

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1814
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Responsible Officer:	Anne-Marie Young
Land to be developed (Address):	Lot 38 DP 20461, 58 Forest Way FRENCHS FOREST NSW 2086
Proposed Development:	Demolition works and construction of a senior housing development
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes, under SEPP (Housing for Seniors and Persons with a Disability) (HSPD) 2004
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Khosrow Ataii Mojgan Ataii
Applicant:	Khosrow Ataii

Application Lodged:	08/10/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	22/10/2021 to 05/11/2021
Advertised:	22/10/2021
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,694,792.98
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EXECUTIVE SUMMARY

The application seeks consent for the demolition of all structures on the site and the construction of four (4) independent living three (3) bedroom dwellings with one level of basement parking for nine (9) cars. The proposed development is defined as Seniors Housing, which is prohibited under the *Warringah Local Environmental Plan 2011* (WLEP 2011), however, the proposal is made permissible by virtue of the *State Environmental Planning Policy (Housing for Seniors and Persons with a Disability) 2004* (SEPP HSPD).

The application was referred to the Design Advisory Panel (DSAP) who generally supported the proposal subject to conditions to address issues relating to the visual impact of the retaining wall along the frontage in order to appropriately respond to the landscape character of the Locality. In addition, the Panel recommended that privacy screens be applied to the upper floor south facing bedroom windows and the first floor landing to the communal external stair to protect neighbouring privacy. The applicant has nominated to respond to these recommendations with the imposition of conditions which is considered to be reasonable subject to an additional condition relating to the articulation of the retaining wall to the frontage.

Subject to conditions relating to the above-mentioned retaining wall, the proposal is considered to appropriately respond to the built form and landscape character of the Locality. The height, bulk and scale are assessed as acceptable and are compliant with the built form controls of the SEPP (HSPD), the WLEP 2011 and the *Warringah Development Control Plan 2011* (WDCP 2011). The proposal retains a landscaped area of 43% of the site area (consisting 31.5% deep soil planting). Two large trees are required to be removed from the frontage to accommodate the relocation of the retaining wall from the road reserve to address the recommendations of Transport for NSW. Replacement planting, included fifteen (15) new trees across the site is proposed. The proposal provides adequate servicing and no objections have been raised by from Transport for NSW, Council's Transport Unit, Development Engineer or Waste Officer, subject to conditions.

The public exhibition of the application resulted in three (3) submissions, which raised concerns with regards to amenity impacts (overshadowing, privacy, density), construction impacts (asbestos, dust and vibration management), and structural impacts (excavation and the management of stormwater). The proposal complies with the solar access provisions of the SEPP (HSPD), the WDCP 2011 and subject to conditions relating to privacy screens construction and stormwater management the proposal will not result in unreasonable impacts on neighbouring amenity.

On balance, the assessment of the proposed seniors housing development on this site against the applicable planning controls and related legislation reveals that the application can be supported subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

Development Consent is sought for demolition works and the construction of a seniors living development comprising a two-storey building over one single level of basement accommodating four self-contained units.

The development provides the following key metrics:

Basement (RL150.520)

- Car park for nine (9) vehicles including one (1) visitor space accessed via a new driveway along the northern boundary of the site.
- Lift and stair access to all levels.

Ground Level (RL153.62)

- Two (2) x three (3) bed units
 - Unit 1 (101.7 sqm plus 40 sqm terrace); and
 - Unit 2 (118.6 sqm plus 54 sqm terrace).

Level 1 (RL156.720)

- Two (2) x three (3) bed units:
 - Unit 3 (115.5 sqm plus 28sqm balcony); and
 - Unit 4 (119.4sqm plus 15 sqm balcony).

External

- Ramped pedestrian access along the southern boundary with bin store area.
- Demolition of existing retaining wall within the road reserve; and
- Construction of a new 1.5m high brick retaining along the street frontage within the subject site.

Landscape

- Removal of five (5) trees, retention of six (6) trees and replacement planting of twenty-three (23) trees.

Materials

- Dark and light brick, timber look cladding, concrete, metal (colour monument) and blockwork.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential
Warringah Local Environmental Plan 2011 - 6.2 Earthworks
Warringah Development Control Plan - B5 Side Boundary Setbacks

SITE DESCRIPTION

Property Description:	Lot 38 DP 20461 , 58 Forest Way FRENCHS FOREST NSW 2086
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Forest Way.</p> <p>The site is irregular in shape with a frontage of 21.4m along Forest Way and a depth of between 59.8m and 51.3m. The site has a surveyed area of 1012m².</p> <p>The site is located within the R2 (Low Density Residential) zone from WLEP 2011 and accommodates a single storey detached dwelling with a detached outbuilding and shed to the rear. A carport is located to the frontage with an access driveway along the northern boundary providing access to Forest Way. Steps a pedestrian path are provided along the southern boundary and a retaining wall has been erected along the street frontage within the road reseve.</p> <p>The site is has a gentle slope and a number of mature trees are located throughout the site including three eucalypt trees within the frontage.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Surrounding development consists primarily of one and two storey detached dwellings set back from the road in landscape settings interspersed with a dual occupancies, including (No. 17 & 17A Grace Avenue) and a townhouses developments located to the rear at No. 19 Grace Avenue and to the north-west at 27 - 33 Adam Street. Forest Way (a classified road) is located to the immediate east and Adams Street is located approximately 30m to the north.</p>

Map:



SITE HISTORY

DA2020/1287

Development Application (DA2020/1287) for a Seniors Housing Development consisting four (4) x two (2) bedroom (plus study) self-care housing units, four (4) car parking spaces and the removal of seven (7) x trees was refused by the NBLPP on 14 April 2021.

History of the subject Development Application

A pre-lodgment meeting was not held for this proposal.

The subject application was presented to the Design Sustainability Advisory Panel (DSAP) on 9 December 2021.

The Panel concluded that it *"recognises that substantial improvements have been made since the earlier proposal viewed by the Panel. The Panel supports the proposal overall if it were amended in accordance with the recommendations that aim to enhance the amenity, improve privacy landscaped character and sustainability of the proposal"*.

On 7 January 2022 a letter was sent to the applicant regarding concerns about:

- The front retaining wall.
- Privacy.

On the 14 January 2021, the applicant was also provided with the DSAP report and recommendations. The applicant's response to the Panel's recommendations are discussed in detail under the SEPP (HSPD) section of this report.

