

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0107
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Responsible Officer:	David Auster
Land to be developed (Address):	Lot 4 DP 203378, 44 Rose Avenue WHEELER HEIGHTS NSW 2097
Proposed Development:	Construction of a Seniors Housing Development
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes, under SEPP (HSPD) 2004
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Bayview Links Pty Ltd
Applicant:	Wheeler Heights Developments Pty Ltd

Application lodged:	08/02/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	20/02/2019 to 09/03/2019
Advertised:	Not Advertised
Submissions Received:	7
Recommendation:	Approval

Estimated Cost of Works:	\$ 2,933,831.00
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ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;

- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential

Warringah Development Control Plan - B5 Side Boundary Setbacks

Warringah Development Control Plan - B7 Front Boundary Setbacks

Warringah Development Control Plan - B9 Rear Boundary Setbacks

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

SITE DESCRIPTION

Property Description:	Lot 4 DP 203378 , 44 Rose Avenue WHEELER HEIGHTS NSW 2097
Detailed Site Description:	<p>The subject site consists of one lot located on the northern side of Rose Avenue.</p> <p>The site is a battle axe shaped site with a frontage of 4.57m along Rose Avenue, and a surveyed area of 1569m².</p> <p>The site is in excess of 20 metres in width when measured outside of the access handle.</p> <p>The site benefits from a right of carriageway access to the street frontage.</p> <p>The site is located within the R2 Low Density Residential zone. The site falls from the Rose Avenue frontage to the rear (south to north) by approximately 3 metres (not including the access handle).</p> <p>The site does not contain any significant topographical features.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by a mix of single and two storey dwelling houses in landscaped settings.</p> <p>The site is located within walking distance to Wheeler Heights shops which provides a range of services. The site is well serviced by public transport with bus stops located along Rose Avenue and further east along Veterans Parade.</p>

To the east of the subject site is St Rose Catholic School and Wheeler Heights Public School. To the north is a retirement village (RSL Anzac Village 'War Vets'). Another senior's housing development has recently been constructed to the east (34 Rose Avenue).

Map:



SITE HISTORY

Application DA2017/0662 for Demolition works, Construction of a Seniors Housing Development, Strata Subdivision and access works was approved by the Northern Beaches Local Planning Panel on 07/05/2018. This application was for a development across the subject site and the adjoining site to the rear (43 Lantana Avenue) with driveway access from both Rose Avenue and Lantana Avenue. This application was recommended for refusal due solely to issues surrounding owners consent for the proposed intensification of use of the shared driveways from Rose Avenue to 44 and 46 Rose Avenue, and from Lantana Avenue to 43 and 45 Lantana Avenue. The Panel did not concur with the recommendation of the report on this issue, and subsequently approved the application.

The current application has essentially deleted the portion of the development that was approved on 43 Lantana Avenue, and reapplied for the portion confined to 44 Rose Avenue (i.e. the application is for half of the previously approved development). Minimal changes have been made to the overall design as previously approved over the 44 Rose Avenue portion of the development.

Application CDC2018/0597 for Demolition of existing cottage and associated development excluding shared driveway was approved on 22/06/2018 by Private Certifiers.

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves construction of 6 x 3 bedroom in-fill self-care dwellings, basement car parking and strata subdivision, pursuant to State Environmental Planning Policy (Housing for Seniors or People

with a Disability) 2004 ("SEPP HSPD"). The proposal will be comprised of the following elements:

Basement Level

- 11 car spaces (including 2 visitor spaces)

Ground Floor / First Floor Level

- 4 x 2 storey dwellings
- 2 x single level dwellings
- All dwellings provided with ground level private open space orientated towards western and northern boundaries
- All primary living areas provided on Ground Floor Level.
- First Floor Level of all 4 two storey dwellings is comprised of two bedrooms and bathroom

Surrounds

- Dwellings accessed from basement by lift and stairs centrally located, and path running adjacent to eastern boundary
- This path also runs adjacent to the driveway to access Rose Avenue.
- Bin storage area and letter boxes located near entry/exit to Rose Avenue
- Driveway to provide access to both the subject site and 46 Rose Avenue (northern neighbour), replacing existing shared driveway
- Landscaping along each side of driveway and surrounding the proposed dwellings

Amended Plans

Amended plans and flood report were submitted by the applicant to address Council's Engineer's concerns in relation to stormwater and overland flows. The amended plans also increased the setback of the upper level to the rear boundary, due to concerns regarding non-compliance with single storey development in the rear 25% of the site under SEPP (HSPD). The amended plans comply with this requirement.

In accordance with clause A7 *Exhibition, Advertisement and Notification of Applications* of the Warringah DCP, re-notification of the amended plans was not considered necessary as the amendments to the built form were minor, decreased the overall size of the development, and increased compliance with the relevant controls.

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	Warringah Development Control Plan applies to this proposal.

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(iii) – 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 clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</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 matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact</p>

Section 4.15 Matters for Consideration'	Comments
	<p>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 7 submission/s from:

Name:	Address:
Mrs Dorothy Susan Waterhouse	56 Rose Avenue WHEELER HEIGHTS NSW 2097
Mr Robert Guy Barnes	10 Berith Street WHEELER HEIGHTS NSW 2097
Ms Joan Elizabeth Catherine Croydon	5 Berith Street WHEELER HEIGHTS NSW 2097
Mrs Linda Anne Kemp	46 Rose Avenue WHEELER HEIGHTS NSW 2097
Craig Robert Gilmour	58 Rose Avenue WHEELER HEIGHTS NSW 2097
Mr Rodney James Millichamp Mrs Helen Elizabeth Millichamp	29 Rose Avenue WHEELER HEIGHTS NSW 2097
Peter Leslie Knoechel	38 Rose Avenue WHEELER HEIGHTS NSW 2097

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

- Density
- Traffic congestion / visibility / hazards / parking
- Bins
- Vibrations causing damage
- Footpaths
- Tree removal
- Character
- Construction disruptions
- Landscaped area
- Cumulative impact study

The matters raised within the submissions are addressed as follows:

- **Density**

Concerns were raised with regard to the increased density of the proposal compared to the existing dwelling on site, and particularly with regard to other seniors housing development in the area at the War Vets and at 34 Rose Avenue, and the cumulative impacts of this density.

