

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/0460
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Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 188 DP 16719, 3 Gondola Road NORTH NARRABEEN NSW 2101 Lot 187 DP 16719, 1 Gondola Road NORTH NARRABEEN NSW 2101
Proposed Development:	Demolition works and construction of shoptop housing
Zoning:	E1 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	MacKenzie Architects International

Application Lodged:	07/05/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Mixed
Notified:	02/12/2024 to 21/01/2025
Advertised:	02/12/2024
Submissions Received:	13
Clause 4.6 Variation:	4.3 Height of buildings: 43.15%
Recommendation:	Approval

Estimated Cost of Works:	\$ 9,166,815.00
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EXECUTIVE SUMMARY

This application seeks consent for demolition works and construction of a part 4/part 5 storey shop top housing development, with two (2) commercial tenancies, twelve (12) residential apartments and 35 above ground carparking spaces.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) for determination because the development is subject to Chapter 4 of State Environmental Planning Policy (Housing) 2021 (more than 3 storeys and 4 apartments), the development has attracted more than ten (10) submissions by way of objection, and the development involves a 43.15% variation to Clause 4.3(2A) of the Pittwater Local Environmental Plan 2014 (PLEP), which sets the height of buildings control to be

8.0 metres above the Flood Planning Level on the site.

The applicant has submitted a written request pursuant to Clause 4.6 of the PLEP to justify a contravention to the height of buildings development standard. The written request argues that the height of the development is consistent and compatible with nearby shop top housing developments and almost identical to the previously approved shop top housing developments on the subject site that have been approved by the NSW Land and Environment Court. The request also argues that the non-compliance is exacerbated by the flooding constraints of the site that require the finished floor levels of the commercial tenancies to be raised above the existing ground level to the Flood Planning Level and outlines that the building height non-compliance will not give rise to adverse amenity impacts on surrounding properties.

The assessment has concluded that the applicant's written request has adequately satisfied the jurisdictional matters within Clause 4.6 of the PLEP and considers that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify a variation to the development standard.

The application has been subject to various rounds of public exhibition and a total of thirteen (13) submissions by way of objection were received. The concerns raised within the submissions relate to; inadequate off-street car parking, traffic generation, the building height non-compliance, residential amenity impacts, construction impacts, architectural and landscape design, structural impacts on adjoining properties and flooding impacts. These concerns have been considered as part of the assessment and do not constitute matters that would warrant refusal of the application. Suitable conditions of consent have been included in the draft consent in relation to issues raised in the submissions.

The application was referred to the Design and Sustainability Advisory Panel (DSAP), who provided several recommendations to address deficiencies with the development in relation to internal residential amenity, amenity impacts on adjoining properties, building bulk, landscape design and sustainability. The applicant has made significant amendments to the proposal to address the DSAP recommendations; including but not limited to deleting two (2) apartments (i.e. reducing from 14 apartments to 12 apartments), providing greater building articulation, increasing the southern building setbacks, providing additional landscaping, optimising the layout of the apartments and providing electric vehicle charging points within the car parking areas. The assessment finds that the amended development application has adequately resolved the concerns raised by the DSAP.

Other key assessment issues include; flooding impacts, potential land contamination/remediation, groundwater management, acid sulfate soils, off-street car parking, the quantum of commercial floor space proposed and the secondary front setback non-compliance. The assessment has concluded that the environmental constraints of the site pertaining to the flooding hazards, potential land contamination, groundwater management and acid sulfate soils do not render the site unsuitable for re-development as the recommended conditions of consent will adequately address these constraints.

Additionally, while the development includes minor numerical non-compliances to the Pittwater 21 Development Control Plan (P21DCP) controls relating to the quantum of commercial floor space proposed, secondary front setback control and the off-street car parking requirement, the assessment has concluded that the underlying outcomes of the P21DCP controls have been achieved, notwithstanding the numerical non-compliances. As such, flexibility should be afforded to these P21DCP controls, consistent with Section 4.15(3A)(b) of the Environmental Planning and Assessment Act 1979.

Overall, the development is considered to be consistent with all applicable environmental planning instruments and regulatory provisions. Therefore, the development is considered to be in the public

interest.

Accordingly, it is recommended that the NBLPP **approve** the application, subject to the recommended conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for demolition works, tree removal and the construction of part four / five shop top housing development across two allotments.

Site consolidation will be required as part of the development.

The detailed components of the development are outlined below as follows:

Demolition Works and Tree Removal

- Demolition of the existing two storey commercial building located on 3 Gondola Road (western allotment).
- Removal of two prescribed trees (i.e. non-exempt species), being Trees 4 and 5 as identified in the applicant's Arboricultural Assessment Report and Tree Protection Specification.

Earthworks

- Minor excavation across the site to provide the partially above-and-below ground car parking level including the flood storage tank.
- Small retaining walls and minor infilling around the front setback zones to provide landscaping.

Construction

- Construction of a part four / five storey shop top housing development containing twelve (12) apartments with a lift between all levels, pedestrian access via Gondola Road and vehicular access via Minarto Lane, that includes:
 - Lower Ground Level: 23x residential car parking spaces (including 3x disabled spaces), residential and commercial bin storage areas, bulky waste storage, servicing rooms and a toilet.
 - Ground Floor: Two commercial tenancies, shared lobby between residential and commercial tenants with the residential lift accessed by a security door, 9x commercial car parking spaces (including 1x disabled space) and 3x visitor car parking spaces (including 1x disabled space). No future tenants or specific commercial uses are identified for the commercial tenancies and the fit-out and use of these tenancies will require future planning approvals (i.e. Complying Development Certificate or Development Application).
 - First Floor: 5x three-bedroom apartments and 1x two-bedroom apartment (including 2x adaptable apartments).

- Second Floor: 5x three-bedroom apartments and 1x two-bedroom apartment (including 1x adaptable apartment).
- Roof Level: A rooftop level containing 323.86 square metres (sqm) of communal open space that is accessed by a pedestrian lift or staircase and also includes a bathroom.

New Landscaping

- New landscaping at ground level consists of shrubs and trees within the primary and secondary front setback zones including new street tree planting.
- On-slab landscaping comprises of shrubs and trees along the southern and western setback zones in addition to tree and shrub planting within planter boxes around the rooftop communal open space.

Stormwater Management

- Stormwater is proposed to be conveyed to and discharged at the Gondola Road kerb and gutter.



Figure 1 - 3D Montage of the Proposed Development when observed from the corner of Gondola Road and Minarto Lane

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

Pittwater Local Environmental Plan 2014 - Zone E1 Local Centre

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

Pittwater Local Environmental Plan 2014 - 5.21 Flood planning

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater Local Environmental Plan 2014 - 7.10 Essential services

Pittwater 21 Development Control Plan - B2.6 Dwelling Density and Subdivision - Shop Top Housing

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

Pittwater 21 Development Control Plan - C1.4 Solar Access

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - C1.7 Private Open Space

Pittwater 21 Development Control Plan - C1.15 Storage Facilities

Pittwater 21 Development Control Plan - C1.23 Eaves

Pittwater 21 Development Control Plan - C2.16 Undergrounding of Utility Services

Pittwater 21 Development Control Plan - D11.6 Front building line

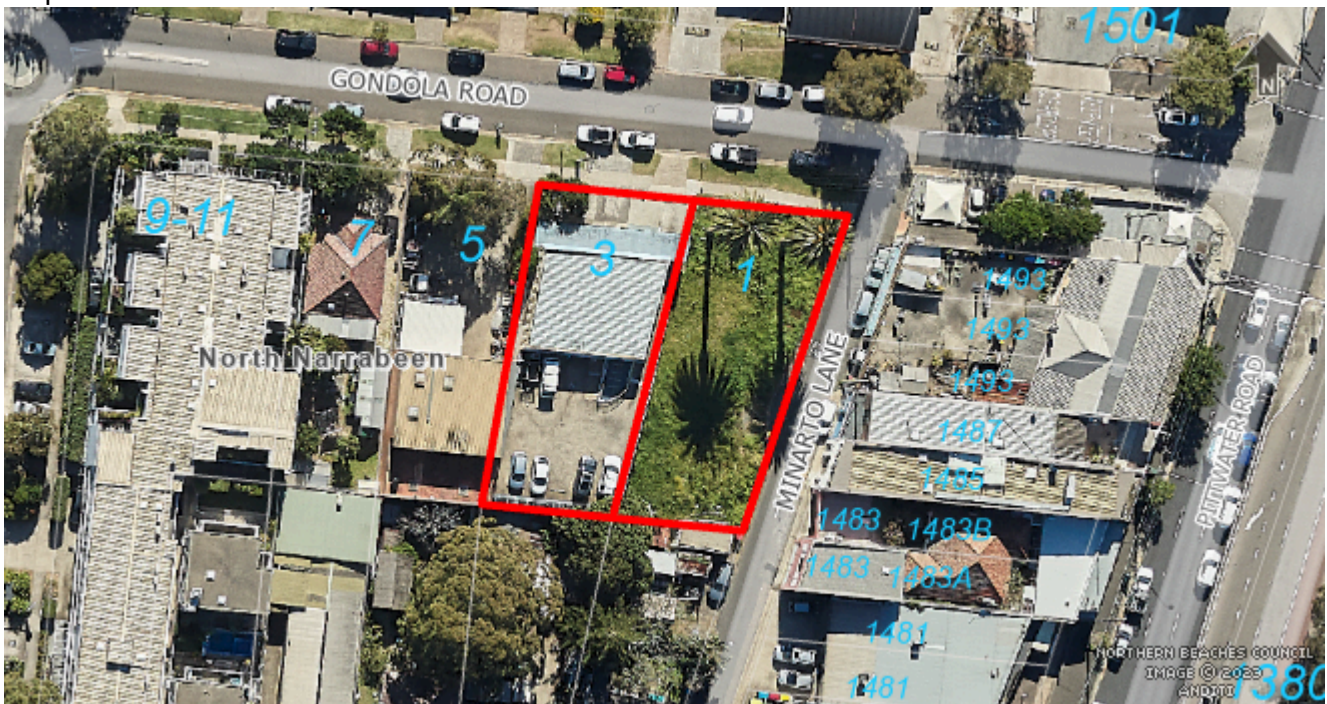
SITE DESCRIPTION

Property Description:	<p>Lot 188 DP 16719 , 3 Gondola Road NORTH NARRABEEN NSW 2101</p> <p>Lot 187 DP 16719 , 1 Gondola Road NORTH NARRABEEN NSW 2101</p>
Detailed Site Description:	<p>The subject site consists of two allotments, being 1 Gondola Road, North Narrabeen and 3 Gondola Road, North Narrabeen. The site is a corner allotment that has a combined frontage of 36.59 metres (m) to Gondola Road (primary frontage) and a frontage of 39.045m to Minarto Lane (secondary frontage). The site has a surveyed area of 1289.2 square metres (sqm).</p> <p>The site is located within the E1 Local Centre zone pursuant to the Pittwater Local Environmental Plan 2014 (PLEP) and currently accommodates a two storey commercial building on 3 Gondola Road that includes an elevated carpark. 1 Gondola Road is currently vacant and includes several small trees and grassland.</p>

The site is generally flat topographically and is mapped as being located within a high risk flood precinct under Council's mapping.

The site is located within the North Narrabeen Local Centre. The development of this Local Centre has been slowed by virtue of the high hazard flooding affectation and the fragmented nature of ownership, particularly in relation to the Pittwater Road fronting properties. Contemporary development within this precinct comprises generally of three storey shop top housing developments; however, a recently constructed four storey shop top housing development is located approximately 60m to the south of the site at 1473 Pittwater Road. Other development within the precinct comprises of two storey commercial development and low density residential development with existing use rights, ranging between one and two storeys in height.

Map:



SITE HISTORY

A search of Council's records has revealed the following relevant history

1 Gondola Road

The following applications are relevant to No.1 Gondola Road, which is the eastern property of the two allotments that form part of the subject site:

- **Development Application N0420/17** for construction of a shop-top housing development comprising one (1) commercial unit, ten (10) residential units and parking facilities for twenty-

four (24) cars withdrawn by the applicant.

- **Development Application DA2018/1210** for the construction of a part four / five storey shop top housing development approved by the NSW Land and Environment Court on 4 October 2019 (refer to *Mackenzie Architects International Pty Ltd v Northern Beaches Council [2019] NSWLEC 1453*). It is noted that the maximum height of this approved development is sited at 17.80m Australian Height Datum (AHD), which is 50 millimetres taller than the proposed development.

3 Gondola Road

The following applications are relevant to No. 3 Gondola Road, which is the western property of the two allotments that form part of the subject site:

- **Land Use Consent 73/62** for 'Factory - Car & Electrical Workshop and Cabinet Making' approved by Council on 5 April 1973.
- **Development Application 1996/106** for a painters workshop (ceramic studio) approved by Council on 12 September 1996.
- **Development Application N0256/05** for use of an existing building for a 'specialised fitness studio' refused by Council on 16 June 2005.
- **Complying Development Certificate CDC0043/11** for alterations and additions to the existing building approved by a Private Certifier on 6 May 2011.
- **Development Application DA2022/0919** for demolition works and construction of a part four / five storey shop top housing development approved by the NSW Land and Environment Court (refer to *Mackenzie Architects International Pty Ltd v Northern Beaches Council [2023] NSWLEC 1440*). It is noted that the maximum height of this approved development is sited at 18.40m Australian Height Datum (AHD), which is 0.65m taller than the proposed development.
- **Pre-lodgement Meeting (PLM) PLM2023/0161** for demolition works and construction of a part four / five storey shop top housing development that is similar in height to the current proposal. The PLM minutes concluded as follows:

"The protruding basement element should not present to the street with floor lip protruding outward. The proposal would be assisted by use of some suitable facing / cladding such as recycled brick (in front of the basement concrete) or regular sandstone block facing and enhanced native planting that matches No.2-6 Rickard. This may include low embankment / to slope up the ground to reduce / conceal the half or more of the basement protrusion. The large framing blades around the entry area off Gondola would appear to interfere with water views and the outlook of the commercial unit toward the Narrabeen lake. This entry should be further widened to have the same landscaping space either side (taking up the 3 car spaces below) to open up the entry the steps may be extended out further toward the frontage to provide wider / spacious foyer.). In conclusion, the proposal needs to "tie in" for streetscape continuity with No.5-7 Gondola Road and No.2-8 Rickard Road. The extensive use of curved styling and glazing with protruding floor slabs and minimal use of brick / sandstone / timber and landscaping is visually disconnecting for the streetscape. Providing a good fit will enhance the character by maintaining a common theme in the styling. The curved styling should be limited

to the interior and roof top terrace".

The proposed development has provided an appropriate response to the recommendations outlined within the aforementioned PLM.

CURRENT DEVELOPMENT APPLICATION HISTORY

The current Development Application seeks consent for a part four / five storey shop top housing development across both 1 and 3 Gondola Road, as opposed to part four / five shop top housing developments on each site in isolation.

Following the preliminary assessment of the application, which included the DSAP Meeting, Council wrote to the applicant raising the following concerns with the development:

- The following concerns were raised in relation to the built form as it presents to the public domain:
 - The proposed façade indentation to Gondola Road must be increased in width so ensure adequate articulation of the building.
 - The proposed blade wall adjacent to the building entry must be deleted.
 - The design and/or materiality of the car parking levels presenting to Minarto Lane must be articulated and activated to improve visual interest, noting the reduced front setback and limited landscaping provided.
 - An awning projected into the northern front setback area and it was requested to be deleted.
- The following concerns were raised in relation to residential amenity:
 - The residential levels were constructed to the southern boundary and increased setbacks were requested.
 - The development did not meet the solar access criteria within the Apartment Design Guide (ADG) and amendments to the eastern elevation to be aligned north-south were requested to maximise sunlight penetration.
 - Various apartments did not meet the apartment size and layout criteria within the ADG.
 - Residential storage areas below the Flood Planning Level (FPL) within the parking areas were requested to be removed due to the flooding constraints.
 - The letterbox location was requested to be clarified.
- Concerns were raised in relation to the stormwater management scheme not meeting Council's Water Management for Development Policy (WMDP).
- Concerns were raised in relation to the loss of flood storage, the floor levels of the proposed bin rooms and car parking and flood emergency response management.
- Concerns were raised that the development did not comply with Council's Waste Management Guidelines (WMG).
- Concerns were raised in relation to internal vehicular movement within the car parking levels.
- Water NSW raised concerns in relation to the hydrological assessment and the Groundwater Dewatering Management Plan.

The applicant has subsequently made the following amendments to the development application pursuant to Section 37 of the Environmental Planning and Assessment Regulation 2021:

- Amended architectural plans and landscape plans were submitted that included the following amendments:
 - Two apartments, one on the First Floor and one on the Second Floor, were deleted and the layout of these residential levels were revised to comply with the ADG size and layout criteria (the original proposal contained 14 apartments instead of 12).
 - A setback between 1.5m - 2.5m was provided on the southern elevation of the building as opposed to a nil setback as previously proposed, with on-slab landscaping provided within the southern setback area.
 - The articulated break on the northern façade was doubled in width with additional deep soil landscaping being provided within this area.
 - The awing within the northern front setback area was deleted.
 - Minor amendments to the layout of the rooftop terrace were proposed, including reducing the size of the roof above the lift overrun and communal roof space.
 - The eastern façade around the car parking area was amended to include battens with green walls to add visual interest and screen the parking area.
 - The blade wall adjacent to the building entry was deleted.
 - The projecting elements adjacent to the east-facing windows were reduced to allow for a greater north-south building orientation to maximise solar access to the apartments.
 - Refinement to the corner façade including enhanced landscaping was provided.
 - The residential storage areas below the FPL were removed.
 - The letterbox was identified within the entryway via the northern façade.
 - The parking layout area was revised to ensure adequate vehicular circulation and a waiting bay was included below the parking ramp.
 - The bin storage rooms were amended to include a 2.1m high clearance to comply with Council's WMG.
 - A flood storage tank below the lower car parking level was provided to mitigate off-site flooding impacts.
- A revised Groundwater Dewatering Management Plan was submitted to address the requirements of Water NSW.
- A new BASIX Certificate has submitted to reflect the amendments.
- Revised technical reports and associated plans relating to flooding, traffic engineering, stormwater management and waste management were submitted to address the concerns raised by the various internal referral bodies.

The application was re-advertised for 28 days in accordance with the Northern Beaches Community Participation Plan.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 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 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to amended architectural plans, amended flood reporting, amended hydrogeological reporting and amended traffic engineering information. This information was subsequently received to Council's satisfaction.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 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 62 and/or 64</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 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>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental	<p>(i) Environmental Impact</p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Environmental</p>

Section 4.15 Matters for Consideration	Comments
impacts on the natural and built environment and social and economic impacts in the locality	<p>Planning Instruments and 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 (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 application has been publicly exhibited from 02/12/2024 to 21/01/2025 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 13 submission/s from:

Name:	Address:
James Cannon	4 Gondola Road NORTH NARRABEEN NSW 2101
Mr Stephen Michael Arnold	5 / 9 - 11 Gondola Road NORTH NARRABEEN NSW 2101
Mr Desmond John Woodley	5 Gondola Road NORTH NARRABEEN NSW 2101
Ms Silvia Adriana Labart	8 / 9 - 11 Gondola Road NORTH NARRABEEN NSW 2101
Ms Cathryn Sara Rich	54 Gondola Road NORTH NARRABEEN NSW 2101
Mrs Siobhan Canning Dampney	44 Gondola Road NORTH NARRABEEN NSW 2101
Mrs Raechel Leigh Frowde	38 Gondola Road NORTH NARRABEEN NSW 2101
Mrs Aprile Marnoch	46 Gondola Road NORTH NARRABEEN NSW 2101

Name:	Address:
Mrs Sonya Maree Walmsley	50 Gondola Road NORTH NARRABEEN NSW 2101
Miss Nicola Potenziani	8 / 9 - 11 Gondola Road NORTH NARRABEEN NSW 2101
Mrs Clare Haley Arundel	5 / 4 - 10 The Avenue COLLAROY NSW 2097
Mr Anthony Joseph Gleeson	4 Rickard Road NORTH NARRABEEN NSW 2101
James Smith	Address Unknown

A total of thirteen (13) submissions were received to the application. Twelve (12) submissions were received during the first exhibition period and one (1) submission for the re-exhibition of amended plans. Each submission raised objections to the proposal.

The following issues were raised in the submissions:

- **Inadequate Off-Street Car Parking**

The submissions raised concerns that the proposed development does not provide adequate off-street car parking.