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 applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition</p>

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 22/10/2021 to 05/11/2021 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 3 submission/s from:

Name:	Address:
Ms Susan Melanie Trahair	56 Forest Way FRENCHS FOREST NSW 2086
Mr David Vincent Walker	60 Forest Way FRENCHS FOREST NSW 2086
Ms Elizabeth Jane Lim	19 A Grace Avenue FRENCHS FOREST NSW 2086

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

- **Overshadowing**
- **Privacy**
- **Construction**
- **Density increase**
- **Stormwater**

The matters raised within the submissions are addressed as follows:

- **Overshadowing**

Concerns are raised that the shadow diagrams are based on an existing 1.8m high fence this is inaccurate as there is a 1m high wire fence. The impact of over shadowing is under estimated and there will be a loss of solar access to the main private open space / outdoor area. One contributing factor is the excessive height above unit 3 and it is requested that the design be amended to reduce the building height in this area.

Comment:

It is appreciated that there may be an issue with the diagrams that show the existing shadow as a result of the discrepancy with the boundary wall detail. However, the shadow diagrams illustrate that the proposal complies with the solar access provisions of Clause D6 of the WDCP in that at 3 hours of solar access will be retained to at least 50% of the required area of private open space of adjoining dwellings between 9am and 12 noon at mid winter. In this regard it is not reasonable to require a design change to roof above unit 3 as the proposal complies with the solar access control. Refer to discussion under SEPP (HSPD) of this report.

- **Privacy**

Concerns are raised that the large windows and an external stair and landing are proposed in the side elevation that over look habitable rooms and areas of private open space.

Comment:

Conditions are recommended requiring privacy screens to be applied to the upper floor bedroom windows in the southern elevation and the landing to the external stair, refer to discussion under SEPP (HSPD) and Clause D8 of the WDCP.

- **Construction**

Concerns are raised that the excavation for the basement car park may result in structural impacts on neighbouring properties. Conditions are required to control vibration and monitor the work. Dust control measures asbestos controls are also required to minimise impacts to neighbours.

Comment:

The application is supported with a geotechnical report that makes recommendations to control vibration. Should the Panel decide to approve the application conditions are included requiring compliance with the recommendations of the geotechnical report to ensure there will be no unreasonable impacts on

neighbouring amenity. Conditions are also recommended relating to asbestos and dust control.

- **Density increase**

Concerns are raised that the number of bedrooms has increased from two (2) to three (3) per unit which will result in additional amenity impacts.

Comment:

That is correct. The previous DA (DA20201287) sought consent for four(4) x two (2) bedroom units (plus study). The subject application seeks consent for four (4) x three (3) bed units. The number of car parking spaces has increased to respond to this increase in density. Conditions require privacy screens to be installed on the south facing bed room windows and the first floor landing to ensure that privacy impacts are minimised.

- **Stormwater**

It is requested that adequate stormwater drainage and retention - during demolition, construction and post construction will be put in place.

Comment:

Conditions are included in the recommendation relating to stormwater management.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	Supported subject to conditions The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below. Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.
Environmental Health (Industrial)	Supported subject to condition Noise from mechanical plant can be managed as a whole, in compliance with the Warringah DCP. No objection to the proposal.
Landscape Officer	Supported subject to conditions The development application seeks consent for demolition and construction of a Seniors Housing Development comprising 4 self-care dwellings with basement car parking at.

Internal Referral Body	Comments
	<p>Council's Landscape Referral section have assessed the application against the following relevant landscape controls and policies:</p> <ul style="list-style-type: none"> • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004: <ul style="list-style-type: none"> ○ clause 33 Neighbourhood amenity and streetscape, and ○ clause 34 Visual and acoustic privacy • Seniors Living Policy: <ul style="list-style-type: none"> ○ clause 2. Site Planning and Design; and ○ clause 3. Impacts on Streetscape. • Warringah Local Environmental Plan 2011 and the following Warringah Development Control Plan 2011 controls (but not limited to): <ul style="list-style-type: none"> ○ D1 Landscaped Open Space and Bushland Setting ○ E1 Preservation of Trees or Bushland Vegetation and ○ E2 Prescribed Vegetation <p>The Arborist's Report prepared by Hugh the Arborist and Landscape Plans prepared by Plot Design Group are noted.</p> <p>The Arborist's Report indicates that four Category A trees and one Category Z tree are required to be removed. Two large trees at the front of the site are required to be removed to accommodate the relocation of a retaining wall from the road reserve into the site as required by RMS.</p> <p>The other trees are to be removed to accommodate the basement parking proposed with significant incursions into the Tree Protection Zone.</p> <p>Three other trees on the site are to be retained. All trees on adjoining sites are to be retained.</p> <p>The Landscape Plans indicate replanting of fifteen new trees, four of which are over 20m in height at maturity, in addition to shrub and groundcover planting across the site.</p> <p>The setbacks provided are considered capable of supporting the proposed planting, which comprises predominately native species.</p> <p>The proposal is considered to satisfy the requirements of the SEPP and intent of the Council planning instruments with regard to landscape issues.</p> <p>No objections are raised with regard to landscape issues subject to conditions as recommended.</p>
NECC (Development Engineering)	<p>Supported subject to conditions</p> <p>The stormwater drainage plans detail the provision of an on site</p>

Internal Referral Body	Comments
	detention basin in the front set back. A DRAINS model has been provided which is satisfactory. No objections subject to conditions.
NECC (Water Management)	<p>Supported subject to conditions</p> <p>The development application have been assessed under the requirements of the relevant Environmental Planning Instruments and policies.</p> <p>The documentation is satisfactory and the project environmental impacts are acceptable.</p>
Traffic Engineer	<p>Supported subject to conditions</p> <p>The development scheme involves demolishing the existing building, excavating the site for basement carparking, and constructing a two-storey seniors housing complex of 4 residential units having three bedrooms each.</p> <p>A single-level basement car park of 9 spaces (2 per unit and 1 for visitor) will be provided with vehicle access on the Forest Way frontage.</p> <p>The driveway access complies with the TfNSW requirement to allow access for a B99 design vehicle from lane 1 while there is a B99 design vehicle waiting to exit the development.</p> <p>The site is serviced by numerous bus services and both inbound (148m) and outbound (105m) bus stops are well within the SEPP walking distance requirement.</p> <p>The site frontage will require the construction of a 3.0m shared user path across the full frontage of the site in line with Council's adopted Bike Plan - Regional Route 11.</p> <p>The proposal is supported subject to the conditions provided, and those provided by TfNSW in the response to the referral dated 26/11/21.</p>
Waste Officer	<p>Supported subject to conditions</p> <p>The development application have been assessed under the requirements of the relevant Environmental Planning Instruments and policies. The documentation is satisfactory and the project environmental impacts are acceptable. The proposal is therefore supported.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>Supported subject to conditions</p> <p>The proposal was referred to Ausgrid who provided a response</p>

External Referral Body	Comments
	stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
NSW Roads and Maritime Services (Traffic Generating Development)	Supported subject to conditions Transport for NSW have no objections to the development subject to conditions which are included in the recommendation.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1239362M dated 15 September 2021).