Comment:

As assessed throughout this report, the proposal is generally consistent with the requirements of SEPP (HSPD), WLEP and WDCP, with minor non-compliances for the side and rear setback controls under the WDCP. These non-compliances (caused by a bin storage area, rear pergola, and the rear of the underground parking area) would not affect the density of the development if deleted. Given the general level of compliance achieved with the relevant planning controls the density of the development is considered to be within the general expectation for development of the site. None of the relevant planning controls allow for Council to assess the development cumulatively in relation to other approved developments, and the proposal must be assessed on its own merits against the relevant controls as they currently apply.

The submissions are not supported in this regard.

- **Traffic increase / visibility / hazards / parking**

Concerns were raised regarding the increase in traffic caused by the proposal, lack of visibility, increased traffic hazards in the area, and the lack of on street parking available. The cumulative impacts of this development combined with other recent approvals of seniors housing developments in the area was also a major concern in the submissions.

Comment:

As discussed above, the proposal must be assessed on its own merits with reference to the relevant planning controls. In this regard, the application has provided an Assessment of Traffic and Parking Implications (dated January 2019, prepared by Transport and Traffic Planning Associates). This report concludes that *the traffic generation of the proposed development will not present any adverse traffic implications* and that *the proposed parking provision will adequately serve the demand associated with the development*.

Further concerns were raised by one submission that the traffic report provided was conducted during school holidays, and as such was not a true representation of the traffic in Rose Avenue. However, Council's Traffic Engineer has assessed the proposal and stated that *the traffic volumes from the site are deemed negligible*. Further, the parking provided is compliant with the minimum requirements under SEPP (HSPD), and as such Council is prohibited by Clause 50 from refusing the development based on parking.

Given the comments from the traffic report provided, and that Council's Traffic Engineer considers the traffic generation of the development to be negligible, the submissions are not supported in this regard. The proposal is considered to be acceptable, and no updated traffic report is required.

- **Bins**

Concerns were raised regarding extra bins and the space required for these bins on the kerb on garbage collection days.

Comment:

The proposal is consistent with the general expectation for density of development of the site, as expressed by the general level of compliance with all relevant planning controls under SEPP (HSPD), WLEP and WDCP. Given this consideration, the extra bins required are considered to be a necessary requirement, and are not a reason for refusal of the development.

- **Vibrations causing damage**

Concerns were raised that the geotechnical report provided with the application states that the development may cause damage to neighbouring buildings due to vibrations.

Comment:

The geotechnical report (prepared by Crozier Geotechnical Consultants, dated January 2019) states the following:

The excavation of medium to high strength bedrock will require the use of rock excavation equipment which has the potential to create significant ground vibrations, but the probability of vibration damage to the neighbouring houses is reduced due to the nature of the geology and the separation distances. However care will need to be taken to ensure that the excavation works do not create a vibration hazard for the neighbouring properties.

Given these comments, a condition is recommended requiring that dilapidation reports are carried out on adjoining neighbour's properties prior to commencement of works, and prior to issue of an occupation certificate. Subject to this condition, the submission is considered to be reasonably satisfied.

- **Footpaths**

Concerns were raised that the applicant should have to construct new footpaths in the road reserve.

Comment:

The plans indicate a *New Concrete Path to Council Requirements*. Council's Development Engineers have provided a condition of consent requiring that this footpath be constructed in accordance with the relevant engineering requirements, and up to connect with the existing footpath to the east of the site. The submission is considered to be reasonably satisfied in this regard.

- **Tree removal**

Concerns were raised with the proposed tree removal on site.

Comment:

The plans indicate that the existing major trees on site are to be removed, while the major trees in close proximity on neighbouring lots are to be protected. The major trees on site sit generally within the developable area under the SEPP (HSPD). Council's Landscape Officer has assessed the proposal and due to the similarity of the development to the existing approval under DA2017/0662, has recommended approval subject to conditions of consent. It is also recommended that the landscape plans provided form part of the approved plans, to ensure adequate replacement planting is implemented.

Subject to the above conditions, the submission is considered to be reasonably satisfied.

- **Character**

Concerns were raised regarding the development being out of character with the surrounding area.

Comment:

The character of the development and how it relates to the existing character of the area is addressed in more detail under the SEPP (HSPD) section of this report. In general, the area is characterised by one and two storey dwellings and other senior's living developments. The proposal is considered to be generally consistent with the higher density development, and with regard to the lower density dwellings, the proposal has provided for two distinct two storey elements, separated by single storey elements, that will enable the appearance of detached dwellings when viewed from a distance.

Given these considerations, the submission is not supported.

- **Construction disruptions**

Concerns were raised that the construction would provide further traffic issues with on street parking and blocking of the road.

Comment:

Temporary disruption to the area in terms of noise and traffic issues are an unfortunate but unavoidable impact of development. Standard conditions of consent will be imposed in relation to hours of construction and excavation, and a condition is also recommended requiring lighting, fencing, traffic control and advanced warning signs, and that traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works. The submission is considered to be reasonably satisfied in this regard.

- **Landscaped area**

Concerns were raised regarding the level of non-compliance with the landscape requirements of the WDCP.

Comment:

The proposal complies with the requirements of Clause 50 of SEPP (HSPD), which does not allow Council to refuse the development based on landscaping grounds provided it complies with those requirements. No further consideration is required in this regard.

- **Cumulative impact study**

One of the submissions stated that the SEPP requires that the applicants must submit a cumulative impact study where the land is within one kilometre of two or more similar sites.

Comment:

Clause 25(2A) of the SEPP states the following:

25 Application for site compatibility certificate

(2A) Land is next to proximate site land for the purposes of this clause if the land (or any part of the land) is located within a one kilometre radius of 2 or more other parcels of land (the proximate site land) in respect of each of which either:

(a) there is a current site compatibility certificate, or

(b) an application for a site compatibility certificate has been made but not yet determined.

