

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1166
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Responsible Officer:	Adam Mitchell
Land to be developed (Address):	Lot 12 DP 111254, 142 Ocean Street NARRABEEN NSW 2101
Proposed Development:	Demolition works and construction of a Residential Flat Building
Zoning:	Warringah LEP2011 - Land zoned R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Trio Industries Pty Ltd
Applicant:	Trio Industries Pty Ltd

Application Lodged:	26/07/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	29/11/2021 to 06/12/2021
Advertised:	29/11/2021
Submissions Received:	10
Clause 4.6 Variation:	4.3 Height of buildings: 5.8%
Recommendation:	Approval

Estimated Cost of Works:	\$ 4,939,000.00
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Development application no. DA2021/1166 is referred to the Northern Beaches Local Planning Panel as the application constitutes Contentious Development by having ten unique objections and Sensitive Development by way of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development applying.

The proposed part-two/part-three storey residential flat building housing which will contain four apartments has been the subject of two rounds of notification following the receipt of amended plans to address commentary from Council's Design and Sustainability Advisory Panel and other internal referral departments.

The ten objections received raise concern regarding the proportions and built form of the building and the subsequent amenity impacts that the development may have on surrounding land. The majority of objections have come from the adjoining residential flat building at number 144 Ocean Street to the northeast, of which a number of units have their only outlook directly onto the development site.

The assessment of the proposal and revised plans has resulted in the considered conclusion that the development will not have any unacceptable impacts on the amenity of neighbouring properties

notwithstanding the variations sought to several built form controls. The proposal is a high quality and generously proportioned building which includes the largest living green roof in Narrabeen, if not the whole of the Northern Beaches.

Council's independent design panel has described the proposal as well-considered, architecturally sophisticated, spatially rich and an excellent proposal.

On balance of all factors this report recommends that the Northern Beaches Local Planning Panel as the consent authority **approves** development application no. DA2021/1166 subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

Development Consent is sought for demolition works, excavation and the construction of a part-two / part-three storey residential flat building comprising of four x three bedroom units, a roof terrace, a swimming pool and associated landscape works.

During the course of the assessment amended plans were received and re-notified to adjoining and nearby properties.

The proposal, as revised, incorporates the following key elements:

- excavation of approximately 1,183.24m³ to accommodate a basement level.
- basement car parking for nine vehicles inclusive of one visitor space.
- excavation and construction of a 28.2kl in-ground swimming pool.
- construction of a detached waste storage room and entry portal to the front of the site.
- construction of one part-two / part-three storey building comprising of four x three bedroom / two bathroom units with a central open-air lobby.
- construction of a roof terrace.
- landscape works including six new canopy trees capable of reaching heights of up to 25m, 29 other exotic trees and hundreds of shrubs and ground covers. Construction of a 240sqm non-trafficable roof garden.

Herein this report these works are described as the 'development'.

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.

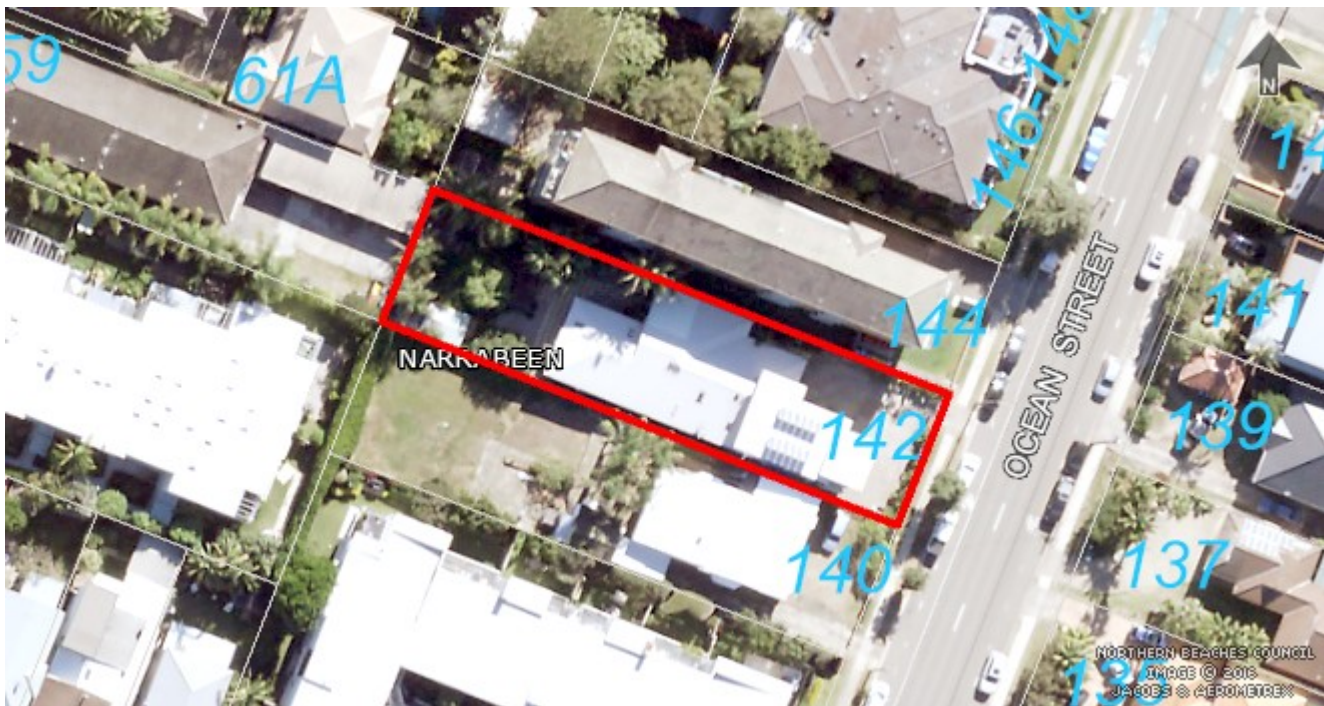
SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
 Warringah Local Environmental Plan 2011 - 6.1 Acid sulfate soils
 Warringah Development Control Plan - B2 Number of Storeys
 Warringah Development Control Plan - B3 Side Boundary Envelope
 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
 Warringah Development Control Plan - D3 Noise
 Warringah Development Control Plan - D6 Access to Sunlight
 Warringah Development Control Plan - D7 Views
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D11 Roofs
 Warringah Development Control Plan - D19 Site Consolidation in the R3 and IN1 Zone

SITE DESCRIPTION

Property Description:	Lot 12 DP 111254, 142 Ocean Street NARRABEEN NSW 2101
Detailed Site Description:	<p>The subject site is legally identified as Lot 12 Sec 47 in Deposited Plan 111254 and is known as 142 Ocean Street, Narrabeen.</p> <p>The site falls within the R3 Medium Density Residential zone pursuant to the Warringah Local Environmental Plan 2011.</p> <p>The site is rectangular in shape with a width of 15m, depth of 60m and an overall surveyed area of 932.9m².</p> <p>The site presently accommodates a detached one and two storey dwelling house with a secondary dwelling.</p> <p>Topographically the site slopes from front to rear (east to west) by approximately 2.5m via a gradual slope. There are no rock outcrops or significant topographical features present on the site.</p> <p>The site accommodates landscaping throughout including several large palm trees and strelitzias.</p> <p>Surrounding developments generally consist of residential flat buildings and single dwelling houses. Immediately northwards of the site is an elevated three storey brick flat building with windows and balconies looking into the subject site. South of the site is a small cottage that has recently obtained development consent to be redeveloped as three flats.</p>

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This 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 matter may be addressed via a condition of consent.</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 2011 section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 04/08/2021 to 23/08/2021 and again on 29/11/2021 to 06/12/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 10 submission/s from:

Name:	Address:
Miss Rebecca Beth Caves	10 / 144 Ocean Street NARRABEEN NSW 2101
Rachel Elizabeth Lack	22 Kanimbla Crescent BILGOLA PLATEAU NSW 2107
Gregory Mark Luckman	7 / 144 Ocean Street NARRABEEN NSW 2101
Ms Oriane Henriette Bernadette Perrin	Address Unknown
Withheld	NARRABEEN NSW 2101
Nicholas Murdocca	C/- LJ Hooker Collaroy Shop 1/1020 Pittwater Road COLLAROY NSW 2097
David Matthew Corbett	15 / 144 Ocean Street NARRABEEN NSW 2101
Mr Patrick John McDonnell	14 / 53 - 55 Lagoon Street NARRABEEN NSW 2101
Withheld	TURRAMURRA NSW 2074
John Russo	Address Unknown

The development application was publicly notified twice, once being between 04 August and 23 August 2021 and the second time being between 29 November and 06 December 2021. The first exhibition of the application generated unique submissions from ten individual households and the second generated a further five secondary submissions from previous submitters.

The matters raised in the submissions have been categorised into the following groups (below) and, where appropriate, expanded upon in the latter half of this report.

- Built Form (height, setbacks, envelope, landscape, storeys)
- Amenity (solar access, visual privacy/overlooking, acoustic privacy, views)
- Traffic safety and car parking
- Construction impacts (noise and potential impacts)
- Trees (removal/species selection/quantum)
- Property values

The matters raised within the submissions are addressed as follows:

- **Built Form (height, setbacks, envelope, landscape, storeys)**

Comment

Submissions received note the built form non-compliances sought by the development including height, setbacks, envelope, landscaping and storeys control. These matters are each discussed under their respective headings in the Warringah Local Environmental Plan 2011 (WLEP) or Warringah Development Control Plan 2011 (WDGP) sections of this report. In summary it is found that despite the variations sought the building provides an acceptable built form and amenity outcome.