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

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	50	45

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

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

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

Chapter 1 – Preliminary

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

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

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

Comment:

The proposed development is considered to be inconsistent with the aims of the Policy as detailed below:

The proposal will increase the supply and diversity of residences that meet the needs of seniors or people with a disability. The proposal makes efficient use of the existing infrastructure with safe pedestrian access to existing bus stops.

When considering the development against the aims of achieving good design, the development must be considered in context with the other provisions of the SEPP. The design of the development was peer reviewed by the Design Sustainability Advisory Panel (DSAP) who support the design subject to minor amendments to address issues with the visual impact of the retaining wall to the frontage, privacy issues relating to bedroom windows and an external landing and sustainability.

Chapter 2 – Key Concepts

Comment:

The proposed development is for the redevelopment of the site to accommodate "*in-fill selfcare housing*" which is defined as "*seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care*". Accordingly, the proposed development is considered consistent with the provisions outlined in Chapter 2 of the SEPP.

Chapter 3 – Development for seniors housing

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

Development Criteria			
Clause	Requirement	Proposal	Complies
PART 2 - Site Related Requirements			
26(1)	Satisfactory access to: (a) shops, banks and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner	Safe pedestrian access is available to bus stops on Forest Way.	Yes
26(2)	Access complies with this clause if: (a) the facilities and services referred are located at a distance of not more than 400 metres from the site or (b) there is a public transport service available to the residents not more than 400 metres away.	Refer above.	Yes
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	The site is not Bush Fire prone land.	N/A
28	Consideration is given to the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure.	Given the existing residential use of the site, it is considered that there is suitable access to water and sewerage infrastructure.	Yes
29	Consideration must be given to whether the proposal is compatible with the surrounding land uses having regard to the following criteria specified in Clauses 25(5)(b)(i), 25(5)(b)(iii), and 25(5)(b)(v): i) the natural environment and the existing uses and approved uses of land in the vicinity of the proposed development iii) the services and infrastructure that are or will be available to meet the	The proposed development is considered in principle, compatible with the surrounding residential land uses and was not subject to the requirements of Clause 25 for the attainment of a Site Compatibility Certificate. i) The proposal retains the a number of high value trees within the frontage with the exception of two large trees which is required to be removed to allow the relocation of the retaining wall from the road reserve to meet the requirements of Transport for NSW, refer to the comments from Council's Landscape Officer. iii) The site is serviced by existing	Yes

Development Criteria			
Clause	Requirement	Proposal	Complies
	demands arising from the proposed development and any proposed financial arrangements for infrastructure provision, v) the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.	infrastructure (electricity, water and sewerage) that is capable of meeting the demands that will arise from the development. v) The bulk, scale, built form and character of the proposed development will not have unreasonable impacts on the existing, approved and future uses on land in the vicinity.	
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	A site analysis plan has been provided.	No

Clause 31 Design of in-fill self-care housing

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

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

Section	Requirements	Comment
1. Responding to context	<p>Built Environment – New development is to follow the patterns of the existing residential neighbourhood in terms of built form.</p> <p>Policy environment – Consideration must be given to Councils own LEP and/or DCPs where they may describe the character and key elements of an area that contribute to its unique character.</p>	<p>DSAP have reviewed the proposal and considered that the development generally responds appropriately to the context of the site subject to landscape recommendations to address design issues with the concrete block wall on the front boundary . The Panel considered the wall to be</p> <p><i>"out of character with the existing landscaped context as it would be visually prominent due to its flat surface being unrelieved by surface articulations and vegetation."</i></p> <p>In response to the recommendation the applicant argues that articulation to the retaining wall</p>

Section	Requirements	Comment
		<p><i>will draw your eye to the wall which we want to look recessive (hence the dark colour).</i></p> <p>The applicant agrees that the landscaping of the wall will help reduce its visual impact with planting dropping down to cover the wall. The applicant has suggested that the recommendation can be addressed with the following condition:</p> <p><i>The following landscape planting is to be provided to enhance the street frontage and retaining wall located on Forest Way</i></p> <p><i>i) Include planting 'Silver Falls' spaces at 1m intervals along the eastern boundary on the inside edge of the retaining wall. The Silver Falls are to be a minimum 150mm pots. First 1m from Northern Boundary is to remain Strata Area to ensure retention of Silver Falls for the life of the property.</i></p> <p><i>Details are to be shown on the Landscape Plans, drawn by Plot Design Group.</i></p> <p>The applicants justification for the lack of articulation is not accepted. In order to meet the Panels recommendation it is therefore suggested that in addition to the landscape condition proposed by the applicant the following condition be included:</p> <p><i>ii) Articulation of the front retaining wall should be provided by the use of split faced concrete blocks; engaged piers and corbels in brickwork or other means of articulation through materials and form.</i></p> <p>Subject to the inclusion of these conditions the proposal will help contribute to the landscaped character of the Locality.</p>

Section	Requirements	Comment
		In terms of the Policy controls it is noted that the proposal generally compliance with the built form controls contained in the SEPP and the Warringah LEP and DCP.
2. Site Planning and design	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Minimise the impact of new development on neighbourhood character -Minimise the physical and visual dominance of car parking, garaging and vehicular circulation. 	<p>The proposed development uses the existing driveway to minimise impacts on mature canopy trees to the frontage which are assessed as high value.</p> <p>Car parking is provided in the basement with no visual impacts on the streetscape.</p> <p>Subject to a condition requiring planting to the wall along the frontage the proposal is assessed as being consistent with the landscape character of the immediate area in accordance with Clause 31 (2) of the SEPP (HSPD).</p>
3. Impacts on streetscape	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Minimise impacts on the existing streetscape and enhance its desirable characteristics -Minimise dominance of driveways and car park entries in streetscape. 	<p>The proposal seeks to retain a significant number of high value mature canopy trees from the front setback in order to ensure that the development is in consistent with the landscape character of the immediate area. In this regard, the desirable characteristics of the streetscape are enhanced. Subject to a condition to ensure the visual impact of the front wall is softened with landscaping the proposal will not result in unreasonable impacts on the streetscape.</p>
4. Impacts on neighbours	The proposal is generally in accordance with the requirements of this section.	<p>The Panel have recommended that privacy screens be added to the Level 1 landing, the upper level stair and Unit 3 bedroom windows to ensure that there are no privacy impacts to the neighbour. The applicant has suggested that the recommendation be address by way of a condition which is reasonable. A condition is included in the recommendation.</p>
5. Internal site amenity	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Provide safe and distinct 	The proposal provides a pedestrian path from the development to the Forest Way frontage and safe pedestrian access to the bus stops.

