



NSLPP MEETING HELD ON 01/11/2023

Attachments:

1. Architectural Plans
2. Landscape Plans
3. Clause 4.6 Statement
4. Response to Design Excellence Panel
5. Arboricultural Impact Assessment
6. Engineering Advice – Seawall

ADDRESS/WARD: 5-7 Lower Wycombe Road, Neutral Bay
LOT/DP: Lots 19 and 20 in DP 3183
Lot 1061 in DP 752067

APPLICATION No: DA137/23

PROPOSAL: Demolition of existing residential flat building and construction of new residential flat building containing six (6) apartments and construct swimming pool adjacent to foreshore

PLANS REF: Architectural Plans, Plan No.'s DA000-DA702, prepared by PBD Architects, Issue 02, dated 18 August 2023

OWNER: T Virgona – Vergome Pty Ltd

APPLICANT: B Brown – Ingham Planning Pty Ltd

AUTHOR: David Hoy, Team Leader Assessments

DATE OF REPORT: 20 October 2023

DATE LODGED: 10 May 2023

AMENDED: 24 August 2023

RECOMMENDATION: Approval

EXECUTIVE SUMMARY

The Applicant seeks development consent from the North Sydney Local Planning Panel (NSLPP) for the demolition of existing residential flat building and construction of new 4-storey residential flat building containing two (2) basement levels and six (6) x 3-bedroom apartments, installation of a new in-ground swimming pool within the foreshore area, and ancillary and landscaping works on land identified as No. 5-7 Lower Wycombe Road, Neutral Bay. The application is an amended proposal.

The application is required to be reported to the NSLPP for determination, as directed by the Minister of Planning, as the development application has attracted 10 or more unique submissions by way of objection; involves a departure from a development standard that is greater than 10%; and is considered sensitive development, to which State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development applies.

Council's notifications of the initial design of the proposal attracted a total of 74 submissions raising concerns and issues associated with existing use rights; extent of excavation and vibration impacts; bulk, scale, massing and density; excessive height; reduced setbacks; overdevelopment; tree removal; traffic impacts (due to car lift); visual privacy and amenity impacts; overshadowing impacts; construction management and dust; landscaping works; and spa placement.

An amended scheme was provided to Council and consequently, re-notified in accordance with Council's Community Participation Plan. The re-notification of the amended plans attracted a total of eight (8) further submissions. A similar set of concerns and issues were expressed in these submissions.

The development application was assessed against relevant State Planning Policies, as well as Council policies including the North Sydney Local Environmental Plan 2013 (NSLEP 2013) and North Sydney Development Control Plan 2013 (NSDCP 2013). The proposed development is a reasonable and balanced planning and design outcome that is appropriate to the setting, constraints and context of the site and the applicable environmental planning controls. The proposed development demonstrates general compliance with relevant provisions, objectives and controls and will facilitate a contemporary and responsive built form that reflects a similar scale, massing and density as the existing residential flat building onsite, whilst not generating any adverse and substantial impacts upon the environment, neighbouring properties and the community.

The application involves a non-compliance to the maximum height of buildings development standard (8.5m) under Clause 4.3 of NSLEP 2013 as the proposal features a maximum building height of 13.7m (for the lift overrun) above natural ground level. This represents a departure of 5.2m or 61.2% from the development standard. It is noted that the existing building comprises a maximum height of 11.74m, which fails to comply with the provision by 3.24m (38.1%). The Applicant submitted a written request pursuant to Clause 4.6 of the NSLEP 2013. The request is supported given that sufficient planning grounds have been provided and the included information has demonstrated that compliance with this development standard is unreasonable or unnecessary in the circumstances.

The assessment of the proposed development considered the concerns raised in the submissions and its performance against Council's planning requirements. Following this assessment and having regard to the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended), the application is recommended for approval given the merits demonstrated by proposal against critical objectives, provisions and controls under the SEPP 65 and Council policies.

DESCRIPTION OF PROPOSAL

The proposal before the Panel is for the demolition of existing residential flat building and construction of new residential flat building containing six (6) apartments and construction of a new swimming pool adjacent to foreshore at No. 5-7 Lower Wycombe Road, Neutral Bay.

Specifically, the proposed development involves the following elements:

Demolition

- Demolition of the existing residential flat building and any existing structures.

Tree removal

- Removal of 12 trees – one (1) street tree and 11 site trees.

Construction of residential flat building

- Construction of two (2) basement levels accessed via car lift, containing vehicular parking for 13 cars (including 2 visitor spaces, 2 accessible spaces and 2 shared spaces), a car wash bay, a waste bins room, rooms for main switch, services and rainwater tank, bulky goods (waste) storage room, storage rooms and lift and stair access. Basement 1 contains a recessed BBQ area that connects to the communal open space.
- Construction of a lower ground floor containing a bicycle storage room (10 spaces), fire services room, a 3-bedroom apartment and lift/stair access.
- Construction of a ground floor containing an entry foyer and two (2) x 3-bedroom apartments (1 x adaptable unit), an entry foyer and lobby with services area and lift/stair access.
- Construction of Level 1 containing two (2) x 3-bedroom apartments (1 x adaptable unit), a lobby with services area and lift/stair access.
- Construction of Level 2 containing a penthouse apartment with three (3) bedrooms.
- Construction of roof area with solar panels, lift overrun, skylight and planter boxes along perimeter.

Ancillary works – front setback

- Removal of two (2) existing driveways and crossings off Lower Wycombe Road. Road reserves will be reinstated with integration of footpath and grassed verge.
- Construction of a new driveway crossing and access to car lift area located centrally within the front setback.
- Bin holding area and hydrant booster storage area within the western corner of the front setback.

Ancillary works – waterfront setback

- Creation of separate communal open spaces within the foreshore area, with a single flat, paved seating area in the upper rear portion of the site and a 2nd communal space below the mean high water mark, comprising a new in-ground swimming pool, paved surrounds and enclosed storage area, and a grassed lawn area adjacent to the seawall.
- New access stairs to access lower communal area and Hayes Beach.

Landscaping and stormwater management works

- Landscaping works within deep soil zones scattered within front, rear and side setbacks, and planting on roof and structure.
- Establishment of a new street tree.

- Stormwater management system comprising gravity fed infrastructure that is to connect to the stormwater pits to a gross pollutant trap prior to disposal.

A site plan, demolition plan, floor plans, roof plan, elevations, sections and photomontages are shown in Figures 1 to 17 below.

The Applicant provided documentation including a cost estimate report identifying that the cost of works for the proposed development is estimated to be \$13,103,339.00.

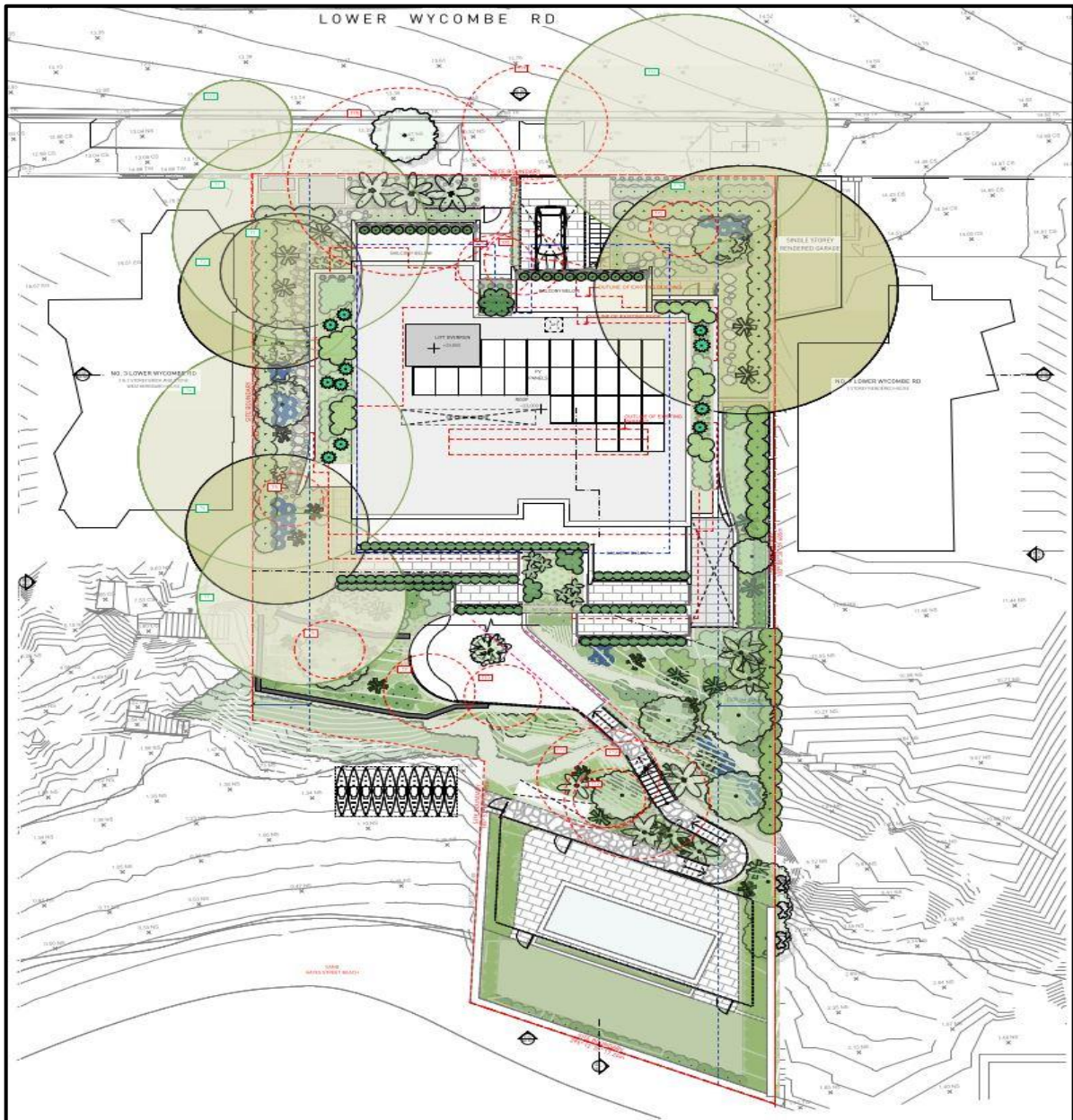


Figure 1: Site plan



Figure 2: North elevation – Lower Wycombe Road

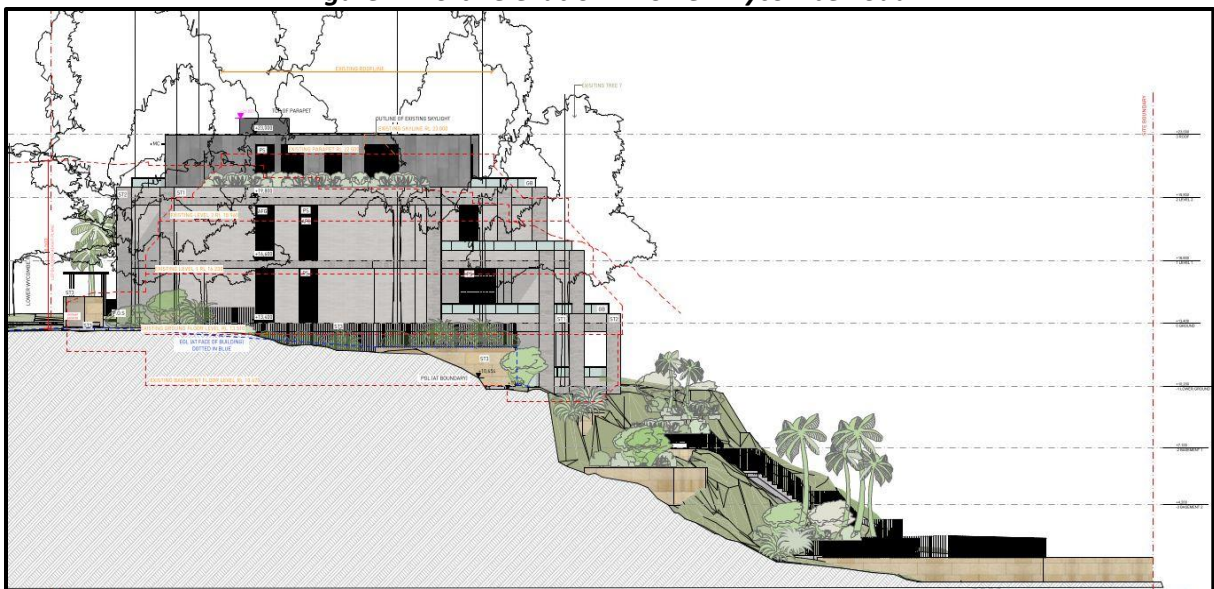


Figure 3: West elevation

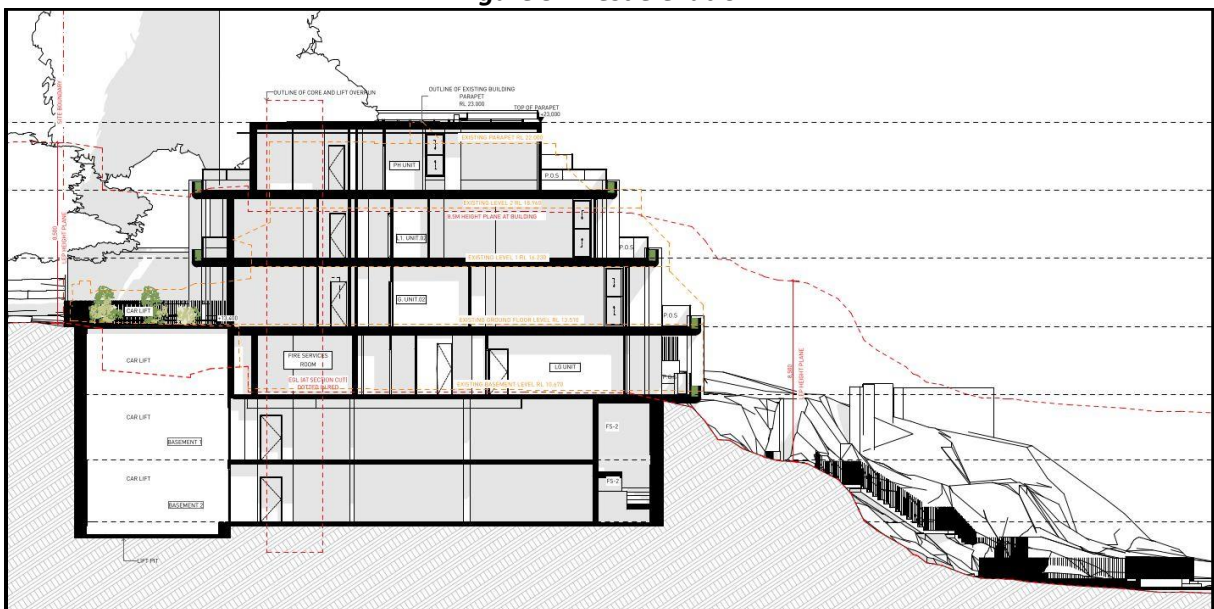


Figure 4: Long section

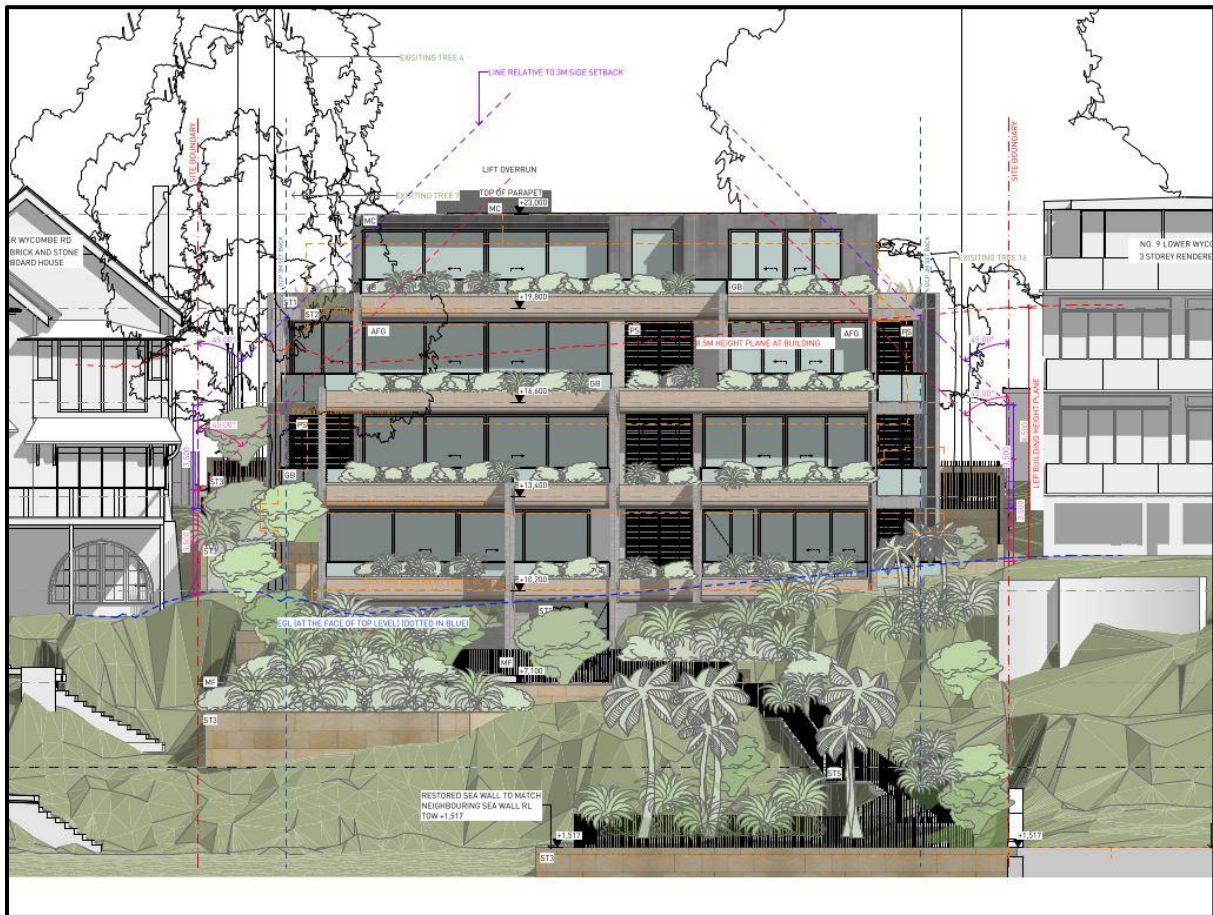


Figure 5: South (rear) elevation



Figure 6: Photomontage – view from Lower Wycombe Road



Figure 7: Photomontage – view from foreshore and colours/materials/finishes schedule

STATUTORY CONTROLS

Environmental Planning and Assessment Act 1979 (as amended)
Environmental Planning and Assessment Regulations 2021

North Sydney Local Environmental Plan 2013 (NSLEP 2013):

- Zoning – R3 – Medium Density Residential zone.
- Clause 5.7 – development below mean high water mark – Yes, pertaining to ancillary structures (including pool and surrounds) and landscaping works within the foreshore area and below the mean high water mark.
- Clause 5.10 – Heritage conservation:
 - Item of Heritage – No.
 - In Vicinity of Item of Heritage – No.
 - Conservation Area – Yes, uncharacteristic item within the Kurraba Point Conservation Area (CA16).
- Clause 6.9 – Limited development on foreshore area – Yes.
- Clause 6.10 – Earthworks – Yes, substantial excavation works required for creation of basement levels and car lift access.

