

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0822
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Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 42 DP 4689, 54 Bardo Road NEWPORT NSW 2106
Proposed Development:	Modification of Development Consent DA2020/1172 granted for Demolition works and construction of a seniors housing development to accommodate six units including associated car parking and landscape works
Zoning:	R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	Yes
Owner:	BPG Holdings (No. 5) Pty Ltd
Applicant:	BPG Holdings (No. 5) Pty Ltd

Application Lodged:	11/11/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	24/11/2021 to 08/12/2021
Advertised:	24/11/2021
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves the modification of Development Consent No. DA2020/1172 granted for "Demolition works and construction of a seniors housing development to accommodate six (6) units, including associated car parking and landscape works".

Specifically, the modifications include the following:

- Roof raised at front and rear to allow for addition of skylights
- Concrete roof added to stairwell in courtyard
- Alteration to timber walkway
- Roof to front entry deleted and front entry revised
- Increase in height to bin storage roof
- Car space removed from 102 Garage and added to G03 garage

- Alteration to internal lift shafts
- Replacement of storage with electrical room
- Alteration to footprint of OSD/RWT
- Shift of basement to western boundary
- Reduction to width of central courtyard from 14540mm to 14440mm
- Planter box to western boundary
- Changes to windows, doors, and stairs
- Deletion of east facing window to Bed 2 of G02
- Blade wall added to G02
- Alterations to retaining wall
- 1800mm fence to western boundary
- Addition of pergolas
- Relocation of fire egress

Amended Plans/Additional Information

Amended plans and additional information were provided to ensure all changes were listed in the Schedule of Amendments.

Amended plans involved the following changes:

- Roof at rear module reduced by 300mm
- Maintain 8 parking spaces (as approved) each compliant with Australian Standards
- Greater width to landscaped planter adjoining the western boundary
- A new 1800mm fence to the western boundary
- Change to the design of the roof to the bin storage area

These did not require re-notification in accordance with the Council's Community Participation Plan.

Comparison with current modification lodged with the Court (MOD2021/0873)

The court application proposes all of the above modifications with the exception of the changes in the amended plans above. In addition to this, the application lodged with the court also proposes the following further changes:

- Extension into the rear setback from 6.5m to 5.0m.
- Narrowing of the rear private open space.
- A greater height of the roof at the rear to be RL22.0 being an increase from RL21.25 (750mm) under this application.

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.