Section	Requirements	Comment
	pedestrian routes to all dwellings and communal facilities.	Conditions are included in the recommendation requiring compliance with the recommendations in the acoustic report to ensure there will be no unreasonable impacts on the internal amenity of the dwellings from traffic noise along Forest Way.

Clause 32 Design of residential development

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

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

Control	Requirement	Proposed	Compliance
CL33 Neighbourhood amenity and streetscape	a. Recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area.	<p>The desirable elements of the locations current character consists of low density one and two storey dwellings interspersed with some medium density developments. There is a consistent pattern of developments setback from the street in landscape settings.</p> <p>The development has a substantial setback to Forest Way and the some of the existing mature canopy trees will be retained and enhanced with additional planting.</p> <p>Subject to conditions to address the visual impact of the wall t the frontage the proposal has been assessed as being consistent with the desirable elements of the location's current character and the proposal will positively contribute to the quality and identify of the surrounding area.</p>	Yes
	b. Retain, complement and	b) The site is not located within a heritage conservation area	N/A

Control	Requirement	Proposed	Compliance
	<p>sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that re identified in a local environmental plan.</p> <p>c. Maintain reasonable neighbour amenity and appropriate residential character by;</p> <p>(i) providing building setbacks to reduce bulk and overshadowing</p> <p>(ii) using building form and siting that relates to the site's land form, and</p> <p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development,</p> <p>(iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours.</p>	<p>or within proximity to any heritage items.</p> <p>The proposal exceeds the minimum side setbacks and the bulk and scale of the development. While the proposal will result in additional over shadowing to the neighbouring property to the south the proposal complies with the solar access controls on the WDCP refer to Clause D6 of the WDCP of this report.</p> <p>Conditions are included in the recommendation requiring privacy screens to the upper floor windows and the stair and landing in the southern elevation to ensure that there are no unreasonable privacy impacts to the neighbour.</p> <p>In summary, the proposal will not maintain reasonable neighbouring amenity and appropriate character.</p>	Yes
	<p>d. Be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line,</p>	<p>The building has a minimum 8.5m front setback to the terrace and 9.8m front setback to the eastern wall and is generally consistent with the front setback to No. 56 Forest Way.</p> <p>The proposal retains some of the existing mature trees and provides replacement and enhanced planting to the front and sides to ensure that the development is sympathetic to the existing landscape character in the immediate area.</p>	Yes

Control	Requirement	Proposed	Compliance
	<p>e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.</p> <p>f. retain , wherever reasonable, major existing trees, and</p> <p>g. be designed so that no building is constructed in a riparian zone.</p>	<p>Subject to conditions the planting is acceptable.</p> <p>The proposal seeks to retain as many existing major trees as possible. Two mature trees will be removed to allow for the the relocation of the retaining wall from the road reserve to meet the requirements of Transport for NSW.</p> <p>The site is not located within a Riparian Zone.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p>
CL 34 Visual and acoustic privacy	<p>The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by: (a) Appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and (b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</p>	<p>Upper floor bedroom windows are located within 2.9m of the southern boundary and the stair and landing is sited 6m from the southern boundary.</p> <p>Concern has been raised by the DSAP about overlooking to the neighbouring property at No. 56 Forest Way. The Panel made the following recommendation:</p> <p><i>Avoid overlooking of the neighbours yard from the Level 1 landing, the upper level stair and Unit 3 bedroom windows with screening.</i></p> <p>A condition is included in the recommendation requiring privacy screens to the bedroom windows and level 1 landing.</p> <p>Conditions are also included requiring compliance with the recommendations of the acoustic report to ensure that noise impacts on the internal amenity of the dwelling to the front due to noise issues from Forest Way is managed.</p> <p>In summary, subject to</p>	No

Control	Requirement	Proposed	Compliance
		conditions the development has been found to be inconsistent with the requirements of this Clause.	
CL35 Solar access and design for climate	The proposed development should: (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.	<p>A submission has been received from the neighbour to the south in respect of overshadowing. It is noted that the Design Panel did not raise any issues with respect of solar access.</p> <p>The applicant has submitted shadow diagrams in plan that demonstrate that the proposal complies with the solar access provisions of the WDCP in terms of retaining solar access at mid winter to at least 50% of the required area of private open space of adjoining dwellings.</p> <p>In addition, the applicant has submitted hourly Views From Sun in both the existing and proposed states which show that the only windows impacted by the additional overshadowing are the two ground level windows from 12 noon to 2pm. A search of Council records confirm that the windows relate to a rumpus room and laundry. In summary, the proposal will not impact on solar access to the main living areas of the adjoining dwelling.</p> <p>In terms of Sustainability the Panel made the following recommendations:</p> <p><i>6. Make the building fully electric, with no gas provided.</i> <i>7. Use efficient electric options for hot water, cooking, and space conditioning (if required)</i> <i>8. Increase the energy efficiency of the building to</i></p>	No

Control	Requirement	Proposed	Compliance
		<p><i>deliver more natural comfort, higher BASIX scores and natural comfort for the occupants</i></p> <p><i>9. Consider redesigning the roof to the southern block to reduce clerestory windows to the bedrooms, provide solar access to the living rooms and allow more space for PV panels to be included.</i></p> <p>The applicant has made the following response to these recommendations:</p> <p><i>6,7 and 8. The applicant has considered this but it not what the market demands. Applicant meets the requirements of BASIX which is the requirements and therefore cannot be refused on this matter.</i></p> <p><u>Planner Response:</u> The applicant has submitted a compliant BASIX certificate and the design includes 8 PV roof panels. It is agreed that the application cannot be refused on this matter and it is not reasonable to request these changes by way of conditions.</p> <p><i>9. There is already complying solar access to the living rooms, yet the bedrooms receive no northern light if the clerestory is removed. Best benefit for the residences is to keep the high level light. The panel had concerns over blinds needing to be installed so suggested skylights, but these would also require blinds so are no different. Applicant will keep the clerestory window to maximise northern light through the dwelling. This northern light is also very important considering recommendation 4,</i></p>	

Control	Requirement	Proposed	Compliance
		<p><i>where privacy screens would limit light into the room meaning the northern windows are more important.</i></p> <p><u>Planners response:</u> The applicants response / justification in relation to recommendation 9 is supported. No additional design changes are required by way of condition</p>	
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	The proposed stormwater Management is considered to be acceptable.	Yes
CL 37 Crime prevention	The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front	The development provides clear sight lines of the entry to the development and the front of the site and provides adequate casual surveillance of both streets and the entry of the site.	Yes

Control	Requirement	Proposed	Compliance
	door.		
CL 38 Accessibility	The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.	The pathway to the bus stops are assessed as compliant.	Yes
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	The site provides inadequate waste storage facilities.	No

Part 4 - Development standards to be complied with

Clause 40 – Development standards – minimum sizes and building height

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

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

Control	Required	Proposed	Compliance
Site Size	1000 sqm	1012sqm	Yes
Site frontage	20 metres	21.4m	Yes
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	7.2m	Yes
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	2 storeys	Yes
	A building located in	There are no structures	Yes

Control	Required	Proposed	Compliance
	the rear 25% of the site must not exceed 1 storey in height (development within 15.51 metres of the rear boundary).	within the rear setback.	

