

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2020/1756 |
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| Responsible Officer: | Jordan Davies |
| Land to be developed (Address): | Lot 66 DP 6248, 353 Barrenjoey Road NEWPORT NSW 2106 Lot 65 DP 6248, 351 Barrenjoey Road NEWPORT NSW 2106 Lot 64 DP 1090224, 351 Barrenjoey Road NEWPORT NSW 2106 |
| Proposed Development: | Demolition works and construction of a mixed use development (Shop Top Housing) |
| Zoning: | B2 Local Centre |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Delegation Level: | NBLPP |
| Land and Environment Court Action: | No |
| Owner: | RT Investments (NSW) Pty Ltd |
| Applicant: | Crawford Architects Pty Ltd |

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| Application Lodged: | 28/01/2021 |
| Integrated Development: | Yes |
| Designated Development: | No |
| State Reporting Category: | Mixed |
| Notified: | 06/08/2021 to 20/08/2021 |
| Advertised: | 06/08/2021 |
| Submissions Received: | 262 |
| Clause 4.6 Variation: | 4.3 Height of buildings: 13.9% - 37.6% |
| Recommendation: | Approval |

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| Estimated Cost of Works: | \$ 7,055,446.00 |
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EXECUTIVE SUMMARY

The application seeks consent for a shop-top housing development comprising a three (3) storey building above basement parking. The development accommodates 13 Residential units and ground floor commercial/retail tenancies.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) for determination as the proposal has received 262 submissions across two (2) separate notification periods. The application

Also seeks a departure from the Height of Buildings development standard of more than 10% pursuant to Clause 4.6 of the Pittwater Local Environmental Plan 2014 (PLEP).

The key issues that have been raised by the community during the two (2) public exhibition periods is the proposed vehicular access off Robertson Road and the proposed development's contextual fit and contribution to the Newport Commercial Village which includes both the northern and southern sides of Robertson Road. The community have raised issue with vehicular access to the site off Robertson Road which, if constructed may inhibit any future opportunity to pedestrianise Robertson Road which is currently a one-way street giving access to the subject land and adjoining land to the north-west.

Council has considered the application against the requirements of the Newport Masterplan and Pittwater 21 Development Control Plan (DCP) with regards to the designated vehicular access within the Newport Commercial Village. The development is consistent with the Masterplan and the DCP, which show a vehicular access point to the subject site from Robertson Road. It is also important to note that the Newport Master Plan identifies that Robertson Road is to be maintained as a one-way street. The Masterplan does not envisage the full closure of Robertson Road to vehicles. The proposal is also consistent with the required pattern of site amalgamation identified within the Newport Masterplan and DCP.

Notwithstanding the proposals consistency with the masterplan and the DCP, the applicant has incorporated design measures to facilitate a potential future scenario whereby vehicular access to the site could be achieved through the adjoining land at No. 31 Foamcrest Avenue (to the north-west currently owned by Australia Post) via a basement breakthrough and the subsequent closure of the access driveway off Robertson Road. This would be contingent on development occurring at No. 31 Foamcrest Avenue. As no development upon No. 31 Foamcrest Avenue is imminent, this option is considered a long term solution to minimising vehicles along Robertson Road, if Council in the future amended the Masterplan or required the full closure of Robertson Road.

The breach to the building height is considered against the requirements of the PLEP later in this report. In summary, the applicant's written request is considered to be well founded and the proposed non-compliance is supported in this regard. The development is considered to be consistent with the key Design Criteria under the Apartment Design Guide (ADG) with regard to residential amenity whereby the proposed building design has optimised solar access despite the south facing corner orientation.

The application has been considered on two separate occasions by the Design and Sustainability Advisory Panel (DSAP) and each time the applicant has amended the plans in accordance with the recommendations given by the DSAP in order to provide a satisfactory building design with regards to internal amenity and the streetscape context within the Newport Commercial Village.

Each of the initial concerns raised by Council during the assessment of the application have been addressed by way of amended plans and additional information, and the applicant has provided an appropriate response to address the community concerns regarding vehicular impact on Robertson Road (whilst maintaining the reasonable development rights of the land in accordance with the DCP) therefore, the application is recommended for approval to the NBLPP subject to the conditions outlined at the end of this report.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development is for demolition of the existing structures on the land and construction of a three (3) storey shop top housing development containing 8 retail shops and 13 Residential units. The proposal comprises the following:

- Demolition of existing buildings and removal of two trees.

Basement Level

- Parking for 16 residential vehicles (with provision for 2 additional spaces).
- Parking for 9 retail vehicles.
- Parking for 1 visitor vehicle.
- Loading zone/washing zone (combined).
- Bicycle parking.
- 1 Accessible Bathroom, 2 x Standard WC.
- Solar Battery Storage room.
- AC Plant Equipment.
- Residential Storage.

Ground Level

- Vehicular Access off Robertson Road to the basement.
- Eight (8) retail shops ranging from 41sqm - 151sqm.
- Two (2) residential entrance lobbies accessed off Robertson Road.
- Commercial waste storage room and residential waste storage room.
- Residential bulky goods storage.
- Accessible WC.

Level 1

- Eight (8) residential units, of which 1 x 3 bedroom, 5 **6** x 2 bedroom and 2 **1** x 1 bedroom. One (1) unit being an accessible unit.
- Each unit has access to a balcony or outdoor terrace area.

Level 2

- Five (5) residential units, of which 4 x 2 bedroom units and 1 x 1 bedroom unit. Two (2) being accessible units.
- Each unit has access to a balcony or outdoor terrace area.
- Communal open space area.

Roof

- Skylight, lift overrun, kitchen exhaust, carpark exhaust, landscape roof and solar panels.

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

Assessment - Nominated Integrated Development – WaterNSW - Water Management Act 2000 (s91 Permit for Temporary Construction Dewatering)

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

Pittwater Local Environmental Plan 2014 - 5.10 Heritage conservation

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater Local Environmental Plan 2014 - 7.3 Flood planning

Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements

Pittwater 21 Development Control Plan - C1.25 Plant, Equipment Boxes and Lift Over-Run

Pittwater 21 Development Control Plan - D10.9 Setbacks (Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.19 Subdivision and Amalgamation (Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.22 Arcades (Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.24 Building Depth and Separation (Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.28 Open Space (Newport Commercial Centre)

SITE DESCRIPTION

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| Property Description: | <p>Lot 66 DP 6248, 353 Barrenjoey Road NEWPORT NSW 2106</p> <p>Lot 65 DP 6248, 351 Barrenjoey Road NEWPORT NSW 2106</p> <p>Lot 64 DP 1090224, 351 Barrenjoey Road NEWPORT NSW 2106</p> |
| Detailed Site Description: | <p>The subject site consists of three (3) allotments located on the north-eastern corner of Barrenjoey Road and Robertson Road. The lot known as No. 351 Barrenjoey Road as is legally described as Lot 64 in DP 1090224 and Lot 65, Sec 5 in DP 6248. The lot known as No. 353 Barrenjoey Road is legally described as Lot 66, Sec 5 in DP 6248.</p> |

The site is irregular in shape with a frontage of 26.4m along Barrenjoey Road and a depth of 46m along Robertson Road. The site has a surveyed area of 1,313m².

The site is located within the B2 Local Centre zone and accommodates an existing two and three storey brick shop top housing development (circa 1960s), with at grade car parking at the rear and a driveway access of Robertson Road to this parking.

The site has a slight fall from west to east, sloping down towards Barrenjoey Road. The site has a crossfall of 1.6m to the east.

The site includes one (1) tree of approximately 5m in height located in the western setback of No. 353 Barrenjoey Road. There is a Lemon Scented Gum Tree straddling the property boundary and the road reserve along the Robertson Road Frontage. In the Barrenjoey Road road reserve fronting the site, there is a landscape garden containing five mature palm trees of varying heights.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by a mixture of older single storey retail shops, older two and three storey shop top housing and some more modern examples of three storey shop top housing developments.

Immediately adjoining the site to the north-east is a single storey retail development, across the road to the south-west are single storey retail shops, to the north-west is a site owned and operated by Australia Post consisting a loading area and retail outlet within a single storey building. Also adjoining the land to the north-west is a local heritage item being St. Michael's Anglican Church, consisting a single storey church buildings. To the east (across Barrenjoey Road) are two and three storey shop top housing developments and commercial developments.

Map:



SITE HISTORY

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

- Pre-lodgement Meeting **PLM2019/0111** was held on 13 June 2019 for the construction of a shop top housing development.
- Development Application **DA2019/1157** for demolition works and construction of a shop top housing development was withdrawn on 13 October 2020.
- A further Pre-lodgement meeting **PLM2020/0269** was held on 26 November 2020 for the construction of a shop top housing development. The pre-lodgement proposal was referred to the Design and Sustainability Advisory Panel (DSAP) for consideration regarding the design and sustainability of the development. The purpose of this PLM was to obtain feedback from the DSAP and no further formal pre-lodgement meeting was held with Council staff.
- The subject Development Application **DA2020/1756** was accepted by Council on 28 January 2021.

Application History

- The application was publicly notified and advertised as Nominated Integrated Development for a period of at least 30 Days from 5 February 2021 to 7 March 2021.
- The application was referred to the DSAP for further review and comment on 29 April 2021. The DSAP did not support the proposal and a list of recommendations were provided to address the issues raised in the meeting. The DSAP report of 29 April 2021 forms an attachment to this assessment report.

- Council wrote to the applicant on 27 May 2021 requesting that the comments of the DSAP be addressed and additional information be provided following on from Council's preliminary assessment and the issues raised by Council's internal referral bodies.
- Council received amended plans and documentation in response to the DSAP recommendations and additional information by Council on 22 June 2021. The additional information was subsequently re-notified and advertised on 6 August 2021 for a period of 14 days (as the statutory requirement for a 30 day advertisement of Nominated Integrated Development had already been undertaken during the initial exhibition).
- The application and amended plans were referred back to the DSAP for comment and input on 23 September 2021. The Panel noted the changes made by the applicant were improvements and provided recommendations to further resolve and refine the development.
- The applicant provided an amended set of plans and response to each of the DSAP recommendations on 2 November 2021. These are discussed in detail later within the report. In accordance with Council's adopted Community Participation Plan, the application was not required to be re-notified again due to the minor nature of these changes.

It is also noted that at the Council meeting held on 23 March 2021, Council endorsed a Mayoral Minute following significant community interest to the public exhibition of the subject DA. Council resolved to write to land owners in the Newport Village Commercial Centre and local community groups inviting them to participate in a meeting/workshop with Council representatives to discuss the realization of the vision to revitalise the Newport Village Commercial centre as documented in the Masterplan prepared by Pittwater Council (and which forms part of Pittwater 21 Development Control Plan (DCP) – including opportunities for site amalgamations.

The landowners/community meeting, facilitated by Elton Consulting, was held on 28 July 2021. The applicant's proposal to incorporate design measures to facilitate a potential future scenario whereby vehicular access to the site could be achieved through the adjoining land at No. 31 Foamcrest Avenue (to the north-west currently owned by Australia Post) via a basement breakthrough and the subsequent closure of the access driveway off Robertson Road, arose from listening to the concerns of some community members raised at the landowners/community meeting.

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 |
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| 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 the purpose of shop top housing for an extended period of time. The proposed development retains the use of the site, and is not considered a contamination risk. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Pittwater 21 Development Control Plan applies to this proposal. |

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| Section 4.15 (1) (a)(iii) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at</p> |

| Section 4.15 Matters for Consideration' | Comments |
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| | <p>lodgement of the development application. This documentation has been submitted.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to plan amendments to address the requirements of the Design Panel, building height, engineering and stormwater issues, amended car parking design, amended geotechnical forms and report, waste storage design and water management. The applicant submitted additional information for Council to assess and this was accepted and assessed as part of the application.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This matter may be addressed via a condition of consent.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 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 Matters for Consideration' | Comments |
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| 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 on two occasions, with the most recent exhibition from 06/08/2021 to 20/08/2021 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 262 submission/s from:

| Name: | Address: |
|------------------------------------|---|
| Jacque Thomson | Address Unknown |
| Mr Simon Barlow | 3 / 27 Ocean Avenue NEWPORT NSW 2106 |
| Mrs Lynda Barlow | 53 Bardo Road NEWPORT NSW 2106 |
| Mrs Sandra Joan Tall | 6 Myola Road NEWPORT NSW 2106 |
| Claire Suzanne Macewan | 3 Walworth Avenue NEWPORT NSW 2106 |
| Mrs Bronwyn Joan Brooks | 4 / 13 Trevor Road NEWPORT NSW 2106 |
| David William Broadbridge | Po Box 864 MONA VALE NSW 1660 |
| Mr Ross Ashley Curtin | 12 Neptune Road NEWPORT NSW 2106 |
| Ms Sarah May Garnett | 101 Bungan Head Road NEWPORT NSW 2106 |
| Ms Patricia Marilyn Fry | 2 / 14 Queens Parade NEWPORT NSW 2106 |
| Ms Katherine Margaret Howard Tripp | 5 Elouera Road AVALON BEACH NSW 2107 |
| Mr Anthony Craig Boaden | 34 Trappers Way AVALON BEACH NSW 2107 |
| Ms Roslyn Faye Tebble | 39 Grandview Parade MONA VALE NSW 2103 |
| Rhonda Elizabeth Campbell | 5 / 6 Foamcrest Avenue NEWPORT NSW 2106 |
| Mr Justin Henderson Grunwald | 16 Robertson Road NEWPORT NSW 2106 |
| Mrs Anie Diana Spalding | 1 / 108 A Irrubel Road NEWPORT NSW 2106 |
| Mr Shane Douglas Cook | 18 The Avenue NEWPORT NSW 2106 |
| Mr Andrew Sim McFarlane | 2 / 3 Seaview Avenue NEWPORT NSW 2106 |
| Mrs Alana Hadfield | 12 A Bishop Street NEWPORT NSW 2106 |

| Name: | Address: |
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| Mr Christopher George Fesdekjian | 24 / 326 - 330 Barrenjoey Road NEWPORT NSW 2106 |
| Ms Linda Georgia Silmalis | 8 / 20 Seaview Avenue NEWPORT NSW 2106 |
| Jessica Lee Knight | 3 Mariposa Road BILGOLA PLATEAU NSW 2107 |
| Mr James Rupert Charles Knight | 13 / 1 Vuko Place WARRIEWOOD NSW 2102 |
| Mrs Sonia Spoard | 14 Seabeach Avenue MONA VALE NSW 2103 |
| Julien Firlop | 1 Wollombi Road BILGOLA PLATEAU NSW 2107 |
| Mrs Jillian Clare King | 32 Queens Parade NEWPORT NSW 2106 |
| Petrina Nicklin | 1 Stuart Street NEWPORT NSW 2106 |
| Mr Graeme John Taylor | 7 / 35 - 37 Ocean Avenue NEWPORT NSW 2106 |
| Millie King | 32 Queens Parade NEWPORT NSW 2106 |
| Kate Ponton | 40 Bilwara Avenue BILGOLA PLATEAU NSW 2107 |
| Mrs Bronwyn Gaye-Laney Green | 15 A Crane Lodge Place PALM BEACH NSW 2108 |
| Mrs Judith Helen Kenmore Eastman | 32 Queens Parade NEWPORT NSW 2106 |
| Mr Jeffery Conway Tinker | 41 Queens Parade NEWPORT NSW 2106 |
| Gail Margaret Broady | 41 Patrick Street AVALON BEACH NSW 2107 |
| Ms Kristen Deamer | 11 / 29 Gladstone Street NEWPORT NSW 2106 |
| Elizabeth Robertson | 90 Wallumatta Road NEWPORT NSW 2106 |
| Skye Beckett | 3 Sanctuary Avenue AVALON BEACH NSW 2107 |
| Nerolie Jan Heckendorf | 22 A Nullaburra Road NEWPORT NSW 2106 |
| Lisa Denvir | 12 / 32 Ross Street NEWPORT NSW 2106 |
| Mr Deane Tinker | 41 Queens Parade NEWPORT NSW 2106 |
| Mrs Elaine Denise Krek | 3 Goodwin Road NEWPORT NSW 2106 |
| Mrs Diana Rendell Gilder | 11 Gertrude Avenue NEWPORT NSW 2106 |
| Sandy Duffield | 2/2 The Avenue NEWPORT NSW 2106 |
| Mrs Simonne Kusturin | 31 A Hillcrest Avenue MONA VALE NSW 2103 |
| Ms Melissa Joan Turnock | 12 Herbert Avenue NEWPORT NSW 2106 |
| Mrs Kerrie Shimeld | 51 Careel Head Road AVALON BEACH NSW 2107 |
| Mrs Susan Rix | 13 Daly Street BILGOLA PLATEAU NSW 2107 |
| Mr John Edmond Koerner | 6 Bungan Head Road NEWPORT NSW 2106 |
| Mrs Elizabeth Elsie Albers | 282 Barrenjoey Road NEWPORT NSW 2106 |
| Mr Matthew David Hardy | 58 Herbert Avenue NEWPORT NSW 2106 |
| Mrs Nicole Margaret Koerner | 6 Bungan Head Road NEWPORT NSW 2106 |
| Mr Mark Stephen Tooker | 30 Walworth Avenue NEWPORT NSW 2106 |
| Ms Sonja Pettersen | 27 Robertson Road NEWPORT NSW 2106 |
| Ms Janine Gisela Moller | 87 Plateau Road BILGOLA PLATEAU NSW 2107 |
| Mrs Michaela Ann Visser | 59 Park Avenue AVALON BEACH NSW 2107 |
| Mrs Elizabeth Jane Collis | 49 Chisholm Avenue AVALON BEACH NSW 2107 |
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| Name: | Address: |
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| Macarena Astrain | 64 Cheryl Crescent NEWPORT NSW 2106 |
| Brett Baker | 149 Queens Parade East NEWPORT NSW 2106 |
| Mrs Vicky Louise King | 54 Irrubel Road NEWPORT NSW 2106 |
| Mrs Susan Lois Rogers | 96 Bungan Head Road NEWPORT NSW 2106 |
| Mrs Merren Elizabeth Bracey | 80 Queens Parade East NEWPORT NSW 2106 |
| Ms Suzanne Elizabeth Crossman | 13 / 125 Darley Street West MONA VALE NSW 2103 |
| Mrs Chelsey Baker | 24 Old Barrenjoey Road AVALON BEACH NSW 2107 |
| Ms Frances Louisa Colley | 1 Loombah Street BILGOLA PLATEAU NSW 2107 |
| Timothy Chamberlain | 31 Bellevue Avenue AVALON BEACH NSW 2107 |
| Mrs Lucy Emma Creegan | 77 Park Avenue AVALON BEACH NSW 2107 |
| Ms Lisa Nicole Tyndall | 2 Argyle Street BILGOLA PLATEAU NSW 2107 |
| Ms Susan Wendy Logan | 712 Barrenjoey Road AVALON BEACH NSW 2107 |
| David Catchlove | 77 Myola Road NEWPORT NSW 2106 |
| Ms Catherine Yetts | 13 Prince Alfred Parade NEWPORT NSW 2106 |
| Janice Leach | 36 Hillside Road NEWPORT NSW 2106 |
| Mr Glenn Raymond Moore | 30 Prince Alfred Parade NEWPORT NSW 2106 |
| Mrs Jacqueline Mary Paton | 10 Palm Road NEWPORT NSW 2106 |
| Sonia Petereit | 19 Wallumatta Road NEWPORT NSW 2106 |
| Mrs Renee Claire Fabian Voice | 63 Bungan Head Road NEWPORT NSW 2106 |
| Mrs Tasmin Jean Holloway | 83 Central Road AVALON BEACH NSW 2107 |
| Steven John Collins | 4 Wallumatta Road NEWPORT NSW 2106 |
| Mrs Christine Jane Jephcott | 23 - 27 Calvert Parade NEWPORT NSW 2106 |
| Mr Matthew Charlton Jeans | 19 Wallumatta Road NEWPORT NSW 2106 |
| Newport Residents Association | PO Box 1180 NEWPORT BEACH NSW 2106 |
| Mrs Karen Lorraine Alchin | 49 Riverview Road AVALON BEACH NSW 2107 |
| Mr Peter John Middleton | PO Box 1055 NEWPORT BEACH NSW 2106 |
| Mr Michael John Bullen | 9 The Avenue NEWPORT NSW 2106 |
| Mr David John Abbott | Po Box 1166 MONA VALE NSW 1660 |
| Gregory Ross | Address Unknown |
| Ms Penelope Ann Auburn | 6 Stuart Street NEWPORT NSW 2106 |
| Ms Susanne Elizabeth Corney | 4 / 36 Seaview Avenue NEWPORT NSW 2106 |
| Mrs Debra Birch | 19 Myola Road NEWPORT NSW 2106 |
| Mrs Katrina Lorraine Meek | 38 A Queens Parade NEWPORT NSW 2106 |
| Mr Kyle A Hill | 55 Irrubel Road NEWPORT NSW 2106 |
| Mrs Christina Mary Hutchinson | 79 Dolphin Crescent AVALON BEACH NSW 2107 |
| Mr David Charles Hutton | 16 / 40 Foamcrest Avenue NEWPORT NSW 2106 |
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| Name: | Address: |
|-----------------------------------|---|
| Ms Justine Helen Lobb | PO Box 196 BYRON BAY NSW 2481 |
| Mr Richard James Nagle | 32 Grandview Parade MONA VALE NSW 2103 |
| James Nagle | 8 Bungan Head Road NEWPORT NSW 2106 |
| Reef Nagle | 8 Bungan Head Road NEWPORT NSW 2106 |
| Mrs Janice Marie Lobb | 55 / 16 Mona Vale Road MONA VALE NSW 2103 |
| Mrs Jodi Gai Newton | 14 Nooal Street NEWPORT NSW 2106 |
| Mr Theunis Cornelius Van Den Berg | 6 / 34 - 38 Foamcrest Avenue NEWPORT NSW 2106 |
| Ms Saffron Amelia Carter | 58 Irrubel Road NEWPORT NSW 2106 |
| Ms Sasha Carrel | 6 / 30 - 32 Foamcrest Avenue NEWPORT NSW 2106 |
| Ms Karen Louise Sheehy | 202 / 3 Seaview Avenue NEWPORT NSW 2106 |
| Hamish Robert Macewan | 3 Walworth Avenue NEWPORT NSW 2106 |
| Mrs Cherie Michelle Lovett | 61 Bardo Road NEWPORT NSW 2106 |
| Mrs Glenda Hanks | 21 Wallumatta Road NEWPORT NSW 2106 |
| Mr Michael Mogens Peschardt | 91 A Myola Road NEWPORT NSW 2106 |
| Ms Sarah Kate Rose | 54 Grandview Drive NEWPORT NSW 2106 |
| Mrs Janine Lesley Weiss | 28 Nullaburra Road NEWPORT NSW 2106 |
| Mrs Deborah Ann Einspinner | 1C Bungan Head Road NEWPORT NSW 2106 |
| Phil Pettitt | Address Unknown |
| Mr David Alan Lye | 25 Trevor Road NEWPORT NSW 2106 |
| Tina Berkeley | 54 Seaview Avenue NEWPORT NSW 2106 |
| Mrs Jill Kemp | 18 Kanimbla Crescent BILGOLA PLATEAU NSW 2107 |
| Kristen Duross | 18 Beaconsfield Street NEWPORT NSW 2106 |
| Christine Bodart | Address Unknown |
| Mr David Hugh Goodman | 153 Wallumatta Road NEWPORT NSW 2106 |
| Ms Suzanne Andree Portefaix | PO Box 718 NEWPORT BEACH NSW 2106 |
| Mr Andrew Kinnaird Collingridge | 37 Seaview Avenue NEWPORT NSW 2106 |
| Mr Glenn Wilson Lukey | PO Box 718 NEWPORT BEACH NSW 2106 |
| Mr Dick England | 1 / 39 - 41 Ocean Avenue NEWPORT NSW 2106 |
| Mr Michael Kevin Musgrave | 3 Wallumatta Road NEWPORT NSW 2106 |
| Mr Toby Goodman | Address Unknown |
| Mr Andrew James Bracher | 15 Lovering Place NEWPORT NSW 2106 |
| Mrs Karen Louise Bond | 18 / 337 Barrenjoey Road NEWPORT NSW 2106 |
| Mrs Cheryl Ann Cullen | 38 Prince Alfred Parade NEWPORT NSW 2106 |
| Mr Gavin Fortescue Birch | 19 Myola Road NEWPORT NSW 2106 |
| Miss Rebecca Lee Duke | 16 Bareena Road AVALON BEACH NSW 2107 |
| Ms Sara Daisy Bell | 1 Fazzolari Avenue MONA VALE NSW 2103 |
| Ms Stella Edith Stovin- | 2 / 40 Foamcrest Avenue NEWPORT NSW 2106 |