Comment:

This matter is discussed in detail within the section of this report relating to Section B6.3 of the P21DCP. In summary, while there is a minor shortfall in off-street car parking by 2 spaces, the minor shortfall is assessed as being acceptable by Council's Traffic Engineer given the site is located in very close proximity to public transport services along Pittwater Road. In this regard, the assessment finds that there is adequate off-street car parking proposed to meet the demands generated by the development. The development is consistent with the outcomes of Section B6.3 of the P21DCP and therefore, flexibility is afforded to the numerical requirements of the control, consistent with Section 4.15(3A)(b) of the EP&A Act.

- **Traffic Generation**

The submissions raised concerns that the traffic generated by the development will impact upon the performance of the road network and pedestrian safety.

Comment:

Council's Traffic Engineer is satisfied that the traffic generated by the development will not adversely impact upon the performance of the surrounding road network. Conditions have been recommended to mitigate impacts upon pedestrian safety, including the requirement for a pedestrian sight triangle to be provided at the vehicular access point.

- **Building Height Non-Compliance**

The submissions raised concerns that the proposed building height exceeds the statutory height requirement under Clause 4.3 of the PLEP.

Comment:

This matter is discussed in detail within the section of this report relating to the Clause 4.6 of the PLEP. In summary, while the development exceeds the height limit, the applicant's Clause 4.6 variation request has demonstrated that compliance with the development standard is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify a variation to the height standard.

- **Residential Amenity Impacts**

The submissions raised concerns that the development will result in adverse residential amenity impacts with regards to visual privacy, noise and solar access.

Comment:

The assessment of residential amenity impacts has been undertaken within the section of this report relating to SEPP Housing, the ADG and Clause 4.6 of the PLEP. In summary, the assessment has concluded that the development will not result in adverse privacy or solar access impacts. The noise impacts from the roof top terrace are also mitigated by the recommended conditions of consent that restrict the number of people on the roof terrace and prevent the use of the roof terrace between 10.00pm - 7.00am.

- **Flooding Impacts**

The submissions raised concerns that the development will result in adverse off-site flooding impacts to neighbouring properties.

Comment:

The development includes a flood storage tank below the car parking levels. The flood storage tank that is provided below the parking level will mitigate the loss of flood storage on the site and ensure that the flood behaviour and extent is not significantly altered, thereby mitigating impacts on adjoining properties. Council's Flooding Engineer has also reviewed the application and is satisfied that the development will not result in adverse off-site flooding impacts, subject to recommended conditions.

- **Architectural Design**

The submissions raised concerns that the architectural design of the building is not appropriate for the locality.

Comment:

The assessment finds that the amended architectural design of the development is of a high quality and consistent with the design requirements under SEPP Housing, the ADG and Section D11.1 of the P21DCP. The application was amended following comments from the Design & Sustainability Advisory Panel. The E1 Local Centre is in transition with only a small percentage of zoned E1 land having been developed under the current controls. The

development is consistent with emerging development in the E1 zone and the desired future character of the area.

- **Landscape Scheme**

The submissions raised concerns that the landscape scheme is not appropriate.

Comment:

The proposed landscaping scheme includes deep soil landscape zones within the front building setbacks including on-slab planting in the southern and western corners of the site and the roof terrace. Council's Landscape Officer is satisfied that the landscape scheme is acceptable and consistent with the design requirements under SEPP Housing, the ADG and the P21DCP.

- **Structural Impacts on Adjoining Buildings**

The submissions raised concerns that the development will impact upon the structural integrity of adjoining buildings.

Comment:

Excavation and structural support for adjoining buildings is addressed in the Geotechnical Report submitted by the applicant that will require additional technical details with the Construction Certificate. The Geotechnical Report and recommendations are contained within the conditions of consent along with requiring dilapidation reports to be prepared prior to and post construction on the properties that adjoin the excavation. Dilapidation reports will assist should there be any structural impacts on adjoining buildings.

- **Construction Impacts**

The submissions raised concerns in relation to construction impacts associated with construction traffic, noise and dust.

Comment:

Several conditions of consent are recommended to mitigate construction impacts.

The concerns raised within the submissions have been addressed above and resolved by the recommended conditions of consent where appropriate.

The concerns do not warrant refusal of the application or further amendments to the application.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p data-bbox="531 342 1318 409"><i>Not Supported; however, subsequent amendments have adequately resolved the DSAP recommendations</i></p> <p data-bbox="531 506 1382 539">Strategic context, urban context: surrounding area character</p> <p data-bbox="531 573 1430 707">As noted in the previous report, the site is flood prone and there is an approval for the neighbouring site at 2-8 Rickard Road (of which it is uncertain whether the consent has lapsed or commenced) and which currently has a modification in for assessment with Council.</p> <p data-bbox="531 775 1422 981">While further detail has been provided regarding the neighbouring developments, the Panel is not of the opinion that the information provided supports the proposed layout of the proposal (further discussed below in <i>Scale, Built form and articulation</i>). In fact, the proposal for 1-3 Gondola Road appears to provide significantly more bulk and scale than neighbouring developments.</p> <p data-bbox="531 1048 1422 1149">The Panel recommendation of not exceeding the proposed height of 17.75 m R.L. to top of the lift overrun appears to be met in this proposal.</p> <p data-bbox="531 1216 791 1249">Recommendations</p> <ol data-bbox="587 1283 1366 1384" style="list-style-type: none"> 1. Provide further information regarding how the proposal interfaces with neighbouring developments in a sympathetic manner. <p data-bbox="531 1485 986 1518">Scale, built form and articulation</p> <p data-bbox="531 1552 1422 1865">The previous Panel noted that the height exceedance may be appropriate within this context due to the constrained nature of the site. However, the site coverage still remains excessive at residential levels with depths exceeding 22m, and multiple units with depths exceeding 8m to the back of kitchen (further discussed below in <i>Amenity</i>). Additionally, the building bulk is pushed to all edges with little meaningful articulation, beyond applied elements which are tokenistic in nature and impact solar access. As such, the Panel is not supportive of the bulk produced by the built form.</p> <p data-bbox="531 1933 1422 2101">As noted above, the Panel is not of the opinion that the development appropriately responds to the neighbouring development potential. The proposed deep corner form extends along the northern and eastern boundaries to meet both side boundaries with long blank walls. While it is unclear whether the development 2-8 Rickard Road</p>

Internal Referral Body	Comments
	<p>will proceed as currently designed, the proposed blank wall to the southern boundary on 1-3 Gondola Road significantly impacts the development potential of the site including solar access and visual privacy for units. The Panel does not support this outcome, and while it may be appropriate to meet the site along Gondola Road in this manner, an ADG compliant setback should be provided to the southern boundary to allow appropriate development of this site.</p> <p>The previous Panel provided the recommendation that the ground floor be designed to create an active street frontage, with a direction to provide a 5m strip internally at grade before raising the floor level. This suggestion has not been incorporated and the proposal retains the small indentation with a platform lift, stairs and small amount of landscaping. The Panel does not consider this small area to meaningfully address the issue of street activation. For this approach to be considered appropriate, the indentation would need to be enlarged by at least 5m to provide a larger courtyard which could be activated through seating, ramp and more landscaping. This redesign should also incorporate comments below in Access regarding the entry sequence and residential/commercial access.</p> <p>Recommendations</p> <ol style="list-style-type: none"> 1. Reduce upper level building bulk by reducing depth of building and depth of open plan living room/kitchens to comply with ADG (as per previous Panel report). 2. Remove the blank wall to the southern boundary by providing an ADG compliant setback which allows appropriate development of 2-8 Rickard Road without encroaching on solar access or visual privacy of this development. 3. Further resolve the “indent” within the Gondola Road frontage to provide a larger and more active courtyard space which contributes to the entry sequence for the building as well as the streetscape. <p>Access, vehicular movement and car parking</p> <p>As noted by the previous Panel, generally vehicular access is acceptable, however may need to be reallocated to address comments above regarding the courtyard entrance.</p> <p>Additionally, the Panel recommends that the entry sequence for the building be redesigned to allow a clear line of site from the courtyard through to the lifts. Separation between the lift lobby and car park should be provided to prevent exhaust fumes and smells from the bin holding area entering the shared residential/commercial lobby.</p>

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	<p data-bbox="531 309 1362 376">Location of letterboxes should also be considered as part of this design.</p> <p data-bbox="531 443 791 477">Recommendations</p> <ol data-bbox="587 510 1406 745" style="list-style-type: none"> <li data-bbox="587 510 1406 645">1. Rationalise the commercial space to the west with a straight wall from the edge of the lift, to provide clear line of sight to the residential lift as well as a clear connection with the external courtyard space. <li data-bbox="587 678 1315 745">2. Include the location of letterboxes in the design of the residential lobby and/or courtyard. <p data-bbox="531 846 683 880">Landscape</p> <p data-bbox="531 902 1390 1081">The application proposes the removal of 2 x prominent Pheonix canariensis Canary Island Date Palm which are exempt species according to Northern Beaches Council and replacement endemic Cabbage Tree Palms have been proposed yet more than 2 in number should be considered.</p> <p data-bbox="531 1171 1433 1283">There is a significant planter with a depth of 1 metre at the rear of the proposed building but the detailed planting plan omits this area so it cannot be assessed for the suitability of plant species.</p> <p data-bbox="531 1373 1430 1585">The Statement of Environmental Effects avoids addressing the future character of the North Narrabeen Locality with regard to landscaping which states: The North Narrabeen locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape.</p> <p data-bbox="531 1675 1433 1821">The landscape and deep soil controls within the ADG are only applicable where a council control does not already exist, as such the landscaped percentage of 20% under P21 DCP C1.1 is still “of effect.”</p> <p data-bbox="531 1910 644 1944">Amenity</p> <p data-bbox="531 1977 1374 2089">The previous Panel’s recommendations regarding the amenity of units have generally not been adopted within the proposal, and a number of issues remain.</p>

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	<p>Solar access should not be obtained primarily through clerestory windows, and the information provided does not support the proposal's compliance with 70% of units receiving 2 hours of solar access. The eastern facing units are severely compromised due to their hard alignment with the boundary, as well as being overshadowed by articulation elements. The Panel recommends this façade be redesigned to reorient the building line to capture morning sun, potentially in a similar manner to the neighbouring development at 2-8 Rickard Road. Additionally, living rooms along this facade should be pushed forward with balconies to the side to maximise solar access to living spaces, rather than bedrooms. Notably, if units 1.05 and 2.05 were to propose a corner balcony, instead of the large expanse of glass, it would improve amenity and comfort – this would also help to provide articulation to enable removal the blades which are blocking solar access.</p> <p>As raised previously, snorkel bedrooms are not supported by the Panel and the proposed snorkels do not meet requirements under the ADG. These are to be removed.</p> <p>Multiple units still have excessive depths to the back of kitchens including Units 101, 105, 106, 201, 205, and 206. These units should be reduced in depth to provide light and ventilation to the back of the kitchen areas as well as reduce building depth and bulk.</p> <p>As noted by the previous DSAP, there are a number of conflicts between units and their visual and acoustic separation around the courtyard. This is yet to be resolved satisfactorily.</p> <p>Recommendations</p> <ol style="list-style-type: none"> 1. Demonstrate compliance with solar access through primary windows, not clerestory windows, through the reorientation of windows along the eastern boundary, as well as pushing living spaces toward the boundary. 2. Remove snorkel bedrooms. 3. Reduce depth of all units to a maximum of 8m to the back of kitchens. 4. Pull Units 101 and 201 back to reduce overlooking and privacy issues. This is likely to require the removal of one bedroom (Bed 02) as a minimum. <p>Façade treatment/Aesthetics</p>

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	<p>Generally, the façade is acceptable however the applied articulation impacts the ability for eastern facing units to gain solar access. As noted above these units would be better oriented to capture the morning sun, with a reduction in protruding articulation which further reduces the eastern facing units' solar access.</p> <p>Recommendations</p> <ol style="list-style-type: none"> 1. Provide meaningful articulation to the built form along street frontages to provide visual interest as well as maximise solar access outcomes for residential units. <p>Sustainability</p> <p>The applicant has responded to previous comments by electrifying the building, however it does not seem to be well thought through. The specified cooktops are electric, but induction would be better and would give them more points in the BASIX certificate.</p> <p>The dryers are 6.5 Stars which means the selection of appliances will be limited, expensive and heavy. The high star rating on the dryer could be reduced if the solar panel array was bigger and some apartments had solar connected directly to their power – potential for this to occur and would be a selling point.</p> <p>Centralised Electric instantaneous hot water is nominated on the BASIX certificate. Given there is a lot of roof space, its recommended a centralised heat pump system is used instead as it will significantly reduce emissions.</p> <p>As noted above, an increase in solar access will also increase the sustainability and amenity of units.</p> <p>Recommendations</p> <ol style="list-style-type: none"> 1. Specify induction cooktops. 2. Reduce the dryer star rating and include more solar panels to offset the electrical load. 3. Change the hot water system to a centralised heat pump system.

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	<p data-bbox="531 371 831 405">PANEL CONCLUSION</p> <p data-bbox="531 501 1394 607">The Panel does not support the proposal in its current form. Amendments in response to the above recommendations are required.</p> <p data-bbox="531 636 1362 707">The Panel refer the applicant to the Apartment Design Guide for aspects related to amenity and internal planning of apartments.</p> <p data-bbox="531 770 975 804"><u>Assessment Officer Comments:</u></p> <p data-bbox="531 842 1417 947">The applicant has subsequently amended the development application to address an array of issues raised by the DSAP. These amendments include:</p> <ul data-bbox="611 981 1430 2063" style="list-style-type: none"> <li data-bbox="611 981 1430 1160">• Two apartments, one on the First Floor and one on the Second Floor, were deleted and the layout of these residential levels were revised to comply with the ADG size and layout criteria (the original proposal contained 14 apartments instead of 12). <li data-bbox="611 1189 1430 1328">• A setback between 1.5m - 2.5m was provided on the southern elevation of the building as opposed to a nil setback as previously proposed, with on-slab landscaping provided within the southern setback area. <li data-bbox="611 1357 1430 1462">• The articulated break on the northern façade was doubled in width with additional deep soil landscaping being provided within this area. <li data-bbox="611 1491 1430 1563">• The awing within the northern front setback area was deleted. <li data-bbox="611 1592 1430 1697">• Minor amendments to the layout of the rooftop terrace were proposed, including reducing the size of the roof above the lift overrun and communal roof space. <li data-bbox="611 1727 1430 1832">• The eastern façade around the car parking area was amended to include battens with green walls to add visual interest and screen the parking area. <li data-bbox="611 1861 1430 1895">• The blade wall adjacent to the building entry was deleted. <li data-bbox="611 1924 1430 2063">• The projecting elements adjacent to the east-facing windows were reduced to allow for a greater north-south building orientation to maximise solar access to the apartments.

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	<ul style="list-style-type: none"> • The letterbox was located adjacent to the shared entryway. • Additional native tree planting was proposed. <p>Overall, the assessment finds that the amended development provides an appropriate response to the recommendations raised by the DSAP and that the amended development is now worthy of support.</p>
Environmental Health (Acid Sulfate)	<p><i>Supported - subject to recommended conditions</i></p> <p>This application is seeking consent for a shop top housing development.</p> <p>No actual Acid Sulfate Soils were detected in two reports conducted, one in 2022 and the other in 2024. Based on the findings of both reports, Natural site soils from approximately 1.2 mbgl to 5.50 mbgl are consider to contain Potential Acid Sulfate Soil. An Acid Sulfate Soils Management Plan was prepared by Martens and Associates dated April 2024, reference P2310036JR04V01.</p> <p>Environmental Health recommends approval subject to conditions.</p>
Environmental Health (Contaminated Lands)	<p><i>Supported - subject to recommended conditions</i></p> <p>This application is seeking consent for a shop top housing development.</p> <p>A Preliminary Site Investigation was conducted on 1-3 Gondola for land contamination however limited information was able to be assessed for number 3 Gondola given the hardstand and building currently on the property. As concluded by the PSI, further assessment of number 3 Gondola will need to be undertaken after demolition but prior to Construction. A suitable condition will be applied.</p> <p>Environmental Health recommends approval subject to conditions.</p> <p><u>Assessing Planner Comment:</u></p> <p>Council's Environmental Health Team Leader and Principal Planner (i.e. the assessing officer) have engaged in written correspondence on 29 April 2025, where it was agreed that the contaminated land development consent conditions imposed on the NSW Land and Environment Court's consent of Development Application DA2022/0919 on 3 Gondola Road would be replicated for the subject development, noting that the same contaminated land assessment approach used for the subject development application was used for Development Application DA2022/0919.</p> <p>Accordingly, the recommended conditions pertaining to contaminated land assessment do not reflect the written referral advice from the</p>

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	Environmental Health Officer, but rather reflect the written correspondence dated 29 April 2025 between Council's Environmental Health Team Leader and Principal Planner.
Environmental Health (Industrial)	<p><i>Supported - subject to recommended conditions</i></p> <p>This application is seeking consent for a shop top housing development.</p> <p>An acoustic report prepared by PWNA dated 14 December 2023 has provided recommendations for design and construction to ensure suitable noise limits.</p> <p>In addition, recommendation have been provided for the use of the communal area to reduce noise impacts.</p> <p>Environmental Health recommends approval subject to conditions.</p>
Environmental Health (Food Premises, Skin Pen.)	<p><i>Supported - no recommended conditions</i></p> <p>This application is seeking consent for a shop top housing development.</p> <p>The two commercial tenancies have not been determined and a later use Development Application will be required for the appropriate fit out.</p> <p>Environmental Health recommends approval.</p>
Landscape Officer	<p><i>Supported - subject to recommended conditions</i></p> <p>The development application is assessed by Council's Landscape Referral against the following relevant landscape objectives and controls:</p> <ul style="list-style-type: none"> • Chapter 4 of State Environmental Planning Policy (Housing) 2021, including: (a) Clause 147(1)(a) requires the proposal to be assessed against the 9 design quality principles contained in Schedule 9 and specifically for Landscape Referral, Principle 5 - Landscape; and (b) Clause 147(1)(b) requires the consent authority to take into consideration the Apartment Design Guide - 3E Deep soil zones, 4O Landscape design, and 4P Planting on structures. <p>An Arboricultural Impact Assessment (AIA) is submitted and recommends removal of two prescribed trees within the property (trees 4 and 5) and four exempt species within the property (1, 2, 3 and 6). Should the application be approved Landscape Referral raise no objections to the recommended tree removal. Tree 7 (Eucalyptus) as reported in the AIA shall be protected and it is noted that this is located within property number 4 Rickard Road at some distance from development works.</p> <p>Landscaped Plans are submitted and are generally co-ordinated with the architectural plans and propose landscape outcomes within both (i) natural ground deep soil areas and (ii) on structure. It is noted that</p>

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	<p>the previous concern regarding the identification of an awning over the deep soil area is now removed in the Architectural Plans but remains on the Landscape Plans. No awnings over deep soil areas are to be approved and conditions shall be imposed on the Landscape Plans. The requirement for deep soil area under the Apartment Design Guide (ADG), part 3E Deep soil areas, is satisfied.</p> <p>Should the development proposal be approved, Landscape Referral provide conditions of consent.</p>
NECC (Coast and Catchments)	<p>Supported - subject to recommended conditions</p> <p>This Development Application is to seek consent for construction of a shop top housing development comprising 14 residential apartments and 2 x ground floor retail (commercial) tenancies including parking for 38 vehicles over 2 levels. The application also proposes roof top communal open space and the implementation of an enhanced site landscape regime.</p> <p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Resilience and Hazards) 2021 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021. Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA.</p> <p>Comment:</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by BBF Town Planners Pty. Ltd. dated April 2024, the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&H.</p>

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	<p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>No other coastal related issues identified.</p> <p>As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP.</p>
NECC (Development Engineering)	<p><i>Supported - subject to recommended conditions</i></p> <p>The proposal is for demolition works and construction of shop top housing including residential apartments, retail tenancies on the ground floor as well as ground floor and basement parking.</p> <p><u>Stormwater</u></p> <p>The submitted stormwater plan proposes discharge to the kerb in Gondola Road. No details as to the discharge rate is provided. As the site is flood affected OSD is not required however, the concentrated discharge to the kerb via a single outlet is to be limited to 25l/s. Details are to be provided to demonstrate how this is achieved.</p> <p><u>Public Domain works</u></p> <p>Kerb and gutter along the Minarto Lane frontage following the alignment of the kerb at the corner of Gondola Rd is to be provided and reinstatement of the existing crossings in Gondola Road is to be shown on plan.</p> <p>The Flood team's comments regarding the level of the bin rooms and the fire exist stairs leading from the basement parking which are below FPL are noted. The amendments required by Flood Team are to be completed prior to further engineering assessment.</p> <p>Additional Information Provided 25/10/2024</p> <p>The amended stormwater plans are acceptable subject to conditions. Conditions have been provided for public domain works along the Minarto Lane frontage. No objections to approval subject to conditions as recommended.</p> <p><i>Note to Planner: It is noted that the Flood team have requested amendments. Should the design and levels change due to the requested amendments please refer back to Development</i></p>