Clause 41 Standards for hostels and self contained dwellings

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

Control	Required	Proposed	Compliance
Wheelchair Access	If the whole site has a gradient less than 1:10, 100% of the dwellings must have wheelchair access by a continuous path of travel to an adjoining public road. If the whole of the site does not have a gradient less than 1:10 the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10 or 50% whichever is the greater.	Complies	Yes
Security	Pathway lighting (a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and (b) Must provide at least 20 lux at ground level	Can be addressed by a condition.	Yes, by condition.
Letterboxes	Letterboxes: (a) must be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel, and (b) must be lockable,	The letterboxes are accessed from within pathway.	Yes

Control	Required	Proposed	Compliance
	and (c) must be located together in a central location adjacent to the street entry.		
Private car accommodation	(a)Carparking space must comply with AS2890 (b)One space must be designed to enable the width of the spaces to be increased to 3.8 metres, and (c) any garage must have a power operated door or there must be a power point and an area for motor or control rods to enable a power operated door to be installed at a later date.	The development is consistent with this clause refer to comments from Transport.	Yes
Accessible entry	Every entry to a dwelling must comply with Clause 4.3.1 and 4.3.2 of AS4299	The development is capable of complying with this requirement.	Yes
Interior general	Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.	The development is capable of complying with this requirement.	Yes
Bedroom	At least one bedroom within each dwelling must have: (a) An area sufficient to accommodate a wardrobe and a queen size bed (b) A clear area for the bed of at least 1200 mm wide at the foot of the bed and 1000mm wide beside the bed between it and the wall, wardrobe or any other obstruction. (c) Power and telephone outlets and wiring described in Clause 8 of Schedule 3.	The development is capable of complying with this requirement.	Yes
Bathroom	The bathroom is to comply with the requirements described	The development is capable of complying with this requirement.	Yes

Control	Required	Proposed	Compliance
	in Clause 9 of Schedule 3.		
Toilet	The toilet is to comply with the requirements described in Clause 9 of Schedule 3.	The development is capable of complying with this requirement.	Yes
Surface finishes	Balconies and external paved areas must have slip resistant surfaces.	The development is capable of complying with this requirement.	Yes
Door hardware	Door handles and hardware for all doors must be provided in accordance with AS4299.	The development is capable of complying with this requirement.	Yes
Ancillary items	Switches and power points must be provided in accordance with AS4299.	The development is capable of complying with this requirement.	Yes
Living & dining room	A living room must have a circulation space in accordance with Clause 4.7.1 of AS4299, and a telephone adjacent to a general power outlet. Also a living and dining room must have a potential illumination level of at least 300 lux.	The development is capable of complying with this requirement.	Yes
Kitchen	The kitchen must comply with the requirements of Clause 16 of Schedule 3	The development is capable of complying with this requirement.	Yes
Access to kitchen, main bedroom, bathroom & toilet	The kitchen, main bedroom, bathroom and toilet must be located on the entry level.	The development is capable of complying with this requirement.	Yes
Laundry	The laundry must comply with the requirements of Clause 19 of Schedule 3.	The development is capable of complying with this requirement.	Yes
Storage	A self-contained dwelling must be provided with a linen storage in accordance with Clause 4.11.5 of AS4299	The development is capable of complying with this requirement.	Yes
Garbage	A garbage storage area must be provided in an accessible location.	The development is capable of complying with this requirement.	Yes

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

This part is not applicable to the subject site.

Part 6 Development for vertical villages

This part is not applicable to the proposed development.

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

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

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

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

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

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

Control	Required	Proposed	Compliance
Building height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	7.2m	Yes
Density and scale	0.5:1	0.5:1	Yes
Landscaped area	30% of the site area is to be landscaped	43% (441sqm)	Yes
Deep soil zone	15% of the site area two thirds of the deep soil zone should be located at the rear of the site. Each area forming part of the zone should have a minimum dimension of 3 metres.	31.5% (319sqm)	Yes
Solar access	Living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct	All dwelling will achieve a minimum of 3 hours direct sunlight between 9am and 12 noon in mid winter.	Yes

Control	Required	Proposed	Compliance
	sunlight between 9am and 3pm in mid winter		
Private open space	<p>(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and</p> <p>(ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area</p>	All dwellings have areas of private open space in excess of the minimum requirements which vary from 40sqm to 54sqm at ground level to 15sqm to 28sqm on the upper floor.	Yes
Parking	0.5 car spaces for each bedroom where the development application is made by a person other than the Department of Housing or a local government or community housing provider.	Based on the twelve (12) bedrooms proposed – six (6) carparking spaces required. The proposal provides a total of nine (9), including one (1) visitor space, which exceeds the minimum requirement.	Yes
Visitor parking	None required if less than 8 dwellings	Four (4) units are proposed therefore no visitor spaces are	Yes

Control	Required	Proposed	Compliance
		required. Notwithstanding this one (1) one visitor space is provided.	

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 offered no objections to the development subject to conditions.

Roads and Maritime Service (RMS)

Clause 101 - Development with frontage to classified road

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Comment:

The application was referred to RMS who offered no objections to the development subject to conditions.

Clause 102 - Impact of road noise or vibration on non-road development

(1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration—

- (a) residential accommodation,
- (b) a place of public worship,
- (c) a hospital,
- (d) an educational establishment or centre-based child care facility.

(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.

(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

Comment:

Forest Way is a Classified State Road that has 26,600 average daily vehicles per day, as such, clause 102 is relevant.

The development has included an Acoustic Assessment of the impacts of noise and vibration from Forest Way on the amenity of the proposed residential development. The report makes recommendations to ensure the internal amenity of the dwellings to the front of the development can be protected to avoid excessive noise from traffic. Subject to conditions it ensure compliance with the recommendations of the acoustic report the proposal satisfied the requirements of Clause 102.

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	7.2m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes

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

Detailed Assessment

Zone R2 Low Density Residential

The proposed development is defined as Seniors Housing, which is prohibited under the Warringah Local Environmental Plan 2011 (WLEP 2011), however, the proposal is made permissible by virtue of the State Environmental Planning Policy (Housing for Seniors and Persons with a Disability) 2004 (SEPP HSPD).