In preface to reading this report it should be noted that the aforementioned revised plans included the modification of the flat concrete roof to a non-trafficable green living roof designed by a landscape designer with low-lying species. That living roof is (to the author's knowledge) the largest in Narrabeen if not the Northern Beaches. The outlook provided by the living roof commensurate to the concrete roof is considered to be a significant improvement and one which provides a superior visual outcome compared to a development that would comply with the relevant built form controls. This is discussed in more detail throughout this report.

- **Amenity (solar access, visual privacy/overlooking, acoustic privacy, views)**

Comment

Submissions received raise concern about a loss of solar access, visual and acoustic privacy and a loss of views / outlook caused by the development.

These matters are discussed under their relevant WDCP or Apartment Design Guideline headings later in this report. In summary, the matters do not warrant the refusal of the application impacts have been lessened by the revised plans, and can be further lessened by appropriate conditions.

- **Traffic safety and car parking**

Comment

Concern is raised that the development will lead to parking and traffic congestion on Ocean Street and raise concern that the proposal could impact on pedestrian safety.

The development provides a compliant level of car parking with nine spaces for four units - this ratio exceeds that on other nearby developments. The development is not found to unreasonably exacerbate existing issues and these matters do not warrant the refusal of the application.

- **Construction impacts (noise and potential impacts)**

Comment

Concern is raised regarding the potential construction impacts including noise and potential damages caused by excavation. Noise from a construction site is an inevitability that is, in some instances, difficult to limit. Conditions pertaining to construction hours can be enforced by way in the recommendation of this consent. A further condition can be imposed requiring the completion of pre and post dilapidation reports of surrounding structures to ensure that the development (particularly the excavation) impacts on surrounding buildings can be appropriately documented.

- **Trees (removal/species selection/quantum)**

Comment

Submissions received requested that an existing row of palm trees and strelitzias be maintained along the rear boundary. Concerns were raised regarding the species selection of the roof top planter box including a 10m high tree.

The trees to the rear of the site are proposed to be replaced by fast-growing syzigium resilience (lilly pilli) trees along with low-level plantings. The revised plans provided a widened strip of landscaping to the rear of the site. This planting selection will provide a denser vegetation screening between the subject development site and the flat building to the rear.

The revised plans deleted the proposed 10m high tree from the roof terrace and reduced the area of the terrace by nearly 40sqm. The plans also added the non-traffic green living roof to the remainder of the roof that consists of groundcovers (i.e. low-lying) plants.

The revised plans are deemed to provide a satisfactory landscape outcome on the site.

- **Property values**

Comment

A number of submissions received raise concern that the development may decrease existing property values. The valuation of a property is not a head of consideration pursuant to the Environmental Planning and Assessment Act 1979 and no further assessment on this matter is required.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p>Supported</p> <p>Council's Design and Sustainability Advisory Panel (DSAP) provided a 3 page report on various aspects of the design and many of their comments have been adopted into the aforementioned revised plans (including a green roof, modification to the entry pathway etc). That report is available for public viewing online.</p> <p>Their report summary and conclusion reads as follows:</p> <p><i>The proposal seeks approval for four residential apartments above a basement car park.</i></p> <p><i>The site is 15.1m wide with a depth of 60.9m, located with a single south-east facing street frontage to Ocean Street, between an existing 3-4 story multi-unit residential building to the north and an approved 2 story multi-unit residential building to the south. The neighbouring northerly building is setback only [2.7m from the shared boundary] and has numerous windows and balconies looking directly into the subject site. These site conditions present challenges with dwelling orientation for solar access and privacy. The architect has skillfully worked with these constraints to create a place and site responsive design which respects its neighbours and the future residents of the development.</i></p> <p><i>The overall design approach is a well-considered response to a site with difficult constraints it is architecturally sophisticated and spatially rich. The following are suggestions to further enhance the already excellent proposal.</i></p> <p><i>The Panel supports the proposal with the consideration of the recommendations above to further enhance the already well-considered design response. The Panel commended the design overall, the quality of the presentation, the depth and clarity of thinking and ingenuity in the planning of the apartments.</i></p>
Environmental Health (Acid Sulphate)	<p>Supported without conditions</p> <p>The geotechnical site investigation dated April 2021 prepared by Crozier Geotechnical Consultants concludes '<i>the laboratory test results indicate that acid sulfate soils are not present within the soils onsite</i>'. Therefore Council will not be requiring an acid sulfate soils management plan.</p>

Internal Referral Body	Comments
Landscape Officer	<p><i>Supported with conditions</i></p> <p>The proposal seeks consent for demolition of existing structures and construction of a residential flat building with associated landscaping and a swimming pool.</p> <p>Councils Landscape Referral section has considered the application against the Warringah Local Environmental Plan (R3 Zone), and the following Warringah DCP 2011 controls:</p> <ul style="list-style-type: none"> • D1 Landscaped Open Space and Bushland Setting • E1 Preservation of Trees or Bushland Vegetation <p>The Arborist's Report prepared by Rain Tree Consulting and Landscape Plans prepared by Jane Britt Design are noted.</p> <p>The Arborist's Report indicates that 12 exempt tree species are to be removed from the site to accommodate the proposed works. One street tree is to be retained.</p> <p>The Landscape Plans indicate replanting of 30 non-exempt trees in addition to other palms, shrubs and groundcovers.</p> <p>No objections are raised to approval subject to conditions as recommended.</p>
NECC (Coast and Catchments)	<p><i>Supported without conditions</i></p> <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this application.</p> <p>As assessed in the submitted Statement of Environmental Effects (SEE) report, the application satisfies the requirements under clauses 13, 14 and 15 of the CM SEPP.</p>

Internal Referral Body	Comments
NECC (Development Engineering)	<p>Supported, with conditions</p> <p>Updated Comments 7/12/2021 The amended stormwater drainage plans now address the previous RFI request . No objections to the proposed development subject to conditions.</p> <p>Original Comments 15/09/2021</p> <p>The stormwater management plan has been reviewed and whilst on site absorption is supported given the underlying geology the following additional information is required in accordance with appendix 3 of Councils water management policy for development.</p> <p>A consulting geotechnical engineer must submit a geotechnical report providing the following details (where applicable) for the proposed location of the absorption/dispersal trench:</p> <ul style="list-style-type: none"> i) Depth to rock ii) Depth to the water table iii) Measured infiltration rate (in litres/square metres/second) iv) Infiltration rate that can be maintained in the long term v) Minimum distance any infiltration system should be located clear of property boundaries vi) Whether the use of infiltration is likely to cause seepage problems to the proposed structure or to any adjoining properties <p>. The above information must be submitted to Council to determine whether any absorption system is permitted for the site. The absorption pit is to be designed for a 2% AEP storm using DRAINS computer software based on the infiltration rate that can be maintained in the long term. An overflow mechanism in the form of a level spreader must be provided for all storms greater than the 2% AEP storm, up to and including the 1% AEP storm. The overflow mechanism is required to minimise overland impacts on adjoining properties.</p> <p>The roof guttering and downpipe system should be designed to collect the 2% AEP design rainfall and pipe it to the absorption system, or alternatively provide for surface collection of guttering overflows into the absorption system. Drainage calculations must be submitted with the plans. Where a high water table is encountered and a gravel filled trench design is proposed, the base of the trench should be at least 500mm above the water table to accommodate fluctuations of the groundwater. When considering available storage volumes for the storage design methods, a maximum of 20% voids in the base aggregate may be used. The absorption pit should not be located within three metres of the side or rear boundary, or three metres from any on-site building or neighbouring buildings.</p>

NECC (Water Management)	<p><i>Supported with conditions</i></p> <p>The proposal has been assessed under the current creek and water management legislation framework, the relevant parts of the LEP, DCP and Protection of Waterways and Riparian Lands Policy .</p> <p>The supplied reports and plans were considered.</p> <p>The supplied documentation has been assessed satisfactory.</p> <p>An erosion and sediment control plan is required. Sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover reestablished.</p> <p>Should the applicant demonstrate that this is achieved, the application can be supported, and on this basis conditions of consent are provided.</p>
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Internal Referral Body	Comments
Traffic Engineer	<p><i>Supported with conditions</i></p> <p>The development is for demolition of the existing house at 142 Ocean Street, Narrabeen and construction of a two storey residential flat building for 4 x 3 bedroom units with basement parking for 9 vehicles.</p> <p><u>Traffic Generation:</u></p> <p>The proposed development has been estimated to generate 3 vehicle trips during weekday peak hours. This is an acceptable level of traffic and is unlikely to impact upon traffic conditions on the surrounding road network.</p> <p><u>Parking:</u></p> <p>The Warringah DCP 2011 requires 1.5 car spaces per unit for 3 bedroom units and 1 visitor space per 5 units or part thereof. The development therefore has a parking requirement of 7 parking spaces. The development proposes 9 parking spaces which exceeds requirements and is acceptable.</p> <p>The development also requires 5 bicycle parking spaces which are being provided within the storeroom accessed off the basement carpark</p> <p><u>Access:</u></p> <p>Access to the development is via a single width driveway of 3.6m in width. This means there is potential for vehicles to meet head-on on the driveway and may result in entering vehicles having to reverse back across the footpath and onto the road. The driveway is however on a straight alignment and as it only serves a small number of spaces and is less than 30m in length the chances of head on encounters are minimal and vehicles should be able to see each other approaching and reverse to take evasive action.</p> <p>To minimise the chances of head on encounters occurring signage requiring exiting vehicles to Give Way to entering traffic and traffic light or flashing light controls in the basement carpark to warn of entering vehicles will be required as a condition of consent.</p> <p><u>Pedestrian Sight Line Splay:</u></p> <p>AS2890.1 section 3.2.4 requires that a pedestrian sight line splay of 2.5m x 2.0m be provided at the point where the driveway meets the property boundary. The plans show pedestrian sight line triangles but these are shown at the point where the driveway meet the footpath and not at the property alignment. Amended plans showing the sight line triangle at the boundary will be required as a condition of consent.</p>

Internal Referral Body	Comments
Waste Officer	<p><i>Supported, with conditions</i></p> <p>The waste storage arrangements are suitable for servicing the waste facilities.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p><i>The proposal was referred to Ausgrid who raised no objections to the development, subject to conditions as recommended.</i></p>

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 65 - Design Quality of Residential Apartment Development

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

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

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

- (i) the erection of a new building,
 - (ii) the substantial redevelopment or the substantial refurbishment of an existing building,
 - (iii) the conversion of an existing building, and
- (b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and
- (c) the building concerned contains at least 4 or more dwellings.