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	<i>Engineering for further assessment.</i>
NECC (Flooding)	<p>Supported - subject to recommended conditions</p> <p>The proposal seeks consent for a major redevelopment at 1-3 Gondola Road, North Narrabeen. The works involve the removal of all existing site structures and construction of a four-storey shop top housing development including 14 residential apartments, two ground floor retail tenancies, ground floor carparking, residential and commercial bin rooms, a basement carpark and a rooftop communal area. The development is considered major, and is assessed against Sections B3.11 and B3.12 of the Pittwater DCP, and Clauses 5.21 and 5.22 of the Pittwater LEP.</p> <p>The relevant flood characteristics are as follows: The proposal is located within the High Flood risk precinct. Flood Planning Level: 4.40m AHD 1% AEP Flood Level (plus Climate Change): 3.90m AHD 1% AEP Hydraulic Category: Flood Storage Probable Maximum Flood (PMF) Level: 4.89m AHD Max PMF Life Hazard Category:H5</p> <p>The flood storage tank below the basement is assessed to mitigate the loss of flood storage due to the proposed development. The justification for the entry to the Flood Storage Tank being slightly above ground level to prevent wind blown water is accepted.</p> <p>Subject to the following conditions, the proposal generally complies with Sections B3.11 and B3.12 of the Pittwater DCP, and Clauses 5.21 and 5.22 of the Pittwater LEP.</p>
NECC (Water Management)	<p>Supported - subject to recommended conditions</p> <p>Referral updated 05/03/2025 General Terms of Approval (GTA) have now been attained from WaterNSW. No objections regarding water management provided conditions are adhered to.</p> <p>Previous referral dated 03/06/2024</p> <p>Supported</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Northern Beaches Water Management for Development Policy (WM Policy), and; • Relevant LEP and DCP clauses; <p>The proposal is for demolition of houses and construction of three residential flat buildings.</p>

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	<p>Section 4.0 of the WMD Policy applies. Water sensitive urban design (WSUD), water reuse and infiltration into the soil, and the resulting quality of stormwater leaving the site are interconnected concepts that guide a merit-based assessment under the section. The proposed stormwater treatment chain includes rainwater tank, 1x OceanGuard, and StormFilter chamber containing filter cartridges. It is noted that the proposal also includes planter boxes.</p> <p>On consideration of the size of the lot area, it's location and the water treatment chain proposed, no objections regarding section 4.0.</p> <p>Section 4.1 of the WMD Policy applies. Under this section the proposal must meet Table 5 – General Stormwater Quality Requirements. A stormwater plan has been provided including the layout and output from MUSIC modelling. No MUSIC file has been provided. On consideration of the proposal, no objections regarding section 4.1. It is acknowledged that due to the location, OSD is not required, which has been factored into considerations of post-development flow.</p> <p>Section 4.2 of the WMD Policy applies. As acknowledged in the geotechnical report provided, the proposal will intercept the groundwater table. As such, the proposal requires aquifer interference approval from WaterNSW, making it integrated development. General Terms of Approval issued by WaterNSW are forming part of the condition of consent.</p> <p>No objections regarding water management provided conditions are adhered to.</p>
Traffic Engineer	<p><i>Supported - subject to recommended conditions</i></p> <p>Further comments dated 24/03/2025</p> <p>It is noted that an amended plan together with a traffic letter, ground clearance check and swept paths as requested in previous referral comments are provided. Therefore, the new plans and reports are as follows:</p> <ul style="list-style-type: none"> Plans (Master Set) - Amended - revision F, prepared by Mackenzie Architects International, dated 14/03/2025. Traffic letter providing response to location of waiting bay in basement and loading/ servicing activities and garbage collection associated to commercial units, prepared by Terrafic Pty Ltd, dated 20/03/2025 and reference number 22016. Swept paths separately provided, prepared by Terrafic Pty Ltd Ground Clearance checks, prepared by Martens and Associates, reference number P2310036JC01V02, dated 10 March 2025. <p>Comments</p>

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	<ul style="list-style-type: none"> It is noted that the amended architectural plans now reflect the dimensions of car parking spaces, bicycles, correct RL and grades on the ramp leading to basement, both wall and kerb shown on the ramp leading to basement and the waiting bays marked on both the ground floor and basement level as requested previously. The location of the waiting bay on the basement level is on the right hand side of the circulation aisle. As we drive on the left hand side, this is unideal however as the carpark caters for low volumes of traffic and is for use by residents only, and facilitates passing, the location is deemed acceptable. It is noted that all the swept paths as requested previously have been provided. The egressing swept path of small car parking space number 13 although not a correct simulation as it is not a single movement reversing manoeuvre it is nevertheless acceptable as aisle widths and car parking space dimensions are compliant with standards. Furthermore, since this car parking space is allocated to residents only, Council believes that the residents would be familiar to the parking bay constraints. It is noted that the shared zone of disabled parking spaces are overlapping with a column located in the shared zone. AS2890.6:2022 allows the shared zone to be overlapped. AS2890.6:2022 also allows to have a column in place of bollard. As there is a minimum of 1m provided between the column and any adjacent parking space from the parking space and a minimum of 750mm from the end of the shared zone. The arrangement is considered acceptable, allowing adequate space for wheelchair access from both parking spaces. It is noted that the traffic letter provides a response to previously raised concerns relating to the intended arrangements for removalist trucks and loading/servicing activities for commercial units. The developers response stating that the proposed development is not required under the DCP to provide an off-street loading bay as the total GFA of the commercial units does not exceed 400 sqm is accepted. The response also states that the residential waste collection will occur at kerbside from Minarto Lane while removalist vans will utilise the courier van bay provided in the basement, with delivery trucks using any available on-street parking. However, no commentary has been provided relating to commercial waste collection. Noting the support from the waste referral team, to traffic team does not further press this issue however will require the creation of a Loading Zone on the property frontage with a No Stopping restriction introduced opposite the property on Minarto Lane. This will facilitate kerbside waste collection and deliveries by vehicles too large to be accommodated offstreet. This will be conditioned.

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	<p data-bbox="531 309 1273 342">The DA can now be supported, subject to conditions.</p> <p data-bbox="531 376 1031 409">Further comments dated 24/02/2025</p> <p data-bbox="531 416 1390 483">It is noted that amended plans together with an amended traffic report and amended statement of modification has been provided.</p> <p data-bbox="531 490 1209 524">Therefore, the new reports and plans are as follows:</p> <ul data-bbox="563 551 1430 790" style="list-style-type: none"> <li data-bbox="563 551 1430 618">• Plans (Master Set) - Amended - revision E, dated 05.02.2025, prepared by Mackenzie Architects International. <li data-bbox="563 624 1430 692">• Traffic and Parking report, prepared by Terrafic Pty Ltd, dated 25th October, 2024 (reference number: 22016). <li data-bbox="563 698 1430 790">• Statement of modification and schedule of amendments report, prepared by Mackenzie Architects International, dated 05/02/2025. <p data-bbox="531 824 679 857">Comments</p> <ul data-bbox="563 891 1430 2107" style="list-style-type: none"> <li data-bbox="563 891 1430 1373">• It is noted that the total number of residential units is reduced to 12 units including 3 adaptable units (previously 14 units and no adaptable units). The 2-bed units have been decreased to 2 (previously 6) and number of 3-bed units have been increased to 10 (previously 8). Also, the combined GFA of 2 commercial suites have been decreased to 348.48 sqm (previously 396.4 sqm). Therefore the new requirements for car parking spaces as per the updated area and unit mix are 24 residential spaces, 4 visitor spaces and 9 commercial spaces. The provision of 23 residential spaces, 3 visitor spaces and 9 commercial spaces result in a shortfall of 1 residential space and 1 visitor space. Given the close proximity to bus services including the B-line, Council accepts the shortfall of total 2 parking spaces. <li data-bbox="563 1379 1430 1547">• It is noted that there are three small car spaces provided in the basement level allocated for residential use. These small car spaces should be appropriately signposted and marked for use by residents with small cars only. This can be conditioned. <li data-bbox="563 1554 1430 2107">• It is noted that previously requested ground clearance check using B99 vehicle on a long section to demonstrate that scraping will not occur at the driveway/road junction or at any point along the driveway and carpark ramps has not been provided. Furthermore, it is noted that changes have been made to grades along the ramp leading to basement. The new grades in the ramp leading to basement as shown in the amended plans are 1.5m@8.33%, 1.5m@ 16.67%, 9.5m@ 25% and 2.5m @ 10%. However, these grades shown on the plans do not match with the grades calculated by Council's Traffic Engineer based on the provided RL values and lengths. The grade for 9.5m is calculated to be 26.3% not 25%. If the ramp grade is in excess of 25% it would be contrary to AS2890.1 clause 2.5.3 and unacceptable. Also, there is a note on the plan which states, "Refer to Engineer's drawings for ramp details", but these

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	<p>engineer's drawings are not provided. This information must be provided and ramp grades reviewed to confirm consistency with AS2890.1. In addition, the requested ground clearance check for a B99 vehicle traversing the full length of the ramp must be provided.</p> <ul style="list-style-type: none"> • The ramp leading to basement level is missing either a wall or a kerb in the southern side, although both walls and kerb are provided in ground floor plan. • It is noted that typical dimensions of car parking spaces have been shown on the plans. However, Council would like to see the dimensions of car parking spaces 19 to 23 also shown to confirm that they compliant with AS2890.1 minimum of 5.4m • The car parking space C08 must be provided with minimum 300mm door clearance as per AS2890.1:2004. • The columns locations in car parking spaces C06 and C07 must be checked and designed details provided to confirm consistency with the parking envelope outlined in Clause 5.2 of AS2890.1:2004. • It is noted that an entering vehicle is required to wait partially on a 12.5% ramp to give way to an exiting vehicle on the ground floor due to the one way ramp leading into the basement. Although the proposed one way ramp is acceptable with traffic signals, the waiting bay for the entering vehicle is not ideally located as it requires the vehicle to stop partially on the ramp. The waiting bay is however acceptable as there are no preferable alternative locations. The waiting bay must however be line marked and signposted. Also, a waiting bay for vehicles to stop to give way to entering vehicles in the basement level must also be provided. This bay must be shown to clear of the path of a vehicle entering the basement. These details must be provided. Council requires more details with regard to the siting, signage and line marking for waiting bays. • Swept paths for all the critical parking spaces such as space number 13, 05, 08, 09, 23 and C09 must be provided. • It is noted that a 100mm bunding has been provided to the proposed car wash bay. A floor waste connected to sewer must also be provided for this wash bay. • The previously raised concern about intended arrangements for removalist trucks, loading/servicing activities and garbage collection for commercial units noting that such activities will clearly not always be undertaken by vans or other small passenger vehicles is not addressed in the amended traffic report. These details are required. • It is noted that a total of 10 bicycle parking spaces have been provided. This provision satisfies the DCP requirement of 8 spaces. • The proposed 10 bicycle spaces are provided as 7 vertical parking and 3 horizontal parking. The 3 horizontal parking spaces satisfy the AS2890.3:2015 clause 2.1 (e) requirement for minimum 20% spaces to be horizontal parking. However,

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	<p>the provided horizontal parking spaces are designed to be 1.7m long, whereas according to AS2890.3:2015, the horizontal parking space for bicycles should be minimum 1.8m long. The plans shall be amended to reflect the above.</p> <ul style="list-style-type: none"> • A minimum of 1.5m aisle must be provided for both horizontal and vertical bicycle parking spaces. This aisle must be shown for the vertical bicycle parking spaces on the basement level. Furthermore, the walkway between car parking spaces 05 & 06 which is to be used for bicycle access must be hatched and kept clear at all times. • The horizontal bicycle parking space next to car parking space number C01 must be either deleted or relocated as it is within the access aisle of vehicle traffic and the location is deemed unsafe for a cyclist parking or removing a parked bicycle. • It is noted that the projected traffic generation section has been updated in the amended traffic report to provide a breakdown of incoming and outgoing traffic for commercial and residential uses during peak hours. Given the low volume of increased traffic (4 additional vehicles), Council agrees that there will not be significant impact on Minarto Lane by the traffic generated from proposed development. <p>Conclusion Given the concerns outlined above as new and outstanding, the development cannot be supported at this time with additional information required addressing the outlined concerns.</p> <p>Original comments dated 09/08/2024 Proposal description: Proposed Shop top housing development The traffic team has reviewed the following documents:</p> <ul style="list-style-type: none"> • Plans (Master Set) - Issue A, designed by Mackenzie Architects International, dated 03/04/2024. • Traffic Impact Assessment, prepared by Terrafic Pty Ltd, dated 8/04/2024 (reference no. 22016) • The <i>Statement of Environmental Effects</i> prepared by Boston Blyth Fleming Town Planners, dated April 2024 <p>Comments</p> <ul style="list-style-type: none"> • It is noted that the proposed development is for a Shop top housing consisting of 14 residential units (6 x 2 bed units and 8 x 3 bed units) and 2 commercial suites with a combined GFA of 396.4 sqm. • Vehicle access is provided off Minarto Lane via a double width driveway of 5.5 metres width between 300mm kerb on both sides. Currently these kerbs end at the wall. These kerbs must be extended up to the property boundary. • The Pittwater DCP applies to the subject site. According to the DCP, the required number of car parking are 28 resident spaces, 5 visitor spaces and 10 commercial spaces, resulting

Internal Referral Body	Comments
	<p>in a total of 43 car parking spaces. However, the proposed development provides only 25 resident spaces, 3 visitor spaces and 10 commercial spaces. Although the parking number for commercial units are compliant, there is a shortfall of 3 resident spaces and 2 visitor spaces. While Council will consider a slight shortfall in the residential parking component noting the proximity to transport and services this must be adequately justified in a traffic report. The provided traffic report, while noting the the location of bus services, provides no other information to support a shortfall in offstreet parking. The traffic report must be updated to provide details on available parking opportunities on street on Gondola Road, Rickard Road, Minarto Lane, Verona Street supported by occupancy surveys to demonstrate that any excess residential or vsitor parking activity could be accommodated on-street. Information relating to the destinations and frequency of bus services and access to Keoride should also be provided. The parking shortfall is not accepted at this stage</p> <ul style="list-style-type: none"> • it is noted that two motorcycle spaces are provided in the basement. While the number satisfies statutory requirement, these spaces must be appropriately dimensioned and designed in accordance with AS 2890.1:2004. Additional details on the plans are required • It is noted that a total of 10 bicycle spaces are provided; 4 on ground floor and 6 in basement level. All the bicycle spaces are provided as vertical parking. While the number satisfies the DCP requirement, a minimum of 20% spaces should be provided as horizontal parking in accordance with AS 2890.3:2015 clause 2.1 (e). Furthermore, the bicycle spaces on the ground floor must be relocated or a wider pedestrian path provided around the spaces as the existing arrangements are considered unsafe as bicycles will be partially within the circulation area of cars. All the bicycle spaces must be designed as per AS 2890.3:2015 and dimensions must be shown on the plans. • It is noted that a total of five accessible car parking spaces are provided, including three for residents, one for commercial and one for visitors. While the number satisfies the statutory requirement, these spaces must be designed in accordance with AS 2890.6:2022. The column in shared zones must be placed in accordance with AS 2890.6:2022 and the minimum width of shared zones must be 2400mm. A minimum height clearance of 2500mm must be provided over each accessible parking space and adjacent shared zone as required by AS2890.6. • It is noted that a combined loading and car wash bay, which is able to sized to accommodate a B99 vehicle such as a van has been provided on the ground floor. The Pittwater DCP requires that the development provide a car wash bay for the residential units together with provision for garbage collection,

Internal Referral Body	Comments
	<p>removalists and emergency vehicles. Since, the GFA of commercial units is less than 400 sqm, the development is not required to provide an on-site loading bay for the commercial units. The combined loading/car wash bay is therefore acceptable, however, since it can only accommodate vans, the maximum size of a delivery or removalist vehicles able to access the site will be limited to B99 vehicles. Larger vehicles will therefore need to park on street and a height clearance must be signposted at the carpark entry. Moreover, the car wash bay which is also used as loading bay must have a minimum of 100mm bunding around it and a floor waste connected to sewer.</p> <ul style="list-style-type: none"> • The traffic report does not include commentary on the intended arrangements for removalist trucks, loading/servicing activities and garbage collection for commercial units noting that such activities will clearly not always be undertaken by vans or other small passenger vehicles. This information is required. • It is noted that a series of swept path plots have been provided to demonstrate how vehicle to vehicle conflict will be managed when entering and exiting the basement as the basement can only accommodate one vehicle at a time. The arrangement requires the exiting vehicle to pull over into the adjacent ground floor aisle while the entering vehicle passes into the basement. After the vehicle enters the basement, the waiting vehicle reverses and exits the property in a forward direction. It is understood that the vehicles used are B99. Council does not support this arrangement in its current form because this arrangement does not solve the issues of conflict on the one-way basement ramp. Council is also not in favor of vehicle reversing in order to exit the property. Hence, provision should be made for traffic light control of vehicle movements between the two levels. In addition, the location of waiting bays at the top and bottom of the ramp to allow passing must be provided. Furthermore, a probability analysis and queuing analysis must be carried out in order to see the probability of two vehicles meeting at the ground floor single ramp and queue length of vehicles waiting to enter the property and the basement. • The provided swept path shows an entering vehicle waiting within the property boundary on ground floor. This swept path must be extended in order to show the movement of entering vehicle from the Minarto Lane. Furthermore, a swept path for B99 vehicles turning into and out of the driveway with vehicles parked opposite the driveway must be provided. • A swept path analysis must be provided for all the critical parking spaces such as C06, 09, 13 and 14. • A typical dimension of a car parking space must be provided and all the car parking spaces must be sized in accordance with AS 2890.1:2004. The location of columns must be

Internal Referral Body	Comments
	<p>checked in accordance with the design envelope as shown in clause 5.2 of AS 2890.1:2004.</p> <ul style="list-style-type: none"> It is noted that there is storage provided next to car parking space 08. This parking space must be provided with a door clearance of minimum 300mm from the storage in accordance with AS 2890.1:2004 and this must be shown on the plans. The first 6m ramp from the boundary has a grade of 10%. According to AS 2890.3:2004 clause 2.6.2, this grade must be a maximum of 5%. Council will accept this grade given the narrow road reserve and existing flood issues. However, the applicant must provide a ground clearance check on a long section to demonstrate that scraping will not occur at the driveway/road junction or at any point along the driveway and carpark ramps for travel by a B99 vehicle. A roller shutter door has been shown on the architectural plans. An intercom security card point has been provided on the driver side but on the 25% ramp and in a location which will be difficult to access given that it is on immediate departure from a tight 90 degree turn and on steep grade. Hence, this access card point must be relocated to a more appropriate location with a flatter grade. <p>Traffic Generation Impact The traffic report estimates the proposed development will generate around 5 vehicles per hour based upon the rates in the RTA Guide to Traffic Generating Developments. The traffic report calculates the projected traffic generation from the proposed development by getting a total traffic generation and subtracting it from the traffic generated by the existing development. While this approach is acceptable, it should be noted that the commercial units will have entering traffic during morning peak when residential units will have exiting traffic. Similarly, during afternoon peak, commercial units will have vehicles departing whereas residential development will have entering traffic. The above must be discussed and the traffic generation impact must be amended to show the total number of incoming and outgoing traffic during peak hours. In addition, the generated traffic will ingress and egress to/from a laneway. the laneway has less traffic holding capacity compared to a road, and carries traffic in one direction only with parking occurring opposite the development's driveway. Commentary addressing these issues should be provided to demonstrate that Minarto Lane can accommodate the increased traffic from the proposed development.</p> <p>Conclusion Given the concerns outlined above with regard to insufficient swept paths, insufficient detail regarding garbage collection, commercial loading activities, traffic generation impact, car parking space dimensions etc the development cannot be supported at this time.</p>
Waste Officer	Supported - subject to recommended conditions

