

DATE OF DETERMINATION	28 October 2020
PANEL MEMBERS	Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Annelise Tuor, Brian Kirk
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 21 October 2020.

MATTER DETERMINED

PPSSNH-105 – Northern Beaches – DA2020/0579 at 25 Warriewood Road, Warriewood for a residential flat building, semi-detached dwelling, dwelling house and community title subdivision (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the reasons outlined below and in the Council assessment report.

The site is zoned R3 Medium Density Residential under the provisions of Pittwater Local Environmental Plan 2014 (PLEP 2014), and the proposed development is permissible with consent. The Panel concurs with Council's assessment that the proposed mixed residential development is well resolved, with well-articulated built form, generous landscaped areas and a variety of materials and textures that will blend with the proposed landscape solution.

The proposal would provide good amenity for future occupants of the proposed dwellings commensurate with that of surrounding properties and the proposal is considered to be an appropriate contextual fit for the site, within the Warriewood Valley Release Area.

Whilst the proposed residential flat buildings do not meet the minimum solar access requirements of the ADG and P21 DCP, the development is sited and designed to provide adequate sunlight, daylight and ventilation to habitable rooms during midwinter. As such the proposal is consistent with the outcomes of the solar access development control and the proposal is acceptable despite technical non-compliance in this regard.

Given Council's merit assessment of the development, the Panel concurs the proposal is consistent with the objectives of the DCP, the zone objectives and aims of the LEP, the objectives of the relevant EPIs and with the objects of the Environmental Planning and Assessment Act 1979 and approval of the proposal would be in the public interest.

CONDITIONS

The development application was approved subject to the conditions in the Council memo dated 27 October 2020 with the following amendments.

- Deferred Commencement Condition 2 Contamination amended to read as follows:
 - a) *In accordance with recommendation 2 of the Phase 1 Preliminary Site Contamination Report dated 29 May 2020 prepared by GETEX the applicant shall prepare a Detailed Asbestos Investigation to determine the human health risk for the proposed development with regards to asbestos.*
 - b) *Where a Detailed Asbestos Investigation identifies an asbestos human health risk so that remediation is required, then the remediation is to be undertaken in accordance with a Remedial Action Plan (RAP) developed and implemented in accordance with State Environmental Planning Policy No. 55 - Remediation of Land, and with any contaminated land planning guidelines under the Contaminated Land Management Act 1997.*
 - c) *The Detailed Asbestos Investigation report and any Remedial Action Plan, if required, shall be submitted to and approved by Council prior to the consent becoming active.*

Reason: Protection of the environment, SEPP 55 compliance.

- Operational condition 10 Surrender of Consent to read as follows:

The applicant shall surrender to Council Development Consent No: DA2018/1826. Details demonstrating compliance shall be submitted to Council prior to the issue of a subdivision certificate relating to Stage 1.
- Operational condition 41 Contamination Management to read as follows:
 - (a) *Requirement to Notify about new contamination evidence.*

Any new information revealed during excavation works that has the potential to alter any previous conclusions about site contamination or hazardous materials shall be immediately notified to the Northern Beaches Council and the Principal Certifying Authority.

(b). Remediation Action Plan

During works, recommendations contained within the Site Contamination Report dated 29 May 2020 prepared by GETEX are to be implemented. Should the Detailed Asbestos Investigation, required under deferred commencement condition 2, require a Remedial Action Plan (RAP) then the works associated with the remediation must be implemented in accordance with the approved RAP and the relevant regulatory requirements.

The Remedial Action Plan (RAP) is to be submitted to an EPA accredited Certified Environmental Practitioner for review and approval prior to remediation.

Details demonstrating compliance are to be submitted to Northern Beaches Council and the Principal Certifying Authority prior to the issue of the first Occupation Certificate.

(c) Asbestos Clean-up works

Alternatively, if a Remediation Action Plan is not required the applicant must engage appropriately qualified and experienced persons to assess the nature and extent of any asbestos contamination on the premises and prepare a detailed methodology and plan (the Clean-up Plan) for the lawful removal of any asbestos from the premises (the Clean-up works). Details demonstrating compliance are to be submitted to the Principal Certifying Authority and Northern Beaches Council prior to the commencement of excavation work.

(d) Off site disposal of Contaminated Soil – Chain of Custody

'Chain of Custody' documentation shall be kept and submitted for any transport of the validated fill material from the subject site at 25 -27 Warriewood Road, Warriewood, to an appropriately licenced waste facility.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority and Northern Beaches Council within seven (7) days of transport.