As previously outlined the proposed development is for the erection of a part-two / part-three storey residential flat housing development plus basement car parking for the provisions of four self-contained dwellings.

As per the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are applicable to the assessment of this application.

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

Clause 28 of SEPP 65 requires:

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

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

DESIGN REVIEW PANEL

Northern Beaches Council does not have an appointed SEPP 65 Design Review Panel.

DESIGN QUALITY PRINCIPLES

Principle 1: Context and Neighbourhood Character

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

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

Comment

The context and neighbourhood character of the immediate vicinity is varied both in terms of its legal zoning and the proportionality of existing structures. The development of the site for the purpose of a residential flat building is consistent with the WLEP 2011 and the design of the building is generally of a character and appearance that would be reasonably expected to be developed on the site.

The building itself is a high quality and interesting design situated within a landscaped setting that achieves a high level of amenity for future occupants. The impact of the building upon neighbouring developments is generally consistent with the level of impact that could reasonably be expected on the site by virtue of both the prevailing planning controls and by the scales of neighbouring buildings.

On balance the development is a well designed building that enhances the qualities of the area and the landscape presentation of the site to the street. The development is deemed to appropriately satisfy Principle 1.

Principle 2: Built Form and Scale

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

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

Comment

The development does not comply with all the relevant built form controls which has been a point of contention with objectors as discussed earlier in this report. Notwithstanding the numerical variations (that are discussed in detail later in this report) the built form outcome is considered to be of a high quality that enhances the overall streetscape without giving rise to unreasonable impacts to the amenity of adjacent land. Materially the built form non-compliances do not create an impact that would otherwise be non-existent by a compliant design, indeed a 100% compliant development on the site could have a more significant impact to neighbours and the environment commensurate to that of the proposed.

On balance the built form and scale of the development is appropriate and satisfies Principle 2.

Principle 3: Density

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

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

Comment

The proposal provides four units that are well appointed and proportioned providing a high level of amenity for residents. The density of the development is considered appropriate and satisfies Principle 3.

Principle 4: Sustainability

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

Comment

The development incorporates a number of passive and technological sustainable features including natural cross ventilation, solar access and rooftop solar hot water collectors. The development also includes a 240sqm green roof that will thermally benefit occupants of the development and will significantly enhance the availability of habitat for wildlife within the locale.

The development satisfies Principle 4.

Principle 5: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable

system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

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

Comment

The proposal results in a superior landscape outcome compared to existing and surrounding development and includes the largest known green rooftop on the Northern Beaches. The landscape solution of the site is integrated into the form of the building and greenery can be found at all levels contributing to both an improved biodiversity outcome and an enhanced visual outcome for neighbours.

The development satisfies Principle 5.

Principle 6: Amenity

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

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

Comment

Internally the development provides generous internal and external spaces that shall influence a positive amenity for occupants enhanced by the sites location across the road from Narrabeen Beach. The proposal has not been found to unreasonably prejudice the amenity of neighbouring land and overall contributes to a positive living environment and resident well being.

The development satisfies Principle 6.

Principle 7: Safety

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

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

Comment

The proposal appropriately optimises safety and security for occupants of the development itself and for users of the public domain by way of passive surveillance. The proposal satisfies Principle 7.

Principle 8: Housing Diversity and Social Interaction

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

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

amongst residents.

Comment

The proposal provides four units that are generally more generously proportioned than the majority of units within the locale, thereby providing market diversity and housing choice for different demographics, living needs and household budgets.

The proposal satisfies Principle 8.

Principle 9: Aesthetics

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

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

Comment

The proposed built form is considered to be high quality in its form, massing, materiality and landscape outcome which shall contribute to enhancing the wider locale. Council's independent design panel have commended the design overall and the depth and clarity of thinking and ingenuity in the planning of the apartments.

The proposal satisfies Principle 9.

APARTMENT DESIGN GUIDE

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

Development Control	Criteria / Guideline	Comments
Part 3 Siting the Development		
Site Analysis	Does the development relate well to its context and is it sited appropriately?	<p>Consistent</p> <p>The proposal is appropriately sited in its context commensurate to its adjoining neighbours, one of which is a large elevated three storey flat building with minimal articulation, and the other is a smaller two storey pavilion type multi-dwelling housing development that is yet to be built.</p> <p>This proposal blends appropriately with the proportions and general footprints of surrounding buildings and provides an improved landscaped outcome.</p>
Orientation	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	<p>Consistent</p> <p>The proposal is appropriately responsive to the streetscape and will present</p>

		as a well-designed building. The proposal will cast shadow to no. 140 Ocean Street to the south however that shadowing is minimised by the buildings setbacks and is compliant with solar access controls.										
Public Domain Interface	<p>Does the development transition well between the private and public domain without compromising safety and security?</p> <p>Is the amenity of the public domain retained and enhanced?</p>	<p>Consistent</p> <p>The development appropriately transitions between the private and public domain by using a fence and does not compromise safety and security. The development does not prejudice the amenity of the public domain and enhances the visual appearance of the site and wider locale.</p>										
Communal and Public Open Space	<p>Appropriate communal open space is to be provided as follows:</p> <ol style="list-style-type: none"> 1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter) 	<p>Not Consistent</p> <p>The proposal does not provide any communal open space, however the location of the site combined with the proportions of the proposed private open spaces negate the need for any communal open space.</p> <p>The site is opposite Narrabeen Beach which provides appropriate opportunities for outdoor recreational activities. Each of the four units is afforded multiple outdoor living areas / spaces which shall benefit the amenity of occupants.</p> <p>In light of the above, the absence of communal open space does not warrant the refusal of the application.</p>										
Deep Soil Zones	<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1"> <thead> <tr> <th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr> </thead> <tbody> <tr> <td>Less than 650m²</td><td>-</td><td rowspan="3">7%</td></tr> <tr> <td>650m² – 1,500m²</td><td>3m</td></tr> <tr> <td>Greater than</td><td>6m</td></tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m ²	-	7%	650m ² – 1,500m ²	3m	Greater than	6m	<p>Consistent</p> <p>The proposal provides a deep soil area of approximately 9% of the total site area.</p>
Site area	Minimum dimensions	Deep soil zone (% of site area)										
Less than 650m ²	-	7%										
650m ² – 1,500m ²	3m											
Greater than	6m											

	<table><tr><td>1,500m²</td><td></td></tr><tr><td>Greater than 1,500m² with significant existing tree cover</td><td>6m</td></tr></table>	1,500m ²		Greater than 1,500m ² with significant existing tree cover	6m									
1,500m ²														
Greater than 1,500m ² with significant existing tree cover	6m													
Visual Privacy	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table><tr><td>Building height</td><td>Habitable rooms and balconies</td><td>Non-habitable rooms</td></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>Not Consistent</p> <p>The width of the site at 15.44m severely impedes the ability the site to be developed in a manner that provides 6m setbacks to the northern and southern elevation as that would leave a buildable area of only 3.44m in width.</p> <p>The intent of part 3F of the ADG goes towards visual privacy with the key built mechanism to achieve appropriate privacy being a physical spatial separation.</p> <p>It is considered that, despite not achieving numerical compliance with Objective 3F-1 the architectural response and fenestration detailing to the flank facades of the building provide an appropriate level of privacy. The building incorporates raised planters and breeze-block privacy screening supported by deep soil boundary plantings which will ameliorate any actual overlooking, and the perception of being overlooked.</p> <p>This solution, in conjunction with the redevelopment of the site to the south and its privacy treatments, will allow for an acceptable visual privacy outcome.</p> <p>To the north, some level of impact is inevitable given the existing building at 144 Ocean Street and the fact that it is built close to the boundary with no perimeter landscaping and has single-aspect units looking directly</p>
Building height	Habitable rooms and balconies	Non-habitable rooms												
Up to 12m (4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												

		at the site. Insofar as it is possible to minimise impacts on this building, it is considered that the proposal is sympathetic to the constraints created by that building and the amenity of its occupants and achieves an acceptable visual privacy outcome.
Pedestrian Access and entries	<p>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>	Consistent Pedestrian access to the building is accessible and easily identifiable.
Vehicle Access	Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?	Consistent The proposed vehicular crossing is appropriate designed and located to minimise hazards to pedestrians and other vehicles.
Bicycle and Car Parking	<p>For development in the following locations:</p> <ul style="list-style-type: none"> On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>	Consistent Dedicated cycle parking is provided in the basement car park, and each units storage area is sufficiently dimensioned to accommodate a bicycle.
Part 4 Designing the Building		
Amenity		
Solar and Daylight Access	<p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct 	Consistent The development achieves a compliant level of solar access and does not unreasonably prejudice the level of solar access currently enjoyed by no. 140 Ocean Street, nor does the