Internal Referral Body	Comments
	<p>Waste Management Assessment 20 March 2025 Developer has provided all information requested on amended WMP including providing plans showing waste storage areas and paths for moving bins and management of same. Development is supported by waste referral officer.</p> <p>Waste Management Assessment 17 February 2025 Further clarification required and if satisfactory the application would be supported</p> <p>Updated Waste Management Report 2025/084131 February 2025 addresses waste storage design requirements and pathway, access and door requirements. The amended report shows waste rooms compliant and clarifies how the Building Manager will transport bins between the residential holding area and the residential bin room. However, traffic management measures to be in place for all bin movements.</p> <p>Bulky waste room acceptable BUT doors must open outwards and clarification required on how materials will be presented for collection and path to collection point, Similarly, traffic management measures to be in place for movement of bulky goods to collection point.</p> <p>Waste Management Assessment January 2025 Unsupported - The proposal is unacceptable.</p> <p>Waste Management Plan (WMP).</p> <p>Amended WMP December 2024</p> <p>Page 9 of this report indicates that waste storage design requirements (Ch 4.2) and pathway, access and door requirements are complete (Ch 4.4). This is not the case.</p> <p>Residential Bin Room</p> <p>Waste storage design requirements are not compliant. The height of the floor is shown to 2030 at the door and 2120 at the rear of the bin room. Minimum ceiling clearance height must be a consistent 2100. Door openings now comply.</p> <p>Bulky Goods Room - Point of clarification required.</p> <p>Minimum ceiling clearance height 2100 must be consistent throughout and door to open outwards.</p>

Internal Referral Body	Comments
	<p>Pathway and access not shown on plans for bins or bulky goods.</p> <p>Who will manage bin movements and how will temporary bin holding area be managed and who is it for? Please show on plans how bins will be managed for domestic and commercial users and confirm collection will be on Minarto Lane. Plans show area on Minato as landscaped with flowering natives. Where will bins be presented for collection?</p> <p>Previous comments</p> <p>Residential Bin Room - access to bin room for residents and path of transfer for bins to kerbside for collection. Room must be minimum 2.1m height throughout. Commercial spaces must not have access to residential waste rooms. The plan shows doors opening along the front (external) wall of the building. This design would limit access for residents and allow any materials, particularly liquids, and any wash water from the bin room, to flow out onto the footpath and then into the street gutter. Entry of putrescible material into the storm water system is not permitted. The bin room must have a floor waste connected to the sewer and be bunded to prevent materials escaping and entering the storm water system.</p> <p>Commercial Bin Room - access to bin room for tenants and path of transfer to commercial collection point. Room must be minimum 2.1m height throughout. The plan shows doors opening along the front (external) wall of the building. This design would limit access for residents and allow any materials, particularly liquids, and any wash water from the bin room, to flow out onto the footpath and then into the street gutter. Entry of putrescible material into the storm water system is not permitted. The bin room must have a floor waste connected to the sewer and be bunded to prevent materials escaping and entering the storm water system.</p> <p>Bin Holding area - who is this for and how would bins be moved from here to the bin room.</p> <p>Bulky Waste Room Minimum ceiling clearance must be 2.1 metres throughout.</p> <p>All doors to waste rooms must be minimum 2.1m width able to be opened outwards within the building.</p> <p>Specifically:</p> <p>1) Waste Management Plan (WMP). The applicant must fully complete the Councils' WMP document and submit to Council for assessment as part of this DA. This document is available to download from Councils' website.</p> <p>2) Residential Bin Room The height of the floor is shown to 2030 at the door and 2120 at the</p>

Internal Referral Body	Comments
	<p>rear of the bin room.</p> <p>The plan shows "openings in wall" along the front (external) wall of the bin room.</p> <p>This design would allow any materials, particularly liquids, and any wash water from the bin room, to flow out onto the footpath and then into the street gutter. Entry of putrescible material into the storm water system is not permitted. The bin room must have a floor waste connected to the sewer and be bunded to prevent materials escaping and entering the storm water system.</p> <p>3) Bulky Goods Room - Point of clarification required.</p> <p>The bulky goods room appears to be partially under the vehicular ramp between the basement and ground floor levels.</p> <p>Does this affect the ceiling clearance within the room?</p> <p>Minimum ceiling clearance must be 2.1 metres.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p><i>Supported - subject to recommended conditions</i></p> <p>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.</p>
Nominated Integrated Development - WaterNSW - Water Management Act 2000, s90(2) - Water management works approval to construct and use a specified water supply/drainage/flood work at a specified location	<p><i>Supported - subject to recommended conditions</i></p> <p>I refer to your recent request regarding an integrated Development Application (DA) proposed for the above location. Please find attached the WaterNSW General Terms of Approval (GTA) for part of the proposed development requiring a Water Supply Work approval under the Water Management Act 2000 (WM Act), as detailed in the subject DA.</p> <p>Please note Council's statutory obligations under section 4.47 (3) of the Environmental Planning and Assessment Act 1979 (EP&A Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.</p> <p>If the proposed development is approved by Council, WaterNSW requests these GTA be included (in their entirety) in Council's development consent. Please also note WaterNSW requests notification:</p> <ul style="list-style-type: none"> if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities that relate to any excavation which interferes with an aquifer. WaterNSW will

External Referral Body	Comments
	<p>ascertain from the notification if the amended plans require review of the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.</p> <ul style="list-style-type: none"> • if Council receives an application under s4.55 of the EP&A Act to modify the development consent and the modifications change the proposed work or activities described in the original DA. • of any legal challenge to the consent. <p>Dewatering activity cannot commence before the applicant applies for and obtains an approval, WaterNSW recommends the following condition be included in the development consent:</p> <p>The attached GTA issued by WaterNSW do not constitute an approval under the Waterr Managementt Actt 2000. The development consent holder must apply to WaterNSW for a Water Supply Work approval after consent has been issued by Council and before the commencement of any dewatering activity.</p> <p>A completed application form must be submitted to WaterNSW together with any required plans, documents, application fee, and proof of Council's development consent.</p> <p>Application forms are available from the WaterNSW website which can be found here.</p> <p>WaterNSW requests that Council provides a copy of this letter to the development consent holder.</p> <p>WaterNSW also requests a copy of the determination for this development application be provided by Council as required under section 4.47 (6) of the EP&A Act.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs 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 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)

Housing and Productivity Contribution

Part 2 Development for which contribution is require and determination of contribution, Division 2 Housing and productivity contribution amounts, Clause 7 Base component.

This Clause details the base component amounts that apply to the calculation of the housing and productivity contribution, as set out in the following table:

Region	HPC class of development	Amount	HPC unit
Greater Sydney	Residential subdivision	\$12,000	new dwelling lot
	Residential strata subdivision	\$10,000	new strata dwelling lot
	Non-strata multi-dwelling development	\$10,000	new non-strata dwelling
	Commercial development	\$30	square metre of new GFA
	Industrial development	\$15	square metre of new GFA

Comment:

The subject site is located within the Greater Sydney area and the proposal involves 12 new residential strata allotments and 348.48sqm of commercial floor space.

In this regard, the applicable contribution is \$130,454.40.

SEPP (Sustainable Buildings) 2022

A valid BASIX Certificate was submitted and the Certificate meets the relevant thermal, water and energy requirements. It is noted that this BASIX Certificate has been amended to reflect the amended development application. A condition is recommended to ensure compliance with this BASIX Certificate.

The development meets the requirements of State Environmental Planning Policy (Sustainable Buildings) 2022.

SEPP (Housing) 2021

Chapter 4 - Design of Residential Apartment Development

Clause 144 of State Environmental Planning Policy Housing 2021 (SEPP Housing) stipulates that:

(1) This chapter applies to development only if:

(a) the development consists of:

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

- (b) the building concerned is at least 3 or more storeys, not including underground car parking storeys, and*
- (c) the building contains at least 4 dwellings.*

As previously outlined, the proposed development is for the erection of a part four/five storey shop top housing development that includes 12 residential apartments. As per the provisions of Clause 144 outlining the application of the policy, the provisions of Chapter 4 SEPP Housing are applicable to the assessment of this application.

As previously outlined within this report Clause 29 of the Environmental Planning and Assessment Regulation 2021 requires the submission of a Design Verification Statement from the qualified designer at lodgement of the development application. This documentation has been submitted with the development application.

Referral to design review panel for development applications

Clause 145 of SEPP Housing requires:

(2) Before determining the development application, the consent authority must refer the application to the design review panel for the local government area in which the development will be carried out for advice on the quality of the design of the development).

Comment:

Northern Beaches Council has an appointed Design and Sustainability Advisory Panel (DSAP). Refer to the DSAP referral comments section within this report.

Determination of development applications and modification applications for residential apartment development

Clause 147 of SEPP Housing requires that:

- (1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—*
- (a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*
 - (b) the Apartment Design Guide,*
 - (c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.*

Comment:

The below part of the report makes an assessment against the design quality principles contained within Schedule 9 (a) and an assessment is carried out against the ADG below (b).

Overall, the proposal meets the design quality principles of Schedule 9 for the reasons outlined below. The proposal appropriately responds to the design guidelines within the ADG and where strict compliance is not achieved numerical requirements, reasonable alternative solutions are provided to meet the objectives of the ADG.

The consent authority has considered the advice received from the DSAP and the applicant has

amended the proposal where necessary to respond to the DSAP advice. Overall, the DSAP was not supportive of the original proposal. However, the applicant has made significant amendments to the development application to address the recommendations by the DSAP. As such, the development is considered adequate in this regard.

Non-discretionary development standards for residential apartment development

Clause 148 of SEPP Housing contain non-discretionary development standards that, if complied with, prevent the consent authority from requiring more onerous standards for the matters (i.e 'must not refuse' standards).

The following are non-discretionary development standards under sub clause (2):

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

Comment:

As noted in the below assessment, the proposal meets the minimum requirements of the ADH in relation to Part 3J, 4D and 4C. This assessment has not required more onerous standards and does not recommend refusal of any of these reasons.

DESIGN QUALITY PRINCIPLES - Schedule 9

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 emerging character within the Local Centre precinct is characterised by three or four storey shop top housing developments. While the proposed development is technically a five storey building due to the roof level that includes a small roof over the lift overrun, the roof lobby, the shared toilet area and a portion of the communal open space, the fifth storey element is centralised within the building footprint, such that the development reads as a four storey building within the streetscape (refer to **Figure 1** earlier within this report). As the building reads as a four storey building to the top of the residential parapet level, the development will be commensurate with the emerging context and neighbourhood character. The development is also consistent with the scale of the part four/five storey shop top housing developments that have been approved by the NSW Land and Environment Court

on 1 and 3 Gondola Road in isolation respectively. The proposed development is consolidated on both of 1 and 3 Gondola Road, rather than developing each site in isolation, and represents an improved scheme to these isolated approvals in terms of the building's appearance and the internal amenity for the future occupants.

The building is a high quality and interesting design that incorporates appropriate deep soil landscaped zones with planting within the primary and secondary front setback zones, in the addition to on-slab planting within the southern and western setback areas (notwithstanding that nil setbacks are permitted to the southern and western setback zones). The development also achieves a high level of amenity for the future occupants.

Overall, the development satisfies Principle 1.

Principle 2: Built Form and Scale

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

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

Comment:

As outlined above, the perceived height of the proposed development, which reads as a four storey building when observed from the public domain, is commensurate with the emerging character of the Local Centre precinct, which includes a four storey shop top housing development 60m to the south of the proposed development (i.e. within the visual catchment of the site). The development is also of a commensurate height with the existing NSW Land and Environment Court development consents for shop top housing developments that apply to the subject site. These existing development consents that apply on the site are relevant in shaping the desired future character of the area, despite these development's exceeding the PLEP height of buildings standard (refer to NSW Land and Environment Court Case of *Woollahra Municipal Council v SJD DB2 Pty Limited [2020] NSWLEC 115*).

Additionally, the bulk of the building has been appropriately offset through the use of a significant articulated break with deep soil landscaping within the primary front setback, in addition with the use of curved corner splay and various external finishes and materials that provide appropriate building articulation to add visual interest within the streetscape.

Overall, the development meets Principle 2.

Principle 3: Density

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

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

Comment:

The proposal provides 12 apartments that are well appointed and proportioned providing a high level of amenity for the future occupants. The development is also located in close proximity to public

transport infrastructure along Pittwater Road and located in close proximity to public open space areas along the Narrabeen Lake foreshore area located on the eastern side of Pittwater Road.

Overall, the development meets Principle 3.

Principle 4: Sustainability

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

Comment:

The development incorporates a number of passive and technological sustainable features including natural cross ventilation, solar access and electric vehicle charging points.

Overall, the development meets Principle 4.

Principle 5: Landscape

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

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

Comment:

The proposed development provides deep soil landscaping around the primary and secondary front building setback areas with native planting. Large on-slab landscaped areas are also provided within the southern and western setback areas, in addition to the rooftop communal open space areas.

The proposed landscaping scheme will appropriately soften the building and afford appropriate amenity for the future building occupants.

Overall, the development meets Principle 5.

Principle 6: Amenity

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

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

Comment:

Internally the development provides generous internal and external spaces that shall influence a positive amenity for occupants of the building, while all apartments enjoy either a northern, eastern or western aspect to obtain adequate solar amenity.

The northern and eastern aspect apartments have been oriented to enable outlooks towards Narrabeen Lake and the Elanora Heights escarpment, while west-facing apartments have been afforded with 6m side setbacks (where nil setbacks are permitted under the Pittwater 21 Development Control Plan (P21DCP)) to provide adequate amenity for the occupants.

Overall, the development meets Principle 6.

Principle 7: Safety

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

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

Comment:

The proposal appropriately optimises safety and security for occupants of the development itself and for users of the public domain by way of passive surveillance. Additionally, the residential lift within the shared lobby will be managed by a security door, of which the operational aspects of this will be governed by a Plan of Management that has been included as a requirement by the recommended conditions of consent.

Overall, the development meets Principle 7.

Principle 8: Housing Diversity and Social Interaction

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

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

Comment:

The development provides a mix of apartment typologies, which includes both two and three bedroom apartments including three adaptable apartments. A large rooftop communal open space area has been provided to provide opportunities for social interaction among residents.

Overall, the development meets Principle 8.

Principle 9: Aesthetics

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

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

Comment:

The proposal incorporates a variety of materials, colours and textures, in addition to modulated wall planes, to provide for an aesthetically pleasing building.

Overall, the development meets Principle 9.

APARTMENT DESIGN GUIDE

The following table is an assessment against the criteria of the Apartment Design Guide (ADG) as required by SEPP Housing.

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 The development relates well to the emerging character of the Local Centre precinct, as outlined above within the section of this report relating to Principles 1 and 2 of SEPP Housing.
Orientation	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	Consistent All apartments enjoy either a northern, eastern or western aspect to obtain adequate solar amenity. The extent of overshadowing to adjoining properties is also not materially different to the approved shop top housing developments on the site.
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?	Compliant The safety and security of the residents will be safeguarded by the security lift within the lobby.

		The public domain is also enhanced by the proposed landscape treatment within the front building setback zones.												
Communal and Public Open Space	<p>Appropriate communal open space is to be provided as follows:</p> <ol style="list-style-type: none"> 1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter) 	<p>Compliant</p> <p>The development provides 25.12% (323.86sqm) of the site area as communal open space via the rooftop communal open space area.</p>												
Deep Soil Zones	<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1"> <thead> <tr> <th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr> </thead> <tbody> <tr> <td>Less than 650m²</td><td>-</td><td rowspan="4">7%</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> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m ²	-	7%	650m ² – 1,500m ²	3m	Greater than 1,500m ²	6m	Greater than 1,500m ² with significant existing tree cover	6m	<p>Compliant</p> <p>The development provides 11.52% (148.64sqm) of the site as deep soil landscaping with 3m wide dimensions.</p>
Site area	Minimum dimensions	Deep soil zone (% of site area)												
Less than 650m ²	-	7%												
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 border="1"> <thead> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <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> </tbody> </table>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>Non-Compliant - Acceptable on Merit</p> <p>The south-facing bedroom windows within apartments U101, U102, U201 and U202 are located 2.5m from the southern side boundary and do not comply with the ADG.</p> <p>The intent of Part 3F of the ADG goes towards visual privacy with the key built mechanism to achieve</p>
Building height	Habitable rooms and balconies	Non-habitable rooms												
Up to 12m (4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												

	<p>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>	<p>appropriate privacy being a physical spatial separation requirement.</p> <p>While the windows are located within the 6m separation requirement, the windows contain 2m tall window sills, which would prevent overlooking into the southern adjoining properties.</p> <p>Additionally, the private open space for apartment U101 is located 5.1m from the western boundary. However, the on-slab landscaping within the western setback area will assist in mitigating overlooking to the west should the western adjoining site be redeveloped. However, there are no present privacy impacts as the western adjoining site is currently occupied by a commercial building and apartment U101 is located adjacent to the elevated car park on the western adjoining site.</p> <p>In this regard, the development will meet the objectives and intent of Part 3F of the ADG.</p>
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>	<p>Consistent</p> <p>Pedestrian access to the building is accessible and easily identifiable.</p>
Vehicle Access	<p>Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?</p>	<p>Consistent</p> <p>The proposed vehicular crossing is appropriately located and designed to minimise hazards to</p>

		pedestrians and other vehicles.
Bicycle and Car Parking	<p>For development in the following locations:</p> <ul style="list-style-type: none"> On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>	<p>Consistent</p> <p>The proposal satisfies the car parking and bicycle requirements under the P21DCP.</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>9 out of 12 apartments (75%) receive 2 or more hours of sunlight on June 21 to living rooms and private open space.</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>All apartments (100%) receive sunlight.</p>
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 	<p>Consistent</p> <p>8 of 12 apartments (66.67%) are naturally cross ventilated.</p>

	<p>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>													
	<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>Consistent</p> <p>The apartment depths do not exceed 18m.</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>Not Consistent - Acceptable on merit</p> <p>The ceiling heights to the residential levels including the communal roof level are compliant; however, the floor to ceiling heights at the commercial levels are 3.2m, which is a 100mm non-compliance.</p> <p>The non-compliance is minor in nature and will not adversely impact upon the functionality of the commercial tenancies. In this regard, the minor non-compliance is supported.</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 minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	<p>Consistent</p> <p>All apartments comply with the minimum area requirements.</p>		
Apartment type	Minimum internal area													
Studio	35m ²													
1 bedroom	50m ²													
2 bedroom	70m ²													
3 bedroom	90m ²													

	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	Consistent All habitable rooms meet this requirement.															
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	Consistent All habitable rooms meet this requirement.															
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Consistent The habitable space (i.e. from outer edge of kitchen bench to window) within open plan layouts do not exceed 8m.															
	Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space).	Consistent All bedrooms meet this requirement.															
	Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension.	Consistent All bedrooms meet this requirement.															
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none">3.6m for studio and 1 bedroom apartments4m for 2 and 3 bedroom apartments	Consistent All living and dining areas meet this requirement.															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Consistent All apartments are wider than 4m internally.															
Private Open Space and Balconies	All apartments are required to have primary balconies as follows: <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	Consistent All apartments contain private open space that comply with this requirement.
	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															
	The minimum balcony depth to be counted as contributing to the balcony area is 1m																
	For apartments at ground level or on a podium or similar structure, a private open space is provided	N/A															

	instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.	All apartments are above ground level.										
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	Consistent There are 6 apartments on each residential level of the building.										
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	N/A The building is 5 storeys high.										
Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <div> <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> </div>	Dwelling Type	Storage size volume	Studio apartments	4m ²	1 bedroom apartments	6m ²	2 bedroom apartments	8m ²	3+ bedroom apartments	10m ²	Consistent Compliant storage is provided.
	Dwelling Type	Storage size volume										
Studio apartments	4m ²											
1 bedroom apartments	6m ²											
2 bedroom apartments	8m ²											
3+ bedroom apartments	10m ²											
At least 50% of the required storage is to be located within the apartment.												
Acoustic Privacy	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	Consistent No apartments directly abut these areas of concern, noting that they are located either above or below these areas.										
Noise and Pollution	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	Consistent The Acoustic Report submitted with this application has provided construction recommendations to ensure acceptable internal amenity with respect to external noise impacts. These recommendations are included as recommended conditions of consent.										
Configuration												
Apartment Mix	Ensure the development provides a range of apartment types and sizes that is appropriate in	Consistent										

	supporting the needs of the community now and into the future and in the suitable locations within the building.	The development provides a mix of apartment typologies, which includes both two and three bedroom apartments including three adaptable apartments. A large rooftop communal open space area has been provided to provide opportunities for social interaction among residents.
Ground Floor Apartments	Do the ground floor apartments deliver amenity and safety for their residents?	N/A There are no ground floor apartments.
Facades	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	Consistent The proposal incorporates a variety of materials, colours and textures, in addition to modulated wall planes, to provide for an aesthetically pleasing building.
Roof Design	Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top.	Consistent The proposed rooftop communal open space will not cause unreasonable amenity impacts to neighbouring properties as the trafficable area is substantially setback from the side boundaries (i.e. south and west) and on-slab planting within garden beds is provided around the curtilage of the communal open space to provide visual and acoustical buffers.
Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	Consistent The Landscape Plan has been assessed as being satisfactory by Council's Landscape Officer.
Planting on Structures	When planting on structures the following are recommended as minimum standards for a range	Consistent The soil dimensions for on-

	<div>of plant sizes:</div> <table> <tr> <th>Plant type</th> <th>Definition</th> <th>Soil Volume</th> <th>Soil Depth</th> <th>Soil Area</th> </tr> <tr> <td>Large Trees</td> <td>12-18m high, up to 16m crown spread at maturity</td> <td>150m³</td> <td>1,200mm</td> <td>10m x 10m or equivalent</td> </tr> <tr> <td>Medium Trees</td> <td>8-12m high, up to 8m crown spread at maturity</td> <td>35m³</td> <td>1,000mm</td> <td>6m x 6m or equivalent</td> </tr> <tr> <td>Small trees</td> <td>6-8m high, up to 4m crown spread at maturity</td> <td>9m³</td> <td>800mm</td> <td>3.5m x 3.5m or equivalent</td> </tr> <tr> <td>Shrubs</td> <td></td> <td></td> <td>500-600mm</td> <td></td> </tr> <tr> <td>Ground Cover</td> <td></td> <td></td> <td>300-450mm</td> <td></td> </tr> <tr> <td>Turf</td> <td></td> <td></td> <td>200mm</td> <td></td> </tr> </table>	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		slab landscaped areas are compliant with this requirement.
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																																	
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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 3 out of 12 apartments (25%) achieve Livable Housing Guideline's silver level universal design features																																			
Adaptable Reuse	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.	N/A The development is for a new building.																																			
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 development is located in very close proximity to public transport infrastructure on Pittwater Road.																																			
Awnings and Signage	Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design	N/A There are no awnings that																																			

	and contribute to the identity of the development. Signage must respond to the existing streetscape character and context.	project into the setback zones. No signage is proposed.
Performance		
Energy Efficiency	Have the requirements in the BASIX certificate been shown in the submitted plans?	Consistent The BASIX Certificate reflects the latest set of amended plans, being Revision C.
Water Management and Conservation	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	Consistent Council's Development Engineer and Water Management Officer are satisfied that the proposal meets Council's WMDP. Water NSW are also satisfied that the applicant's Groundwater Dewatering Management Plan is satisfactory and Water NSW have issued General Terms of Approval.
Waste Management	Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?	Consistent The Waste Management Plan complies with Council's WMG.
Building Maintenance	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	Consistent The material selection will ensure longevity and sustainability of the building.

