

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2019/0332 |
| Responsible Officer: | Claire Ryan |
| Land to be developed (Address): | Lot 92 DP 564686, 55 Kalang Road ELANORA HEIGHTS NSW 2101 |
| Proposed Development: | Demolition and Construction of a shop top housing development |
| Zoning: | B2 Local Centre |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Delegation Level: | NBLPP |
| Land and Environment Court Action: | No |
| Owner: | Anthony Phillip Papandrea Tania Papandrea Aristides Guillermo Cabrera Anna Maria Cabrera |
| Applicant: | Ray Fitz-Gibbon & Associates Pty Ltd |
| Application Lodged: | 05/04/2019 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Mixed |
| Notified: | 20/04/2019 to 05/05/2019 |
| Advertised: | 20/04/2019 |
| Submissions Received: | 1 |
| Clause 4.6 Variation: | 4.3 Height of buildings: Part 10.9% and Part 43.52% |
| Recommendation: | Deferred Commencement Approval |
| Estimated Cost of Works: | \$ 4,508,110.00 |

EXECUTIVE SUMMARY

Northern Beaches Council is in receipt of Development Application DA2019/0332 for demolition and construction of a shop top housing development at 55 Kalang Road, Elanora Heights.

The proposed development includes minor elements that breach the development standard under Clause 4.3 Height of Buildings of the *Pittwater Local Environmental Plan 2014* (PLEP 2014). The proposed development is consistent with the objectives of the zone and the development standard, and is acceptable on merit. The proposed development is also non-compliant with the requirements of

Clauses B6.3 Off-Street Vehicle Parking Requirements, D5.15 Amalgamation - Elanora Heights Village Centre, D5.19 Setbacks to Upper Levels - Elanora Heights Village Centre, D5.20 Separation - Elanora Heights Village Centre, D5.21 Building Depth - Elanora Heights Village Centre, and D5.24 Facade Articulation - Elanora Heights Village Centre of the Pittwater 21 Development Control Plan (P21 DCP). The matters of non-compliance are supported on merit. The proposed development is otherwise compliant with applicable planning controls.

The proposed development received one objection in relation to bulk and scale, stormwater management, amenity and concerns with the developer.

As the proposal is four storeys in height and is subject to the *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development*, the application is referred to the Northern Beaches Local Planning Panel (NBLPP) for review and determination.

The application has been assessed against the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979), *Environmental Planning and Assessment Regulations 2000* (EP&A Regulations 2000), relevant environmental planning instruments (EPIs) and Council policies. Based on a detailed assessment of the proposal against the applicable planning controls, the proposal is suitable and is an appropriate development for the subject site. Accordingly, based on the detailed assessment contained in this report, it is recommended that the application be **approved**.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for demolition and construction of a shop top housing development, as follows:

- Demolition of structures;
- Construction of a four-storey shop top housing development, comprising:
 - Parking area (part basement, part at-grade) for:
 - 15 cars;
 - 6 bicycles; and
 - 1 delivery bay.
 - Ground floor retail tenancy;
 - First and second floor residential apartments:
 - 2 x one-bedroom apartments; and
 - 4 x two-bedroom apartments.
- Driveway works; and
- Landscaping works.

On 1 August 2019, Council requested withdrawal of the development in relation to a number of issues (deep soil zones, solar access, ventilation, apartment size and layout, height of buildings, parking, setbacks, and the survey plan), or submission of supporting documentation addressing the issues raised. On 20 September 2019, the Applicant provided documentation sufficient in addressing the concerns. The amended documentation demonstrated minor amendments of lesser environmental impact, so did not require re-notification, in accordance with Clause A5.1 Exhibition, Advertisement and Notification of Applications of the P21 DCP.

The submitted stormwater drainage plans also indicate a proposed pipe along the rear (eastern) boundary of 53 Kalang Road (SP 50809 and SP 33355), intending to connect to an existing stormwater pit in the south-eastern corner of 53 Kalang Road, and existing piping to the south, on 49A Kalang Road (Lots 1 and 2 DP 513295). No owners consent was provided for the physical works proposed on 53 Kalang Road, and no easement exists for use of the proposed pipe and existing stormwater pit and

pipes on 53 and 49A Kalang Road. As such, the following is recommended:

- An operational condition precluding consent for any works on properties other than 55 Kalang Road;
- A deferred commencement condition requiring development consent for the required stormwater works, in accordance with the submitted stormwater plan; and
- A deferred commencement condition requiring the Applicant to obtain the necessary easements, in accordance with Sections 88B and/or 88K of the *Conveyancing Act 1919*.

The portion of land required for the stormwater works has been reviewed as part of the assessment of DA2019/0332. The land required for the stormwater works is currently occupied by at-grade concreting, and low retention value vegetation, and is not classified as being subject to any hazards. Therefore, the stormwater works required to support the proposed development are not anticipated to result in any unreasonable environmental impacts. However, a full assessment of the environmental impacts is to occur in assessing the future development application referred to above.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards
 Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements
 Pittwater 21 Development Control Plan - D5.15 Amalgamation - Elanora Heights Village Centre
 Pittwater 21 Development Control Plan - D5.19 Setbacks to Upper Levels - Elanora Heights Village Centre
 Pittwater 21 Development Control Plan - D5.20 Separation - Elanora Heights Village Centre
 Pittwater 21 Development Control Plan - D5.21 Building Depth - Elanora Heights Village Centre
 Pittwater 21 Development Control Plan - D5.24 Facade Articulation - Elanora Heights Village Centre

SITE DESCRIPTION

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| Property Description: | Lot 92 DP 564686 , 55 Kalang Road ELANORA HEIGHTS NSW 2101 |
|------------------------------|--|

Detailed Site Description:

The Assessing Officer visited the site on 26 September 2019.

The subject site consists of one (1) allotment located on the eastern side of Kalang Road, Elanora Heights.

The site is regular in shape with a frontage of 14.63m along Kalang Road and a depth of 39.625m. The site has a surveyed area of 579.5m².

The site is located within the B2 Local Centre zone and accommodates a part two- and part three-storey mixed use development.

The site slopes approximately 3m from west (front) to east (rear) and does not contain any significant vegetation.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by multi-storey commercial premises and low density residential development.

Map:



SITE HISTORY

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

- DA2018/0142 for Demolition of existing building and construction of a new 3 - 4 storey shop top housing development was withdrawn on 25 May 2018 by the Applicant.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

| Section 4.15 Matters for Consideration' | Comments |
|---|--|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on “Environmental Planning Instruments” in this report. |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument | None applicable. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Pittwater 21 Development Control Plan 2014 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 of 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 documentation has been submitted.</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 of 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 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 the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> |

| Section 4.15 Matters for Consideration' | Comments |
|--|---|
| | Clause 143A 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 matter may be addressed via a condition of consent. |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the /Pittwater 21 Development Control Plan 2013 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 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

| Name: | Address: |
|--------------------|---|
| Mr Peter John Rees | 21 St Andrews Gate ELANORA HEIGHTS NSW 2101 |

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

- The proposed building is three storeys in height, where the buildings on each side are two storeys.
- The proposed development will overshadow and overlook 21 St Andrews Gate.
- Stormwater pipes go through 21 St Andrews Gate and the childcare centre, which owners will not allow.
- Previous builds have led to flooding of 21 St Andrews Gate.
- Development of 21 St Andrews Gate required onsite detention system, but this big development does not require such works.
- Concerns about developer's communicated intentions.

The matters raised within the submissions are addressed as follows:

Height of Building

Comment:

The site is subject to a maximum 11m height of building for the front three-quarters of the site (with a maximum of 8.5m for the rear quarter) under Clause 4.3 Height of Buildings of the PLEP 2014 . This indicates that three-storey development is anticipated for the site. This height is reiterated by Clause A4.5 of the P21 DCP, which envisages a three-storey built form for the Elanora Heights Village Centre locality. The proposed development includes a minor height of building breach to the rear of the building, though is acceptable in relation to height for the reasons detailed in the section of this report relating to Clause 4.6 Exceptions to Development Standards of the PLEP 2014.

Amenity - Overshadowing and Overlooking

Comment:

The submitted shadow diagrams demonstrate that the proposed development does not unreasonably overshadow any property, including 21 St Andrews Gate. The proposed development prevents unreasonable overlooking with the inclusion of an 8-12m rear setback (adjoining 21 St Andrews Gate) and planter boxes to obscure direct lines of sight to nearby residential properties. The proposed development retains a satisfactory level of amenity for surrounding sites.

Stormwater Arrangements / Onsite Detention / Flooding

Comment:

The proposed development does not include any works across 21 St Andrews Gate, without the agreement of the property owner (stormwater option). The proposal requires benefit of easements over existing stormwater pipes across the adjacent property to the south, and the childcare centre land. This matter is addressed via a deferred commencement condition of consent. The proposed plans detail an onsite stormwater detention system in accordance with Council's requirements. The proposed development is suitably supported by stormwater management systems, so is not anticipated to result in any unreasonable stormwater or flooding impacts on adjoining properties.

Developer's Intentions

Comment:

The proposal is assessed as submitted, being for a shop top housing development. Communication between the developer and other parties indicating that the development would be residential only is not for consideration in this assessment. Notwithstanding this, the current B2 Local Centre zoning of the land prohibits development of the land for purely residential use.