This clause is a requirement only for applications for site compatibility certificates. The subject application does not require a site compatibility certificate, as the site is zoned R2, and as such, the SEPP makes the development permissible with consent, without any requirement for a site compatibility certificate. The clause is not therefore relevant to the subject development.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	There are no objections from the Building Certification Team to the proposed development subject to conditions to ensure compliance with the National Construction Code/ Building Code of Australia.
Landscape Officer	<p>The plans provided are largely similar to those already approved over this site.</p> <p>As such, subject to similar conditions of consent, no objections are raised to approval.</p> <p>It is further recommended that the Landscape Plans provided be included in the approved drawings if consent is to be granted.</p>
NECC (Development Engineering)	<p>Reference is made to Development Engineering Referral Response dated 6/3/19 and 15/4/19 and additional information provided by the Applicant.</p> <p><u>Stormwater:</u></p> <p>The proposed stormwater connection to the existing drainage easement requires variation to the terms of the easement. This shall be appropriately conditioned as deferred commencement.</p> <p><u>Access Driveway:</u></p> <p>Please refer to comments and/or conditions from Traffic Engineering section in regard to any potential treatments of the access ramp to the basement carpark.</p> <p>No objections are raised to the proposed development, subject to conditions.</p>

Internal Referral Body	Comments
	<p><u>Planner's Comment</u></p> <p>The Development Engineers have recommended two Deferred Commencement conditions in relation to creation of a stormwater drainage easement through the downstream property (43 Lantana Avenue), and that the terms of the existing easement through the same property be varied to benefit the subject site. The applicant has requested that these deferred commencement conditions instead be made operational conditions. This is due to the owner's of the 44 Rose Avenue also being owner's of 43 Lantana Avenue. Additionally, the applicants have already provided owner's consent for the creation of the easement through 43 Lantana Avenue benefiting 44 Rose Avenue. Given this documentation has been submitted, the request is considered reasonable, and the two conditions have been moved to the 'prior to commencement of works' section of the recommended conditions.</p>
Strategic and Place Planning (Urban Design)	<p>It is noted that there has been a previous approval for a proposed development over two lots (DA 2017/0662) fronting both Rose Avenue and Lantana Avenue.</p> <p>The current development proposal represents half the previously approved DA and consists of the lot fronting 44 Rose Avenue only. The proposed development as submitted has not deviated from the previously approved design and thus represents a development proposal that can be supported.</p>
Traffic Engineer	<p>The proposal is for a Seniors Housing Development comprising 6 x 3 bedroom dwellings and 14 car parking spaces including 2 visitor spaces.</p> <p>Traffic: The traffic volumes from the site are deemed negligible.</p> <p>Parking: Parking numbers are deemed compliant with the SEPP and Council DCP.</p> <p>Pedestrian: The applicant will be required to upgrade the pedestrian footpath from the site connecting to the Bus Stop to the West of the site. This will be conditioned.</p> <p>Servicing: No change to servicing arrangements are proposed.</p> <p>Access: The driveway is deemed compliant with passing bay opportunities in accordance with AS2890.1:2004.</p>
Waste Officer	<p><u>Planner's comment</u></p> <p>Council's Waste Officer has not responded to the referral request. However, the waste bin area is the same size and in the same location as previously approved under DA2017/0662, servicing the dwellings previously approved on the 44 Rose Avenue portion of that development. The bulky good storage area has been relocated</p>

Internal Referral Body	Comments
	beneath the driveway, but remains a similar size as previously approved. As such, the previous conditions of consent have been included in the recommendation with regard to waste removal.

External Referral Body	Comments
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 residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 986567M).

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

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

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

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

The development application has been lodged pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (HSPD)) as the development is for in-fill self-care dwellings. Given the similarity of the development to the previously approved development under DA2007/0662 (confined to 44 Rose Avenue), the assessment below differs in only minor respects from the previous assessment.

Chapter 1 – Preliminary

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

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

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

Comment:

The proposed development is considered to be consistent with the aims of the Policy as set out above for the following reasons:

- (a) The development will increase the supply and diversity of residences that meet the needs of seniors or people with a disability.
- (b) The proposed development also makes efficient use of existing infrastructure and services, in that the site is well serviced by existing public transport and is located within 400m of the nearest bus stop. The site is located approximately 300m - 350m from a local retail centre (Wheeler Heights Shops) which provides a mix of essential retail and commercial services.
- c) When considering the development against the aim of achieving good design, the development must be considered in context with other provisions of the SEPP. In particular, that development pursuant to this SEPP is to be of scale and so that is able to fit reasonably within its local context.

In this regard, this assessment has found that the built form of the development maintains a reasonable level of amenity and is compatible with the area in which it will sit. The development does not give rise to any unreasonable adverse amenity impacts in terms of privacy, view loss or overshadowing and will fit reasonably within its local context. This assessment remains consistent with the previous assessment under DA2007/0662, which approved a development which differed in only minor respects on the 44 Rose Avenue portion of the proposal from the development now proposed solely on 44 Rose Avenue.

Chapter 2 – Key Concepts

Comment:

The development comprises self-contained dwellings, which are to be occupied by seniors or people with a disability. On this basis, it is considered that the proposed development is consistent with Chapter 2 of the SEPP.

Chapter 3 – Development for seniors housing

Chapter 3 of SEPP HSPD contains a number of development standards applicable to development applications made pursuant to SEPP HSPD. Clause 18 of SEPP HSPD outlines the restrictions on the

occupation of seniors housing and requires a condition to be included in the consent if the application is approved to restrict the kinds of people which can occupy the development. If the application is approved the required condition would need to be included in the consent. The following is an assessment of the proposal against the requirements of Chapter 3 of SEPP (HSPD).

Development Criteria			
Clause	Requirement	Proposal	Complies
PART 2 - Site Related Requirements			
26(1)	Satisfactory access to: (a) shops, banks and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner	The subject site has satisfactory access to these services.	Yes
26(2)	Access complies with this clause if: (a) the facilities and services referred are located at a distance of not more than 400 metres from the site or (b) there is a public transport service available to the residents not more than 400 metres away.	These services are located within walking distance from the subject site at Wheeler Heights local centre 300 metres - 350 metres walking to the east and bus services located within 400 metres of the subject site on Rose Avenue and Veterans Parade. Pathways are provided along Rose Avenue and Veterans Parade, though the path on the northern side of the road does not extend all the way to the subject site from Veterans Parade. A condition of consent has been provided by Council's Engineers to ensure a footpath is constructed in accordance with Council requirements, to link up to the existing path.	Yes
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	The site is not located within Bushfire Prone Land.	N/A
28	Consideration is given to the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure.	Given the existing residential use of the site and documentation provided the site has access to reticulated water and sewerage infrastructure.	Yes
29	Consideration must be given to whether the proposal is compatible with the surrounding land uses having regard to the following criteria specified in Clauses 25	The development is compatible with the surrounding natural environment and existing residential use of land within the vicinity of the proposed development. The site is served by existing infrastructure (electricity, water and sewerage) that is	Yes