| Name: | Address: |
|---|---|
| Bradford | |
| Mr Michael Gordon Heckendorf | PO Box 70 NEWPORT BEACH NSW 2106 |
| Mrs Sarah Jane Kennedy | 17 / 10 Queens Parade NEWPORT NSW 2106 |
| Mrs Dianne Margaret Cook | 22 Myola Road NEWPORT NSW 2106 |
| Mr David Charles Holmes | 15/4 Young Street NEUTRAL BAY NSW 2089 |
| Mrs Trudi Maria Davanzo | 10 Utingu Place BAYVIEW NSW 2104 |
| Ms Marion Joan Delprado | 5 Ismona Avenue NEWPORT NSW 2106 |
| Mrs Sarah Jane Voysey | 20 Ocean Avenue NEWPORT NSW 2106 |
| Ms Suellen Therese Riegler | 7 / 34 - 38 Foamcrest Avenue NEWPORT NSW 2106 |
| Mrs Jenny Doreen Crayfourd | 5 / 40 Foamcrest Avenue NEWPORT NSW 2106 |
| Mr Brian William Jefferys | 128 Queens Parade East NEWPORT NSW 2106 |
| Mrs Kim Linda Jefferys | 128 Queens Parade East NEWPORT NSW 2106 |
| Ms Lisa Jane Clothier | 9 The Avenue NEWPORT NSW 2106 |
| Katherine Ashley | 21 Irrubel Road NEWPORT NSW 2106 |
| Mrs Wendy Dunnet | 17 Calvert Parade NEWPORT NSW 2106 |
| Mr Adam George Fitzpatrick | 78 Herbert Avenue NEWPORT NSW 2106 |
| Mrs Felicity Gai Hance | 32 Irrubel Road NEWPORT NSW 2106 |
| Ms Jennifer Catherine Rushforth Mr Ian Keith Barton Storey | 1 A Nullaburra Road NEWPORT NSW 2106 |
| Mrs Amber Corin Marsh | 104 Plateau Road BILGOLA PLATEAU NSW 2107 |
| Peta Di Palma | 38 Greystoke Street WHEELER HEIGHTS NSW 2097 |
| Patsy Clayton-Fry | 2 / 14 Queens Parade NEWPORT NSW 2106 |
| Mrs Lucy Geraldine Wright | 15 Terama Street BILGOLA PLATEAU NSW 2107 |
| Mr Roman Zwolenski | 8 Calvert Parade NEWPORT NSW 2106 |
| Ms Linda Joan Dry-Parker | 88 Hilltop Road AVALON BEACH NSW 2107 |
| Mrs Philomena Noela Zwolenski | 8 Calvert Parade NEWPORT NSW 2106 |
| Mrs Rebecca Louise Antcliff | 12 Wallumatta Road NEWPORT NSW 2106 |
| Liz Metzler | 86 Irrubel Road NEWPORT NSW 2106 |
| Imogen McDonell | 3 / 16 Foamcrest Avenue NEWPORT NSW 2106 |
| Andrew Porter | 15 Georgia Lee Place CLAREVILLE NSW 2107 |
| Ms Danina Dupain Anderson | PO Box 1120 NEWPORT BEACH NSW 2106 |
| V King | Address Unknown |
| Mr Raymond Russell Brooks | 4 / 13 Trevor Road NEWPORT NSW 2106 |
| Ms Cassandra Star Mappin | 4 Stanley Street NEWPORT NSW 2106 |
| Mrs Deborah Elizabeth Denman | 8 Urara Road AVALON BEACH NSW 2107 |
| Mr Gregory James Mckean | 36 Cheryl Crescent NEWPORT NSW 2106 |
| Mrs Alicia Jacqueline Campbell | 34 Kanimbla Crescent BILGOLA PLATEAU NSW 2107 |

| Name: | Address: |
|---|---|
| Ms Alexandra Edith Annette Harman-Brown | 30 Myola Road NEWPORT NSW 2106 |
| Mr Robert John Evans | 145 Prince Alfred Parade NEWPORT NSW 2106 |
| Kenneth Preben Christensen | 9 Lovering Place NEWPORT NSW 2106 |
| Mr Paul Handscomb | 44 Seaview Avenue NEWPORT NSW 2106 |
| Mrs Nicola Elizabeth Pfennigwerth Elliott | 25 Hillside Road NEWPORT NSW 2106 |
| Prof Michael Lawrence | 55 Bungan Head Road NEWPORT NSW 2106 |
| Mr Paul Edward Marsh | 3 Yachtview Avenue NEWPORT NSW 2106 |
| Mrs Maxine Belle Hogan | 47 Loombah Street BILGOLA PLATEAU NSW 2107 |
| Ms Martha Alma Gee | PO Box 463 NEWPORT BEACH NSW 2106 |
| Mrs Petrina Jane Flaherty | 34 Hampden Road PENNANT HILLS NSW 2120 |
| Mr Richard Kingsley Hall | 1 Gertrude Avenue NEWPORT NSW 2106 |
| Polly Browne | 36 Neptune Road NEWPORT NSW 2106 |
| Mr Beau Michael McDonell | 19 Myola Road NEWPORT NSW 2106 |
| Mr Simon Paul William Brown | 2 / 118 Beatrice Street BALGOWLAH HEIGHTS NSW 2093 |
| Ms Claudia Berry | 28 Ocean Avenue NEWPORT NSW 2106 |
| Mr Ulf Christer Palm | 13 / 41 Foamcrest Avenue NEWPORT NSW 2106 |
| Jain Beverly Parsons | 53 Kanimbla Crescent BILGOLA PLATEAU NSW 2107 |
| Mr William Kenneth Thomson | 99 Queens Parade East NEWPORT NSW 2106 |
| Cate Archibald | 2 Ocean Avenue NEWPORT NSW 2106 |
| Mr Matthew Paul Stevens | 2 Howell Close NEWPORT NSW 2106 |
| Mrs Joanne Dawn Palm | 13 / 41 Foamcrest Avenue NEWPORT NSW 2106 |
| Mr Robert Athol Baird | 5 / 16 Foamcrest Avenue NEWPORT NSW 2106 |
| Skye Heazlett | 82 Prince Alfred Parade NEWPORT NSW 2106 |
| Mrs Marita Ann Macrae | 24 Catalina Crescent AVALON BEACH NSW 2107 |
| Mr Barry Steven Ridley | 20 Herbert Avenue NEWPORT NSW 2106 |
| Ms Rose Ishbel Cullen | 26 Capua Place AVALON BEACH NSW 2107 |
| Billie Abbott | Address Unknown |
| Mr Kyle Arthur Hill | PO Box 35 NEWPORT BEACH NSW 2106 |
| Mr Howard Gavin Moxham | 23 / 14 Princes Street NEWPORT NSW 2106 |
| Mr Simon Paul Rossington | 16 / 23 Woolcott Street NEWPORT NSW 2106 |
| Mr John Guthrie | 11 / 67 Foamcrest Avenue NEWPORT NSW 2106 |
| Ms Susan Louise Coleman | 1 / 75 Beaconsfield Street NEWPORT NSW 2106 |
| Mr David John Garnham | 2 / 9 - 11 Kalinya Street NEWPORT NSW 2106 |
| Ms Shelley Margret Doust | 71 Myola Road NEWPORT NSW 2106 |
| Mr Roger Timothy Johnston | C/- Vaughan Milligan Development Consulting Pty Ltd Po Box 49 NEWPORT NSW 2106 |
| Mrs Patricia Ann Stewart | 2 / 1 Seaview Avenue NEWPORT NSW 2106 |
| Mr Roger James Pugh | 2 / 41 Foamcrest Avenue NEWPORT NSW 2106 |
| Mr Rossiter John Kerr | 35 Raymond Road BILGOLA PLATEAU NSW 2107 |
| | |

| Name: | Address: |
|---------------------------------|---|
| Mr Gregory James Moore | 7 Mount Pleasant Avenue MONA VALE NSW 2103 |
| Mr Geoffrey Bernard Appleton | 1 / 2 - 4 Foamcrest Avenue NEWPORT NSW 2106 |
| Mrs Jane Elizabeth alison Hardy | 58 Herbert Avenue NEWPORT NSW 2106 |
| Mr Brian Gerard Smith | 14 Irrubel Road NEWPORT NSW 2106 |
| Ms Karen Margaret Robinson | 129 Prince Alfred Parade NEWPORT NSW 2106 |
| Dr Dominique Marguerite Beck | 23 / 14 Princes Street NEWPORT NSW 2106 |
| Ms Diana Shanks | 177 Wallumatta Road NEWPORT NSW 2106 |
| Banner Nagle | 36 Grandview Drive NEWPORT NSW 2106 |
| Ms Margaretha Hester Hoekstra | 4 Hillslope Road NEWPORT NSW 2106 |
| Mr Roy Edwin Toomey | 8 / 35 - 37 Ocean Avenue NEWPORT NSW 2106 |
| Ms Robyn Ann Davies | 33 Argyle Street BILGOLA PLATEAU NSW 2107 |
| Andrew Herriott | 1 / 14 Seaview Avenue NEWPORT NSW 2106 |
| Mrs Susan Christine Martin | 19 Hudson Parade AVALON BEACH NSW 2107 |
| Mr Kevin John Wickenden | C/- Vaughan Milligan Development Consulting Pty Ltd Po Box 49 NEWPORT NSW 2106 |
| Fred Fokker | Address Unknown |
| Ms Anna Mary Schloeffel | PO Box 922 NEWPORT BEACH NSW 2106 |
| Patricia Margaret Colquhoun | 40 Bardo Road NEWPORT NSW 2106 |
| Mrs Pia Maarit Lehtonen-Davies | 5 / 11 - 13 A Oyama Avenue MANLY NSW 2095 |
| Mrs Roxana Rose Grunwald | 16 Robertson Road NEWPORT NSW 2106 |
| Rudwin Barry Doherty | 39 Nullaburra Road NEWPORT NSW 2106 |
| Mr John Colquhoun | 60 Cowan Drive COTTAGE POINT NSW 2084 |
| Mrs Danielle Coates | Address Unknown |
| Mr Gregory Alfred Eccles | PO Box 714 NEWPORT BEACH NSW 2106 |
| Mr Richard Raymond Links | 81 Queens Parade East NEWPORT NSW 2106 |
| Ms Penelope Jane Hunstead | 85 Bungan Head Road NEWPORT NSW 2106 |
| Mrs Renae Ridley | 18 Herbert Avenue NEWPORT NSW 2106 |
| Mrs Michelle Leigh Lye | 25 Trevor Road NEWPORT NSW 2106 |
| Mrs Robbie Alyshia Carter | 13 Lovering Place NEWPORT NSW 2106 |
| Mr Simon John Bodley | 2 / 19 - 21 Ocean Avenue NEWPORT NSW 2106 |
| Mr Peter Bruce Coulter | 2 / 18 Foamcrest Avenue NEWPORT NSW 2106 |
| Andrea Kisser-Quig | 132 Wallumatta Road NEWPORT NSW 2106 |
| Ms Leonie Desree Leonard | 636 Barrenjoey Road AVALON BEACH NSW 2107 |
| Mr Robert Donald Mackinnon | 16 Norma Road PALM BEACH NSW 2108 |
| Mr Christopher Pearce | 6 Riviera Avenue AVALON BEACH NSW 2107 |
| Stephanie Maria Kirby | 13 Mirrabooka Street BILGOLA PLATEAU NSW 2107 |
| Ms Amanda Jane Pearce | 7 / 19 - 21 Ocean Avenue NEWPORT NSW 2106 |

| Name: | Address: |
|---|---|
| Mr Robert Bruce Charlton | 6 / 26 Seaview Avenue NEWPORT NSW 2106 |
| Mrs Susan Patricia Blunsden | 14 Palm Road NEWPORT NSW 2106 |
| Mrs Piera Erica Thomas | 162 Barrenjoey Road NEWPORT NSW 2106 |
| Paulina Barlow | 24 A Nullaburra Road NEWPORT NSW 2106 |
| Mrs Michele Cecelia Paul | 79 Princes Lane NEWPORT NSW 2106 |
| James Ricketson | 316 Whale Beach Road PALM BEACH NSW 2108 |
| Lucille Moore | 30 Prince Alfred Parade NEWPORT NSW 2106 |
| Chris Blunsden | Address Unknown |
| Mrs Susan Margaret Young | 28 Hillcrest Avenue MONA VALE NSW 2103 |
| Ms Miranda Maragret Korzy | 80 Wandeen Road CLAREVILLE NSW 2107 |
| Ms Christine Jeanne Josephine Ghislaine Bodart | 30 Prince Alfred Parade NEWPORT NSW 2106 |
| Mrs Lynette Therese Newman | 28 Irrubel Road NEWPORT NSW 2106 |
| Zoe Daly | 95 Cheryl Crescent NEWPORT NSW 2106 |
| Selena Anne Cameron Webber | 7 Foamcrest Avenue NEWPORT NSW 2106 |
| Mr Richard Henry Harper | 37 Beaconsfield Street NEWPORT NSW 2106 |
| Mrs Wendy Ashley | 21 Irrubel Road NEWPORT NSW 2106 |
| Mrs Kay Lynette Middleton | PO Box 1055 NEWPORT BEACH NSW 2106 |
| Mrs Margrethe Ingemann Marsh | 3 Yachtview Avenue NEWPORT NSW 2106 |
| Mr Stuart Colquhoun | 17 Wallumatta Road NEWPORT NSW 2106 |
| Avalon Preservation Trust Incorporated as Avalon Preservation Association | 24 Catalina Crescent AVALON BEACH NSW 2107 |
| Kim Perry | Address Unknown |
| Ms Caitlin Rachel Capp | 4 / 11 - 15 Foamcrest Avenue NEWPORT NSW 2106 |
| Mr Robert Anthony Piper | 4 Jedda Place MONA VALE NSW 2103 |
| Ms Elizabeth Iris Catherine Hay | 7 / 12 Seaview Avenue NEWPORT NSW 2106 |

The application was originally notified and advertised for a period of 30 days (being nominated integrated development), whereby 146 submissions were received regarding the proposed development.

As a result of Council receiving amended plans, the proposal was renotified and advertised for a period of 14 days (the renotification being 14 days, as the 30 statutory requirement for nominated integrated development had already been carried out). The second round of notification resulted in an additional 116 submissions, making a total of 262 submissions regarding the proposed development.

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

- ***Non-compliance with building height resulting in bulk and scale out of character for the***

locality.

- ***Non-compliance with upper floor side setback and rear setback, resulting in overdevelopment of the site.***
- ***Overshadowing of the southern side of Robertson Road.***
- ***The proposed vehicular access point off Robertson Road will mean that pedestrianisation of Robertson Road cannot occur in the future and inhibits closing of Robertson Road for street events, as well as potential permanent closure of Robertson Road to create a pedestrian village hub. The driveway should also be moved closer to Barrenjoey Road as to not inhibit this.***
- ***The development is not in keeping with the Newport village feel and character and does not do activate Robertson Road in a satisfactory way.***
- ***The development is too dense, resulting in increased vehicle movements on Robertson Road.***
- ***Removal of a significant lemon scented gum tree on Robertson Road.***
- ***The development of sites in the vicinity of Robertson Road should include a consolidated approach and include more/all parcels of land fronting Robertson Road, including both sides of Robertson Road. A coordinated approach to development of both sides of Robertson Road should be taken by Council.***

The matters raised within the submissions are addressed as follows:

- ***Non-compliance with building height resulting in bulk and scale out of character for the locality.***

Comment

An assessment of building height is considered in detail under Clause 4.6 of the PLEP later within this report.

In summary, the proposed development has been amended to reduce the amount of building encroaching into the portion of the site that has a 8.5m height limit, allowing the two storey character at the western corner of the site to be achieved.

As considered under the assessment of Clause 4.6, the remaining areas of non-compliant building are located centrally within the site, resulting in a two storey building appearance being maintained at the western corner and retain the solar access outcomes for the southern side of Robertson Road, as envisaged by the masterplan. The bulk and scale of the development when viewed from the street is less than that of the existing building onsite.

Overall, the proposal is found to be satisfactory as detailed within the assessment under Clause 4.6 of the PLEP and this issue does not warrant the refusal of the application.

- ***Non-compliance with upper floor side setback and rear setback, resulting in overdevelopment of the site.***

Comment

An assessment against the DCP with regards to side setbacks is undertaken later in this assessment report.

In summary, the north-western boundary (facing No. 31 Foamcrest Avenue) is treated as a side setback given the corner position of the site, with the proposed development being compliant with the required 3m second level setback at the north-western boundary. The non-compliance to the north-eastern second level upper floor setback is considered in detail later in this

assessment report.