State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential
Apartment Development and Apartment Design Guide.

SEPP (Housing) 2021.

SEPP (Transport and Infrastructure) 2021.

SEPP (Biodiversity and Conservation) 2021.

SEPP (Building Sustainability Index: BASIX) 2004.

SEPP (Resilience and Hazards) 2021.

POLICY CONTROLS

North Sydney Local Infrastructure Contributions Plan.

North Sydney Development Control Plan 2013 (NSDCP 2013).

North Sydney Foreshore Access Strategy (April 2007)

North Sydney Open Space Provision Strategy (24 February 2009)

DESCRIPTION OF LOCALITY

The subject site comprises three (3) separate allotments, collectively and commonly identified as No. 5-7 Lower Wycombe Road, Neutral Bay, and with the following legal descriptions:

- Lots 19 and 20 in DP 3183
- Lot 1061 in DP 752067

The site is an irregular shaped allotment, located on the southern side of Lower Wycombe Road (refer to Figure 18). The site has a frontage of 27.43m to Lower Wycombe Road, a maximum depth of 59.485m and a total area of 1306m². The southern boundary of the site is partly formed by the Mean High Water Mark (MHWM) of Sydney Harbour. In the case of Lot 19 (the western lot) the southern boundary sits upslope from the beach. For Lot 20/Lot 1061 (the eastern lots) the MHWM extends to a reclaimed area contained by a sea wall. The land features a moderate slope across the site from the street to the rear of the existing building. The site topography changes substantially past the southern edge of the building, reflecting a steep fall to the foreshore.

It is relatively modified and built-up with the existing 3-storey residential flat building and ancillary structures, paved areas and curved driveway occupying much of the northern portion of the site (refer to Figures 19 to 32). Scattered throughout the premises are 18 trees of varying species, heights and canopy covers and overgrown shrubs and groundcovers in informal garden beds. The lower portion of the site is accessed by a series of concrete stairs and comprises the flat reclaimed area (refer to Figures 27 to 31).

The existing development comprises a 4-level apartment building with a semi-basement car park and a total of seven (7) units – six (6) x 2-bedroom units and a 4-bedroom unit. The building is predominantly constructed of concrete and brick with a metal flat roof and protruding skylight structure. The site benefits from two (2) separate crossings – one (1) of these connects to a curved driveway that leads into the basement level. The 2nd crossing connects to a paved area that appears to be unutilised.



Figure 8: Aerial map showing subject site (outlined in yellow) and surrounding properties. (Source: Council SIS Maps)



Figure 9: Front of existing building – showing mail boxes and driveway leading to basement



Figure 10: Front of existing building – showing pedestrian bridge and entry lobby for Units 1-5



Figure 11: Front of existing building – view from driveway, showing entry lobby for Units 6 and 7



Figure 12: Curved driveway (vehicular access) leading to basement level

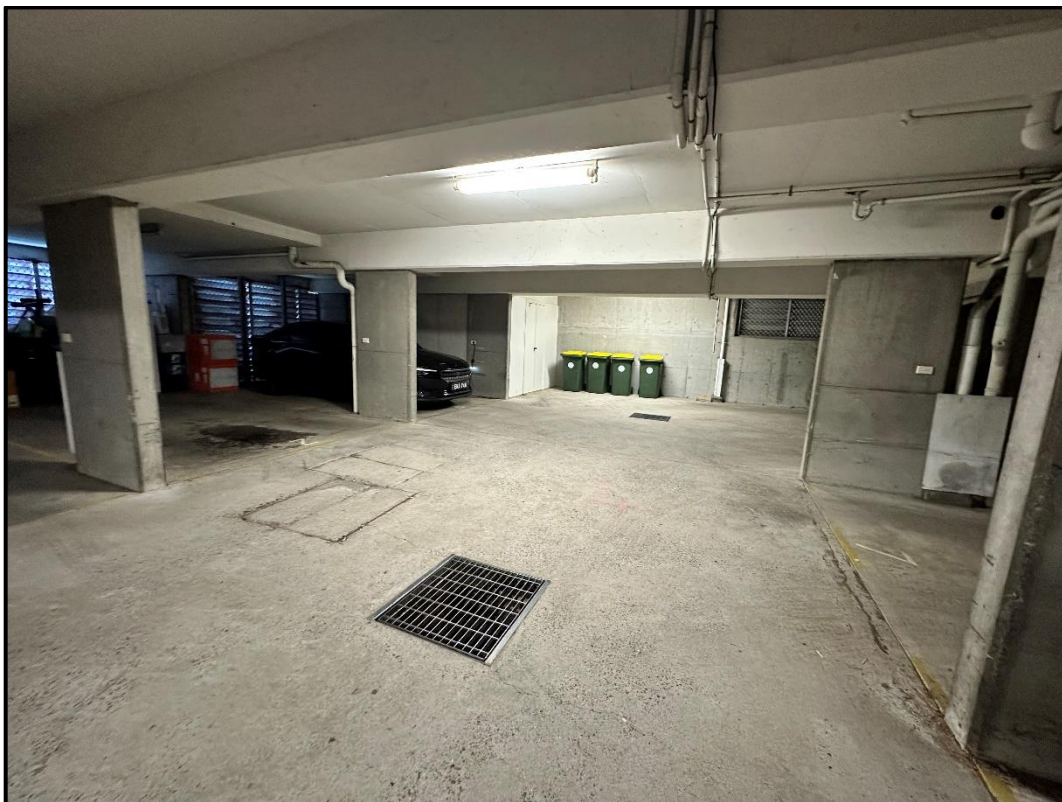


Figure 13: Existing basement level



Figure 14: View of eastern side setback from rear of Unit 5 (penthouse apartment)

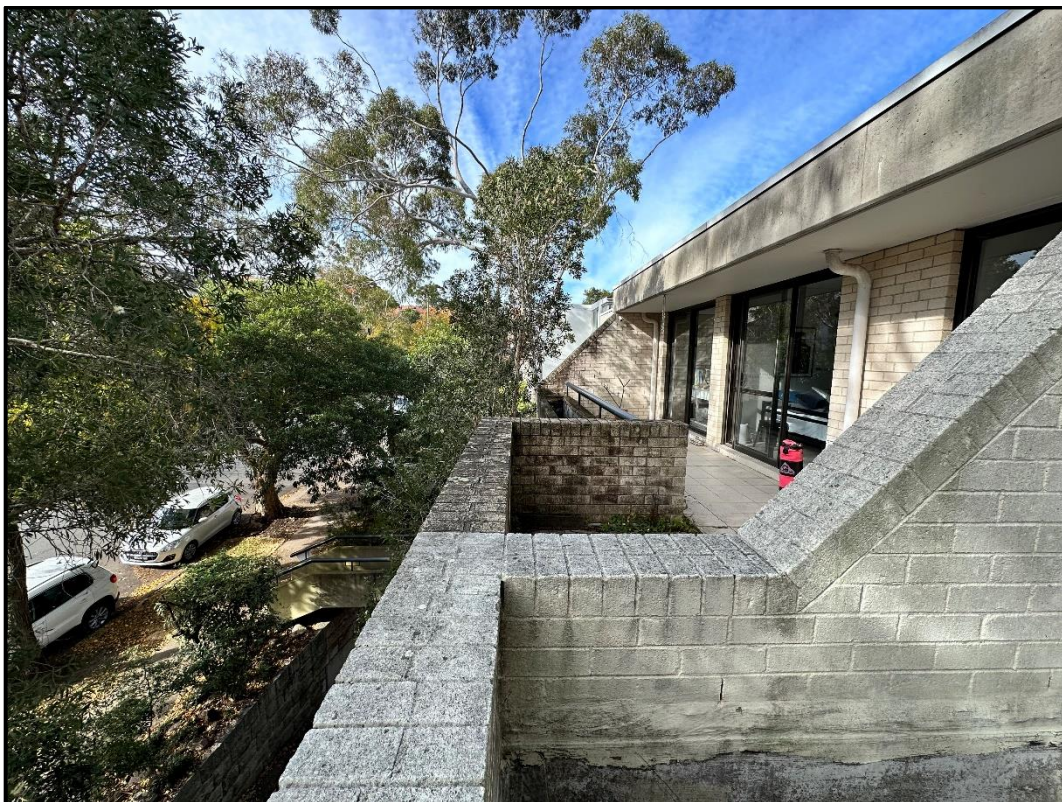


Figure 15: View of front setback and balconies of Unit 5 (penthouse apartment)



Figure 16: View of western side setback from rear of Unit 5 (penthouse apartment)

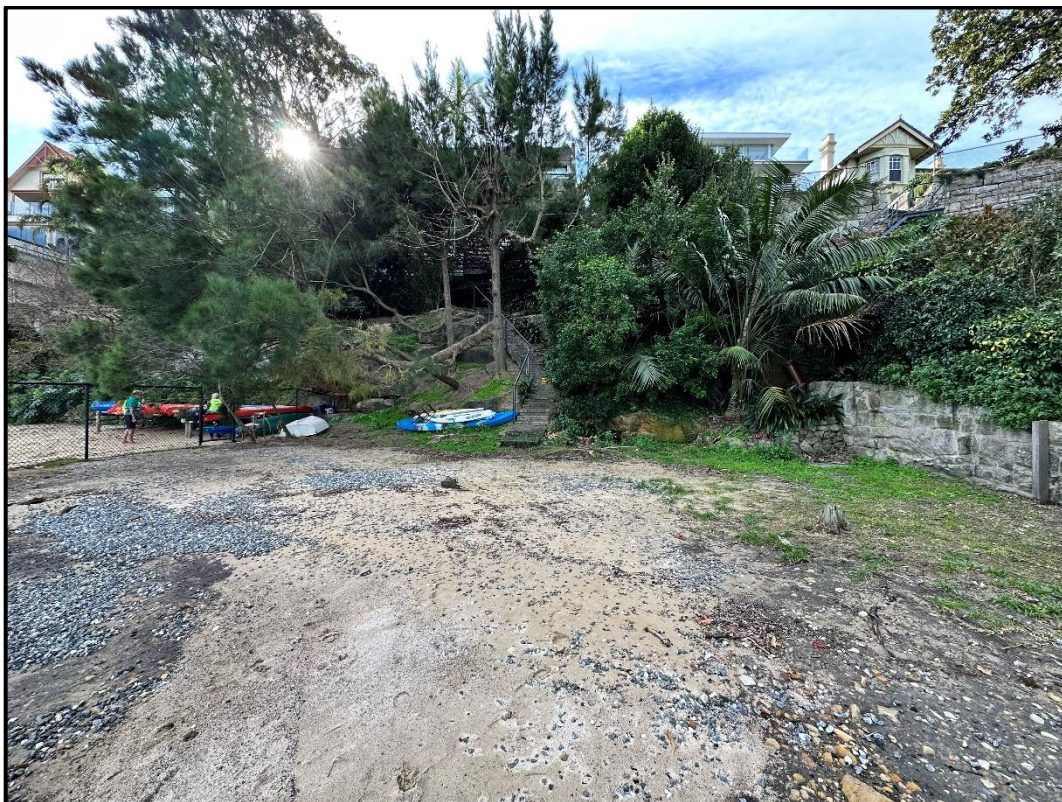


Figure 17: View towards existing building from reclaimed area



Figure 18: View of southern elevation of existing building



Figure 19: Access stairs leading to reclaimed area and Hayes Beach foreshore



Figure 20: Southerly view towards Neutral Bay (Sydney Harbour) from reclaimed area



Figure 21: Existing rock outcrop – centrally located between Lots 1 and 2, and above MHWMM



Figure 22: Close-up view of subject site from Neutral Bay Wharf and Hayes Street Beach (foreground)

The subject site is situated within a predominantly low-medium density residential area with tree-lined streets, undulating topography and foreshore views. Most of the existing buildings consist of low-rise, older style residential flat buildings and detached dwelling houses on sloping and undulating sites. Architectural features are predominantly red/brown brick or neutral coloured rendered façades, distinctly pitched, gabled or hipped roofs and simple entry porches and porticos addressing the public domain. Front setbacks are generally generous and feature defined pedestrian and vehicular access, stone/masonry front fencing, letter boxes and informal garden beds with shrubs and scattered trees. Hayes Street Beach is directly accessed from the rear of the site.

The site is surrounded and adjoined by the following properties:

- Front (north: No. 6, 6A and 8 Lower Wycombe Road (dwellings) (refer to Figures 33 and 34).
- Rear (south): Neutral Bay foreshore (refer to Figure 32).
- East-adjointing: No. 9 Lower Wycombe Road (residential flat building) (refer to Figure 35).
- West-adjointing: No. 3 Lower Wycombe Road (dual occupancy – Strata subdivided) (refer to Figure 36).



Figure 23: Dwelling house at No. 6 Lower Wycombe Road



Figure 24: Dwellings at No. 8 and 10 Lower Wycombe Road



Figure 25: Residential flat building at No. 9 Lower Wycombe Road



Figure 26: Dual occupancy at No. 3 Lower Wycombe Road

RELEVANT HISTORY

Previous applications

DA1409/80 – subject site

On 2 September 1980, Council granted consent to application DA1409/80. This application sought approval for construction of a 3-storey residential flat building with basement parking and seven (7) units. The form, scale and design of the approved development broadly reflects the current building constructed on site.

In relation to reclaimed portions of the site, a conditions consent was imposed seeking to require the provision of an area of land 3m wide north of the foreshore line, in order to permit public access across the land (Condition 49).

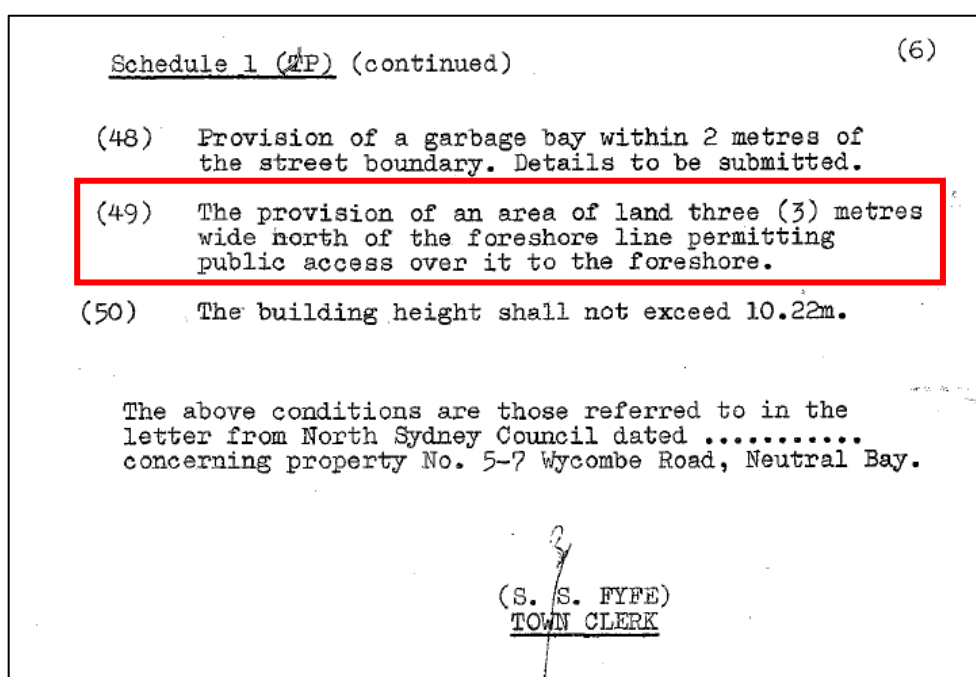


Figure 27: Extract from DA1409/80 including condition 49

Whilst the above condition was imposed, there is no record that any public right of way or easement was ultimately created for this purpose. Considering the building has existed on site in its current condition without grant of any such easement over the site, Council would not be empowered to enforce or reimpose this condition under the current proposal.

The matter for land acquisition for public access is typically undertaken via Strategic Acquisition mechanisms typically within Local Environmental Plans or through open market property transaction. This has occurred in the period since the grant of this consent in 1980.

Council's current Foreshore Access Strategy (dated April 2007) and Open Space Provision Strategy (24 February 2009) provides the appropriate framework for identification and funding of land acquisition for foreshore access and open space purposes. These policies do not provide for acquisition of the subject site including those parts of the site which are reclaimed harbour area.

Should Council resolve seek to acquire this land for public access, nothing in this proposal would preclude further investigation for this purpose. Any such investigation would need to have regard for appropriate measures and financial compensation under the ***Land Acquisition (Just Terms Compensation) Act 1991***.

P817/5/3 – subject site

On 17 October 1988, Council refused application DA817/5/3 at its meeting. This application sought approval for construction of a five berth mooring structure on the foreshore.

Pre-lodgement Advice

No formal pre-lodgement advice was sought.

Current Application

<i>Date</i>	<i>Action</i>
10 May 2023	Application lodged with Council.
18 May 2023	Letter was issued to the Applicant under 'Stop the Clock' provisions requesting additional information including existing floor plans/section, details to address Clause 6.9 of the NSLEP 2013 and view loss analysis.
26 May 2023	The application was notified as per Council's Community Participation Plan. The notification period ended on 9 June 2023 and was extended to 29 June 2023. A total of 48 submissions were received during this period.
19 May 2023	North Sydney LEP Amendment No.35 was made and came into force. Amendment No. 35 amends the Land Use Table to NSLEP 2013 such that residential flat buildings are prohibited in R3 Medium Density Residential zone.
7 and 9 June 2023	Site inspections were conducted by Council officers.
13 June 2023	The Design Excellence Panel (DEP) Meeting was held via Zoom with the DEP, the Applicant and Council. The following matters/issues were raised in the meeting: <ul style="list-style-type: none">• Context and neighbourhood character – bulk, mass, uppermost level, tree removal, extensive glazing, contemporary stark colouration.• Street setback, side setback and rear setback.• Public domain interface.• Excavation and existing ground levels.• Amenity of lower ground floor unit.• Housing diversity.• Communal open space.• Deep soil zone.• Structural (seal) wall.• Building separation.• Pedestrian entrance.

	The minutes of the meeting were sent to the Applicant via the Planning Portal on 6 July 2023.
6 July 2023	A Request for Information (RFI) Letter was sent to the Applicant via the Planning Portal. The letter advised the following matters that required addressing: <ul style="list-style-type: none">• Design Excellence Panel matters.• Tree removal and tree impacts.• Excess height, bulk and scale.• Building separation and visual privacy.• Excavation.• Subterranean unit.• Spa.• Aboriginal heritage matters.• Heritage.• Clarification on building height• Response to submissions.• Development in the foreshore.• Overshadowing.
21 July 2023	An informal meeting was held via Microsoft Teams with the Applicant and Council officers to walkthrough and clarify proposed amendments.
24 August 2023	The Applicant submitted additional information via the Planning Portal.
8 September 2023	The amended plans were re-notified as per Council's Community Participation Plan. The notification period ended on 22 September 2023 and extended to 6 October 2023. A total of eight (8) further submissions were received during this time.

INTERNAL REFERRALS

BUILDING

Council's Senior Building Surveyor reviewed the application and provided the following commentary with regard to compliance against the relevant requirements under the Building Code of Australia (BCA) (now known as the National Construction Code/NCC):

The Development Application seeks approval for the demolition of all site structures and the construction of a new four storey residential flat building with foreshore swimming pool.

The building is classified by the NCC BCA 2019 as a class 2, 7A and 10b building of Type A construction.

The Swimming Pools Act 1992 requires for a compliant swimming pool barrier to surround the proposed swimming pool on all four sides regardless of being a foreshore location.

The application is supported by an Access Report dated 1 May 2023 prepared by Lindsay Perry Access which concludes that the proposed development can comply with statutory requirements regarding accessibility to buildings.