Development Criteria			
Clause	Requirement	Proposal	Complies
	<p>(5)(b)(i), 25(5)(b)(iii), and 25(5)(b)(v):</p> <p>i) the natural environment and the existing uses and approved uses of land in the vicinity of the proposed development</p> <p>iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development and any proposed financial arrangements for infrastructure provision,</p> <p>v) the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.</p>	<p>capable of meeting the demands that will arise from the development.</p> <p>For the reasons outlined within this report, the development is considered to be compatible with the bulk, scale, built form and character of the surrounding area.</p>	
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	A detailed site analysis in plan form and within the Statement of Environmental Effects has been provided which satisfactorily addresses the requirements of this control.	Yes

Clause 31 Design of in-fill self-care housing

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

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

Section	Requirements	Comment
1. Responding to context	<p>Built Environment – New development is to follow the patterns of the existing residential neighbourhood in terms of built form.</p> <p>Policy environment –</p>	<p>Generally, the development follows the pattern of the existing residential neighbourhood in terms of its built form.</p> <p>The established built form in the</p>



Section	Requirements	Comment
	Consideration must be given to Councils own LEP and/or DCPs where they may describe the character and key elements of an area that contribute to its unique character.	neighbourhood is characterised by a mix of detached style dwelling houses, one to two storeys in height within landscaped settings, and other higher density housing for seniors. The design of the proposal breaks up the two storey elements to make the development more visually similar from a distance to two storey detached dwellings.
2. Site Planning and design	Objectives of this section are to: -Minimise the impact of new development on neighbourhood character -Minimise the physical and visual dominance of car parking, garaging and vehicular circulation.	The development will present as a building of part single and part two storey elements when viewed from surrounding properties. The built form is consistent with the bulk and scale of surrounding buildings which are predominantly sited on battle axe allotments. The bulk and scale of the development has been effectively minimised by appropriate building setbacks, articulation and landscaping.
3. Impacts on streetscape	Objectives of this section are to: -Minimise impacts on the existing streetscape and enhance its desirable characteristics -Minimise dominance of driveways and car park entries in streetscape.	The proposed buildings will not be readily viewable from the street frontage by virtue of the battle axe lot configuration. The access handle contains areas of landscaping, bin stores and hard surface driveway/pathways. The combination of landscape treatments throughout the access handle and meandering of the driveway effectively minimises the dominance of the driveway and basement car park entry on the Rose Avenue streetscape.
4. Impacts on neighbours	The proposal is generally in accordance with the requirements of this section.	The development has been assessed with regards to privacy, overshadowing, building bulk and view sharing. <u>Privacy</u> The development has been designed having regard to maintaining a reasonable level of acoustic and visual privacy between properties. Appropriate building setbacks and effective use of privacy treatments maintain a reasonable level of



Section	Requirements	Comment
		<p>privacy to adjoining properties.</p> <p>The development satisfies the requirements and objectives of Clause D3 – ‘Noise’ and of Clause D8 – ‘Privacy’ under the WDCP 2011 under the WDCP 2011.</p> <p><u>Overshadowing</u> The shadow diagrams provided by the applicant indicate that the development will not result in any unreasonable overshadowing of the neighbouring residential properties.</p> <p>The development satisfies the requirements and objectives of Clause D6 – ‘Access to Sunlight’ under the WDCP 2011.</p> <p><u>Building bulk</u> As detailed throughout this report, the bulk of the building and its impacts on neighbouring properties have been effectively minimised by way of appropriate building setbacks, articulation and varied building height.</p> <p>The development satisfies the requirements and objectives of Clause 4.3 - Height of Buildings Development Standard under WLEP 2011 and Clause D9 - 'Building Bulk' under WDCP 2011.</p> <p><u>View sharing</u> The development will not have any adverse impact on view sharing and satisfies the Planning Principle established in Tenacity Consulting v Warringah [2004] NSWLEC 140 and Clause D7 – ‘Views’ under the WLEP 2011. No unreasonable view loss was identified, and no submissions have been received in this regard.</p>
5. Internal site amenity	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Provide safe and distinct pedestrian routes to all dwellings and communal 	<p>The development is served by pathway, lift and stairwell access/egress that provides safe and distinct pedestrian routes to all levels of the building, individual</p>

Section	Requirements	Comment
	facilities.	dwellings and to the communal facilities of the development.

Clause 32 Design of residential development

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

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

Control	Requirement	Proposed	Compliance
CL33 Neighbourhood amenity and streetscape	a. Recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area.	<p>The subject site is located within the R2 Low Density Residential zone. Surrounding land is similarly zoned with the exception of land to the north ('War Vets' Seniors Housing) which is zoned SP1 Special Activities.</p> <p>The character of the area can be described as predominantly battle axe allotments with a mix of single and two storey dwelling houses and detached garages. There are a number of dual occupancies located along Rose Avenue. As discussed above, to the north is a large seniors living/care facility (War Vets). More recently, a seniors housing development has been constructed to the west of the subject site on Rose Avenue.</p> <p>The development recognises the desirable elements of the subject sites current character and adopts a design that is consistent in built form with that of detached style housing in the local area, by varying the height of the building, in particular including one and two storey elements, and by varied setbacks, generally greater than the minimum requirements under the Warringah DCP.</p> <p>The buildings have been well designed through appropriate</p>	Yes



Control	Requirement	Proposed	Compliance
		<p>building separation, setbacks and articulation which includes the two storey elements being separated by single storey elements through the building foot print.</p> <p>The development is well served by areas of landscaping which will enhance and soften the visual appearance of the development when viewed from surrounding properties.</p>	
	<p>b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that re identified in a local environmental plan.</p>	<p>The subject site is not located within close proximity to a heritage conservation area or any heritage items identified under WLEP 2011.</p> <p>Item No. I30 (ANZAC War Memorial) is located to the north of the subject site however the proposed development now only relates to 44 Rose Avenue, and will be well separated from the War Vets site by the neighbouring properties to the north, and so will have no impacts in this regard.</p>	Yes
	<p>c. Maintain reasonable neighbour amenity and appropriate residential character by;</p> <p>(i) providing building setbacks to reduce bulk and overshadowing</p> <p>(ii) using building form and siting that relates to the site's land form, and</p> <p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development,</p>	<p>The development maintains a reasonable level of neighbour amenity and appropriate residential character.</p> <p>The development has been designed having regard to maintaining a reasonable level of privacy to adjoining properties and for future dwelling occupants. Appropriate building separation, setbacks and articulation have been adopted in the design of the building to ensure the visual bulk and scale is appropriately minimised.</p>	Yes