Overall, the proposed setbacks are satisfactory with regard to achieving the character of the B2 Local Centre zone and providing an optimal building orientation for solar amenity and building separation in accordance with the Apartment Design Guideline (ADG).

This issue does not warrant the refusal of the application.

- ***Overshadowing of the southern side of Robertson Road.***

Comment

The prescribed building height under Clause 4.3 of the PLEP compliments the intended outcome to achieve a high level of solar access to the southern side of Robertson Road and the future pedestrian plaza to be provided in the redevelopment of properties on the southern side of Robertson Road.

As detailed later (in the Clause 4.6 assessment regarding building height), the satisfactory solar outcome to the southern side of Robertson Road is achieved notwithstanding the numerical non-compliance with the control. This is due to the substantial setback to the non-complaint portion of the building which does not have a direct impact upon overshadowing. Furthermore, the applicant has provided an additional street setback for Level 1 adjoining Robertson Road in this portion of the site, to further improve solar access outcomes for Robertson Road.

Overall, the proposal is found to be satisfactory with regards to the solar access outcomes for Robertson Road and this issue does not warrant the refusal of the application.

- ***The proposed vehicular access point off Robertson Road will mean that pedestrianisation of Robertson Road cannot occur in the future and inhibits closing of Robertson Road for street events, as well as potential permanent closure of Robertson Road to create a pedestrian village hub. The driveway should also be moved closer to Barrenjoey Road as to not inhibit this.***

Comment

In response to the above concern regarding permanent closure and pedestrianisation of Robertson Road, the Newport Masterplan does not make any reference to permanently closing off Robertson Road to vehicles and pedestrianising Robertson Road. Rather, the Masterplan makes reference to Robertson Road being retained as a one-way street. This is further supported by Figure 4.4 of the Masterplan which shows a vehicular access point to the site from Robertson Road. The Newport Masterplan recognises that development adjoining Robertson Road will have a role in activating the street and providing a 'pedestrian friendly' environment, with temporary closure for events.

It has been raised by the community that the proposal will restrict the closing off of Robertson Road for future street events due to the volume of traffic generated by the proposal. However, given the proposal is consistent with the required pattern of site amalgamation and the vehicular access point, as guided by the Masterplan, the proposal can be supported in the current configuration and refusal of the application for this reason would be unwarranted. The short term closure for the purpose of street events could continue to be undertaken with the appropriate notification to businesses and residents and this may still occur as a result of the proposed development.

In recognition of the issue raised by the community and the desire by the community to have an outcome whereby Robertson Road could be closed off to vehicles in the future (for both events

and permanently if that is what the Council decides to do at a future date), the applicant has put forward some measures to address this should the land at No. 31 Foamcrest Avenue (which is currently owned and operated by Australia Post) be developed in the future. The measures which are proposed and shown on the plan include:

- Designing the basement to allow 'punch through' connections to No. 31 Foamcrest Avenue and No. 355 Barrenjoey Road. Noting, that any future development of 355 Barrenjoey Road must obtain vehicular access from either 351-353 Barrenjoey Road or 359-356 Barrenjoey Road.
- Allowing the driveway to be removed and access gained through No. 31 Foamcrest Avenue to the basement carpark of the proposed development, at a time No. 31 Foamcrest Avenue is developed;
- Designing the crest of the driveway to be removable so the access to the site from Robertson Road could be removed;
- Providing details of the floor plan and elevation of how the former driveway off Robertson Road could be made into a retail space, following the above occurring.

Whilst the above scenario is contingent upon the development of No. 31 Foamcrest Avenue, Council is satisfied that sufficient measures have been established to allow this to occur as a medium to long term solution in achieving the community's desired outcome for pedestrianising Robertson Road and removing vehicular access from Robertson Road.

Furthermore, in addition to structural solutions that are proposed to be built into the development to allow this to occur, Council has also recommended a consent condition for a positive covenant and a restriction under *Section 88E of the Conveyancing Act* that imposes and obligation upon the owner of the land to obtain the necessary consents and carry out all necessary ancillary work at its own cost to provide practical and appropriate vehicular access by registered instrument for the development site and adjoining development site at 355 Barrenjoey Road to and from Foamcrest Avenue. The covenant shall state that when such access becomes available to and from Foamcrest Avenue the subject site access from Robertson Road is to be made inaccessible by Vehicles.

Therefore, the proposed development can be supported given consistency with the Masterplan and the solutions put forward by the applicant for a future solution, at a time when the adjoining land is developed at 31 Foamcrest Avenue. At present allowing a driveway off Robertson Road is within the reasonable development rights of the land and consistent with the Newport Masterplan, with the ability to still conduct temporary closures for community events.

The proposed driveway location has been considered with regards to the proximity to Barrenjoey Road. Whilst it has been raised that the driveway should be closer to Barrenjoey Road to make it easier to close off for events, Council's traffic engineer is satisfied with the location of the driveway to prevent cueing onto Barrenjoey Road. See Council's traffic engineer's comments later in this report.

This issue does not warrant the refusal of the application.

- ***The development is not in keeping with the Newport village feel and character and does not do activate Robertson Road in a satisfactory way.***

Comment

The issue regarding activation of Robertson Road is addressed above. The proposed development provides three retail/commercial tenancies fronting Robertson Road which are capable of a variety of uses, including restaurants and cafes which will serve to activate the street.

This issue does not warrant the refusal of the application.

- ***The development is too dense, resulting in increased vehicle movements on Robertson Road.***

Comment

The proposed development is a reasonable density considering the required building separation under the ADG, the height limits under the PLEP and the DCP setbacks applying to the land.

The non-compliances with the DCP are supported given any additional floor area gained has been off-set with more than compliant DCP setbacks to the north-eastern boundary in order to achieve a high level of solar access for the proposal and separation to the northern-eastern site.

Council's Transport Department have reviewed the proposal with regards to traffic generation and consider it satisfactory with regards to the impact upon Robertson Road in the context of the Masterplan nominating a vehicular access point to the site from Robertson Road.

This issue does not warrant the refusal of the application.

- ***Removal of a significant Lemon Scented Gum tree on Robertson Road.***

Comment

The proposal requires the removal of one (1) significant gum tree which straddles the site boundary and Robertson Road.

The application is accompanied by an Arborist Report and Council's Landscape Department are satisfied that removal of this tree is reasonable in the circumstances of the case. New street tree planting is proposed to compliment the existing street tree planting in the vicinity of the site. It is also noted that the Newport Masterplan does not show the retention of this tree in the landscape concept for Robertson Road.

This issue does not warrant the refusal of the application.

- ***The development of sites in the vicinity of Robertson Road should include a consolidated approach and include more/all parcels of land fronting Robertson Road, including both sides of Robertson Road. A coordinated approach to development of both sides of Robertson Road should be taken by Council.***

Comment

Council has engaged with adjoining land owners in the vicinity of Robertson Road through the assessment process to ascertain if a coordinated approach could be undertaken. At this time however, not all property owners in the vicinity of Robertson Road are in a position to develop imminently alongside the subject site.

The required amalgamation pattern of the Newport Commercial Centre is set out in the DCP and the proposed development is consistent with that requirement, combining No. 351 and No. 353 Barrenjoey Road. Council cannot force development of the adjoining privately owned land, including land across the road. The north-western property at No. 31 Foamcrest Avenue (Australia Post site) has also indicated there is no current plans for development of this site and therefore, the proposed of No. 351 - 353 Barrenjoey Road with vehicular access from Robertson Road is reasonable, in accordance with the Masterplan and allows the development rights of the subject land. The future solution whereby access would be gained through No. 31 Foamcrest Avenue is achievable subject to development of No. 31 Foamcrest Avenue in the future.

REFERRALS

| Internal Referral Body | Comments |
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| Design and Sustainability Advisory Panel | The application was initially referred to the Design Sustainability Advisory Panel (DSAP) on 29 April 2021. As a result of the Panel |

| Internal Referral Body | Comments |
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| | <p>review, there were a total of 27 recommendations made with regards to sustainability and urban design of the proposal. The fundamental recommendations raised were as follows:</p> <ul style="list-style-type: none"> - Rearrange access to units by providing multiple lift cores in lieu of access off balconies. - Explore in conjunction with Council a reduction in off-street parking requirements (by reduction in the extent or depth of the basement). - Resolve access to waste storage areas for retail and commercial. - Deletion of unit 14 which is in breach of the 8.5m height limit at the south-western portion of the site. The purpose of the 8.5m height limit to provide solar access to the café strip and future public plaza on the southern side of Robertson Road. - Reconfiguration of units 12 and 13 to achieve compliant solar access and reduce unit depth. - Assess compliance with egress requirements. - Natural lighting to the lobbies. - Reconsider size and location of common areas on second level. - Resolve privacy for level 1 units Private Open Space. - Inclusion of sustainability measures such as rainwater, onsite renewable energy generation, EV charging, natural lighting through skylights top level. <p>The applicant subsequently undertook redesign of the proposal and provided a response to each of the items raised by the DSAP. Of note, the applicant included a second lift core within the development which resolved privacy and solar access, a unit was deleted to remove a significant portion of building which breached the 8.5m height limit and replaced this area with a more substantial communal open space, removal of one basement level of parking with the agreement of Council, resolve access and implement sustainability measures where required. The DSAP report containing these recommendations are attached to this report.</p> <p>Following the receipt of amended plans, the proposal was referred back to the DSAP on 23 September 2021 to consider the proposal in light of the changes. The DSAP recognised and commended the changes made by the applicant in response to the first meeting. The DSAP made comment on the issues raised by the community with regards to vehicular access and parking off Robertson Road, noting the vehicular access point is in accordance with the Newport Masterplan and the applicant has provided opportunity for basement breakthroughs and potential removal of the driveway off Robertson Road in the future, with the panel raising no issue to this aspect of the proposal. The Panel still considered that some of the internal planning and amenity of the units remained unresolved and further recommendations with regards to the internal planning and amenity of</p> |

| Internal Referral Body | Comments |
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| | <p>the units were made. A copy of the DSAP report is provided as an attachment to this report.</p> <p>In response to the internal planning and amenity, the applicant provided further amended plans which responded and incorporated each of the recommendations of the Panel as directed by sketches provided by the Panel. This included rearranging the internal planning for Units 5, 6, 8, 12 and 13, as directed by the sketches provided by the DSAP. This change included a raised roof form over bedroom 6, which resulted in a minor encroachment to the 8.5m height limit and this is addressed under the Clause 4.6 assessment later within this assessment report and found to be inconsequential.</p> <p>The remainder of the changes were adopted by the applicant, with the exception of the replacement of the glass balustrade to the southern edge of communal open space. The applicant has advised this will add further bulk and scale to the proposal, with glass a better solution. Council agree removal of the glass balustrade in lieu of concrete or solid balustrade would add further height and scale to the proposal and therefore the applicants position of not adopting this change is supported.</p> <p>Overall, the applicant has adopted the second round of recommendations by the DSAP to improve the internal planning and amenity of the proposal, along with further refinement of the Robertson Road façade by additional planters and refinement of the shop front window treatment. The proposal was not required to be referred back a third time, due to the minor nature of these changes and the applicant providing a satisfactory response to resolve each of the outstanding matters raised by the DSAP.</p> |
| Building Assessment - Fire and Disability upgrades | <p>Supported subject to conditions</p> <p>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.</p> <p>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.</p> |
| Environmental Health (Acid Sulphate) | <p>Supported subject to conditions</p> <p>Environmental Health has been requested to consider this proposal for "Demolition works and construction of a mixed use development (Shop Top Housing)" in relation to the potential presence of acid sulphate soils.</p> <p>The Acid Sulfate Soils Risk Map (Pittwater Local Environmental Plan</p> |

| Internal Referral Body | Comments |
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| | <p>2014) indicates that the site is within land mapped as Class 3 and Class 4 acid sulphate soils which are represented as follows:</p> <p><u>Class 3</u> Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.</p> <p><u>Class 4</u> Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.</p> <p>The plans supplied with the proposal indicate the requirement for significant excavation of soil and rock beyond the levels described above, to enable the construction of two basement levels.</p> <p>A report (Preliminary Geotechnical Assessment ref 5622-G1 Rev 1 dated 11 December 2020 by assetgeoenviro) supplied with the proposal documentation states that certain Geomorphic Criteria are met for the subject site, indicating that acid sulphate soils are likely to be present.</p> <p>These criteria are described as:</p> <ul style="list-style-type: none"> - Sediments of recent geological age (Holocene). - Marine or estuarine sediments and tidal lakes. - In coastal wetlands or back swamp areas; waterlogged or scalded areas; interdunal swales or coastal sand dunes (if deep excavation or drainage is proposed). <p>The report further recommends "Further sampling and testing are recommended to verify presence of potential and/or actual acid sulfate soils".</p> <p>Accordingly, the proposal is supported, subject to appropriate conditions being imposed on the development.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions.</p> |
| Environmental Health (Industrial) | <p>Supported subject to conditions</p> <p>Environmental Health has been requested to consider this proposal for "Demolition works and construction of a mixed use development (Shop Top Housing)".</p> <p>Of major concern with developments such as the one proposed, is the generation of noise and how it may affect the amenity of both external and internal receivers.</p> |

| Internal Referral Body | Comments |
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| | <p>A report (Acoustical Report - DA Stage dated 20 January 2021 by Koikas Acoustics) has been supplied with the proposal documentation.</p> <p>It is standard practice in such reports to undertake unattended noise monitoring surveys to establish levels of ambient noise.</p> <p>It is noted that section "3.0 AMBIENT NOSIE SURVEY" of the above report references unattended noise monitoring surveys which were conducted from Friday 29th July to Thursday 4th August 2011 for seven consecutive days.</p> <p>Environmental Health has previously recommended refusal of this application based on the above information.</p> <p>The applicant has now acknowledged that further noise monitoring needs to be conducted.</p> <p>As the nearest residential receiver appears to be located some distance away, it is considered appropriate to condition the development to require a new Acoustic Report prior to works being conducted.</p> <p>The Acoustic Report is to be submitted to Councils Environmental Health Department for review and approval before the commencement of works.</p> <p>Recommendation</p> <p>APPROVAL - Subject to condition.</p> |
| Landscape Officer | <p>Supported subject to conditions</p> <p>The application is for the demolition of the existing buildings and structures, excavation for basement parking and the construction of a shop-top housing development.</p> <p>The application is assessed by Landscape Referral against State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP 65), and associated Apartment Design Guide (ADG), and Pittwater Local Environmental Plan (PLEP) and Pittwater Development Control Plan (DCP), including but not limited to the following clauses:</p> <ul style="list-style-type: none"> - Principle 5: Landscape, of SEPP65 requires " that ... landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design optimises useability, privacy and opportunities for social interaction, equitable |

| Internal Referral Body | Comments |
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| | <p>access, respect for neighbours' amenity ..."</p> <ul style="list-style-type: none"> - ADG: Part 3E Deep Soil Zones. - PDCP: clause C1.1 and C2.1 Landscaping and clause C2.20 Public Road Reserve - Landscaping and Infrastructure, and Newport Commercial Centre controls D10.17 Character of the Public Domain. <p>The DCP clause D10.17 requires that development with frontages within the Commercial Centres shall include the design and construction of works in the public domain including the footpath zone, footpath paving finish, kerb and gutter, drainage facilities, street furniture, street lighting and landscaping and making good the adjacent road formation and pavement for the full width of the development site on all public road reserve frontages at the full cost to the developer.</p> <p>The landscape component of the proposal is acceptable subject to the protection of existing trees within the Barrenjoey Road road reserve footpath, and the completion of landscape works as proposed and the completion of public domain works upon the road reserve footpath including paving and street tree planting.</p> |
| NECC (Development Engineering) | <p>Supported subject to conditions</p> <p>The proposal involves excavation for two levels of basement. Certified Forms 1 & 1A are required to be submitted with the geotechnical report in accordance with Geotechnical Risk Management Policy for Pittwater – 2009.</p> <p><u>Stormwater</u> The proposal to discharge site stormwater to the kerb in Robertson Road and Barrenjoey Road in four locations is not supported. It is recommended that the site discharge be connected to the existing Council pit in Robertson Road adjacent to the site.</p> <p><u>Additional Information Provided on 7/7/2021</u> Previous comments regarding regarding stormwater discharge have not been addressed. It is recommended that the site discharge be connected to the existing Council pit in Robertson Road adjacent to the site.</p> <p>Additionally Certified Forms 1 & 1A are required to be submitted with the geotechnical report in accordance with Geotechnical Risk Management Policy for Pittwater – 2009.</p> <p><u>Additional Information Provided on 23/9/2021</u> Amended stormwater plans have been reviewed. Certified Forms 1 & 1A have been provided. No objections to approval subject to conditions as recommended.</p> |
| NECC (Stormwater and Floodplain Engineering – | Supported subject to conditions |

| Internal Referral Body | Comments |
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| Flood risk) | <p>This is a new DA since the relatively recent DA2019/1157, however the pertinent floor levels are the same.</p> <p>The Flood Planning Level (FPL) and the Probable Maximum Flood (PMF) level vary across the site, generally sloping down as per the slope on Foamcrest Avenue.</p> <p>The 1% AEP levels in Figure 1, "Flood Planning Levels - Rev B" in Demlakian's Flood Management Report (March 2020) include an allowance for climate change, as required due to intensification of the site. The water levels provided on this Figure have been checked against the Newport Flood Study (2019). They show that the driveway crest and each of the main floor areas of the individual retail areas is above the FPL. For each individual retail area, Control F10 is met with not more than 30m² or the first 5m from the front being below the FPL.</p> <p>The proposed development generally complies with the flood requirements of the LEP and DCP.</p> |
| NECC (Water Management) | <p>Supported subject to conditions</p> <p>The development application has been amended with a Water Quality Treatment Chain.</p> <p>The project is satisfactory and present low environmental risk during the operational stage.</p> <p>Sedimentation and erosion control shall be in place during all construction and landscape establishment period.</p> <p>The development application is supported subject to conditions.</p> |
| Road Reserve | <p>Supported without conditions</p> <p>There is no significant impact on existing road infrastructure.</p> <p>The redevelopment of the site should include replacement of paving in Robertson Road in accordance with Council's Public Domain guidelines.</p> |
| Strategic and Place Planning (Heritage Officer) | <p>Supported and no conditions imposed</p> <p>The proposal seeks consent for a three storey shop top development on the subject site.</p> <p>The heritage item is located to the rear of the site, directly behind No. 353 Barrenjoey Road. It does not extend along the rear of No. 351 Barrenjoey Road. The heritage item is located deep into its site, close to the common boundary. Its primary presentation and view corridor is to and from Foamcrest Avenue. The southern elevation of the building can be seen from Robertson Road however this is through adjoining sites, most notably the car park of No. 31 Foamcrest Avenue. Further,</p> |

| Internal Referral Body | Comments |
|------------------------|--|
| | <p>its presentation to this side is relatively simple presenting as a blank wall and gable end. Thus the primary consideration of heritage will be how the building relates to the Foamcrest Avenue presentation.</p> <p>When viewed from Foamcrest Avenue, the proposal is considered to be acceptable to heritage. This is because it has attempted to locate the bulk of the upper levels away from the common boundary with the heritage item. This allows more room for the item to be easily read without higher dominant features behind. If amendments to further improve the proposal are to be considered this should include reducing the northern extent of Unit 3 on Level 1 and the communal terrace area on Level 2. It would also include reducing the extent of the building height breach in the western area of the site. These would further reduce visual impacts of the bulk and scale of the development on the heritage item. Nevertheless the proposal as currently presented is considered to have a tolerable impact on the heritage item.</p> <p>Therefore Heritage raises no objections and requires no conditions.</p> |
| Traffic Engineer | <p>Supported subject to conditions</p> <p><u>Second referral response - additional information received</u> The proponent has submitted updated plans to Council to resolve some of the issues that the community had with the proposed development and the impact on the amenity of Robertson Road.</p> <p><u>Parking provision</u> The update plan reduces the Basement Level from 2 to 1 and reduces the parking provision from 52 to 26. The allocation of spaces has not been confirmed as a part of the documentation provided, however it is noted that to achieve the required precinct outcome for Robertson Road all parking provided within the subject site is to be allocated for the residential component of the development, including residential visitors only.</p> <p>All commercial parking will be provided within the overall Newport Village precinct. It is noted that this will result in a deficiency of approximately 20 spaces (although there is not this number provided for the existing commercial usage of the site).</p> <p>The parking provision is supported in line with the community vision for the adjoining road and reducing the volume of traffic using Robertson Road.</p> <p><u>Access driveway</u> The access driveway is proposed to be initially located from Robertson Road with the future potential for the site to achieve a long term connection to Foamcrest Avenue through the site to the west. The applicant has also made provision for the next site to the north to potentially achieve access through the car park to eliminate the need for the access from Barrenjoey Road.</p> |

| Internal Referral Body | Comments |
|------------------------|--|
| | <p>The location of the access driveway in Robertson Road is near the western boundary of the property away from Barrenjoey Road (approx. 35 metres), with the location allowing the future conversion to additional commercial space should access from Foamcrest Avenue be achieved in the future. The location will have the least impact from the combined queue length of vehicles accessing the basement, and using the angled parking on the southern side of Robertson Road.</p> <p>Whilst the option to completely remove vehicle access from Robertson Road would be ideal, access from Barrenjoey Road is not permitted and the impact of any development on the traffic flow along Barrenjoey Road needs to be considered including the potential for queuing to affect the pedestrian safety and accessibility.</p> <p>The revised proposal is supported as it has less impact on the amenity in the area and provides a benefit to the future pedestrian safe environment in Robertson Road.</p> <p><u>Initial Referral Response</u></p> <p>The proposed redevelopment of the site has been assessed against the required parking for the number of residential units and commercial floor space within the development.</p> <p>The proposed car parking provision and layout meets the requirement of the DCP and AS2890.1:2004.</p> <ul style="list-style-type: none"> - There is 1 - 3 bedroom unit with a requirement of 2 spaces, 10 - 2 bedroom unit with a requirement of 20 spaces, 2 1 bedroom unit with a requirement of 2 spaces, and 6 visitor spaces totaling 30 spaces for the residential component. The proposal has an additional 2 residential parking spaces totaling 32 spaces for the residential component. - There is 548m² of retail floor space with the requirement of 1 space per 30m². There is 20 parking spaces provided for the retail component of the development. <p>Access is provided from the Robertson Road site frontage, with a 5.5 metre wide two way access driveway to the basement car park.</p> <p>The auto-turn has been reviewed and complies with the intent of the access requirements.</p> <p>The applicant has submitted a Construction Traffic Management Plan with the documentation package which has been reviewed and requires amendment, as such this will need to be submitted separately as per the condition with amendments.</p> <p>The application is supported on traffic grounds.</p> |
| Waste Officer | |

| Internal Referral Body | Comments |
|------------------------|--|
| | Supported subject to conditions Recommendation - acceptable subject to conditions. |

| External Referral Body | Comments |
|--|---|
| Ausgrid: (SEPP Infra.) | Supported subject to conditions The proposal was referred to Ausgrid who provided a response 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 Police – Crime Prevention Office (Local Command matters) | No Comment The application was referred to the NSW Police for comment. No comments were received from the NSW during the consideration of the application. This is taken to be no comment. |
| NSW Roads and Maritime Services (Traffic Generating Development) | Support Subject to conditions The application was referred to Transport for New South Wales (TfNSW) being traffic generating development under Schedule 3 of the SEPP (Infrastructure) 2007. TfNSW have reviewed the proposal and support the proposed development, subject to conditions of consent. |

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 and commercial purposes (shop top housing) for a significant period of time with no prior land uses which would likely result in contaminated land.