REFERRALS

| Internal Referral Body | Comments |
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| Building Assessment - Fire and Disability upgrades | No objections to proposed development subject to conditions. |
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| Internal Referral Body | Comments |
|--------------------------------|--|
| Landscape Officer | <p>The proposal, in terms of landscape outcome, is acceptable subject to the protection of the existing street trees, and the completion of landscape works on site and to the road verge.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater21 DCP Controls:</p> <p>B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping D5 Elanora Heights Locality The Elanora Heights Village Centre Master Plan</p> <p>A Landscape Plan is provided in accordance with DA Lodgement Requirements, and is subject to conditions.</p> <p>An Amended Landscape Plan is required to provide the following information:</p> <ul style="list-style-type: none"> • Two (2) existing street trees are located within the road reserve footpath pavement and shall be retained and protected. The landscape plan LDA-01 proposes street tree planting (x 2) to the street frontage which is not required. • The provision of footpath pavement in accordance with The Elanora Heights Village Centre Master Plan: 4.6 Landscape Master Plan - South, where the road reserve footpath pavement is required to be finished with granite pavers, continuing the granite pavement treatment existing along the road reserve pavement to the north. • Amended plant species and container sizes as conditioned. <p>No Arboricultural Impact Assessment report is provided, with the development requiring removal of only low height vegetation.</p> |
| NECC (Development Engineering) | <p>The subject site is burdened by a right of way (ROW) benefiting the adjoining property. The proposal includes the construction of a basement within a portion of the ROW and building elements over a portion of the ROW. The applicant has submitted a signed letter from the representatives of the adjoining affected strata regarding this issue which is deemed acceptable for the proposed works.</p> <p>The site falls to the rear and will require the creation of a drainage easement through the downstream properties including Council land. The applicant has advised in the Statement of Environment Effects that they will accept a deferred commencement condition for the creation of the easement. There is a concept drainage plan that has been provided with the application and it is considered that a deferred commencement condition will be acceptable for this issue.</p> <p>The submitted Geotechnical report addresses the relevant DCP controls.</p> <p>Development Engineers raise no objection to the release of the DA</p> |

| Internal Referral Body | Comments |
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| | subject to conditions as recommended. |
| Strategic and Place Planning (Urban Design) | <p>CURRENT COMMENTS</p> <p>Revisions to the previous submission have addressed most of the urban design concerns previously raised with the application. The application can be supported.</p> <p>END COMMENTS</p> <p>PREVIOUS COMMENTS</p> <p>The proposal in its current form cannot be supported for the following reasons:</p> <p>The site was the subject of a previous Development Application DA2018/0142. The current application has made minor changes to the previous proposed development, however the changes have not had any significant impact on the general impacts of bulk and Scale, height and articulation. Further amendments to the development application are detailed below in order to achieve a built form that is in keeping with the character of the locality and its relationship to the broader neighbourhood context and adjacency to residential areas..</p> <p>1. Built Form Controls:</p> <p><i>Pittwater 21 LEP 2014 (PLEP) - Part 4 Principal Development Standards</i></p> <p><i>(1) The objectives of this clause are as follows:</i></p> <ul style="list-style-type: none"> <i>(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,</i> <i>(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,</i> <i>(c) to minimise any overshadowing of neighbouring properties,</i> <i>(d) to allow for the reasonable sharing of views,</i> <i>(e) to encourage buildings that are designed to respond sensitively to the natural topography,</i> <p>RESPONSE</p> <p>Revisions from the previous application do not go far enough to achieve a more sympathetic response to both the eastern, and western elevations. Thus the height breach to the rear of the site is unacceptable. Given the nature of the fall of the site to the east the building height breach is exacerbated. The additional 3m setback in addition to the 8m rear setback should be applied level 2 apartments with the external line of the balcony behind this setback line. The level 3 apartment should be further setback with the articulation zone containing no habitable rooms.</p> <p>The western elevation/zone of the building that fronts Kalang Road shows hard walls that conceal habitable rooms with the 3 metre</p> |

| Internal Referral Body | Comments |
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| | <p>articulation zone. Deletion of the habitable rooms in this zone will be required at both level 2 and 3. The visual articulation is supported with the opportunity to provide a screened outdoor balcony to these areas.</p> <p>Pittwater 21 DCP 2014 (PDCP) D5.19 – Setbacks to upper Levels – Elanora Heights Village Centre</p> <p><i>Outcomes</i> <i>The bulk and scale of the built form adjacent to adjoining low scale residential properties and to courtyard spaces is minimised.</i> <i>To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to adjoining residential properties.</i> <i>To ensure the built form of new development transitions are in scale to existing development surrounding the village centre.</i></p> <p><i>Controls</i> <i>A minimum setback of 3 metres is to be provided to the third floor of all development to the rear of the lot.</i> <i>A minimum setback of 3 metres is to be provided to the third floor of any development on Block D and to the southern lot.</i></p> <p><i>An articulated setback to the front building line, as shown in Section Diagram AA and BB is required.</i></p> <p>RESPONSE As discussed above the bulk and scale is exacerbated by the infill walls that front the Kalang Road Elevation. As discussed the bulk and scale as a result of the infill walls containing habitable rooms add to the perceived impacts of bulk and scale with the added impact of the additional storey in comparison to the adjacent buildings.</p> <p>2. SEPP 65 – Design Quality of Residential Flat Buildings</p> <p><i>4(1)(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for carparking),</i></p> <p>SEPP 65 Comments</p> <p>As previously advised if the proposed development were to comply with the above mentioned Pittwater DCP and LEP controls the SEPP 65 Clause 4(1) (b) need not apply, however consideration of the Apartment Design Guide as tools for improving the design is recommended.</p> <p>ADDITIONAL COMMENTS</p> <p>Blank Walls to the North</p> |

| Internal Referral Body | Comments |
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| | <p>The blank walls of both apartments 3 and 5 contain living and kitchen spaces that have no access to natural light. The treatment with use of fire rated glass blocks to the south elevation should be repeated on the north elevation in order to improve internal amenity. This would also provide further articulation to the blank wall treatment.</p> <p>Privacy Screening Rear Elevation Further privacy screening should be provided to the eastern elevation in order to address overlooking into private open space of the eastern neighbouring properties.</p> |
| Traffic Engineer | <p>The proposed development is for the demolition of the existing building and construction of a shop-top housing comprising 6 residential units and about 197m² of retail, and provides 15 parking spaces including 3 sets of mechanical stacker. The access to the car parking is provided via the right of carriageway of No.55 and 57 Kalang Road.</p> <p>In accordance with Pittwater DCP, the provision of 19 off-street parking spaces required for the proposed development. The total of 15 parking spaces is proposed in the basement car parking area. The remaining 4 parking spaces are proposed to be provided on-street along the eastern side of Kalang Road, directly along the front of the proposed development as per the existing arrangements, which is satisfactory. The proposed parking arrangement within the the basement car park can be supported subject to the conditions.</p> <p>A dedicated loading bay is proposed to be located at the rear of the right of way with the access provided via the ROW off Kalang Road. The proposed loading bay can be supported subject to provision of a loading dock management plan.</p> <p>The proposal includes the construction of a widened driveway to match the levels of neighboring right of way. This will provide a two-way vehicular access to the proposed site with passing opportunities incorporated as well as adequate width for maneuvering in and out of the basement car park and delivery bay. Given the reliance on the neighbouring right of way in provision of vehicular access to the proposed development, consideration should be given to retaining the proposed vehicular access in the event of any future development proposed for the neighboring site.</p> <p>The traffic generating from the development is considered to have minimal impact on the road network and is acceptable.</p> <p>In view of the above, the development can be supported subject to conditions.</p> |
| Waste Officer | <p>The amended proposal is acceptable subject to the conditions below. Note that Council Waste contractors will retrieve and return bins to the</p> |

| Internal Referral Body | Comments |
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| | storeroom. Bins should NOT be presented on the footpath/kerb for collection. The door will need to be unlocked and able to be latched temporarily in the open position. |

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for commercial 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 commercial land use.

SEPP 65 - Design Quality of Residential Apartment Development

Clause 4 of State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment Development (SEPP 65) stipulates that:

(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

(a) the development consists of any of the following:

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

- (b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and*
- (c) the building concerned contains at least 4 or more dwellings.*

The proposed development is for the erection of a part three-, part four-storey shop top housing development plus basement car parking for the provisions of six self-contained dwellings. As per the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are applicable to the assessment of this application.

Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a Design Verification Certificate from the building designer at lodgement of the development application. This documentation has been submitted.

Clause 28 of SEPP 65 requires:

(2) In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):

- (a) the advice (if any) obtained from the design review panel, and*
- (b) the design quality of the development when evaluated in accordance with the design quality principles, and*
- (c) the Apartment Design Guide.*

DESIGN REVIEW PANEL

Northern Beaches Council does not have an appointed Design Review Panel.

DESIGN QUALITY PRINCIPLES

Principle 1: Context and Neighbourhood Character

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

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

Comment:

The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 2: Built Form and Scale

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

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

Comment:

The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 3: Density

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

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

Comment:

The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 4: Sustainability

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

Comment:

The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 5: Landscape

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

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

Comment:

The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 6: Amenity

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

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

Comment:

The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 7: Safety

Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose.

Opportunities to maximise passive surveillance of public and communal areas promote safety.

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

Comment:

The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 8: Housing Diversity and Social Interaction

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

Well designed apartment developments respond to social context by providing housing and facilities to

suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.

Comment:

The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

Principle 9: Aesthetics

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

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

Comment:

The proposal is consistent with this principle, as demonstrated in the ADG assessment below.