Control	Requirement	Proposed	Compliance
	(iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours.	<p>The development allows for a reasonable level of solar access to be provided to adjoining properties and for future dwelling occupants in accordance with the requirements of the SEPP and Clause D6 - Access to Sunlight under WDCP 2011.</p> <p>The siting and design of the buildings appropriately relates to the sites land form and local topography.</p> <p>The development will not be readily viewable from the street and fits comfortably within the building envelope and maximum height of buildings.</p>	
	d. Be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line,	The design of the development is sympathetic with the front boundary setback of development on other battle axe allotments in the surrounding area.	Yes
	e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.	<p>32.3% (506.1sqm) of the total site area is deep soil landscaped area. Landscaped areas are provided around the perimeter of the site, including within the access handle to the site.</p> <p>The areas identified as soft landscaping provide a satisfactory level of landscaping through the provision of trees and shrubs which will assist in softening the appearance of the development when viewed from the street and neighbouring properties.</p> <p>Council's Landscape Officer has reviewed the landscape</p>	Yes



Control	Requirement	Proposed	Compliance
	<p>f. retain , wherever reasonable, major existing trees, and</p> <p>g. be designed so that no building is constructed in a riparian zone.</p>	<p>plans provided, and not raised any concerns. The landscape plans are recommended for approval as part of the set of approved plans.</p> <p>The proposal includes the removal of a number of major trees which are located within the developable area of each subject site. However, the application has been reviewed by Council's Landscape Officer who raises no objections to the removal of trees, retention of trees and provision of landscaping proposed subject to conditions which have been included in the recommendation of this report.</p> <p>The site is not located within a riparian zone.</p>	<p>Yes</p> <p>N/A</p>
CL 34 Visual and acoustic privacy	The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by: (a) Appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and (b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	<p>The development has been designed having regard to maintaining a reasonable level of acoustic and visual privacy between properties. Appropriate building setbacks and effective use of privacy treatments maintain a reasonable level of privacy to adjoining properties.</p> <p>The development satisfies the requirements and objectives of Clause D3 – 'Noise' and of Clause D8 – 'Privacy' under the WDCP 2011.</p> <p>The development satisfies this Principle.</p>	Yes
CL35 Solar access and design for climate	The proposed development should: (a) ensure adequate daylight to the main living areas of neighbours in the	<p>The individual clauses are addressed as follows:</p> <p>(a) ensure adequate daylight to the main living areas of neighbours in the vicinity and</p>	Yes



Control	Requirement	Proposed	Compliance
	<p>vicinity and residents and adequate sunlight to substantial areas of private open space, and (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.</p>	<p>residents and adequate sunlight to substantial areas of private open space,</p> <p><u>Comment</u> 100% of apartments will receive a minimum of two hours direct sunlight between 9am and 3pm in mid-winter. The shadow diagrams provided by the applicant (see Plan No. A12 dated 29/01/2019 prepared by Barry Rush & Associates Pty Ltd) indicate that the development will not result in any unreasonable overshadowing over the neighbouring residential properties to the south and west.</p> <p>The development satisfies the requirements and objectives of Clause D6 – 'Access to Sunlight' under the WDCP 2011.</p> <p>(b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.</p> <p><u>Comment:</u> The development is accompanied by NatHERS Certificates which indicates that the development will have a rating of between 5.3 Stars and 5.6 Stars with an average of 5.2 stars under the Nationwide House Energy Rating Scheme which is considered satisfactory for the location of the site.</p> <p>The environmental performance of the</p>	



Control	Requirement	Proposed	Compliance
		<p>development is also guided by the provisions of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. The development is defined under cl.3(1) of the Environmental Planning and Assessment Regulation, 2000 as BASIX Affected Development because it involves the erection of a BASIX Affected Building.</p> <p>A BASIX certificate has been submitted with the application which demonstrates the development will achieve compliance with the minimum targets.</p> <p>Therefore, the development satisfies the requirements of the SEPP.</p>	
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	<p>The applicant has submitted amended stormwater plans which have been reviewed by Council's Development Engineer.</p> <p>The plans demonstrate that the development will adequately manage stormwater run off on site in accordance with Council's requirements. The proposal is recommended for approval by Council's Development Engineer subject to conditions which have been included in the recommendation of this report.</p>	Yes
CL 37 Crime prevention	The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (a) site planning that allows observation of the approaches to a	<p>The development accommodates 6 units and is therefore not subject to an assessment under the principles of Crime Prevention Through Environmental Design (CPTED).</p> <p>Notwithstanding the above, the proposed development</p>	Yes



Control	Requirement	Proposed	Compliance
	dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	has been designed to meet the requirements of CPTED.	
CL 38 Accessibility	The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.	<p>The development is capable of providing for obvious and safe pedestrian links to bus stops on Rose Avenue and Veterans Parade through the provision of a public pathway located adjacent to the main pedestrian entrance to the site which will provide a continuous path to the surrounding local facilities (Wheeler Heights local centre) and public transport. A condition of consent is included in the recommendation requiring the footpath to be constructed along the northern side of Rose Avenue to connect with the existing path to Veterans Parade to the east.</p> <p>The development provides for a safe environment for pedestrians and motorists with convenient access and on-site parking for residents and visitors.</p>	Yes
CL 39 Waste DA2019/0107	The proposed	Waste facilities are provided at	Yes

Control	Requirement	Proposed	Compliance
management	development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	ground level at the front of the site in the form of a bin storage area and within the basement car park. A Waste Management Plan has been provided with the application and accepted by Council's Waste Management Department.	

Part 4 - Development standards to be complied with

Clause 40 – Development standards – minimum sizes and building height

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

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

Control	Required	Proposed	Compliance
Site Size	1000 sqm	1569sqm	Yes
Site frontage	20 metres	20.115m	Yes
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	6.6m	Yes
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	The building is no more than two storeys in height.	Yes
	A building located in the rear 25% of the site must not exceed 1 storey in height (development within 15.51 metres of the rear boundary).	The plans originally submitted with the application included the northern most two storey unit (unit 5) projecting into the rear 25% of the site by 1.23m. The applicant subsequently amended the plans to reduce the width of unit 5 to comply in full with this requirement.	Yes

Clause 41 Standards for hostels and self contained dwellings

In accordance with Clause 41 a consent authority must not consent to a development application made pursuant to Chapter 3 unless the development complies with the standards specified in Schedule 3 for such development.