The application is also supported by a BCA Assessment Report dated 12 April 2023 prepared by BCA Logic which concludes that the proposed development can comply with the NCC BCA via a combination of satisfying the Deemed to Satisfy provisions of the NCC BCA and use of Performance based Solutions.

As the building is a new building its construction in accordance with the NCC BCA is required.

A detailed assessment of compliance with the Building Code of Australia 2019 will be undertaken by an appropriately registered certifier at the Construction Certificate Stage of the proposed development. Additionally, a Fire Safety Schedule is to be prepared by the certifier and accompany the Construction Certificate.

It is recommended the standard BCA conditions are imposed.

Planning comment: The above comments are noted and concurred with, and the recommended conditions will be imposed to ensure compliance with the relevant building standards.

DESIGN EXCELLENCE PANEL (DEP)

The Design Excellence Panel (DEP) considered the originally proposed building and provided comment on key matters in relation to the design principles under the SEPP 65 and ADG. These matters were as follows:

Principle 1: Context and neighbourhood character

The subject site comprises an uncharacteristic item within the Kurraba Point Conservation Area (CA16). Notwithstanding, the existing building is appropriately built to be responsive to the topography and natural features of the site (such as the remnant sandstone/bush rock), has generous setbacks – particularly from Lower Wycombe Road and the foreshore, is obscured and surrounded by ample vegetation (such as native canopy trees) and has a neutral and recessive presentation, when viewed from public domain (including Hayes Street Beach). The current vehicular access is discrete and well-hidden by plantings.

By comparison, the proposed development introduces a built form that is more dominant to both the street and beach, with increased height and less façade articulation. The built elements, in-combination with the removal of substantial vegetation (including 15 of 18 site trees) exacerbates the dominant presentation that is uncharacteristic, not in context and inconsistent with the development pattern and streetscape of the immediate locality and conservation area.

Of particular concern are:

- *The removal of established vegetation and canopy trees. The proposed development should be modified to retain most of the existing trees (particularly Lemon-scented Gum *Corymbia citriodora*, Broad-leaved Paperbark *Melaleuca quinquenervia* and River She Oak *Casuarina cunninghamiana*) that assist in screening and framing the building. It is noted that the design of the vehicular access and parking contributes to the proposed tree removal. The removal of the trees will result in reduced privacy for the public utilising Hayes Street Beach and impacts on pedestrian comfort (in the streetscape). It is noted that the works to facilitate the basement levels and car lift contribute to the tree loss – consideration should be given with regard to using the existing driveway or an alternative solution that retains existing trees.*
- *The bulk and scale of the proposed development exceeds the existing building in terms of footprint and height. The proposed development should be reduced in massing by being contained within the current footprint and greater separation/setbacks, particularly from the street and foreshore building line. It is acknowledged that the existing building carries a height variation; however, the height of the proposed development exceeds this and has a maximum 4.6m (54%) height exceedance. Any height exceedance must not result in any additional impacts – such as overshadowing over public recreational areas/foreshore.*
- *The uppermost (top) level (Level 2) is prominent and highly assertive, and should be substantially reduced and articulated to be a more recessive and subservient element when viewed from the street/foreshore. The Architect mentioned the change in materiality and increased setback to this level to achieve this – this has been noted but considered insufficient in minimising the presentation of this level, which involves a height exceedance.*
- *The existing and neighbouring buildings feature relatively articulated and stepped forms. Further articulation and stepping of the front and rear facades should be incorporated into the proposal to interrupt the visual bulk.*
- *There is extensive glazing presenting to the foreshore and waterfront. Consequently, there is a greater expression of overlooking on Hayes Street Beach and a more assertive rear elevation that is exacerbated by the removal of trees. The proposed development should be modified to reduce the amount of glazing. Half-glazed, half-opaque/solid form balustrades with solid upturns to the balconies should be considered. The retention of the trees at the rear will assist in providing shared privacy between residents, neighbours and the public.*
- *The contemporary colours, materiality and finishes of the proposed development appear as noted, and a sensitive contemporary intervention could be supported given the context. High quality materials such as stone and face brick should be used and it is suggested that less contrasting material specifications are used. The contrasting tones of the materials stark white and black colouration of the scheme is not considered to be in sympathy with neighbouring buildings. The proposed development should feature warmer tones that are non-assertive. The Architect mentioned the incorporation of limestone materials (instead of sandstone), timber soffits (to undersides of balconies) and rolled edges to balance the modern language of the building. The Architect also mentioned that the colours and materials may not be sufficiently illustrated in the drawings.*

Principle 2: Built form and scale

A discussion on height, bulk and scale is provided above. The proposed development is considered excessive in height, bulk and scale and is notably a larger and more dominant form compared to the existing building. The uncharacteristic features and modern form of the new building are further exacerbated by the tree removal and the reduced setbacks.

Street setback: A review of adjacent buildings at No. 3 and No. 9 Lower Wycombe Road indicated that there is no prevailing street setback; however, these buildings (as well as the existing building) have articulated and stepped forms. It is noted that the new building is forward of the building line of the eastern neighbour and slightly behind the building line of the western neighbour. The street setback may be considered acceptable; however, the proposed building should also comprise of additional articulation and modulation to reduce bulk and scale. The current setback of top floor (Level 2) should be increased to minimise its presentation.

Side setback: As mentioned, the proposed development should be reduced in density and be set within the current building footprint. It is further noted that the proposed building fails to achieve the minimum separation distances under the Apartment Design Guide (ADG) (12m between habitable rooms and 9m between non-habitable/habitable rooms). Concern is raised with regard to the windows along the east/west elevations. There is no information on the neighbouring windows and respective spaces. The side windows should be offset from any neighbouring windows, feature privacy treatments or could be deleted to address any overlooking impacts.

Rear setback: The architectural plans indicate that the proposed building has a rearward projection that is beyond the existing building footprint and encroaches the foreshore building line. Any elements encroaching the foreshore building line should be deleted as these are prohibited. Any elements beyond the existing building footprint should be deleted. The top floor (Level 2) should feature an even greater rear setback compared to lower levels to provide a more appropriate and recessive presentation when viewed from the waterfront.

Public domain interface: Concerns are raised with regard to the foreshore interface and presentation of the building. These may be resolved through changes in the scheme such as further articulation/modulation, increased setbacks, revised materials/colours/finishes, minimise mass and scale and retention of established vegetation and trees. It is noted that the existing building reads as recessive built form with 1 and ½ storeys being visible from the foreshore and the remainder of the building mostly screened by vegetation. The new building will be highly visible and prominent, particularly due to the removal of trees.

Excavation and existing ground levels: It is noted that the extent of excavation is limited to the car lift, basement levels and new pool. The basement levels are partially within the footprint of the existing building but is notably at very close proximity to the eastern boundary. This distance is of concern as well as the resultant removal of trees. As such, the proposed excavation is not supported and should be minimised to ensure there are no impacts on neighbouring properties and to retain the majority of existing trees.

In general, the proposed development, in its current form, fails to achieve the objectives under Principle 2.

Principle 3: Density

Amenity: A discussion with regard to amenity is provided below under Principle 6. In general, a modified version of the proposed development would be able to achieve suitable amenity for future occupants. Considering the site context, orientation and neighbouring properties, the unit design features dual aspects that take advantage of prominent water views to the south and incorporate habitable spaces to the north. The provision of openings on three (3) sides enables cross ventilation for all units despite the building depth exceeding 18m. Concern is raised in relation to the subterranean unit on the lower ground floor (further detail is provided below).

Housing diversity and unit mix: The proposed development features four (4) x 3-bedroom and two (2) x 3-bedroom+ units (with rumpus rooms). Therefore, fails to comply with the required residential dwelling mix and housing diversity under the ADG and under Section 1.2.1 of the North Sydney Development Control Plan 2013 (NSDCP 2013). Whilst it is noted that proposed development only involves six (6) units, further justification and information should be provided for the lack of unit mix and housing choice within the scheme. The provision of a 2-bedroom unit with improved amenity and no subterranean habitable rooms on the lower ground floor should be considered as this will resolve the unit mix issue.

In general, the proposed development fails to achieve the objectives under Principle 3.

Principle 4: Sustainability

The overall design generally appears reasonable in relation to environmental performance. The plans indicate an area for solar panels but the details of these panels are not provided. The provision of green roofs and planting on structure is a welcome design feature that assists in softening the built form.

Principle 5: Landscape

Public domain: This has been discussed above.

Communal open space: The Architect explained the provision of two (2) communal spaces – one (1) that is accessible and connected to Basement 1 and the 2nd accessed off stairs and situated within the reclaimed (foreshore) area. The amount of communal open space is acceptable; however, additional bench seating and facilities (such as a BBQ area, kitchenette, etc.), connection to water and power and weather protection should be incorporated into the accessible communal open space. These components should be contained within the building footprint (such as the plant rooms in Basement 1).

It is noted that a pool in the reclaimed area was previously not supported by Council. Under Clause 6.9 of the North Sydney Local Environmental Plan 2013 (NSLEP 2013), development consent may be granted for swimming pools in the foreshore area.

Deep soil zone: The proposed development achieves compliance with the deep soil zone requirements under the ADG but fails to achieve the minimum requirement (40%) under the NSDCP 2013. The proposed landscaping treatments (including planting on structures and green roofs) appear acceptable – however, the proposed tree removal is not supported. The removal of 15 of 18 site trees is unacceptable and the retention of street trees is not considered justification for the tree removal. It is noted that Council's Landscape Development Officer does not support the proposed tree removal. The proposal should be revised to incorporate and retain the existing trees within the site.

Structural (sea) wall: The Applicant stated that the structural (sea) wall in the reclaimed foreshore land is to be re-built to match the height of the retaining wall of No.9 Lower Wycombe Road (along the eastern boundary). The Architect advised that the proposed lawn area in the reclaimed foreshore land is to remain at existing height with no fill. Council is to investigate and further assess these elements to confirm acceptance of any changes to the reclaimed foreshore area.

In general, the proposed development fails to achieve the objectives under Principle 5.

Principle 6: Amenity

Building separation: As mentioned above, the minimum separation distances for buildings (up to 4-storeys) is 6-12m. The proposal fails to comply with the minimum building separation. The Applicant failed to provide any assessment and justification for the 3m setbacks and the lack of building separation. This needs to be clarified and a description/details of the affected western/eastern spaces of neighbouring properties needs to be provided to confirm that the reduced distances and any side openings can be accepted and supported. A number of the side windows provided secondary orientations to rooms with other windows. If privacy concerns cannot be addressed these side boundary windows could potentially be deleted.

Amenity: The subject site is steep and sloping and features a north-south aspect with prominent views of Neutral Bay and Kirribilli foreshores and Sydney Harbour. These views are oriented away from the desired aspect for direct sunlight. The site constraints and features have generally been considered in the design of the new building. The proposed development achieves cross ventilation to all six (6) residential units and only one (1) unit will receive two (2) hours of direct solar access to the living room (via a skylight). The above equates to 100% of the units achieving the ADG cross ventilation requirement and 16.7% of the units achieving the ADG solar access requirement. Notably, none of the primary balconies (off living areas) in any units will receive direct solar access. The skylight in the Level 2 unit is insufficient and additional solar access should be provided to this unit. The provision of secondary living rooms to the northern elevation should also be considered to improve solar access performance. Living spaces that connect from north to south should be proposed. The Applicant noted their preference was not to include living spaces on the north that could be converted to bedrooms and the Panel agrees with this.

Concerns are raised with regard to the unit in lower ground floor, which features subterranean habitable rooms and areas with restricted amenity. The subterranean areas must be deleted or converted into non-habitable rooms. The re-design must not facilitate nor suggest future conversion into habitable spaces (as defined by the DCP). The western bedroom will have limited amenity. As mentioned, the provision of a 2-bedroom unit with no subterranean habitable rooms at this level should be considered as this will resolve both amenity and unit mix matters.

Private open space: The balustrade design should be revisited for the rear-facing balconies to facilitate shared privacy. The close proximity of the spa on the lower ground floor to the eastern boundary is a concern and will have potential amenity impacts. This spa should be deleted.

Main pedestrian entrance: The centralised entrance is recessed. Consideration should be given to ensure that the pedestrian entrance is more prominent when viewed from Lower Wycombe Road.

Vehicular access and parking: As mentioned, the extent of excavation and the footprint of basement are considered excessive and contributes to substantial tree loss.

Waste management: An operational waste management plan was included in the application. The Architect stated that the waste bins are to be taken up via the car lift and situated within the bin holding space (on the western side of the front setback) prior to collection. Following collection, the bins are to be re-located to the basement. This arrangement is suitable as it avoids interaction with common lobby and lift areas used by residents.

Shadow impacts: The proposed development should be modified and set within the existing building footprint to ensure no additional overshadowing impacts are generated. Any additional height must not result in additional overshadowing, particularly on Hayes Street Beach. The proposal may impact the amount of solar access received by adjoining dwellings due to the lack of setbacks from the side boundaries and the front and rear setback of Level 2. Elevational solar access diagrams (hourly during mid-winter and both equinoxes) of the neighbouring properties at No.'s 3 and 9 Lower Wycombe Road may assist in demonstrating reasonableness in terms of overshadowing impacts.

View impacts: It is noted that a view loss analysis was not provided to Council.

In general, the proposed development fails to achieve the objectives under Principle 6.

Principle 7: Safety

The proposed development is generally acceptable with regard to safety and security. There are several opportunities for passive surveillance of surrounding areas along Lower Wycombe Road and foreshore through the use of balconies and openings. The entry points (both vehicular and pedestrian) appear acceptable and suitable for the proposed use; however, the proposed tree removal to facilitate the car lift and basement levels is not supported.

Principle 8: Housing diversity and social interaction

A discussion on housing diversity and unit mix is provided under Principle 3 above. The common circulation and spaces appear acceptable.

Principle 9: Aesthetics

Refer to the discussion pertaining to Principle 1. In general, the architectural expression, presentation and aesthetics of the proposed development are not consistent with nor characteristic of the streetscape, immediate locality and conservation area. Further, the proposed removal of established trees in combination with the bulk, scale and less articulated built form will result in an undesirable planning and design outcome for the site. The proposed development fails to achieve the objectives under Principle 9.

Planning comment: The above comments relate to the originally proposed design and the initial information package submitted in May 2023 and were not supportive.

The amended proposal and additional information submitted by the Applicant in August 2023 has substantially addressed the comments of the Design Excellence Panel noting the following changes have been incorporated:

- **Reduced building footprint:** The proposal has a significantly reduced footprint, particularly at basement level allowing more significant trees to be retained. The footprint has been reduced to more closely match the existing footprint;

- **Articulation:** The eastern floorplate has moved south and the western floorplate north, to provide articulation which is more consistent with the character of the area;
- **Tree impacts:** The basement entry/car lift has been relocated to preserve Tree 14 in the eastern setback; The setback to the eastern boundary for the car lift has been increased from nil to 4-9.3m. Existing ground levels are retained where necessary to preserve existing trees;
- **Setbacks:** Increased setbacks except in the NW corner where a reduced setback is offset with a greater setback of the NE corner of the building;
- **Top floor reduced:** The top floor level has also been reduced by about approx. 40sqm with a change in materiality to make this element more visually recessive and subservient;
- **Glazing to Southern elevation:** To reduce the impact of glazing, part of the balcony balustrades have been redesigned to be solid and to assist in reducing impacts, particular from Hays Street Beach below the site. Each balcony also has integrated planter boxes to further break up the building form;
- **Colours, finishes and materials:** The external materiality has adopted a palette of face brick in 3 different tones on the facades to bring up a warm presentation to the streetscape. The brick colours are consisted of a range of pale warm grey, mid-grey to a pastel terracotta tone to the planter box walls along the balcony edges;
- **Street setbacks:** The proposed street setbacks have been amended to reflect variations in setbacks of the neighbours and allow for better articulation of the northern façade. The setback of the top level has been increased;
- **Side Setbacks:** The proposal generally incorporates a side setback of 3m and a 3.5m building height plane. Apart from very minor encroachment by architectural elements;
- **Communal Open Space:** The accessible communal space has been relocated to a less sloping area between retaining walls and is only around 0.5m above the downslope ground levels. It has been made larger and accommodates some seating areas.
- **Deep Soil Landscaping:** Improvements to deep soil landscaping and retention of a greater number of existing substantial trees.
- **Solar access to Units:** Amendments to the skylight to provide better solar access and a west facing window included at Levels 1 and 2 to improve solar access.
- **Presentation to Hayes Street Beach:** Partly solid balustrades, planting and screening to side elevations will ensure that the privacy between balconies is satisfactory.
- **Spa:** The spa has been deleted.

The above amendments were positive design changes to the proposed development which reduced the overall building footprint, scale, form and materials, addressed internal solar access impacts, preserved a greater number of significant trees and addressed impacts to Hayes Street Beach. On this basis further formal advice from the Design Excellence Panel has not been sought.

The Panel is advised that Operational Procedures outline the circumstances where additional advice on design quality may be sought that is; where further changes could not feasibly be addressed by conditions; where the development is of poor design standard and recommended for refusal; or where further significant modification is required.

Council's assessment is that the design quality of the amended development have substantially addressed the Design Excellence Panel's comments and is of sufficiently high design standard to meet the requirements of SEPP 65 and the Apartment Design Guide. The revised development is also considered to be acceptable in the site context.

Referral of the amended design back to the Design Excellence Panel for further considered is not considered warranted in this instance as the majority of the issues have been adequately addressed. It is open to the panel to refer the proposal back to the Design Excellence Panel if it is considered this is warranted.

ENGINEERING

Council's Development Engineer reviewed the application and confirmed that no objections were raised with regard to the proposed vehicular access and parking, and stormwater management system, subject to the imposition of recommended conditions. Detailed conditions are imposed to address geotechnical conditions for the site.

HERITAGE

Council's Conservation Planner evaluated the application against the relevant heritage provisions and controls under Council policy and provided the following advice:

Heritage status and significance

5-7 Lower Wycombe is not identified as a scheduled heritage item. The building is identified as an uncharacteristic item within the Kurraba Point conservation area. The conservation area is significant:

- (a) As an early harbourside suburb that has retained significant elements of its major 19th century development phase with good examples of later periods of development including some fine inter war flat buildings.*
- (b) For the large number of architecturally distinguished homes some that have a strong relationship with the water and include the works of B. J. Waterhouse, Jefferson Jackson and Walter Liberty Vernon.*
- (c) For its irregular subdivision pattern with irregular street pattern and widths that allied to the topography and plantings and mature trees add to a high quality luxuriant character.*

Heritage Assessment and Recommendations

The following assessment of the proposed demolition of the existing contemporary RFB on the site and the construction of a new RFB with a swimming pool in the foreshore (reclaimed area) and basement carparking at the subject site is undertaken in relation to the relevant provisions of NSDCP 2013 Part B: s13 in terms of meeting the objectives of NSLEP 2013 Clause 5.10. as follows below.

A site inspection was carried out on 15 June 2023. The existing building is a contemporary c1982 RFB that replaced an earlier dwelling that is estimated to have been constructed as early as c1912/1913 (ref HIS by Weir Phillips Heritage & Planning dated April 2023 p5).

NSDCP 2013 Part B

Section 13.4 Development in the vicinity of heritage items

01 – to ensure that new work is designed and sited so as to not detrimentally impact upon the heritage significance of the heritage item and its setting.

The site is in the vicinity of the heritage items on the opposite side of the street at 2, 18 and 28 Lower Wycombe Road and within the visual catchment of the heritage items at 1 Hayes Street and 1 Wallerunga Avenue. The overall form, scale and massing of the new building will result in a dominant and imposing building form that will adversely impact on the setting and visual catchment of these heritage items from the foreshore and streetscape of Lower Wycombe Road – see below.