APARTMENT DESIGN GUIDE

The following table is an assessment against the criteria of the 'Apartment Design Guide' as required by SEPP 65.

| Development Control | Criteria / Guideline | Comments |
|---------------------------------------|--|---|
| Part 3 Siting the Development | | |
| Site Analysis | Does the development relate well to its context and is it sited appropriately? | Satisfactory. The proposed development adequately addresses the subject site and its context. |
| Orientation | Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties? | Satisfactory. The proposed development is consistent with developments in the streetscape and allows for adequate solar access to the subject site and adjacent sites. |
| Public Domain Interface | Does the development transition well between the private and public domain without compromising safety and security? Is the amenity of the public domain retained and enhanced? | Satisfactory. The proposed development clearly delineates public and private land. The amenity of the public domain is retained and enhanced with the inclusion of the 3.5m front boundary setback, and in that the facade provides visual interest along the street frontage. |
| Communal and Public Open Space | Appropriate communal open space is to be provided as follows: 1. Communal open space has a minimum | Not compliant. The proposed development does not provide any communal |

| | <p>area equal to 25% of the site</p> <p>2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter)</p> | <p>open space. However, the development is relatively minor in nature in that only six residential apartments are proposed, thus not resulting in significant demand for communal open space. Further, the setting of the site provides reasonable access to public open space, with Epworth Park within short walking distance of the subject site. The proposed development is acceptable in relation to this clause.</p> | | | | | | | | | | | | |
|---|---|---|-------------------------------|---------------------------------|-----------------------------|----|----|---|----|----------------------------------|-----------------------|---|----|---|
| Deep Soil Zones | <p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1"> <thead> <tr> <th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr> </thead> <tbody> <tr> <td>Less than 650m²</td><td>-</td><td rowspan="4">7%</td></tr> <tr> <td>650m² – 1,500m²</td><td>3m</td></tr> <tr> <td>Greater than 1,500m²</td><td>6m</td></tr> <tr> <td>Greater than 1,500m² with significant existing tree cover</td><td>6m</td></tr> </tbody> </table> | Site area | Minimum dimensions | Deep soil zone (% of site area) | Less than 650m ² | - | 7% | 650m ² – 1,500m ² | 3m | Greater than 1,500m ² | 6m | Greater than 1,500m ² with significant existing tree cover | 6m | <p>Satisfactory.</p> <p>The proposed development provides 41sqm of deep soil, equating to 7% of the subject site.</p> |
| Site area | Minimum dimensions | Deep soil zone (% of site area) | | | | | | | | | | | | |
| Less than 650m ² | - | 7% | | | | | | | | | | | | |
| 650m ² – 1,500m ² | 3m | | | | | | | | | | | | | |
| Greater than 1,500m ² | 6m | | | | | | | | | | | | | |
| Greater than 1,500m ² with significant existing tree cover | 6m | | | | | | | | | | | | | |
| Visual Privacy | <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1"> <thead> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms. Gallery access circulation should be treated as</p> | Building height | Habitable rooms and balconies | Non-habitable rooms | Up to 12m (4 storeys) | 6m | 3m | Up to 25m (5-8 storeys) | 9m | 4.5m | Over 25m (9+ storeys) | 12m | 6m | <p>Satisfactory.</p> <p>The proposed development provides a setback of 3m to the northern boundary of the site adjoining residential development, except where a blank wall is proposed. To the south, blank walls are proposed to the majority of the elevation. The exceptions to this are for small balconies to both Units 1 and 4, and study windows to both Units 3 and 6. Any other windows or balconies</p> |
| Building height | Habitable rooms and balconies | Non-habitable rooms | | | | | | | | | | | | |
| Up to 12m (4 storeys) | 6m | 3m | | | | | | | | | | | | |
| Up to 25m (5-8 storeys) | 9m | 4.5m | | | | | | | | | | | | |
| Over 25m (9+ storeys) | 12m | 6m | | | | | | | | | | | | |

| | | |
|--------------------------------------|---|---|
| | <i>habitable space when measuring privacy separation distances between neighbouring properties.</i> | within 6m of the northern and southern boundaries are screened by vegetation or privacy screens, and are orientated to the east or west. While the proposed development results in a numerical non-compliance with the 6m set back requirement, the design response provides suitable building separation and visual privacy for the adjacent sites to the north and south, while retaining suitable access to light and air for the subject site. |
| Pedestrian Access and entries | Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify? Large sites are to provide pedestrian links for access to streets and connection to destinations. | Satisfactory. The proposed development provides clear pedestrian entry via Kalang Road. |
| Vehicle Access | Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes? | Satisfactory. The proposal provides clear vehicular access, separate from the pedestrian entry. Vehicular and pedestrian access points are suitably located and designed so as to provide high quality streetscape presentation. |
| Bicycle and Car Parking | <p>For development in the following locations:</p> <ul style="list-style-type: none"> On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street. Parking and facilities are provided for other modes of transport. Visual and environmental impacts are minimised.</p> | <p>This clause is not applicable, as the subject site is not located within 80m of a railway station or light rail stop in the Sydney Metropolitan Area and is not on land zoned or within 400m of land zoned, B3 Commercial Core, B4 Mixed Use. In this case, the parking requirement under the P21 DCP applies, as follows:</p> <p>Residential: 1 spaces per 1-bedroom apartment: 1 x 2 = 2 spaces 2 spaces per 2 or more bedroom apartment:</p> |

| | | |
|--------------------------------------|--|---|
| | | <p>2 x 4 = 8 spaces Total residential spaces provided = 10</p> <p>Visitor: 1 space per 3 dwellings: 6 dwellings = 2 visitor spaces Total visitor spaces provided = 2</p> <p>Retail: 1 space per 30sqm of gross leasable area: 194.6sqm / 30 = 6.48 = 7 spaces Total retail spaces provided = 3 on site, 4 on street</p> |
| Part 4 Designing the Building | | |
| Amenity | | |
| Solar and Daylight Access | To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space: | Satisfactory. Five of the six apartments proposed (all but Unit 3) receive a minimum of 2 hours of direct sunlight between 9am and 3pm at midwinter, equating to 83% of the apartments. |
| | <ul style="list-style-type: none"> Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter. | Satisfactory. All of the apartments receive at least some direct sunlight between 9am and 3pm at midwinter. |
| Natural Ventilation | The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by: | Satisfactory. All apartments are cross-ventilated. |
| | <ul style="list-style-type: none"> At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed. Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line. | Not applicable. |
| Ceiling Heights | Measured from finished floor level to finished ceiling level, minimum ceiling heights are: | Satisfactory. The proposed |

| | <table><tr><th colspan="2">Minimum ceiling height</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table> | Minimum ceiling height | | Habitable rooms | 2.7m | Non-habitable | 2.4m | For 2 storey apartments | 2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area | Attic spaces | 1.8m at edge of room with a 30 degree minimum ceiling slope | If located in mixed used areas | 3.3m for ground and first floor to promote future flexibility of use | development includes floor to ceiling heights of minimum 2.7m at each residential level and 3.3m at the retail level. |
|--|--|------------------------|-----------------------|-----------------|------------------|---------------|------------------|-------------------------|--|--------------|---|---|--|---|
| Minimum ceiling height | | | | | | | | | | | | | | |
| Habitable rooms | 2.7m | | | | | | | | | | | | | |
| Non-habitable | 2.4m | | | | | | | | | | | | | |
| For 2 storey apartments | 2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area | | | | | | | | | | | | | |
| Attic spaces | 1.8m at edge of room with a 30 degree minimum ceiling slope | | | | | | | | | | | | | |
| If located in mixed used areas | 3.3m for ground and first floor to promote future flexibility of use | | | | | | | | | | | | | |
| Apartment Size and Layout | Apartments are required to have the following minimum internal areas: <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p> | Apartment type | Minimum internal area | Studio | 35m ² | 1 bedroom | 50m ² | 2 bedroom | 70m ² | 3 bedroom | 90m ² | Satisfactory. The proposed development includes units of greater areas than the minimums required. | | |
| | Apartment type | Minimum internal area | | | | | | | | | | | | |
| | Studio | 35m ² | | | | | | | | | | | | |
| | 1 bedroom | 50m ² | | | | | | | | | | | | |
| | 2 bedroom | 70m ² | | | | | | | | | | | | |
| 3 bedroom | 90m ² | | | | | | | | | | | | | |
| Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms. | Satisfactory. Each habitable room has access to a window of sufficient dimensions. | | | | | | | | | | | | | |
| Habitable room depths are limited to a maximum of 2.5 x the ceiling height. | Satisfactory. Habitable rooms include depths of less than 6.75m, except where allowed in relation to open plan living, dining and kitchen areas. | | | | | | | | | | | | | |
| In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window. | Satisfactory. The proposed development includes one apartment with a non-compliant room depth, being Unit 2, with a depth of 8.2m. The non-compliance is considered minor. The internal amenity | | | | | | | | | | | | | |

| | | of the apartment is not compromised as a result of this non-compliance, as the kitchen area benefits from borrowed light via an opening in the eastern kitchen wall to the study. The living and dining areas are a maximum of 5.8m from a window. | | | | | | | | | | | | | | | |
|----------------------------------|--|--|---------------|---------------|-------------------|-----------------|---|----------------------|-----------------|----|----------------------|------------------|----|-----------------------|------------------|------|--|
| | Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space). | Satisfactory. All bedrooms achieve minimum areas. | | | | | | | | | | | | | | | |
| | Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension. | Satisfactory. All bedrooms achieve minimum dimensions. | | | | | | | | | | | | | | | |
| | Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none">3.6m for studio and 1 bedroom apartments4m for 2 and 3 bedroom apartments | Satisfactory. All living/dining rooms achieve the minimum dimensions. | | | | | | | | | | | | | | | |
| | The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts | Not applicable. | | | | | | | | | | | | | | | |
| Private Open Space and Balconies | All apartments are required to have primary balconies as follows: <table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table> | Dwelling Type | Minimum Area | Minimum Depth | Studio apartments | 4m ² | - | 1 bedroom apartments | 8m ² | 2m | 2 bedroom apartments | 10m ² | 2m | 3+ bedroom apartments | 12m ² | 2.4m | Satisfactory. All balconies achieve the minimum areas and dimensions. |
| | Dwelling Type | Minimum Area | Minimum Depth | | | | | | | | | | | | | | |
| | Studio apartments | 4m ² | - | | | | | | | | | | | | | | |
| | 1 bedroom apartments | 8m ² | 2m | | | | | | | | | | | | | | |
| 2 bedroom apartments | 10m ² | 2m | | | | | | | | | | | | | | | |
| 3+ bedroom apartments | 12m ² | 2.4m | | | | | | | | | | | | | | | |
| | The minimum balcony depth to be counted as contributing to the balcony area is 1m | | | | | | | | | | | | | | | | |
| | For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m. | Not applicable. | | | | | | | | | | | | | | | |
| Common Circulation and Spaces | The maximum number of apartments off a circulation core on a single level is eight. | Satisfactory. The maximum number of units accessed via the lift core at any one level is three. | | | | | | | | | | | | | | | |
| | For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40. | Not applicable. The proposed development includes 2 storeys of residential apartments. | | | | | | | | | | | | | | | |