The application is supported by an Access Report (refer to Access Report prepared by Accessibility Solutions dated 29 January 2019) that demonstrates the development is capable of achieving the

requirements of Clause 41.

In this regard, compliance with the recommendations and requirements contained within the Access Report is included as a condition of consent within the Recommendation of this Report.

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

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

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

Control	Required	Proposed	Compliance
Building height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	6.6m	Yes
Density and scale	0.5:1	0.49:1	Yes
Landscaped area	30% of the site area is to be landscaped	32.3% (506.1sqm)	Yes
Deep soil zone	15% of the site area Two thirds of the deep soil zone should preferably be located at the rear of the site. Each area forming part of the zone should have a minimum dimension of 3 metres.	15.1% (236.5sqm). Approximately 50% of this area is located in the rear 25% of the site. Given the length of the site and required setbacks, and that the proposal achieves the overall minimum requirements for landscaped area, this is considered acceptable.	Yes
Solar access	Living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter	100% of the apartments living rooms and private open spaces receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter.	Yes
Private open space	(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square	All apartments provide adequate areas of private open space.	Yes

Control	Required	Proposed	Compliance
	<p>metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and</p> <p>(ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area</p>		
Parking	0.5 car spaces for each bedroom	18 bedrooms = 9 car spaces required. The proposal provides 9 car spaces allocated to the dwellings, and another 2 car spaces allocated to visitor parking.	Yes
Visitor parking	None required if less than 8 dwellings	6 dwellings = 0 spaces required. 2 car spaces have been provided for visitor parking.	Yes

SEPP (Infrastructure) 2007

Ausgrid

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

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.

- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. 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.

Warringah Local Environmental Plan 2011

Is the development permissible?	No
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	Complies
Height of Buildings:	8.5m	6.6m	Yes

Compliance Assessment

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

Detailed Assessment

Zone R2 Low Density Residential

The proposal is permissible under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	6m	N/A	Yes
B3 Side Boundary Envelope	4m	Within envelope both sides	N/A	Yes
B5 Side Boundary Setbacks	E 0.9m	Basement: 3.2m - 4.22m Ground level: 3m - 4.22m First floor: 3m - 4.22m	N/A	Yes



		Bin Storage area - Nil	100%	No
	W 0.9m	Basement: Nil - 3.305m Ground level: 3m - 6.12m First floor: 4.65m - 6.12m	100%	No
B7 Front Boundary Setbacks	6.5m	6m to bin room 64.2m to building (3.2m to southern neighbour's rear boundary)	N/A - exception N/A - merit assessment	Yes Yes
B9 Rear Boundary Setbacks	6m	Basement: 5.085m - 6m Ground level: 3m (pergola) - 6m (building) First floor: 16.02m	50%	No
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	19.8% (310.5sqm)	50.5%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B5 Side Boundary Setbacks

Description of non-compliance

The proposed bin storage area is located on a nil side setback to the eastern side boundary of the access handle, 6m from the front boundary. The basement carparking and driveway access will also be on a nil setback to the western side boundary for a small portion.

Merit consideration

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

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

Comment:

The proposal provides for deep soil landscaping consistent with the requirements of the SEPP (HSPD), as assessed within this report. As provided by the SEPP, deep soil landscaping cannot be used as a reason for refusal where it meets those requirements.

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

Comment:

The proposed bin storage is small in area, sufficient in size to neatly contain the bins for the property, and will not cause any unreasonable visual dominance of the area. The basement parking and access area is generally below ground, and will have no significant visual impacts in this regard.

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

Comment:

The proposed bin storage structure is small and will not have an unreasonable bulk or scale. The basement parking and access is generally below ground.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy,*

amenity and solar access is maintained.

Comment:

The proposed bin storage area is a essential utilitarian element of the development, and will not cause any unreasonable amenity impacts. The non-compliance caused by the basement is generally limited to the access where its location is dictated by the battle axe access, and given the access quickly descends below ground level, it will not have any unreasonable amenity impacts.

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

Comment:

The bin storage area and basement parking area will not impact on any views.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B7 Front Boundary Setbacks

Description of non-compliance

The proposed building is setback over 60m from the part of the boundary that fronts to the road, and therefore complies with the control. Given the site is a battle axe lot, the boundary which is the common boundary with the southern neighbour (number 42 Rose Avenue) does not qualify as a rear or side boundary, and so a merit assessment has been undertaken below against the objectives of the front setback control.

Merit consideration:

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

- *To create a sense of openness.*

Comment:

Overall the proposal will not be readily visible from the road given the distance and structures in between. The building will maintain a 3.2m setback to the southern boundary, and will not unreasonably detract from the sense of openness in the area.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

The proposal separates the two storey elements of the building by use of single storey elements, and in this regard will maintain the appearance of detached two storey dwellings when viewed from a distance. In terms of setback to the southern boundary, the proposal is generally consistent with other development in the area on battle axe lots, particularly number 46 Rose Avenue immediately adjacent to the west.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

The proposal will not be readily visible from the street due to the length of the access handle, and will have no unreasonable impacts on the streetscape or any public spaces.

- *To achieve reasonable view sharing.*

Comment:

No views will be unreasonably impacted by the proposal.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B9 Rear Boundary Setbacks

Description of non-compliance

The proposed basement will be 5.085m from the rear boundary. The proposed building will be 6m at ground level and 16.02m at first floor level from the rear boundary. There is a pergola proposed at the rear of the ground level which will be 3m from the rear boundary.

Merit consideration:

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

- *To ensure opportunities for deep soil landscape areas are maintained.*

Comment:

The proposal achieves the requirements of the SEPP (HSPD) with regard to deep soil landscaped area, and deep soil area cannot therefore be used to refuse the development.

- *To create a sense of openness in rear yards.*

Comment:

The proposed basement is below ground, and the pergola within the rear setback is an open structure at the ground floor level, which will not unreasonably restrict the sense of openness in the rear of the site. The much larger setback to the first floor will also help to maintain a sense of openness.

- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

Comment:

The proposal is not considered to result in any unreasonable amenity impacts, as assessed

throughout this report. The non-compliant structures are at or below the ground level, and will not cause any unreasonable privacy impacts.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment:

Overall, the proposal generally complies with the rear setback requirement. The minor non-compliances caused by the underground basement parking and pergola off the rear of unit 6 will not cause any significant visual inconsistency with the pattern of development in the area.