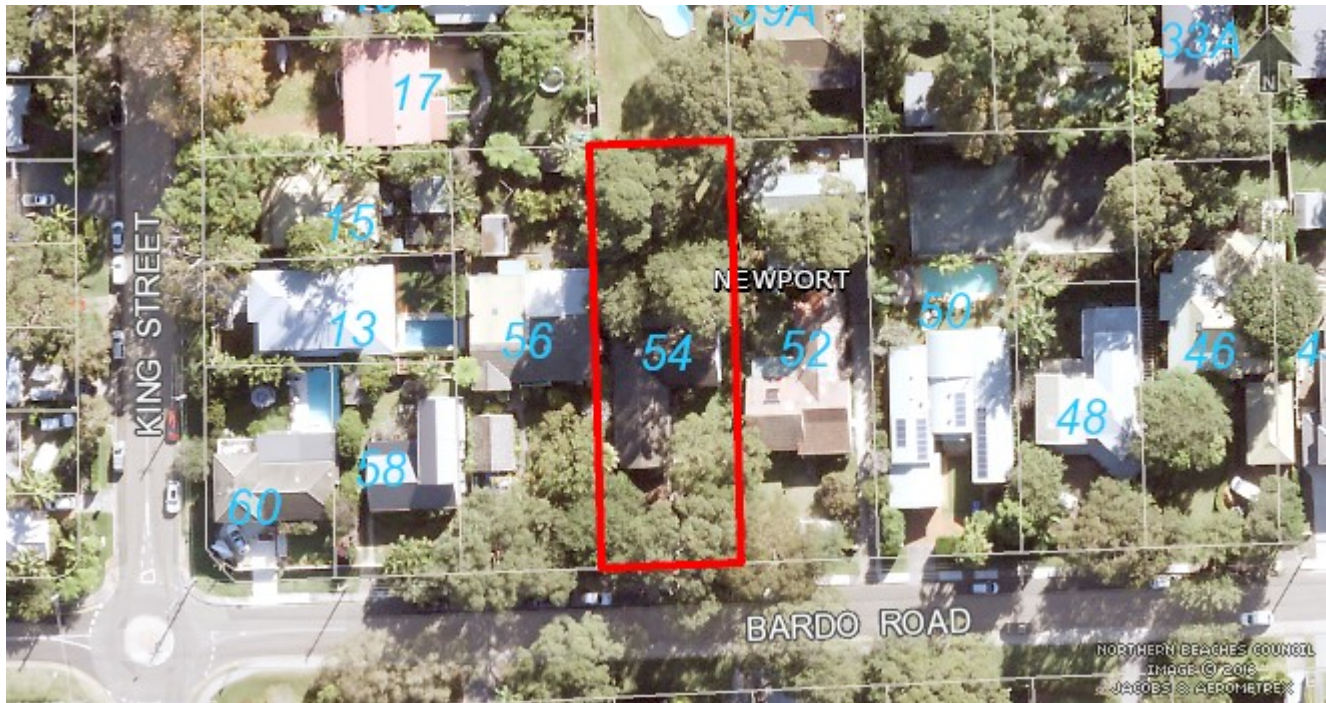
SUMMARY OF ASSESSMENT ISSUES

Environmental Planning and Assessment Act 1979 - Section 4.56 - Environmental Planning and Assessment Act 1979 - Section 4.56 (minor)
Pittwater 21 Development Control Plan - C1.21 Seniors Housing

SITE DESCRIPTION

Property Description:	Lot 42 DP 4689 , 54 Bardo Road NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of an allotment located on the northern side of Bardo Road.</p> <p>The site is regular in shape with a frontage of 20.11m along Bardo Road and a depth of 60.96m. The site has a surveyed area of 1226.3m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates dwelling house on the site.</p> <p>The site is relatively flat and contains relatively dense vegetation at the front and the rear.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by a mix of dwellings, residential flat buildings and multi-dwelling housing.</p>

Map:



SITE HISTORY

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

- DA2020/1172 - Demolition works and construction of a seniors housing development to accommodate six units including associated car parking and landscape works approved by LEC consent on 18 June 2021.

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 DA2020/1172, in full, with amendments detailed and assessed as follows:

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 24/11/2021 to 08/12/2021 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 2 submission/s from:

Name:	Address:
Mr Scott William Ross Beggs	7 Princes Street NEWPORT NSW 2106
Mr Roger Taylor Russell	52 Bardo Road NEWPORT NSW 2106

The matters raised within the submissions are addressed as follows:

- **Concern regarding the height of trees on the boundary between 52 Bardo Road and 54 Bardo Road**

Comment:

The proposed vegetation along the eastern boundary will generally have a maximum height of 3.0m-5.0m. As such, this height (at a similar level to the proposed building) will not cause any unreasonable amenity impact on the neighbouring property.

- **Concern regarding setback of basement to western boundary**

Concern is raised with regard to the geotechnical implications of the reduced setback of the basement to the western boundary and the lack of deep soil planting in this area.

Comment:

Conditions remain on the consent with regard to satisfying the geotechnical recommendations and requirement for dilapidation report for adjoining properties. This provides appropriate mitigation for Geotechnical impact.

Amended plans have also been provided to show a greater width of planter box at the western boundary to allow for appropriate planting. This has been endorsed by Council's Landscape Officer.