Section 13.6.1 Heritage conservation areas

01 – to ensure that new development is designed to retain and complement the character and significance of the conservation area.

04 – encourage change that will remove uncharacteristic items or reduce the extent of their intrusion.

The existing contemporary RFB (c1982) is not from the significant period of development relating to the Kurraba Point conservation area. Its proposed replacement with a new RFB with a form, massing and scale that will be much greater than the existing will not achieve an improved outcome for the uncharacteristic RFB – see comments below.

Section 13.6.2 Form, massing and scale

01 – to ensure new development has a compatible and complementary building form and scale to that which characterises the conservation area.

The overall massing and scale are excessive for the site. The contributing factors to this are:

- The inappropriate response to the building alignments with the neighbouring properties to the east and west of the site at 3 and 9 Lower Wycombe Road being a two storey Federation dwelling and a Post War RFB respectively.*
- The proposed symmetrical elevation to the street causing the eastern portion of the front elevation to project beyond the front building line of the RFB at 9 Lower Wycombe Road. The impact of this bulk is compounded by the new location for vehicular access.*
- The reduced landscaping and soft screening that reduces the impact of a contemporary RFB.*

The absence of a staggered front building line that responds to the building alignments of the adjoining buildings and increased scale creates an imposing and dominant built form within the streetscape and harbour foreshore setting that is not complimentary with the character and significance of the conservation area nor the setting and visual catchment of the heritage items within the vicinity of the site.

13.6.3 – Roofs

01 – to maintain the characteristic roof profiles and roofing materials within a heritage conservation area.

A pitched roof form is a characteristic building element within the conservation area and would complement the adjacent dwelling to the east at 3 Lower Wycombe Road and the overall character of the conservation area. However, in view of the contemporary form of the existing building and Post War RFB, a flat roof can be considered. Nevertheless, given the scale and massing of the proposed building, the impact from a flat roof is not supported and revisions are recommended – see s13.6.2 above.

13.6.6 Infill development in conservation areas

01 – to ensure that new development is consistent in terms of materials, bulk, scale character and setback with significant buildings in the conservation area.

See s13.6.2 above.

13.8 Demolition of uncharacteristic item

P7 – to ensure that the replacement building will allow the site to be reclassified from at least ‘uncharacteristic’ to ‘neutral’.

See s13.6.2 above.

13.8 Demolition of uncharacteristic item

P7 – to ensure that the replacement building will allow the site to be reclassified from at least ‘uncharacteristic’ to ‘neutral’.

With reference to the above, the insufficient justification to support a reclassification of the replacement building to at least a ‘neutral’ classification and the sustainability outcomes of the development, the proposal does not satisfactorily meet these provisions.

In conclusion, it is noted that the rocky outcrop at the rear of the site will remain as is. No objection to the swimming pool is raised in principle, nor to the reconstruction of the existing external stairs to the rear and the restoration of the sea wall. In summary, it is recommended that the proposal be revised to:

- Maintain the existing front setback that appropriately respond to the western and eastern neighbours being the two storey Federation dwelling at 3 and the Post War RFB at 9 Lower Wycombe Road.*
- Maintain the existing setback in the foreshore elevation to mitigate the impact from the increased scale of the new development*
- Review the extent of the loss of trees in terms of their function to soften the setting of the new development as viewed within the Lower Wycombe Road streetscape and from the harbour foreshores.*

- *Utilisation of appropriate landscaping to soften the impact of a contemporary building on the nearby heritage items both along Lower Wycombe Road and those on the harbour foreshore at 1 Hayes Street and 1 Wallaringa Road.*

Conclusion and recommendations:

With reference to the above, the assessment of the proposal undertaken as per NDCP 2013 Part B: s13 Heritage and Conservation is contrary to s13.4 / s13.6 /s13.6.2 / s13.6.3 / 13.6.6/ 13.8/ and therefore does not meet the objectives of NLEP 2013 Part 5 Clause 5.10 Heritage conservation in its current form. The proposal is NOT supported on heritage grounds for its overall excessive bulk and scale and incompatible form within its site context and therefore its impact on the setting and visual catchment relating to the heritage items in the vicinity and the character and significance of the Kurraba Point heritage conservation area.

It is recommended the applicant be advised of the above and given the opportunity to amend the proposal.

Planning comment: The above comments are noted and considered. The above comments relate to the originally proposed design and the initial information package submitted in May 2023. The heritage issues have been substantially addressed in the amended design and additional information submitted by the Applicant in August 2023.

A further comment based on the amended design and additional information submitted has been provided by the Heritage Planner:

Heritage status and significance

The bulk and scale of the original proposal was assessed as having an excessive bulk/scale arising from the front and rear setbacks, the loss of trees along Lower Wycombe Road that screened the existing building and the views of the new building on the foreshore side as framed by heritage items at 1 Hayes Street and 1 Wallaringa Road.

Heritage Assessment and Recommendations

Overall, the proposed building has a larger building envelope than currently exists. The modified setbacks to the street facing and foreshore elevations are improved from their original configurations. The setbacks are not as compatible as the existing setbacks that respond to the building setback of the adjacent building [to the east] and the eaves height of the adjoining building to the west. It is recommended that the street facing elevation be setback further to improve the contextual fit of the new building within its immediate setting.

The reduction in tree removal, improved protection of retained trees and the proposed planting strategy will make a positive contribution to the overall presentation of the new development within the Lower Wycombe streetscape.

The front building line adjustment and stepped form of the elevation facing Lower Wycombe Road, revised balustrade treatment and the revised tiered adjustments to the foreshore facing elevation with deeper setbacks at each of the terraced areas creates a more compatible fit within the buildings site context. Also, the framed foreshore views of the building between the heritage items at 1 Hayes Street and 1 Wallaringa Road are much improved by the revised sale and design.

The proposed colour scheme of warm tones facilitates a generally recessive presentation and the overall revisions, as pointed out in the accompanying heritage comments provided by Weir Phillips Heritage and Planning dated 22 August 2023 will make a neutral contribution to the conservation area.

The proposal in its revised form satisfies the relevant provisions in NDCP 2013 Part B: s13 Heritage and Conservation.

Conclusion and recommendations:

With reference to the above, the proposal meets the relevant provisions of NDCP 2013 Part B: s13 Heritage and Conservation and therefore satisfies the objectives of NLEP 2013 cl 5.10 (1) (a) and(b). The revised plans are acceptable on heritage grounds and the following standard and non-conditions are recommended:

- 1. That the front elevation be setback to ensure the front building line does not project beyond the corresponding front building lines of the adjoining neighbours.*
- 2. C13 Colours, Finishes and Materials (Conservation areas)*

[REASON: To protect the character and significance of the heritage conservation area and that of the nearby heritage items]

Planning Comment: In relation to the proposed street setback to Lower Wycombe Street, a condition is recommended to ensure the building matches the primary façade alignment of No. 3 to the west. The substantial landscape improvements, improved material and colour palette and replacement of the existing uncharacteristic building have been considered. The resulting building is considered to represent a substantial improvement to the Conservation Area in terms of the built form and landscape response. The resulting building is suitable recessive for its location and an appropriate design response to the site.

LANDSCAPING

Council's Landscape Development Officer has reviewed the original and amended proposal and has provided the following commentary with regard to the proposed tree removal, tree retention and new landscaping treatments:

While this amended proposal still requires the removal of a large number of site trees, and a mature street tree, it is considered that these amended plans represent a considerable improvement on the original, such that subject to minor amendments and strict adherence to conditions, a satisfactory outcome may be achieved.

The importance of adherence to the TPMP detailed in the Arborist Report prepared by Arborlogix dated 23/8/23 cannot be stressed enough – even a minor deviation from these directions may result in the serious decline or ultimate death of the large mature, existing site trees.

*There does not appear to have been an amended SW plan provided. The original SW Plan directed pipework through the TPZ of protected trees and requires amendment such that this does not occur. **An amended SW Plan that does not direct any pipework or associated works through the TPZ of any protected tree shall be prepared in consultation with a AQ5 qualified arborist.***

The arborist requires that the booster and bin storage must be constructed above any roots of T1 (see p28 of report). Confirmation is required that this is what is proposed (via suspended slab or similar) and that no excavation for pipework or other shall be required within the TPZ of T1, T19, or any other protected tree shown for retention. Should such confirmation not be provided, the location of booster and bin storage shall be relocated outside the TPZ of any protected tree.

*It is assumed that the 9 x tree symbols shown on Landscape Plan prepared by Wyer & Co. dated 21/8/23 and referenced only as ‘Native Trees’ are the *Tristaniopsis laurina* (75l) shown in the plant schedule. Confirmation of this is required and shall be shown on drawings. All these trees shall be the cultivar ‘Luscious’ rather than the straight species, and the replacement street tree shall be 150l (min) rather than the 75l indicated. An additional *T. laurina* ‘Luscious (75l) shall be planted in the southwestern setback of the subject site, to the east of that shown in this location.*

*2 x *Corymbia maculata* (75l) shall be included within the western setback amongst the existing *Corymbia citriodora* and replacement *T. laurina* shown.*

The existing garden harbourside garden that appears to be reserve frontage is shown to be retained as existing. In light of the proposed works and loss of canopy, amenity etc, a development contribution and/or rectification works to this sea wall, garden, possible upgrade to kayak storage and ongoing maintenance of the above should be considered.

REQUIRED AMENDMENTS

- *The arborist requires that the booster and bin storage must be constructed above any roots of T1 (see p28 of report). Confirmation is required that this is what is proposed (via suspended slab or similar) and that no excavation for pipework or other shall be required within the TPZ of T1, T19, or any other protected tree shown for retention. Should such confirmation not be provided, the location of booster and bin storage shall be relocated outside the TPZ of any protected tree.*
- *An amended SW Plan that does not direct any pipework or associated works through the TPZ of any protected tree shall be prepared in consultation with a AQ5 qualified arborist for approval by council.*

- *The 9 x tree symbols shown on Landscape Plan prepared by Wyer & Co. dated 21/8/23 and referenced only as 'Native Trees' are assumed to be the *Tristanopsis laurina* (75l) shown in the plant schedule. Confirmation of this is required and shall be shown on drawings. All these trees shall be the cultivar 'Luscious' rather than the straight species, and the replacement street tree shall be 150l (min) rather than the 75l indicated. An additional *T. laurina* 'Luscious' (75l) shall be planted in the southwestern setback of the subject site, to the east of that shown in this location.*
- *2 x *Corymbia maculata* (75l) shall be included within the western setback amongst the existing *Corymbia citriodora* and replacement *T. laurina* shown.*

Comment: The amended proposal includes retention of significant trees and improved landscape design. The landscape and tree protection/removal conditions incorporating the remaining concerns have been included incorporated in the attached conditions.

STRATEGIC PLANNING

Council's Executive Strategic Planner comments were sought in response to concerns about unit mix expressed in the submission. The following comments were provided:

Despite the proposal resulting in the reduction of the number of dwellings to be provided on site, the quantum of the reduction (1 dwelling) is low and will be imperceptible in terms of addressing Council's housing supply target. Furthermore, it is recognised that the proposal would also result in an increase in the total number of bedrooms being provided on site, therefore being able to sustain increased numbers of residents upon the site, albeit in the same households.

Whilst the proposal does not comply with the dwelling mix requirements, it does provide a variety of "larger scale" apartments, with effectively 4 x 3-bedroom apartments and 2 x 4-bedroom apartments (if the rumpus rooms to apartments LG.01 and PH.01 are considered as bedrooms). Furthermore, the proposal is not located in an area of high accessibility to public transport, where greater numbers of smaller households are generally more reliant on public transport provision.

Planning comment: The above comments are considered and concurred with. It is noted that Council's DCP provisions does not require compliance with minimum dwelling mix for developments with less than 20 units, only that a choice in apartment size is provided.

TRAFFIC

Council's Traffic and Transport Engineer provided the following comments:

The site comprises three (3) lots identified as Lot 19 and 20 on DP 3183 and Lot 1061 on DP 752067 with a combined total area of 1308m² over an irregular configuration. The site has a single street frontage to the north, Lower Wycombe Road. The eastern and western boundaries border neighbouring residential developments. The site is bound by Hayes Beach and Neutral Bay to the south. The site currently accommodates a seven-unit residential flat building. Vehicle access is provided via a 3.3-metre wide driveway which links to a single-vehicle open carport.

Proposed Development

The proposed development involves the demolition of the existing building on the site and construct in its place a new 4-storey residential flat building with 6 residential dwelling (each providing three or more bedrooms).

The proposed development includes a 2-level basement car park containing 11 carparking spaces which will be accessed by a car lift. A bicycle storage room on lower ground floor accommodating eight bicycle parking spaces.

Traffic Generation

Generally, the proposed development will not have unacceptable traffic implications in terms of road network capacity.

Parking Provision

Based on the Council's DCP 2013 (amended on 4 May 2023 Section 10) the following maximum parking provisions for this development are required:

Type of Parking	North Sydney Council DCP 2013	
	Requirement per dwellings	
6 x 3 or more Bedroom dwelling	1.5 space per dwellings	9
Visitors	0.25 space per dwellings	1.5
Total car parking		10. 5

The development proposes a total of 11 parking spaces, including 9 resident spaces and 2 visitor spaces. This satisfies Council's DCP.

Adaptable car parking:

The NSDCP 2013 stipulates that developments containing adaptable housing must allocate at least one (1) adaptable parking space to each adaptable dwelling. As the development provides two (2) adaptable dwellings, a minimum of two (2) adaptable parking spaces is required. In response, the development provides a total of two (2) adaptable parking spaces, and this is considered an acceptable level of provision.

Car wash bay:

Council's DCP requires a car wash bay to be provided for all residential developments with 4 or more dwellings. The proposed development does provide a car wash bay and it satisfies the Council's DCP.

Bicycle parking:

Council's DCP specifies that all new developments to provide on-site, secure bicycle parking facilities. The minimum required bicycle space for residential building is 1 bicycle parking space per 1 dwelling (total of 6) and 1 visitor space per 10 dwelling (total of 1). Therefore, minimum of 7 onsite, secure bicycle parking is required to be provided.

The applicant has reported of providing 8 bicycle racks in the Traffic Report. Which satisfies Council's DCP.

Car lift:

Priority should be given to vehicle entering the property.

Conclusion

Should Council approve this development is recommended that the following conditions be imposed:

1. *That a Construction Management Plan be prepared and submitted to Council for approval by the North Sydney Traffic Committee prior to the issue of the Construction Certificate. Any use of Council property shall require appropriate separate permits/ approvals.*
2. *Proposed bicycle parking spaces should comply with the Council's DCP 2013*
3. *That all aspects of the car park comply with the Australian Standard AS2890.1 Off-Street Parking.*
4. *Priority should be given to vehicles entering the property.*
5. *On-street parking would not be removed to accommodate access to the off-street parking.*

Planning comment: The proposed development is noted to be compliant with Council's DCO provisions for car parking and adequate provision is made for the proposed car lift. The recommended conditions have been incorporated in the attached conditions of consent.

WASTE

Council's Waste Operations and Education Officer reviewed the application and provided the following commentary with regard to proposed waste management for the new building:

1. *Properties with a lift must have a garbage chute and recycling bin on each level*
2. *Recycling bins should be provided on each floor next to the garbage chute*
3. *The residential waste bins need a temporary bin holding area for collection off the street and within 2 meters of the street alignment. The proposed holding bay must fit the minimum 4 x 240L bins. Please check the bin area is 2m from the kerb.*
4. *There needs to be functional bulky waste storage area to hold household clean up material. This room must be separate to the waste room.*
5. *The proposed development must adhere to the NSCDPC 2013 Section 19 - Waste Minimisation and Management and Part B: Section 1 - Residential Development requirements.*
6. *A temporary holding bay for collections must be provided of sufficient size to accommodate the required garbage and recycling bins and located within 2 metres from the street boundary. 4 x 240L bins are required as a minimum for this proposal.*

The following standard conditions will apply to this proposed development:

Condition C7 Condition C30 Condition I29.

Planning comment: The concerns of Council's waste management officer have been incorporated in the revised design and the attached recommended conditions of consent.

EXTERNAL REFERRALS

AUSGRID

A referral to Ausgrid was required per Clause 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021). Ausgrid assessed the application and raised no objections, subject to the imposition of a condition as follows:

Ausgrid does not object to the proposed development.

The applicant/developer should note the following comments below regarding any proposal within the proximity of existing electrical network assets.

Ausgrid Overhead Powerlines are in the vicinity of the development

The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.

Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.

The “as constructed” minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website at www.ausgrid.com.au.

It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer’s cost.

Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances “Working Near Ausgrid Assets - Clearances”.

*This document can be found by visiting the following Ausgrid website:
www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries*

Should you have any enquiries, please contact Ausgrid at development@ausgrid.com.au

Planning comment: The above advice is noted and considered. The recommended condition will be included in the consent.

NSW ABORIGINAL HERITAGE OFFICE

The NSW Aboriginal Heritage Office assessed the application and provided the following advice:

Reference is made to the proposed development at the above area and Aboriginal heritage.

There are known Aboriginal sites in the area. No sites are recorded in the current development area, however, the area of the proposed development is identified as having high potential for unrecorded Aboriginal sites.

The Aboriginal Heritage Office recommends a preliminary inspection ('due diligence' under the National Parks and Wildlife Act 1974) by a qualified Aboriginal heritage professional. The assessment would provide information on what potential Aboriginal heritage issues exist on the land and recommendations for any further action if required.

Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Planning comment: The above comments are noted and considered. The Applicant has provided a detailed Aboriginal Heritage Due Diligence Report in response to the above advice. This report concluded that the development area has been the subject of extensive disturbance and does not contain any identified or registered Aboriginal objects. Notwithstanding, the sandstone escarpment is identified as highly sensitive and is likely to contain Aboriginal objects. Conditions will be endorsed to capture any recommendations within the report and to minimise works associated with the sandstone escarpment. A copy of the report will be made available for the Panel's consideration.

NSW DEPARTMENT OF PRIMARY INDUSTRIES (DPI) (FISHERIES)

The NSW DPI (Fisheries) reviewed the application and rejected the referral – confirming that no further advice/concurrence from NSW DPI (Fisheries) is required for the proposed works.

Planning comment: The above advice is noted.

SYDNEY WATER

The proposed development was referred to Sydney Water, in accordance with Section 78 of the *Sydney Water Act 1994*. Sydney Water provided the following comments:

Sydney Water has reviewed the application based on the information supplied and provides the following Sydney Water requirements to assist in planning the servicing needs of the proposed development.

Sydney Water position: *No objection – Condition of Consent applies.*

Condition of Consent which applies:

Section 73 and Building Plan Approval required.

Requirement:

Attached information sheet detailing Sydney Water next steps should be provided to Proponent.

Additional comments: *A 150mm SGW wastewater main traverses the rear of the property. Adjustments or deviation of the main may be required. Further details will be provided once the development is referred to Sydney Water for a Section 73 application.*

Planning comment: The above commentary is noted and considered. Standard conditions for water and wastewater connections are to be imposed should consent be granted.

TRANSPORT FOR NSW

Transport for NSW reviewed the application and rejected the referral – confirming that no further advice/concurrence from Transport for NSW is required for the proposed works.

Planning comment: The above advice is noted.

SUBMISSIONS

Original proposal

In accordance with Council's Community Participation Plan, Council notified adjoining properties and the Hayes Precinct Committee of the proposed development from 26 May to 29 June 2023 (extended period). Council received 66 submissions during this period. A number of submissions indicated support for the proposal.