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 and commercial land use (shop top housing).

SEPP 65 - Design Quality of Residential Apartment Development

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

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

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

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

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

(c) the building concerned contains at least 4 or more dwellings.

As previously outlined the proposed development is for the erection of a three storey shop top housing development plus basement car parking for the provisions of 14 self-contained dwellings.

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

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

Clause 28 of SEPP 65 requires:

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

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

DESIGN REVIEW PANEL

The application was referred to the Design and Sustainability Advisory Panel on two occasions for input and recommendation regarding the design and criteria of the ADG. On both occasions, the recommendations of the panel were incorporated by the applicant and any issues resolved to Council's satisfaction. A detailed discussion is contained earlier within this report regarding the referrals to the

DSAP.

DESIGN QUALITY PRINCIPLES

Principle 1: Context and Neighbourhood Character

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

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

Comment

The area is a B2 Local Centre Zone which is characterised by shop top housing and commercial buildings, between one and three stories in height. The Newport Master Plan, the DCP and PLEP guide the future desired character of the area and the proposal has responded to the key principles and built form controls to provide a building that is consistent with the B2 Local Centre Zone and gradually developing Newport Town Centre.

The proposal provides opportunity for traffic movements to be minimised and potentially removed in the future along Robertson Road, while retaining the reasonable development rights of the land at present.

Principle 2: Built Form and Scale

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

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

Comment

The building is a scale consistent with the nearby recently developed sites which comprise up to three storey shop top housing.

The building is compliant with height at the Barrenjoey Road street edge and Robertson Road Street Edge, with the building height breaches central to the site and do not comprise a two storey form being achieved the Robertson Road Street edge.

The building is therefore of a scale that would reasonably be expected for a new shop top housing development under the current planning controls and within a B2 Local Centre zone.

Principle 3: Density

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

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

community facilities and the environment.

Comment

The building provides amenity in accordance with the ADG with regard the amenity outcomes achieved for solar access, cross ventilation and privacy.

The density is appropriate for the B2 Local Centre context given the proximity to services and transport.

There is no density control which guides the development apart from the built form controls. The breaches to the built form controls have been considered in detail in this assessment and they are found to be reasonable given the development potential of the site, which includes large portions of the site with an 11.5m height limit undeveloped in order to achieve high levels of solar amenity and building separation to the north adjoining site.

Principle 4: Sustainability

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

Comment

The proposal incorporates a high level of cross ventilation, with a high number of units either dual frontage or corner units. The proposal also achieves a compliant level of solar access and includes skylights to further enhance daylighting of the units. Solar panels are used for the development and rainwater harvesting is proposed, in line with the recommendations of the DSAP.

Principle 5: Landscape

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

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

Comment

The proposed development has included planter boxes fronting the street to compliment the exiting landscaping in the public domain.

The area adjoining the communal open space is provided with landscape planting to soften the development as viewed from the adjoining heritage building. The Level 1 units are provided with landscape gardens to enhance amenity and provide an internal landscape outlook for these units.

Principle 6: Amenity

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

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

Comment

The proposed development provides compliant building separation that does not restrict future development of the adjoining lands with regards to solar access, outlook and privacy.

The building itself provides adequate storage, sunlight, ventilation, room sizes and POS dimensions. Although some of the units slightly exceed the recommended room depths under the ADG, these units have optimal orientation to the north and large private open space landscaped gardens to improve outlook and amenity. This is discussed below the ADG assessment table.

Principle 7: Safety

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

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

Comment

The building has good passive surveillance over Robertson Road to enhance public safety and activate this street. The building entrances are defined and public/private space is easily identifiable.

Principle 8: Housing Diversity and Social Interaction

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

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

Comment

The building provides an appropriate mix of one, two and three bedroom units which is consistent with the context of the B2 Local Centre Zone. The building provides three (3) accessible units which is consistent with the ADG.

Principle 9: Aesthetics

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

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

Comment

The building includes a variety of materials, landscape treatments and roof forms that compliment the area and is consistent with the character desired by the Newport Master Plan.

The ground level retail provides shop fronts with attractive windows and a scale that has been broken down through window and facade treatments. The spatial proportions of the building are consistent with the controls, presenting a stepped back upper level to Barrenjoey Road and a two storey building form adjacent to the Robertson Road street edge at the south-western corner.

APARTMENT DESIGN GUIDE

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

| Development Control | Criteria / Guideline | Comments | | | | | | |
|---------------------------------------|--|--|--------------------|---------------------------------|-----------|---|----|---|
| Part 3 Siting the Development | | | | | | | | |
| Site Analysis | Does the development relate well to its context and is it sited appropriately? | Consistent Yes, see comments above under Design Quality Principles. | | | | | | |
| Orientation | Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties? | Consistent Yes, the development steps away from the north-eastern boundary to allow solar aspect and a northern aspect to the majority of units. | | | | | | |
| Public Domain Interface | Does the development transition well between the private and public domain without compromising safety and security? Is the amenity of the public domain retained and enhanced? | Consistent Yes, all retail spaces front the public road and the vehicular access point is consistent with the masterplan. | | | | | | |
| Communal and Public Open Space | Appropriate communal open space is to be provided as follows: 1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter) | Inconsistent No, only 9.7% of the site area is provided as communal open space, with this area receiving at least 3 hours and achieves the required amount of solar access. This is discussed below under this table. | | | | | | |
| Deep Soil Zones | Deep soil zones are to meet the following minimum requirements: <table border="1" data-bbox="438 1977 1062 2136"> <tr> <th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr> <tr> <td>Less than</td><td>-</td><td>7%</td></tr> </table> | Site area | Minimum dimensions | Deep soil zone (% of site area) | Less than | - | 7% | Inconsistent No deep soil zone. |
| Site area | Minimum dimensions | Deep soil zone (% of site area) | | | | | | |
| Less than | - | 7% | | | | | | |

| | <table><tr><td>650m²</td><td></td></tr><tr><td>650m² – 1,500m²</td><td>3m</td></tr><tr><td>Greater than 1,500m²</td><td>6m</td></tr><tr><td>Greater than 1,500m² with significant existing tree cover</td><td>6m</td></tr></table> | 650m ² | | 650m ² – 1,500m ² | 3m | Greater than 1,500m ² | 6m | Greater than 1,500m ² with significant existing tree cover | 6m | | | | | |
|---|---|--|-------------------------------|---|-----------------------|----------------------------------|----|---|----|------|-----------------------|-----|----|---|
| 650m ² | | | | | | | | | | | | | | |
| 650m ² – 1,500m ² | 3m | | | | | | | | | | | | | |
| Greater than 1,500m ² | 6m | | | | | | | | | | | | | |
| Greater than 1,500m ² with significant existing tree cover | 6m | | | | | | | | | | | | | |
| Visual Privacy | <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p> | Building height | Habitable rooms and balconies | Non-habitable rooms | Up to 12m (4 storeys) | 6m | 3m | Up to 25m (5-8 storeys) | 9m | 4.5m | Over 25m (9+ storeys) | 12m | 6m | Consistent <ul style="list-style-type: none">- The proposal provides building separation in accordance with the ADG.- Zero setback walls contain no window openings or balconies.- All terraces and windows facing the northern boundary provide minimum 6m building separation to the northern boundary.- No window openings to the western boundary where Level 3 is setback 4.3m.- Privacy screen provided to western elevation of Unit 13 terrace to resolve privacy.- Privacy screen used for units 10 and 12 to resolve direct views between POS. |
| Building height | Habitable rooms and balconies | Non-habitable rooms | | | | | | | | | | | | |
| Up to 12m (4 storeys) | 6m | 3m | | | | | | | | | | | | |
| Up to 25m (5-8 storeys) | 9m | 4.5m | | | | | | | | | | | | |
| Over 25m (9+ storeys) | 12m | 6m | | | | | | | | | | | | |
| Pedestrian Access and entries | <p>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p> | Consistent <p>Two easily identifiable residential entrances are provided.</p> | | | | | | | | | | | | |
| Vehicle Access | Are the vehicle access points designed and | Consistent | | | | | | | | | | | | |

| | | |
|--------------------------------------|--|---|
| | located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes? | The vehicle access point satisfies the Newport Masterplan and the requirements of Council's Transport Department and Transport for NSW with regards to its proximity to Barrenjoey Road. |
| Bicycle and Car Parking | <p>For development in the following locations:</p> <ul style="list-style-type: none"> On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p> | <p>Shortfall when considered against DCP</p> <p>The amount of off-street parking is less than the DCP requirement. See comments made by Council's traffic team and the comments made by the DSAP in regards to this issue which is addressed elsewhere within this report.</p> |
| Part 4 Designing the Building | | |
| Amenity | | |
| Solar and Daylight Access | <p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter. | <p>Consistent</p> <p>10/13 (77%) of the units receive a minimum 3 hours solar access to living rooms and balconies.</p> |
| | <ul style="list-style-type: none"> A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter. | <p>Consistent</p> <p>2/13 (15%) receive no sunlight between 9am and 3pm mid winter (Unit 1 and 2).</p> <p>Unit 9 receives some solar access to terrace mid-</p> |

| | | winter and west facing clerestory window. | | | | | | | | | | | | |
|--------------------------------|--|--|-----------------------|-----------------|------------------|---------------|------------------|-------------------------|--|--------------|---|--|--|--|
| Natural Ventilation | <p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:</p> <ul style="list-style-type: none">At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed. | <p>Consistent 12/13 (92%) naturally cross ventilated. 12 of the units are either corner or dual aspect.</p> | | | | | | | | | | | | |
| | <ul style="list-style-type: none">Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line. | <p>Inconsistent All units comply except Unit 5 which is 18.9m. See discussion later in report.</p> | | | | | | | | | | | | |
| Ceiling Heights | <p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table><tr><th colspan="2">Minimum ceiling height</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table> | Minimum ceiling height | | Habitable rooms | 2.7m | Non-habitable | 2.4m | For 2 storey apartments | 2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area | Attic spaces | 1.8m at edge of room with a 30 degree minimum ceiling slope | If located in mixed used areas | 3.3m for ground and first floor to promote future flexibility of use | <p>Consistent Habitable floor areas all minimum 2.7m. All retail floor to ceiling minimum 3.6m.</p> |
| Minimum ceiling height | | | | | | | | | | | | | | |
| Habitable rooms | 2.7m | | | | | | | | | | | | | |
| Non-habitable | 2.4m | | | | | | | | | | | | | |
| For 2 storey apartments | 2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area | | | | | | | | | | | | | |
| Attic spaces | 1.8m at edge of room with a 30 degree minimum ceiling slope | | | | | | | | | | | | | |
| If located in mixed used areas | 3.3m for ground and first floor to promote future flexibility of use | | | | | | | | | | | | | |
| Apartment Size and Layout | <p>Apartments are required to have the following minimum internal areas:</p> <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the</p> | Apartment type | Minimum internal area | Studio | 35m ² | 1 bedroom | 50m ² | 2 bedroom | 70m ² | 3 bedroom | 90m ² | <p>Consistent All units achieve minimum size.</p> | | |
| Apartment type | Minimum internal area | | | | | | | | | | | | | |
| Studio | 35m ² | | | | | | | | | | | | | |
| 1 bedroom | 50m ² | | | | | | | | | | | | | |
| 2 bedroom | 70m ² | | | | | | | | | | | | | |
| 3 bedroom | 90m ² | | | | | | | | | | | | | |

| | <p>minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p> | | | | | | | | | | | | | | | | |
|---|---|---|--------------|---------------|-------------------|-----------------|---|----------------------|-----------------|----|----------------------|------------------|----|-----------------------|------------------|------|--|
| | <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p> | Consistent | | | | | | | | | | | | | | | |
| | <p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p> | Combined living/dining/kitchen see below. | | | | | | | | | | | | | | | |
| | <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p> | <p>Inconsistent</p> <ul style="list-style-type: none"> - All open plan units. - Level 1 - Units 4 and 6 are 8.2m. Unit 5 is 9.6m, non-compliant. Remainder comply. - Level 2 - All units comply. <p>See discussion following.</p> | | | | | | | | | | | | | | | |
| | <p>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space).</p> | <p>Consistent</p> <p>All bedrooms minimum 10sqm.</p> | | | | | | | | | | | | | | | |
| | <p>Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension.</p> | <p>Consistent</p> <p>All bedrooms achieve minimum dimensions.</p> | | | | | | | | | | | | | | | |
| | <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> - 3.6m for studio and 1 bedroom apartments - 4m for 2 and 3 bedroom apartments | <p>Consistent</p> <p>All living rooms achieve minimum dimensions.</p> | | | | | | | | | | | | | | | |
| | <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p> | <p>Consistent</p> <p>Apartments achieve minimum 4m width.</p> | | | | | | | | | | | | | | | |
| Private Open Space and Balconies | <p>All apartments are required to have primary balconies as follows:</p> <table border="1"> <thead> <tr> <th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr> </thead> <tbody> <tr> <td>Studio apartments</td><td>4m²</td><td>-</td></tr> <tr> <td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr> <tr> <td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr> <tr> <td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr> </tbody> </table> | Dwelling Type | Minimum Area | Minimum Depth | Studio apartments | 4m ² | - | 1 bedroom apartments | 8m ² | 2m | 2 bedroom apartments | 10m ² | 2m | 3+ bedroom apartments | 12m ² | 2.4m | <p>Consistent</p> <p>All units achieve minimum area and dimensions for POS/balcony.</p> |
| Dwelling Type | Minimum Area | Minimum Depth | | | | | | | | | | | | | | | |
| Studio apartments | 4m ² | - | | | | | | | | | | | | | | | |
| 1 bedroom apartments | 8m ² | 2m | | | | | | | | | | | | | | | |
| 2 bedroom apartments | 10m ² | 2m | | | | | | | | | | | | | | | |
| 3+ bedroom apartments | 12m ² | 2.4m | | | | | | | | | | | | | | | |

| | <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p> | | | | | | | | | | | |
|--------------------------------------|---|---|---------------------|-------------------|-----------------|----------------------|-----------------|----------------------|-----------------|-----------------------|------------------|--|
| | <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.</p> | Consistent Level 1 apartments provide podium level POS compliant with the area and dimensions. | | | | | | | | | | |
| Common Circulation and Spaces | <p>The maximum number of apartments off a circulation core on a single level is eight.</p> | Consistent Two lift cores are provided for a total 13 units. | | | | | | | | | | |
| | <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p> | N/A | | | | | | | | | | |
| Storage | <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling Type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m²</td></tr><tr><td>1 bedroom apartments</td><td>6m²</td></tr><tr><td>2 bedroom apartments</td><td>8m²</td></tr><tr><td>3+ bedroom apartments</td><td>10m²</td></tr></table> | Dwelling Type | Storage size volume | Studio apartments | 4m ² | 1 bedroom apartments | 6m ² | 2 bedroom apartments | 8m ² | 3+ bedroom apartments | 10m ² | Consistent Minimum of 8 cubic metres is provided within basement per unit, in addition to within the unit. |
| | Dwelling Type | Storage size volume | | | | | | | | | | |
| Studio apartments | 4m ² | | | | | | | | | | | |
| 1 bedroom apartments | 6m ² | | | | | | | | | | | |
| 2 bedroom apartments | 8m ² | | | | | | | | | | | |
| 3+ bedroom apartments | 10m ² | | | | | | | | | | | |
| | <p>At least 50% of the required storage is to be located within the apartment.</p> | | | | | | | | | | | |
| Acoustic Privacy | <p>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.</p> | Generally consistent - Condition recommended to resolve This is achieved throughout the development, with the exception of bedroom 1 of Unit 13 adjoining the communal open space area. To resolve this, it is recommended that a condition of consent be placed to include a 1.7m sill height window and this window be acoustically attenuated with details provided prior to the issue of the Construction certificate. | | | | | | | | | | |
| Noise and Pollution | <p>Siting, layout and design of the building is to minimise the impacts of external noise and</p> | Consistent An Acoustic Report has | | | | | | | | | | |

| | | |
|--------------------------------|---|--|
| | pollution and mitigate noise transmission. | been prepared for the proposal demonstrating the required internal noise levels can be achieved and no unreasonable impacts upon adjoining properties. |
| Configuration | | |
| Apartment Mix | Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building. | Consistent The proposal provides 2 x 1 bedroom, 10 x 2 bedrooms and 1 x 3 bedroom apartments. This is considered suitable for the locality. |
| Ground Floor Apartments | Do the ground floor apartments deliver amenity and safety for their residents? | N/A |
| Facades | Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area. | Consistent The building facade provide a continued active frontage along Robertson Road and Barrenjoey Road, with window that provide visual interest, are openable and promote street activation. The building facade is well articulated, incorporating materials sympathetic to the area and planter boxes on each elevation with landscaping. |
| Roof Design | Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top. | Consistent The building has been given a skillion roof form that that is consistent with the desired character of Newport, with this style of roof form encouraged rather than flat, concrete parapet to provide the building with visual interest. |
| Landscape Design | Was a landscape plan submitted and does it respond well to the existing site conditions and context. | Consistent Yes, suitable landscape plan submitted to soften the development upon the upper levels and street tree planting. Landscape plan has been reviewed by Council's expert landscape |

| | | | | | | |
|-------------------------------|---|--|--------------------|-------------------|---------------------------|--|
| | | officer and is supportive of the proposal subject to conditions. | | | | |
| Planting on Structures | When planting on structures the following are recommended as minimum standards for a range of plant sizes: | | | | | Consistent The landscape planter boxes and areas of turf which form POS have beengiven appropriate soil depth to facilitate medium height planting and shrubs in accordance with the landscape plan. |
| | Plant type | Definition | Soil Volume | Soil Depth | Soil Area | |
| | Large Trees | 12-18m high, up to 16m crown spread at maturity | 150m ³ | 1,200mm | 10m x 10m or equivalent | |
| | Medium Trees | 8-12m high, up to 8m crown spread at maturity | 35m ³ | 1,000mm | 6m x 6m or equivalent | |
| | Small trees | 6-8m high, up to 4m crown spread at maturity | 9m ³ | 800mm | 3.5m x 3.5m or equivalent | |
| | Shrubs | | | 500-600mm | | |
| | Ground Cover | | | 300-450mm | | |
| | Turf | | | 200mm | | |
| | | | | | | |
| Universal Design | Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features | | | | | Consistent The application is accompanied by an access report which demonstrates 3/13 units or 23% are silver level universal design. |
| Adaptable Reuse | New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place. | | | | | N/A |
| Mixed Use | Can the development be accessed through public transport and does it positively contribute to the public domain? Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable. | | | | | Consistent The proposal places retail floor area upon the ground level and apartments above, consistent with the permitted use of shop-top housing. |
| | | | | | | |

| | | |
|--|--|--|
| Awnings and Signage | <p>Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development.</p> <p>Signage must respond to the existing streetscape character and context.</p> | <p>Consistent</p> <p>Continuous awning is provided around the building which provides weather protection for the retail shop fronts and building entrances. No signage is proposed apart from a street number for the building.</p> |
| Performance | | |
| Energy Efficiency | Have the requirements in the BASIX certificate been shown in the submitted plans? | <p>Consistent</p> <p>Yes, shown on submitted plans where required by the BASIX Certificate submitted.</p> |
| Water Management and Conservation | Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater? | <p>Consistent</p> <p>Yes, this has been assessed by Council's development engineers and water quality team and found to be satisfactory.</p> |
| Waste Management | Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling? | <p>Consistent</p> <p>Yes, waste management plan has been submitted and waste storage areas are in accordance with Council's Waste Management Team requirements.</p> |
| Building Maintenance | Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building? | <p>Consistent</p> <p>Yes, robust materials selected.</p> |

Deep soil zone

The proposal does not provide deep soil zones in accordance with the ADG. However, this is not unusual for the B2 Local Centre Zone and commercial town centres for shop-top housing developments in this context.