- **FSR and Rear setback**

A request is made for the Ground Floor area to be consistent with LEC consent, and for the built form not to extend into the rear 6.5m setback area.

Comment:

The amended plans submitted for this application provide for an FSR that is consistent with the LEC consent, and for a rear setback of 6.5m.

- **Building Height not to exceed 8.0m**

Comment:

The height of buildings provision under SEPP HSPD is measured to the underside of the uppermost ceiling. The proposal remains compliant with this requirement.

- **Accessibility**

Concern is raised with regard to the suitability of the accessibility for occupants of the development without a refuge island.

Comment:

Council's Traffic Officer is satisfied with the ramps and an alternative due to the width of Bardo Road (see comments provided by Council's Traffic Officer).

- **Development should be refused due to inconsistency with various sections of the SEPP HSPD, the Pittwater LEP and the Pittwater DCP**

Comment:

The proposal involves a number of alterations to the approved development. However, these alterations do not significantly change the overall built form and do not introduce any new non-compliances with the relevant planning controls. As such, the modification is supported, subject to conditions.

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>
Environmental Health (Industrial)	<p>General Comments</p> <p>Proposed modification of approved development does not have any significant impact on the criteria that environmental health assess.</p>
Landscape Officer	<p>The application is to modify development consent DA2020/1172, for amendments to the basement location, landscaping, minor modifications to the internal layouts of units, amended roof forms and external finishes, and modification of Condition 32 for a pedestrian refuge.</p>

Internal Referral Body	Comments
	<p>The landscaped area calculations upon the site are changed due to the amended basement location and the minimum 30% landscaped area prescribed by State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 is maintained. The amended basement alignment provides additional deep soil increase to 12% of the site.</p> <p>The amendments include landscape treatment along the western boundary over structure in lieu of the previous deep soil strip along the western boundary, and to ensure adequate soil depth and width is provided for the proposed landscape planting as shown on the Landscape Plan, a specific condition shall be imposed for a minimum soil depth of 1.0 metre and a minimum internal width of 1.0 metre to all these on structure landscape planters along the western boundary.</p> <p>An additional connecting 1:14 path along the frontage within the site is proposed in the modification documents and a arboricultural review by Jacksons Tree Services indicates no impacts to existing trees proposed for retention. Condition 51 Project Arborist remains applicable in the requirement for pier footing locations to be determined by the Project Arborist for the raised pedestrian path.</p>
NECC (Bushland and Biodiversity)	The Arborist (Jacksons Nature Works) has provided a letter (no date) that confirms that the modified plans do not have any impact on the retained trees. Therefore, based on this advice the proposed modifications are unlikely to result in an increased impact to the biodiversity values of the site.
NECC (Development Engineering)	No objections to the proposed On site Detention tank changes subject to conditions.
Traffic Engineer	<p>The applicant seeks to have condition No.32 amended so that there is no longer a requirement to construct a pedestrian refuge on Bardo Road. In support of the request a traffic statement prepared by LOKA consulting engineers has been prepared which states that a pedestrian refuge can't be constructed on Bardo Road because it is of insufficient width.</p> <p>Bardo Road has a width of 8.1m however the RMS Technical direction TD2011/01a (fig 4) provides details which allow for localised widening of the road to facilitate the installation of a pedestrian refuge. Under such a scenario a minimum width of 9.4m would be required. i.e Bardo Road would need to be locally widened by 1.3m. While this is not infeasible, for compliance with the technical direction, given the 40km/h 85th percentile speed on Bardo Road it would also require the introduction of 47m lengths of No Stopping to be introduced on both approach to and departure from the refuge on both sides of the road. This is considered an unacceptable level of impact on on-street parking for the surrounding neighbourhood. The removal of so much parking is also likely to result in increased vehicle speeds on this part of Bardo Road which would impact negatively on pedestrian safety offsetting any pedestrian safety benefits created by the introduction of the pedestrian refuge. Given the above, the applicants request to amend the condition is supported.</p>