	sunlight between 9 am and 3 pm at mid winter.	proposal prejudice or jeopardise the approved development of that site.												
	<ul style="list-style-type: none">A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter.	Consistent All apartments receive direct sunlight between 9am and 3pm at mid-winter.												
Natural Ventilation	The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by: <ul style="list-style-type: none">At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	Consistent All apartments achieve cross ventilation.												
	<ul style="list-style-type: none">Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.	Consistent The maximum width of the building is 8.8m.												
Ceiling Heights	Measured from finished floor level to finished ceiling level (FFL-CL), minimum ceiling heights are: <table><tr><th colspan="2">Minimum ceiling height</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	Consistent Units 1, 3 and 4 achieve a FFL-CL of 2700mm. Unit 2 at its main level achieves a FFL-CL of 2700mm. The basement level of that unit achieves a FFL-CL of 2600mm which is satisfactory for a basement (and generally aligns with the 'second floor' intent of Objective 4C-1.
	Minimum ceiling height													
Habitable rooms	2.7m													
Non-habitable	2.4m													
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area													
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope													
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use													
Apartment Size and Layout	Apartments are required to have the following minimum internal areas: <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td></td><td></td></tr></table>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²			Consistent The development necessitates internal areas of between 95sqm and 100sqm and proposes the following compliant internal areas: Unit 1 (3 bed / 2 bath) - 139sqm Unit 2 (3 bed / 3 bath) -		
	Apartment type	Minimum internal area												
Studio	35m ²													
1 bedroom	50m ²													
2 bedroom	70m ²													

	<table><tr><td>3 bedroom</td><td>90m²</td></tr></table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	3 bedroom	90m ²	185sqm Unit 3 (3 bed / 2 bath) - 139sqm Unit 4 (3 bed / 2 bath) - 139sqm													
3 bedroom	90m ²																
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	Consistent															
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	Consistent															
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Consistent															
	Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space).	Consistent															
	Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension.	Consistent															
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none">• 3.6m for studio and 1 bedroom apartments• 4m for 2 and 3 bedroom apartments	Consistent															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Consistent															
Private Open Space and Balconies	<p>All apartments are required to have primary balconies as follows:</p> <table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	<p>Inconsistent</p> <p>Units 1, 2 and 3 each have private open spaces significantly above the required proportions.</p> <p>Unit 4 has three balconies - two are smaller secondary balconies that function for ventilation and clothes drying more than anything else, and the third balcony has an area of 10.64sqm thereby falling short of the required space by 1.3sqm.</p> <p>This shortfall is not considered to unreasonably prejudice the amenity of occupants given the two other balconies, the ample</p>
Dwelling Type	Minimum Area	Minimum Depth															
Studio apartments	4m ²	-															
1 bedroom apartments	8m ²	2m															
2 bedroom apartments	10m ²	2m															
3+ bedroom apartments	12m ²	2.4m															

		internal living space and the proximity of the site to the beach. In this instance the variation to Objective 4E-1 can be supported.										
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.	Consistent										
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	Consistent										
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	N/A										
Storage	<div>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:<table><tr><th>Dwelling Type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m²</td></tr><tr><td>1 bedroom apartments</td><td>6m²</td></tr><tr><td>2 bedroom apartments</td><td>8m²</td></tr><tr><td>3+ bedroom apartments</td><td>10m²</td></tr></table> At least 50% of the required storage is to be located within the apartment.</div>	Dwelling Type	Storage size volume	Studio apartments	4m ²	1 bedroom apartments	6m ²	2 bedroom apartments	8m ²	3+ bedroom apartments	10m ²	Consistent
Dwelling Type	Storage size volume											
Studio apartments	4m ²											
1 bedroom apartments	6m ²											
2 bedroom apartments	8m ²											
3+ bedroom apartments	10m ²											
Acoustic Privacy	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	Consistent Noise sources from the proposed driveway and two voids are abutting solid flank walls that are not shared with bedrooms.										
Noise and Pollution	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	Consistent										
Configuration												
Apartment Mix	Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.	Consistent Whilst the development provides four new three-bedroom units with no other mix (i.e. one or two bedroom units) this is considered acceptable in the circumstance as the proportions of the units are more like small houses rather than a traditional apartment, and therefore provide a market option that meets the demands of the										

		community both now and in the future.				
Ground Floor Apartments	Do the ground floor apartments deliver amenity and safety for their residents?	Consistent Both ground floor apartments are buffered by landscaping and benefit from their own private gardens. The safety of the apartments are not compromised by the fact that they are on the ground floor by virtue of being setback from the street and reasonably screened by plantings.				
Facades	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	Consistent				
Roof Design	Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top.	Consistent The proposed roof design is interesting and sustainable by incorporating private open space and landscaping. The use of the roof top for private open space is not considered to result in any unreasonable amenity impacts upon adjoining properties. The application is accompanied by an acoustic report which includes recommendations to limit acoustic impacts from this space.				
Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	Consistent				
Planting on Structures	When planting on structures the following are recommended as minimum standards for a range of plant sizes:					Consistent The proposed on-structure planters have a depth of between 600-900mm and the rooftop garden, to be planted with ground covers has a soil depth of approximately 400mm.
	Plant type	Definition	Soil Volume	Soil Depth	Soil Area	
	Large Trees	12-18m high, up to 16m crown spread at maturity	150m ³	1,200mm	10m x 10m or equivalent	
	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m ³	1,000mm	6m x 6m or equivalent	
	Small	6-8m		800mm	3.5m x	

	<table><tr><td>trees</td><td>high, up to 4m crown spread at maturity</td><td>9m³</td><td></td><td>3.5m or equivalent</td></tr><tr><td>Shrubs</td><td></td><td></td><td>500-600mm</td><td></td></tr><tr><td>Ground Cover</td><td></td><td></td><td>300-450mm</td><td></td></tr><tr><td>Turf</td><td></td><td></td><td>200mm</td><td></td></tr></table>	trees	high, up to 4m crown spread at maturity	9m ³		3.5m or equivalent	Shrubs			500-600mm		Ground Cover			300-450mm		Turf			200mm		
trees	high, up to 4m crown spread at maturity	9m ³		3.5m or equivalent																		
Shrubs			500-600mm																			
Ground Cover			300-450mm																			
Turf			200mm																			
Universal Design	Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features	Consistent																				
Adaptable Reuse	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.	N/A																				
Mixed Use	Can the development be accessed through public transport and does it positively contribute to the public domain? Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.	N/A The development is not mixed-use and is residential only.																				
Awnings and Signage	Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development. Signage must respond to the existing streetscape character and context.	N/A The development does not propose any awnings or signage.																				
Performance																						
Energy Efficiency	Have the requirements in the BASIX certificate been shown in the submitted plans?	Consistent																				
Water Management and Conservation	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	Consistent																				
Waste Management	Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?	Consistent																				
Building Maintenance	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	Consistent																				

STANDARDS THAT CANNOT BE USED TO REFUSE DEVELOPMENT CONSENT

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

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

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

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

Comment

The development application is not recommended for refusal on the criterion specified in Clause 30(1) of SEPP 65.

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

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

(3) To remove doubt:

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

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

Comment

An assessment of the proposal against the objectives and design quality principles specified in the ADG has been carried out and finds that the development demonstrates adequate regard to those matters and succeeds when tested against the underlying principles.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1210378M dated 22 June 2021). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 0006139530 dated 22 June 2021).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	45	45

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who raised no objections to the development, subject to conditions as recommended.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment

The proposed development is not considered to cause an adverse impact on the criterion specified within Cl. 13(1)(a) to (g) of the SEPP Coastal Management Act (2018) as above.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment

The proposed development is considered to be appropriately design, sited and can be managed in a way to avoid an adverse impact as referenced above.

14 Development on land within the coastal use area

(1)

- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
- (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment

The proposed development is not beach front and is separated from the primary coastal use area (i.e. the sand and the water) by a road and a row of buildings. The development does not prejudice any existing access to the foreshore and given the proportions of the building and the spatial separation, does not result in any overshadowing or unreasonable impacts to the beach. The consent authority may be satisfied that this assessment has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development, and can be satisfied that the development is designed, sited and can be managed to avoid adverse impacts as referenced above.