As demonstrated above, the proposal achieves the Design Quality Principles within Chapter 4 of SEPP Housing and the objectives of the ADG.

SEPP (Transport and Infrastructure) 2021

Chapter 2 - Infrastructure

Section 2.48 of Chapter 2 requires the relevant electricity authority (i.e. Ausgrid) 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.

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

The development meets the requirements of State Environmental Planning Policy (Transport and Infrastructure) 2021.

SEPP (Biodiversity and Conservation) 2021

Chapter 2 - Vegetation in non-rural areas

Chapter 2 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 (BC SEPP) applies to the development pursuant to clause 2.3 and aims to protect the biodiversity and amenity values of trees within nonrural areas of the state.

Part 2.3 has been considered and while the development proposes the removal of two prescribed trees (Trees 4 and 5), the proposal includes new native planting within the boundaries of the site and within the public road reserve. The additional planting will offset the impacts of the tree removal and enhance the natural amenity of the locale. Council's Landscape Officer has assessed the application with respect to tree removal and raised no objections, subject to conditions requiring the new planting to be carried out in accordance with the approved Landscape Plan.

The development is consistent with Chapter 2 of the BC SEPP.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is located within the Coastal Environment Area and Coastal Use Area pursuant to Chapter 2 of State Environmental Planning Policy (Resilience and Hazards) 2021 (RH SEPP).

Accordingly, an assessment against the relevant provisions of Chapter 2, being Division 3, 4 and 5, is carried out below.

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*

- b) *coastal environmental values and natural coastal processes,*
- c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- f) *Aboriginal cultural heritage, practices and places,*
- g) *the use of the surf zone.*

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

Comment:

The proposed development is consistent with Division 3 for the following reasons:

- The site is visually and physically separated by the Narrabeen Lake foreshore area by the existing row of commercial development along the western side of Pittwater Road including Pittwater Road itself. In this regard, the development is not likely to adversely impact upon vegetation, marine vegetation and marine habitat within the coastal foreshore area.
- Water NSW have issued General Terms of Approval for the development, meaning that they are satisfied that the development's impacts upon groundwater can be appropriately managed.
- Council's Water Management Officer has reviewed the application and is satisfied that the development will not adversely impact upon water quality within Narrabeen Lake. Conditions have been recommended requiring water quality treatment measures to be employed in the stormwater management system and maintained in perpetuity of the development.
- The separation from the coastal foreshore will ensure that access to or along the foreshore area will be maintained and the use of the surf zone will not be compromised.
- The site is not mapped within an 'Aboriginal potential area' under Council's mapping and therefore, the development is not likely to adversely impact upon Aboriginal cultural heritage, places or practices.

As outlined above, the development is designed, sited and will be managed to avoid adverse environmental impacts.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

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

Comment:

The development is consistent with Division 4 for the following reasons:

- Due to the sufficient separation from the foreshore area, the development will not result in overshadowing or wind funnelling of the foreshore area, nor will the development obstruct public domain views towards the foreshore.
- The site is not mapped within an 'Aboriginal potential area' under Council's mapping and therefore, the development is not likely to adversely impact upon Aboriginal cultural heritage, places or practices.
- The separation from the coastal foreshore will ensure that access to or along the foreshore area will be maintained and the use of the surf zone will not be compromised.
- The site does not contain a heritage item, is not located within a heritage conservation area and is not located in close proximity to heritage items. In this regard, the development will not adversely impact upon items of cultural or built environmental heritage.
- The height, bulk and scale of the development is commensurate to that of the emerging character within the Local Centre precinct and therefore, the development will not adversely impact upon the visual amenity of the area.

As outlined above, the development is designed, sited and will be managed to avoid adverse

environmental impacts.

Division 5 General

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

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

Comment:

Due to the physical and visual separation afforded from the Narrabeen Lake foreshore area, coupled with the mitigation measures that will be in place during construction works and in perpetuity of the development, the development is not likely to increase the risk of coastal hazards within the locality. The development has also been designed to respond to the flooding constraints of the site.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

The development does not contravene any Coastal Management Programs.

As such, it is considered that the application complies with the requirements of Chapter 2 of the RH SEPP.

Chapter 4 – Remediation of Land

Chapter 4 of the RH SEPP applies to the site pursuant to Clause 4.4 and aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Clause 4.6 requires that consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use to be carried out.

The applicant submitted a Site Contamination Assessment (SCA) (prepared by Martens & Associates Pty Ltd, dated 1 May 2024) in accordance with the requirements of the RH SEPP. The SCA carried out soil sampling across ten (10) locations on the site. The testing locations are depicted in **Figure 2** below.



Figure 2 - Bore Hole (i.e. testing) locations across the Subject Site

The results of the various testing locations on the site found that there were no visual or olfactory indications of potential contamination such as anthropogenic inclusions, soil staining or odours were detected within site's subsurface soil. Additionally, the groundwater results found no evidence of hydrocarbon impacts.

The SCA notes that further testing across 3 Gondola Road was not achievable as a large part of this site is occupied by a commercial building with a tenant and therefore, further testing would be required following the demolition of this building and prior to the commencement of construction works. The SCA states that this is primarily required to inform future waste classification assessment of the site fill material which requires offsite disposal for the basement excavation works. The SCA concludes that it is unlikely that future characterisation works will identify any contamination in site soils or groundwater that will pose a contamination risk to future site receptors, given the existing results did not find any contaminants.

While site contamination is a precondition to granting consent under the RH SEPP, deferring further contamination assessment to post-demolition and prior to construction was found to be a lawful approach in the NSW Land and Environment Court's approval of Development Application DA2022/0919 on 3 Gondola Road (refer to *Mackenzie Architects International Pty Ltd v Northern Beaches Council* [2023] NSWLEC 1440), where Commissioner Horton wrote that:

45. *Due to the site being otherwise fully occupied by structures at present, the agreed conditions of consent require the preparation of a detailed site investigation, remedial action plan and site audit prior to the issue of the construction certificate to enable demolition to occur on the site and any required site remediation to be undertaken prior to construction.*
46. *On the basis of those recommendations at [44], and the agreed conditions of consent, I accept the site will be made suitable for the proposed development.*

The assessing officer and Council's Environmental Health Team Leader have agreed to impose the same land contamination conditions of consent that were imposed by the Court within the judgement of *Mackenzie Architects International Pty Ltd v Northern Beaches Council [2023] NSWLEC 1440*, as this particular approval also relates to a shop top housing development on the subject site.

With these conditions in place, the assessment concludes that any remediation works, if required by the Detailed Site Investigation that will be carried out following the demolition of the existing commercial building at 3 Gondola Road, will be carried out prior to the commencement of construction works. In this regard, the site will be suitable for the proposed development.

Therefore, the proposed development meets the relevant considerations under Chapter 4 of the RH SEPP, subject to conditions.

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
Height of Buildings - Clause 4.3(2A)	12.4m AHD (8.0m above FPL)	17.75m AHD	43.15%	No

Notes:

1. AHD refers to Australian Height Datum.
2. FPL refers to Flood Planning Level.

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
5.21 Flood planning	Yes
5.22 Special flood considerations	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

Detailed Assessment

Zone E1 Local Centre

The site is located within the E1 Local Centre zone pursuant to the PLEP. Shop top housing is a permissible land use within the E1 zone.

An assessment against the E1 zone objectives is carried out below as follows:

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

Comment:

The development provides 348.48sqm of commercial floor space on the ground level. These tenancies will be occupied by retail and business land uses in the future, which will serve the needs of people who live in, work in or visit the locality. The development meets this objective.

- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*

Comment:

The commercial tenancies on the ground floor will provide future employment opportunities and will foster economic growth. The development meets this objective.

- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*

Comment:

The development provides 12 residential apartments on the upper levels of the building. The building is well-designed and will contribute to a vibrant and active local centre, while providing new housing to meet the housing needs of the community. The development meets this objective.

- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*

Comment:

The development provides commercial tenancies on the ground floor plan of this building that will be constructed to the FPL. While elevated 2.3m above the existing ground level to meet the flooding requirements under the PLEP and P21DCP, a service lift that is accessed via the footpath and front entryway will enable disabled access to the building from the street level. The development meets this objective.

- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse, and functional streets and public spaces.*

Comment:

The development provides an active street frontage, consistent with this objective.

- *To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.*

Comment:

As noted earlier within this report within the section relating to SEPP Housing, the development is of a high quality architectural design, incorporates appropriate landscape treatment and relates favourably in scale with the four storey shop top housing development at 1473 Pittwater Road 60m to the south of the site, given the development will present as a four storey building when observed within the streetscape. The development is also up to 0.65m lower in height than the existing shop top housing development consents that apply to the subject site.

As demonstrated above, the development is consistent with the objectives of the E1 Local Centre zone and is a permissible use within the zone.

4.6 Exceptions to development standards

Clause 4.3(2A) of the PLEP states that the maximum height of development on the site must not exceed 8.0m above the FPL, which is established as 12.4m AHD. The proposed development has a maximum height of 17.75m AHD to the lift overrun, the access lobby (level 5) at RL 17.200 and the parapet of level 4 (notated as second floor on Figure 3 below) at RL14.300 all which exceeds the building height standard.

The lift overrun and roof lobby are centralised elements within the building footprint, and will not be discernible within the streetscape.

The parapet of the fourth storey element which will be prominent within the public domain has a height of 14.3m AHD, which exceeds the height standard by 1.9m.

Figures 3-4 below depicts the extent of the building that exceeds the building height standard.

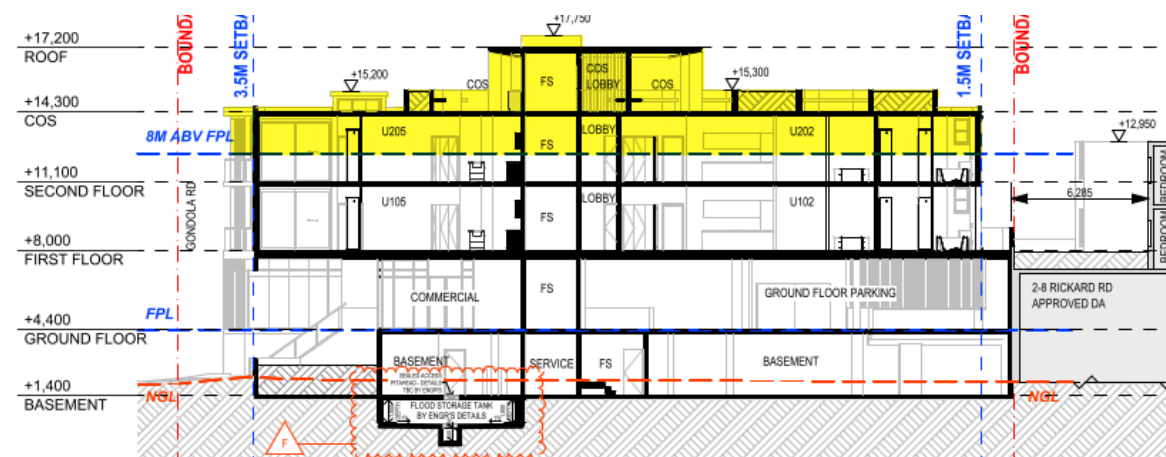


Figure 3 - Building Height Non-Compliance (shaded in yellow)

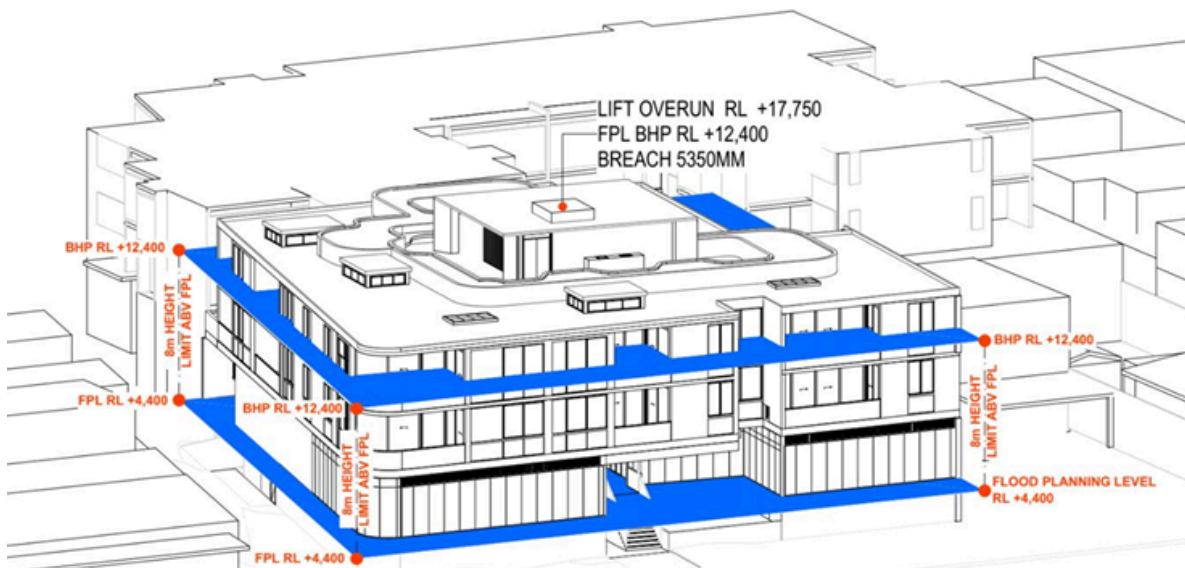


Figure 4 - 3D Diagram Depicting the Height Breach

It is noted that the roof lobby area and lift overrun on the fifth level (i.e. rooftop access) occupy 9.5% of the entire roof area.

With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the development application is accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the PLEP (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:

(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.*

Comment:

The objectives of this clause have been considered pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Subclause (2) of this clause provides that:

(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 including Clause 4.3(2A) is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

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

Comment:

Council is satisfied that the applicant has demonstrated that compliance with Clause 4.3 of the PLEP is unreasonable or unnecessary in the circumstances of this application as the applicant has demonstrated that the objectives of Clause 4.3 of the PLEP are achieved, notwithstanding the contravention of the development standard. The applicant's Clause 4.6 request also argues that the height standard has been virtually abandoned or destroyed by Council's own decisions in granting consent to non-conforming development within the vicinity of the site. The matter of *Wehbe v Pittwater Council [2007] NSWLEC 827* has established that these two methods are appropriate methods to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

Council's assessment against the objectives of Clause 4.3 of the PLEP are provided below.

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

Comment:

As outlined by Chief Justice Preston within the NSW Land and Environment Court case of *Woollahra Municipal Council v SJD DB2 Pty Limited [2020] NSWLEC 115*, the desired future character of a locality is not strictly governed by development standards and controls that govern the height, bulk and scale of development, but rather is also governed by other approved development within the catchment of the site that contravenes development standard.

As outlined within the section of this report, two existing development consents have been granted on the subject site for part four / five shop top housing development. The development is of a commensurate scale to these approved developments.

Furthermore, while the development is technically a five storey building, the development will read as a four storey building within the streetscape as the fifth storey element is centralised within the building footprint and is minor in terms of its footprint and size. The proposed development will be visually compatible with the existing four storey shop top housing development located 60m to the south of the subject site at 1473 Pittwater Road. This particular development in question was also assessed against the PLEP and the same height limit was applicable at the time of this nearby development's approval.

For these reasons, it is considered that the development, by virtue of its height and scale, is consistent with the desired future character of the locality and the scale of the emerging character of development within the Local Centre.

The development achieves this objective.

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

Comment:

As outlined above, the building will appear to be compatible with the height and scale of surrounding and nearby development.

The development achieves this objective.

(c) to minimise any overshadowing of neighbouring properties,

Comment:

The cumulative overshadowing impacts of the development are not materially different to the approved shop top housing developments that occur on both 1 and 3 Gondola Road, which form the subject site. There will be some overshadowing of the approved private open space areas within the approved shop top housing development on the southern adjoining sites (2-8 Rickard Road); however, the impacts are assessed as being acceptable and consistent with what has already been approved as being reasonable by the NSW Land and Environment Court. It is noted that these affected apartments within the adjacent approved shop top housing developments will receive the required 2 hours of sunlight during June 21, consistent with the ADG.

In considering the extent of overshadowing on the existing dwelling houses on these southern adjoining properties in question, these adjacent dwelling houses receive the required 3 hours of sunlight on June 21, consistent with the P21DCP solar access provision.

The development achieves this objective.

(d) to allow for the reasonable sharing of views,

Comment:

An examination of the site and the surrounds has concluded that the development will not unreasonably obstruct any significant view corridors. In this regard, the development will allow for the reasonable sharing of views.

The development achieves this objective.

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

Comment:

The primary driver of the proposed building height is the high hazard flood affectation that affects the Local Centre precinct. This flooding hazards precludes any car parking below the existing ground level, thereby requiring parking at ground level and any commercial tenancies and residential apartments above the FPL of 4.4m AHD.

The proposed development has been sensitively designed to balance the competing factors of developing in a flood plain, whilst also providing street activation with retail presenting to Gondola Road and high-quality residential development above.

The development achieves this objective.

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

Comment:

As outlined within the section of this report relating to Chapter 2 of the RH SEPP, the development will not have an adverse visual impact on the natural environment or environmental heritage.

(b) 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.'*

The Clause 4.6 Request argues, in part:

In my opinion, there are sufficient environmental planning grounds to justify the variation, as outlined below.

Ground 1 – Flood Affection

The site is affected by high hazard flooding. The nature of the flooding that occurs in this area is relevant, in that the water levels are likely to rise quickly, with flooding remaining over an extended period of time. Once flood waters reach a certain point, access through and around the area becomes cut off, and people cannot evacuate the site. As such, both occupants and visitors to the property may be caught unaware and may need to take shelter at the site (shelter in place) until the flood waters recede.