Internal Referral Body	Comments
	<p>It is noted that the traffic statement suggests that only one kerb ramp need be introduced on Bardo Road at the King St intersection. This is presumably because it was considered that a pram ramp was unnecessary on the northern side of King St given the presence of a vehicle crossing (at No.60) which could be used to provide ramped access to the footpath. This course of action is not favoured for two reasons:</p> <ol style="list-style-type: none"> 1. Pram ramps are constructed without a lip to facilitate ease of access by prams, wheelchairs, bicycles and mobility scooters. Driveways by contrast have a lip at the gutter which can create access issues for those with mobility issues or using wheeled devices. 2. The shared use of a vehicle crossing as a pedestrian access point is a less safe option than a pram ramp as the vehicle crossing by nature would not be exclusively available for pedestrian access. There would also be an issue in terms of ongoing maintenance responsibility as the responsibility for provision and maintenance of a vehicle crossing is the resident's. <p>It is noted that there are double separation lines on Bardo Road which effectively prevent any legal parking activity on Bardo Road for a distance of at least 24m east of King Street. This ensures that there would be adequate sight lines to any pedestrians crossing in this vicinity. The provision of pram ramps to the east of the driveway serving No.60 Bardo Rd is considered a feasible and safe option as a pedestrian crossing point.</p> <p>Given the above it is suggested that condition No.32 be reworded as follows:</p> <p><i>32. Construction of pram ramps</i></p> <p><i>The applicant shall construct pram ramps on either side of Bardo Road east of the King Street intersection to provide a continuous, convenient and safe pedestrian access route to the designated bus stops on Gladstone St for seniors and people with disabilities.</i></p> <p><i>A plan demonstrating the construction of the pram ramps in accordance with Australian Standards AS1742 and relevant RMS supplements shall be prepared by a suitably qualified person and submitted to and approved by the Council prior to the issue of Construction Certificate.</i></p> <p><i>The above pram ramps and any associated footpath modifications are to be constructed by the applicant at no cost to Council.</i></p> <p><i>Reason: To provide a safe and convenient pedestrian access to public transport in compliance with the SEPP requirement.</i></p>
Waste Officer	

Internal Referral Body	Comments
	Waste Management Assessment Recommendation - acceptable - without conditions. Ray Creer Waste Services Officer

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 will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1245741M).

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

Commitment	Required Target	Proposed
Water	40	42
Thermal Comfort	Pass	Pass
Energy	50	48

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

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

The development application has been lodged pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (HSPD)) as the development is for (6) self contained seniors housing apartments.

Chapter 1 – Preliminary

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

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

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

Comment: The proposed development is consistent with aim (a) of the Policy as the development for Seniors Housing will provide an increase supply of accommodation to meet the needs of seniors or people with a disability.

In relation to (b), the proposal provides efficient use of existing infrastructure and services as access is provided to and from the site via footpaths and close proximity to bus stops.

In relation to (c), the proposal involves a good design with respect to the provisions of local policies and the the SEPP HSPD in terms of the stepping and articulation of the built form, considerations of access, internal amenity and amenity impacts. However, the proposal does not provide a suitable design in terms of integration of natural features with the built form or suitable design for biodiversity or suitable stormwater design. In particular, Council's Landscape officer is not satisfied as to the retention of trees, Council's Biodiversity officer is not satisfied that the design minimises environmental impact, and Council's Engineer is not satisfied Stormwater design.

Chapter 2 – Key Concepts

Comment: The proposed development is consistent with the key concepts contained within SEPP (HSPD). The development comprises self-contained dwellings which are to be occupied by seniors or people with a disability. On this basis, the proposed development is considered consistent with Chapter 2 of SEPP (HSPD).