As such, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment

The consent authority may be satisfied that the proposed development is not likely to cause increased risk of coastal hazards on the site itself or surrounding lands.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	Variation	Complies
Height of Buildings:	8.5m	Roof: 8.623m Screen: 9.0m	Roof: 1.44% Screen: 5.88%	No

Compliance Assessment

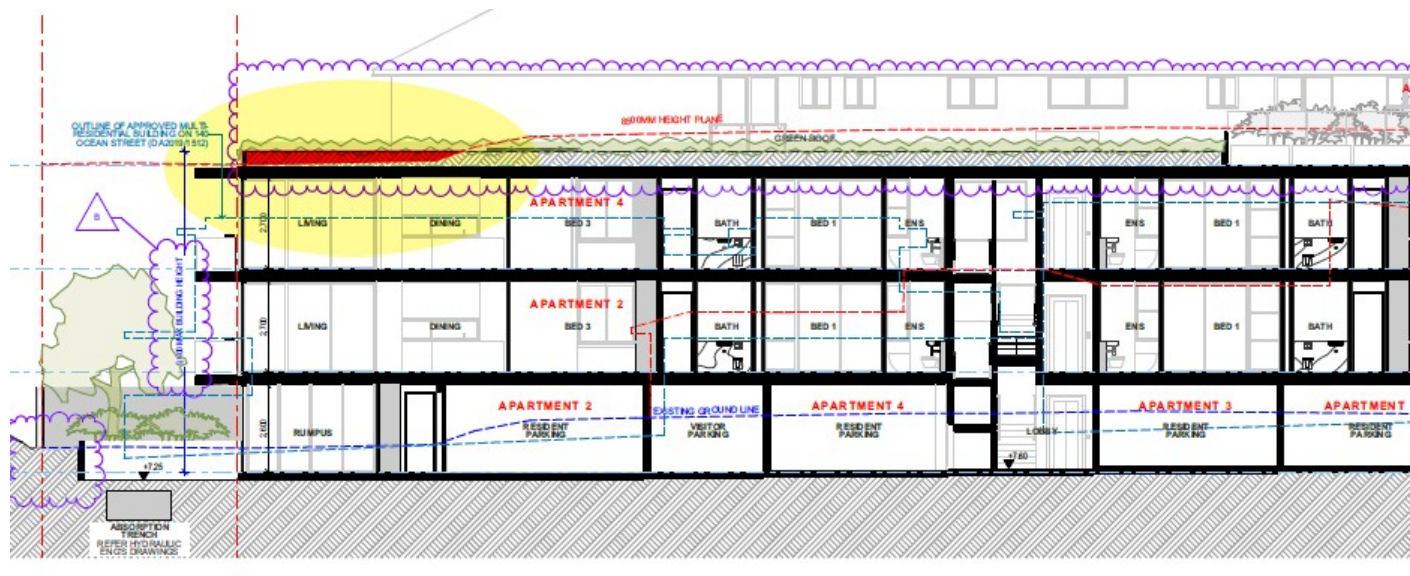
Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment**4.6 Exceptions to development standards**Description of non-compliance

Development standard:	Height of Buildings
Requirement:	8.5m
Proposed:	Max. 9.0m
Percentage variation to requirement:	Max. 5.88%

The Applicant contends that the non-complying building height proposed is resultant of a request by Council to modify the roof form from a concrete roof to a living green roof that is non-trafficable by occupants (with the exception of periodical maintenance). This ascertain is correct and was specifically requested to both increase the sustainability credentials of the development, but to also enhance the outlook towards the building from neighbouring properties (i.e. looking at a garden as opposed to a concrete slab).

The requested amendment resulted in what was a height compliant development to now exceed the prescribed height by 123mm. The extent of that exceedance is hatched in red on the below diagram (note: the yellow circle is to highlight the area only and is not reflective of any encroachment itself):



It is additionally noted that the proposed transparent acoustic screen on the northern side of the proposed roof terrace exceeds the maximum height of buildings by up to 0.5m or 5.88%.

Assessment of request to vary a development standard

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

Clause 4.6 Exceptions to development standards

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

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

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

Comment

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

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

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

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

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained.*

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

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

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

Comment

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the

objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

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

Comment

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

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

The applicants written request argues, in part that sufficient environmental planning grounds exist to justify the variation as:

- the variation was requested by Council.
- the variation contributes to a high quality residential flat building in a medium density zone.
- the non-compliance derives from incorporating sustainable building practices into the development.
- the non-compliance and overall development does not result in any unreasonable visual impact, disruption of views, loss of privacy or loss of solar access.

It is considered that the applicant's written justification to varying the Height of Buildings development standard is well-founded, encompassing of a wide-range of environmental grounds and is accurate. It is concurred that, in this particular circumstance and noting that the variation relates to a living green roof and an acoustic transparent screen, that there is no particular benefit in maintaining the standard and that a compliant development (i.e. removal of the green roof) would result in a worse landscaped and amenity outcome.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly

and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3) (b).

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

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

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

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

Comment

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the R3 Medium Density Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the WLEP 2011 are:

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

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

Comment

A comparative analysis of building heights along Ocean Street as a whole is not considered a useful exercise in this instance given the discordant proportions of structures varying from one storey to four storeys with parapet roof features. Rather, a more practical and revealing exercise is a comparison of the proposed building height to that that already exists on the site and the heights of those buildings immediately adjoining the site (both existing and approved but unbuilt). The assessment of building height pertains to Reduced Levels (RL) which in surveying refers to equating elevations of survey points with reference to a common assumed datum.

The proposal has a roof slab height of RL 16.70. That slab is topped by soil with surrounding retaining walls that takes the height to be RL 16.83. For the purpose of this assessment the building height is deemed to be RL 16.83.

- a) The existing buildings roof ridge achieves a maximum RL of 15.65 - that is 1.18m lower than the proposed building height.
- b) The existing building to the north at 144 Ocean Street achieves an eave height of RL 19.55 and a ridge height of RL 21.65 - that is 4.82m higher than the proposed building height.
- c) The approved building to the south at 140 Ocean Street achieves a roof height of RL 16.10 - that is 0.73m lower than the proposed building height.

The transparent acoustic screen does not materially change the bulk or proportions of the building and it is therefore considered that the building is of a height and scale compatible with surrounding and nearby development.

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Comment

The building height has not been found to result in any unreasonable visual impact, disruption of views, loss of privacy or loss of solar access. Where appropriate, these matters are discussed in detailed later in this report under their respective headings in the Warringah Development Control Plan 2011 section of this report.

c) to minimise adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

Comment

The development as a whole and the non-complying building height is not considered to cause an adverse impact on the scenic quality of Warringah's coastal or bushland environment.

d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,

Comment

When viewed from the public domain the non-compliant height of the building will not be visible and, even if it were visible, the extent of variation is such that it would be non-discernible to a compliant height. The addition of a green roof will be visible from the public domain though, and this will significantly enhance the visual impact of the development and contribute to softening resultant building bulk from neighbouring developments.

Zone objectives

The underlying objectives of the R3 Medium Density Residential zone are:

- *To provide for the housing needs of the community within a medium density residential environment.*

Comment

The development provides four units of residential accommodation.

- *To provide a variety of housing types within a medium density residential environment.*

Comment

The development proposes four units that are proportioned in excess of minimum standards and are generally larger than other units within the immediate vicinity, thereby providing a variety of housing types to the market.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment

The building is residential only in its use and is not required to provide facilities or services to external residents.

- *To ensure that medium density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment

The provision of landscaping is discussed in detail earlier in this report under the SEPP 65 ADG and below under Clause D1 of the Warringah Development Control Plan 2011. In summary the development significantly enhances the landscape presentation of the site and the wider locale and is therefore in harmony with the natural environment of Warringah.

- *To ensure that medium density residential environments are of a high visual quality in their presentation to public streets and spaces.*

Comment

On balance of all relevant factors it is found that the development is a high-quality design that enhances the visual quality of the streetscape.

Conclusion

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R3 Medium Density Residential zone.

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

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020 issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of Buildings Development Standard is assumed by the delegate of Council as the development contravenes a numerical standard by less than or equal to 10%.

6.1 Acid sulfate soils

The submitted geotechnical site investigation concludes that *"the laboratory test results indicate that acid sulfate soils are not present within the soils onsite"* and therefore Council's Environmental Health officer has deemed that no acid sulfate management plan is required to accompany the development.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	Max. % Variation	Complies
B2 Number of storeys	2	Part 2 / Part 3 (Unit 2 Rumpus Room)	50%	No
B3 Side Boundary Envelope	(north) 4m	One encroachment in the form of a gradually diminishing triangle at a maximum height of 1m and for a length of 5.2m	25%	No
	(south) 4m	Two encroachments in the form of rectangles both at a length of 3.4m and for a maximum height of 0.9m	22.5%	No
B5 Side Boundary Setbacks	(north) above-ground: 4.5m	Bin Room - 2.1m	53.4%	No
		Building - 2m to 3.2m	50%	No
	(north) below-ground: 2m	1.4m to 3.2m	30%	No
	(south)	3.5m to 4.5m	23%	No

	above-ground: 4.5m	Unit 2 Pool - 0.9m	55%	No
	(south) below-ground: 2m	0.71m	64.5%	No
B7 Front Boundary Setbacks	6.5m	Bin Room - Nil	100%	No
		Basement / Building - 6.5m	-	Yes
		Unit 1 Terrace - 5.7m	12.4%	No
B9 Rear Boundary Setbacks	6m	Building / Basement - 6m	-	Yes
		Unit 2 Pool - 1.3m	78.4%	No
D1 Landscaped Open Space (LOS) and Bushland Setting	50% (465.3m ²)	30.4% (282.6m ²)	39%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B2 Number of Storeys	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D19 Site Consolidation in the R3 and IN1 Zone	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D22 Conservation of Energy and Water	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

B2 Number of Storeys

Description of non-compliance

Clause B2 Number of Storeys of the WDCP seeks to limit developments to two storeys. The proposal is, in part, three storeys and thereby exceeds the requirement of this clause by up to 50%.

The variation has been supported by recommendation from Council's Design and Sustainability Advisory Panel.

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 development does not visually dominate its surrounds.*

Comment

The offending three-storey element of the building is located to the rear of the site and is not readily visible from the public domain, further that storey is below the predominant two storey building (i.e. it is an extension of the basement car park). Given these two factors the number of storeys does not visually dominate its surroundings.

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment

Generally the development will present as a two storey building when viewed from surrounding properties and the public domain. The offending lower floor element has a ceiling height equivalent to the height of the boundary fence and is bound by perimeter landscaped screening. Commensurate to the design and proportions of surrounding buildings the visual impact of having a part three-storey element at the rear of the building is acceptable.