6.2 Earthworks

Clause 6.2 requires the consent authority to consider the following matters before granting development consent for earthworks.

- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*
- (b) the effect of the proposed development on the likely future use or redevelopment of the land,*
- (c) the quality of the fill or the soil to be excavated, or both,*
- (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

Comment

The proposal involves excavation to a maximum depth of 3m to accommodate a basement car park. The application is supported with a geotechnical report that makes recommendations to ensure that there are no impacts on drainage, adjacent structures and the amenity of neighbours.

Subject to compliance with the recommendation of the geotechnical report the proposal addresses the matters consideration listed under Clause 6.2 of the WLEP.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	6.1m	N/A	Yes
B3 Side Boundary Envelope	4m	Within the envelope	N/A	Yes
	4m	Within the envelope	N/A	Yes
B5 Side Boundary Setbacks	North 0.9m	Basement 0.7m - 2m Ground and First Floor - minimum 2m	22%	Minor breach Of 200mm to stair Assessed as acceptable.

	South 0.9m	Basement 2m- 5.3m Ground min 2.4m First Floor Minimum 2.2m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	Basement 6.6m to driveway & 10.4m to car park Ground and First Floor - 8.5m to terrace and 9.8m to front wall	N/A	Yes
B9 Rear Boundary Setbacks	6m	Basement minimum 12m Ground 11.2m to the terrace and 15.3m to the rear wall First 15.3m to the rear wall	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	43% (441sqm)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	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	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	No	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B5 Side Boundary Setbacks

Description of non-compliance

There is a minor 200mm breach of the side setback control to the northern boundary to accommodate the fire stair to the basement.

Merit consideration

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

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

Comment:

The proposal retains 31.5% of the site as deep soil landscaping in excess of the 15% required under the SEPP (HSPD).

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

Comment:

The minor breach of the side setback to accommodate the fire stair will not result in the development being visually dominate.

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

Comment:

The bulk and scale of the building is acceptable.

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

Comment:

Subject to conditions the proposal has been assessed as providing adequate separation between building to ensure a reasonable level of privacy, amenity and solar access. The minor breach of the setback to the north will not result in any amenity impacts.

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

Comment:

The proposal will not impact on view sharing.

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

D8 Privacy

Merit consideration

Clause D8 requires:

1. *Building layout should be designed to optimise privacy for occupants of the development and occupants of adjoining properties.*
2. *Orientate living areas, habitable rooms and windows to private open space areas or to the street to limit overlooking.*
3. *The effective location of doors, windows and balconies to avoid overlooking is preferred to the use of screening devices, high sills or obscured glass.*
4. *The windows of one dwelling are to be located so they do not provide direct or close views (ie from less than 9 metres away) into the windows of other dwellings.*
5. *Planter boxes, louvre screens, pergolas, balcony design and the like are to be used to screen a minimum of 50% of the principal private open space of a lower apartment from overlooking from an upper apartment.*

Bedroom windows to Unit 3 on Level 1 are located between 2.9m and 4.1m from the southern boundary. In addition, the first floor landing to the common stairwell is positioned 6m from the southern boundary. The DSAP have requested that these windows are treated with screening to avoid overlooking. Subject to a condition required fixed and angled privacy screens to be installed along the outer edge of the bedroom windows to unit 3 and the first floor landing the development is considered as meeting the underlying Objectives of the Control as follows:

- ***To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.***

Comment:

Subject to a condition requiring privacy screens to the unit 3 south facing bedroom windows and first floor landing the development will ensure that privacy for occupants and neighbours is protected. A condition also requires compliance with the acoustic recommendations to ensure that the internal amenity of units 1 and 3 is protect against noise from the traffic from Forest Way.

- ***To encourage innovative design solutions to improve the urban environment.***

Comment:

The privacy screens combined with the planter bed adjacent to bedroom window 2 are regarded as an innovative design solution to improve the urban environment.

- ***To provide personal and property security for occupants and visitors.***

Comment:

The proposal has been designed to ensure personal and property security for occupants and visitors.

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

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 \$16,948 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,694,793.

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
- Inconsistent 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

Height, bulk, scale and character

The proposal complies with the built form controls of the SEPP (HSPD), the WLEP 2011 and the WDCP 2011. Subject to conditions relating to landscaping and articulation of the front retaining wall the proposal is consistent with the built form and landscape character of the Locality. The proposal retains 43% of the site as landscaping with the protection of a number of canopy trees within the frontage which will be further supplemented with additional planting.

Amenity

Subject to conditions relating to privacy treatment to the south facing bedroom windows to Unit 3 and the first floor landing to the shared external stair the proposal will not have unreasonable impacts neighbouring residential amenity. The proposal complies with the solar access provisions of the SEPP (HSPD) and the WDCP 2011. The proposal provided for a good level of internal and external amenity to the four (4) units subject to compliance with the acoustic report to ensure that noise from traffic using Forrest Way will not have unreasonable impacts on the internal amenity of the units that front the classified road.

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/1814 for Demolition works and construction of a senior housing development on land at Lot 38 DP 20461, 58 Forest Way, FRENCHS FOREST, 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
DA030 Rev A Demolition Plan	13.09.2021	Walsh Architects
DA040 Rev A Proposed Site Plan	13.09.2021	Walsh Architects

DA100 Rev A Basement Plan	13.09.2021	Walsh Architects
DA101 Rev A Ground Floor Plan	13.09.2021	Walsh Architects
DA102 Rev A Level 1 Plan	13.09.2021	Walsh Architects
DA104 Rev A Roof Plan	13.09.2021	Walsh Architects
DA200 Rev A Sections	13.09.2021	Walsh Architects
DA201 Rev A Sections	13.09.2021	Walsh Architects
DA300 Rev A Elevations	13.09.2021	Walsh Architects
DA301 Rev A Elevations	13.09.2021	Walsh Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
A.010 Rev C Ground Floor - Stormwater Drainage Concept Plan	14.09.2021	Rise Engineers Pty Ltd
D.020 Rev C Roof / First Floor - Stormwater Drainage Concept Plan	14.09.2021	Rise Engineers Pty Ltd
D.030 Rev C Basement Stormwater Drainage Concept Plan	14.09.2021	Rise Engineers Pty Ltd
D.040 Rev C OSD Calculations	14.09.2021	Rise Engineers Pty Ltd
SC.01 Rev B Site Sediment Control Plan	14.09.2021	Rise Engineers Pty Ltd
SC.02 Rev B Sediment Control Details	14.09.2021	Rise Engineers Pty Ltd
PDW.00 Rev A Public Domain Works and Documentation	14.09.2021	Rise Engineers Pty Ltd
PDW.01 Rev A Proposed Public Domain Works	15.09.2021	Rise Engineers Pty Ltd
PDW.02 Rev A Public Domain Works Sections	15.09.2021	Rise Engineers Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate number 1239362M	15.09.2021	Building Sustainability Assessment
Traffic Report Issue B Ref 21281	September 2021	Transport and Traffic Planning Associates
Geotechnical Report Ref 21/09798	24.09.2021	Michael Adler and Associates
National BCA Capability Report Version 1.01a Ref 21115	22.09.2021	Rodger Dowsett
Building Sustainability Assessment Assessor Certificate Ref 16236	15.09.2021	Gavin Chambers
Access Assessment Report (SEPP Seniors) Ref 112591-Access-r3	15.09.2021	BCA Logic
Arborist Report Rev A	14.09.2021	Hugh Millington
Acoustic Report Ref BA210829	15.09.2021	Blackett Acoustics