The matters raised in any submissions objecting to the proposed development are listed below:

- No Owner's Consent
- Non-compliance with Height of Building (CI4.3 NSLEP)
- Non-Compliance with Setbacks (NSDCP s1.4.6)
- Impact on Views (NSLEP CI4.6)
- Visual Privacy
- Population Mix and Dwelling Reduction
- Bulk, Scale, Massing
- Uncharacteristic Design and Materials/Colours
- Impact on Streetscape
- Solar Access/Overshadowing
- Structural Integrity of Adjoining Dwellings
- Structural Engineer Assessment Required
- Inconsistent and Inadequate Geotechnical Report and SEE
- Inadequate Traffic Report Analysis
- Impact of Car Lift
- Insufficient Vehicular Parking on site
- Traffic Management Policy Required from Council
- Potential Exposure to Contaminated Soil
- Impact from Construction Works
- Contravention with Flood Reappraisals
- Inconsistent with Public Interest

- Acquisition for Public Open Space and Public Access Walkway
- Confirmation of the existence and ownership of other easements around the waterfront
- Confirmation that Council is the owner of the jetty, locally known as Spain's Road Wharf
- Inadequate Landscape and Floor Plans
- Impact on Environment
- Contravention with Sustainability Principle
- Acoustic Impacts
- Potential Water Overflow and Amenity from Spa
- Uncharacteristic Rear Fencing at Waterfront
- Fencing Detail Not Provided
- Access of Beach Terrace and Pool
- Existing Use Rights

The above issues are summarised and addressed later in this report. The original submissions may be viewed by way of DA tracking on Council's website https://www.northsydney.nsw.gov.au/Building_Development/Current_DAs and are available for review by NSLPP members.

Amended Proposal

The Applicant submitted an amended design and additional information in response to the submissions and any correspondence from Council. The nature of the changes within the final scheme were such that it was determined that a re-notification of the revised design and associated plans was required as per Council's Community Participation Plan. Council notified surrounding properties and Hayes Precinct Committee from 8 September to 6 October 2023 (extended period). Council received a further eight (8) submissions during this period.

The matters raised in these submissions include the following additional concerns:

- solar access for Unit 2/ 9 Lower Wycombe Rd, and the Lower Level apartment Unit 6 and to some extent Unit 4.
- Concerns about bulk, form and scale in comparison to the existing residential flat building
- Setback and distance from common boundary with No. 9 Wycombe Rd
- Privacy concerns to units within No. 9 Lower Wycombe
- View impacts to No. 9 Lower Wycombe including loss of cross boundary views towards Hayes St Beach and the Adjacent Hayes St Wharf.
- Landscape species selection and potential view impacts
- Extent of height breach
- Excessive scope of excavation retained;
- Traffic concerns
- Construction impacts including dust, noise and safety concerns.
- Acquisition for Public Open Space and Public Access Walkway
- Confirmation of the existence and ownership of other easements around the waterfront
- Confirmation that Council is the owner of the jetty, locally known as Spain's Road Wharf

A total of 74 submissions have been received include submissions in support.

CONSIDERATION

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended), are assessed under the following headings:

SEPP (Biodiversity and Conservation) 2021

The following sections apply to the proposed development and have been considered in the assessment:

Chapter 2 – Vegetation in non-rural areas

The proposed development involves removal of 12 trees comprising a single street tree and 11 site trees. Council's Landscape Development Officer confirmed support for the proposed tree removal. The new landscaping treatments (both deep soil zones and on-structure) will sufficiently offset the proposed tree removal. In general, the resultant landscaping provides an improved outcome and balance of landscaped and hardscaped elements within the subject site. As such, the application satisfies the respective aims under Chapter 2 of this SEPP.

SEPP (Housing) 2021

Chapter 2, Part 3 – Retention of Existing Affordable Housing

Clause 47(1)(d), the provisions under Chapter 2, Part 3 of this SEPP applies to development for the purpose of strata subdivision of a residential flat building subject to:

- Clause 46(1), the land is within the Greater Sydney region;
- The provisions under Clause 46(2) not applying to the subject building; and
- The building comprises affordable housing (low rental housing).

The subject site is within the Sydney Region. The building is not currently strata subdivided and consent under Chapter 3, Part 5 is not applicable as it not considered development for the purposes of seniors housing. It is not owned nor managed by a social housing provider. Publicly available information confirmed that between 2017 and 2023, some of the units within the existing building were rented with the following rates:

- Unit 1 – No data available
- Unit 2 – 2-bedroom unit: \$650 per week (2008)
- Unit 3 – 2-bedroom unit: \$850 per week (2019)
- Unit 4 – 2-bedroom unit: \$790 per week (2022)
- Unit 5 – 4-bedroom unit: \$1500 per week (2023)
- Unit 6 – 2-bedroom unit: \$800 per week (2020)
- Unit 7 – 2-bedroom unit: \$800 per week (2017)

It is noted that recent data could not be obtained for the remaining three (4) units.

The tables below indicate the median rental price for 2-bedroom units within the suburb of Neutral Bay and the median rental price for 4-bedroom units within the North Sydney local government area (LGA). No data is available for 4-bedroom units within Neutral Bay so a general search is conducted on the broader Greater Sydney Metropolitan North Sydney area for 4-bedroom unit median rent price.

2-Bedroom Unit	
Year	Median weekly rental for Neutral Bay (2089)
2023	\$735 (based on March and September average)
2022	\$636.5
2021	\$590
2020	\$599
2019	\$630
2018	\$655
2017	\$650 (based on available data only: September and December data)

*Source: NSW Family and Community Services <https://www.facs.nsw.gov.au>

4-Bedroom Unit	
Year	Median weekly rental for Greater Sydney Metropolitan North Sydney
2023	No data available
2022	No data available
2021	\$1500
2020	No data available
2019	No data available
2018	No data available
2017	No data available

*Source: NSW Family and Community Services <https://www.facs.nsw.gov.au>

Based on the above rates, the units within the building are predominantly rented above the median rental prices within Neutral Bay and the wider LGA. Given the above, the existing units are not regarded affordable rental housing and so, the provisions under Chapter 2, Part 3 do not apply to the proposed development. As such, further consideration of Part 3 is not required.

SEPP (Resilience and Hazards) 2021

The provisions of Chapter 4 of this SEPP require Council to consider the likelihood that the site has previously been contaminated and to address the methods necessary to remediate the site. The subject site has been used for residential accommodation for over 35 years and as such is unlikely to contain any contamination. The nature and location of the proposed development (involving a residential flat building) are such that any applicable requirements of this SEPP have been satisfactorily addressed.

SEPP (Building Sustainability Index: BASIX) 2004

A valid BASIX Certificate has been submitted with the application to satisfy the aims of this SEPP.

SEPP 65 – Design Quality of Residential Apartment Development

The proposed development involves partial demolition and alterations and additions to a residential flat building that is over three (3) storeys and comprises more than four (4) dwellings. Consequently, SEPP 65 applies to the application.

The proposal is assessed below against the Design Quality Principles in Schedule 1 of the Policy.

Principle 1: Context and neighbourhood character

The proposed development involves demolition of a 1980's built, low-rise residential flat building that features a pedestrian bridge and a curved internal driveway - both accessed from Lower Wycombe Road.

The appearance of the current building is identified an uncharacteristic building in the Conservation Area and is broadly inconsistent with the prevailing character of the area. Both the existing building and site are regarded as unique in terms of character and development pattern in that the built form is contained within two (2) lots and has a generous setback from the street.

Collectively, the site is wider compared to the single, smaller lots along Lower Wycombe Road. Further, the topography and substantial landscaping in both the road reserve and front setback hides the built form. This context assists in reducing its visibility and prominence.

The existing development will be replaced by a new contemporary style, brick rendered, 4-storey residential flat building with a more direct pedestrian entry at street level and modernised facilities such as pedestrian and car lifts, bicycle storage, service rooms and bin rooms. The new scheme is situated primarily within the footprint of the existing building. The proposal will be offset by planter beds on structure, material and neutral colouration, curvature, as well as the articulation and modulation of the facades. The revised scheme incorporates substantial articulation within the front and rear elevations that reflect the articulated form of adjacent and nearby development. The provision of new landscaping treatments scattered throughout the site ensure that whilst the new built form will be prominent in the streetscape and visual catchment, its presentation will be appropriately balanced to create an aesthetically pleasing outcome that ties-in with streetscape and is sympathetic to the conservation area. As such, the proposal (as revised) appropriately responds to the context and neighbourhood character of the immediate locality and achieves this objective.

Principle 2: Built form and scale

The proposed development is predominantly contained within the footprint of the existing building and restrained by the foreshore building line. The proposal demonstrates compliance with the site coverage control under the DCP and is proportionate to the site. The built form (as revised) is sufficiently articulated and modulated across all levels and elevations and is setback from property boundaries such as it provides a generally acceptable contribution to the streetscape. The loss of substantial vegetation (including canopy trees) will result in an uncharacteristic and contemporary built form that is excessive in height/scale to be more prominent in the public domain. This modern architectural expression demonstrates consistency and compatibility with the conservation area and streetscape. The bulk and scale of the development is sufficiently balanced by the landscaped areas proposed. The uppermost level (Level 2) has been reduced and modified to be a more recessive element when viewed from Lower Wycombe Street/Hayes Street Beach. Accordingly, the proposal achieves this objective.

Principle 3: Density

Amenity

The proposal achieves cross ventilation to all six (6) residential units and only one (1) unit will receive two (2) hours of direct solar access to the living room (via a skylight). The above equates to 100% of the apartments achieving the ADG cross ventilation requirement and 16.7% of the apartments achieving the ADG solar access requirement. Notably, none of the balconies in any apartments will receive direct solar access.

The lack of solar access to the building has been considered generally acceptable given the following:

- The current residential flat building achieves a similar amenity outcome.
- The proposal features a limited number of residential units (total of 6) and incorporates design features such as dual aspects, eastern/western windows in the living room spaces and some articulation and setbacks to maximise potential amenity for future occupants.
- The site is steep and sloping and features a north-south aspect with prominent views of Neutral Bay and Kirribilli foreshores and Sydney Harbour. These significant views are oriented away from the desired aspect for direct sunlight.
- Due to the dual aspect design of units, the north-facing windows of habitable areas (bedrooms) – ground floor and Levels 1-2 and balconies – ground floor and Level 1 – receive at least three (3) hours of solar access. It is noted that none of the units have a single aspect.

Accordingly, the provision of substantial amenity to the building is a challenge and the proposed design of the scheme has considered the site constraints, setting and context in order to achieve maximum amenity for future occupants whilst taking advantage of the waterfront views.

Unit mix

Council's Executive Strategic Planner advised that the proposed unit mix is considered acceptable given the low number of units proposed and the range of layouts provided. Accordingly, the proposed development achieves this objective.

Principle 4: Sustainability

Solar access

A detailed review pertaining to amenity is provided above.

Cross ventilation

All units receive natural and cross ventilation.

The revised scheme features solar panels within the primary roof and substantial planting on structure including green roofs and planter beds.

The overall design (as revised) is generally considered reasonable in relation to environmental performance.

The proposed development achieves this objective.

Principle 5: Landscape

A minimum of 7% of the site area (91.42m²) should comprise of deep soil zone and if possible, a total of 10% (130.6m²) of the site area (for sites between 650 and 1500m²). The proposed landscaping treatments are considered adequate and high quality. The proposed development achieves this objective.

Communal open space

A minimum area of 25% (326.5m²) should be nominated as communal open space. The proposed communal open space covers 431.9m² (33%) of the site, which demonstrates compliance. The communal open space is terraced – reflecting the topography of the site, is orientated to the south and is within the foreshore area. This space comprises access stairs to the new pool and grassed lawn area and a storage zone. The design and extent of the space is considered acceptable and anticipated for residential buildings on sloping sites and waterfront land – with scenic views.

The proposal adequately achieves this objective.

Principle 7: Safety

The proposed development is acceptable with regard to safety and security.

There are several opportunities for passive surveillance of surrounding areas along Lower Wycombe Road and foreshore through the use of balconies and glazing treatments. The entry points (both vehicular and pedestrian) appear acceptable and suitable for the proposed use – with the vehicular entry and car lift tucked away within the north-eastern corner, and the pedestrian entry relatively visible and apparent from public domain. The proposed access points appear to be an improvement over the current building. In principle, the proposed development achieves this objective.

Principle 8: Housing diversity and social interaction

A discussion on housing diversity and unit mix is provided under Principle 3 above. The proposal adequately achieves this objective.

Principle 9: Aesthetics

The architectural expression and materiality are considered acceptable and responsive to the site context, local setting, and topography. The proposed development achieves this objective.

Apartment Design Guide (ADG)

The proposed development has also been assessed against the relevant provisions within the ADG as follows:

Amenity	Design Criteria	Compliance	Comments
<p>2F: Building separation</p>	<p><i>Minimum separation distances for buildings (up to four storeys):</i></p> <ul style="list-style-type: none"> • <i>12m between habitable rooms and balconies.</i> • <i>9m between habitable and non-habitable rooms.</i> • <i>6m between non-habitable rooms</i> 	<p>No – demonstrates merit</p>	<p>The proposed development does not achieve the minimum distances required by the ADGs with respect to building separation. Consistent with recent caselaw, the specific requirements of the ADGs with regard to building separation should be considered in conjunction with Council’s own DCP provisions with regard to building setbacks.</p> <p>In this regard the proposed building complies with setback requirements of Council’s DCP. Merit is demonstrated as the side elevations feature articulation, limited fenestration and privacy treatments. Any side-facing windows are from bathrooms and walk-in-robos that are considered low activity rooms. As such, the design of the final scheme ensures there is sufficient visual relief and break-up of the side elevations and minimal privacy impacts.</p>
<p>2G: Street setbacks</p>	<p><i>Determine street setback controls relative to the desired streetscape and building forms, for example:</i></p> <ul style="list-style-type: none"> • <i>define a future streetscape with the front building line</i> • <i>match existing development</i> • <i>step back from special buildings</i> • <i>retain significant trees</i> • <i>in centres the street setback may need to be consistent to reinforce the street edge</i> • <i>consider articulation zones accommodating balconies, landscaping etc. within the street setback</i> • <i>use a setback range where the desired character is for variation within overall consistency, or where subdivision is at an angle to the street</i> • <i>manage corner sites and secondary road frontages</i> 		

Amenity	Design Criteria	Compliance	Comments
	<p><i>Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access.</i></p> <p><i>Solar access to living rooms, balconies and private open spaces of neighbours should be considered.</i></p> <p><i>Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%.</i></p>		
<p>3C: Public domain interface</p>	<p><i>Terraces, balconies and courtyard apartments should have direct street entry, where appropriate.</i></p> <p><i>Upper level balconies and windows should overlook the public domain.</i></p> <p><i>Front fences and walls along street frontages should use visually permeable materials and treatments. The height of solid fences or walls should be limited to 1m.</i></p> <p><i>Opportunities should be provided for casual interaction between residents and the public domain. Design solutions may include seating at building entries, near letter boxes and in private courtyards adjacent to streets.</i></p> <p><i>Opportunities for people to be concealed should be minimised.</i></p>	<p>Yes</p>	<p>The proposed development features an appropriate public domain interface with openings and balconies that overlook the street, visually permeable balustrades/fencing and opportunities for casual interaction.</p>

Amenity	Design Criteria	Compliance	Comments
<p>3D: Communal open space</p>	<p><i>Communal open space has a minimum area equal to 25% of the site.</i></p> <p>Min. 25% or 326.5m²</p> <p><i>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two hours between 9.00 am and 3.00 pm on 21 June (mid-winter)</i></p> <p><i>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</i></p> <p><i>Communal open space is designed to maximise safety.</i></p>	<p>Yes</p>	<p>The proposed communal open space covers 431.9m² (33%) of the site, which demonstrates compliance. This space is shaded by the new building and is due to the southern aspect and the existence of buildings on neighbouring properties. Despite the lack of solar access, this space benefits from waterfront, scenic views and features terraced areas, garden beds, a levelled lawn area and a pool on reclaimed land. On balance, the ample space is appropriately designed for future occupants and is acceptable given the low number of units proposed as well as the provision of numerous private open spaces (balconies) for each unit.</p>
<p>3E: Deep soil zones</p>	<p><i>Deep soil zones are to meet the following minimum requirements:</i></p> <ul style="list-style-type: none"> • <i>3m minimum width</i> • <i>Criteria: minimum 7% of the site area</i> • <i>Guidance: minimum 10% of the site area (650-1000m²)</i> • <i>Guidance: minimum 15% of site area (>1500m²)</i> <p>Criteria: Min. 7% or 91.42m²</p> <p>Guidance: Min. 10% or 130.6m²</p>	<p>Yes</p>	<p>The proposed development comprises deep soil zones that have a minimum 3m width and cover 507.8m² (38.9%) of the site.</p>
<p>3F: Visual privacy</p>	<p><i>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</i></p> <p><i>6m (between habitable rooms and balconies to boundaries)</i> <i>3m (between non-habitable rooms)</i></p>	<p>No – demonstrates merit</p>	<p>See above discussion.</p>

Amenity	Design Criteria	Compliance	Comments
3G: Pedestrian access and entries	<p><i>Building entries and pedestrian access connects to and addresses the public domain</i></p> <p><i>Access, entries and pathways are accessible and easy to identify</i></p>	Yes	<p>Pedestrian entry/exit is centrally located and can accommodate accessible access. The front entry is acceptable.</p> <p>Vehicular access to the car lift is clearly segregated and distinguished. The bin holding area is acceptable.</p>
3H: Vehicle access	<p><i>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.</i></p>	Yes	Acceptable.
3J: Bicycle and car parking	<p><i>For development in the following locations:</i></p> <ul style="list-style-type: none"> • <i>on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or</i> • <i>on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre 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</i> <p><i>The car parking needs for a development must be provided off street.</i></p> <p><i>Parking and facilities are provided for other modes of transport.</i></p>	Yes—demonstrates merit	<p>DCP requirements:</p> <p>Car parking (max.): Residential flat buildings in all other zones other than B4:</p> <ul style="list-style-type: none"> • 3 or more bedrooms: 1.5 spaces per dwelling • Visitor spaces: 0.25 spaces per dwelling <p>Bicycle parking (min.): 1 space per dwelling and 1 visitor space per 10 dwellings.</p> <p>No min. or max. number of motorcycle spaces.</p> <p>As per the above requirements the proposed development generates the following parking requirements:</p> <ul style="list-style-type: none"> • Nine (9) car spaces (residents) and 1.5 visitor spaces = 11 car spaces (max.) • Six (6) bicycle spaces (1 per dwelling) and 1 visitor space = seven (7) bicycle spaces (min.). • No minimum motorcycle spaces. <p>The proposed development features 13 car spaces including two visitor spaces and one car wash bay, 10 bicycle spaces and no motorcycle spaces. The parking provision complies with requirement.</p> <p>The proposed basement levels are appropriately sized and restrained and any additional parking facilitated onsite will minimise traffic impacts and increase available on-street parking.</p>