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

Comment

The three storey portion of the building is considered to provide an equitable sharing of views to and from public and private places.

- *To ensure a reasonable level of amenity is provided and maintained to adjoining and nearby properties.*

Comment

The variation sought to the number of storeys control does not materially impact on the amenity provided to neighbouring properties, predominantly as the offending element is sunken below existing ground level.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

Comment

As described later in this report under Section D11, the development is deemed to provide an innovative roof design.

- *To complement the height of buildings control in the LEP with a number of storeys control.*

Comment

The development requests a minor variation to the prescribes Height of Buildings control pursuant to Clause 4.3 of the WLEP as assessed earlier in this report.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of 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.

B3 Side Boundary Envelope

Description of non-compliance

Clause B3 Side Boundary Envelope of the WDCP prescribes the envelope of the building measured from a height of 4m at the side boundaries and inwards at 45 degree angles. The proposal has three areas of encroachment as described in the built form control table, or as shown in red on the below north (top) and south (bottom) elevations below:



The variation has been supported by recommendation from Council's Design and Sustainability Advisory Panel.

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 that development does not become visually dominant by virtue of its height and bulk.*

Comment

The encroachments to the side boundary envelope as depicted above do not result in any excessive bulk or scale commensurate to a compliant development (i.e. if the encroaching red areas were deleted). The bulk and scale of the building is appropriate and acceptable.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

Comment

Solar access and privacy are discussed under the relevant SEPP 65 Apartment Design Guideline criterion earlier in this report. On the basis of that assessment and on review of the proposed envelope encroachments it is found that an adequate spatial separation between buildings is provided.

- *To ensure that development responds to the topography of the site.*

Comment

The development appropriately responds to the topography of the site and modifies the existing ground level to the rear to provide additional private open space for occupants of the development.

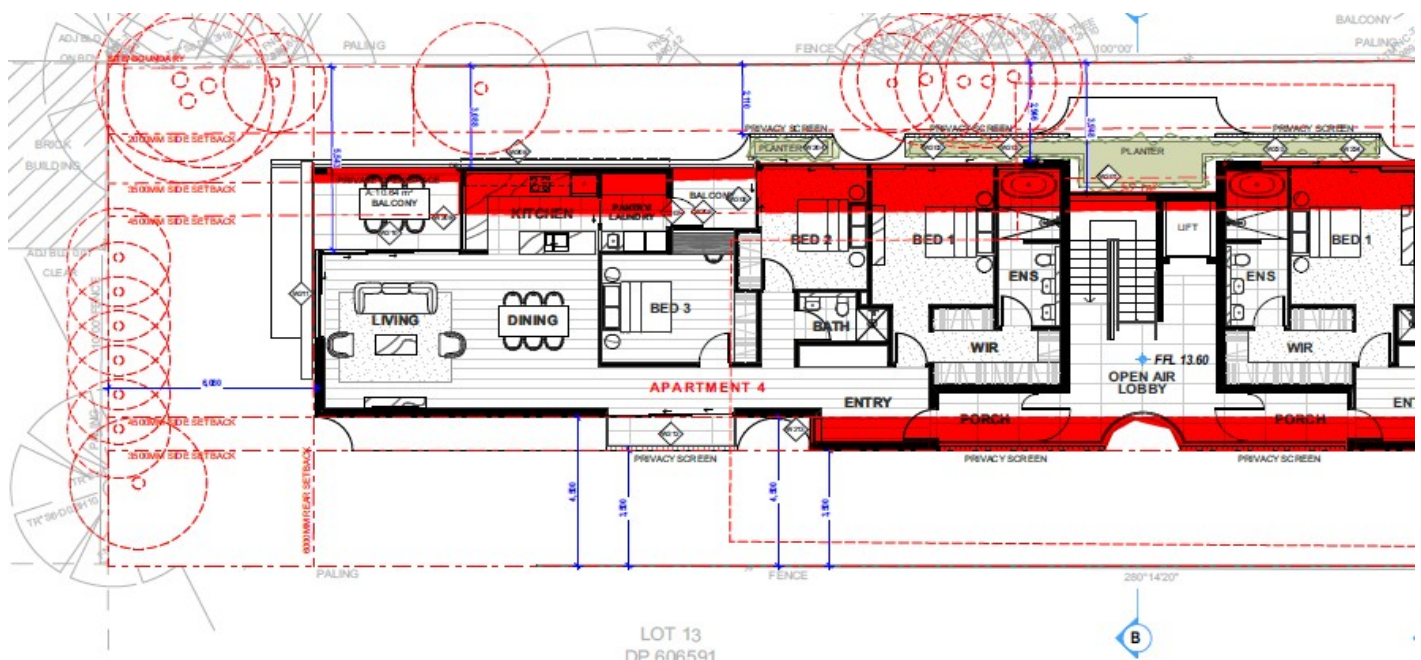
Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this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

B5 Side Boundary Setbacks

Description of non-compliance

Clause B5 Side Boundary Setbacks of the WDCP stipulates 4.5m side boundary setbacks for structures but permits variations to entrance and stair lobbies at ground level (2m) and private open space (3.5m) in certain circumstances.

The building encroaches within the prescribed setback areas as detailed numerically in the built form control table earlier in this report, and as shown in red highlight on the below First Floor Plan:



One of the abovementioned variations to the clause permits private open space up to 3.5m from the side boundary (as opposed to the 4.5m requirement) subject to the site being *an existing narrow width allotment, where compliance is unreasonable....*

The width of the site at 15.44m and the combined setback requirement being 9m thus resulting in a 6.44m wide buildable area is considered to constitute a constrained and narrow width allotment whereby compliance is unreasonable and impractical. The variation clause therefore applies.

The variation has been supported by recommendation from Council's Design and Sustainability Advisory Panel.

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

Deep soil landscaping and landscaped open space are discussed under their respective clauses in

the SEPP 65 and Clause D1 WDCP sections of this report. In summary sufficient opportunities for deep soil landscaping is provided.

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

Comment

Notwithstanding the variation sought to the side boundary setbacks, the development is not considered to be a visually dominant structure and it highly modulated and landscaped to mitigate any perceivable visual bulk.

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

Comment

As above and as described throughout this report, the bulk and scale of the development is reasonable.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

Comment

This matter is discussed earlier in this report under Part 3F Visual Privacy of the SEPP 65's Apartment Design Guide.

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

Comment

A detailed discussion on view sharing can be found later in this report under Clause D7 of the WDCP whereby it is concluded that reasonable view sharing is achieved.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of 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

Clause B7 Front Boundary Setbacks of the WDCP requires structures to be setback a minimum distance of 6.5m from the front property boundary. Whilst the main building is compliant with this requirement the bin room and a portion of Unit 1's terrace (being concrete/paving at ground level) encroaches within this setback area (by 100% and 12.4% respectively).

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

The development as a whole does not prejudice the existing sense of openness felt on Ocean Street. The bin room is required to be in proximity to the front boundary to permit Council's waste collectors ease of access to collect the bins. Notwithstanding this requirement and subsequent non-compliance the development is attractive and appropriately open.

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

Comment

The main building maintains the visual continuity and pattern of buildings and landscape elements along Ocean Street.

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

Comment

The non-complying bin room has been designed as integral to the front entry pathway and fencing to avoid appearing discordant with the development. The development as a whole is considered to protect and enhance the visual quality of the streetscape by virtue of the architectural design itself, the quality of materials selected and the landscape treatment.

- *To achieve reasonable view sharing.*

Comment

The non-compliance to the front boundary setback control is not considered to unreasonably impact on any existing public or private views.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of 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

Clause B9 Rear Boundary Setbacks of the WDCP requires that structures be setback a minimum distance from the rear property boundary. The proposed swimming pool for Unit 2 encroaches this setback area and provides a setback of 1.3m to the rear property boundary thus requiring a variation of 78.4% to the control requirements.

The variation has been supported by recommendation from Council's Design and Sustainability Advisory Panel.

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 provision of deep soil landscaping and landscaped open space is discussed in detail under the SEPP 65 and Clause D1 WDCP sections within this report.

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

Comment

The non-conforming element of the proposal is an in-ground swimming pool that sits within a garden that is sunken below existing ground level. There are no above-ground encroachments within the rear garden of the building. On this basis the presence of a swimming pool does not detract from a sense of openness.

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

Comment

The swimming pool and garden area for Unit 2 are sunken into the ground at the same elevation as the proposed basement car park. This means that it sits at RL 7.25 and is bound by a retaining wall reaching RL 8.45, essentially meaning that it is 1.2m lower than existing ground level and surrounded by plants. That dimension taken alongside a standard 1.8m boundary fence results in the non-complying swimming pool sitting 3m below the height of a boundary fence which not only provides privacy but also significantly screens the pool when viewed from the property to the rear. These factors result in the considered opinion that the proposal would have a lesser impact on neighbours than a garden at existing ground level.

Concerns have also been raised with regards to the potential acoustic impact caused by the swimming pool equipment. A condition is imposed in the recommendations of this report which require the swimming pool equipment to be housed in a sound-attenuating box.

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

Comment

A recent aerial image (source: Nearmap) is below which shows the existing pattern of buildings, rear gardens and landscape elements in the vicinity):



From this map it can be seen that the adjoining property to the northeast and northwest have (generally) concreted rear setback areas accommodating car parking, drying courts and the like. The site to the south has a large rear garden and is approved to have a rear setback of 6m under their new development consent. Other surrounding sites generally maintain the 6m rear setback with a variety of terraces, patios and the like encroaching within. It can also be seen on the above image that a number of sites would benefit from the existing landscaping on the subject development site, as their own sites do not have landscaping.