The ground floor area is maximised for retail GFA and the associated back of house services to support these uses. Given the B2 Local Centre context, the provision of no or limited deep soil zones in lieu of retail ground floor area is acceptable given the objective zone, which is to support local centers and provide opportunity for employment.

The proposed development provides landscape planter boxes upon the edges of Robertson Road to soften the building facade and allow for landscaping to be introduced upon the street edge. The communal open space is highly landscaped and the back gardens of the Level 1 units provide landscaped outlook within the development. Therefore, the provision of no deep soil zone is considered appropriate given the context of the site.

Communal Open Space

Having regard to the context of the site, the area of communal open space is considered suitable for the residents of the development, with the area receiving a high level of solar access and offering facilities catering to their needs including green space, decking and a BBQ area.

The site is located in a highly accessible, well serviced location and is across the road from Newport Beach and the nearby public parkland. Therefore, although the proposal has a numerical shortfall, this is acceptable given the location of the development.

Living room and apartment depth

The ADG recommends a maximum apartment dimension of 18m glass line to glass line. The proposed development compliant with this, with the exception of unit 5 which is 18.9m glass to glass. The ADG also recommends a maximum combined living room and kitchen depth of 8m. The development is compliant with the exception of Units 4 and 6 at 8.2m, whilst Unit 5 is 9.6m.

Whilst these units are numerically inconsistent with the ADG, there are other benefits of these three units which off-set the non-compliance with the control. These include:

- Each of these three units are provided with optimal north-east orientation.
- Units 5 and 6 are dual aspect, with a balcony oriented off Robertson Road to provide an additional aspect for the units.
- Each of the units are provided with a landscape garden open space area between 27sqm and 49sqm, which is in addition to a compliant sized balcony private open space area. Each of these unit have a garden outlook which provides an extension of outdoor living space that will receive a high level of solar access and provide amenity for these units in addition to the minimum required by the ADG. The landscape outcome and garden setting will provide a high level of amenity for these units.

Therefore, although numerically non-compliant with the ADG and provide a depth greater than the requirement, each of these units provides other benefits with regards to amenity which are considered to off-set the non-compliance and provide a unit that overall, has a high level of amenity for a future resident.

STANDARDS THAT CANNOT BE USED TO REFUSE DEVELOPMENT CONSENT

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

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

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

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

Comment

An assessment regarding car parking is provided by Council's Traffic engineer elsewhere within this report. The application is supported with regards to the carparking arrangements. The internal floor area of the building is compliant with the ADG requirements. The floor to ceiling heights are consistent with the ADG.

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

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

(3) To remove doubt:

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

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

Comment

The design has given due consideration to the numerical requirements and criteria of the ADG, in addition to the buildings response to the context of the site in the B2 Local Centre zone. The application was referred to the design review panel and the recommendations to resolve internal amenity and planning were adopted in full and the panel were satisfied with the external building appearance.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1044257M_03 dated 21 November 2021).

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

| Commitment | Required Target | Proposed |
|-----------------|-----------------|----------|
| Water | 40 | 41 |
| Thermal Comfort | Pass | Pass |
| Energy | 45 | 47 |

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. Ausgrid provided a referral response and raised no objections subject to their usual conditions with regard to construction near powerlines.

Roads and Maritime Service (RMS)

Clause 101 - Development with frontage to a classified road states:

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 proposal was referred to Transport for NSW, who have raised no objection to the development, subject to conditions of consent which will be included in any consent issued. Further, Council's Transport department have reviewed the proposal and are satisfied with the vehicular access arrangements which is from Robertson Road and not directly from Barrenjoey Road.

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

- (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

The application is accompanied by an Acoustic Report which makes an assessment against the above noise criteria. Subject to the recommendations of the Report, Council is satisfied the development is capable of achieving the required internal noise levels as outlined in the SEPP. The recommendations of the Report will form consent conditions.

Clause 104 and Schedule 3 of the SEPP requires that the following development(s) are referred to the RMS as Traffic Generating Development:

| Purpose of Development | Size or Capacity (Site with access to any road) | Size of Capacity (Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road) |
|------------------------|--|--|
| Parking | 200 or more motor vehicles | 50 or more motor vehicles |
| Shops | 2,000m ² | 500m ² |

Note: Under Clause 104(2) of the SEPP, 'relevant size of capacity' is defined as meaning:

“(2) (a) in relation to development on a site that has direct vehicular or pedestrian access to any road - the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or

(b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection - the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.”

Comment

The application was referred to the Transport for NSW as traffic generating development, as the original basement design containing two levels had room for 50 vehicles. TfNSW did not raise any objection to the proposal, subject to their conditions which will be included in any consent issued.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

| Standard | Requirement | Proposed | % Variation | Complies |
|---------------------------|----------------------------|-----------------------|-------------|----------|
| 4.3 - Height of Buildings | Flood Planning Level (FPL) | Area 1: 10.3m - 11.9m | 3.5% (0.4m) | No |

| | | | | |
|--|---|---|-----------------------------|--|
| | Area 1: 11.5m above FPL Area 3: 8.5m above FPL | above FPL Area 3: 6.3m - 11m above FPL | 29% (2.5m) | |
| | <u>Existing Ground Level</u> (EGL) Area 1: 11.5m from EGL Area 3: 8.5m from EGL | Note: FPL is 720mm from EGL Area 1: 11.0m - 12.6m above EGL Area 3: 7.0m - 11.7m above EGL | 9.7% (1.1m) 37.6% (3.2m) | |

Compliance Assessment

| Clause | Compliance with Requirements |
|--|------------------------------|
| 1.9A Suspension of covenants, agreements and instruments | Yes |
| 2.6 Subdivision - consent requirements | Yes |
| 2.7 Demolition requires development consent | Yes |
| 4.3 Height of buildings | No |
| 4.6 Exceptions to development standards | Yes |
| 5.10 Heritage conservation | Yes |
| 7.1 Acid sulfate soils | Yes |
| 7.2 Earthworks | Yes |
| 7.3 Flood planning | Yes |
| 7.10 Essential services | Yes |

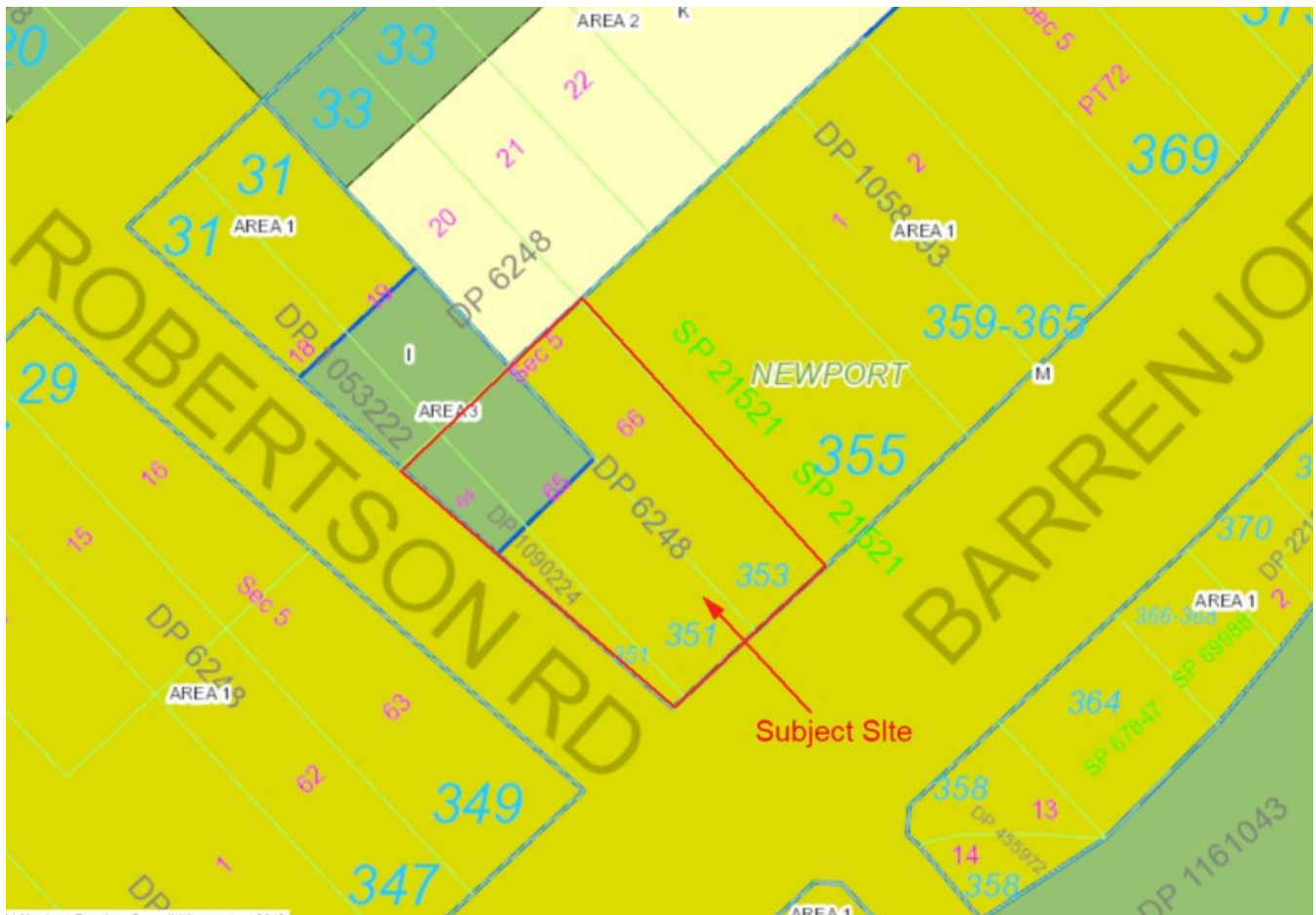
Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

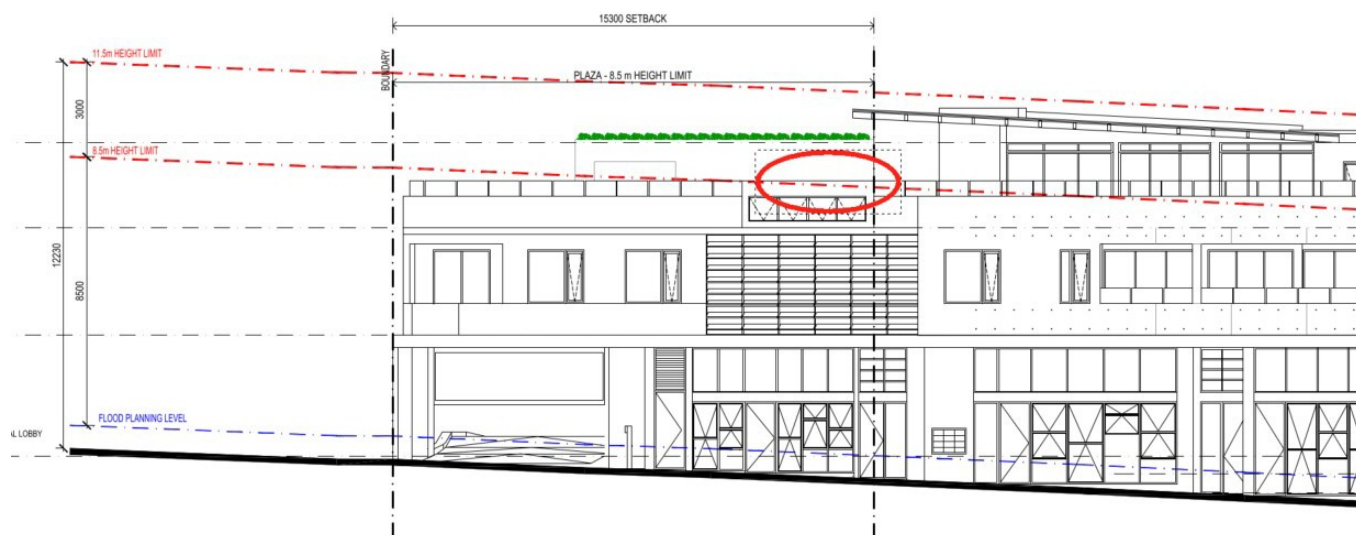
| | |
|--------------------------------------|---|
| Development standard: | 4.3 - Height of Buildings |
| Requirement: | Area 1: 11.5m Area 3: 8.5m |
| Proposed: | Area 1: 12.6m Area 3: 11.7m |
| Percentage variation to requirement: | Area 1: 9.6% (1.1m) Area 3: 37.6% (3.2m) |

The site has a split height limit as represented by the below extract from the PLEP Building Height Map:



Whilst the variation from the development standard appears to be relatively large, the areas which encroach the building height are considered to be a relatively minor proportion of the site.





STREET ELEVATION / ROBERTSON ROAD - HEIGHT PLANES

Figure 4 - Portion of Unit 6, bedroom 2 room encroaching 8.5m height limit, circled red.

Assessment of request to vary a development standard

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

Clause 4.6 Exceptions to development standards:

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

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

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

Comment

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

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

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

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

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

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

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

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

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

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

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

Comment

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

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

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

Comment

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,

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

The applicants written request argues, in part:

"Clause 4.6(3)(a) Unnecessary or unreasonable

The common approaches for an applicant to demonstrate that compliance with a development standard is unreasonable or unnecessary are set out in Wehbe v Pittwater Council [2007] NSWLEC827. Cases such as Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90, Randwick Council v Micaul Holdings Pty Ltd [20176] NSWLEC 7 and, most recently, Initial Action, have confirmed that adopting the Wehbe principles remains an appropriate approach.

The first option and the applicable in this case, is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

Set out below is an extract from the judgement in Wehbe that explains the rationale for adopting this approach in the context of clause 4.6.

The rationale is that development standards are not ends in themselves but means of achieving ends... The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).

Consistency with objectives of the standard (clause 4.6.4(a)(ii))

The proposed variation is assessed having regard to the development standard as set out in the below table.

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

The proportion of built form that results in a non-compliant outcome enables a design that will provide a contemporary built form which will contribute to the immediate urban context of the neighbourhood and the desired character of the locality. As outlined previously, the proportion of non-compliance has been designed based on a clear understanding of the spatial and contextual considerations of the site and detailed feedback from the Council in relation to compliance with solar access requirements for the

southern side of Robertson Road, which is considered to be a highly valued public space within the immediate context.



As shown in the figure above, the roof structure of Apartment 9 marginally exceeds the height limit to enable the provision of a sky light, with Apartment 13 also has a minor exceedance for part of the dwelling. The remaining sections of the proposed built form are under the height limit and compliant.

For the latter non-compliance, this has no material impact in terms of height and scale, remaining consistent with the desired future character of the locality. The non-compliant element has limited discernable visibility within the surrounding context and still ensures that adequate separation of built form is achieved to the north of the site, including having regard to the setting of the heritage listed church.

The reconfiguration of the communal open space area is also of limited impact when viewed from the street and does not add to the bulk and scale of the overall building form. Further, the recessive design of the form, through the use of landscape treatment and open space, further reduces the presence of building form to the street.

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

The height and scale of the proposed development is consistent with that of surrounding developments as the site is located in an area comprising of a mixture of residential and commercial uses of building height varying from two to three storeys, generally with upper levels of higher building setback from the street frontage, similar to the proposed development.

(c) to minimise any overshadowing of neighbouring properties.

Matters of overshadowing have been detailed above and demonstrate in detail, a design outcome that maximises solar access to the opposing side of Robertson Road, noting that it is not, in fact, the non-compliant part of the development that causes solar access impact, but those sections of the building, below the height limit that this is caused by. These lower building sections have also been modified to ensure that maximum solar access is achieved.

(d) to allow for reasonable sharing of views.

The non-compliant component of the building does not result in any impacts to existing views enjoyed within the vicinity of the site.

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

The subject site does not contain any heritage items, nor is it located within a heritage conservation area. However, the site is adjoining a heritage item known as St Michael's Anglican Church (#2270471).

The proposed design ensures that adequate setbacks are provided that allow for sufficient visual separation from the heritage item, so as to ensure that the setting of the item is not compromised.

Consistency with Zone Objectives – clause 4.6(4)(a)(ii)

In relation to whether a proposal is consistent with the objectives of a zone, the test for consistency is set out in Coffs Harbour Environment Centre v Coffs Harbour City Council (1991) 74 LGRA 185 (the Coffs Harbour case). The principles for determining what is meant by consistent are as follows:

- *a development that is consistent with zone objectives does not need to promote the objective concerned strictly, but also encompasses development which may be complementary or ancillary to development and promotes the objective concerned; and*
- *a development is not consistent with zone objectives if it is antipathetic development to those objectives, irrespective of whether efforts have been made to minimise the extent to which it is antipathetic*

Thus, development will be consistent with zone objectives if it is not antipathetic to them. It is not necessary to show that the development promotes, or is ancillary to, those objectives, nor even show it is compatible, Schaffer Corporation v Hawkesbury City Council (19s92) 77 LGRA 21.

The building height above the development standard is consistent with the objectives of the B2 Local Centre zone objectives as set out in the Table below.

- ***To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.***
- ***To provide for residential uses above street level where they are compatible with the characteristics and uses of the site and its surroundings.***

The proposed development will provide for a range of retail and businesses uses that will serve the needs of the local area. Eight separate retail tenancies are offered of varying sizes, to accommodate a diversified combination of business interests.

The residential component of the site will be able to utilise those facilities and services which are available and further enhance their economic viability.

The proposed residential use, above street level, will be compatible with the characteristics surrounding the site. The proposed number of dwellings is moderate and designed and orientated such that interference with ground floor uses will not result, particularly given the intended setback distances from the street frontages, as well as materials treatment that will ensure adequate acoustic provision.

The intention of the zone is to combine living and working environments and this site provides a suitable opportunity to achieve this.

- ***To encourage employment opportunities in accessible locations.***

The in-situ population will support the creation of new jobs in the locality, driven by additional demand for goods and services in the immediately surrounding vicinity.

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

As outlined previously, the proposal is near public transport facilities. The development encourages alternative transport modes and avoids private car use. Given the proximity to the general commercial and retail facilities, the opportunity for walking and/or cycling is easily maximised in association with this development.

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

The proposed development will provide a significant outcome in terms of attractive, vibrant and safe communities. The architectural design will provide a contemporary response and, in particular, the ground floor level provides a good urban design outcome with the provision of retail tenancies and public domain improvements to ensure a degree of vibrancy is promoted and the extensive openings of the retail tenancies that allow for an understanding of activity therein. The proposal maximises opportunities for passive surveillance over the surrounding street frontages, which is a substantial improvement over the existing situation.