Amenity	Design Criteria	Compliance	Comments
4C: Ceiling heights	<i>Ceiling height achieves sufficient natural ventilation and daylight access - Minimum 2.7 m (habitable rooms)</i>	Yes	The proposed floor to floor heights are indicated to be 3.2m – ensuring that the floor to ceiling heights of habitable rooms are at least 2.7m.
4D 1: Apartment size and layout	<p><i>Apartments are required to have the following minimum internal areas:</i> 50m² (1-bedroom) 70m² (2-bedroom), 90m² (3-bedroom)</p> <p><i>Additional bathrooms increase the minimum internal area by 5m² each</i></p> <p><i>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each</i></p> <p><i>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</i></p>	Yes	<p>All units are either 3-bedroom or 3-bedroom+ units with a floor area of at least 150m². The 3-bedroom+ unit (featuring rumpus rooms that could be converted to a 4th bedroom) on the lower ground floor and Level 2 have a floor area of at least 247m².</p> <p>All habitable rooms have external walls with windows that provide daylight and ventilation.</p>
4D 2: Apartment size and layout	<p><i>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height</i></p> <p><i>2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</i></p>	<p>Yes</p> <p>Yes</p>	Complies with the maximum depths for habitable rooms and open plan layouts.
4D 3: Apartment size and layout	<p><i>1. Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space)</i></p> <p><i>2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</i></p> <p><i>3. Living rooms or combined living/dining rooms have a minimum width of:</i></p> <ul style="list-style-type: none"> <i>• 4m for 2-bedroom and 3-bedroom apartment.</i> 	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>Master bedrooms have a minimum area of 13m². Other bedrooms have a minimum area of 10m².</p> <p>All bedrooms have a minimum width of 3m.</p> <p>Living rooms have a minimum width of 4.3m.</p>

Amenity	Design Criteria	Compliance	Comments
4E: Private open space and balconies	<p><i>All apartments are required to have primary balconies as follows:</i></p> <p><i>3+ bedroom apartments 12m² and minimum depth 2.4m</i></p> <p><i>The minimum balcony depth to be counted as contributing to the balcony area is 1m</i></p> <p><i>2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.</i></p> <p><i>Primary private open space and balconies are appropriately located to enhance liveability for residents.</i></p> <p><i>Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.</i></p> <p><i>Private open space and balcony design maximises safety.</i></p>	<p>Yes</p>	<p>The primary balconies off the living room spaces have a minimum area of 16m² and a minimum depth of 2.6m. It is noted that secondary (additional) balconies are proposed off bedrooms.</p> <p>The proposed courtyard for the lower ground unit is over 87m², has a minimum depth of 3m.</p> <p>The proposed separation distances (from boundaries) and the wing-like blade walls along the sides of balconies assist in minimising privacy impacts between units and adjoining neighbours.</p>
4F: Common circulation and spaces	<p><i>1. The maximum number of apartments off a circulation core on a single level is eight</i></p>	<p>Yes</p>	<p>Maximum of two (2) apartments per level and circulation core.</p>
4G: Storage	<p><i>Studio apartments- 4m³</i> <i>1-bedroom apartments - 6m³</i> <i>2-bedroom apartments - 8m³</i> <i>3+ bedroom apartments - 10m³</i></p>	<p>Yes</p>	<p>There is ample storage provided in kitchens/bathrooms/hallways/bedrooms throughout each unit. In addition to these, the proposed storage areas in the basement level are at least 14m³ for each unit.</p>
4H: Acoustic privacy	<p><i>Noise transfer is minimised through the siting of buildings and building layout.</i></p> <p><i>Noise impacts are mitigated within apartments through layout and acoustic treatments</i></p>	<p>Yes</p>	<p>The siting, layout and orientation of the building are acceptable in terms of providing acoustic privacy between neighbouring properties.</p> <p>Layouts appear to be acceptable in terms of noise transfer between units, and any noise impacts can be mitigated appropriately through wall thickness and other treatments.</p>
4J: Noise and pollution	<p><i>In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.</i></p>	<p>N/A</p>	<p>Not directly relevant as the proposal is not within a hostile/noisy environment.</p>

Amenity	Design Criteria	Compliance	Comments
4K: Apartment mix	<i>A range of apartment types and sizes is provided to cater for different household types now and into the future.</i>	Yes	The proposed unit mix and two (2) distinct types of layouts are acceptable given the scale and density of the building (only 6 units within).
4L: Ground floor apartments	<i>Street frontage activity is maximised where ground floor apartments are located.</i> <i>Design of ground floor apartments delivers amenity and safety for residents.</i>	Yes	No direct access from the street is provided nor considered necessary; however, the proposed lobby is acceptable. The proposed balconies are elevated and are appropriately set and landscaped to provide sufficient distinction and relationship between private and public domain.
4M: Facades	<i>Building facades provide visual interest along the street while respecting the character of the local area.</i> <i>Design solutions for front building facades may include:</i> <ul style="list-style-type: none"> • a composition of varied building elements • a defined base, middle and top of buildings • revealing and concealing certain elements • changes in texture, material, detail and colour to modify the prominence of elements 	Yes	The proposed building façade provides visual interest and respects the character of the local area. The changed materials and colours and additional modulation to distinguish Level 2 from the remainder of the building are noted and acceptable. These provide adequate visual interruption of the built form and thereby reduces bulk and scale, particularly when viewed from public domain.
4N: Roof design	<i>Roof treatments are integrated into the building design and positively respond to the street.</i>	Yes	The proposed roof and respective treatments appear to be consistent and responsive to existing roof forms of the surrounding area and streetscape. It is noted that majority of roof forms are distinctly pitched with gabled or hipped roofs – however, the existing building and the adjoining residential flat building at No. 9 Lower Wycombe Road feature a low pitched or flat roof that is hidden – forming a cubic/squared façade and aesthetic.
4O: Landscape design	<i>Landscape design is viable and sustainable.</i> <i>Landscape design contributes to the streetscape and amenity.</i>	Yes	Considered acceptable and complementary to the overall building aesthetic.

Amenity	Design Criteria	Compliance	Comments
4P: Planting on structures	<p><i>Planting on structures is where plants are on top of built structures such as basement car parks, podiums, roofs and walls. Planting on structures can provide amenity, improve air quality and microclimate, and reduce direct energy use and stormwater runoff. It can also supplement deep soil planting on sites where opportunities for this are limited or restricted, e.g. in high density areas.</i></p> <p><i>Minimum soil standards are shown in Table 5 of ADG.</i></p>	Yes – can be conditioned	The proposed planting on structures (planter beds/boxes) are considered acceptable.
4Q: Universal design	<p><i>Universal design features are included in apartment design to promote flexible housing for all community members.</i></p> <p><i>A variety of apartments with adaptable designs are provided.</i></p> <p><i>Apartment layouts are flexible and accommodate a range of lifestyle needs.</i></p>	Yes	<p>Universal design features are included for all units. All units meet the Silver level performance requirements.</p> <p>Two (2) of the six (6) units are adaptable housing – GF.01 and L1.01 – which constitutes 33% of dwellings.</p> <p>The units are ample in size and comprises multiple facilities and rooms that reflect the family-unit proportions and dimensions to be anticipated in modern residential housing.</p>

NORTH SYDNEY LOCAL ENVIRONMENT PLAN (NSLEP 2013)

1. Aims of the Plan

The relevant aims of the NSLEP 2013 are contained in Clause 1.2. These aims have been considered as part of the assessment process for the subject application. The following is a summary of this assessment on any applicable aims under Clause 1.2.

- (a) *to promote development that is appropriate to its context and enhances the amenity of the North Sydney community and environment,*
- (b) *in relation to the character of North Sydney's neighbourhoods —*
 - (i) *to ensure that new development is compatible with the desired future character of an area in terms of bulk, scale and appearance, and*
 - (ii) *to maintain a diversity of activities while protecting residential accommodation and local amenity, and*
 - (iii) *to ensure that new development on foreshore land does not adversely affect the visual qualities of that foreshore land when viewed from Sydney Harbour and its tributaries,*
- (c) *in relation to residential development —*
 - (i) *to ensure that new development does not adversely affect residential amenity in terms of visual and acoustic privacy, solar access and view sharing, and*

- (ii) to maintain and provide for an increase in dwelling stock, where appropriate,
- (e) in relation to environmental quality—
 - (i) to maintain and protect natural landscapes, topographic features and existing ground levels, and
 - (ii) to minimise stormwater run-off and its adverse effects and improve the quality of local waterways,
- (f) to identify and protect the natural, archaeological and built heritage of North Sydney and ensure that development does not adversely affect its significance,
- (g) to provide for the growth of a permanent resident population and encourage the provision of a full range of housing, including affordable housing.

The proposed development is a form of permissible development with consent in the zone. The proposed development would facilitate the residential flat development that has a design, bulk, form and scale that is responsive and sympathetic to the site constraints, residential setting and context.

The proposed development would not compromise the amenity of the surrounding area or the natural or cultural heritage of the area. The proposed building appropriately steps down the land and has a modest three-four storey appearance to Lower Wycombe Road.

The proposed development has also been designed to ensure that the existing amenity of the surrounding dwellings is maintained, specifically where it relates to the retention of views, solar access and privacy.

Council's Development Engineer confirmed that that the proposed stormwater system will effectively manage run-off entering and flowing within the site, subject to the imposition of conditions.

The proposed development is considered to be consistent with the objectives of the zone.

2. Permissibility

The subject site is within the R3 – Medium Density Residential zone under the NSLEP 2013. The proposed development is defined as a *residential flat building*.

On 19 May 2023 North Sydney LEP Amendment No.35 was made and came into force. Amendment No. 35 amends the Land Use Table to NSLEP 2013 such that residential flat buildings are prohibited in R3 Medium Density Residential zone. The purpose of the Amendment was to address the impacts arising from residential flat development in what was intended to be a lower to mid-scale residential zone.

However, the savings provision under Clause 1.8A(2) of the NSLEP 2013 provide for an application lodged and not finally determined before the prohibition (of residential flat buildings) in R3 zone was endorsed by the Minister (19 May 2023).

Clause 1.8A(2) provides:

- (2) If a development application has been made, but not finally determined, before the commencement of North Sydney Local Environmental Plan 2013 (Amendment No 35), the application must be determined as if that plan had not commenced.*

The subject application was lodged on 10 May 2023 and therefore must be determined as if the above amendment had not commenced. Accordingly, development for the purposes of a residential flat building remains permissible in the zone.

It is to be noted that the existing residential flat building was constructed following the approval of DA1409/80, granted by Council on 2 September 1980. On the basis that the existing building was built under a preceding consent, granted prior to the current zoning, its replacement under current zoning laws could still be achievable under existing use rights provisions.

3. Objectives of the zone

The objectives of the R3 – Medium Density Residential zone are stated below:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the development of sites for medium density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To provide for a suitable visual transition between high density residential areas and lower density residential areas.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

The proposed development (as amended) will result in a built form that is considered acceptable with regard to the objectives of the R3 zone.

The current use of the site as a residential flat building will be retained. The resultant outcome is appropriate in terms of its design, scale and massing and is reflective of the medium density residential development along Lower Wycombe Road and in the conservation area.

The proposed development demonstrates general compliance with applicable planning provisions and controls under Council policy and will result in additional 3-bedroom dwellings/units in the vicinity whilst enhancing the landscaped outcome for the site.

The proposed development will not unreasonably compromise the amenity of the neighbouring properties and public areas and is considered a sympathetic design response that is contextually appropriate to the subject site and immediate locality, and in-context with the suburban street.

Notes:

1. LEP building height plane outlined in pink shown relative to site levels within existing eastern side boundary.
2. Existing building shaded in yellow.
3. Non-compliant portions of the proposed building shaded in blue.



Figure 28a: Existing and proposed building shown shaded with 8.5m height standard depicted in yellow.

Clause 4.6(3)(a)

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and”

The applicant’s written request relies upon the tests outlined in *Wehbe v Pittwater Council* [2007] NSWLEC 827 at [42] to demonstrate whether compliance is unreasonable or unnecessary by demonstrating that the objective of objectives of the development standard are achieved notwithstanding noncompliance with the development standard.

The objectives of the development standard are addressed below:

Clause 4.6(3)(a) Is compliance with the development standard unreasonable and unnecessary in the circumstances of the case?

For reference the objectives of the development standard are as follows:

Clause 4.3 of the NSLEP 2013

4.3 Height of buildings

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

- (a) *to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*
- (b) *to promote the retention and, if appropriate, sharing of existing views,*
- (c) *to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*
- (d) *to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,*
- (e) *to ensure compatibility between development, particularly at zone boundaries,*
- (f) *to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area,*
- (g) *to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E4 Environmental Living.*

Council's evaluation of the Applicant's written request confirmed that the objectives of the development standard and the relevant zone (R3) have been achieved and the non-compliance with the development standard can be supported (as demonstrated in the 'Objectives of the zone' section above and the section below).

The Applicant's written request nominates sufficient "environmental planning grounds" which should be considered to justify the variation and that support for the variation will be in the public interest. Council's assessment of this request confirms that sufficient environmental planning grounds have been demonstrated and support for the variation is in the public interest.

The proposed development is considered below, having regard to the objectives of the development standard.

(a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient

The proposed development has been designed to conform to the landforms and with respect to the moderate-steep fall of the site. Despite the unique and varied topography, it is noted that the majority of the built form is situated within the current footprint of the existing building, which features a split (lower) ground level and basement level that are below street level. As such, the extent of height variations across the building does vary, due in part, to the topography and the existence of the subterranean spaces. The location and design of the non-compliant components are such that the height variations will not be highly visible nor impactful when viewed from public domain and can be regarded as minor and consistent with the existing 3-storey building. Notably, the additional level is created by the proposed in-fill and utilisation of the elevated basement level (which is out of ground at the rear as the site falls away).

(b) to promote the retention and, if appropriate, sharing of existing views

The unique topography of the immediate area and the north-south fall of the site and surrounds facilitate waterfront and horizon views and outlooks of the Sydney Harbour foreshore and Neutral Bay. Opportunities for views and outlooks are generally reliant upon open corridors and gaps between buildings as well as the topography. The site, which contains an existing non-compliant residential flat building and planted with numerous trees, presents limited opportunities for such views. Whilst existing views will be impacted by the proposed redevelopment the impacts arising from the development do not arise from the breach to the height standard, but rather the different and contemporary form of the proposed building in comparison to the existing.

The impacts relating solely on the components that exceed the height limit are considered minor, reasonable and acceptable, and comparable to the views currently enjoyed by neighbouring properties. The retention of current views would be considered unreasonable and any impacts on views and outlook are considered acceptable.

(c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development

A detailed analysis on overshadowing impacts is provided below (refer to DCP section). It has been demonstrated that the extent of overshadowing impacts on existing development, public reserves and streets, is reasonable and acceptable. The proposed development achieves this objective.

(d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings

The proposed development provides sufficient separation distances and design features that allow for adequate visual and acoustic privacy between future occupants and neighbouring properties. The proposed development generally satisfies this objective.

(e) to ensure compatibility between development, particularly at zone boundaries

The subject site is situated in the R3 – Medium Density Residential zone and is not near any zone boundary. Whilst this objective does not strictly apply, the proposed development is considered an acceptable design and planning outcome for the site that is sympathetic and responsive to the site's context and setting, within a low-medium density urbanised residential area.

(f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area

The proposed development is of an appropriate scale, bulk and density that is compatible with and consistent to the development pattern of the locality and context of the site. As described in throughout this report, the scale and density of the development adequately responds to the site's constraints, context and setting. The proposed height variations are only associated with roof parapet and lift overrun that are not considered excessive and will not be highly visible. The uppermost level has been modified to be recessive and articulated to have minimal presentation when viewed from public domain.

The overall aesthetic and architectural expression of the proposed development are considered appropriate to the streetscape and conservation area. The contemporary style combined with the utilisation of a strong concrete form that is reminiscent of the Brutalist architecture of the existing building provides a suitable redevelopment of the site. The prevailing concrete materiality paired with a softer and warmer colour palette and numerous soft landscaping treatments throughout the site and on-structure assist in minimising the appearance and bulk and density of the building. When viewed from public domain, including Hayes Street Beach and foreshore, the proposal is considered a positive and complementary addition to the landscape.

It is noted that the excess height does not result in any significant adverse impacts or vastly different impacts compared to the existing building. On balance, the potential impacts associated with the proposed height contravention are regarded as reasonable and acceptable.

Having considered the extent of height variation and the overall design and presentation of the final scheme, the proposed development is considered acceptable and reasonable, and thus, satisfies this objective.

(g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E4 Environmental Living

The proposed development provides a 3 storey presentation to Lower Wycombe Street and four storey recessed form to the harbour. The height and form of the building is similar on scale to the existing residential building. As such, whilst the 'mainly' 1-2 storey built form is not achieved in the current design, the design and built form and character of the new building are considered appropriate and reflective of the existing residential flat buildings within the immediate vicinity (also zoned R3) and within the conservation area.

Clause 4.6(3)(b)

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

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

The environmental planning grounds advanced in the written request are considered to be sufficient to justify the contravention of the development standard in the circumstances of the case. The applicant has provided a detailed list of environmental planning grounds of the written request that relate specifically to the variation and are in part based around the objectives in section 1.3 of the Act. The grounds relate to:

- **Compliance would result in poorer planning outcomes**

As noted above the proposal has been specifically designed to provide a superior planning outcome, consistent with the objective of Clause 4.6 to "achieve better outcomes for and from development by allowing flexibility in particular circumstances". As detailed above strict compliance with the controls would result in building which would be much lower than, and therefore incompatible with, both adjoining development and the built form character of the area generally.

- **Lack of impact**

As detailed above, in the original SEE and additional information submitted, the proposal has very minimal impact on surrounding properties and the level of impact arising from the non-compliance is negligible. This is because the proposal is designed to minimise impact by adopting a similar building envelope to the existing building and by having a top level that is setback from the level below.

- **Existing excavation**

*The maximum breach of the height control relates to the area where the existing basement is excavated below the natural ground levels on the site. As the existing topography of the site has previously been altered, this creates an 'artificial' existing ground level from where building height must be measured. If the ground levels around the basement are used as the basis for calculation (as was the case in the LEC judgment of *Bettar v City of Sydney Council*), the non-compliance would be similar to that shown on the eastern and western elevations where the land is not excavated.*

Further the ground levels around the perimeter of the building are partly maintained which means that the northern part of the LG Level is below ground level and does not add to the visual bulk of the building. This includes the views from the street where the building will have a 3 storey appearance.

- **Improved amenity/visual quality**

The existing building is an intrusive element in the Kurraba Point conservation area. It is an unattractive building that does not complement the character of the area. It also has low ceiling height providing a lower level of amenity than is currently acceptable.

The replacement with a new contemporary building of high quality design and to the current amenity standards will be a positive outcome. This amenity improvement is partly due to the increase in ceiling heights which contributes to the degree to which the proposal breaches the height standard compared to the existing building.

In view of the above it is considered that there are sufficient environmental planning grounds, specifically related to the subject site, that warrant contravention of the height standard.

*As determined in *Randwick City Council v Micaul Holdings Pty Ltd*, and supported by *Preston CJ in Initial Action*, lack of impact alone is a sufficient ground for allowing a breach of a development standard pursuant to Clause 4.6.*

The submitted environmental planning grounds are considered to be sufficient basis to accept the request for variation to the maximum height standard.

Clause 4.6(4)

Clause 4.6(4) states:

- (4) *Development consent must not be granted for development that contravenes a development standard unless—*
 - (a) *the consent authority is satisfied that—*

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

Clause 4.6(4)(a)(i)

It is considered that the consent authority can be satisfied that the applicant's written request adequately addresses the matters required to be demonstrated by subclause (3) as discussed in detail above.

Clause 4.6(4)(a)(ii)

It is considered that the consent authority can be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Conclusion

The Applicant has submitted a written request pursuant to Clause 4.6 in NSLEP 2013. The written request has adequately addressed subclause (3) and, subject to satisfying conditions, is considered to be in the public interest because it is consistent with the relevant development standard and the objectives of the zone.

Overall, the request is considered to be well founded and has adequately demonstrated that compliance with the standard is unreasonable and unnecessary.

Part 5 – Miscellaneous provisions

5. Development below mean high water mark (Clause 5.7)

Under Clause 5.7 of the NSLEP 2013:

- (1) The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.*
- (2) Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).*

The proposal involves the re-building and restoration of an existing seawall and ancillary structures (including pool and surrounds) and landscaping works within the foreshore area and below the mean high water mark. Appropriate environmental assessment has been undertaken for such development and development consent is sought for these works.