Chapter 3 – Development for seniors housing

Chapter 3 of SEPP HSPD contains a number of development standards applicable to development applications made pursuant to SEPP HSPD. Clause 18 of SEPP HSPD outlines the restrictions on the occupation of seniors housing and requires a condition to be included in the consent if the application is approved to restrict the kinds of people which can occupy the development. If the application is approved the required condition would need to be included in the consent. The following is an assessment of the proposal against the requirements of Chapter 3 of SEPP (HSPD).

Development Criteria			
Clause	Requirement	Proposal	Complies
PART 2 - Site Related Requirements			

Development Criteria			
Clause	Requirement	Proposal	Complies
26(1)	Satisfactory access to: (a) shops, banks and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner	The proposal provides appropriate access through bus transport, which complies with the requirements under Clause 26(2), being within close proximity to bus stops and the Newport shopping centre.	Yes
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 400metres away.	The proposal is within 400m of two bus stops on Gladstone Street.	Yes
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	N/A	N/A
28	Consideration is given to the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure.	Reticulated water and sewerage infrastructure is presently available to the site. The proposed seniors housing development is capable of connecting to a reticulated water system, in accordance with the provisions of Clause 28.	Yes
29	Consideration must be given to whether the proposal is compatible with the surrounding land uses having regard to the following criteria specified in Clauses 25(5)(b)(i), 25(5)(b)(iii), and 25(5)(b)(v): i) the natural environment and the existing uses and approved uses of land in the vicinity of the proposed development iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development and any proposed financial arrangements for infrastructure provision, v) the impact that the bulk, scale, built form and character of the proposed development is	The proposed modifications do not result in any reduction in the quantum of landscaped area, and Council's Landscape officer is satisfied with the trees retained for protection and proposed for planting. This provides sufficient mitigation of the impact of building bulk and scale.	Yes

Development Criteria			
Clause	Requirement	Proposal	Complies
	likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.		
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	A Site Analysis Plan and Statement of Environmental Effects submitted with the application satisfactorily address the requirements of this clause.	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	<p>Built Environment – New development is to follow the patterns of the existing residential neighbourhood in terms of built form.</p> <p>Policy environment – Consideration must be given to Councils own LEP and/or DCPs where they may describe the character and key elements of an area that contribute to its unique character.</p>	<p>The Desired Character for the Newport locality is identified as:</p> <p><i>"The Newport locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a natural landscaped setting, integrated with the landform and landscape."</i></p> <p>The proposal maintains two separated modules, being one and two storey buildings. These are well separated and articulated with landscaped areas integrated to ensure the building bulk fits in to the landscaped setting and is consistent with the desired character.</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 -Minimise the physical and 	<p>The proposal generally maintains the landscaped area on the site and provides new planting along the western boundary. Council's Landscape officer is satisfied with the maintenance of trees and the landscaped design.</p>

Section	Requirements	Comment
	visual dominance of car parking, garaging and vehicular circulation.	
3. Impacts on streetscape	Objectives of this section are to: -Minimise impacts on the existing streetscape and enhance its desirable characteristics -Minimise dominance of driveways and car park entries in streetscape.	The proposal involves minor changes to the front of the site with regard to the facade, bin storage and front entry. The landscaped area and trees are retained in accordance with the court consent. As such, the proposal is sufficient in the streetscape.
4. Impacts on neighbours	The proposal is generally in accordance with the requirements of this section.	Subject to conditions including privacy screening, the proposal provides a sufficient design including physical separation and articulation of the built form to ensure there would be no unreasonable amenity impact.
5. Internal site amenity	Objectives of this section are to: -Provide safe and distinct pedestrian routes to all dwellings and communal facilities.	The site layout provides appropriate and safe access to each unit.