- *To provide opportunities to maintain privacy between dwellings.*

Comment:

Privacy is considered to be maintained to a reasonable level by the development, as assessed throughout this report. The minor non-compliances caused by the underground parking area and the pergola will not cause any significant privacy impacts.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The proposal provides for 19.8% (310.5sqm) of the site to be landscaped in accordance with the measurement requirements of this clause. However, SEPP (HSPD) precludes Council from refusing the development on landscaping grounds provided it complies with the requirements of the SEPP. As assessed in this report, the proposal achieves the requirements of the SEPP with regard to landscaping, and therefore no further consideration is necessary with regard to this clause.

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 Council Contributions Plan 2018

The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.

The following monetary contributions are applicable:

Northern Beaches Council Contributions Plan 2018		
Contribution based on a total development cost of \$ 2,933,831		
Contributions	Levy Rate	Payable
Total Section 7.12 Levy	0.95%	\$ 27,871
Section 7.12 Planning and Administration	0.05%	\$ 1,467
Total	1%	\$ 29,338

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

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

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

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

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

In summary, the proposal differs in only minor respects from the previous approval on site (DA2017/0662), for the 44 Rose Avenue portion of that development, and in this regard the assessment is generally consistent with the assessment carried out under that application.

The proposal remains generally consistent with the requirements of SEPP (HSPD), and other relevant controls under WLEP2011 and WDCP, with minor non-compliances with the side and rear boundary setbacks as assessed in this report. The submissions received focused mainly on the cumulative impacts of higher density development, particularly with regard to traffic. However, as assessed within this report, the development is permissible under SEPP (HSPD), and the density and associated impacts are considered to be in accordance with the general expectations for development under the SEPP.

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/0107 for Construction of a Seniors Housing Development on land at Lot 4 DP 203378, 44 Rose Avenue, WHEELER HEIGHTS, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. 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
A02	23/04/2019	Barry Rush & Associates Pty Ltd
A03	23/04/2019	Barry Rush & Associates Pty Ltd
A04	23/04/2019	Barry Rush & Associates Pty Ltd
A05	23/04/2019	Barry Rush & Associates Pty Ltd
A06	23/04/2019	Barry Rush & Associates Pty Ltd
A07	23/04/2019	Barry Rush & Associates Pty Ltd
A08	23/04/2019	Barry Rush & Associates Pty Ltd
A09	23/04/2019	Barry Rush & Associates Pty Ltd
A11	23/04/2019	Barry Rush & Associates Pty Ltd
A02	23/04/2019	Barry Rush & Associates Pty Ltd
1901/DA-L01	24.1.19	Trish Dobson Landscape Architecture
1901/DA-L02	24.1.19	Trish Dobson Landscape Architecture

Engineering Plans		
Drawing No.	Dated	Prepared By
W-11-266888-1B Amendment B	23/04/2019	Civil & Structural Engineering Design Services Pty Ltd

W-11-266888-2B Amendment B	23/04/2019	Civil & Structural Engineering Design Services Pty Ltd
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Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Development Impact Assessment Report	24.1.19	Trish Dobson Landscape Architecture
Access Report	29th January 2019	Mark Relf
Report on Geotechnical Site Investigation Project No: 2017-083.1	January, 2019	Crozier Geotechnical Consultants

b) 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:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	30 January 2019	Wheeler Heights Development Pty Ltd

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.

2. **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

3. **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.

4. **Occupation of Seniors Housing or Housing for Persons with a Disability**

A positive covenant pursuant to s88E of the Conveyancing Act 1919 is to be registered on the title of the land to which this development consent applies.

The covenant shall stipulate that Council is the sole authority to release or modify the covenant and that the development is only permitted to be occupied by persons detailed as follows:

- (a) seniors or people who have a disability;
- (b) people who live within the same household with seniors or people who have a disability;
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

(Note: Under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004):

Seniors are people aged 55 or more years, people who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 <http://www.comlaw.gov.au/> of the Commonwealth) is provided and / or people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

AND

People with a disability are people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life.)

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

Reason: Statutory requirements. (DACPLB11)

5. **Sewer / Water Quickcheck (Crown Land Only)**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

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

FEES / CHARGES / CONTRIBUTIONS

6. **Policy Controls**

Northern Beaches Council Contributions Plan 2018

The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.

The following monetary contributions are applicable:

Northern Beaches Council Contributions Plan 2018		
Contribution based on a total development cost of \$ 2,933,831.00		
Contributions	Levy Rate	Payable
Total Section 7.12 Levy	0.95%	\$ 27,871.39
Section 7.12 Planning and Administration	0.05%	\$ 1,466.92
Total	1%	\$ 29,338.31

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

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 Northern Beaches Council Contributions Plan 2018.

7. **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.

8. **Construction, Excavation and Associated Works Bond (Footpath)**

The applicant is to lodge a Bond of \$15,000 as security against any damage or failure to complete the construction of footpath works as part of this consent. Details demonstrating payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

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

9. **On slab landscape planting and associated works**

- a) 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.
- b) Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil volume, soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.
- c)
- c) The following soil depths are required in order to be counted as landscaping:
 - 300mm for lawn
 - 600mm for shrubs
 - 1metre for trees

Reason: To ensure appropriate and secure waterproofing and drainage is installed to direct water flow into the drainage system, and away from habitable areas.

10. **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. The Applicant is to provide 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 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.

11. Submission of Engineering Plans

Engineering plans are to be submitted to the Certifying Authority for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of interallotment stormwater drainage pipeline which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and or Council's Minor Works Policy.

It shall be ensured that the interallotment drainage line is designed to have adequate capacity to cater for any emergency overflows in the case of blockage of the internal OSD system.

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

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

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

The Applicant is to submit an application for approval for Infrastructure works on Councils roadway. Engineering plans for the new development works within the road reserve within this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993. The application is to include four (4) copies of Civil Engineering plans for the design of 1.5 metre wide footpath to connect to the existing footpath at 34 Rose Avenue which shall be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer.

The 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 engineering works are constructed in accordance with relevant standards and Council's specification.

13. On-site Stormwater Detention

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Warringah Water Management Policy PL850, and generally in accordance with the concept drainage plans prepared by Civil & Structural Engineering Design Services, drawing number W-11-266888-1B and 2B, amendment B, dated 23/04/19. Detailed drainage plans are to be prepared by a suitably

qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. Emergency overflows from the OSD system shall be directed to the interallotment drainage line.
- ii. An additional pit shall be provided at the north-east corner of the site to capture any emergency overflows before connecting to Pit 1 of the interallotment drainage line.
- iii. It shall be ensured that the interallotment drainage line is designed to have adequate capacity to cater for any emergency overflows in the case of blockage of the internal OSD system.