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| Storage | In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: | | Satisfactory. All apartments achieve minimum storage area. |
| | Dwelling Type | Storage size volume | |
| | Studio apartments | 4m ² | |
| | 1 bedroom apartments | 6m ² | |
| | 2 bedroom apartments | 8m ² | |
| | 3+ bedroom apartments | 10m ² | |
| | At least 50% of the required storage is to be located within the apartment. | | |
| Acoustic Privacy | Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms. | Satisfactory. The proposed development separates bedrooms from circulation areas by greater than 3m. | |
| Noise and Pollution | Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission. | Satisfactory. The proposed development is laid out and designed to mitigate noise disruption from external sources. | |
| Configuration | | | |
| Apartment Mix | Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building. | Satisfactory. The proposed development includes a mix of one- and two-bedroom apartments. | |
| Ground Floor Apartments | Do the ground floor apartments deliver amenity and safety for their residents? | Not applicable. The proposed development does not include ground floor apartments. | |
| Facades | Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area. | Satisfactory. The building facade provides visual interest consistent with the existing character of that streetscape. | |
| Roof Design | Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top. | Satisfactory. The roof contains a small lift shaft overrun and centralised plant. The roof is not used for the purpose of communal open space, as this would result in a significant non-compliance with the height of buildings | |

| | | | | | | |
|------------------------|---|--|-------------------|------------|---|---------------------------|
| | | development standard, and, as demonstrated above, communal open space on site is not required. | | | | |
| Landscape Design | Was a landscape plan submitted and does it respond well to the existing site conditions and context. | Satisfactory. The Landscape Plan details suitable landscaping and vegetation that is consistent with the landscape character of existing and approved developments in the vicinity. | | | | |
| Planting on Structures | When planting on structures the following are recommended as minimum standards for a range of plant sizes: | | | | Satisfactory. The proposed development includes planting areas that achieve the minimum soil depths and areas. | |
| | Plant type | Definition | Soil Volume | Soil Depth | | Soil Area |
| | Large Trees | 12-18m high, up to 16m crown spread at maturity | 150m ³ | 1,200mm | | 10m x 10m or equivalent |
| | Medium Trees | 8-12m high, up to 8m crown spread at maturity | 35m ³ | 1,000mm | | 6m x 6m or equivalent |
| | Small trees | 6-8m high, up to 4m crown spread at maturity | 9m ³ | 800mm | | 3.5m x 3.5m or equivalent |
| | Shrubs | | | 500-600mm | | |
| | Ground Cover | | | 300-450mm | | |
| | Turf | | | 200mm | | |
| Universal Design | Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features | | | | Satisfactory. The proposed development includes two adaptable apartments (Units 3 and 6), equating to 33% of the number of | |

| | | |
|--|--|--|
| | | apartments. |
| Adaptable Reuse | New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place. | Not applicable. |
| Mixed Use | Can the development be accessed through public transport and does it positively contribute to the public domain? Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable. | Not applicable. |
| Awnings and Signage | Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development. Signage must respond to the existing streetscape character and context. | Satisfactory. The proposed development includes an awning on the western elevation above the pedestrian entrance to the proposed retail tenancy, in order to provide shelter. |
| Performance | | |
| Energy Efficiency | Have the requirements in the BASIX certificate been shown in the submitted plans? | Satisfactory. The proposed development is supported by BASIX Certificate and a set of plans with BASIX stamp attached. |
| Water Management and Conservation | Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater? | Satisfactory. The proposed development is supported by suitable water management plans. |
| Waste Management | Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling? | Satisfactory. The proposed development is supported by a suitable waste management plan. |
| Building Maintenance | Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building? | Satisfactory. The proposed development is designed in such a manner that will ensure the longevity and sustainability of the building. |

STANDARDS THAT CANNOT BE USED TO REFUSE DEVELOPMENT CONSENT

Clause 30 of SEPP 65 Standards that cannot be used as grounds to refuse development consent or modification of development consent states that:

(1) If an application for the modification of a development consent or a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:

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

Note. *The Building Code of Australia specifies minimum ceiling heights for residential flat buildings.*
Comment:

The parking rate specified in Part 3J of the Apartment Design Guide (as per the Guide to Traffic Generating Developments) does not apply in this case, as the site is not within 800 metres of a railway station or light rail stop and is not zoned or within 400 metres of land zoned B3 Commercial Core, B4 Mixed Use. The parking rate within the P21 DCP has been applied. The proposed internal areas for each apartment exceed the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide. The proposed ceiling heights achieve the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide. The application is not being refused in relation to these matters.

(2) Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:

- (a) the design quality principles, and*
- (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.*

(3) To remove doubt:

- (a) subclause (1) does not prevent a consent authority from refusing an application in relation to a matter not specified in subclause (1), including on the basis of subclause (2), and*
- (b) the design criteria specified in subclause (1) are standards to which clause 79C (2) of the Act applies.*

Note. *The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant or modify development consent.*

Comment:

The proposal demonstrates that adequate regard has been given to the design quality principles and the objectives of the Apartment Design Guide, as certified by the accompanying Design Verification Statement.

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. 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.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

| Standard | Requirement | Proposed | % Variation | Complies |
|----------------------|-------------|----------|-------------|----------|
| Height of Buildings: | Part 11m | 12.2m | 10.9% | No |
| | Part 8.5m | | 43.52% | |

Compliance Assessment

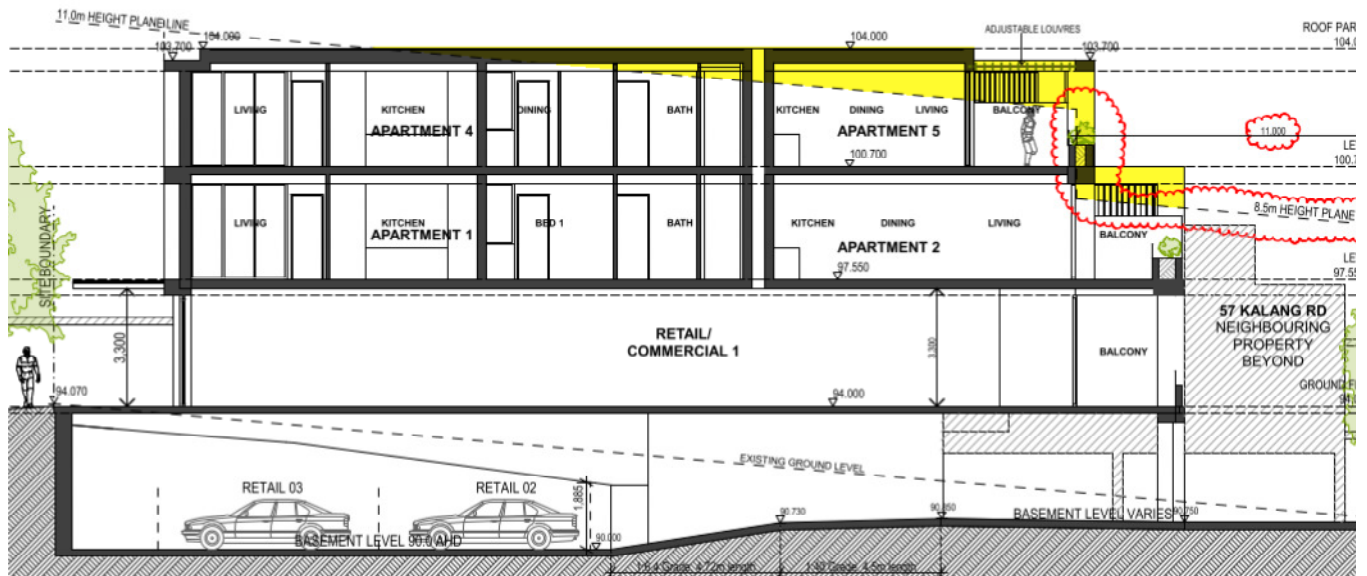
| Clause | Compliance with Requirements |
|---|------------------------------|
| 2.7 Demolition requires development consent | Yes |
| 4.3 Height of buildings | No |
| 4.6 Exceptions to development standards | Yes |
| 7.1 Acid sulfate soils | Yes |
| 7.2 Earthworks | Yes |
| 7.10 Essential services | Yes |

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

| | |
|--------------------------------------|--|
| Development standard: | Height of Buildings |
| Requirement: | Part 11m, part 8.5m |
| Proposed: | 12.2m |
| Percentage variation to requirement: | Part 10.9% (to 11m control) and part 43.52% (to 8.5m control) |



Above: The breaching element of the development in relation to the height of buildings development standard (shown highlighted in yellow).

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 Height of Buildings development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

Clause 4.6 Exceptions to development standards:

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

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

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

Comment:

Clause 4.3 Height of Buildings development standard is not expressly excluded from the operation of this clause.

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

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

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by

subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) Assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two separate matters for consideration contained within Clause 4.6(3) and these are addressed as follows:

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

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard. In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable and unnecessary in the circumstances of this case as required by Clause 4.6(3)(a).

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the*

different levels of government in the State,

(j) to provide increased opportunity for community participation in environmental planning and assessment.

The Applicant's written request argues, in part:

- *"...the non-compliance can be directly attributed to the topography of the land which slopes down towards the rear of the site making compliance with the standard difficult to achieve whilst realising the orderly and economic use and development of land."*
- *"If it were not for the definition of shop top housing, which requires the residential component of the development to be located wholly above the level of ground floor retail/ business uses, the residential slabs could be dropped at the rear of the site to achieve a greater level of compliance with the height control."*

It is agreed that the subject site is located on a steadily but fairly steeply sloping site, which limits the ability to provide compliance with the height of building control across the developable area of the site. It is also agreed that the residential component of the shop top housing development must be located at a level above the ground floor retail premises. In order to provide suitable internal amenity (with adequate room dimensions) to the six proposed units, a minor breach of the height of building development standard occurs.