In accordance with the provisions of B3.11 of P21 DCP, Council requires such shelter to be located at or above the Probable Maximum Flood (PMF), which is higher than the FPL. To avoid further disparity between the height of the retail level and the street, and noting the likelihood of the PMF event, the ground floor retail tenancies have been designed at the FPL, with the proposed area of shelter located on the roof top terrace. The roof top area has been designed to provide protection from the elements and includes suitable amenities to ensure that people could comfortably remain on the site until it is safe to leave.

The proposed design solution provides for the safety of occupants and visitors to the building, consistent with Object (h) of the EP&A Act, which aims to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants.

The roof top area for shelter has been designed in the same manner as that previously approved for development on the subject properties and is consistent with Object (c) of the EP&A Act, in that it contributes to the amenity of the development, including during flooding events, and promotes the orderly and economic development of the land.

Ground 2 – Contextually responsive building design

Despite non-compliance with the 8.0m above the FPL building height development standard, the proposed development is consistent with and compatible with nearby 3-4 storey development (including those recently approved pursuant to PLEP 2014), as follows:

- 2-8 Rickard Road, North Narrabeen
- 10 Rickard Road, North Narrabeen
- 9-11 Gondola Road, North Narrabeen
- 1 Gondola Road, North Narrabeen
- 3 Gondola Road, North Narrabeen
- 1473 Pittwater Road, North Narrabeen

The 3 storey façade to Gondola Road and Minarto Lane will ensure a consistency of built form throughout the North Narrabeen Local Centre as seen in a streetscape setting. The roof top terrace is of an almost identical height and scale as that previously approved for shop top housing development on the subject properties (DA2018/1210 and DA2022/0919).

Ground 3 – Height variation facilitates the provision of communal open space

The size, geometry, orientation and zoning of the land makes the provision of ground level communal open space with appropriate amenity difficult to achieve whilst realising the orderly and economic use and development of the land.

The provision of rooftop communal open space is consistent with objective 3D-1 of the Apartment Design Guide where the design guidance indicates that where development is unable to achieve the design criteria, such as on small lots, sites within business zones, or in dense urban areas should provide communal open space elsewhere such as a landscaped roof top terrace.

Approval of a building height variation facilitates the provision of well-designed roof top communal open space which receives exceptional levels of solar access between 9am and 3pm on 21st June. The lightweight awning structure provides an appropriate level of weather protection to the BBQ facilities with the size and dimension of the communal open space facilitating a range of passive and active recreational activities.

Ground 4 – Height variation achieves objectives of the Act

Approval of height variation will promote the orderly and economic development of the site, in so far as it will ensure conformity with the scale and character established by recent approvals throughout the locality, including 2 levels of residential accommodation above ground level retail uses, consistent with Objective 1.3(c) of the EP&A Act.

Approval of height variation will facilitate the provision of rooftop communal open space and in doing so promote good design and amenity of the built environment consistent with Objective 1.3(g) of the EP&A Act.

Assessment Officer Comment:

The assessment finds that the environmental planning grounds advanced by the applicant to justify a contravention to Clause 4.3 of the PLEP are concurred with. In particular, it is agreed that the development will be compatible with more recent surrounding shop top housing developments within the Local Centre precinct and commensurate with the height, bulk and scale of the existing Land and Environment Court consents for shop top housing that apply to both 1 Gondola Road and 3 Gondola Road (i.e. the subject site).

The assessment officer also notes that the flooding constraints are a key driver that has exacerbated the non-compliance, with the constraints precluding any car parking within basement levels and requiring the commercial tenancies (and residential apartments) to be constructed to the FPL which is elevated above the natural contours of the site, rather than to the existing ground level. Also the site being a double block has dimensions that will obscure the rooftop elements which are centralised within the building's roof level.

In this regard, 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, thereby satisfying objects 1.3(c) and (g) of the EP&A Act.

Public Interest

Matters relevant to public interest in respect of the development are considered in the relevant sections of this report as per Section 4.15(1)(e) of the EPA Act.

Conclusion

Council is satisfied as to the matters set out in Clause 4.6 of the PLEP.

As demonstrated above, the proposed development satisfies the relevant considerations under Clause 4.6 of the PLEP.

Therefore, the contravention to Clause 4.3 of the PLEP is **supported** in this instance and it is reasonable that flexibility to the standard be applied.

5.21 Flood planning

The site is located within a high risk flood precinct under Council's mapping. The flood characteristics for the site are as follows:

- FPL (1% AEP (plus climate change) plus 500mm freeboard): 4.4m AHD.
- Probable Maximum Flood (PMF) Level: 4.89m AHD.

The finished floor level of the commercial tenancies and shared lobby, including the residential apartments above, are sited at the FPL and the residential apartments are located above the PMF level.

Additionally, the flood storage tank that is provided below the parking level will mitigate the loss of flood storage on the site and ensure that the flood behaviour and extent is not significantly altered, thereby mitigating impacts on adjoining properties.

Council's Flooding Engineer has reviewed the application and is satisfied that the development complies with Sections B3.11 and B3.12 of the P21DCP, and Clauses 5.21 and 5.22 of the PLEP (i.e. the flooding controls applicable to the development).

7.1 Acid sulfate soils

The site is mapped within the Class 3 area on the PLEP Acid Sulfate Soils Map.

An Acid Sulfate Soils Management Plan (ASSMP) (prepared by Martens & Associates Pty Ltd, dated 11 April 2024) was submitted with this application. The ASSMP undertook soil sampling, and no acid sulfate soils were identified. The ASSMP has recommended conditions pertaining to construction management of excavated soil to account for any acid sulfate soil that is discovered during earthworks.

Council's Environmental Health Officer (EHO) has reviewed the application and not raised any concerns. The EHO has recommended conditions that reflect the recommendations of the ASSMP.

The assessment has concluded that the development meets the jurisdictional requirements under Clause 7.1 of the PLEP.

7.2 Earthworks

Relatively minor excavation to a depth of approximately 0.9m is proposed to facilitate the lower car parking level. No substantial filling is proposed.

The assessment has concluded that the earthworks will not have an adverse impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. Several conditions of consent are recommended to mitigate the impact of earthworks.

The assessment has concluded that the development meets the jurisdictional requirements under Clause 7.2 of the PLEP.

7.10 Essential services

The development will have the following essential services:

- the supply of water,
- the supply of electricity,
- the disposal and management of sewage,
- stormwater drainage or on-site conservation,
- suitable vehicular access.

Hence, the development satisfies Clause 7.10 of the PLEP.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	Primary Frontage (Gondola Road): 3.5m	3.5m	-	Yes
	Secondary Frontage (Minarto Lane): 1.75m	1.5m	14.29%	No
Side building line	East: nil setback	Nil setback	-	Yes

	West: nil setback	Nil setback	-	Yes
Dwelling Density	Commercial development must be a minimum of 25% (470.48sqm) of the gross floor area of the building	18.52% (348.48sqm) of the building is dedicated to the two commercial tenancies	25.93%	No
Landscaped Area	420sqm (35sqm per dwelling - 12 dwellings in total)	469.78sqm	-	Yes

Notes:

1. As the site is a corner allotment, there is no applicable rear boundary, but rather two front boundaries and two side boundaries.
2. On-slab landscaping can be included in the landscaped area calculations for shop top housing developments.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.11 North Narrabeen Locality	Yes	Yes
B2.6 Dwelling Density and Subdivision - Shop Top Housing	No	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
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	N/A	N/A
C1.5 Visual Privacy	N/A	N/A
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	N/A	N/A
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.15 Storage Facilities	N/A	N/A
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
C2.1 Landscaping	Yes	Yes
C2.2 Safety and Security	Yes	Yes
C2.5 View Sharing	Yes	Yes
C2.6 Adaptable Housing and Accessibility	Yes	Yes
C2.10 Pollution Control	Yes	Yes
C2.16 Undergrounding of Utility Services	No	Yes
C2.20 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C2.22 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D11.1 Character as viewed from a public place	Yes	Yes
D11.2 Scenic protection - General	Yes	Yes
D11.3 Building colours and materials	Yes	Yes
D11.6 Front building line	No	Yes
D11.7 Side and rear building line	Yes	Yes

Detailed Assessment

B2.6 Dwelling Density and Subdivision - Shop Top Housing

Description of Non-compliance

Section B2.6 of the P21DCP requires at least 25% (470.48sqm) of the gross floor area of the building to be dedicated to commercial development.

The gross floor area of the commercial tenancies represents 18.52% (348.48sqm) of the total gross floor area of the building, which does not meet the minimum requirement.

Merit Assessment

Having regard to the numerical non-compliance, a merit assessment against the underlying outcomes of the control is provided below.

- *Achieve the desired future character of the Locality.*

Comment:

As demonstrated earlier within this report, the development is consistent with the desired future character of the area.

The inability to provide additional commercial floor space is constrained by the fact that the high hazard flood affectation prevents basement car parking from being employed. As such, the car parking is provided at ground level, which reduces the amount of available area to provide commercial tenancies. Both commercial tenancies proposed at ground level are generous in proportion and will provide future employment generating / commercial uses to meet the needs of the local residents.

Overall, this outcome is achieved.

- *The density and scale of development reflects the infrastructure capability of the area.*

Comment:

The infrastructure within the locality is capable of accommodating the density and scale of the development.

- *Design opportunities and site layout efficiencies are improved through amalgamation of allotments.*

Comment:

The site layout has been optimised as the development occurs over both 1 and 3 Gondola Road. The existing development consents that apply to the site occur on each allotment separately in isolation and the current proposal is an improved scheme that occurs over both allotments.

- *The development does not adversely impact upon adjoining residential development.*

Comment:

As outlined within the sections of this report relating to SEPP Housing, the ADG and Clause 4.6 of the PLEP, the development will not adversely impact upon the amenity of adjoining residential development.

- *An appropriate mix of residential and commercial development is provided, ensuring the functionality of commercial centres.*

Comment:

The proposed development provides an appropriate mix of retail and residential floor space. In particular, the area will benefit from the incorporation of retail premises presenting to both street frontages.

- *Meet the economic and employment needs of Pittwater Community.*

Comment:

The proposal provides two commercial tenancies, which will meet the economic and employment needs of the community.

Having regard to the above assessment, it is concluded that the development meets the underlying outcomes of this control. Therefore, flexibility is afforded to the numerical requirements of the P21DCP

provision, consistent with Section 4.15(3A)(b) of the EP&A Act.

B6.3 Off-Street Vehicle Parking Requirements

Description of Non-compliance

Based on the total number of apartments proposed and the gross floor area of the commercial tenancies proposed, the following parking rates are applicable:

- Residential Spaces: 24 spaces.
- Visitor Spaces: 4 spaces.
- Commercial Spaces: 9 spaces.

The proposal provides the following quantum of off-street car parking:

- Residential Spaces: 23 spaces - a shortfall by one (1) space.
- Visitor Spaces: 3 spaces - a shortfall by one (1) space.
- Commercial Spaces: 9 spaces - compliant.

The development is therefore non-compliant with Section B6.3 of the P21DCP by a single residential space and a single visitor space, which is two (2) spaces short.

Merit Assessment

Having regard to the numerical non-compliance, a merit assessment against the underlying outcomes of the control is provided below.

- *An adequate number of parking and service spaces that meets the demands generated by the development.*

Comment:

While the proposal involves a shortfall of two off-street car parking spaces, Council's Traffic Engineer is satisfied that the minor numerical non-compliance is acceptable, noting that the proposed development is located in very close proximity to public transport services along Pittwater Road. In this regard, the assessment finds that there is an adequate number of parking and service spaces to meet the demands generated by the development, consistent with this outcome.

- *Functional parking that minimises rainwater runoff and adverse visual or environmental impacts while maximising pedestrian and vehicle safety.*

Comment:

The car parking area is located within the building footprint on the lower levels and will not create additional stormwater beyond what the proposed building will capture. Moreover, the parking area is screened by battens with green walls to mitigate the visual impacts of the parking areas. Council's Traffic Engineer is also satisfied that the vehicular entry / exit point will

not adversely impact upon pedestrian and vehicle safety, subject to recommended conditions. Overall, the development is consistent with this outcome.

- *Safe and convenient parking.*

Comment:

Council's Traffic Engineer is satisfied that the car parking levels are designed to enable safe vehicle movements in and throughout the parking areas. As such, this outcome is achieved.

Having regard to the above assessment, it is concluded that the development meets the underlying outcomes of this control.

Therefore, flexibility is afforded to the numerical requirements of the P21DCP provision, consistent with Section 4.15(3A)(b) of the EP&A Act.

C1.4 Solar Access

Pursuant to Section 149 of SEPP Housing, the solar access requirements under the P21DCP are not applicable and are governed by the ADG. An assessment of solar access is provided under the section of this report relating to the ADG and Clause 4.6 of the PLEP.

C1.5 Visual Privacy

Pursuant to Section 149 of SEPP Housing, the visual privacy requirements under the P21DCP are not applicable and are governed by the ADG. An assessment of visual privacy is provided under the section of this report relating to the ADG and Clause 4.6 of the PLEP.

C1.7 Private Open Space

Pursuant to Section 149 of SEPP Housing, the private open space requirements under the P21DCP are not applicable and are governed by the ADG. An assessment of the private open space is provided under the section of this report relating to the ADG.

C1.15 Storage Facilities

Pursuant to Section 149 of SEPP Housing, the storage requirements under the P21DCP are not applicable and are governed by the ADG. An assessment of storage is provided under the section of this report relating to the ADG.

C1.23 Eaves

Section C1.23 of the P21DCP states that dwellings shall incorporate 450mm eaves on all elevations. However, this control includes an exemption variation for shop top housing, residential flat buildings and multi dwelling housing.

As the development relates to shop top housing, the 450mm eave requirement is not a requirement for the development.

C2.16 Undergrounding of Utility Services

Description of Non-compliance

Section C2.16 of the P21DCP stipulates that all existing and proposed utility services within the site and public road reserve are to be placed underground or encapsulated within the building.

While all proposed services connecting to the site will be located underground, the existing overhead powerline within the Gondola Road and Minarto Lane public road reserve are proposed for retention, thereby conflicting with the prescribed requirement of this control. This powerline is depicted in **Figure 6**.



Figure 6 - Site Photo depicting existing Overhead Powerline proposed for retention (power poles on both frontages can be viewed in the site photo)

Merit Assessment

Having regard to the non-compliance with the prescribed control, a merit assessment against the underlying outcomes of the control is provided below.

- *Visual pollution by aerial cables is reduced.*

Comment:

The applicant's Statement of Environmental Effects (SEE) states that it would be an unreasonable burden on the development to require the undergrounding of the entire span, particularly when it was not required in relation to the adjoining development. The assessing officer concurs with this justification and considers that visual pollution by aerial cables will not be worsened by the retention of the existing overhead powerline on the Gondola Road

frontage.

- *Improved safety by removal of visual clutter.*

Comment:

The retention of the existing overhead powerline will not result in pedestrian safety impacts, nor will it result in visual clutter. Overhead powerlines are prevalent within the Local Centre precinct.

- *Opportunities for street tree planting is enhanced.*

Comment:

Four (4) new street trees (Water Gum trees) are proposed along the Gondola Road public road reserve. The selected species will not conflict with the existing overhead powerlines proposed for retention,.

- *Safety of building occupants is maintained and enhanced.*

Comment:

The retention of the overhead powerlines will not reduce safety for the future building occupants.

- *Security of utility services is improved.*

Comment:

Other proposed utility services will be underground.

- *Design and construction of undergrounding is funded by the developer.*

Comment:

The costs associated with servicing the site are funded by the developer.

Having regard to the above assessment, it is concluded that the underlying outcomes of the control are achieved.

Therefore, flexibility to the prescribed requirement of the P21DCP control is afforded, consistent with consistent with Section 4.15(3A)(b) of the EP&A Act.

D11.6 Front building line

Description of Non-compliance

Section D11.6 of the P21DCP requires development in the B1 Local Centre to be setback 3.5m from the primary frontage (Gondola Road) and 1.75m from the secondary frontage (Minarto Lane).

While a 3.5m setback is proposed to the primary frontage, a 1.5m setback is proposed to the secondary frontage, which does not satisfy the numerical requirement. It is noted the secondary front

setback is consistent with that approved by the NSW Land and Environment Court under Development Application DA2018/1210 (refer to *Mackenzie Architects International Pty Ltd v Northern Beaches Council [2019] NSWLEC 1453*).

Merit Assessment

Having regard to the numerical non-compliance, a merit assessment against the underlying outcomes of the control is provided below.

- *Achieve the desired future character of the Locality.*

Comment:

As outlined earlier within this report, the development is consistent with the desired future character of the area.

- *Equitable preservation of views and vistas to and/or from public/private places.*

Comment:

As noted earlier within this report, the development does not obstruct any significant view corridors from private and public land.

- *The amenity of residential development adjoining a main road is maintained.*

Comment:

The Acoustic Report submitted with this application has provided construction recommendations to ensure acceptable internal amenity with respect to external noise impacts. These recommendations are included as recommended conditions of consent.

- *Vegetation is retained and enhanced to visually reduce the built form.*

Comment:

While the development proposes the removal of two prescribed trees (Trees 4 and 5), the proposal includes new native planting within the boundaries of the site and within the public road reserve. The additional planting will offset the impacts of the tree removal, will visually reduce the built form and enhance the natural amenity of the locale. Council's Landscape Officer has assessed the application with respect to tree removal and raised no objections, subject to conditions requiring the new planting to be carried out in accordance with the approved Landscape Plan.

- *Vehicle manoeuvring in a forward direction is facilitated.*

Comment:

The proposed car parking levels and vehicular entry/exit point allows vehicles to enter and exit the site in a forward direction.

- *To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.*

Comment:

The scale and density of the development is commensurate with surrounding development and the emerging character of future development within the locality, as demonstrated by current development consents that apply to the site.

- *To encourage attractive street frontages and improve pedestrian amenity.*

Comment:

The facades of the building that front both the primary and secondary frontages are of a high-quality design and will promote an attractive street frontage and will improve pedestrian amenity when compared to the existing site conditions.

- *To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.*

Comment:

Development on the eastern side of Minarto Lane is constructed directly to the secondary frontage boundary. The proposal provides an improved setback to the laneway that includes planting within the secondary front setback area. Overall, the development achieves this objective.

Having regard to the above assessment, it is concluded that the development meets the underlying outcomes of this control.

Therefore, flexibility is afforded to the numerical requirements of the P21DCP provision, consistent with Section 4.15(3A)(b) of the EP&A Act.

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 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of \$91,668 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$9,166,815.

DISCREPANCIES BETWEEN DEMOLITION PLAN AND BOUNDARY IDENTIFICATION SURVEY REGARDING REMOVAL OF TREE 6

The proposed development involves the removal of Tree 6 as identified in the Arboricultural Assessment Report and Tree Protection Specification (AAR) (prepared by Adam Desmarchelier, dated 14 December 2023). The architectural plans identify this tree as being located on both the subject site and the southern adjoining property (4 Rickard Road) (refer to **Figure 7**).