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

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

14. **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.

15. **Shoring of Adjoining Property**

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining(s) with engineering drawings of the proposed shoring works for their consideration and approval.

An application to Council for approval under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Councils road reserve. Owner's approval is to be submitted to the 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.

16. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. 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 facilitate suitable vehicular access to private property.

17. **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.

18. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

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

19. **Requirements for Seniors Housing or Housing for Persons with a Disability**

The development is for the purposes of Seniors Housing or Housing for Persons with a Disability and is required to comply with all the standards specified in Schedule 3 - "*Standards concerning accessibility and useability for hostels and self-contained dwellings*".

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

Reason: To ensure public safety and equitable access for seniors or people with a disability. (DACPLC16)

20. **Submission of Engineering Plans**

The submission is to include four (4) copies of Civil Engineering plans for the design of:

- Footpath Upgrades from the site connecting to the bus stop to the west.
- DDA compliance of the bus stop to the west

These are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and or Council's Minor Works Policy. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Section 138 and/or 139 applications are to be submitted to Council for Local Traffic Committee approval.

Reason: To ensure compliance with Council's specification for engineering works.
(DACTRCPC1)

21. **Construction Traffic Management Plan.**

As a result of the site constraints, limited vehicle access and parking, 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.

The CTMP must address following:-

- The proposed phases of construction works on the site, and the expected duration of each construction phase;
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- Make provision for all construction materials to be stored on site, at all times;
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Specify that, due to the proximity of the site adjacent to St Rose School and Wheeler Heights Public School, no heavy vehicle movements or construction activities effecting vehicle and pedestrian traffic are permitted in school zone hours (8:00am-9:30am and 2:30pm-4:00pm weekdays).
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones,

anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.

- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent;
- Proposed protection for Council and adjoining properties;
- The location and operation of any on site crane; and

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

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

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. (DACTRCPC2)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

22. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council’s road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

23. **Tree protection** DA2019/0107

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

24. **Pre-commencement Dilapidation Report**

The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining private properties. A copy of the report must be provided to Council, and the owners of adjoining private properties.

Reason: Protection of neighbouring buildings and infrastructure during construction.

25. **Stormwater Drainage Easement and Variation to Existing Stormwater Drainage Easement**

As the natural fall of the land is towards the rear of the site the disposal of stormwater drainage is to be in accordance with the drainage plan submitted by Civil & Structural Engineering Design Services, drawing number W-11-266888-1B and 2B, amendment B, dated 23/04/19. A stormwater drainage easement is to be created under Sections 88B and/or 88K of the Conveyancing Act 1919. The applicant must provide Council with evidence of the creation of the easement in order to activate the consent.

The terms of the existing stormwater drainage easement within 43 Lantana Avenue is to be varied to benefit the subject development in accordance with the requirements of the NSW Land Registry Services. The applicant must provide Council with evidence that the existing easement is varied to benefit the subject development in order to activate the consent.

Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner that protects adjoining properties.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

26. **Road Reserve**

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

Reason: Public Safety.

27. Civil Works Supervision

The Applicant shall ensure all civil works approved in the Construction Certificate for interallotment drainage and Section 138 approval are supervised by an appropriately qualified and practising Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Roads Authority.

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

28. Vehicle Crossings

The Applicant is to construct a normal low standard vehicle crossing 5.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/3 NL and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. 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. A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

29. Waste Management During Development

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

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

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

30. Installation and Maintenance of Sediment Control

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Council's Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

31. 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

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

32. **Landscape Certification**

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Principal Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Drawing and a maintenance program has been established.

Reason: This is to ensure the landscaping is planted in accordance with the drawing and maintained appropriately.

33. **Stormwater Disposal**

The Applicant shall submit a certificate from a suitably qualified person that the stormwater drainage works have been constructed/installed in accordance with all relevant Australian Standards and Codes. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

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

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

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance of the pump-out facility 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 the final Occupation Certificate.

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 final Occupation Certificate.

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

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

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater detention structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for on-site storm water detention is to be submitted.

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

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

36. Required Planting

Trees shall be planted in accordance with the following schedule:

Minimum No. of Trees Required.	Species	Location	Minimum Pot Size
All trees	As indicated on the approved Landscape Plans	As indicated on the Landscape Plans	As indicated on the Landscape Plans

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

Reason: To maintain environmental amenity.

37. Certification of Civil Works and Works as Executed Data on Council Land

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works have been constructed in accordance with this consent and the approved Section 138 plans. Works as Executed data certified by a registered surveyor prepared in accordance with Council's 'Guideline for preparing Works as Executed data (details overdrawn on a copy of the approved civil plans) for Council Assets' in an approved format shall be submitted to Council for approval prior to the release of any security deposits.

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

38. **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.
(DACPLF03)

39. **Waste Management Confirmation**

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

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

40. **Occupation of Seniors Housing or Housing for Persons with a Disability**

A positive covenant pursuant to s88E of the Conveyancing Act 1919 is to be registered on the title of the land to which this development consent applies.

The covenant shall stipulate that Council is the sole authority to release or modify the covenant and that the development is only permitted to be occupied by persons detailed as follows:

- (a) seniors or people who have a disability;
- (b) people who live within the same household with seniors or people who have a disability;
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

(Note: Under State Environmental Planning Policy (Housing for Seniors or People with a Disability 2004):

Seniors are people aged 55 or more years, people who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 <http://www.comlaw.gov.au/> of the Commonwealth) is provided and/or people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

AND

People with a disability are people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life.)

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

Reason: Statutory requirements. (DACPLF11)

41. **Certification of completion of requirements for Seniors Housing or Housing for Persons with a Disability**

Details demonstrating that all stipulated requirements of this development consent for Seniors Housing or Housing for Persons with a Disability have been completed.

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 statutory requirements have been completed, public safety, and equitable access for seniors of people with a disability. (DACPLF12)

42. **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.

43. **Post-Construction Dilapidation Report**

The applicant must prepare and submit a post-construction dilapidation report. The report must clearly detail the final condition of all property, infrastructure, natural and man-made features that were originally recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, and the owners of adjoining private properties

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

44. **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)

45. **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 Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities (DACWTF03)

46. **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. (DACWTF04)

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

47. Landscape maintenance

- i) Trees shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.
- ii) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan.

Reason: To maintain local environmental amenity.