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

The proposed retail tenancies will provide new employment opportunities within the commercial centre.

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

The introduction of tenancies that will be attractive to food and drink premise operators which will assist to provide an active day and evening economy.

Environmental Planning Grounds to Justify Contravening the Development Standards (clause 4.6(3)(b))?

The second element of clause 4.6(3) on which the Court must be satisfied is that there are sufficient environmental planning grounds to justify contravening the development standard. The environmental planning grounds relate to the subject matter, scope and purpose of the Environmental Planning & Assessment Act [EP&A Act] including the objects of the EP&A Act (Wehbe para 23).

The environmental planning grounds which support departure from the development standards are as follows:

- The proposal satisfies the objectives of the B2 zone and the objectives of the building height standards.
- The lower levels of the building are in fact those which cause a greater degree of impact in terms of solar enjoyment to the southern side of Robertson Road, as opposed to the non-compliant section of the building. By losing floor space at the ground and first floor levels, where height compliance is achieved allows for a minor trade-off to be made to accommodate a small proportion of non-compliant height in the interests of protecting sunlight to the southern side of the public domain along Robertson Road.
- The resulting design outcome ensures that a high quality common open space area is furnished to the development. The proposed building height provides for a much more effective design outcome, consistent with the character of the locality, without causing negative impacts on surrounding developments and ensures an enhanced visual setting for the heritage listed church.
- From a site context perspective, the developments located along Barrenjoey Road such as the

one at No.332 is of similar height and comprise of retail facilities on the ground floor and residential units above, such that the upper levels are setback to create separation along each level as well as provide articulated building design. Both buildings have the same development standard for building height, that is, a maximum of 11.5m above the flood planning level. As such there is not a marginal difference between the proposed building height and the building height of that developments and is considered appropriate.

- The non-compliant sections of the building will not be out of context within the streetscape, particularly that of Robertson Road. The non-compliant portion of Level 3 provides desirable internal amenity while minimising any potential impact on the enjoyment of the public plaza area below on the southern side of the street (which is affected by the lower levels of the building and not the non-compliant component). Given that this will be not compromised by the non-compliant section of this design, and a better environmental planning outcome is achieved for residents of the development, by providing a quality common open space area, this is considered to be far more desirable than achieving compliance for the sake of compliance.
- The outcome also provides a far improved visual relationship with the heritage listed church, such that a better environmental planning outcome is achieved by setting the building form back from this to ensure that adverse visual crowding does not occur.
- The non-compliant component of the development does not result in adverse impact to neighbouring properties, particularly in terms of bulk, scale and overshadowing. This is demonstrated in that a better design response to the broader context can be achieved, without compromising the public plaza to the south, providing a more balanced urban outcome.

As such, there are sufficient environmental planning grounds for justifying contravention of the development standard in this case.

Is the proposed variation in the public interest?

Clause 4.6(a)(ii) – Public Interest

The fourth element that the Council needs to be satisfied with in order to vary the development standard is that the proposed development will be in the public interest if the standard is varied because it is consistent with the standard's and zone's objectives.

As demonstrated in this Request, the proposed development will comprehensively achieve the objectives of the development standards for height of building, as well as the objectives of the B2 zone.

The bulk and scale of the proposed built form, including the non-compliant section of the building, is appropriate to the contextual considerations of the site. Most importantly, the proposed height does not impact the heritage item located towards the north at 33 Foamcrest Avenue and the pedestrian plaza located at 349 Barrenjoey Road, as well as residential development in the vicinity of the site.

The minor trade off of additional building height is warranted in the context of preserving solar access to the public domain and retail frontages along Robertson Road, which are instead caused by the lower, compliant sections of the proposed building, which has been set back from the street frontage (resulting in a loss of permitted floor space) to ensure that the public interest is not only preserved, but enhanced.

There is public interest in maintaining a degree of flexibility in specific circumstances. In this case, strict compliance with the height control would result in reduced supply of adequate apartments on the site, therefore, unable to supply for the growing housing needs in an area that is highly accessible, facilitated by local services and suitable for young families.

There is no adverse consequence as a result of the non-compliant sections of the building from the public domain as this is set well back from the street frontages to ensure that it has limited visual effect, while also providing an attractive and contemporary response in this location. There is no adverse

consequence as a result of this proposal from the public domain.

Overall, the proposal responds to its social context in terms of access to housing diversity and to services. Further, the proposed built form incorporates the CPTED principles which will help to activate and improve the safety and security of the local area.

Therefore, the proposed development, at the height proposed, is well within the public interest and will open the site up to broader public opportunity and interest, as it will provide a high-quality residential accommodation in close proximity to public transport opportunities that will ultimately result in tangible social benefits.

Accordingly, the Council can be satisfied that, it is in the public interest to vary the standard for the purpose of this development application.

Council Comment

The assertions made in the applicants written request are agreed with by Council, in particular solar access outcomes for the future pedestrian plaza which is to be delivered within the site upon No. 349 Barrenjoey Road on the southern side of Robertson Road. The design of the first floor at the western corner of the site has been pulled back from the Robertson Road frontage (as notated in plan A110 Issue 04) to allow an improved solar access outcome to the southern side of Robertson Road, with the leading edge of the first floor the cause of overshadowing for the portion of the site subject to the 8.5m height limit. The majority floor space that is in breach of the 8.5m height limit is located central to the site which does not cause additional overshadowing. Any overshadowing that is caused by the encroachment caused by Lobby B is off-set by the reduction of floor area along the leading southern edge of Level 1.

The portion of non-compliant building caused by Unit 13 is setback such a distance that it would not be visually imposing or visually prominent as read from the street level of Robertson Road and the building will maintain a two storey visual appearance as viewed from Robertson Road, which matches the intent of the Newport Masterplan.

The portion of roof form that encroaches the 8.5m height limit resulting from the roof of Bedroom 2 to Unit 6 is intended to improve amenity outcomes for this unit by providing a high level window and is setback in a way that will maintain the desired two storey character in the portion of the site subject to the 8.5m height limit. The height of this pop-out roof is consistent with the balustrade height and is setback consistent with the alignment of the balustrade for the level 2 communal open space, integrating into the building design.

The clerestory window which services Unit 9 provides further amenity and direct sunlight for this unit, whilst not having a visual impact for surrounding sites as it is centrally located within the roof. Whilst it could be removed and compliance achieved, it is not considered to result in any benefit with regards to streetscape, bulk and scale and therefore its removal is not considered necessary or warranted.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

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

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

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

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

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

Comment

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

Objectives of development standard

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

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

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

Comment

The desired character for the Newport Commercial Centre is guided by the Newport Master Plan, which is reflected in the applicable PLEP and DCP controls.

The varied height limit across the site reflects the desired building heights and scale of the Newport Commercial Centre, with the 11.5m building height reflective of a three storey building and the 8.5m height reflective of two storey buildings. The building at the frontage of Barrenjoey Road and eastern portion of Robertson Road is a three storey form, consistent with the Masterplan.

The portion of the site which is subject to the 8.5m height limit and fronts Robertson Road will read as two stories from the public domain. The portion of non-compliant building caused by Unit 13 is setback such a distance that it would not be visually imposing or visually prominent as read from the street level of Robertson Road and the building will maintain a two storey visual appearance as viewed from Robertson Road, which matches the intent of the Newport Masterplan.

The minor encroachment of Lobby B (860mm wide) is not considered to render the entire development contrary to the desired character of the locality and this encroachment has been offset by a reduction of floor area upon Level 1 to improve solar access outcomes for the southern side of Robertson Road.

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

Comment

There are varying styles of development in the Newport Town Centre, with the maximum height

of the surrounding developments being three stories.

The proposal is consistent being a combination two and three stories as read from the public domain and is therefore compatible with the surrounding shop top housing developments.

c) to minimise any overshadowing of neighbouring properties,

Comment

The solar access outcomes for the future pedestrian plaza which is to be delivered within the site upon No. 349 Barrenjoey Road on the southern side of Robertson Road.

The design of the first floor at the western corner of the site has been pulled back from the Robertson Road frontage (as notated in plan A110 Issue 04) to allow an improved solar access outcome to the southern side of Robertson Road, with the leading edge of the first floor the cause of overshadowing for the portion of the site subject to the 8.5m height limit.

The majority floor space that is in breach of the 8.5m height limit is located central to the site which does not cause additional overshadowing. Any overshadowing that is caused by the encroachment caused by Lobby B is off-set by the reduction of floor area along the leading southern edge of Level 1.

d) to allow for the reasonable sharing of views,

Comment

The non-compliance to the building height will not have a direct impact upon views.

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

Comment

The site has a minor fall from west to east, with the ground floor retail tenancies stepped across the site to suit and the roof form of the development suited to the fall of the site to comply with the 11.5m height limit at the Barrenjoey Road frontage.

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

Comment

A detailed assessment has been undertaken by Council's Heritage Officer with regards to the impact upon the adjoining heritage item to the North-East. Council's Heritage Officer supports the application. Although non-compliant with building height for a portion of the 8.5m height limit, there is a large area of the site subject to the 11.5m height limit that the building sits well below and therefore reduces the buildings dominance upon the adjoining heritage item. Landscaping is provided around the non-compliant area of the building to assist in providing greenery as viewed from afar.

Zone objectives

The underlying objectives of the B2 Local Centre zone are:

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

Comment

The ground floor provides a range of retail spaces of varied size for the future uses to support the local centre. The proposal is consistent with this objective.

- ***To encourage employment opportunities in accessible locations.***

Comment

The site is well serviced by buses being located on Barrenjoey Road. The proposal contributes to retail floor area within the town centre.

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

Comment

The basement level contains bicycle parking to encourage cycling for residents of the development. The site is within walking distance to a varied of services for residents and businesses.

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

Comment

The proposal provides retail shop frontage to both Barrenjoey Road and Robertson Road to support the town centre and smaller scale 'boutique' shops that contribute to the vibrancy of the centre. The location of the vehicular access is consistent with the Newport Masterplan on Robertson Road.

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

Comment

The development provides a generous amount of retail floor area within the ground level of the site to contribute to employment generating businesses.

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

Comment

The two largest tenancies are located fronting Robertson Road and would be well suited to a restaurant/cafes to contribute to the nighttime economy.

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

Comment

The proposed development is for shop top housing and this is compatible with the surrounding developments along Barrenjoey Road.

Conclusion

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

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

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

to be granted.

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the Local Planning Panel.

5.10 Heritage conservation

The site is located adjacent to a locally listed heritage item at 33 Foamcrest Avenue, St Michael's Anglican Church.

The application has been considered by Council's Heritage Officer with regards to the impact upon the Local Heritage Item. Council is satisfied that the proposed development will not have an unacceptable impact upon the heritage significance of St. Michael's Anglican Church.

7.1 Acid sulfate soils

Clause 7.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil (ASS) Class 4, as indicated on Council's Acid Sulfate Soils Planning Map.

Works at depths beyond 2.0m below the natural ground surface and/or works by which the watertable is likely to be lowered more than 2.0 metre below the natural ground surface within a Class 4 acid sulfate soil area are required to be assessed to determine if any impact will occur.

The development proposes to excavate the site to approximately 3.6m below the natural ground level. As such, a Preliminary Acid Sulfate Soil Assessment has been undertaken by Assetgeoenviro dated 11 December 2020. In the assessment, Assetgeoenviro recommended a site criteria and further assessment to determine the presence of ASS and Council's Environmental Health Officer is satisfied that this may be undertaken through the construction certificate process, with appropriate conditions recommended to address the requirements of the LEP.

Conditions have been recommendations and have been included in the recommendation of this report.

7.2 Earthworks

The objective of Clause 6.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil

stability in the locality of the development

Comment

The proposal is unlikely to unreasonably disrupt 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

Comment

The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment

The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment

The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment

The excavated material will be processed according to the Waste Management Plan for the development.

(f) the likelihood of disturbing relics

Comment

The site is not mapped as being a potential location of Aboriginal or other relics.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area

Comment

The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment

Conditions are included in the recommendation of this report that will minimise the impacts of the development.

(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.

Comment

The proposed development has been considered with regards to the impact upon the adjoining heritage item. Council is satisfied the excavation will not have an impact or undermine the integrity of the heritage item.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

7.3 Flood planning

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

(a) is compatible with the flood hazard of the land, and

Comment

The development has been assessed by Council's Flood Engineers. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development is compatible with the flood hazard of the land.

(b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and

Comment

The development has been assessed by Council's Flood Engineers. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties.

(c) incorporates appropriate measures to manage risk to life from flood, and

Comment

The development has been assessed by Council's Flood Engineers. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development incorporates appropriate measures to manage risk to life from flood.

(d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and

Comment

The development has been assessed by Council's Flood Engineers. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

Comment

The development has been assessed by Council's Flood Engineers. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

Pittwater 21 Development Control Plan

Built Form Controls

| Built Form Control | Requirement | Proposed | % Variation* | Complies |
|--|--|----------------------------|--------------------|-------------------------|
| Front building line (Barrenjoey Road) | Ground 3.5m First 3.5m Second 7.5m | 3.5m 3.5m 7.5m | N/A | Yes Yes Yes |
| Front Building Line (Robertson Road) | Ground Nil First Nil Second 4m | Nil Nil - 2m 4.4m | N/A | Yes Yes Yes |
| Side building line (North-eastern boundary) | Ground Nil First Nil Second 3m | Nil Nil 4.32m | N/A | Yes Yes Yes |
| Side building line (North-Western Boundary) | Ground Nil First Nil Second 3m | Nil Nil Nil - 7.225m | N/A N/A 100% | Yes Yes No |

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

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A1.7 Considerations before consent is granted | Yes | Yes |
| A4.10 Newport Locality | Yes | Yes |
| B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites | Yes | Yes |
| B1.4 Aboriginal Heritage Significance | Yes | Yes |
| B2.3 Subdivision - Business Zoned Land | Yes | Yes |
| B2.6 Dwelling Density and Subdivision - Shop Top Housing | Yes | Yes |
| B3.6 Contaminated Land and Potentially Contaminated Land | Yes | Yes |
| B3.11 Flood Prone Land | Yes | Yes |
| B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume) | Yes | Yes |
| B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land | Yes | Yes |
| B4.22 Preservation of Trees and Bushland Vegetation | Yes | Yes |
| B5.15 Stormwater | Yes | Yes |
| B6.1 Access driveways and Works on the Public Road Reserve | Yes | Yes |
| | | |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| B6.2 Internal Driveways | Yes | Yes |
| B6.3 Off-Street Vehicle Parking Requirements | No | Yes |
| B6.7 Transport and Traffic Management | Yes | Yes |
| B8.1 Construction and Demolition - Excavation and Landfill | Yes | Yes |
| B8.3 Construction and Demolition - Waste Minimisation | Yes | Yes |
| B8.4 Construction and Demolition - Site Fencing and Security | Yes | Yes |
| B8.5 Construction and Demolition - Works in the Public Domain | Yes | Yes |
| B8.6 Construction and Demolition - Traffic Management Plan | Yes | Yes |
| C1.2 Safety and Security | Yes | Yes |
| C1.6 Acoustic Privacy | Yes | Yes |
| C1.9 Adaptable Housing and Accessibility | Yes | Yes |
| C1.12 Waste and Recycling Facilities | Yes | Yes |
| C1.13 Pollution Control | Yes | Yes |
| C1.15 Storage Facilities | Yes | Yes |
| C1.18 Car/Vehicle/Boat Wash Bays | Yes | Yes |
| C1.23 Eaves | Yes | Yes |
| C1.24 Public Road Reserve - Landscaping and Infrastructure | Yes | Yes |
| C1.25 Plant, Equipment Boxes and Lift Over-Run | Yes | Yes |
| C2.2 Safety and Security | Yes | Yes |
| C2.6 Adaptable Housing and Accessibility | Yes | Yes |
| C2.8 Energy and Water Conservation | Yes | Yes |
| C2.9 Waste and Recycling Facilities | Yes | Yes |
| C2.10 Pollution Control | Yes | Yes |
| C2.11 Signage | Yes | Yes |
| C2.15 Car/Vehicle/Boat Wash Bays | Yes | Yes |
| C2.16 Undergrounding of Utility Services | Yes | Yes |
| C2.20 Public Road Reserve - Landscaping and Infrastructure | Yes | Yes |
| C2.21 Food Premises Design Standards | Yes | Yes |
| D10.1 Character as viewed from a public place | Yes | Yes |
| D10.2 Character - Newport Commercial Centre | Yes | Yes |
| D10.3 Scenic protection - General | Yes | Yes |
| D10.4 Building colours and materials | Yes | Yes |
| D10.6 Street Frontage Building Envelope (Newport Commercial Centre) | Yes | Yes |
| D10.9 Setbacks (Newport Commercial Centre) | No | Yes |
| D10.17 Character of the Public Domain - Newport Commercial Centre | Yes | Yes |
| D10.19 Subdivision and Amalgamation (Newport Commercial Centre) | Yes | Yes |
| | | |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| D10.20 Design of Mixed Use Developments (Newport Commercial Centre) | Yes | Yes |
| D10.21 Active Frontages (Newport Commercial Centre) | Yes | Yes |
| D10.22 Arcades (Newport Commercial Centre) | Yes | Yes |
| D10.23 Building Entries (Newport Commercial Centre) | Yes | Yes |
| D10.24 Building Depth and Separation (Newport Commercial Centre) | No | Yes |
| D10.25 Roof Form (Newport Commercial Centre) | Yes | Yes |
| D10.26 Views (Newport Commercial Centre) | Yes | Yes |
| D10.27 Design for Flooding (Newport Commercial Centre) | Yes | Yes |
| D10.28 Open Space (Newport Commercial Centre) | No | Yes |
| D10.29 Landscaping (Newport Commercial Centre) | Yes | Yes |
| D10.30 Facades (Newport Commercial Centre) | Yes | Yes |
| D10.31 Ecological Sustainable Development Responsive Design (Newport Commercial Centre) | Yes | Yes |
| D10.32 Solar Access and Ventilation (Newport Commercial Centre) | Yes | Yes |
| D10.33 Privacy (Newport Commercial Centre) | Yes | Yes |

Detailed Assessment

B6.3 Off-Street Vehicle Parking Requirements

Requirement

The DCP requires parking to be provided at the following rate:

| Land Use | Rate | Proposed | Required | Provided |
|--------------------------|---|---|--|--|
| Commercial/Retail | 1 space per 30sqm of GLA (excludes storage) inclusive of 1 disabled space | 548sqm GLA | 18.2 spaces | 9 spaces (1 share zone for disabled provided) |
| Residential | 1 space for 1 bedroom dwelling 2 spaces for 2 bedroom dwelling 1 visitor space per 3 units (rounded up) 1 vehicle wash bay 1 bicycle rack per 3 units | 2 x 1 bedroom 11 x 2/3 bedroom 13 units total | 24 residential 5 visitor 1 wash bay 5 racks | 16 residential 1 visitor 1 wash bay 8 racks |
| | | | 48 spaces | 26 spaces (-22 spaces) |

Merit Consideration

The proposed development had originally proposed fully compliant car parking by including two levels of basement parking within the development.

When the application was referred to the DSAP, the DSAP raised issue with the amount of car parking within the development and the excavation needed to provide this carparking in two basement levels. The DSAP made the following comments:

Given the valid concerns expressed in many submissions that the ambience of Robertson Road will be degraded by vehicle movements, the Panel suggests that Council consider whether there should be no requirement for on-site retail parking and a relaxation of the car parking rates for residential.

This could have the following benefits:

- *eliminating the need for an entire basement level (approximate 34 spaces could be accommodated if loading and waste were off site)*
- *reducing embodied carbon in the construction,*
- *reduced operating energy consumption*
- *a reduced construction time and disruption to the centre.*

The following recommendation was made by the DSAP:

In order to minimize the disruption to the street, in consultation with council

- *investigate the removal of the requirement for on-site loading and explore the possibility of curbside loading during restricted hours*
- *investigate the possibility of reducing car parking rates for retail*
- *the Panel suggests that further reduction in car parking could be considered given the accessible location*

Council considered the above recommendations and resolved through consultation with Council's traffic and waste team that the removal of the second level of basement parking could be supported given the circumstances of the case, which included the proposal being in a well serviced location in the centre of Newport Town Centre.

Council's Traffic Engineer has commented on the amount of car parking spaces provided for the development and has recommended a condition that all car parking within the development be designated to the residential component of the development, resulting in a total of 26 spaces being provided for the residential component (including 4 visitor spaces). Council's traffic engineer's comments are placed earlier in this report and the proposed reduction in parking is supported by the traffic team. Furthermore, an addition two (2) spaces could be provided should the future scenario occur where access is gained through No. 31 Foamcrest Avenue.