In this regard, the Applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, as per Clause 1.3(c) of the Act, thereby adequately demonstrating that there are sufficient environmental planning grounds to justify contravening the development standard as required by Clause 4.6(3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) Assessment:

Clause 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the B2 Local Centre zone. An assessment against these objectives is provided below.

Objectives of Development Standard

The underlying objectives of the standard, pursuant to Clause 4.3 'Height of buildings' of the PLEP 2014 are addressed as follows:

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

Comment:

The proposed development includes a breach to the height of buildings development standard to the rear of the site, as a result of the sloping topography of the land. However, as viewed from the streetscape, the proposed development provides a three-storey presentation and is compliant with the maximum building height. The intention of the dual height of building control (being part

11m and part 8.5m) is to step built form down to the rear of the site at a greater rate than the slope of the land. The proposal achieves this stepping, and achieves consistency with the desired character of the locality.

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

Comment:

The proposed development presents three storeys to the street, while the adjacent buildings to the north and south of the subject site present two storeys. As such, the proposed development is larger than the existing surrounding buildings. However, both the PLEP 2014 and P21 DCP anticipate three storeys and 11m of building height in this locality. As such, the proposed development achieves compatibility with the anticipated height and scale of development in this locality. The sites to the north and south have the opportunity to be redeveloped to this additional height in future. The proposed development is consistent in height and scale to other land within the Elanora Heights Village Centre to the north west, at 50-54 Kalang Road, which include three-storey presentation to Kalang Road.

c) to minimise any overshadowing of neighbouring properties,

Comment:

The proposed development is designed so as to retain compliant solar access to the residential portion of the existing building to the property to the south. As such, the proposed development demonstrates minimisation of overshadowing impacts to neighbouring properties.

d) to allow for the reasonable sharing of views,

Comment:

The proposed development is adequately designed and sited so as not to result in any unreasonable view loss. There are no significant views or vistas unreasonably impacted by the proposed development.

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

Comment:

The proposed development includes stepping of the built form to the rear of the site as the slope increases. This minimises the elements of the proposal that breach the height of buildings development standard, and demonstrates a suitable response to the natural topography of the land.

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

Comment:

The subject site and surrounds do not contain any items or areas of heritage significance. The proposed development does not impact upon any significant elements of the natural environment, involving removal of small shrubs only.

Zone objectives

The underlying objectives of the B2 Local Centre zone are addressed as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

Comment:

The proposed development contributes to the range of retail, business, entertainment and community uses within the zone with the inclusion of a generous retail tenancy at the ground floor. The retail tenancy will serve the needs of the people who live in, work in and visit the local area.

- *To encourage employment opportunities in accessible locations.*

Comment:

The subject site is located within walking distance of bus services, and is therefore an accessible location.

- *To maximise public transport patronage and encourage walking and cycling.*

Comment:

As above, the subject site is accessible, thereby encouraging public transport patronage, walking and cycling.

- *To provide healthy, attractive, vibrant and safe local centre.*

Comment:

The proposed development contributes to the existing Elanora Heights Village Centre with the inclusion of additional residential dwellings and a retail tenancy in an accessible location.

- *To strengthen the role of centres as places of employment.*

Comment:

The proposed retail tenancy supports the Elanora Heights Village Centre as a place of employment.

- *To provide an active day and evening economy.*

Comment:

The proposed retail tenancy may be used for day and/or evening economy, and will support the existing and anticipated residents of the locality.

- *To provide for residential uses above street level where they are compatible with the characteristics and uses of the site and its surroundings.*

Comment:

The proposed development includes six residential units above the ground floor retail tenancy, consistent with anticipated development on this site and within the locality.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the Height of Buildings development standard, and the B2 Local Centre zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) Assessment:

Clause 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted. Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of Buildings development standard is assumed by the Local Planning Panel.

Pittwater 21 Development Control Plan

Built Form Controls

| Built Form Control | Requirement | Proposed | % Variation* | Complies |
|--------------------|-------------|----------|--------------|----------|
| | | | | |

| | | | | |
|--------------------------|-----------------------------|--------------------------------------|---------|-----|
| Front building line | 6.5m | 3.5m | N/A | Yes |
| Rear building line | 8m | 8m | N/A | Yes |
| Side building line | Nil | Nil | N/A | Yes |
| Setbacks to upper levels | 3m to third floor rear | 2.4m | 20% | No |
| Articulation zone | 3m | Habitable rooms in articulation zone | 100% | No |
| Building separation | 50% of 12m | 0-3m | 50-100% | No |
| Building depth | 18m depth | 25.2m | 40% | No |
| | 8m room depth | Max. 8m | N/A | Yes |
| Ceiling Height | Commercial: 3.3m | 3.3m | N/A | Yes |
| | Habitable residential: 2.7m | 2.7m | N/A | Yes |

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A1.7 Considerations before consent is granted | Yes | Yes |
| A4.5 Elanora Heights Locality | Yes | Yes |
| A5.1 Exhibition, Advertisement and Notification of Applications | Yes | Yes |
| B2.6 Dwelling Density and Subdivision - Shop Top Housing | Yes | Yes |
| B3.6 Contaminated Land and Potentially Contaminated Land | Yes | Yes |
| B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land | Yes | Yes |
| B5.1 Water Management Plan | Yes | Yes |
| B5.7 Stormwater Management - On-Site Stormwater Detention | Yes | Yes |
| B5.9 Stormwater Management - Water Quality - Other than Low Density Residential | Yes | Yes |
| B5.10 Stormwater Discharge into Public Drainage System | Yes | Yes |
| B6.1 Access driveways and Works on the Public Road Reserve | Yes | Yes |
| B6.2 Internal Driveways | Yes | Yes |
| B6.3 Off-Street Vehicle Parking Requirements | No | Yes |
| B6.6 On-Street Parking Facilities | Yes | Yes |
| B8.1 Construction and Demolition - Excavation and Landfill | Yes | Yes |
| B8.2 Construction and Demolition - Erosion and Sediment Management | Yes | Yes |
| B8.3 Construction and Demolition - Waste Minimisation | Yes | Yes |
| B8.4 Construction and Demolition - Site Fencing and Security | Yes | Yes |
| C1.9 Adaptable Housing and Accessibility | Yes | Yes |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| C1.13 Pollution Control | Yes | Yes |
| C1.18 Car/Vehicle/Boat Wash Bays | Yes | Yes |
| C1.25 Plant, Equipment Boxes and Lift Over-Run | Yes | Yes |
| C2.6 Adaptable Housing and Accessibility | Yes | Yes |
| C2.15 Car/Vehicle/Boat Wash Bays | Yes | Yes |
| C2.16 Undergrounding of Utility Services | Yes | Yes |
| C2.22 Plant, Equipment Boxes and Lift Over-Run | Yes | Yes |
| D5.2 Scenic protection - General | Yes | Yes |
| D5.15 Amalgamation - Elanora Heights Village Centre | No | Yes |
| D5.17 Front Building Line - Elanora Heights Village Centre | Yes | Yes |
| D5.18 Side and Rear Setbacks - Elanora Heights Village Centre | Yes | Yes |
| D5.19 Setbacks to Upper Levels - Elanora Heights Village Centre | No | Yes |
| D5.20 Separation - Elanora Heights Village Centre | No | Yes |
| D5.21 Building Depth - Elanora Heights Village Centre | No | Yes |
| D5.22 Ceiling Height - Elanora Heights Village Centre | Yes | Yes |
| D5.23 Design Excellence - Elanora Heights Village Centre | Yes | Yes |
| D5.24 Facade Articulation - Elanora Heights Village Centre | No | Yes |
| D5.25 Roof Forms - Elanora Heights Village Centre | Yes | Yes |
| D5.26 Materials - Elanora Heights Village Centre | Yes | Yes |
| D5.27 Colours - Elanora Heights Village Centre | Yes | Yes |
| D5.28 Active Frontages - Elanora Heights Village Centre | Yes | Yes |
| D5.29 Entries - Elanora Heights Village Centre | Yes | Yes |
| D5.31 Awnings and Colonnades - Elanora Heights Village Centre | Yes | Yes |
| D5.33 Ecologically Sustainable Development Responsive Design - Elanora Heights Village Centre | Yes | Yes |
| D5.34 Public Domain - Elanora Heights Village Centre | Yes | Yes |
| D5.35 Landscaping - Elanora Heights Village Centre | Yes | Yes |
| D5.36 Solar Access - Elanora Heights Village Centre | Yes | Yes |
| D5.37 Visual Privacy - Elanora Heights Village Centre | Yes | Yes |
| D5.38 View Sharing - Elanora Heights Village Centre | Yes | Yes |
| D5.39 Acoustic Privacy - Elanora Heights Village Centre | Yes | Yes |
| D5.40 Private Open Space - Elanora Heights Village Centre | Yes | Yes |
| D5.41 Natural Ventilation - Elanora Heights Village Centre | Yes | Yes |
| D5.42 Storage - Elanora Heights Village Centre | Yes | Yes |
| D5.43 Vehicular Access - Elanora Heights Village Centre | Yes | Yes |
| D5.44 Laneway Access and Character - Elanora Heights Village Centre | Yes | Yes |
| D5.45 Off-Street Vehicle Parking Requirements - Elanora Heights Village Centre | Yes | Yes |

Detailed Assessment

B6.3 Off-Street Vehicle Parking Requirements

The proposed development requires 10 residential spaces, 2 residential visitor spaces, and 7 retail spaces. The proposal provides compliant residential and residential visitor parking spaces, and three retail parking spaces on site. The proposal relies upon four on-street parking spaces for the remainder of the required retail parking. The proposed development is addressed in relation to the relevant outcomes of this clause as follows:

An adequate number of parking and service spaces that meets the demands generated by the development.

Comment:

Council's Traffic Engineer is supportive of the on-street parking spaces being included in the calculation of total parking provided. When including the four on-street parking spaces, the proposed development provides adequate parking to support the proposed residential and retail uses. The parking spaces proposed by the development are located underneath the proposed building, or immediately in front of the subject site, so are conveniently accessible.