The re-building and restoration of the existing seawall has been reviewed by an engaged structural engineer. The resultant works would ensure that:

- the structural integrity of the wall is reinforced and any repairs are undertaken.
- the design including new height is appropriate to the respective tidal conditions experienced within the foreshore.
- the provision of improved drainage infrastructure integrated into the wall to appropriate dispose of stormwater runoff.

Should the application be supported, conditions can be imposed to minimise and manage potential impacts to the foreshore and tidal waters such as water pollution.

6. Heritage conservation (Clause 5.10)

The subject site is an uncharacteristic item within the Kurraba Point Conservation Area (CA16), which is listed under Schedule 5 in NSLEP 2013. As such, the following planning objectives apply to the site:

- (a) *to conserve the environmental heritage of North Sydney,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) *to conserve archaeological sites,*
- (d) *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The proposed development involves replacing a 3-storey residential flat building with an elevated basement level with a 4-storey residential flat building featuring in a contemporary built form and design that do not interrupt the prominent architectural language and style, aesthetic and development pattern that is unique to the conservation area and the immediate streetscape and foreshore along Neutral Bay. As mentioned above, the new building will be adequately balanced and softened by numerous landscaping treatments beyond the building footprint and on-structure. Further, the issues raised by the DEP and Council's Conservation Planner have been addressed by the final scheme. As such, the provisions and objectives of Clause 5.10 are considered to be satisfied by the proposed development.

Part 6 – Additional local provisions

7. Limited development on foreshore area (Clause 6.9)

The proposed development involves new building works that are subject to the provisions of Clause 6.9, relating to the new building within the foreshore building line as well as a new pool, access stairs, fencing, seawall restoration and landscaping treatments within the foreshore area.

Clause 6.9(1) & (2) provides

- (1) *The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.*
- (2) *Development consent must not be granted for development on land in the foreshore area except for the following purposes—*

- (a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area,**
- (b) the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so,**
- (c) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, **swimming pools, fences,** cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

Emphasis added

With regard to Clause 6.9(2)(b) - it is noted that the new building will not extend further than current footprint of the existing building, in relation to the foreshore building line (refer to Figure 37). As such, this provision is satisfied and development consent for this component can be granted.

With regard to Clause 6.9(2)(c) – the remaining works within the foreshore area are regarded as ancillary works that meet this provision. Therefore, development consent for these components can be granted.

Under Clause 6.9(3)

- (3) Development consent must not be granted under subclause (2) unless the consent authority is satisfied that—*
 - (a) the development will contribute to achieving the objectives for the zone in which the land is located, and*
 - (b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
 - (c) the development will not cause environmental harm such as—*
 - (i) pollution or siltation of the waterway, or*
 - (ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
 - (iii) an adverse effect on drainage patterns, and*
 - (d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*
 - (e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
 - (f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*
 - (g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*
 - (h) sea level rise or change of flooding patterns as a result of climate change has been considered*

The proposed development will achieve the objectives of the zone in which the land is located and will present appropriately when viewed from the waterway and adjacent foreshore area. The development and foreshore landscaping achieves a compatible design outcome that respects the surrounding conservation area.

Subject to the imposition of conditions, the respective development will not cause environmental harm nor result in adverse impacts to marine habitat and drainage patterns. The location of the works, the proposal will not cause congestion nor generate conflict between people using open space areas or the waterway.

A detailed discussion on public access pertaining to the previous approval within the site is provided under "Relevant History" above. The subject site including the reclaimed land is privately owned and there is no current public access provided. Notably, there is limited opportunity to connect Hayes Street Beach to publicly owned areas along the foreshore (to the east). This is primarily due to the current arrangement and ownership of lots east of the subject site as well as the current Council policies including the NSLEP 2013 that would provide a nexus for acquiring reclaimed or other private land to deliver additional public access/recreational areas. As such, the above provision is achieved.

Given the location and nature of the works and the modified nature of the site, the proposal will not diminish any historic, archaeological, natural, aesthetic or other significant values associated with the land.

The proposed building will not have an adverse impact on the amenity or aesthetic appearance of the foreshore. Whilst additional bulk and scale are proposed for the new building, substantial modulation and articulation are provided and numerous landscaping treatments are included (both deep soil zone and on-structure) to assist in providing an appropriately balanced and compatible built form that respects the prevailing streetscape and character of the foreshore.

The proposed development has considered sea level rise and change of flooding patterns. Its design and siting are such that there would be negligible consequences on these matters as a result of the development.

With regard to Clause 6.9(1) objectives, the proposed development subject to conditions, is considered to adequately protect and conserve the significance and amenity of the foreshore area and would not unreasonably impact on natural foreshore processes.

8. Earthworks (Clause 6.10)

The proposed development involves a significant amount of excavation to accommodate the basement and lower ground level. An assessment has been carried out below having regard to Clause 6.10 in NSLEP 2013.

As per the provisions of Clause 6.10(3), the following matters are required to consider before consent can be issued.

(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:

(a) the likely disruption of, or any detrimental effect on:

- (i) *drainage patterns and soil stability in the locality of the development, and*
- (ii) *natural features of, and vegetation on, the site and adjoining land,*
- (b) *The effect of the development on the likely future use or redevelopment of the land,*
- (c) *the quality of the fill or the soil to be excavated, or both,*
- (d) *the effect of the development on the existing and likely amenity of adjoining properties,*
- (e) *the source of any fill material and the destination of any excavated material,*
- (f) *the likelihood of disturbing Aboriginal objects or relics,*
- (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*

The proposed earthworks, which involve substantial excavation to facilitate the lower ground floor and create the basement levels, are considered to have the potential to affect soil stability, drainage patterns and adjoining land. The Applicant has provided detailed information, including a comprehensive geotechnical report, which demonstrates that the proposed earthworks can be appropriately undertaken and managed to minimise impacts, particularly on adjoining properties. Detailed monitoring will be required of existing displaced boulders below the site, and within the existing lower retaining wall structure.

Given the residential history of the site it is unlikely that the site has experienced any significant contaminating activities which would give rise for concern relating to the quality of material to be utilised as fill or of any existing material that will be disturbed. Notwithstanding this, conditions can be imposed to identify, contain, manage and dispose of any uncovered contamination during earthworks, should consent be granted.

Council's Development Engineer has recommended site specific conditions be imposed to ensure the proposed earthworks be managed as well as any associated construction impacts.

In accordance with the provisions of Clause 6.10(3) this assessment has considered the impact of the proposed excavation and filling within the site and to surrounding properties and found that the proposed earthworks are acceptable, subject to the imposition of conditions of development consent. Accordingly, the proposed development is supportable in this regard.

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013 (NSDCP 2013)

The proposed development has been assessed against the relevant objectives and controls under the NSDCP 2013. An assessment has been carried out below:

Part B Section 1 – Residential Development		
Control	Compliance	Comments
1.2 Social Amenity		
Population Mix	Yes	The unit mix demonstrates sufficient merit and is acceptable as having regard to the sites location and the availability of varying housing forms in the area.
Universal Design and Adaptable Housing	Yes	Two (2) of the six (6) new units (33.3%) can be adapted.
1.3 Environmental Criteria		
Topography	Yes	

<p>Views</p>	<p>Yes</p>	<p>The majority of existing outlook and views from residential properties and public spaces are unaffected by the proposed development. The only affected vistas would be from several properties (No.'s 6, 6A and 8 Lower Wycombe Road) on the other side of the street. The following matters have been considered as part of Council's view loss assessment:</p> <ul style="list-style-type: none"> • These impacted views are over front/side/rear property boundaries. • The views concerned are distant sky/horizon outlook views. These are not significant, important, iconic and/or waterfront views. • The impacted views are currently substantially screened by the existing building and site/street trees. • The new building is slightly higher and wider than the existing building, which would result in a minor reduction to the amount of sky/horizon currently visible from the affected properties. It is noted that the majority of the built form is contained within the existing building footprint. • The removal of some trees within the front setback and the centralised street tree would result in additional views of the sky/horizon. <p><u>Views from No.'s 6, 6A and 8 Lower Wycombe Road (refer to figures below)</u></p> <p>Step 1: wide and distant horizon-skyline outlook views over the front and rear boundaries of residential sites. There are no important or iconic or waterfront views that are of significant value.</p> <p>Step 2: views over boundaries of subject site and generally reliant upon retention of existing development. Views can be either standing or sitting.</p> <p>Step 3: low impacts.</p> <p>Step 4: the proposed development is not compliant with regard to height and setback; however, the non-complaint portions do not result in adverse view loss – noting that the existing building already fails to comply with these controls.</p> <p>Assessment:</p> <p>The topography of the site and immediate area has been considered along with existing waterfront and horizon views and outlooks of the Sydney Harbour foreshore and Neutral Bay. Existing views and outlooks are reliant upon existing corridors and gaps between buildings as well as the topography. The site contains an existing non-compliant residential flat building and is planted with numerous mature trees of 15 metres or greater. This presents limited opportunities for views to be improved. Whilst existing views will be partly impacted by the proposed redevelopment the impacts arising from the development do not arise from the breach to the height standard, but rather the different and contemporary form of the proposed building in comparison to the existing building.</p> <p>The impacts are considered minor, reasonable and acceptable, and comparable to the views currently enjoyed by neighbouring properties. Given the above considerations, the proposal is considered acceptable with regard to view loss impacts.</p>
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Existing view from No. 6 Lower Wycombe Road



Proposed view from No. 6 Lower Wycombe Road



Existing view from No. 6A Lower Wycombe Road



Proposed view from No. 6A Lower Wycombe Road



Existing view from No. 8 Lower Wycombe Road



Proposed views from No. 8 Lower Wycombe Road

<p>Solar Access</p> <p>P1 Developments provides solar access on (21st June) a minimum of 3 hours between the hours of 9.00am and 3.00pm to:</p> <p>(a) any solar panels; (b) the windows of main internal living areas; (c) principal private open space areas; and (d) any communal open space areas.</p> <p>located on the subject property and any adjoining residential properties.</p> <p>Note: Main internal living areas excludes bedrooms, studies, laundries, storage areas.</p> <p>P2 Despite P1 above, living rooms and private open spaces for at least 70% of dwellings within a residential flat building should receive a minimum of 2 hours of solar access between the hours of 9.00am and 3.00pm at the winter solstice (21st June).</p>	<p>No, demonstrates merit – future occupants</p>	<p>The applicant has submitted detailed shadow diagrams and solar access calculations included in the plans at Attachment 1 to this report. The following analysis has regard for this documentation along with the site constraints including boundary dimensions, orientation and the fall of land.</p> <p>Residential Flat Buildings</p> <p>P2 Despite P1 above, living rooms and private open spaces for at least 70% of dwellings within a residential flat building should receive a minimum of 2 hours of solar access between the hours of 9.00am and 3.00pm at the winter solstice (21st June).</p> <p>The proposed development fails to achieve the minimum solar access requirements for future occupants as only one (1) unit of six (6) = 16.7% receiving solar access to internal living rooms.</p> <p>As detailed above, despite the variation, the overall outcome is considered reasonable and acceptable given the north-south orientation of the site and the design of the building, which maximises the available waterfront views to the south. The new building features a similar response as the existing building with regard to this aspect and site constraints. The development also offers additional amenity and functionality for future occupants as well as better apartment layouts, larger windows to provide adequate natural light to internal rooms. Notably, all of the spaces within the units are generous in size and dimension and all units (except the lower ground floor) have additional private open spaces that are north-facing.</p> <p>The communal open spaces for the building are south-orientated and will not receive the minimum two (2) hours required under the DCP. The above reasons apply to this space.</p>
<p>Solar Access (neighbouring properties)</p>	<p>Yes</p>	<p>The proposed development comprises a larger built form compared to the existing building and will partially overshadow three (3) west-facing windows of the residential flat building at No. 9 Lower Wycombe Road, between the hours of 2-3pm during mid-winter. No private open spaces, communal open spaces and other internal living rooms are affected by the proposal. The north-south orientation of the subject site and side-adjointing properties ensure that any overshadowing impacts can be considered negligible-minor. The proposal is able to achieve the minimum requirements and respective provisions under the DCP with regard to overshadowing and solar access.</p>

		<p>Any additional overshadowing resulting from the proposal primarily impacts the foreshore area – some of which comprise Hayes Street Beach. During mid-winter, different nominal sections of Hayes Street Beach are affected by the new building – however, after 1pm, Hayes Street Beach will not be overshadowed by the development.</p> <p>Given the above, any potential overshadowing impacts created by the proposed development are considered reasonable and acceptable.</p>
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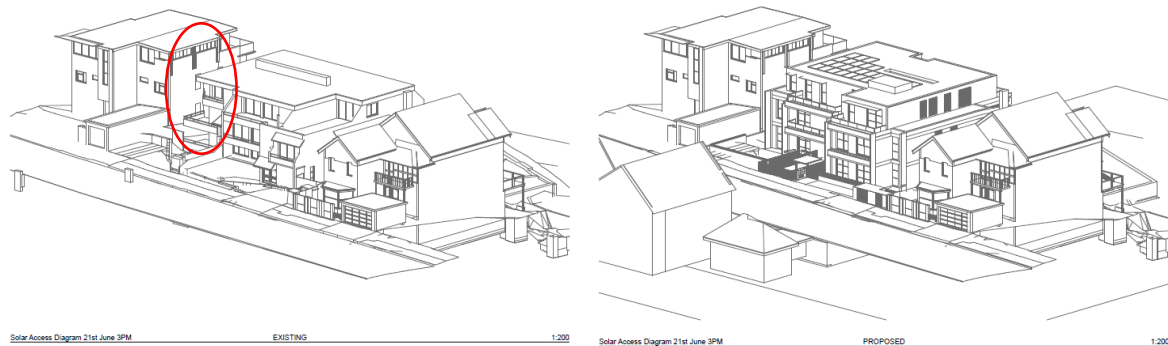
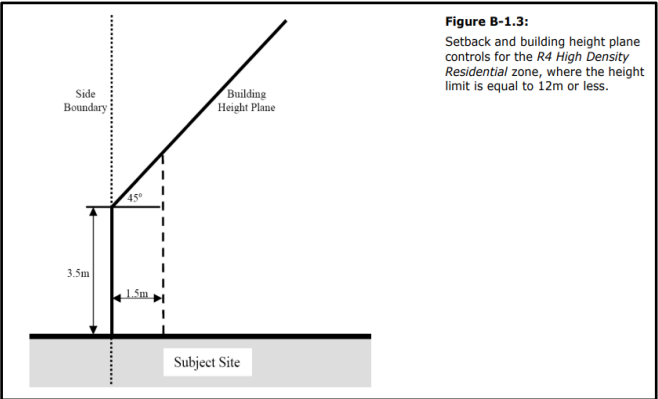


Figure 29: Sun angle diagrams detailing existing and proposed solar access during midwinter (21 June) at 3pm. Impact to NIO. 9 Lower Wycombe Road are noted.

<p>Acoustic Privacy</p>	<p>Yes</p>	<p>The proposed development maintains the residential flat building use of the site. Notably, there are numerous other low-scale residential flat buildings along the street and within the immediate vicinity including the existing building onsite. Given this, the proposal will likely result in reasonable acoustic privacy impacts that are anticipated in urbanised residential areas. Notably, the private and communal spaces are generally setback from property boundaries and are buffered by landscaped areas. Any acoustic privacy impacts are considered acceptable and reasonable.</p>
<p>Visual Privacy</p>	<p>Yes</p>	<p>The proposed development will not result in unreasonable or adverse privacy impacts.</p> <p>Most habitable spaces within each apartment have setbacks of at least 3m from property boundaries that adjoin neighbouring residences. The only windows facing the side boundaries are off bathrooms and walk-in-ropes, which are considered low activity spaces. All living rooms within the building face south and do not directly face residential properties.</p> <p>Similarly, the primary balconies and communal open spaces for the development are also oriented to the south (facing the waterfront) and have a minimum setback of 3m from side boundaries and feature balustrading and planter beds that will assist in obscuring views.</p> <p>The site context and setting including topography and waterfront aspect are such that there the residential properties facing the foreshore typically overlook each other from their respective internal and external living areas.</p>

		Similarly, these properties are generally exposed to the publicly accessible Hayes Street Beach and their privacy is also somewhat impacted by passive use of this recreational area. On balance, any visual privacy impacts are considered acceptable and reasonable.
1.4 Quality built form		
Context	Yes	The design, aesthetic, presentation and built form of the proposed development are considered appropriate and generally in context with the surrounding area.
Subdivision Pattern	Yes	Acceptable and reflective of the current development and subdivision pattern of surrounding area.
Streetscape	Yes	Acceptable.
Siting	Yes	Acceptable.
Setback – Front	Yes	Complies with ADG and reflects the diverse front building lines/front setbacks featured in developments along the southern side of Lower Wycombe Road. The development incorporates a stepped and modulated front façade that presents appropriate to the streetscape.
Setback – Side Minimum 3m for residential flat buildings	Yes	<p>The proposed new building complies with the minimum 3m from side boundaries; however, it does not comply with the building height plane control (see figure below).</p>  <p>Figure B-1.3: Setback and building height plane controls for the R4 High Density Residential zone, where the height limit is equal to 12m or less.</p> <p>The building height plane anticipates that many contemporary buildings will involve breaches and provides objectives for how these impacts must be considered. The proposed building is however constructed within the current building footprint, the existing building also fails to comparable with this control.</p> <p>As such these protrusions are comparable to the existing building. Merit is demonstrated by the proposal as the majority of the development complies with the building height plane control except for minor portions of the uppermost level (Level 2).</p> <p>This level has increased setbacks of 5.2m (from the western side) and 4.3m (from the eastern side) and features adequate modulation and is sufficiently recessed to ensure any additional massing created by the proposed variation can be considered reasonable and acceptable. Accordingly, the proposed variation is supported.</p>
Setback – Rear	Yes	Increased setback in comparison to existing building generally as indicated in eastern elevation (Figure). Existing balconies below and less than existing parapets. Refer also to discussion under foreshore building line.