Reason: For the protection of the environment.

- Operational condition 45 Dust during works to read as follows:
Measures must be documented and implemented to minimise dust created as a result of excavation, vehicle movements and construction to minimise impact on neighbouring premises.

The proponent shall inform all potentially impacted neighbours of the nature of works to be carried out, as well as contact details of the contractors, before any work commence.

Reason: To control dust impacts to neighbouring properties and comply with legislation.

- Operational condition 46 Noise reduction measures to read as follows:
Construction is to be undertaken in accordance with the recommendations contained within the Noise Impact Assessment Report prepared by Knowles group dated August 2017 for site works, building design and equipment. Specifically the measures shall comply with those provided in table 4.1 of the noise impact assessment including a requirement for the proponent to inform all potentially impacted residents of the nature of works to be carried out, the expected noise levels and duration, as well as contact detail, before any work commences. Additionally, Council requires a documented record of any complaints and any action taken to be kept on site during site works and be freely accessible to Council, if required.

Equipment and methodology used to reduce noise during site works shall be best practice.

Reason: To minimise noise to internal and external residential receivers.

- Operational condition 54 Validation of Remediation to read as follows:
If a RAP is required, then a validation and site monitoring report, including details of all sites used for landfill disposal is to be prepared in accordance with relevant guidelines issues under the Contaminated Land Management Act 1997. The validation report must be reviewed and approved by an EPA accredited Certified Environmental Practitioner and must be in accordance with the protocol outlined in the NSW EPA (1997) document entitled Guidelines for Consultants Reporting Contaminated Sites, and state that the site is suitable for its proposed use.

Details demonstrating compliance are to be submitted to Northern Beaches Council and the Certifying Authority prior to the issue of the first Occupation Certificate.

Reason: To ensure environmental amenity is maintained.

- Operational condition 64 Post-Construction Dilapidation Report to read as follows:
 - a. *Prior to the issue of an Occupation Certificate for Stage 2 post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:*
 - i. *Compare the post-construction report with the pre-construction report,*
 - ii. *Clearly identify any recent damage and whether or not it is likely to be the result of the development works,*
 - iii. *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 the final Occupation Certificate for Stage 2.

- a. *Prior to the issue of an Occupation Certificate for Stage 3 post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:*
- i. *Compare the post-construction report with the pre-construction report,*
 - ii. *Clearly identify any recent damage and whether or not it is likely to be the result of the development works,*
 - iii. *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.



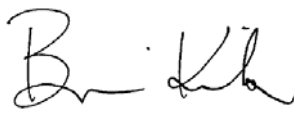


Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of the final Occupation Certificate for Stage 3.

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

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered two written submissions made during public exhibition, which raised concerns with overdevelopment and the impact of construction activities on neighbouring properties.

The Panel considered that concerns raised by the community were adequately addressed in the Assessment Report, by Applicant and Council responses during briefings of the Panel and in the amended conditions.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Julie Savet Ward
 Brian Kirk	 Annelise Tuor
 Steve Kennedy	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-105 – Northern Beaches – DA2020/0579
2	PROPOSED DEVELOPMENT	Construction of a Residential Flat Building, semi-detached dwelling, dwelling house and Community Title Subdivision, including internal private road.
3	STREET ADDRESS	Lot 29 DP 5464, 27 Warriewood Road WARRIEWOOD NSW 2102 Lot 28 DP 5464, 25 Warriewood Road WARRIEWOOD NSW 2102
4	APPLICANT/OWNER	J & G Knowles & Associates Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development ○ State Environmental Planning Policy (Coastal Management) 2018 ○ State Environmental Planning Policy (Infrastructure) 2007 ○ Pittwater Local Environmental Plan 2014 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Pittwater 21 Development Control Plan • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 21 October 2020 • Council memo and revised conditions: 27 October 2020 • Written submissions during public exhibition: 2 • Total unique submissions received by way of objection: 2
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 26 August 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Annelise Tuor, Steve Kennedy ○ <u>Council assessment staff</u>: Anne-Marie Young, Tony Collier • Final briefing to discuss council's recommendation: 28 October 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: [Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Annelise Tuor, Steve Kennedy ○ <u>Council assessment staff</u>: Anne-Marie Young, Ana Williams ○ <u>Applicant representatives</u>: Ellen Renshaw, Janelle Pirone, David Kettle
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report