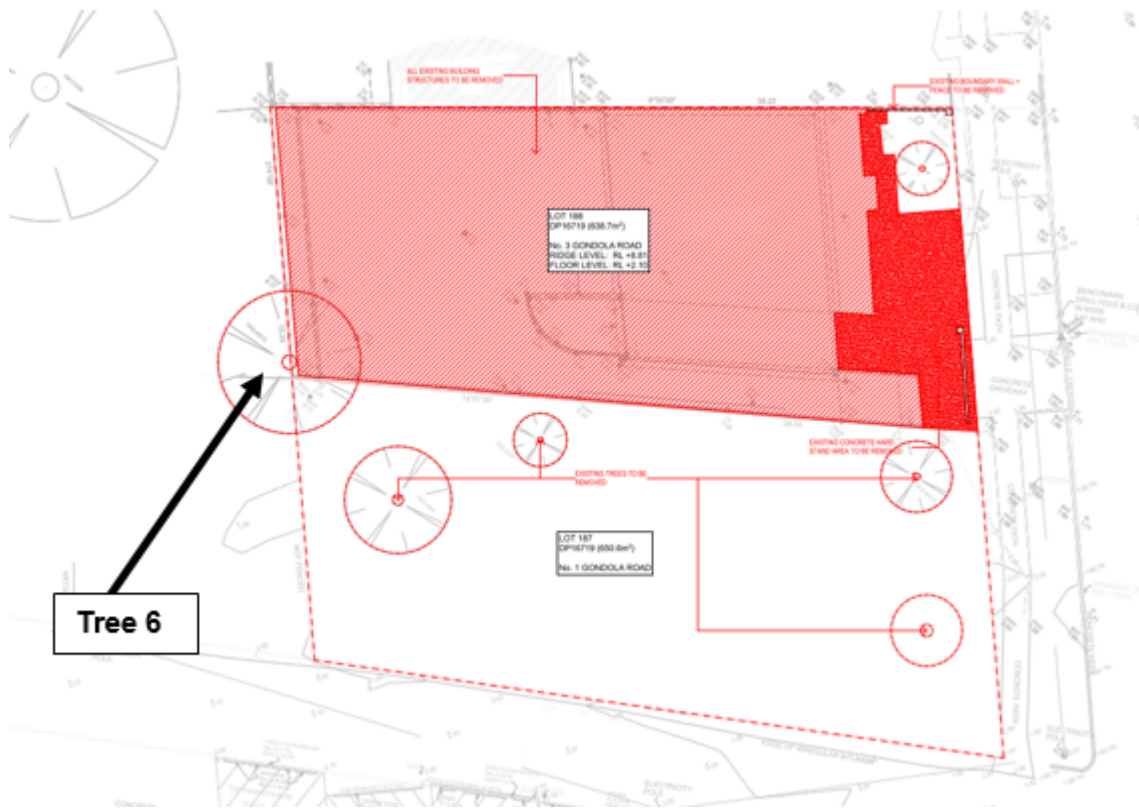


Figure 7 - Demolition plan depicting Tree 6 on the Subject Site and 4 Rickard Road

However, the Boundary Identification Survey submitted with this application identifies that this tree is located wholly within the subject site (refer to **Figure 8**).

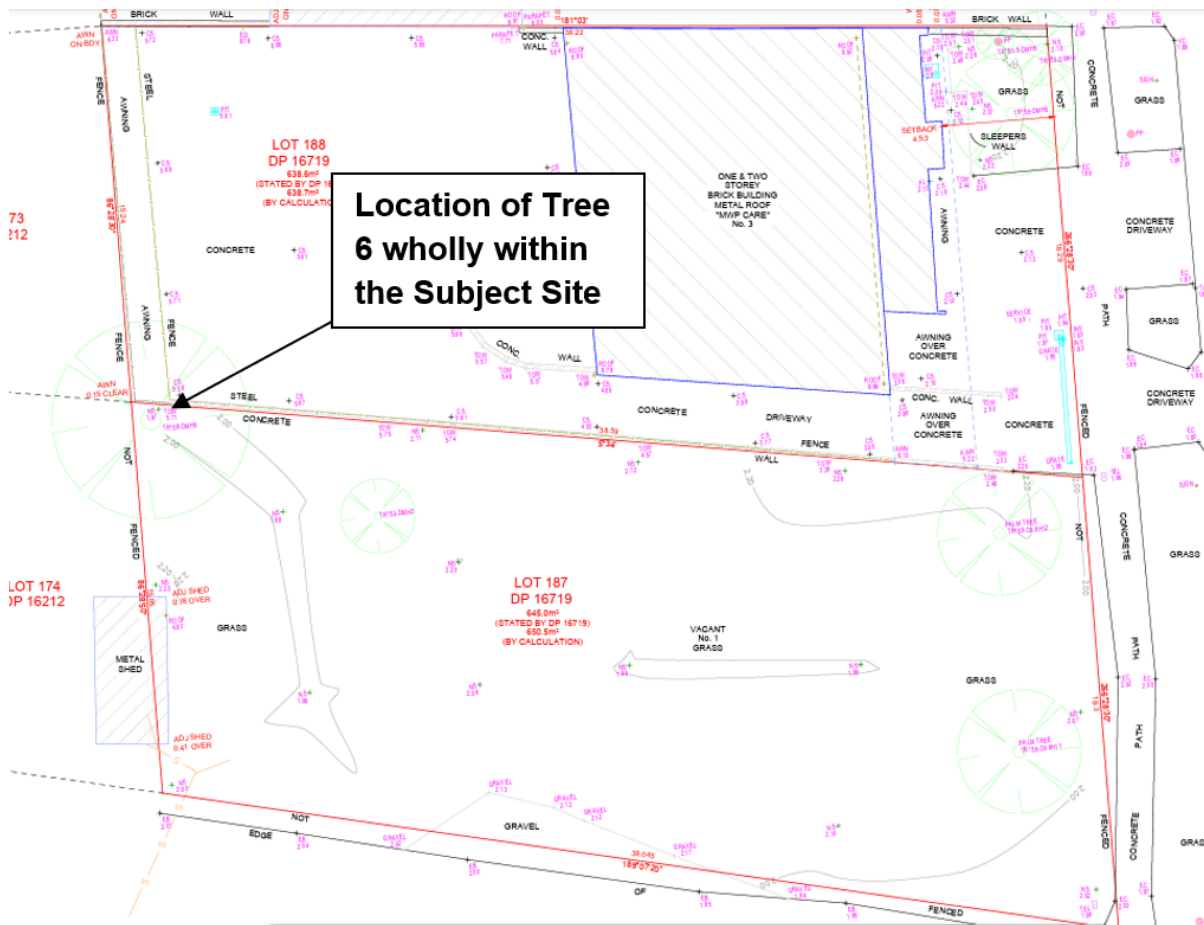


Figure 8 - Tree 6 located entirely within Subject Site (source: applicant's Boundary Identification Survey)

The AAR notes that Tree 6 is a mature *Eriobotrya japonica* (Loquat Tree), which is listed as an exempt species on Council's Exempt tree species list. In this regard, Tree 6 does not require Council approval for removal.

To prevent any ambiguity in relation to the location of Tree 6, a condition is recommended requiring the architectural plans to be amended prior to the issue of the Construction Certificate to show that Tree 6 is located entirely within the subject site, consistent with the Boundary Identification Survey.

REMOVAL OF DEMOUNTABLE SHED

As identified in **Figures 8-9**, an existing demountable shed that is located on 2 Rickard Road and partially encroaches into the subject site which will need to be moved to facilitate the development.



Figure 9 - Site Photo depicting existing demountable shed that encroaches onto the subject site

As this is a demountable shed that is not affixed to the site, and the movement of the shed does not constitute demolition/development. This is a civil matter that can be resolved between both property owner's prior to the commencement of the development.

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 2021;
- 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 the Applicant's written request under Clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify variation of the development standard contained within Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

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

PLANNING CONCLUSION

The application seeks consent for demolition works and the construction of a part four/five storey shop top housing development.

While the development involves a 43.15% variation to the building height standard under the PLEP, which requires development to be 8.0m above the FPL, the applicant's written request has adequately addressed the jurisdictional matters within Clause 4.6 of the PLEP and the assessment has concluded that compliance with the development standard is unreasonable, and that there are sufficient environmental planning grounds to justify the variation. Furthermore, the building will remain visually compatible with surrounding development and that the elements of the building that exceed the height standard will not result in any adverse visual impacts or residential amenity impacts to neighbouring properties.

The application has been subject to various rounds of public exhibition and a total of thirteen (13) submissions by way of objection were received. The concerns raised within the submissions relate to, inadequate off-street car parking, traffic generation, the building height non-compliance, residential amenity impacts, construction impacts, architectural and landscape design, structural impacts on adjoining properties and flooding impacts. These concerns have been considered as part of the assessment and do not constitute matters that would warrant further amendment to the proposal or refusal of the application. The recommendation of this report includes conditions of consent where appropriate to mitigate the concerns raised in the submissions.

Other key assessment issues include; flooding impacts, potential land contamination / remediation,

groundwater management, acid sulfate soils, off-street car parking, the quantum of commercial floor space proposed and the secondary front setback non-compliance. As detailed within the body of this report, the environmental constraints of the site relating to flooding, potential land contamination, acid sulfate soils and groundwater management can be appropriately managed by the recommended conditions of consent, while the minor numerical non-compliances to the P21DCP commercial floor space provision, secondary front setback and off-street car parking controls, do not render the development inconsistent with the underlying outcomes of these P21DCP controls.

Overall, the development is considered to be consistent with all applicable environmental planning instruments and regulatory provisions. Therefore, the development is in the public interest.

Accordingly, it is recommended that the NBLPP **approve** the application, subject to the recommended conditions attached to 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 the development standard contained within Clause 4.3 Height of Buildings, pursuant to Clause 4.6 of the Pittwater Local Environmental Plan 2014 because the Applicant’s written request has adequately addressed the merits required to be demonstrated by subclause (3) of Clause 4.6.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2024/0460 for Demolition works and construction of shoptop housing on land at Lot 188 DP 16719, 3 Gondola Road, NORTH NARRABEEN, Lot 187 DP 16719, 1 Gondola Road, NORTH NARRABEEN, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. **Approved Plans and Supporting Documentation**
- Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
Architectural Plans				
A0004	C	Demolition Plan	Mackenzie Architects International	25 October 2024
A0005	C	Site Plan	Mackenzie Architects International	25 October 2024
A1001	F	Basement Plan	Mackenzie Architects International	14 March 2025
A1002	F	Ground Floor Plan	Mackenzie Architects International	14 March 2025
A1003	C	First Floor Plan	Mackenzie Architects International	25 October 2024
A1004	C	Second Floor Plan	Mackenzie Architects International	25 October 2024
A1005	C	COS Floor Plan	Mackenzie Architects International	25 October 2024
A1006	C	Roof Plan	Mackenzie Architects International	25 October 2024

A2001	F	North & East Elevations	Mackenzie Architects International	14 March 2025
A2002	E	South & West Elevations	Mackenzie Architects International	5 February 2025
A2101	F	Sections 01	Mackenzie Architects International	14 March 2025
A2102	E	Sections 02	Mackenzie Architects International	5 February 2025
A3009	E	Sample Board	Mackenzie Architects International	5 February 2025
Landscape Plans				
1 of 4	C	Basement plan/Entry level	Paul Scrivener Landscape	22 October 2024
2 of 4	C	Level 1 landscape plan	Paul Scrivener Landscape	22 October 2024
3 of 4	C	Roof Plan	Paul Scrivener Landscape	22 October 2024
4 of 4	C	Planting plans	Paul Scrivener Landscape	22 October 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Concept Stormwater Management Plans	P2310036	Martens & Associates Pty Ltd	13 December 2024
Flood Risk Assessment and Flood Emergency Response Plan (FERP)	P2310036JR03V03	Martens & Associates Pty Ltd	7 March 2025
Hydrological Assessment and Groundwater Dewatering Management Plan	P2310036JR05V02	Martens & Associates Pty Ltd	4 February 2025
Acid Sulfate Soils Management Plan	P2310036JR03V01	Martens & Associates Pty Ltd	11 April 2024
Geotechnical and Acid Sulfate Soil Assessment	P2310036JR02V01	Martens & Associates Pty Ltd	9 April 2024
Site Contamination Assessment	P2310036JR01V01	Martens & Associates Pty Ltd	1 May 2025
DA Acoustic Assessment Report	230697, Revision 1	Pulse White Noise Acoustics Pty Ltd	18 June 2024
Development Application Access and Adaptability Report	Project No 15/19	Obvius Access Consultants	21 October 2024

Building Code of Australia Compliance Report	220045A	Greenfield Certifiers Pty Ltd	16 October 2024
Arboricultural Assessment Report and Tree Protection Specification	231214, Revision A	Outdoor Interests Pty Ltd	14 December 2023
BASIX Certificate	1742159M_03	Eco Certificates Pty Ltd	24 October 2024
Waste Management Plan '1-3 Gondola Road North Narrabeen 2101'	-	-	-

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

2. Compliance with Other Department, Authority or Service Requirements

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Referral - Ausgrid	N/A
WaterNSW	General Terms of Approval - WaterNSW (Reference Number: IDAS1158640)	25 February 2025

(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. No Approval for Land Use for the Commercial Tenancies

No approval is granted under this Development Consent for any use of the ground floor commercial tenancies. A separate consent must be obtained prior to the use of the commercial premises.

Reason: To ensure compliance with the Warringah Local Environmental Plan 2011.

4. Approved Land Use

Nothing in this consent shall authorise the use of the site for any land use beyond the definition of shop top housing. The Pittwater Local Environmental Plan 2014 defines this land use as follows:

- **shop top housing** means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.

Note.

Shop top housing is a type of residential accommodation—see the definition of that term in this Dictionary.

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

5. **No Approval for Strata Subdivision**

No approval is granted for Strata Subdivision.

Note: This condition does not preclude the applicant from obtaining a strata subdivision approval pursuant to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Reason: The applicant has not sought consent for Strata Subdivision.

6. **Prescribed conditions (Demolition):**

(a) 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 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
- (ii) 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.

(b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier 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 Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(c) 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.

Reason: Legislative Requirement.

7. **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 Certifier 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 Certifier 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 Certifier 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.

8. General requirements (Demolition):

(a) Unless authorised by Council:

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

(b) At all times after the submission a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(e) The applicant shall bear the cost of all works that occur on Council's property.

(f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(h) All sound producing plant, equipment, machinery or fittings will not exceed more than

5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)

(i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

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

9. 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 an 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 following is required:
- i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% 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.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development

is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.

- iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (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.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or 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.

10. **Parking Enclosure**

No parking spaces, or access thereto, shall be constrained or enclosed by any form of structure such as fencing, cages, walls, storage space, or the like, without prior consent from Council.

Reason: To ensure accessibility is maintained.

FEES / CHARGES / CONTRIBUTIONS

11. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of \$91,668.15 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 (as amended).

The monetary contribution is based on a development cost of \$9,166,815.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the

provision of new or augmented local infrastructure and services.

12. **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 Certifier 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.

13. **Housing and productivity contribution - Development consents**

1. The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with condition 2, is required to be made:

Contribution Type	Amount
Housing and Productivity Contribution	\$ 130,454.40.
Total:	\$ 130,454.40.

2. The amount payable at the time of payment is the amount shown in condition 1 as the total housing and productivity contribution adjusted by multiplying it by:

highest PPI number

consent PPI number

where—

highest PPI number is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made.

consent PPI number is the PPI number last used to adjust HPC rates when consent was granted.

June quarter 2023 and PPI have the meanings given in clause 22 (4) of the Environmental Planning and Assessment (Housing and Productivity

Contribution) Order 2023.

If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.

3. The HPC must be paid before the issue first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:

Development	Time by which HPC must be paid
Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate
High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate
Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building	Before the issue of the first strata certificate
Manufactured home estate for which no construction certificate is required	Manufactured home estate for which no construction certificate is required

4. The HPC must be paid using the NSW planning portal (<https://pp.planningportal.nsw.gov.au/>).
5. If the Minister administering the Environmental Planning and Assessment Act 1979 agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:
- the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,
 - the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.
- If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition 2 at the time of payment.
6. Despite condition 1, a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023 exempts the development from the contribution.

The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.

Reason: Statutory requirement.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

14. On Slab Landscape Works

Details shall be submitted to the Certifier 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 be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, and services connections. The following soil depths are required to support landscaping: as detailed on the Landscape Plans.

Design certification shall be submitted to the Certifier 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 ensure waterproofing and drainage is installed.

15. Flood effects caused by development

There is to be no filling of the land or any other reduction of the available flood storage which results in a net loss of storage below the 1% AEP flood level of 3.90m AHD.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval.

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.

16. Building components and structural soundness

All new development below the Flood Planning Level of 4.40m AHD shall be designed and constructed from flood compatible materials.

The shelter in place refuge must be designed to ensure structural integrity up to the Probable Maximum Flood level of 4.40m AHD, with the remainder of the new development designed to ensure structural integrity up to the Flood Planning Level of 3.90m AHD. The forces of floodwater, debris load, wave action, buoyancy and immersion must all be considered.

All new and existing electrical equipment, power points, wiring and connections must be located above the Flood Planning Level of 4.40m AHD, protected from flood water or have residual current devices installed to cut electricity supply during flood events.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval.

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.

17. **Floor levels**

New floor levels within the development shall be set at or above the Flood Planning Level of 4.40m AHD.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval.

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.

18. **Car parking**

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 of 4.40m AHD.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval.

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.

19. **Emergency response**

The shelter-in-place refuge must:

- a) Have a floor level at or above the Probable Maximum Flood level of 4.89m AHD; and
- b) Have a floor space that provides at least 2m² per person; and
- c) Be intrinsically accessible to all people on the site, plainly evident, and self-directing, with sufficient capacity of access routes for all occupants without reliance on electrical means.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval.

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.

20. **Fencing**

New fencing (including pool fencing, boundary fencing, balcony balustrades and accessway balustrades) shall be open to allow for the unimpeded movement of flood waters. It must be designed with a minimum of 50% open area along any straight length, from the natural ground level up to the 1% AEP flood level. Openings shall be a minimum of 75mm x 75mm.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval.

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.

21. **Storage of Goods**

Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level of 4.40m AHD unless adequately protected from floodwaters in

accordance with industry standards.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval.

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.

22. Stormwater Disposal Details

The Applicant is to provide a certification of drainage plans detailing the provision of stormwater disposal in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Martens, drawing number PS01-A000, PS01-E100, PS01-E101, PS01-E200, PS01-E600, dated 13 December 2024. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifier 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.

23. Erosion and Sediment Control Plan

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

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

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

Reason: Protection of the receiving environment.

24. Detailed Design of Stormwater Treatment Measures

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the Concept Stormwater Management Plan prepared by Martens & Associates (project P2310036, revision D dated 13/12/2024) and Council's Water Management for Development Policy.

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

Reason: Protection of the receiving environment.

25. 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 Principal Certifier prior to the issue of a construction certificate.

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

26. Car Parking Finishes

All driveways, car parking areas and pedestrian paths are to be surfaced and sealed. Details of treatment to these areas are to be submitted to the Principal Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

27. Construction Traffic Management Plan

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
 - Evidence of the legal right and terms to use the access route or provide owners consent from the owners/strata/community association.
 - Demonstrate that direct access from a public space/road is not viable for each stage of works.
 - An assessment to be carried out of the physical constraints of the Right of Carriageway to determine the maximum size of vehicle that may access the site via the Right of Carriageway during construction.

- Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.
- No construction vehicles, materials or plant are to be located or parked in the private road/driveway, community title road or right of way.
- How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
- If trees are located within or overhang the access route, a tree protection plan prepared by an Arborist with minimum AQF Level 5 in arboriculture demonstrating how any trees within the Right of Carriageway will be protected from damage by construction vehicles. Should any tree protection measures be required on private land in accordance with AS4970-2009 Protection of trees on development sites, owner's consent must be obtained.
- A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets (including trees) or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
- A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
 - Compare the post-construction report with the pre-construction report,
 - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
 - Should any damage have occurred, identify remediation actions taken.
 - Be submitted to Council with the Occupation Certificate.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. All Staff and Contractors are to use any basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and

consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.

- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- Specify that the public roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
- Proposed protection for Council and adjoining properties.
- The location and operation of any on site crane.

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

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

A copy of the approved CTMP must be kept on-site at all times while work is being carried out.

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

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

28. Vehicle Access & Parking

All internal driveways, vehicle turning areas and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Off-street Parking standards).

With respect to this, the following revision(s) must be undertaken;

All internal driveways and vehicle access ramps must have ramp grades and transitions complying with AS 2890.1. To ensure the gradient requirements and height clearances are satisfied, a driveway profile must be prepared for all internal ramps showing ramp lengths, grades, surface RL’s and overhead clearances, taken from the crest of the ramp to the base. The driveway profile must be taken along the steepest grade of travel or sections having significant changes in grades, where scraping or height restrictions could potentially occur and is to demonstrate compliance with AS 2890 for the respective type of vehicle.

Plans prepared by a suitably qualified Engineer shall be submitted to the Principal Certifier prior to the issue of a Construction Certificate.

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

29. Submission of Engineering Plans

The developer is to provide Civil Engineering plans for the following:

- Kerb and gutter along the full length of the site frontage in Minarto Lane.
- signposting for A Loading Zone of sufficient length to accommodate Council's 10.5m waste collection vehicle and a No Parking restriction on the remainder of the western side of Minarto Lane. The Loading Zone to apply on a full time basis
- A No Stopping restriction on the east side of Minarto Lane opposite the site.

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

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

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

30. 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 Principal Certifier prior to the issue of the Construction Certificate.

Reason: To maintain pedestrian safety.

31. Amendments to the approved plans

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

- The approved Demolition Plan referenced in Condition 1 of this consent must be amended to demonstrate that Tree 6 is located entirely within the subject site, consistent with the Detail & Boundary Identification Survey of Lot 187 & 188 in DP 16719, Located at No. 1-3 Gondola Road, North Narrabeen (prepared by C&A Surveyors, dated 8 March 2024).