Functional parking that minimises rainwater runoff and adverse visual or environmental impacts while maximising pedestrian and vehicle safety.

Comment:

The proposed development does not rely on additional impervious area to provide parking, and includes upgrading of the existing stormwater management measures, thereby resulting in an improved scenario in relation to runoff. The proposed parking arrangements are not anticipated to result in any vehicular or pedestrian conflicts.

Safe and convenient parking.

Comment:

The on-street parking spaces relied upon to provide compliant retail parking are existing, have been functioning for an extended period of time, are not amended by this proposal, so are demonstrated to be safe. The on-street parking spaces are located immediately in front of the subject site, and the on-site parking spaces are immediately below the proposed building, so all parking is conveniently located.

D5.15 Amalgamation - Elanora Heights Village Centre

The proposed development demonstrates development of the single allotment at 55 Kalang Road, where Clause D5.15 Amalgamation - Elanora Heights Village Centre envisages amalgamation of Nos 51, 53 and 55 Kalang Road. The proposed development is acceptable in relation to the relevant outcomes of this clause, as follows:

Amalgamation improves economic feasibility for redevelopment to occur, strengthens the village character and allows for reduced requirements for site access and servicing.

Comment:

The proposed development demonstrates that the site is capable of supporting an economically feasible development as a single allotment. The proposal includes a generous retail tenancy that will support the village character, while including site access via the existing location (adjoined with that at 57 Kalang Road). The proposal does not result in any additional service connections to support the development.

Avoid isolated sites due to future development patterns.

Comment:

The proposed development demonstrates that the site can be independently developed. In this way, it can be reasonably assumed that 53 Kalang Road can also be independently developed, as it is of the same size and dimensions as the subject site. It can also be reasonably assumed that 51 Kalang Road can be redeveloped independently (or in conjunction with 53 Kalang Road), as it is of adequate dimensions to support additional density. As such, the proposed development does not result in isolation of sites.

D5.19 Setbacks to Upper Levels - Elanora Heights Village Centre

The proposed development includes a partial breach to the additional rear setback to upper levels, proposing 2.4m, where 3m is required. The proposed development is acceptable in relation to the relevant outcomes of this clause, as follows:

The bulk and scale of the built form adjacent to adjoining low scale residential properties and to courtyard spaces is minimised.

Comment:

The proposed development includes a partial breach of up to 600mm to the rear in relation to the upper level setback. This non-compliance is not across the entire rear elevation, being only in relation to Apartment 6. The breach occurs due to a louvred screen to the bedroom, and due to planting to the eastern balcony. The minor non-compliance and the open nature of these elements ensure that the proposed development does not result in unreasonable bulk and scale to the adjoining low scale residential property to the east. The proposed development includes stepping down with the topography of the site, so as not to dominate the rear.

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to adjoining residential properties.

Comment:

The proposed development includes screening (via louvres and planting) to the relevant elevations in order to minimise overlooking and retain a suitable level of privacy for adjoining properties. The proposed development does not result in any unreasonable overshadowing, in accordance with the requirements of the P21 DCP.

To ensure the built form of new development transitions are in scale to existing development surrounding the village centre.

Comment:

The proposed development is sited and designed in a compatible style to existing developments in the locality. The proposed development steps down with the topography of the land at the rear of the site, complementing the developments to the north and south. The proposed non-compliance does not lead to inconsistency with the scale of development in comparison to the site's surrounds. The proposed development is of similar bulk and scale to other developments nearby, which includes buildings that present as three storeys to the street.

D5.20 Separation - Elanora Heights Village Centre

The proposed development provides a setback of 3m to the northern boundary of the site adjoining residential development, except where a blank wall is proposed. To the south, blank walls are proposed to the majority of the elevation. The exceptions to this are for small balconies to both Units 1 and 4, and study windows to both Units 3 and 6. Any other windows or balconies within 6m of the northern and southern boundaries are screened by vegetation or privacy screens, and are orientated to the east or west. While the proposed development results in a numerical non-compliance with the 6m set back requirement, the proposed development is acceptable in relation to the relevant outcomes of this clause, as follows:

To maintain reasonable amenity to adjoining properties.

Comment:

The proposed development is designed in such a way that does not unreasonably impact upon privacy (both visual and acoustic), overshadowing, or view loss. As such, the proposed development demonstrates that reasonable amenity to adjoining sites is retained.

To minimise bulk and scale of new development to adjoining development.

Comment:

The proposed development is of suitable bulk and scale in the context of the site, and in accordance with built form controls. The proposed development is acceptable in relation to its height for the reasons detailed in the section of this report relating to Clause 4.6 Exceptions to Development Standards of the PLEP 2014. Non-compliance with P21 DCP controls are acceptable as detailed throughout this report. The proposed development steps down with the topography of the land, so as to minimise bulk and scale, and reflect the existing and desired character of the area and adjoining sites.

To ensure that new development is scaled to support the desired future character of the village centre with appropriate massing and spaces between buildings.

Comment:

The proposed development is demonstrated to be of a suitable design to support the village centre, with the inclusion of a generous retail tenancy. Appropriate separation between the proposed building and adjacent sites is achieved with the inclusion of articulation and the driveway. The design response provides suitable building separation and visual privacy for the adjacent sites to the north and south, while retaining suitable access to light and air for the subject site.

To allow adequate space for access to rear of retail/commercial properties.

Comment:

The proposed development includes suitable access to the rear of the property with the provision of an at-grade parking area, accessed via the new driveway at the existing location.

To ensure adequate landscaped open space and communal area for larger sites.

Comment:

The proposed development includes appropriate landscaping that is compliant with the requirements of *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development*.

To ensure high levels of amenity to new dwellings that reinforces the 'fine grain' or continuous narrow frontage lot pattern.

Comment:

The proposed development retains the existing site width, and supports the fine grain frontage existing in the locality.

D5.21 Building Depth - Elanora Heights Village Centre

The proposed development is 25.2m in depth, where the maximum allowable under this clause is 18m. The proposed development also includes one apartment with a non-compliant room depth, being Unit 2 with a depth of 8.2m. The proposed development is acceptable in relation to the relevant outcomes of this clause, as follows:

To achieve high levels of solar access and cross ventilation.

Comment:

The proposed development achieves compliance with the requirements of *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development* (SEPP 65) in relation to solar access and cross ventilation.

To maximise opportunities for outlook.

Comment:

The proposed development includes units with suitable eastern and western outlooks.

To minimise building bulk to St Andrews Gate and Powder Works Road.

Comment:

The proposed development does not front St Andrews Gate or Powderworks Road.

To ensure reasonable separation to adjoining low scale residential dwellings.

Comment:

The proposed development includes suitable separation, as detailed in the sections of this report relating to SEPP 65 and Clause D5.20 Building Depth - Elanora Heights Village Centre of the P21 DCP.

To encourage design of through apartments.

Comment:

The proposed development includes apartments of suitable design, as detailed in the section of this report relating to SEPP 65.

To encourage multiple cores with dual aspect and cross ventilated apartments.

Comment:

The proposed development includes a single core, in accordance with the requirements of SEPP 65. As above, the proposed development achieves compliance with the requirements of SEPP 65 in relation to cross ventilation.

D5.24 Facade Articulation - Elanora Heights Village Centre

While the proposed development complies with the requirements of this control, the proposed development does not achieve the definition of 'articulation zone' according to Clause A1.9 Definitions of the P21 DCP, as it includes habitable floor space, and comprises more than 25% of the frontage. As such, an assessment of the proposal against the relevant outcomes of this clause is as follows:

Facade design along Kalang Road is to enhance the village character with the use of compatible elements to the existing height, scale, frontage width, configuration of openings as well as colours and materials used.

Comment:

The proposed development includes purposeful vertical and horizontal design elements to frame the frontage. This framing is supported by suitable and visually appealing materials and colours. The proposed development is of comparable bulk and scale to existing developments in the locality, despite the technical non-compliance. The use of the articulation zone for habitable space is suitably designed so as not to intrude on the western front elevation.

Facades along the main street provide a high quality, contemporary architectural designs that enhances the village centre's unique 'sense of place'.

Comment:

The proposed development achieves a high design quality, with the inclusion of framing elements and suitable materials and colours. The proposed development provides an enhancement to the streetscape, and positively contributes to the locality and its sense of place.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$45,081 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$4,508,110.

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

In summary, a detailed assessment has been required for the following specific issues:

Height of Buildings

The proposed development includes minor elements that breach the maximum height of building development standard. The proposed development is consistent with the objectives of the zone and the development standard, and is acceptable on merit.

Off-Street Vehicle Parking Requirements

The proposed development relies on four existing on-street parking spaces to achieve the parking rate required by the P21 DCP. The proposed development has been reviewed by Council's Traffic Engineer, who is supportive of the development in relation to parking and traffic generation.

Amalgamation

The proposed development does not proposed amalgamation of the two sites to the south, as recommended by the P21 DCP. The proposed development is demonstrated to be capable of independent redevelopment, and does not result in isolation of adjacent sites.

Setbacks to Upper Levels

The proposed development includes a minor non-compliance of 600mm to the 3m additional rear setback required at the upper levels. Notwithstanding the non-compliance, the proposed development achieves suitable and compatible bulk and scale, and responds well to the topography of the land.

Separation

The proposed development does not achieve the numerical requirement for building separation, though provides a suitable design response to the adjacent sites, so as to maintain satisfactory privacy.

Building Depth

The proposed development includes an overall depth greater than that allowable under the P21 DCP. However, the proposed development is acceptable in relation to the requirements of SEPP 65 and provides suitable internal amenity for all units, without compromising the amenity of adjacent properties.

Facade Articulation

The proposed development includes habitable floor space within the articulation zone. However, the proposed street facade includes suitable articulation and visually appealing materials and colours, so as not to impose on the streetscape.

The proposal is consistent with the relevant objectives of the P21 DCP in relation to the above issues and is acceptable on merit in all cases.