Whilst this development proposal would change the existing site layout and remove existing vegetation, it would not materially change the existing pattern of buildings and structures within the rear setback area and thus maintains visual continuity.

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

Comment

As described above the development provides appropriate opportunities to maintain privacy between dwellings.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of 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

Clause D1 of the WDCP 2011 requires that 50% (465.3m²) of the site area of calculable landscaped open space (LOS) which is required to be at ground level, have a minimum width of 2m and have a minimum soil depth of 1m.

The site achieves a calculable LOS of 30.4% or 282.6m² however it is to be noted that if areas lesser than 2m in width and the roof garden were included, that the landscaped ratio would increase to 64.4% or

599.2m².

Merit consideration

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

- *To enable planting to maintain and enhance the streetscape.*

Comment

The existing site has a number of exotic species planted within the front garden and benefits from a street tree. No. 140 Ocean Street to the south has a number of frangapanis in the front garden and also benefits from a street tree. No. 144 Ocean Street to the north has no landscaping.

This development is accompanied by a detailed landscaped plan which details a wide variety of new plantings to be established both within the sites front setback area, but also throughout the site (to the sides, rear, first floor planter boxes and roof garden).

Commensurate to the existing situation the development will enable planting to significantly enhance the streetscape.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment

The development does not seek to remove any noteworthy indigenous vegetation, topographical features or habitat for wildlife. The landscape plan details six new locally native canopy trees to be planted on the site capable of reaching mature heights of up to 25m (including lillypilly, coastal banksia, flame tree and water gum) as well as an additional 29 non-native trees and several hundred new shrubs and ground cover plants.

Both the variety and quantum of new plantings will enhance vegetation and habitat for wildlife. The establishment of a large roof garden (at 239.31m²) also creates a significant new habitat for wildlife different to current offerings.

It is worth reiterating that the proposed roof garden will be (to the best of the author's knowledge) the largest roof garden in Narrabeen and potentially on the Northern Beaches.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

Comment

The development provides areas of landscaping that are sufficient in dimension for the establishment of vegetation of varying heights and species which shall, over time, contribute to mitigating any perceived bulk and scale of the building.

- *To enhance privacy between buildings.*

Comment

The provision of landscaping proposed enhances the provision of privacy between buildings, particularly noting the lack of any landscaping on the southern boundary of no. 144 Ocean Street to

the north.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment

The development provides appropriate outdoor recreational opportunities to meet the needs of occupants.

- *To provide space for service functions, including clothes drying.*

Comment

The development provides sufficient space for service functions, including clothes drying.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment

The development provides sufficient soft-surface and ground surface to facilitate water management, as deemed acceptable by Council's Development Engineers.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of 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.

D3 Noise

Concern has been raised by objectors in their submissions that the proposed rooftop terrace may result in unreasonable acoustic impacts to neighbours.

The application (as revised) includes a smaller terrace, a 1.6m high transparent acoustic screen along the northern edge of the terrace and an Acoustic Report. That report details that the terrace only serves one unit and is the equivalent to a back garden or any other balcony notwithstanding its larger than average proportions. The report details that general noise generated from the terrace would be acceptable.

The report does concede that if the terrace was filled to capacity during a party that the noise generated would be audible from surrounding properties, however such an event would be expected to be atypical of a single residential dwelling, and would be no different to noise generated from a backyard party.

On balance it is considered that the reduced size and provision of buffer landscaping and an acoustic screen is sufficient to mitigate general noise from day-to-day usage of the terrace.

D6 Access to Sunlight

The development achieves and provides a compliant level of solar access to its own units and to surrounding land (taking into account both the existing and approved development at no. 140 Ocean Street).

D7 Views

Several submissions received during the notification period of the application object to view loss and refer to a combination of sky views and wider district views - in the context of the land these views are better

described as an outlook. It is also noted that several neighbouring apartments (to the northeast and northwest) have oblique and interrupted water views to the east.

The design of the neighbouring building to the northeast at 144 Ocean Street renders any development of this site as impactful on the existing outlook enjoyed by units in that building. The building is an elevated three storey structure with windows, doors and balconies looking side-on (south) at the proposed development. It is recognised that several units in this development are single aspect only.

Photomontages provided by the architect depict the relationship between the two buildings as follows:





For the lower two levels of south-facing units at no. 144 Ocean Street it is considered that any development of the subject site will result in an increased sense of enclosure and a lessened outlook - this is an inevitability. It has been considered in this assessment as to whether a development with compliant side boundary setbacks would have a lesser or more acceptable impact on the neighbouring units, and it is found that an increase in setbacks would not significantly or materially change the outcome. The building is designed in a fashion that the northern flank elevation is interesting with a mixed palette of materials and landscaping at all levels to soften the visual impact, along with at-grade boundary planting for the length of the site (noting that no. 144 Ocean Street has no boundary planting).

Therefore, whilst it is acknowledged that the development will result in an impact to the outlook of these two levels of units, that impact is generally unavoidable and in this case, is acceptable. The top floor units will generally look over the roof of the development and are considered to benefit from an enhanced outlook created by the green roof commensurate to the existing metal roof. Additionally it is noted that the 1.6m acoustic screen proposed in the aforementioned revised plans is transparent and does not impede on views above and beyond that of the main structure.

The on-going covid-19 pandemic has limited the ability for formal view loss assessments to occur but several objectors have provided photographs of their existing views/outlooks as a part of their submissions. Some units in no. 144 do have partial ocean views, however these views are oblique and obscured by existing vegetation and buildings on the opposite side of Ocean Street. The units that benefit from this view are generally at the top level.

The objecting properties at no. 144 Ocean Street faces southwest and are not orientated towards the water. From the balconies on this level some water views are visible. These balconies are best described as Juliette balconies and are not proportioned to be living areas. The impact caused to the aforementioned oblique views is not resultant of any non-complying building height or setback, but is rather resultant of any development of the site. It is further considered that if a full view loss assessment against the relevant Planning Principles of *Tenacity Consulting v Warringah Council* were carried out that the assessment would consider the loss of views as minor and acceptable.

On balance the development is not found to result in any unreasonable view loss to neighbouring properties.

D8 Privacy

Part 3F Visual Privacy of the Apartment Design Guide as described in the SEPP 65 (Design Quality of Residential Apartment Development) prevails over a development control plan and Privacy has been assessed in that section of this report. That assessment considers the Objectives of Clause D8 Privacy of the WDCP and finds that they are appropriately achieved.

Specifically turning to the roof terrace - that space is not considered to result in any unreasonable loss of visual privacy to neighbouring properties consequent of the spatial separation and the provision of planter boxes. It is acknowledged that the solutions do not afford complete privacy, however such an expectation in a dense urban setting is an unreasonable one. Consideration has been given to frosting the 1.6m high glass acoustic screen on the roof terrace however that would create additional visual bulk which, on balance, is considered to be more impactful than it being transparent.

D11 Roofs

The roof of the proposed development is considered to be an innovative design commensurate to other surrounding buildings.

The rooftop consists of a private 69.63sqm terrace, lift overrun, solar hot water collectors and a 239.31sqm non-trafficable living green roof - the largest in the area.

This report has described that the private terrace will not give rise to any unreasonable amenity impacts to neighbours and is acceptable. The green roof will contribute to both an enhanced amenity for occupants and neighbours but will also provide vital habitat for wildlife in an increasingly urbanising area. The lift overrun has been incorporated into the wider design and is appropriately proportioned for the development.

The roof of the development is supported.

D19 Site Consolidation in the R3 and IN1 Zone

Assessment against the provisions of Clause D19 Site Consolidation and the applicable Land and Environment Court Planning Principles on site isolation is not required in this particular instance as all adjoining sites are all developed to their reasonable capacity, or have Development Consent for the construction of a new development (i.e. DA2019/1512 for the demolition and construction of a multi-dwelling housing development at the adjoining no. 140 Ocean Street, Narrabeen).

Given that approval and the satisfactory design of this proposal it has been demonstrated that the need for site amalgamation is not necessitated in this particular instance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS**Northern Beaches Section 7.12 Contributions Plan 2021**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$49,390 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$4,939,000.

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

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

This assessment has noted that the proposal requires a variation to a number of built form controls from Council's DCP and the Height of Buildings control pursuant to the LEP. The proposal has attracted 10 unique submissions objecting to various aspects of the proposal and raises concern as to the amenity implications the development may have on their properties.

This report considers the matters raised by objectors alongside the recommendations of Council's internal referral bodies and the Design and Sustainability Advisory Panel and concludes that the development is worthy of approval subject to conditions.

The site is constrained by position and layout of neighbouring buildings which inherently means that any development on this land will cause a level of impact. In this instance the impact to outlook and privacy is appropriately mitigated by a high quality architectural design and an improved landscaped outcome to what currently exists on the site. This report acknowledges that there is an impact but finds that the particular design ameliorates those impacts where possible.

The development is considered to be complementary to the Ocean Street streetscape and sets a new landscaped benchmark for residential flat buildings by way of providing landscaping on all levels and enhancing the biodiversity of the wider locale.

This reports recommends that the Northern Beaches Local Planning Panel **approves** the development application subject to conditions.