The required amount of bicycle parking is maintained for the development, along with a vehicle wash bay that also allows for deliveries to occur in the basement. Council's waste team have been consulted and are satisfied that waste collection can occur from the Barrenjoey Road Frontage which minimises disturbance to Robertson Road. See Council's waste officer's comments earlier in the report.

C1.25 Plant, Equipment Boxes and Lift Over-Run

Mechanical ventilation is shown on the basement level for the development adjacent to the basement ramp and located at the north-western extent of the basement level. The lift overrun is located centrally

to the building and does not breach the height limit. A kitchen exhaust is integrated into the roof form to service the below retail/commercial tenancy fronting Robertson Road.

D10.9 Setbacks (Newport Commercial Centre)

DCP Control

The DCP requires that a 3m side setback is provided for the second floor. The north-western boundary is considered to be a side boundary, as the proposed development is sited upon a corner lot. The proposal provides a compliant second floor setback of 4.32m to this boundary. For the north-eastern second floor setback, the proposal provides between nil and 7.225m, with the north-eastern wall of Unit 10 non-compliant with the control.

Merit Consideration

In consideration of the portion of façade resulting from Unit 10 which is not setback 3m, the proposal is considered against the outcomes of the control as follows:

A variety of built form and a sense of openness within the streetscape and on the skyline.

Comment

The building uses a mixture of materials, including a variation of materials and form upon the top floor and a roof form which is complimentary to the desired feel and character of the area, with a skillion style roof for the top floor. The non-inclusion of the 3m upper floor setback to the wall of unit 10 is not considered to remove a sense of openness, with this portion being setback the required 4m from the lower two floors adjoining Barrenjoey Road to retain an open feel along Barrenjoey Road, reducing the visual presence of the second level.

The public domain is enhanced.

Comment

The public domain is enhanced by the eight retail tenancies facing the street frontages, with associated awnings and at-grade retail entrances which activate the street level.

Retail and dining uses on Barrenjoey Road spill out to the exterior of the shopfront, utilising and activating the footpath.

Comment:

The 3.5m ground floor setback to the lot boundary allows the use of this space for footpath dining.

A two storey street frontage wall height is maintained.

Comment

The proposal is consistent with this, with ground level and first floor maintaining a two storey street frontage height and the second level stepped back a further 4m compliant with the control.

Built form is characteristically 'broken down' into smaller components, with breaks between buildings, particularly on the 3rd level.

Comment

The urban form and design of the streetscape is not considered to be jeopardized by the nil setback to Unit 10, with the setbacks to the ground, first and second level compliant with the street front setbacks which guide the bulk and scale of the building as experienced from the street level. The recessed second level, although not strictly compliant with the 3m side setback, still minimises the presence of the built form through material selection, roof form and street setbacks. It must be

recognised that the remainder of the building is more than compliant, providing a 7.225m setback to the north-eastern boundary to achieve compliance with the building separation under the ADG, enhance solar amenity within the development and retain the reasonable development opportunity for the next site to the north-east. The nil setback to Unit 10 is considered to be off-set by the generous setback to the remainder of the development which provides increased separation for an optimal outcome for the development itself and future development to the north.

Opportunities for view sharing are protected and enhanced.

Comment

The proposal will not impact upon any view corridors.

Adequate residential amenity is provided in the form of access to daylight and natural ventilation, and generous balcony areas for private outdoor space.

Comment

The top floor of the building has been designed in an 'L' shape to optimise solar access from the north-eastern orientation. Should a consistent 3m setback be provided to the top floor, none of these units would be able to provide a habitable window or balcony facing north-east due to the 6m building separation requirement under the ADG. Therefore, it is more appropriate to provide the 'L' shape plan, with a nil setback to Unit 10 and a generous setback for the remainder of the top floor to achieve optimal amenity for the development. This also provide adequate opportunity for the next site to develop in accordance with the ADG and achieve a consistent urban form along Barrenjoey Road and spatial separation in accordance with the ADG.

Efficient building layouts are achieved.

Comment

The building layout proposed is efficient in provided nil setback for the section of building that does not require window openings or balconies, whilst providing a setback of 7.225m well in excess of the 3m minimum for those areas which need to achieve compliance with the ADG and obtain solar access from the northern orientation.

A public plaza on Robertson Road.

Comment

This does not inhibit the pedestrian plaza on Robertson Road from being achieve. Solar amenity to the southern side of Robertson Road is achieved.

On the northernmost sites adjacent to the beachfront path network (ie 370-386 Barrenjoey Road), high quality development and an attractive and inviting entry to Newport that visually integrates the main street with the beachfront open space.

Comment

Not applicable to this site.

Courtyard spaces, balconies and above ground open space is provided for building users and residents, to encourage outdoor living and communal activity and allow for additional outdoor dining areas.

Comment

The building has been designed to achieve consistency with the ADG with regards to spatial separation. The units upon level 1 are provided with generous outdoor private open space and

landscape gardens due to the increased setback to the north-eastern boundary for the majority of the units.

Adequate building separation is provided for visual and acoustic privacy for all occupants and building users.

Comment:

The proposal has been designed in accordance with the ADG with regards to visual privacy and building separation. The nil setback is consistent with the ADG and does not provide any window openings. The design does not restrict future development potential of the adjoining sites or these sites ability to develop in accordance with the ADG and Pittwater DCP/LEP.

Overall, the proposed development meets the outcomes of the Pittwater DCP and is considered to be of good design, optimising setbacks specific to the constraints and orientation of the land and therefore, a variation is supported in this particular circumstance.

D10.19 Subdivision and Amalgamation (Newport Commercial Centre)

The DCP makes reference to the pattern of site amalgamation within the Newport Masterplan, which is described in the below figure:



Extract from Newport Masterplan Figure 5.2 'Subdivision and Amalgamation'

The proposed development is consistent with the requirements for site amalgamation, in that the sites

Nos. 351 and 353 Barrenjoey Road are proposed to be amalgamated for development in accordance with the above figure. The site adjoining to the north-west known as No. 31 Foamcrest Avenue is marked as a 'potential amalgamation option' and this site is current owned and operated as Australia Post as a post office and mail distribution center. The applicant has provided written evidence to Council which includes correspondence from Australia Post that the site is not intended to be developed in the short to medium term. Council has also engaged with Australia Post who have confirmed that there is no current intention or plans for the site to be developed. As shown in the below figure 2, there is a separate vehicular access point designated for the Australia Post site off Foamcrest Avenue that can be utilized in any development of this land.

The DCP makes reference to the following figure within the Newport Masterplan with regards to vehicular access:



Extract from Newport Masterplan Figure 4.4 'Vehicular Access and underground parking'

The above figure shows the anticipated vehicular access points to basement parking within the Newport Town Centre. As indicated in the above figure, it clearly shows that a vehicle access point to the subject site is anticipated off Robertson Road.

The proposed development is consistent with the above, in that a vehicular driveway is provided off Robertson Road to the site. The basement plan also indicated basement 'breakthrough' points to the north-east and north-western sides to link basements through. Council's traffic team have considered the proposal with regards to the masterplan and are supportive of the proposal, being consistent with the Masterplan.

The proposal is therefore consistent with the requirements of the Newport Master Plan and requirements of this control.

As discussed earlier within this assessment report under the 'public submissions' section regarding vehicular access from Robertson Road, the applicant has put forward a potential future solution that involves basement breakthroughs and the potential for vehicular access to be gained through the site 31 Foamcrest Avenue upon development of this land, resulting in the potential removal of vehicular access to the site off Robertson Road. This is considered a long term solution and is contingent upon the development of 31 Foamcrest Avenue for which there are no current plans for redevelopment. It must also be considered that if the land at 355 Barrenjoey Road was to be developed prior to 31 Foamcrest Avenue, the option must be available to gain vehicular access to 355 Barrenjoey Road through the subject site from Robertson Road (as the masterplan does not allow for vehicular access from Barrenjoey Road for this site).

To assist this future solution to obtain access from Foamcrest Avenue, a condition of development consent as described earlier in this report is recommended for a positive covenant and a restriction under *Section 88E of the Conveyancing Act* to require the owner of the subject site to undertake the necessary works and approvals to facilitate this solution upon the development of 31 Foamcrest Avenue. There are a number of reasons Council recommend this condition be imposed, as follows:

- In considering the Public Interest under Section 4.15 (1)(e), Council has received a total of 262 submissions regarding the proposal, the majority of which make some reference to Robertson Road being an important community hub for the Newport Village Commercial Centre that would benefit from reduced vehicle movements or complete removal of vehicle movements upon Robertson Road. In light of this, there are considered sufficient grounds based on the public interest to warrant imposition of a condition to require the land owner to undertake the necessary steps to facilitate this future solution. Noting, this solution has also been offered up by the applicant via concept plans.
- The Newport Masterplan is referred to in the Pittwater DCP under Clause D10.2 Character – Newport Commercial Centre which provides “*development in the Newport Commercial Centre shall be in accordance with the approved Masterplan*” and the Masterplan is referred to at Appendix 12 of the DCP. The following parts within the Newport Masterplan which support the proposed future solution include:
 - 3.5 “*Principles – Desired Future Character ...the role of Robertson Road as an activity hub for the village will be enhanced...primary retail main street focus on Barrenjoey and Robertson Road ...retention of the clusters of café/dining uses on Barrenjoey and Robertson Road*”.
 - 4.3 “*Vehicle movement and Public parking –....Roberston Road and Coles Road remain one way streets.... Vehicle access to properties is generally not permitted from Barrenjoey Road. Where there is potential to amalgamate lots, provide for future access to and integration with underground car parking areas, to consolidate entry points on Foamcrest Avenue and to minimise disruption to pedestrian-focussed main street*”
 - 4.4 “*Vehicular Access and Underground Parking....The diagram shows that entries to parking areas can be consolidated with amalgamation, reducing the number of footpath crossings required and the associated impacts on streetscape*”.

Although the Masterplan clearly nominates a vehicular access point off Robertson Road and

advises that it is to be maintained as a one-way street (consisted with the proposal), the Masterplan refers to the enhancement of Robertson Road and consolidation of vehicle entry points off Foamcrest Avenue. Therefore, whilst the proposal in its current form is acceptable and in accordance with the masterplan, the imposition of a condition requiring covenant to carry out the necessary works and approvals to facilitate this future solution upon development of 31 Foamcrest Avenue is consistent with the further enhancement of Robertson Road and consolidation of vehicle access points as encouraged by the Masterplan.

A condition requiring a right of access for a 'through site link' to be provided upon development of 355 Barrenjoey Road has also been recommended given the masterplan requires access to that site through the subject land.

D10.22 Arcades (Newport Commercial Centre)

The Newport Master Plan Contains references to potential through site connections and pedestrian arcades within the Newport Town Centre. The Newport Master Plan, Section 4.2 Open Space, Section 4.5 Pedestrian and Cycle Networks and 4.9.1 Built Form show a number of potential through site links and pedestrian arcades which could be investigated in redevelopment of sites within the Newport Town Centre.

Part 4.2 Open Space provides the following guidance for through site connections with regards to the Masterplan:

- *Retain and enhance the key pedestrian through-site connections, in particular the mid-block route through the existing Foamcrest car park, and the connecting links to Barrenjoey Road. This route should be extended to Robertson Road. Two potential new connections could link with Foamcrest Avenue, one springing from the mid-block link in the southern block and another through the church site, should its buildings be reconfigured. These routes could be open to the sky or within a building or a combination of both. They should be lined with active uses, accessed directly off the route and visible from it through clear openings or extensive areas of glazing. NOTE that the position of these links is indicative. Their exact location will depend on site amalgamation and development.*



Newport Masterplan Figure 4.5.

Clause D10.22 Arcades provides the following prescriptive requirements for arcades within the DCP:

Arcades are to be provided in accordance to the Masterplan for the Newport Commercial Centre at Appendix 12 of this DCP.

Comment

It is important to note that the above Figure 4.5 within the Newport Masterplan should not be considered in isolation and the supporting references and guidance within Part 4.5 of the Masterplan is relevant when considered the ability to provide arcades within each development site. The mid-block north-south connection to Robertson Road is noted as a 'potential connection', an 'indicative connection' and depends on site amalgamation and redevelopment of adjoining sites. The completion of a through site link would also depend on relocation of the heritage listed church buildings on No. 33 Foamcrest Avenue, as well as development of the land at No. 355 Barrenjoey Road.

Figure 5.2 of the Masterplan indicates the sites which are required to be amalgamated. The land to the north-west at No. 31 Foamcrest is identified as a 'potential amalgamation site' and is owned by Australia Post. Australia Post has indicated that there is no current desire to develop No. 31 Foamcrest Avenue and therefore, not including the land No. 31 Foamcrest Avenue into the development of Nos. 351-353 Barrenjoey Road is reasonable. The land at No. 355 Barrenjoey Road is also not identified as land to be amalgamated with the development site.

There is no current known plans for development of the site 355 Barrenjoey Road and this site is under strata ownership between 18 owners. Its short term development is considered unlikely.

Therefore, the requirement for the applicant to provide a north-south through site link through the development site is considered onerous and unnecessary, given there is no current option to consolidate with No. 31 Foamcrest Avenue, no consolidation requirement with 355 Barrenjoey Road and there being no known plans for relocation of the heritage listed church at No. 33 Foamcrest Avenue that would be necessary to complete this link.

There is no current through site link in this location and the Masterplan gives more weight to enhancing existing through site links in the Newport Town Centre, whilst exploring potential options where this would be reasonably practical subject to amalgamation.

In the "car park precinct" (refer to controls at D10.19 of this DCP and the adopted Newport Masterplan at Appendix 12 for location of precinct), link east-west arcades with a north-south arcade connecting to Robertson Road.

Comment

The above control is not applicable to the subject land and is applicable to the land located on the southern side of Robertson Road. Note, that the DCP places more emphasis on the through site connection on the southern side of Robertson Road as there are existing connections from the Foamcrest Avenue Carpark.

To maintain the existing through site link from Barrenjoey Road to the Bramley Avenue carpark on the north-eastern side of Barrenjoey Road, an arcade is to be located where the existing privately owned laneway is located at 378 Barrenjoey Road.

Comment

This is not applicable to the subject land.

Arcades are not to terminate, i.e. must provide through site access.

Comment

As discussed in detail above, the provision of a through site link in this location is not reasonably practical in this circumstance. The DCP requires Arcades to provide through site connection and not to terminate and therefore, provision of a half built Arcade that terminates within the property is not desirable as prescribed by the DCP.

Arcades are to be designed with clear lines of sight, minimising recesses or corners.

Comment

Not applicable to the development, no arcade.

Arcades are to be fully accessible 24 hours a day, open to the sky or allow daylight access.

Comment

Not applicable to the development, no arcade.

Colonnades are not permitted in arcades (refer to advisory note in clause D10.21 of this DCP).

Comment

Not applicable to the development, no arcade.

Overall, the proposed development has been considered against the controls contained within the DCP which accompany the Newport Masterplan and the proposal compliant with the control, when considering the opportunities and constraints of the subject site.

D10.24 Building Depth and Separation (Newport Commercial Centre)

The proposal has been considered in detail against the requirements of the Apartment Design Guidelines which includes controls relating to building depth and building separation. See assessment against the ADG earlier in this report.

D10.28 Open Space (Newport Commercial Centre)

DCP Control

The DCP requires a communal open space area for shop top housing residential developments. The area must be 15% of the site area with a minimum dimension in one direction of 6 metres. The site has an area of 1313sqm and therefore, a communal open space area of 196sqm is required in accordance with the DCP.

The proposed development has 128sqm of communal open space located on the second floor, or, 10% of the site area. This area has a minimum dimension in one direction of 6 metres.

Communal open space is also considered against the apartment design guidelines earlier in this report.

Merit Consideration

The proposal has a shortfall of communal open space what considered against the DCP requirement. In consideration of this variation to the DCP, the proposal is assessed against the outcomes of the control as follows:

A consolidated area of useful, accessible private and/or communal open space for all new dwellings is provided.

Comment

Having regard to the context of the site, the area of communal open space is considered suitable for the residents of the development, with the area receiving a high level of solar access and offering facilities catering to their needs including green space, decking and a bbq area. It is common for developments of this nature located in town centres to have either reduced or no communal open space based on their proximity to public open space networks and the beach. The site is located in a highly accessible, well serviced location and is across the road from Newport Beach and the surrounding public parkland. Therefore, although the proposal has a numerical shortfall, this is acceptable given the location of the development.

Landscaping contributes to the 'green' mid block character and provides for soft landscaping and deep soil planting.

Comment

The communal open space contains landscaping that contributes to the mid-block green character, as viewed from short and long distance. The 1m soil depth is capable of accommodating medium height landscape planting.

Stormwater infiltration can occur in the open space area.

Comment

Council's development engineers have reviewed the stormwater drainage plans for the site and are satisfied with site drainage.

A pleasant outlook for building users is provided.

Comment

A planter box is used adjacent to Bedroom 1 of unit 13, to assist outlook and soften the building.

The proposed development is considered consistent with the outcomes of the control and therefore, the variation to the control 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 \$70,554 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$7,055,446.

CONCLUSION

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

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

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

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

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

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

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

Summarised Conclusion

The proposed development is considered to be an appropriate contextual fit for the Newport Commercial Village and responds to the key aspects of the DCP and Masterplan with regards to the vehicular access, site amalgamation and design in response to the amenity of Robertson Road in regards to building bulk and scale.

When considered against the ADG, the proposal is consistent with the key objectives which guide residential amenity for the development and provides suitable building separation to enable development of the future adjoining land. The proposed shortfall in carparking is able to be supported in the context of the B2 Local Centre Zone and the provision of a single level basement parking is a suitable outcome for the site that minimises disturbance for the precinct, whilst providing an appropriate

amount of parking for the residents of the building.

The proposal has responded and incorporated the recommendations of the DSAP in each instance and the applicant has addressed each of the issues identified by Council through the assessment process. Therefore, the proposal is considered worthy of approval subject to the conditions outlined at the end of this report.

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

RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.3 Height of Building development standard pursuant to clause 4.6 of the PLEP 2014 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2020/1756 for Demolition works and construction of a mixed use development (Shop Top Housing) on land at Lot 66 DP 6248, 353 Barrenjoey Road, NEWPORT, Lot 65 DP 6248, 351 Barrenjoey Road, NEWPORT, Lot 64 DP 1090224, 351 Barrenjoey Road, NEWPORT, 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 |
| A011, Issue 07 | 21/06/2021 | Crawford Architects |
| A101, Issue 24 | 21/11/2021 | Crawford Architects |
| A102, Issue 34 | 21/11/2021 | Crawford Architects |
| A103, Issue 33 | 21/11/2021 | Crawford Architects |
| A104, Issue 32 | 21/11/2021 | Crawford Architects |
| A105, Issue 28 | 21/11/2021 | Crawford Architects |
| A300, Issue 23 | 21/11/2021 | Crawford Architects |
| A301, Issue 19 | 21/11/2021 | Crawford Architects |
| A302, Issue 18 | 21/11/2021 | Crawford Architects |
| A310, Issue 16 | 21/11/2021 | Crawford Architects |
| A311, Issue 16 | 21/11/2021 | Crawford Architects |
| A312, Issue 09 | 21/11/2021 | Crawford Architects |
| A320, Issue 08 | 21/06/2021 | Crawford Architects |

| Engineering Plans | | |
|-------------------|-------|-------------|
| Drawing No. | Dated | Prepared By |

| | | |
|--|--------------------------|-----------|
| SW05 P3, SW00 P4, SW03 P4, SW01 P6, SW04 P6, SW02 P7 | 14 and 15 September 2021 | Demlakian |
|--|--------------------------|-----------|

| Reports / Documentation – All recommendations and requirements contained within: | | |
|---|-------------------|------------------------------|
| Report No. / Page No. / Section No. | Dated | Prepared By |
| Geotechnical Report, 5622-G1, Rev 2 | 22 September 2021 | Assettgeoenviro |
| Water Mangement Report, Ref 219120rpt20210914 | 14 September 2021 | Demlakian |
| Statement of Compliance - BCA Access Report, Rev B | 16 June 2021 | ABS |
| BCA Report, Ref 19/0405 | 15 June 2021 | Dix Gardner |
| Flood Management Report | 6 March 2020 | Demlakian |
| BASIX Certificate No.1033257M_03 | 21 November 2021 | Damian O'Toole Town Planning |
| Acoustic Report V2, Project No 3918 | 20 January 2021 | Koikas Acoustics |
| Construction Traffic Management Plan | 11 December 2020 | SBMG Planning |

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

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

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

| Landscape Plans | | |
|------------------------|--------------|---------------------------------|
| Drawing No. | Dated | Prepared By |
| Dw 000, Issue E | 17/06/2021 | Site Image Landscape Architects |
| Dw 101, Issue E | 17/06/2021 | Site Image Landscape Architects |
| Dw 102, Issue F | 21/06/2021 | Site Image Landscape Architects |
| Dw 103, Issue F | 21/06/2021 | Site Image Landscape Architects |
| Dw 104, Issue A | 21/06/2021 | Site Image Landscape Architects |
| Dw 501, Issue D | 06/12/2020 | Site Image Landscape Architects |

| Waste Management Plan | | |
|------------------------------|---------------|---------------------|
| Drawing No/Title. | Dated | Prepared By |
| Waste Management Plan | December 2020 | Crawford Architects |

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

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

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 |
|--|----------------|------------------|
| Transport for NSW | 2021/097880 | 15 February 2021 |
| Water NSW | 2021/318057 | 3 May 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 \$70,554.46 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 \$7,055,446.00.