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

RECOMMENDATION

DEFERRED COMMENCEMENT APPROVAL

A. Council is satisfied that:

- 1) The Applicant's written request under Clause 4.6 of the *Pittwater Local Environmental Plan 2014* seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:
 - a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
 - b) There are sufficient environmental planning grounds to justify the contravention.
- 2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant a Deferred Commencement Development Consent being subject to a two (2) year time frame for Deferred Commencement Consents detailed within Section 95 of the EPA Act 1979 to DA2019/0332 for Demolition and Construction of a shop top housing development on land at Lot 92 DP 564686,55 Kalang Road, ELANORA HEIGHTS, subject to the conditions printed below:

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

DEFERRED COMMENCEMENT CONDITIONS

1. **Stormwater Works on Adjoining Land**

The Applicant is to obtain development consent for the installation of the necessary stormwater infrastructure over adjoining land. The stormwater works are to be generally in accordance with the submitted stormwater drainage plan prepared by itm design Pty Ltd, drawing number 14-202 H-DA-01 Rev B dated 1 April 2019.

2. **Stormwater Drainage Easement(s)**

As the natural fall of the land is towards the rear of the site the disposal of stormwater drainage is to be generally in accordance with the submitted stormwater drainage plan prepared by itm design Pty Ltd, drawing number 14-202 H-DA-01 Rev B dated 1 April 2019. The easement(s) required are to be created under Sections 88B and/or 88K of the Conveyancing Act 1919. The Applicant is to detail the size, gradient and capacity of the inter-allotment pipe traversing the downstream properties up to the connection with the Council drainage system in Allington Reserve. The onsite stormwater detention system is to be designed and constructed to accommodate the existing capacity of this pipe, based on the existing catchment areas of the properties draining to the inter-allotment pipe, for all storms up to and including the 1 in 100 year ARI storm event. The applicant is to provide evidence that this inter-allotment pipe is operating and is in reasonable condition to convey stormwater. Where this pipe is not in a condition to convey stormwater, details of works required to allow the pipe to convey stormwater must be detailed on the plan.

The Applicant must provide Council with evidence of the creation of the easement and details demonstrating compliance with the capacity requirements listed above in order to activate the consent.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

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

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

3. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp | | |
|--|-------------------|----------------------------|
| Drawing No. | Dated | Prepared By |
| DA03A Site Plan & Roof Plan | 7 August 2019 | Ray Fitz-Gibbon Architects |
| DA04A Floor Plan Levels 1 & 2 | 22 October 2019 | Ray Fitz-Gibbon Architects |
| DA05A Floor Plan Levels 3 & 4 | 7 August 2019 | Ray Fitz-Gibbon Architects |
| DA06A Sections | 22 October 2019 | Ray Fitz-Gibbon Architects |
| DA07 Elevations | 22 October 2019 | Ray Fitz-Gibbon Architects |
| DA10 Demolition and Excavation Plan | 1 February 2019 | Ray Fitz-Gibbon Architects |
| DA11 Colours and Materials | 11 September 2017 | Ray Fitz-Gibbon Architects |

| Engineering Plans | | |
|---|--------------|--------------------|
| Drawing No. | Dated | Prepared By |
| H-DA-00 Rev B Stormwater Services Legend, Details & Erosion Sediment Control Plan | 1 April 2019 | ITM Design |
| H-DA-01 Rev B Stormwater Services Site / Easement Plan & Details | 1 April 2019 | ITM Design |
| H-DA-02 Rev B Stormwater Services Basement & Ground Floor | 1 April 2019 | ITM Design |

| Reports / Documentation – All recommendations and requirements contained within: | | |
|---|------------------|-------------------------------|
| Report No. / Page No. / Section No. | Dated | Prepared By |
| BASIX Certificate 987314M | 15 March 2019 | AGA Consultants |
| NatHERS Certificate 0003683520 | 13 March 2019 | AGA Consultants |
| NatHERS Certificate 0003683406 | 13 March 2019 | AGA Consultants |
| NatHERS Certificate 0003683414 | 13 March 2019 | AGA Consultants |
| NatHERS Certificate 0003683422 | 13 March 2019 | AGA Consultants |
| NatHERS Certificate 0003683455 | 13 March 2019 | AGA Consultants |
| NatHERS Certificate 0003683463 | 13 March 2019 | AGA Consultants |
| NatHERS Certificate 0003683489 | 13 March 2019 | AGA Consultants |
| Building Code of Australia (BCA) Capability Statement | 1 March 2019 | Ray Fitz-Gibbon Architects |
| Traffic and Parking Assessment | 14 March 2019 | Varga Traffic Planning |
| Statement of Compliance Access for People with a Disability | 19 December 2019 | Accessible Building Solutions |
| Report on Geotechnical Investigation | 22 September | Taylor Geotechnical |

| | | |
|--|------|-------------|
| | 2017 | Engineering |
|--|------|-------------|

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

| Landscape Plans | | |
|---|---------------|-----------------------|
| Drawing No. | Dated | Prepared By |
| LDA-01 02 Landscape Plan Basement and Level 1 | 19 March 2019 | Stone Rose Landscapes |
| LDA-02 02 Landscape Plan Level 2 and 3 | 19 March 2019 | Stone Rose Landscapes |
| LDA-03 Section and Details | 19 March 2019 | Stone Rose Landscapes |

| Waste Management Plan | | |
|--|------------------|----------------------------|
| Drawing No/Title. | Dated | Prepared By |
| Waste Management Plan | 19 December 2017 | Ray Fitz-Gibbon Architects |
| Waste Management Plan - Additional Information | 1 March 2018 | Ray Fitz-Gibbon Architects |

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

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

4. **Prescribed Conditions**

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not

be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

5. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of



jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

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

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

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

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

6. **Works on Subject Site Only**

This consent does not authorise the carrying out of building works on any property other than No. 55 Kalang Road, Elanora Heights (Lot 92 DP 564686).

Reason: To ensure works relate to the subject site only.

7. **Availability of Retail Spaces**

All retail spaces are to be free of permanent gates or security during operating hours. A sign is to be erected at the vehicular entry point of the development indicating the location of the visitor parking.

Reason: To ensure retail car parking spaces are accessible to customers.

FEES / CHARGES / CONTRIBUTIONS

8. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$45,081.10 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$4,508,110.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or

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

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

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

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

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

9. **Security Bond**

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

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

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

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

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

10. **Construction, Excavation and Associated Works Bond (Crossing / Kerb)**

A Bond of \$40,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter and any footpath works required as part of this consent.

Reason: Protection of Council's infrastructure.

11. **Construction, Excavation and Associated Works Bond (Failure to Remove Waste)**

A bond of \$5,000 as security against damage to Council's road(s) fronting the site caused by the transport and disposal of materials and equipment to and from the site.

Reason: Protection of Council's infrastructure.

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

12. **On Slab Landscape Planting and Associated Works**

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing to all internal walls and slab, and drainage of the concrete slab over which soil and planting is being provided. Landscape treatment details shall 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, including planter layout, slab levels, top of wall heights, and soil area to support the proposed planting indicated on the Landscape Plan. The following soil depths are required to support landscaping as proposed: 600mm (0.6m) for shrubs. Design certification shall be submitted to the Certifying Authority by a structural engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate and secure waterproofing and drainage is installed to direct water flow into the drainage system.

13. **Stormwater Disposal**

Drainage plans in accordance with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2:1998 - Stormwater Drainage – Acceptable solutions and the concept drawing by itm design pty ltd, drawing number 14-202 H-DA-01 Rev B dated 01.04.2019 are to be submitted and certified by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site to the inter-allotment drainage easement benefiting the property.

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

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Taylor Geotechnical Engineering Pty Ltd dated 22 September 2017 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

15. **On-site Stormwater Detention Compliance**

Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's Pittwater 21 DCP 2014 and the concept drawings by itm design pty ltd, drawing number 14-202 H-DA-00 Rev B, H-DA-01 Rev B and H-DA-03 Rev C dated 01.04.2019. Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure engineering works are constructed in accordance with relevant standards

and Council's specification.

16. Pump-Out System Design for Stormwater Disposal

The design of the pump-out system for Stormwater disposal will be permitted for drainage of hard surfaces areas such as driveways and basement pavement areas only, and must be designed in accordance with AS/NZS 3500. Engineering details demonstrating compliance with this requirement and certified by an appropriately qualified and practising hydraulic engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for the discharge of stormwater from the excavated parts of the site.

17. Submission Roads Act Application for Civil Works in the Public Road

An Application for Works to be approved within Council Roadway, including engineering plans is to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993. The application is to include four (4) copies of Civil Engineering plans for the design of the footpath and driveway crossing which are to be generally in accordance with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and The Elanora Heights Village Master Plan: 4.6 Landscape Master Plan - South. The plan shall be prepared by a qualified Civil engineer. The design must include the following information:

1. Full width granite pavers for the entire frontage of the site.
2. 4 metre wide driveway crossing.
3. New kerb and gutter for the frontage of the site.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges. An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure compliance with Council's design and engineering specifications.

18. Vehicle Driveway Gradients

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradients in accordance with AS/NZS 2890.1:2004. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure suitable vehicular access to private property

19. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

(a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and

(b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

20. Shoring of Adjoining Property

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings.

Council approval is required if temporary ground anchors are to be used within Council land. A Temporary Ground Anchors (Road Reserve) Application is to be submitted with Council for assessment and approval subject to Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

21. Vehicle Crossings Application

A Driveway Levels and Formwork Inspections Application shall be made with Council subject to the payment of the fee in accordance with Council's Fees and Charges. The fee includes all Council inspections relating to the driveway construction and must be paid.

Approval of the application by Council is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

22. Construction Management Program

An application for Traffic Management Plan is to be submitted to Council for approval. The Traffic Management Plan shall be prepared to RMS standard by an appropriately certified person. An approval is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community.