Clause 32 Design of residential development

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

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

Control	Requirement	Proposed	Compliance
CL33 Neighbourhood amenity and streetscape	a. Recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area.	The Newport Locality statement provides the following identification of character: <i>"The residential areas are of a diverse style and architecture, a common thread being the landscaped, treed frontages and subdued external finishes.</i> <i>Future development will maintain a building height limit below the tree canopy and minimise bulk and scale.</i> <i>Existing and new native</i>	Yes

Control	Requirement	Proposed	Compliance
	<p>b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that re identified in a local environmental plan.</p> <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</p>	<p><i>vegetation, including canopy trees, will be integrated with the development."</i></p> <p>The residential areas are of mixed style and architecture, with a commonality being landscaped boundaries and treed frontages.</p> <p>Although the proposed development will maintain a building height limit below the tree canopy and minimise bulk and scale. The impact on vegetation including two trees at the front, and overall tree removal on the site is unacceptable.</p> <p>N/A</p> <p>The proposed development provides articulation at upper levels, and sufficient separation from neighbouring living spaces in order to minimise amenity impact. The built form has a compliant rear setback and steps down to be one storey at the rear. This provides a building height and bulk does not result in any unreasonable amenity impact such as overshadowing. Further, the building heights at the street frontages provide a open presentation (with balconies and private open space) to adequately reduce the presentation of built form in the streetscape.</p>	<p>N/A</p> <p>Yes</p>

Control	Requirement	Proposed	Compliance
	<p>on neighbors.</p> <p>d. Be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line,</p> <p>e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.</p> <p>f. retain , wherever reasonable, major existing trees, and</p> <p>g. be designed so that no building is constructed in a riparian zone.</p>	<p>The proposed front setback complies with the control under the Pittwater DCP, and generally respects the established front building line in the street.</p> <p>Council's Landscape officer has provided that the retention of existing trees and new planting including within the planter box to the western boundary is reasonable.</p> <p>The site contains 8 existing native trees reported with high retention value in the arboricultural impact assessment by Tree Survey.</p> <p>The loss of five existing trees of high retention value can't be replaced by this proposal due to insufficient deep soil zones and landscape area remaining capable of allowing tree replacement. This is an unreasonable environmental impact.</p> <p>The site is not within a riparian zone.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</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	<p>The proposed side and rear elevations provide suitable design of openings and appropriate physical separation from neighbouring properties to ensure overlooking impact would be suitably minimised in these locations, subject to conditions which could be provided for screening and minor modifications to sill heights.</p> <p>A condition may also be applied in regard to the control on noise both during construction and operation.</p>	Yes

Control	Requirement	Proposed	Compliance
	them away from driveways, parking areas and paths.		
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 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.	The solar diagrams submitted with the application indicate that apartments will receive adequate sunlight access for the whole of the year. Further, the sufficient openings are provided to the north of the buildings to take advantage of solar access.	Yes
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	Council's Development Engineer has supported the application subject to conditions.	Yes
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	The proposal involves six units with sufficient and separate ground level access. The proposal also involves various openings which provide opportunity for passive surveillance.	Yes

Control	Requirement	Proposed	Compliance
	shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.		
CL 38 Accessibility	The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.	The proposed development has demonstrated that compliant access can be provided from the site to the closest public transport links to access essential services. These arrangements are subject to conditions and amendments required by Council's Traffic Officer and Development Engineer.	Yes
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	The proposed waste storage area satisfies requirements of Council's Waste Management Guidelines.	Yes.

Part 4 - Development standards to be complied with

Clause 40 – Development standards – minimum sizes and building height

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

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

Control	Required	Proposed	Compliance
Site Size	1000 sqm	1226.3m	Yes
Site frontage	20 metres	20.115m	Yes
Building Height	8m or less	6.0m	Yes

Control	Required	Proposed	Compliance
	(Measured vertically from ceiling of topmost floor to ground level immediately below)		
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	Not more than 2 storeys	Yes
	A building located in the rear 25% of the site must not exceed 1 storey in height (development within 15.51 metres of the rear boundary).	Rear building is one storey in height	Yes