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

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

32. Boundary Identification Survey

A boundary identification survey, prepared by a Registered Surveyor, shall be provided in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

33. Services and Fire Hydrant Enclosure

Prior to the issue of a Construction Certificate for works above ground level, Council's Executive Manager of Development Assessment is to be provided with plans to their satisfaction demonstrating that all Services (Gas meter, water meter & fire hydrant and sprinkler booster valves and the like) are enclosed in a manner that compliments the building, do not visually dominate the streetscape and are in accordance with the requirements of the BCA.

An updated landscape plan is also to be provided to reflect the changes resulting from the fire hydrant and sprinkler booster detailed design.

Reason: To ensure essential services are appropriately screened.

34. 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 Civil Engineering plans for the design of vehicular crossing and associated works which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer. The design must include the following information:

1. A vehicular crossing 5.5 meters wide to be constructed in Minarto Lane in accordance with Council's standard drawing Normal.
2. Details of the construction of the kerb and gutter in accordance with Council's standards along the Minarto Lane frontage following the alignment of the kerb at the corner of Gondola Rd.
3. The road reserve levels in Minarto Lane are to match the existing levels along the boundary of the site and adjoining property.
4. Reinstatement of redundant vehicle crossings in Gondola Road.
5. Details of the stormwater connections in Gondola Road.
6. A services plan indicating all services in the road reserve. Where any services are to be adjusted as a result of the works, approval from the relevant service authority is to be provided.

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 Principal Certifier prior to the issue of the Construction Certificate

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

35. **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 Water NSW are to be complied with and a copy of the approval must be submitted to the Certifier.

Details demonstrating compliance are to be submitted to the Principal Certifier 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.

36. **Shoring of Council's Road Reserve (Temporary road anchors)**

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

Written approval from Council under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Council's road reserve. The Owner's approval is to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

37. **Acoustic Design Recommendations**

Prior to the issuing of any Construction Certificate, documentation is to be submitted to the satisfaction of the Principal Certifier that design recommendations within the DA Acoustic Assessment Report referenced in Condition 1 of this consent have been implemented / incorporated into the design of the premises.

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

Reason: To prevent noise nuisance by using mitigation measures in design.

38. **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 Certifier prior to the issue of the Construction Certificate.

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

39. **External Colours and Materials (Mixed & Apartment Buildings)**

(a) External Glazing - The reflectivity index of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20% (expressed as a per centum of the reflected light falling upon any surface).

(b) External Roofing - The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

(c) Anti Graffiti Coating - The finishes of the walls adjoining Gondola Road and Minarto Lane must be finished in heavy duty long life, ultra violet resistant coating with a high resistance to solvents and chemicals as an anti-graffiti coating easily cleaned by solvent wipe.

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

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

40. Utilities Services

Prior to the issue of the Construction Certificate, written evidence of the following service provider requirements must be provided to the Principal Certifier:

a) a letter from Ausgrid demonstrating that satisfactory arrangements can be made for the installation and supply of electricity,

b) a response from Sydney Water as to whether the proposed works subject to this consent would affect any Sydney Water infrastructure, and whether further requirements need to be met, and

c) other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, the changes that are required to make the development satisfactory to them.

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

Reason: To ensure relevant utility and service providers' requirements are provided to the Principal Certifier.

41. Acoustic Design

The acoustic measures as detailed and recommended in the approved DA Acoustic Assessment Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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 access for building occupant safety.

42. Internalised Services

Service ducts, drainage, plumbing, pipes, cables and conduits are to be internalised and must not be visible from the public domain. All service, communication and electricity connections must be provided underground.

Provision must also be made for any future ventilation or exhaust system required for the retail tenancies throughout the development.

Details demonstrating compliance with this requirement must be provided to the Certifying Authority prior to the issuance of the Construction Certificate.

Reason: To remove visual clutter and ensure a high-quality finish to the development.

43. Contaminated Land Requirements

Prior to the issue of any Construction Certificate a Contamination Management Plan is to be prepared by an appropriately qualified Environmental Consultant and provided to the satisfaction of the Certifier. The plan shall detail:

a) Detail how all the requirements and / or recommendations contained within the Site Contamination Assessment by Martens Consulting Engineers dated 1 May 2024 (P2310036JR01V01) referenced in Condition 1 of this consent are to be implemented;

b) Stipulate reporting and processes associated with discovery of any new contamination that is revealed during excavation, demolition or development works. This process shall include the ability to contact NSW Fire and Rescue for pollution incidents, have on call (24 hours a day), a suitably qualified Environmental Consultant to undertake immediate investigations and provide recommendations for containment and rectification of contaminants or toxins and a process for notification to Northern Beaches Council and the Certifier.

c) A requirement to complete ongoing water and soils testing during excavation, demolition and development works as follows:

(a) During construction in order to monitor water and soil quality the following is to be implemented:

i) Water testing is to be completed in accordance with Section 3 of the NSW RTA's Guideline for Construction Water Quality Monitoring

ii) Soil Testing in order to detect contaminants is occur weekly with two (2) samples in accordance with the NSW EPA Contaminated Site Sampling Design Guidelines.

(b) The requirements of (i) and (ii) above are to be implemented from the commencement of works as follows:

i) Fortnightly during excavation works

ii) Monthly during building works

d) All stockpiles of potentially contaminated soil must be stored in a secure area on the site (no greater than 48 hours) so as not to cause pollution or public health risk until disposed of at a waste facility.

All contaminated soil removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with all relevant Acts, Regulations and Guidelines. Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

e) Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkSafe NSW and the Environment Protection Authority and the provisions of all relevant Acts, Regulations and Guidelines.

The following standards applied at the time of determination:

f) Environment Protection Authority's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).

g) Stipulate protocols for the importation of any landfill material onto the site the protocols shall include:

- 'Chain of Custody' documentation shall be kept and submitted for the transport of material from the site at 1-3 Gondola Road, North Narrabeen to a licensed waste facility.
- Any landfill material being brought to the site shall have a validation report prepared to the satisfaction of the Certifier (prepared in accordance with the Department of Environment & Climate Change's guidelines).

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

Reason: Compliance with State Environmental Planning Policy (Resilience and Hazards) 2021.

44. Remedial Action Plan

A Remedial Action Plan is to be prepared by a suitably qualified Environmental Consultant in accordance with State Environmental Planning Policy (Resilience and Hazards) 2021 and with any contaminated land planning guidelines under the Contaminated Land Management Act 1997, if required by the Detailed Site Investigation.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue any Construction Certificate.

Reason: Compliance with State Environmental Planning Policy (Resilience and Hazards) 2021

45. Site Remediation and Validation

A Remediation Validation Report must be provided by a suitably qualified and experienced environmental consultant, or equivalent person, documenting all remedial and validation works undertaken within the site (if required). All remediation and validation work, imported fill material certification, waste classification and disposal documentation must be documented in the Remediation and Validation Report prepared for the site.

The Remediation Validation Report must demonstrate that the site has been satisfactorily remediated to the Health Investigation Level (HIL) B.

Details demonstrating compliance are to be provided to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: To protect human health and the environment.

46. Building Code of Australia Fire Safety Requirements

The Building Code of Australia fire safety requirements, including any performance solutions, for the building as detailed and recommended in the Building Code of Australia Compliance report referenced in Condition 1 of this consent must be incorporated into the construction plans.

Details demonstrating compliance are to be provided to the Certifying Authority, prior to the issue of a Construction Certificate.

Reason: To ensure adequate provision is made for health, amenity, access and fire safety for building occupant health and safety.

47. Access Requirements

The measures as detailed and recommended in the approved Development Application Access and Adaptability Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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 access for building occupant safety.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

48. Tree Removal Within the Property

This consent approves the removal of existing prescribed trees on the subject site as identified in the Arboricultural Impact Assessment, approved Plans, or as listed below:

- a) tree 4 and tree 5,
- b) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

49. Work Zones and Permits

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

A separate application is required with a Traffic Guidance Scheme for the standing of construction vehicles in a trafficable lane.

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

50. Demolition Traffic Management Plan

As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) shall be prepared by an suitably accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to commencing any demolition work.

Due to heavy traffic congestion throughout the area, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- Include a Traffic Control Plan prepared by an TfNSW accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.

- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP 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. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

The DTMP 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 Demolition Traffic Management Plan is submitted.

Reason: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

51. **Pre-Construction Dilapidation Reports**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties (excluding demountable structures) listed below within 10 metres of the excavation perimeter, both internally and externally, including walls, ceilings, roof, structural members and other similar items. The reports must be prepared for the following property:

- 5 Gondola Road, North Narrabeen
- 2 Rickard Road, North Narrabeen
- 4 Rickard Road, North Narrabeen
- 6 Rickard Road, North Narrabeen
- 8 Rickard Road, North Narrabeen

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

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

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works. If access is denied, then no dilapidation report

is required.

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

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

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

DURING BUILDING WORK

52. **Acid Sulfate Soils**

All excavation, construction and associated works must be conducted in accordance with the approved Acid Sulfate Soil Management Plan titled Acid Sulfate Soils Management Plan prepared by Martens & Associates, dated April 2024, reference P2310036JR04V01.

Reason: To ensure management of potential acid sulfate soils.

53. **Site Contamination - Acid Sulfate Soils**

All stockpiles of potentially contaminated soil must be stored in a secure area in a way that is not likely to cause pollution or be a public health risk.

All contaminated soil removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with all relevant Acts, Regulations and Guidelines.

Copies of all test results and disposal dockets must be retained by whom? for at least 3 years and be made available to authorised Council officers on request.

Note: The following Acts and Guidelines applied at the time of determination:

- i) Protection of the Environment Operations Act 1997;
- ii) Environment Protection Authority, Waste Classification Guidelines (2014);
- iii) Water Quality Australia, National Acid Sulfate Soils Guidance (2018); and
- iv) Acid Sulfate Soil Advisory Committee, Acid Sulfate Soil Manual (1998).

Reason: To protect environment and public health.

54. **Tree and Vegetation Protection**

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

- i) all trees and vegetation located on adjoining properties,
- ii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,

- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

c) The arboricultural works listed in a) and b) are undertaken as compliant to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment and/or Project Arborist as applicable.

Reason: Tree and vegetation protection.

55. **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.

56. **Dewatering Management**

Groundwater: A permit from Council is required for any dewatering of groundwater.

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.

57. Installation and Maintenance of Sediment and Erosion Controls

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 prepared by 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 any remaining areas.

Reason: Protection of the receiving environment.

58. Implementation of Demolition Traffic Management Plan

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

Reason: To ensure compliance and Council's ability to modify the approved Construction Traffic Management Plan where it is deemed unsuitable during the course of the project.

59. 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 TfNSW 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.

60. 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.

61. 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 Certifier.

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

62. Waste Management During Development

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

63. Requirement to Notify about New Contamination Evidence

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifier.

Reason: To protect human health and the environment.

64. Stockpiling materials

During construction, all material associated with works is to be contained at source, covered and must be within the construction area. All material is to be removed off site and disposed of according to local regulations. The property is to be kept clean and any building debris removed as frequently as required to ensure no debris enters receiving waters.

Reason: To ensure pollution control measures are effective to protect the aquatic habitats within receiving waters throughout the construction period.

65. 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.

66. Dust Minimisation

The applicant must take all reasonable measures to minimise dust generated during all works authorised by this consent. During construction, the applicant must ensure that:

a) All trucks entering or leaving the site with loads have their loads covered.

b) Trucks associated with the development do not track dirt onto the public road network.

c) Public roads used by these trucks are kept clean.

d) Land stabilisation works are carried out progressively on site to minimise exposed surfaces.

Reason: To minimise the environmental impacts of construction works.

67. **WaterNSW General Terms of Approval**

The General Terms of Approval issued by WaterNSW do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to WaterNSW for a Water Supply Work approval after consent has been issued by Council and before the commencement of any dewatering activity.

Reason: Statutory compliance.

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

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan dated October 2024 including updated plans by Mackenzie Architects dated 14/03/2025.

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

69. **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.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

70. **Landscape Completion**

Landscape works are to be implemented in accordance with the approved Landscape Plans, and inclusive of the following conditions:

a) landscape works are to be contained within the legal property boundaries.

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

Reason: Environmental amenity.

71. **Street Tree Planting**

Street tree planting (4 x *Tristaniopsis laurina* 'luscious') shall be installed in accordance with the approved Landscape Plans.

All street trees shall be a minimum pre-ordered planting size of 75 litres, and shall meet the requirements of Australian Standard AS2303 - Tree Stock for Landscape Use. All street trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, including a four post and top and mid rail timber tree guard, and watered until established, and shall be generally located at least 2.0 metres from driveways, and shall generally be centralised within the road verge.

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

Reason: To maintain environmental and streetscape amenity.

72. Certification of Works as Executed

A suitably qualified engineer and/or registered surveyor is to certify that the completed works have been constructed in accordance with this consent and the approved plans with respect to the following:

1. Floor levels for ground floor, shelter in place refuge and garage are set at or above the required level
2. All access, ventilation, driveway crests and any other potential water entry points to the basement car park have been set at or above the required level
3. There has been no filling on the land other than what has been approved
4. Openings are provided under floor areas where required for the free passage of flood waters
5. Openings are provided in fencing where required for the free passage of flood waters

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Occupation 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.

73. Building Components and Structural Soundness

A suitably qualified structural engineer is to certify the structural integrity of the shelter in place up to the Probable Maximum Flood level of 4.89m AHD, and the remainder of the new development up to the Flood Planning Level of 4.40m AHD. The depth, velocity, debris load, wave action, buoyancy and immersion must all be considered.

A suitably qualified electrician or contractor is to certify that all new and existing electrical equipment, power points, wiring and connections are located above the Flood Planning Level of 4.40m AHD, are protected from flood water or have residual current devices installed to cut electricity supply during flood events.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Occupation 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.

74. Certification of Civil Works and Works as Executed Data in accordance with Road Act Approval

The Applicant shall submit a certification by a suitably qualified Civil Engineer, who has

membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) that the completed works have been constructed in accordance with this consent and the approved Section 138 and/or Construction Certificate plans. Works as Executed data certified by a registered surveyor in relation to boundaries and/or relevant easements, prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Assets' in an approved format shall be submitted to the Principal Certifier for approval prior to the issue of the Occupation Certificate.

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

75. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

76. 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 Concept Stormwater Management Plan prepared by Martens & Associates (project P2310036, revision D dated 13/12/2024). The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. Any vegetated measures must exhibit an 80 percent survival rate of plantings.

The certificate shall be submitted to the Principal Certifier prior to the release of an Occupation Certificate.

Reason: Protection of the receiving environment.

77. 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 Certifier prior to the issue of the 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.

78. 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 visitsAdditionally 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 Certifier prior to the

release of the Occupation Certificate.

Reason: Protection of the receiving environment.

79. Works as Executed Drawings - Stormwater Treatment Measures

Works as Executed Drawings for the stormwater treatment measures must be prepared.

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

Reason: Protection of the receiving environment.

80. Kerb and gutter and parking restriction signage – Implementation

The applicant is to construct kerb and gutter and install all required parking restriction signage as per any plans approved by the Traffic Committee. These works are to be complete at the applicant's cost to Council's satisfaction prior to the issue of an Occupation Certificate.

Reason: To ensure compliance with the Road Act.

81. Basement Traffic Signal System

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

The signal system must;

- be clearly visible from ramp entrances,
- is to clearly indicate to an approaching driver, by way of red light or wording, that an opposing vehicle has entered the ramp,
- Incorporate linemarking to delineate traffic flow and nominate waiting bay locations to allow vehicles to overtake another.

Details of the system, including the system operation, components and placement within the development, must be specified by a practising Traffic Engineer. This engineer is to submit a compliance certificate to the Principal Certifier that the system has been installed and operating as designed, in accordance with the requirements of this condition, prior to the issue of an Occupation Certificate issued for the development.

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

82. Allocated Parking Spaces (retail/commercial)

Parking allocated to this development must be clearly signposted and linemarked as being for the exclusive use of this development. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To ensure parking availability.

83. Disabled Parking Spaces

Disabled parking spaces must be in accordance with AS2890.6:2022.

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

Reason: To ensure compliance with Australian Standards.

84. Shared Zone Bollard

A bollard or column is to be provided at the shared zone of each disabled parking space in accordance to Australian Standards AS2890.6:2022.

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

Reason: To prevent parking in the shared zone and ensure compliance with Australian Standards.

85. Post-Construction Dilapidation Report

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

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

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

Details demonstrating compliance with this condition are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

86. Waste Disposal Verification Statement

On completion of demolition work:

- a signed statement must be submitted to the Certifier verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent, and
- if the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to the Certifier within 14 days of completion of the demolition work.

Reason: To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan.

87. Consolidation of Allotments

The approved development occurs over 1 Gondola Road (Lot 187 DP 16719) and 3 Gondola Road (Lot 188 DP 16719). To ensure orderly development of land, these allotments are to be consolidated into one (1) new allotment. The new allotment is to be registered prior to the issue of an Occupation Certificate.

Details demonstrating compliance must be submitted to the Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To ensure orderly development of land.

88. Plan of Management

An operational Plan of Management (POM) must be prepared for the development. The POM must:

- a) Detail a protocol for managing complaints from the community.
- b) Detail a protocol for managing the number of people permitted on the communal roof top terrace.
- c) Detail a protocol for operating, maintaining and managing the residential lift security door to ensure that only residents of the apartments including any visitors for the residents can gain access beyond the security door.

The POM must be submitted to the Certifier for approval prior to the issue of any Occupation Certificate.

Reason: To ensure orderly management of the premises.

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

The Applicant shall lodge the Legal Documents Authorisation Application with Council. The application shall include the original completed request forms (NSW Land Registry standard forms 13PC) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), and Civil 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 Certifier prior to the issue of an 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 Certifier prior to the issue of an Occupation Certificate.

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

90. Environmental Reports Certification

Written certification from a suitably qualified person(s) shall submit to the Principal Certifier, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports referenced in Condition 1 of this consent have been completed:

- (a) Acid Sulfate Soils Management Plan.
- (b) Geotechnical and Acid Sulfate Soil Assessment.
- (c) Site Contamination Assessment including any Contamination Reports required by the conditions of consent.
- (d) DA Acoustic Assessment Report.
- (e) Development Application Access and Adaptability Report.
- (f) Building Code of Australia Compliance Report.
- (g) Arboricultural Assessment Report and Tree Protection Specification.
- (h) BASIX Certificate.
- (i) Hydrological Assessment and Groundwater Dewatering Management Plan.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure compliance with standards.

91. 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.

92. 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 Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure waste and recycling facilities are provided.

93. Waste/Recycling Compliance Documentation

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

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

94. Deliveries, waste and recycling collection hours

Deliveries, waste and recycling collection from the site is to be carried out between 7.00am and 10.00pm only to minimise noise.

Reason: To minimise noise to residential receivers.

95. Use of Roof Communal Area

The number of patrons using the roof communal garden is to be limited to the following:

- Between 7:00 am and 6:00 pm: Maximum of 40 people.
- Between 6:00 pm and 10:00 pm: Maximum of 16 people.

Reason: To ensure the noise amenity of the area.

96. 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 Plans and any conditions of consent.

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.

The approved landscape planted areas consisting of lawn, planting at grade, and planting on structure shall in perpetuity remain as planting under the development consent, and shall not be replaced with any hard paved surfaces or structures.

Reason: To maintain local environmental amenity.

97. Maintenance of Stormwater Treatment Measures

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.

98. Landscaping adjoining vehicular access

The applicant must ensure that the planting chosen for any land immediately adjacent to the driveway and adjacent to any driveway intersections must not exceed a height of 1 metre.

Reason: To maintain unobstructed sight distance for motorists.

99. Graffiti removal

During ongoing use of the premises, ensure graffiti is removed from the exterior of the building or associated structures, including any fences, site services and retaining/planter bed walls.

Reason: To ensure the safe operation of the premises and to protect the amenity of adjoining premises and the surrounding area.

100. 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.

101. **Compliance with Plan of Management**

The operational Plan of Management (POM) that is required by the conditions of consent must be complied with at all times in perpetuity of the development.

Reason: To mitigate amenity impacts.

102. **Fencing Height / Vegetation**

All fencing and/or vegetation along the frontage road(s) shall not impede pedestrian or driver visibility. This requires that vegetation does not exceed 1m in height. Appropriate plants shall be selected within the 2.0m - 2.5m splay to ensure this condition is met.

Reason: To ensure maximum vehicular and pedestrian visibility.