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
LS501.1 Rev B Landscape Plan Sheet 1 and 4	13.09.2021	PLOT Design Group

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	12.09.2020	Scott Walsh

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	10.11.2021
Transport for NSW	TfNSW Referral Response	26.11.2021

(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**

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

demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

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 \$16,947.93 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 \$1,694,792.98.

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 (Crossing / Kerb)**

The applicant is to lodge a Bond of \$ 10000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required 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. **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:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- 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.
- 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.

9. **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.

10. **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.

Due to heavy traffic congestion, truck movements will be restricted during the major commuter peak times being 6.00-10.00am and 3.00-7.00pm. Truck movements must be agreed with Council's Traffic Engineer prior to submission of the CTMP.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles,

including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed

- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

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.

11. **Submission of Engineering Plans (standard from development engineers).**

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

The 3 metre wide shared user footpath across the full frontage of the site including details of the transitions at the driveway into the developments basement car park.

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

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

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

12. **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 the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To maintain pedestrian safety.

13. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

(a) The following landscape planting is to be provided to enhance the street frontage and retaining wall located on Forest Way

(i) Include planting 'Silver Falls' spaces at 1m intervals along the eastern boundary on 1

(ii) The first 1m from Northern Boundary is to remain Strata Area to ensure retention of

Details are to be shown on the Landscape Plans, drawn by Plot Design Group and sub

(b) Articulation of the front retaining wall should be provided by the use of split faced concrete blocks; engaged piers and corbels in brickwork or other means of articulation through materials and form. The wall shall be painted a dark recessive colour.

Details demonstrating compliance with this condition are to be submitted to the Certifyi

(c) Fixed and angled privacy screen to a minimum height of 1.6m shall be installed along the outer edge of the south facing bedroom windows to unit 3 level 1 and the outer edge of the first flood landing to the common stairwell.

Reason: To ensure the development is consistent with the landscaped character of the Locality and ensure that the proposal will not result in unreasonable amenity impacts to neighbours.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management

Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

15. **BCA Fire Safety Matters**

The Building Code of Australia fire safety matters as detailed and recommended in the BCA Capability Report prepared by National BCA, dated 22/9/2021, Version 1.0a, are to be considered as part of the assessment of the Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

16. **Building Code of Australia Access Report**

Access to and within the building is to be provided for Persons with a Disability and is to comply with the Building Code of Australia and AS 1428.1. In this regard the Access Assessment Report (SEPP Seniors) prepared by BCA Logic, dated 15/9/2021 Ref. 112591-Access-r3 is to be considered as part of the assessment of the Construction Certificate. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

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

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's WATER MANAGEMENT POLICY FOR DEVELOPMENT ", and generally in accordance with the concept drainage plans prepared by Rise Engineers, drawing number DO10,DO20,DO30, dated 4/9/21, 16/9/21. 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 (NER) and or Professionals Australia (RPENG) registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. The orifice plate in the discharge control pit is to be 135mm. A discharge control pit is to be detailed on amended plans together with an overflow pipe/route.
- ii. A section of the outlet pipe through the footpath area is to be provided detailing allowable clearance to all services.
- iii. 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.

18. Compliance with Standards

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

(Note: At the time of determination the following (but not limited to) Australian Standards applied:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'**
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 – 2009* Design for access and mobility - General requirements for access – New building work**
- (m) AS 1428.2 – 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website [www.hreoc.gov.au/disability rights /buildings/good.htm](http://www.hreoc.gov.au/disability%20rights%20/buildings/good.htm). <www.hreoc.gov.au/disability%20rights%20/buildings/good.htm>

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to.)

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. (DACPLC02)

19. 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

20. **Project Arborist**

a) A Project Arborist, with minimum AQF Level 5 in arboriculture, shall be engaged to provide tree protection measures in accordance with the Arboricultural Impact Assessment dated 14 September 2021 prepared by Hugh the Arborist and Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection and ground protection.

b) The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works unless approved by the Project Arborist.

c) Existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by the Project Arborist.

d) All tree protection measures specified 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 Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded including at commencement, during the works and at completion.

- Note:
- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
 - ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

21. **Tree Removal Within the Property**

This consent approves the removal of the following tree(s) within the property as identified in the Arboricultural Impact Assessment dated 14 September 2021 prepared by Hugh the Arborist:

- i) Trees numbered 6, 7, 8, 9 and 11

Note: Exempt Species as listed in the Development Control Plan or the Arboricultural Impact Assessment do not require Council consent for removal.

Reason: To enable authorised building works.

22. **Road Occupancy Licence**

Prior to commencement of the associated works, the applicant shall obtain a Road Occupancy

License from Transport Management Centre for any works that may impact on traffic flows.

Reason: Requirement of TMC for any works that impact on traffic flow.

23. 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.

56 Forest Way, Frenchs Forest

60 Forest Way, Frenchs Forest

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 rising 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

24. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected including:
 - i) all trees and vegetation within the site not approved for removal, 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 the Arboricultural Impact Assessment dated 14 September 2021 prepared by Hugh the Arborist and 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 the Project Arborist,
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted

- without consultation with the Project Arborist ,
- 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 the Project Arborist on site,
 - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with the Project Arborist 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.

25. **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.

26. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works on site.

Erosion and sediment controls 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 vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

27. **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.

28. **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.

29. **Ongoing Management**

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

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:

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

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

32. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

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

Reason: To demonstrate the proposal complies with the approved plans.

33. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the 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.

34. **Vehicle Crossings**

The Applicant is to construct a vehicle crossing in accordance with a Transport NSW Section 138 Roads Act approval and specifications, 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 Transport NSW .

A copy of the vehicle crossing approval is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

35. **Dust**

Measures shall be documented and be undertaken to minimise any dust created as a result of excavation, vehicle movements and construction so as not to impact on neighbouring premises or create air pollution at any time.