Clause 41 Standards for hostels and self contained dwellings

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

Control	Required	Proposed	Compliance
Wheelchair Access	If the whole site has a gradient less than 1:10, 100% of the dwellings must have wheelchair access by a continuous path of travel to an adjoining public road. If the whole of the site does not have a gradient less than 1:10 the percentage of 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.	Continuous path of travel with appropriate gradient provided	Yes
Security	Pathway lighting (a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and	Lighting may be conditioned to ensure compliance with glare and reflection should the application be considered for approval.	Yes

Control	Required	Proposed	Compliance
	(b) Must provide at least 20 lux at ground level		
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, and (c) must be located together in a central location adjacent to the street entry.	A condition may be provided to ensure an appropriate location for a letter box.	Yes
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.	Each apartment is provided with a space that is readily accessible. Council's Traffic officer is satisfied with the proposal.	Yes
Accessible entry	Every entry to a dwelling must comply with Clause 4.3.1 and 4.3.2 of AS4299	Complies	Yes
Interior general	Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.	Complies	Yes
Bedroom	At least one bedroom within each welling must have: (a) An area sufficient to accommodate a wardrobe and a queen size bed (b) A clear area for the bed of at least 1200 mm wide at the foot of	Complies in accordance with the Access Report	Yes

Control	Required	Proposed	Compliance
	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.		
Bathroom	The bathroom is to comply with the requirements described in Clause 9 of Schedule 3.	Complies in accordance with the Access Report	Yes
Toilet	The toilet is to comply with the requirements described in Clause 9 of Schedule 3.	Complies in accordance with the Access Report	Yes
Surface finishes	Balconies and external paved areas must have slip resistant surfaces.	Complies in accordance with the Access Report	Yes
Door hardware	Door handles and hardware for all doors must be provided in accordance with AS4299.	Complies in accordance with the Access Report	Yes
Ancillary items	Switches and power points must be provided in accordance with AS4299.	Complies in accordance with the Access Report	Yes
Living & dining room	A living room must have a circulation space in accordance with Clause 4.7.1 of AS4299, and a telephone adjacent to a general power outlet. Also a living and dining room must have a potential illumination level of at least 300 lux.	Complies in accordance with the Access Report	Yes
Kitchen	The kitchen must comply with the requirements of Clause 16 of Schedule 3	Complies in accordance with the Access Report	Yes
Access to kitchen, main bedroom, bathroom & toilet	The kitchen, main bedroom, bathroom and toilet must be located on the entry level.	Complies in accordance with the Access Report	Yes
Laundry	The laundry must	Complies in accordance with	Yes

Control	Required	Proposed	Compliance
	comply with the requirements of Clause 19 of Schedule 3.	the Access Report	
Storage	A self-contained dwelling must be provided with a linen storage in accordance with Clause 4.11.5 of AS4299	Complies in accordance with the Access Report	Yes
Garbage	A garbage storage area must be provided in an accessible location.	Complies in accordance with the Access Report	Yes

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

This part is not applicable to the subject site.

Part 6 Development for vertical villages

This part is not applicable to the proposed development.

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

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)	6.0m	Yes
Density and scale	0.5:1	0.569:1	No (no change to approved) Given the articulation of the building and sufficient setback, the FSR does not

Control	Required	Proposed	Compliance
			contribute to an unreasonable building bulk.
Landscaped area	30% of the site area is to be landscaped	36%	Yes
Deep soil zone	15% of the site area 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.	15%	Yes
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	Complies	Yes
Private open space	(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and (ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres	Complies	Yes

Control	Required	Proposed	Compliance
	(or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area		
Parking	15 bedrooms proposed – 8 carparking spaces required	8 spaces	Yes
Visitor parking	None required if less than 8 dwellings	None required	Yes

