the removal of the tree and replacement planting on the basis that the liquid amber tree impacts on the safety of residents and the public caused by the seed pods of the tree which present a slip hazard. It is agreed that pedestrian traffic is likely to increase as a result of the public and private works and the justification is therefore supported, additionally, the new footpath works are likely to impact on tree roots. Council's Landscape Officer has no objections to the removal of the tree, which is noted to be an exempt species, subject to a condition requiring the planting of two (2) native trees in the road reserve.

It is also noted that in order to address the condition requiring changes to the basement car park to allow for 2 visitor parking space the basement wall will extended further toward the street which will impacts on a tree previously conditioned for retention (Tree 4). Council's Landscape Officer has confirmed that the tree is only in fair condition and it is recommended that approval to remove the tree be included in conditions, subject to replacement.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation

submitted by the applicant and the provisions of:

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

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

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

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

Basement

The basement design being has been amended to address condition 11 of the original consent which included a requirement to provide two (2) visitor spaces in order to address concerns from neighbours regarding the impacts on the availability of kerb side parking. As a consequence of compliance with the condition the basement extends 3.3m closer to the street frontage. There is no increase in the depth of excavation or extension to the side boundaries. Subject to compliance with the amended geotechnical report the minor extension of the basement will not result in unreasonable impacts on neighbouring properties. All conditions relating to excavation and construction management imposed in the original consent also remain valid.

Tree removal

As a result of the slight increase in the basement excavation tree 4 will need to be removed. Subject to the replacement planting Council's Landscape Officer has no objections to the removal of tree 4. The applicant also seeks the removal of the liquid amber street tree, an exempt species, which is located adjacent to the proposed accessible footpath. The applicants justifies the removal of the tree on the basis of it presents a slip hazard to pedestrians. The justification is supported and subject to a condition requiring the replanting of two (2) native trees within the reserve Council's Landscape Officer has no objections to its removal.

Neighbouring amenity

The modification plans generally address condition 11 of the original consent in terms of ensuring visual privacy is maintained with high level windows and the addition of privacy screens to windows and balconies.

External

The modification plans include changes to the external materials to ensure that the building is appropriately articulated. The plans provide for a partial increase in the setback of the upper floor of the front building which will reduce the visual dominance of the building as viewed from the side boundaries.

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

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2021/0160 for Modification of Development Consent DA2019/1173 granted for demolition of existing development and construction of a Seniors Housing development comprising 6 x infill self care housing units and basement parking, and strata subdivision on land at Lot A DP 411784,3 Berith Street, WHEELER HEIGHTS, subject to the conditions printed below:

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

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

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A02 Basement version S4.55	07.11.2018	Barry Rush and Associates Pty Ltd
A02 Site and Ground Floor Plan version S4.55	07.11.2018	Barry Rush and Associates Pty Ltd
A02 First Floor Plan version S4.55	31.05.2021	Barry Rush and Associates Pty Ltd
A05 Roof Plan version S4.55	07.11.2018	Barry Rush and Associates Pty Ltd
A06 Elevations version S4.55	31.05.2021	Barry Rush and Associates Pty Ltd
A07 North Elevation internal elevations version S4.55	03.08.2020	Barry Rush and Associates Pty Ltd
A08 Sections version S4.55	16.02.2021	Barry Rush and Associates Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Report Ref: 32859SFrptRev1 Section 4	26 March 2021	JK Geotechnics

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

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

B. Modify Condition 10 Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans to read as follows:

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Investigation Report; White Group, Reference No: J2436, Dated: 17 October 2019, the JK Geotechnical Peer Review Report Ref: 32859YFlet dated 13 December 2019 and the JK Geotechnical Investigation Report Ref: 32859SFrpt, Dated: 20 January 2020 **and the Geotechnical Report Ref: 32859SFrpt Rev1 prepared by JK Geotechnics dated 26 March 2021** are to be incorporated into the construction plans.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

B. Modify Condition 11b) to add part iii) to read as follows:

The proposed 1.8m high timber boundary fence between No. 3 and 5 Berth Street shall follow the slope of the land and be erected to maintain the height of the existing boundary fence.

C. Add Condition 55 c) and d) Required Planting to read as follows:

c) Required Tree Planting

Trees shall be planted in accordance with the following:

i) 1 x Banksia integrifolia, located in the front yard to replace tree 4; minimum pot size 75 litre.

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

Reason: To maintain environmental amenity.

d) Street Tree Planting

Street trees shall be planted in accordance with the following:

i) 2 x Eucalyptus haemastoma; located in the Berth St road reserve forward of the property, clear of driveway sightlines and generally in alignment with other street trees; minimum pot size 25 litre.

All street trees shall be a minimum planting size of 25 litres, and shall meet the requirements of Natspec - Specifying Trees.

All street trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained including a four

post and top and mid rail timber tree guard and watered until established.

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

Reason: To maintain environmental amenity.