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

RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.3 Height of Building development standard pursuant to clause 4.6 of the WLEP 2011 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2021/1166 for Demolition works and construction of a Residential Flat Building on land at Lot 12 DP 111254, 142 Ocean Street, NARRABEEN, 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
0586-DA100 Rev. A	24 June 2021	PopovBass
0586-DA102 Rev. B	22 November 2021	PopovBass
0586-DA103 Rev. B	22 November 2021	PopovBass
0586-DA104 Rev. B	22 November 2021	PopovBass
0586-DA105 Rev. B	22 November 2021	PopovBass
0586-DA106 Rev. B	22 November 2021	PopovBass
0586-DA107 Rev. B	22 November 2021	PopovBass
0586-DA109 Rev. B	22 November 2021	PopovBass

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Accessibility Review Report (ref:21120)	15 June 2021	ABE Consulting Pty Ltd
Acoustic Report (ref:20211504.1/2211A/R0/AS)	22 November 2021	Acoustic Logic

Arboricultural Impact Assessment Report (ref:8821)	08 June 2021	Rain Tree Consulting
BASIX Certificate No. 1210378M	22 June 2021	Sustainable Thermal Solutions
Building Code of Australia Compliance Statement (ref:P210099)	18 June 2021	Anthony Protas Consulting Pty Ltd
Geotechnical Investigation (ref:2021-073)	27 April 2021	Crozier Geotechnical

		Consultants
NatHERS Certificate No. 0006139530	22 June 2021	Sustainable Thermal Solutions
Traffic Report (ref:21109)	12 May 2021	The Transport Planning Partnership

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
DAL01 Rev. C	18 November 2021	Jane Britt Design
DAL02 Rev. C	18 November 2021	Jane Britt Design
DAL03 Rev. C	18 November 2021	Jane Britt Design
DAL04 Rev. C	18 November 2021	Jane Britt Design

Waste Management Plan		
Report Title	Dated	Prepared By
Waste Management Plan	15 June 2021	Trio Industries 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. Compliance with Other Department, Authority or Service Requirements

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	Undated

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

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

3. Prescribed Conditions

- All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- 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);
- 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.

4. 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) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) 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.
- (k) 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.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$49,390.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$4,939,000.00.

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

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

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

6. Security Bond

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

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

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

7. Construction, Excavation and Associated Works Security Bond (Footpath works)

The applicant is to lodge a bond with Council of \$7000 as security against any damage or failure to complete the re construction of the concrete footpath as part of this consent.

Details confirming 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

8. Traffic Management and Control

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

9. Erosion and Sediment Control Plan

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

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

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

Reason: Protection of the receiving environment.

10. Detailed Design of Stormwater Treatment Measures - Major

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the Stormwater plan (CEC, REV C 08.07.2021) and Council's Water Management for Development Policy.

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

Reason: Protection of the receiving environment.

11. Car Parking Standards

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. The dimensions of car parking bays and aisle widths in the car park are to comply with

Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1-2004.

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

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

12. **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 Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- i The proposed phases of construction works on the site, and the expected duration of each construction phase
- i 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
- i Make provision for all construction materials to be stored on site, at all times
- i The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- i 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
- i 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
- i Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- i Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- i Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- i 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
- i 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
- i 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
- i 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
- i 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
 - i 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
 - i Proposed protection for Council and adjoining properties
 - i The location and operation of any on site crane

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

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

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

13. **Pedestrian sight distance at property boundary**

A pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 is to be provided at the vehicular access to the property and where internal circulation roadways intersect with footpaths or other pedestrian access areas. Details demonstrating compliance are to be submitted to Council’s traffic engineer for review and approval prior to the issue of the Construction Certificate.

Reason: To maintain pedestrian safety.

14. **On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention/absorption system in accordance with Northern Beaches Council’s WATER MANAGEMENT POLICY FOR DEVELOPMENT, and generally in accordance with the concept drainage plans prepared by Capital Engineering Consultants, drawing number SW01,SW011,SW020 ,SW030 "issue D", dated 22/11/2021. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) or Professionals Australia (RPENG) registered for civil engineering.

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

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

15. **Vehicle Driveway Gradients**

The Applicant is to ensure driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in this consent.

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

Reason: To ensure suitable vehicular access to private property.

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. 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 public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

The pre-construction / demolition dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifying Authority prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

Reason: Protection of Council's infrastructure during construction.

18. 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.

19. Sydney Water "Tap In"

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

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

- i "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- i Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

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

20. Waste and Recycling Requirements

Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are

to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

21. Work Zones and Permits

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

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

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

22. Pre-Construction Dilapidation Report

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

Properties:

- i 144 Ocean Street, Narrabeen
- i Garage block only to the rear of 59-59 Lagoon Street, Narrabeen

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

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

23. Protection Sites of Significance

a) Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.

b) Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

24. Protection of Existing Street Trees

All existing street trees in the vicinity of the works shall be retained during all construction stages and the street trees fronting the development site shall be protected by tree protection fencing in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings and in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

As a minimum, the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture.

All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

Should any problems arise with regard to the existing or proposed trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: Tree protection.

25. Tree and Vegetation Protection

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

- i) all trees and vegetation within the site not indicated for removal on the approved plans, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,

- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Certifying Authority must ensure that:

- c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites do not occur within the tree protection zone of any tree and any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained on the site during the construction is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking or removal of any tree(s) is prohibited.

Reason: Tree and vegetation protection.

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. Substitution of Stormwater Treatment Measures

The substitution of an "equivalent" device for the stormwater treatment measure approved under the Development Consent must be submitted to the Principal Certifying Authority for approval prior to installation.

Reason: To ensure stormwater is appropriately managed and in accordance with the Water Management for Development Policy.

28. **Dewatering Management**

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

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

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

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

Reason: Protection of the receiving environment and groundwater resources.

29. **Implementation of Construction Traffic Management Plan**

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

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

30. **Removing, Handling and Disposing of Asbestos**

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

- i Work Health and Safety Act;
- i Work Health and Safety Regulation;
- i Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- i Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)];
- i Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005;

- and
- i The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

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

31. Survey Certificate

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

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

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

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

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

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

32. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

33. Footpath Construction

The applicant shall reconstruct the existing concrete footpath to a width of 1.5m in accordance with Councils standard engineering details.

Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with the standard engineering details. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

34. 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/tcws-v4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

35. Vehicle Crossings

The Applicant is to construct **one** vehicle crossing 3 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ Normal 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.

36. 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.

37. Waste/Recycling Requirements (Waste Plan Submitted)

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

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

38. Waste/Recycling Requirements (Materials)

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

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

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE**39. Landscape Completion**

a) Landscaping is to be implemented in accordance with Landscape Plan Dwg Nos L01, L02, L03 and L04 Issue C dated 18 November 21 prepared by Jane Britt Design.

b) Prior to the issue of any Occupation Certificate details (from a qualified horticulturalist, landscape architect or landscape designer) shall be submitted to the Principal Certifying Authority certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

40. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with Councils Water Management policy by the design engineer. 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 appropriate provision for the disposal of stormwater arising from the development.

41. Post-Construction Road Reserve Dilapidation Report (Major Development)

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

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

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

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

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

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

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

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

43. Stormwater Treatment Measures Operation and Maintenance Plan

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

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

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

- g) Identification of maintenance and management responsibilities
- h) Maintenance and emergency contact information

2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:

- a) Activity description, and duration and frequency of visits

Additionally for vegetated devices:

- b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
- c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure

3. Maintenance schedule and procedure - ongoing

- a) Activity description, and duration and frequency of visits
- b) Routine maintenance requirements
- c) Work Health and Safety requirements
- d) Waste management and disposal
- e) Traffic control (if required)
- f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
- g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

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

Reason: Protection of the receiving environment.

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

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

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

Reason: Protection of the receiving environment.

45. **Basement Garage Traffic Signal System**

To prevent conflicting vehicle flows on the internal basement garage ramp and avoid vehicles having to reverse up/ down the ramp, a traffic signal system must be installed at the base of the ramp entry, designed to warn drivers about to enter the road of any conflicting vehicle approaching.

The signal system must;

- i be clearly visible from ramp entrances,
- i is to clearly indicate to an approaching driver, by way of red light or wording, that an opposing vehicle has entered the ramp,
- i Incorporate linemarking to delineate a waiting bay location to allow vehicles to pass on another.

Details of the system, including the system operation, components and placement within the development, must be specified by a practising Traffic Engineer. This engineer is to submit a compliance certificate to the Principal Certifying Authority that the system has been installed and

operating as designed, in accordance with the requirements of this condition, prior to the issue of any Occupation Certificate issued for the development.

Reason: To ensure no vehicle conflicts within the basement carpark.

46. Post-Construction Dilapidation Report

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

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

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

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

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

47. Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), 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 disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

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

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

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

48. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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 bushland management.

49. Garbage and Recycling Facilities

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

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

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

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

50. 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.

51. Swimming Pool Requirements

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the 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

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

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

Reason: To protect human life.

52. Waste and Recycling Facilities Certificate of Compliance

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

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

Reason: To ensure waste and recycling facilities are provided.

53. 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.

54. Positive Covenant for Council and Contractor Indemnity

A positive covenant shall be created on the title of the land prior to the issue of an Interim/Final Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

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

55. Authorisation of Legal Documentation Required for Waste Services

The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

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

56. Landscape Maintenance

a) Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

b) 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 and any conditions of consent.

c) A maintenance activity schedule for on-going maintenance of planters on slab shall be

incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

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

Reason: To maintain local environmental amenity.

57. Maintenance of Stormwater Treatment Measures - Major

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

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

Where replacement cartridges or other necessary components for the system become unavailable, an alternative system is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

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

Reason: Protection of the receiving environment.

58. Swimming Pool/Spa Motor Noise

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

59. Non-Trafficable Roof Garden

The roof garden hereby approved is to remain non-trafficable to residents of the development and shall only be accessed for periodical maintenance when necessary.

Reason: Protection of neighbouring amenity.