23. Amended Landscape Plan

An amended Landscape Plan is to be issued to the Certifying Authority documenting the following required changes to the plan:

- i) the proposed street tree planting is to be deleted, and the two (2) existing street trees in place shall be retained and protected.
- ii) in accordance with The Elanora Heights Village Centre Master Plan: 4.6 Landscape Master Plan - South, the road reserve footpath pavement is required to be finished with granite pavers, continuing the granite pavement treatment existing along the road reserve pavement to the north.
- iii) the proposed Banksia integrifolia tree planting shall be installed at a minimum 200 litre container size,
- iv) the proposed Rhipidolepis species proposed within the planters shall be substituted for a non self-seeding and invasive species of similar size,
- v) the landscape strip at the rear shall be a minimum of 2 metres in width to support the proposed screen planting that will provide privacy to the private open space of the adjoining property at 19 St Andrews Gate.

The Certifying Authority shall document acceptance of the Amended Landscape Plan satisfying the above conditions i), ii), iii), iv) and v).

Reason: To ensure that the landscape treatments are installed to provide landscape and public domain amenity, and soften the built form.

24. **Compliance with Standards**

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

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

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

25. **Submission of Survey**

All works are to be contained wholly within the subject site. A survey, prepared by a Registered Surveyor, identifying the boundaries of the subject site and all existing structures/buildings, is to be prepared. The plans submitted for the Construction Certificate are to accurately reflect the boundaries as shown on the survey. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site.

26. **Construction Traffic Management Plan**

A Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Certifying Authority prior to issue of any Construction Certificate.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. Confirming appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community. The CTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

27. **Car Parking Arrangement**

Parking spaces annotated as 'Retail 2' and 'Retail 3' on approved plan DA04A Floor Plan Levels 1 & 2 dated 22 October 2019 prepared by Ray Fitz-Gibbon Architects are to be allocated as residential visitor parking spaces. The parking spaces annotated as 'Visitor 01/Carwash' and 'Visitor 02' on the same approved plan are to be allocated as retail spaces. This will provide retail customers the parking spaces with convenient maneuvering area. The space annotated as 'Retail 2' on the approved plan does not meet the Australian Standards AS2890.1:2004 in regards with the headroom clearance. This parking space has to be allocated to small cars only and to be clearly marked and signposted as such. Appropriate traffic devices are to be installed to prevent any car crashes into the lower area.

Reason: To provide convenient parking spaces to the retail customers and enhance safety within the car park.

28. Waste and Recycling Requirements

Details demonstrating compliance with Pittwater 21 Development Control Plan and the Waste Management Plan, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate. Note: If the proposal, when compliant with the Pittwater 21 Development Control Plan causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, modification(s) to the development may be required.

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

29. Street Tree Protection Measures

The existing street trees within the road verge frontage of the site shall be protected during all stages of construction. Construction temporary fencing consisting of 1.8m high x 2.4m wide standard wire mesh panels shall be installed around the existing street trees. Should the following events occur, a AQF Level 5 Arborist with qualifications in arboriculture/horticulture shall be engaged to provide review and recommendations of tree protection measures:

- i) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF Level 5 Arborist,
- ii) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an AQF Level 5 Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,
- iii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,
- iv) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.
- v) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites,

The tree protection measures (construction temporary fencing) specified in this clause must:

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

Reason: To retain and protect significant planting on development sites.

30. Loading Dock Management Plan

A Loading Dock Management Plan shall be prepared by the applicant and submitted to and approved by Council prior to the issue of any Occupation Certificate. The Plan must demonstrate how the loading dock will be managed with reference to the rights of way. It is to be ensure that there will be only one vehicle entering and exiting the loading dock access in any period and how safe servicing arrangements will be undertaken without interrupting general traffic. Vehicle queuing on public road(s) is not permitted. All vehicle ingress and/or egress activities are to be undertaken in accordance with the approved Loading Dock Management Plan. Loading and unloading of vehicles and delivery of goods to the land must be carried out within the site.

Reason: To ensure the safety and amenity of the general public using public streets.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

31. **Progress Certification (Road & Subdivision)**

Written certification is to be provided by a suitably qualified engineer upon completion and/or as and when requested by the Principal Certifying Authority for the following stages of works.

- (a) Silt and sediment control facilities
 - (b) Laying of stormwater pipes and construction of pits
 - (c) Proof Roll - AUSPEC Standard
 - (d) Sub-grade trimmed and compacted **
 - (e) Base-course laid and compacted **
 - (f) Kerb and gutter construction
 - (g) Pavement
 - (h) Landscaping and vegetation
 - (i) Clean-up of site, and of adjoining Council roadway and drainage system.
 - (j) All layers of the road formation are to be proof rolled to Council's satisfaction
- (**To be tested by a recognised N.A.T.A. approved laboratory). Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

32. **Civil Works Supervision**

All civil works approved in the Construction Certificate are to be supervised by an appropriately qualified and practising Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority

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

33. **Footpath Construction**

The applicant shall construct full width granite paving for the entire frontage of the site. The works shall be in accordance with the following:

- (a) All footpath works are to be constructed in accordance with The Elanora Heights Village Centre Master Plan: 4.6 Landscape Master Plan - South.
- (b) Council is to inspect the formwork prior to pouring of any concrete to ensure the works are in accordance with Council's specification for footpath. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

34. **Notification of Inspections**

Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

- (a) Installation of Silt and Sediment control devices
- (b) Prior to pouring of kerb and gutter
- (c) Subgrade level / basecourse level / subbase
- (d) Sealing road pavement

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification. Council approval or acceptance of any stage of the work must be obtained in writing, and will only be issued after completion of the work to the satisfaction of Council and receipt of the required certification.

Reason: To ensure new Council infrastructure is constructed to Council's requirements.

35. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public safety.

36. **Vehicle Crossings**

The provision of one vehicle crossing 4 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

37. **Maintenance of Road Reserve**

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

38. **Protection of Adjoining Property - Excavation**

Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner.

Reason: To ensure private and public safety.

39. **Kerb and Gutter Construction**

Kerb and gutter is to be constructed along the entire frontage of the site in accordance with Northern Beaches Council Drawing No. A4 2276/A.

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

40. **Site Fencing**

The site must be fenced throughout construction and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

Reason: To ensure public safety.

41. **Tree and Aegetation Protection - General**

A) Existing trees and vegetation shall be retained and protected as follows:

- i) all trees and vegetation located on adjoining properties,
- ii) all road reserve trees and vegetation.

B) Tree protection shall be generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites,
- ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
- iii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF Level 5 Arborist,
- iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an Arborist. Details including photographic evidence of works undertaken shall be submitted by an AQF Level 5 Arborist to the Certifying Authority,
- v) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a Project Arborist on site,
- vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
- viii) excavation for utility lines is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist, to provide for root protection measures,
- ix) should either or all of vi), vii) and viii) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- x) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,
- xi) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

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

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

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

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan prepared by Ray Fitz-Gibbon Architects dated 19 December 2017.

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

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

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

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

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE
OCCUPATION CERTIFICATE**

44. Landscape Works

Landscaping is to be implemented in accordance with the Amended Landscape Plan. Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved Amended Landscape Plan and inclusive of any conditions of consent.

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

45. Condition of retained vegetation

Prior to the issue of an Occupation Certificate, a report prepared by an AQF Level 5 Arborist, shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained (and in particular the existing street trees) as a result of the proposed development, including the following information:

- i) compliance to Arborist recommendations for tree protection and excavation works.
- ii) extent of damage sustained by vegetation as a result of the construction works.
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: to retain and protect significant planting on development sites, and protect the existing streetscape amenity.

46. Authorisation of Legal Documentation Required for Onsite Detention

The original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan) and hydraulic engineers certification. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

47. Registration of Encumbrances for On-site Stormwater Detention

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

Reason: To identify encumbrances on land.

48. Positive Covenant for the Maintenance of Stormwater Pump-out Facilities

A Positive Covenant (under the provisions of Section 88B of the Conveyancing Act 1919) is to be created on the property title to ensure the on-going maintenance of the stormwater pump-out facilities on the property being developed. Northern Beaches Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Northern Beaches Council's delegate shall sign these documents prior to the submission to the NSW Land Registry Services. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure adequate provision is made for the stormwater pump out system to be maintained to an appropriate operational standard

49. Positive Covenant and Restriction as to User for On-site Stormwater Detention

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

maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

50. **Geotechnical Certification Prior to Occupation Certificate**

Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

51. **Garbage and Recycling Facilities**

All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

52. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

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

Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

53. **Mechanical Servicing**

The applicant is to include a Section 88E instrument on the title permitting Council to provide direction as to the repair/maintenance of any mechanical devices. In the instance where the building manager does not comply with the direction of Council, or fails to address repair/maintenance requirements in a timely manner, Council reserves the right to undertake the

repairs and all fees associated will be borne by the building manager.

Reason: To ensure the mechanical services are maintained in a serviceable state at all time.

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

The proposal shall be constructed in accordance with the Pittwater 21 Development Control Plan. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste and recycling facilities are provided.

55. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

56. **Positive Covenant for Waste Services**

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

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

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

The original completed request form (Department of Lands standard form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council. If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

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

58. **Landscape Maintenance**

Any existing landscaping including trees required to be retained together with any additional landscaping required by this Consent is to be maintained for the life of the development. A 12-month establishment period shall apply for all new landscaping. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. All planting must be maintained for the life of the development, or for their safe natural life. Planting that may die or is removed must be replaced.

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

59. **Environmental and Priority Weed Control**

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: preservation of environmental amenity.

60. **Waste Removal from the Premises**

The residential waste collection contractor engaged by Council will retrieve the bins from the storeroom and return them after emptying. Bins must not be left on the footpath/kerb for collection. The residential bin store room must be unlocked and able to be latched in the open position. The contractor(s) engaged by the property owners/tenants to remove commercial waste shall be engaged to retrieve and return bins from the commercial waste store room.

Reason: To ensure the urban amenity of the area is maintained.

61. **Commercial Waste and Recycling Storage**

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins as shown on the approved plans.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed. (DACPLG19)

62. **Vehicular Access and Egress**

All vehicles shall enter and exit the site in forward direction.

Reason: To minimise impact on road network.