Reason: To prevent air pollution from dust and comply with legislation.

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

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan titled dated [INSERT].

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

37. **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**

38. **Required Tree Planting**

a) Trees shall be planted in accordance with the following:

- i) All trees as indicated on Landscape Plan Dwg No. LS501.1 Rev B dated 14.09.2021 prepared by Plot Design Group

b) Details demonstrating compliance are to be submitted to the Principal Certifying Authority by

a qualified horticulturalist, landscape architect or landscape designer prior to the issue of any Occupation Certificate.

Reason: To maintain environmental amenity.

39. **Landscape Completion**

a) Landscaping is to be implemented in accordance with the approved Landscape Plan, inclusive of the following conditions:

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. **Condition of Retained Vegetation - Project Arborist**

Prior to the issue of any Occupation Certificate a report prepared by the project arborist shall be submitted to the Certifying Authority assessing the health and impact on all existing trees required to be retained including the following information:

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

Reason: Tree protection.

41. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with the approved design plans by the design engineer in accordance with Councils Water Management Policy for Development. 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.

42. **Installation of Rainwater Tanks**

Rainwater tanks shall comply with the following:

- a) Be fitted with a first-flush device that causes initial rainwater run-off to bypass the tank and must drain to a landscaped area. The first flush device will not be permitted to connect to the stormwater system
- b) Have a sign affixed to the tank stating the contents is rainwater
- c) Be constructed or installed in a manner that prevents mosquitoes breeding, such as the use of mesh to protect inlets and overflows
- d) Have its overflow connected to an existing stormwater drainage system that does not discharge to an adjoining property, or cause a nuisance to adjoining owners
- e) Pumping equipment must be housed in a soundproof enclosure
- f) Where the rainwater tank is interconnected to a reticulated water supply, it must be installed in accordance with Plumbing Code of Australia, particularly backflow/cross

connection prevention requirements

A certificate from a licenced plumber shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: To conserve potable water.

43. **Allocation of parking spaces (strata title)**

All carparking spaces are to be assigned to individual units. All residential units must be assigned a minimum of one parking space. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure parking availability for residents in accordance with section C3 of Warringah Council's Development Control Plan.

44. **Shared Zone Bollard**

A bollard is to be provided at the shared zone between disabled spaces in accordance to Australian Standards AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards.

45. **Footpath Construction**

The 3 metre shared user path , in accordance to Council's standard specifications, shall be constructed along the property frontage to Council's satisfaction. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To provide pedestrian access to and from the property.

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:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- 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 for the Maintenance of Stormwater Pump-out Facilities**

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council

and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance of the pump-out facility on the property being developed. Northern Beaches Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Northern Beaches Council's delegate shall sign these documents prior to the submission to the NSW Land Registry Services. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

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

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

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

48. 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.

49. Post-Construction 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.

50. Security Gate and waste storage access gate configuration

The gate to the bin store must be hinged on the left hand side and swing open 180 degrees to latch against the wall outside the bin storage area. The security gate fence must be located at least 900 mm away from the opening of the entrance to the bin store to allow the bin store gate to swing outwards and latch against the wall.

Reason: To ensure unobstructed and safe access to the waste storage area to service the bins

51. **Environmental Reports Certification**

Written certification from a suitably qualified person(s) shall submit to the Principal Certifying Authority and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

(a) BASIX Certificate number 1239362M dated 15.09.2021 prepared by Building Sustainability Assessment.

(b) Traffic Report Issue B Ref 21281 dated September 2021 prepared by Transport and Traffic Planning Associates.

(c) Geotechnical Report Ref 21/09798 dated 24.09.2021 prepared by Michael Adler and Associates.

(d) National BCA Capability Report Version 1.01a Ref 21115 dated 22.09.2021 prepared by Rodger Dowsett.

(e) Building Sustainability Assessment Assessor Certificate Ref 16236 dated 15.09.2021 prepared by Gavin Chambers.

(f) Access Assessment Report (SEPP Seniors) Ref 112591-Access-r3 dated 15.09.2021 prepared by BCA Logic.

(g) Arborist Report Rev A dated 14.09.2021 prepared by Hugh Millington.

(h) Acoustic Report Ref BA210829 dated 15.09.2021 prepared by Blackett Acoustics.

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

Reason: To ensure compliance with standards.

52. **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.

53. **Building Number**

A building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

54. **Unit Numbering for Multi Unit Developments (Residential, Commercial and Industrial)**

The units within the development are to be numbered in accordance with the Australia Post Address Guidelines
(https://auspost.com.au/content/dam/auspost_corp/media/documents/Appendix-01.pdf).

In this regard, the numbering is to be as per the Unit Numbering for Multi Unit Development Table available on Council's website Unit Numbering for Multi-Unit Developments Form

External directional signage is to be erected on site at driveway entry points and on buildings and is to reflect the numbering in the table provided. Unit numbering signage is also required on stairway access doors and lobby entry doors.

It is essential that all signage throughout the complex is clear to assist emergency service providers in locating a destination within the development with ease and speed, in the event of an emergency.

Details are to be submitted with any Interim/Final Occupation Certificate or Strata Subdivision Certificate certifying that the numbering has been implemented in accordance with this condition and the Unit Numbering for Multi Unit Development Table.

Reason: To ensure consistent numbering for emergency services access.

55. 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.

56. 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.

57. 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.

58. 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

59. **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) For all new residential works with two or more dwellings and mixed use developments, 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.

60. **Undesirable Trees**

Leighton Green Cypress *Cupressocyparis leylandii* or any of its cultivars, or any other Undesirable Trees identified by Council, must not be planted on the site for the life of the development.

In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views and loss of plant diversity.

61. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

62. **Noise controls from mechanical plant**

Noise from combined operation of all mechanical plant and equipment must not generate noise levels that exceed the ambient background noise by more than 5 dB(A) when measured in accordance with the *Noise Policy for Industry 2017* and *Noise Guide for Local Government 2013* at the boundary of a receiving residential premises or other noise sensitive land uses.

Furthermore, noise from air conditioning plant must not be audible in a habitable room of an adjacent residence:

(i) before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or

(ii) before 7 am or after 10 pm on any other day.

Reason: to minimise the impact fixed mechanical plant noise has on residential amenity.
(DACHPGOG5)

63. **Parking for all construction staff and contractors**

The applicant is to make provision for parking for all construction staff and contractors for the duration of the project. All Staff and Contractors are to use the basement parking once available. All necessary facilities are to be provided to accommodate this requirement including lighting in the basement, security cameras, etc.

Reason: To ensure minimum impact of construction activity on local parking amenity.