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies

Height of Buildings:	8.5m	7.5m	8.2m	N/A	Yes
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Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	6.5m	6.5m / unaltered	Yes
Rear building line	6.5m	6.5m	6.5m / unaltered	Yes
Side building line	4m front building	3m-5.35m	3m-5.35m / unaltered	No (as approved)
	3m rear building	2.0m	2.0m / unaltered	No (as approved)
Building envelope	4.2m	Within	Within	Yes
	4.2m	Within	Within	Yes
Landscaped area	50%	36.5%	36.5% / unaltered	No (as approved)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.6 On-Street Parking Facilities	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.18 Car/Vehicle/Boat Wash Bays	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.20 Undergrounding of Utility Services	Yes	Yes
C1.21 Seniors Housing	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	Yes	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	Yes	Yes
D10.14 Fences - General	Yes	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

C1.21 Seniors Housing

The proposal maintains compliant building height and building envelope, and also maintains approved setbacks to the building. The proposal also maintains the approved landscaped area. This provides a situation in which the bulk, building height, scale and character is maintained at a level which will not cause unreasonable cumulative impact or a dominant 'residential flat building' style appearance in the neighbourhood.

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 2021

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

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

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

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

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. Mod2021/0822 for Modification of Development Consent DA2020/1172 granted for Demolition works and construction of a seniors housing development to accommodate six units including associated car parking and landscape works on land at Lot 42 DP 4689,54 Bardo Road, NEWPORT, 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
DA02- Demolition Plan - Issue H	11/02/22	Giles Tribe
DA05 - Site Plan -Issue J	11/02/22	Giles Tribe
DA06 -Basement Plan - Issue R	11/02/22	Giles Tribe
DA07 - Ground Floor Plan - Issue T	11/02/22	Giles Tribe
DA08 - Level 1 Plan - Issue Q	11/02/22	Giles Tribe
DA09 - Roof Plan - Issue K	11/02/22	Giles Tribe
DA10 - North & West Elevations - Issue L	11/02/22	Giles Tribe
DA11 - South & East Elevations - Issue K	11/02/22	Giles Tribe
DA12 - Section A-A & B-B - Issue J	11/02/22	Giles Tribe
DA13 - Section A-A & B-B - Issue J	11/02/22	Giles Tribe
DA19 - Window Schedule - Issue G	11/02/22	Giles Tribe

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Traffic Statement	15 February 2022	Loka Consulting Engineers

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

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

B. Amend Condition 21 - On-site Stormwater Detention Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's WATER MANAGEMENT POLICY for DEVELOPMENT, and generally in accordance with the concept drainage plans prepared by Loka Consulting Engineers, drawing number D01H D02 E, D03 L, D04 I, dated October 2021, Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) or RPENG (Professionals Australia) and registered in the General Area of Practice for civil engineering.

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

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

C. Amend Condition 32 - Construction of pram ramps to read as follows:

The applicant shall construct pram ramps on either side of Bardo Road east of the King Street intersection to provide a continuous, convenient and safe pedestrian access route to the designated bus stops on Gladstone St for seniors and people with disabilities.

A plan demonstrating the construction of the pram ramps in accordance with Australian Standards AS1742 and relevant RMS supplements shall be prepared by a suitably qualified person and submitted to and approved by the Council prior to the issue of Construction Certificate.

The above pram ramps and any associated footpath modifications are to be constructed by the applicant at no cost to Council.

Reason: To provide a safe and convenient pedestrian access to public transport in compliance with the SEPP requirements.

D. Add Condition 10A - On-Slab Landscape Planters along western boundary to read as follows:

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided.

The planters to the western boundary on structure shall be a minimum soil depth of 1.0 metre and a minimum internal width of 1.0 metre.

Landscape treatment details shall also be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

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

For all new residential works with two or more dwellings and mixed use developments the maintenance activity schedule shall incorporate an on-going maintenance plan that shall be submitted to the Certifying Authority outlining a program to monitor and replenish soil levels as a result of soil shrinkage over time.

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

installed.

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

Signed



Thomas Prosser, Planner

The application is determined on 16/03/2022, under the delegated authority of:



Steven Findlay, Manager Development Assessments