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

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

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

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

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

6. **Security Bond**

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

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

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

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

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

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

The applicant is to lodge a bond with Council of \$60 000 as security against any damage or failure to complete the construction of road pavement/shoulder reconstruction, Ker and gutter reconstruction and driveway crossing works 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.

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

The applicant is to lodge a bond of \$1,000 as security against any damage Council's stormwater infrastructure 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

9. **Public Domain Plan**

A Public Domain Plan shall be submitted to the Certifying Authority and Council, with sufficient detail design information including the following:

- Provision of new granite pavement to the Robertson Road road reserve frontage to match existing granite pavement on opposite side of Robertson Road, as approved by Council,
- Finished pavement gradients to achieve a minimum 2.5% rise from kerb to building openings, and match existing levels to adjoining properties,
- Details of any utility alignment and level changes,

- Tactile ground surface indicators at the pedestrian crossings in accordance with AS1428.4.1,
- Identification of existing street furniture to be retained and protected including bollards, safety fencing, street signs and the like,
- Existing utility pit lids are to be altered to paver infill type to accommodate the granite paving paver within Robertson Road,
- Protection of Barrenjoey Road unit pavers and replacement as required,
- Street tree planting in accordance with Northern Beaches Standard Drawing 1300 - Tree Pit Details, Plan and Section, including 4600 x 2200 strata cell system, 1600 x 1400 tree pit opening finished with porous paving sitting on a cast iron perforated grate. The perforated grate shall sit over the strata cell system,
- Street tree planting shall match the planting theme within the opposite side of Robertson Road, including the first street tree from the corner shall be nominated as *Tristania laurina*, and the other two street trees shall be *Waterhousea floribunda*,
- All street trees shall be planted at a minimum container size of 200 litres, with a caliper of 50mm and at least 3 metres in height at installation, and are to be placed in consideration of existing street lighting and utilities,
- Street trees shall include tree guard TG6 'Silva Guard', black in colour, manufactured by Street Furniture Australia,

Any work carried out upon public land shall include an application for construction of kerb & gutter, footpath, pavement and any other encroachment works on council's road reserve: Section 138, including approvals and permits from Council in place prior to commencement to conduct such works.

The Public Domain Plan is to be provided to the Certifying Authority and Council prior to the issue of the Construction Certificate.

Reason: Compliance with Council standards for works on public land.

10. **On Slab Landscape Works**

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided. Landscape treatment details shall also be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

A soil depth of 600mm is required to support landscaping as proposed. Design certification shall be submitted to the Certifying Authority by a qualified Structural Engineer that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Asset Geotechnical Engineering Pty Ltd dated 22/09/2021 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.

12. **Erosion and Sediment Control Plan**

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

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

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

Reason: Protection of the receiving environment.

13. **Detailed Design of Stormwater Treatment Measures - Major**

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the Water Management Report (REF: 219120rpt20210914_AM), Stormwater Plan SW02 rev P7 and Council's Water Management for Development Policy.

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

Reason: Protection of the receiving environment.

14. **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.

15. **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 throughout the town centre, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm. Truck movements must be agreed with Council's Traffic Engineer prior to submission of the CTMP.

The CTMP must address following:

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

the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent

- ı Proposed protection for Council and adjoining properties
- ı 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.

16. On-Street Work Zone

The applicant shall lodge an application for a work zone for the frontage of the site to Council for consideration and approval. The provision of a work zone will require approval from Northern Beaches Local Traffic Committee. Application forms for work zones are available on Council’s website or at the Customer Service section at Council’s administration building. Applications shall be lodged at least 4 weeks prior to work commencing.

An application must be lodged with Council for consideration and approval for a work zone for the frontage of the site.

The provision of a work zone will require approval from Northern Beaches Local Traffic Committee. Applications must be lodged at least four (4) weeks prior to work commencing.

Reason: To ensure works vehicles do not impact on parking, traffic flows and pedestrian thoroughfares.

17. 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.

18. Amendments to the approved plans

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

- ı Bedroom 1, Unit 13 shall have a window sill height of 1.7m from the finished floor level upon the south-western elevation.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

19. Fire Safety

The works and recommendations as contained in the "Deemed to Satisfy Assessment" Report prepared by Dix Gardner Group, dated 18/12/2020, Report Ref No. 19/0405 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.

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

Access and facilities to and within the building are to be provided for Persons with a Disability and are to comply with the Building Code of Australia and AS 1428.1.

In this regard the Access Report - "Statement of Compliance" prepared by Accessible Building Solutions, job no. 219164 and dated 3/10/2019 is to be considered as part of the assessment of the Construction Certificate.

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

21. **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 for Development Policy, and generally in accordance with the concept drainage plans prepared by Demlakian Consulting Engineers, job number 219120 drawing number SW00 to SW05, dated 14/9/21. 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 (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

i. OSD to be provided in accordance with Clause 9.0

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.

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

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of driveway crossing, reinstatement of existing driveway crossings, stormwater connection from the site and public domain works which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

1. 5.0 meter wide driveway crossing in accordance with Northern Beaches Council Drawing

No.A4-3330/1 N.

2. Reinstatement of all old driveway crossings
3. Reconstruction of kerb and gutter along the entire Robertson Road frontage with 600mm AC reinstatement.
4. Paving and landscape reconstruction along Robertson Road frontage in accordance with the Public Domain Plan Condition of this consent.
5. Site stormwater discharge connection to the existing Council pit in Robertson Road showing details including but not limited to size, invert levels, long section with existing services, and connection details.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

23. **Tanking of Basement Level**

The basement area is to be permanently tanked. The Applicant is to submit structural details of the tanking, prepared by a suitably qualified Engineer. Where temporary dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Office of Environment and Heritage. The bore license must be obtained prior to commencement of dewatering works. All requirements of the NSW Office of Water are to be complied with and a copy of the approval must be submitted to the Certifying Authority. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To prevent ingress of sub-surface flows into the basement area and to comply with State Government Requirements.

24. **Structural Adequacy and Excavation Work**

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

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

25. **Acid Sulfate Soils Management Plan (ASSMP)**

An Acid Sulfate Soils Management Plan (ASSMP) is to be prepared by suitably qualified and experienced persons to manage the potential disturbance of Potential Acid Sulfate Soils (PASS)

during works.

The Acid Sulfate Soils Management Plan (ASSMP) is to be submitted to the satisfaction of the Principal Certifying Authority.

Reason: To ensure management of potential acid sulfate soils.

26. **Amended Acoustic Report to be Submitted**

Prior to the issuing of a Construction Certificate, an amended acoustic report by a suitably qualified acoustic consultant with updated unattended monitoring data is to be submitted to Councils Environmental Health Department for review and approval. The report and monitoring is to be done in accordance with NSW EPA's Noise Policy for Industry.

Reason: To preserve the amenity of the neighbourhood (DACHPCPCC6)

27. **Mechanical Ventilation Provisions for Retail Tenancies**

Prior to the issuing of any Construction Certificate, certification is to be provided from a suitably qualified professional that the building's design and construction will provide adequate provisions to the retail tenancies for mechanical ventilation to be installed for any future retail tenancies that may require mechanical ventilation. The certification is to consider that the buildings provisions for mechanical ventilation are satisfactory to:

- i. Prevent potential amenity issues including noise and odour for occupants of the building and surrounding premises; and
- i. Allow compliance with relevant legislation and standards including Building Code of Australia, AS1668.1 "The use of ventilation and air conditioning in buildings Fire and smoke control in buildings" and AS1668.2 "The use of ventilation and air conditioning in buildings Mechanical ventilation in buildings".

Certification is to be submitted to the satisfaction of the Principal Certifying Authority.

Reason: To protect the amenity of building occupants and neighbouring properties.
(DACHPCPCC6)

28. **Noise - Design of Mechanical Plant**

Prior to the issue of a Construction Certificate, the design, specifications and location of noise generating mechanical plant are to be provided to the Principal Certifying Authority. An acoustic assessment is to be undertaken by a suitably qualified professional such as an acoustic engineer to determine acoustic treatments to control noise emissions from all mechanical plant noise in accordance with recommendations in the amended acoustic Report.

Any design recommendations made by the consultant must be implemented into the plans prior to issuing the Construction Certificate in order to achieve compliance with noted conditions of this consent.

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

Reason: To maintain amenity of the surrounding area.

(DACHPCPCC6)

29. **Tree Protection Plan**

In order to protect existing road reserve trees, palms and vegetation in close proximity, and in particular to the existing planting fronting Barrenjoey Road, the following applies to the development site:

- i) A Tree Protection Plan prepared by a AQF Level 5 Arborist with qualifications in arboriculture/horticulture shall be provided, in accordance with AS4970-2009 Protection of trees on development sites, demonstrating as a minimum, the following:
 - Location of tree protection fencing / barriers,
 - General tree protection measures, including trunk and canopy protection.
- ii) A schedule of site inspections, hold points and related certification of construction works near existing vegetation, including in particular during the installation of scaffolding.
- iii) The Tree Protection Plan is to be submitted to the Certifying Authority for approval prior to issue of a Construction Certificate.
- iv) Tree protection measures identified on the plan are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting in the vicinity of the works.

30. **Flooding**

In order to protect property and occupants from flood risk the following is required:

Building Components and Structural Soundness – C1

All new development shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – C2

All new development must be designed and constructed to ensure structural integrity up to the Probable Maximum Flood, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion. The PMF level on the site varies, but the maximum PMF is 7.24m AHD. Structural certification shall be provided confirming the above.

Building Components and Structural Soundness – C3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level (for FPLs, refer to Figure 1 of Demlakian's Flood Management Report, March 2020).

Storage of Goods – D1

Hazardous or potentially polluting materials shall not be stored below the Flood Planning Level unless adequately protected from floodwaters in accordance with industry standards.

Car parking – G3

All access, ventilation and any other potential water entry points, including entry ramp

crests to the basement car park shall be at or above the Flood Planning Level, and as shown on Drawing A102/07. This includes that the driveway crest must be at or above 7.49m AHD, and the stairs from the street down to the basement car park must rise to at least 7.15m AHD before descending

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

31. **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)

32. **Compliance with Standards**

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

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

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

33. **Basement Wall Structural Design**

Prior to the issue of any construction certificate, details shall be provided by a suitably qualified structural engineer demonstrating the two areas of the basement marked 'soft construction for future breakthrough' have been incorporated into the structural design of the basement and building to allow connections to future adjoining developments.

Details shall be provided to the Principle Certifying Authority prior to the issue of any construction certificate.

34. **Driveway crest structural design**

Prior to the issue of a construction certificate, details shall be provided by a suitably qualified structural engineer demonstrating the area identified as 'Area of slab shown hatched to be detailed as removeable' upon drawing A102 Issue 33 has been incorporated into the structure design of the driveway and the building.

Details shall be provided to the Principle Certifying Authority prior to the issue of any construction certificate.

35. **Acoustic Treatment**

Prior to the issue of a construction certificate, details shall be provided by a suitably qualified acoustic engineer demonstrating acoustic measures will be implemented to the window of Bedroom 1, Unit 13 to mitigate external noise sources from the communal open space area.

Details shall be provided to the Principle Certifying Authority prior to the issue of any construction certificate.

36. **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.

37. **Covenant and Restriction under 88E Conveyancing Act for future vehicular access**

Prior to the issue of any Construction Certificate in relation to the development a positive covenant and restriction under section 88E of the *Conveyancing Act* noting Council as the authority with the right to vary, modify or release and in terms to the satisfaction of Council, must be registered on the title to the subject site 351-353 Barrenjoey Road.

Such instrument is to impose an obligation to obtain all necessary consents in relation to the carrying out of the works for the demolition of the basement break through walls (as shown in plan

A101 Issue 24, dated 21/11/2021 and prepared by Crawford Architects) (as agreed by the owner of 31 Foamcrest Avenue) and all ancillary necessary work at its cost and to provide for practical and appropriate vehicular access by registered instrument for the development site and site adjoining the development site on Barrenjoey Road to and from Foamcrest Avenue (as shown in Plan Robertson Road as shown in Plan A005 Titled 'Traffic Sequencing Option' Issue 01 dated 21/08/2021 prepared by Crawford Architects). When such access becomes available to and from Foamcrest Avenue the subject site access from Robertson Road is to be made inaccessible by vehicles.

Such instrument is to be prepared and registered at the cost of the applicant.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

38. Tree Removal Within the Property

The following Exempt Species as defined in the Development Control Plan or the Arboricultural Impact Assessment may be removed without consent:

i) T2, T3, T4, T5 and T6 - all under 5 metres in height.

Reason: To enable authorised building works.

39. Tree Removal Within the Road Reserve

In consideration of the assessment and recommendation of Arboricultural Impact Assessment prepared by Arboriculture Australia dated 11/01/2021, the following tree is approved for removal due to tree health and its useful life expectancy:

- T1 Lemon Scented Gum

Removal of approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor. Details of currently approved tree contractors can be obtained from Northern Beaches Council Tree Services Section prior to removal.

Reason: Public liability

40. Road Occupancy Licence (ROL) from Roads and Maritime Services

The developer shall apply for a Road Occupancy Licence (ROL) from the RMS Transport Management Centre (TMC) prior to commencing work within the classified road reserve or within 100m of traffic signals. The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified with 'Prepare a Work Zone Traffic Management' accreditation or equivalent. Should the TMP require a reduction of the speed limit, a Direction to Restrict will also be required from the TMC.

Reason: To inform the relevant Roads Authority of proposed disruption to traffic flows.

41. 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.

42. Public Liability Insurance - Works on Public Land

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

43. Protection of Existing Street Trees

All existing street trees in the vicinity of the works shall be retained during all construction stages and the street trees fronting the development site shall be protected in accordance with the Tree Protection Plan.

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

Reason: Tree protection.

44. 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.

45. 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.

46. Substitution of Stormwater Treatment Measures

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

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

47. 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.

48. **Traffic Management**

Traffic management procedures and systems must be in place and practised during the course of the project to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 2009 Manual of Uniform Traffic Control Devices and Council's Development Control Plans.

Note: A plan of traffic management is to be submitted to and approved by the Consent Authority.

Reason: To ensure pedestrian safety and continued efficient network operation.

49. **Staff and Contractor Parking**

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.

50. **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.

51. **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.

52. **Survey Certificate**

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

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

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

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

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

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

53. **Civil Works Supervision**

The Applicant shall ensure all civil works approved in the Section 138 approval are supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Roads Authority.

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

54. **Notification of Inspections (infrastructure works to be handed over to Council)**

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

- (a) Installation of Silt and Sediment control devices
- (b) Concrete slab under paving
- (c) Prior to laying of pavers
- (d) Connection to stormwater gully pit
- (e) Prior to pouring of kerb and gutter, driveway crossing
- (f) Subgrade level / basecourse level / subbase
- (g) Sealing road pavement

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification.

Reason: To ensure new Council infrastructure is constructed in accordance with Auspec 1 Council's design and specification standards.

55. **Acid Sulphate Soils**

All excavation, construction and associated works must be conducted in accordance with the approved Acid Sulfate Soils Management Plan.

Reason: To ensure management of potential acid sulfate soils.

56. **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.

57. **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

58. Landscape Completion

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

- i) street trees shall be in accordance with the Public Domain Plan, including 1 x *Tristania laurina* and 2 x *Waterhousea floribunda*, all planted at 200 litre container size,
- ii) all nominated *Raphiolepis indica* 'oriental pearl' species (parent weed species) to be replaced with non self-seeding species of similar form and size.

Prior to the issue of any Occupation Certificate details (from a 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.

59. Certification for the Installation of Stormwater Treatment Measures

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the engineering plans and manufacturer specifications. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. Vegetated measures must exhibit an 80 percent survival rate of plantings.

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

Reason: Protection of the receiving environment.

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

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

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

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

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

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

61. **Stormwater Treatment Measures Operation and Maintenance Plan**

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

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

1. Detail on the stormwater treatment measures:

- a) Work as executed drawings
- b) Intent of the stormwater treatment measures including modelled pollutant removal rates
- c) Site detail showing catchment for each device
- d) Vegetation species list associated with each type of vegetated stormwater treatment measure
- e) Impervious area restrictions to maintain the water balance for the site
- f) Funding arrangements for the maintenance of all stormwater treatment measures
- g) Identification of maintenance and management responsibilities
- h) Maintenance and emergency contact information

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

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

Additionally for vegetated devices:

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

3. Maintenance schedule and procedure - ongoing

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

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

Reason: Protection of the receiving environment.

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

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

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

Reason: Protection of the receiving environment.

63. **Strata Management Statement**

The Strata Management Statement must specifically list the stormwater treatment measures

that will be maintained under strata title. The statement must also include the Stormwater Treatment Measure Operation and Maintenance Plan.

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

Reason: To ensure maintenance of all stormwater management assets and protection of the receiving environment.

64. **Stacked Parking Spaces (Residential)**

Stacked parking spaces are to be assigned as the same residential unit which blocks in the parking spaces.

Reason: To minimize conflicts regarding parking areas.

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

All car parking spaces are to be assigned to individual units. All residential units must be assigned a minimum of one parking space. Four (4) visitor spaces are to be provided and clearly marked as such within the development. 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 and visitors.

66. **Disabled Parking Spaces**

Where disabled parking spaces are provided they must be in accordance with 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.

67. **Stacked Parking Spaces (residential)**

Stacked parking spaces are to be assigned as the same residential unit which blocks in the parking spaces. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To minimize conflicts regarding parking areas.

68. **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.

69. **Footpath Construction**

The footpath, 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.

70. **Convex Mirror at Ramps**

One (1) convex mirror is to be installed and maintained at the curved ramp leading from ground floor to the basement floor level. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To minimise vehicular conflicts at ramps.

71. 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.

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

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/guide-submitting-ldaa-nov19.pdf>

The form for the application can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/4023-legal-documents-authorisation-oct19.pdf>

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

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

Reason: To ensure the on-site stormwater detention system is maintained to an appropriate operational standard and not altered.

73. Geotechnical Certification Prior to Occupation Certificate

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

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

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

75. Acoustic Compliance Report

Prior to the issuing of any interim / final occupation certificate an Acoustic Compliance Report, prepared by a suitably qualified professional such as an acoustic engineer, must be submitted certifying that the noise emitted from mechanical plant when operational:

- i. Complies with recommendations within the acoustic report
- i. Will not cause "Offensive Noise" as defined by the Protection of the Environment Operations Act 1997; and
- i. Complies with NSW EPA Noise Policy for Industry.

Any recommendations made by the consultant must be implemented prior to issuing the Occupation Certificate in order to achieve compliance with noted conditions of this consent. Certification is to be submitted to the satisfaction of the Principal Certifying Authority and Councils Environmental Health Team.

Reason: To ensure compliance with legislation and to protect the acoustic amenity of Neighbouring properties. (DACHPFPOC6)

76. 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.

77. 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.

78. 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.

79. 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.

80. 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.

81. **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

82. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. 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.

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.

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.

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

Reason: To maintain local environmental amenity.

83. **Maintenance of Stormwater Treatment Measures - Major**

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

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

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

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

Reason: Protection of the receiving environment.

84. **Commercial Waste and Recycling Storage**

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

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

85. **Right of Access (through-site vehicle link)**

A right of access (under the provisions of Section 88B of the Conveyancing Act) is to be created to ensure a through-site vehicle access to 355 Barrenjoey Road Newport is provided within the basement of the subject development site, consistent with the location of the basement breakthrough as show in A101, Issue 24 dated 21/11/2021 prepared by Crawford Architects.

The terms of the right of way (available from Northern Beaches Council), are to be prepared by a registered surveyor to Northern Beaches Council's standard requirements at the applicant's expense.

Activation of the through site link will only occur upon redevelopment and physical commencement development containing a basement level upon 355 Barrenjoery Road Newport.

Details demonstrating compliance with this condition are to be submitted to Council.

Reason: To allow the reasonable development of the neighbouring site.