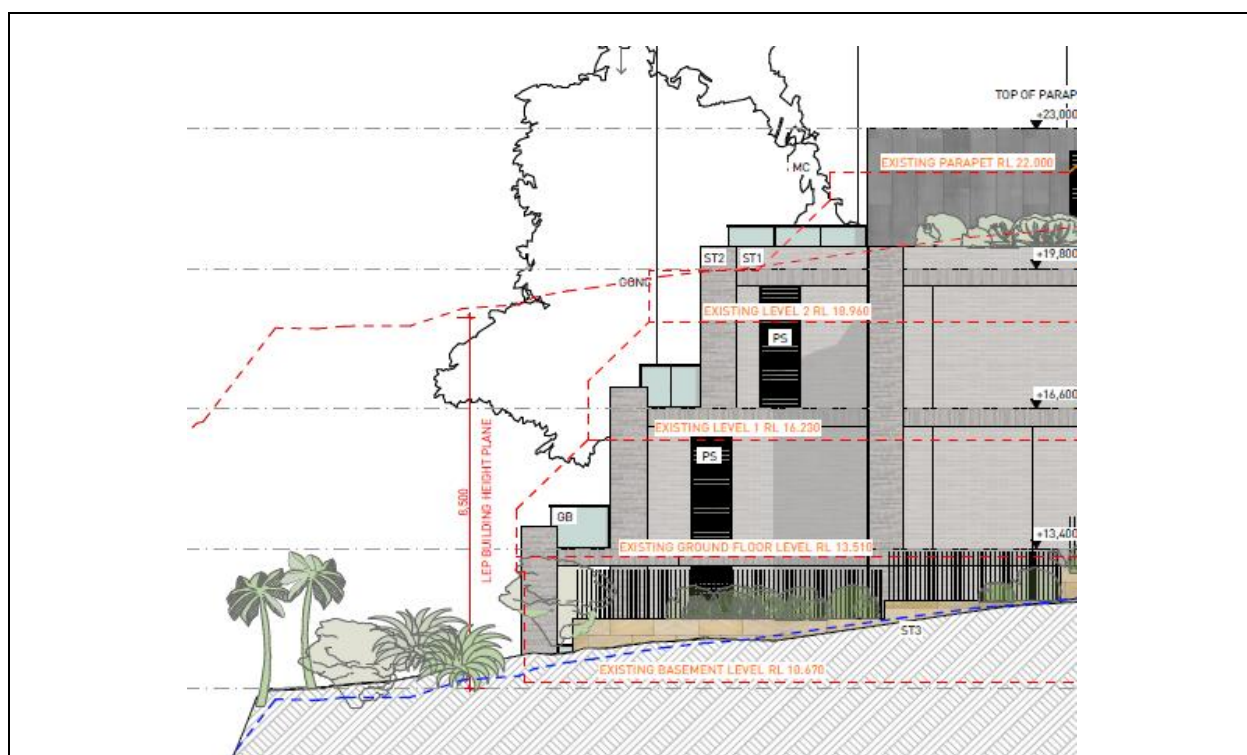
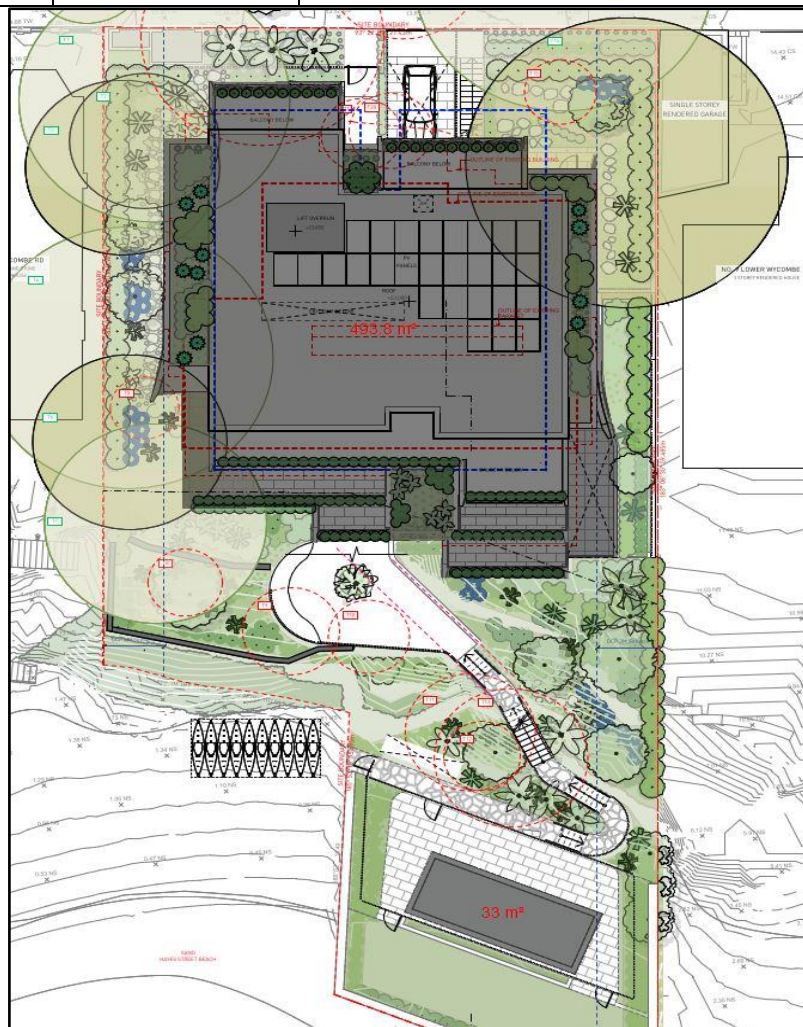


Figure 30: Extract from east elevation detailing proposed parapet in comparison to existing building

Building Separation	Yes	Complies with 1.3.10 and ADGs
Form, Massing Scale	Yes	See above.
Built Form Character	Yes	<p>The proposed development is of an appropriate scale, bulk and form that is compatible with and consistent to the development pattern of the locality and context of the site.</p> <p>The overall aesthetic and architectural expression of the proposed development are considered appropriate to the streetscape and conservation area. The contemporary style combined with the utilisation of a strong concrete form that is reminiscent of the Brutalist architecture of the existing building provides a suitable redevelopment of the site.</p> <p>The prevailing concrete materiality paired with a softer and warmer colour palette and numerous soft landscaping treatments throughout the site and on-structure assist in minimising the appearance and bulk and density of the building. When viewed from public domain, including Hayes Street Beach and foreshore, the proposal is considered a positive and complementary addition to the landscape.</p>
Dwelling Entry	Yes	Satisfactory
Roofs	Yes	Comprises a flat roof form that is similar to the roof of the existing building. The form is reflective of contemporary architecture that occurs within the vicinity and conservation area.
Materials	Yes	Acceptable.
Balconies - Apartments Minimum area of 8m² and minimum depth of 2 metres	Yes	Complies with ADG.
Front Fences	Yes	Acceptable treatments. Permeable fencing is complemented within front landscaping treatments in front.

1.5 Quality Urban Environment		
High Quality Residential Accommodation	Yes	As per above.
Vehicle Access and Parking (Inclusive of considerations required under Part B Section 10 Car Parking and Transport of NSDCP 2013)	Yes	As per above.
Site coverage requirements for residential flat buildings Site area: 1306m ² Site coverage requirement: 45% (max)	Yes	The maximum site coverage allowed for the site is 45% (587.7m ²). The proposed development comprises a site coverage of 40.3% (526m ²). The proposed development achieves compliance with the maximum requirement.



Proposed site coverage (shaded in grey)

LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN

The subject application has been assessed against the North Sydney Local Infrastructure Contribution Plan 2020. The proposal is subject to payment of contributions towards the provision of local infrastructure. The contributions payable has been calculated in accordance with Council's Contributions Plan as follows:

Population increase

Development type	Existing	Proposed	Unit	Increase/Decrease
Residential accommodation				
2-bedroom dwellings	6	0	0	-6
3-bedroom dwellings	0	6	6	+6
4-bedroom dwellings	1	0	0	-1

Contribution amounts payable

Applicable contribution type	
s7.11 contribution	Given that the development involves a reduction to the existing number of dwellings onsite – the contribution is calculated at \$0
s.7.12 contribution	1% of Cost of Works (COW) COW = \$13,103,339.00 Contribution = \$131,033.39

As per the North Sydney Local Infrastructure Contribution Plan 2020,

if application of a s 7.12 levy to the whole development yields a higher contribution amount than application of a s 7.11 contribution to the whole development, then a s 7.12 levy calculated on the whole development shall be imposed.

As such, the Section 7.12 contributions (calculated above) will apply. Conditions requiring the payment of these contributions at the appropriate time will be included in the attached conditions.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL

CONSIDERED

- | | |
|--|-----|
| 1. Statutory Controls | Yes |
| 2. Policy Controls | Yes |
| 3. Design in relation to existing building and natural environment | Yes |
| 4. Landscaping/Open Space Provision | Yes |

5.	Traffic generation and Carparking Provision	Yes
6.	Loading and Servicing Facilities	Yes
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8.	Site Management Issues	Yes
9.	All relevant 4.15 considerations of <i>Environmental Planning and Assessment (Amendment) Act 1979</i>	Yes

SUBMITTERS CONCERNS

The application was notified to adjoining properties and the Hayes Precinct Committee on two (2) separate occasions. Council received a total of seventy four (74) submissions (combined) where the following matters (in any objections) were raised:

- No Owner's Consent
- Non-compliance with Height of Building (CI4.3 NSLEP)
- Non-Compliance with Setbacks (NSDCP s1.4.6)
- Impact on Views (NSLEP CI4.6)
- Visual Privacy
- Population Mix and Dwelling Reduction
- Bulk, Scale, Massing
- Uncharacteristic Design and Materials/Colours
- Impact on Streetscape
- Solar Access/Overshadowing
- Structural Integrity of Adjoining Dwellings
- Structural Engineer Assessment Required
- Inconsistent and Inadequate Geotechnical Report and SEE
- Inadequate Traffic Report Analysis
- Impact of Car Lift
- Insufficient Vehicular Parking on site
- Traffic Management Policy Required from Council
- Potential Exposure to Contaminated Soil
- Impact from Construction Works
- Contravention with Flood Reappraisals
- Inconsistent with Public Interest
- Acquisition for Public Open Space and Public Access Walkway
- Inadequate Landscape and Floor Plans
- Impact on Environment
- Contravention with Sustainability Principle
- Acoustic Impacts
- Potential Water Overflow and Amenity from Spa
- Uncharacteristic Rear Fencing at Waterfront
- Fencing Detail Not Provided
- Access of Beach Terrace and Pool
- Existing Use Rights

Council's responses to the above matters and issues are provided below.

- **No Owner's Consent**

Response: Owner's consent was provided during the lodgement process of the application.

- **Non-compliance with Height of Building (CI4.3 NSLEP)**

Response: Covered in detail within this report.

- **Non-Compliance with Setbacks (NSDCP s1.4.6)**

Response: Amended proposal is assessed as acceptable. Refer details within this report.

- **Impact on Views (NSLEP CI4.6)**

Response: Covered in detail throughout this report. The topography of the site and immediate area has been considered along with existing waterfront and horizon views and outlooks of the Sydney Harbour foreshore and Neutral Bay. Existing views and outlooks are reliant upon existing corridors and gaps between buildings as well as the topography. The site contains an existing non-compliant residential flat building and is planted with numerous mature trees of 15 metres or greater. This presents limited opportunities for views to be improved. Whilst existing views will be partly impacted by the proposed redevelopment the impacts arising from the development do not arise from the breach to the height standard, but rather the different and contemporary form of the proposed building in comparison to the existing building.

The impacts are considered minor, reasonable and acceptable, and comparable to the views currently enjoyed by neighbouring properties. Given the above considerations, the proposal is considered acceptable with regard to view loss impacts.

- **Visual Privacy**

Response: The visual privacy impacts of the development have been considered against the context of the site. The proposed building is highly contemporary in its form and is considered to appropriately provide for privacy with neighbouring development.

- **Population Mix and Dwelling Reduction**

Response: Covered in detail in the Assessment section above.

- **Bulk, Scale, Massing**

Response: The overall height, setbacks and design of the building is considered to be an acceptable response to the site constraints and would not unreasonably impact on adjoining land or the adjacent conservation area.

- **Uncharacteristic Design and Materials/Colours**

Response: Relates to the originally proposed scheme. The final scheme has responded to comments made by DEP and Council. The design and materials/colours aspects are covered in detail in the Assessment section above.

- **Impact on Streetscape**

Response: Covered in detail in the Assessment section above.

- **Solar Access/Overshadowing**

Response: Covered in detail in the Assessment section above.

- **Structural Integrity of Adjoining Dwellings**

Response: The excavation footprint has been modified to be reduced in size and situated well away from property boundaries and generally contained within the existing footprint of the current building. Conditions will be imposed to ensure the structural integrity of adjoining dwellings are not compromised.

- **Structural Engineer Assessment Required**

Response: Council's Development Engineer assessed the application and indicated support for the proposal subject to the imposition of conditions.

- **Inconsistent and Inadequate Geotechnical Report and SEE**

Response: Notwithstanding any potential inconsistencies within this documentation, Council staff including referral officers have assessed the application and indicated support for the proposal subject to the imposition of conditions.

- **Inadequate Traffic Report Analysis**

Response: Council's Traffic and Transport Engineer assessed the application and indicated support for the proposal subject to the imposition of conditions.

- **Impact of Car Lift**

Response: Council's Traffic and Transport Engineer supports the car lift design subject to conditions imposed.

- **Insufficient Vehicular Parking on site**

Response: Council's Traffic and Transport Engineer supports the proposed parking.

- **Traffic Management Policy Required from Council**

Response: See above.

- **Potential Exposure to Contaminated Soil**

Response: Conditions will be imposed to ensure any contamination encountered during works are managed appropriately.

- **Impact from Construction Works**

Response: Conditions will be imposed to ensure any impacts arising from demolition and construction works are minimised, mitigated and managed appropriately.

- **Contravention with Flood Reappraisals**

Response: Council's records indicated that the site is not affected by flooding. Council's Development Engineer reviewed the stormwater design and confirmed support subject to the imposition of conditions.

- **Inconsistent with Public Interest**

Response: The proposal is within public interest and demonstrates sufficient planning and environmental merit (as detailed throughout this report).

- **Acquisition for Public Open Space and Public Access Walkway**

Response: The matter for land acquisition for public access is typically undertaken via mechanisms within Local Environmental Plans, which has not occurred for the subject site.

Council's current Foreshore Access Strategy (dated April 2007) and Open Space Provision Strategy (24 February 2009) provides the appropriate framework for identification and funding of land acquisition for foreshore access and open space purposes. These policies do not currently identify acquisition of the subject site for any public purpose.

Should Council resolve seek to acquire this land for public access, nothing in this proposal would preclude further investigation for this purpose. Any such investigation would need to have regard for appropriate measures and financial compensation under the *Land Acquisition (Just Terms Compensation) Act 1991*.

- **Inadequate Landscape and Floor Plans**

Response: The plans are considered acceptable and have been evaluated by Council. Independent calculations have been undertaken.

- **Impact on Environment**

Response: Covered in detail in the Assessment section above.

- **Contravention with Sustainability Principle**

Response: Achieves BASIX compliance.

- **Acoustic Impacts**

Response: Covered in detail in the Assessment section above.

- **Potential Water Overflow and Amenity from Spa**

Response: Spa has been deleted in the revised design.

- **Uncharacteristic Rear Fencing at Waterfront**

Response: Visually permeable fencing is acceptable in the foreshore area and is required for security reasons.

- **Fencing Detail Not Provided**

Response: Perimeter boundary fencing can be installed without Council approval. Notwithstanding, the fencing indicated on the plans appear acceptable.

- **Access of Beach Terrace and Pool**

Response: The communal open spaces and access to these spaces are considered acceptable. Direct access to the beach frontage is also acceptable and reflects the land ownership and current access from the site as well as other private properties that adjoin Hayes Street Beach.

- **Existing Use Rights**

Response: As mentioned previously, the application does not rely upon existing use rights provisions in the NSW legislation. A savings provision provides residential flat buildings remain permissible in the assessment of this application.

PUBLIC INTEREST

The proposed development is considered to be in the public interest for the reasons stated throughout this report.

SUITABILITY OF THE SITE

The proposal is considered to be suitable for the site having regard to the merits of the proposal as described in the above report.

CONCLUSION + REASONS

The proposal was considered under the relevant Environmental Planning Instruments and policies including SEPP 65, ADG, NSLEP 2013 and NSDCP 2013 and general found to be satisfactory.

The Clause 4.6 written submission submitted by the Applicant is acceptable.

With regard to the potential impacts upon the amenity of adjoining properties and the unique context of the site, subject to conditions, the development application is considered to be satisfactory and is recommended for approval.

Council received a total of seventy four (74) submissions that raised concerns and issues associated with existing use rights; extent of excavation and vibration impacts; bulk, scale, massing and density; excessive height; reduced setbacks; overdevelopment; tree removal; traffic impacts (due to car lift); visual privacy and amenity impacts; overshadowing impacts; construction management and dust; landscaping works; and spa placement. These concerns and issues have been discussed in this report and are addressed with appropriate conditions of consent.

Having regard to the merits of the proposal, the application is recommended for approval subject to appropriate standard and site specific conditions provided below.

HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?

The subject application was notified to adjoining properties for at least fourteen (14) days, on two (2) separate periods, where a number of issues were raised. These issues have been addressed in this report and where appropriate, conditions of consent have been recommended to maintain the amenity of adjoining properties and the character of the streetscape and immediate area.

RECOMMENDATION

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Local Planning Panel, exercising the functions of Council, assume the concurrence of the Secretary of The Department of Planning, Industry, and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 – Maximum Height of Buildings and grant consent to Development Application No. 137/23 for demolition of existing residential flat building and construction of new residential flat building containing six (6) apartments and construct swimming pool adjacent to foreshore at No. 5-7 Lower Wycombe Road, Neutral Bay, subject to the attached recommended conditions:

DAVID HOY
TEAM LEADER ASSESSMENTS

STEPHEN BEATTIE
MANAGER DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
5-7 WYCOMBE ROAD, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 137/23

A. Conditions that Identify Approved Plans

Development in Accordance with Plans/Documentation

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Issue	Title	Drawn by	Received
DA 002	2	Proposed Site Plan	PBD Architects	18/08/2023
DA 003	2	Site Analysis Plan	PBD Architects	18/08/2023
DA 004	2	Demolition Plan	PBD Architects	18/08/2023
DA 100	2	Basement 2	PBD Architects	18/08/2023
DA 102	2	Basement 1	PBD Architects	18/08/2023
DA 103	2	Communal Area	PBD Architects	18/08/2023
DA 104	2	Lower Ground Floor	PBD Architects	18/08/2023
DA 105	2	Ground Floor	PBD Architects	18/08/2023
DA 106	2	Level 1	PBD Architects	18/08/2023
DA 107	2	Level 2	PBD Architects	18/08/2023
DA 108	2	Roof Plan	PBD Architects	18/08/2023
DA 200	2	East Elevation	PBD Architects	18/08/2023
DA 201	2	West Elevation	PBD Architects	18/08/2023
DA 202	2	North Elevation	PBD Architects	18/08/2023
DA 203	2	South Elevation	PBD Architects	18/08/2023
DA 300	2	Section A	PBD Architects	18/08/2023
DA 301	2	Section B	PBD Architects	18/08/2023
DA 400	2	Schedule of Materials	PBD Architects	18/08/2023
-	3	Existing Tree Schedule Plant Schedule Specification	Wyer and Co	21/08/2023
DA-01	3	Existing Tree Plan	Wyer and Co	21/08/2023
DA-02	3	Landscape Masterplan	Wyer and Co	21/08/2023
DA-03	3	Landscape Plan - Ground Floor	Wyer and Co	21/08/2023
DA-04	3	Landscape Plan - Lower Ground Floor	Wyer and Co	21/08/2023
DA-05	3	Landscape Plan - Basement 01	Wyer and Co	21/08/2023
DA-06	3	Landscape Plan - Level 01	Wyer and Co	21/08/2023
DA-07	3	Landscape Plan - Level 02	Wyer and Co	21/08/2023

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Design Amendments

- A2. The architectural plans referred to in Condition A1 are to be amended to incorporate the following changes:
- a. The curved blade walls to Unit LG.01, GF02 and L1.02 are to be redesigned to be in line with the plane of the eastern elevation and reduced so as not to protrude beyond the master balcony edge of GF.02 and L1.02.
 - b. The balconies and planters to Units GF.01 and L1.01 are to be set back from the front boundary to match the main facade of the two storey section of No. 3 Lower Wycombe Street; The blade walls, planter and balcony edges are to be set a minimum of 3.8 metres from the street boundary with Lower Wycombe Street.
 - c. The car lift is to remain an unroofed/open structure. Any safety fencing associated with the car lift is to remain visually transparent utilising vertical pickets or similar. Any safety barrier facing the Street frontage is to be set back 1.5 metres from the boundary to match the alignment of the fencing to the east of the car lift;

The amendments required by this condition are to be incorporated in the Construction Certificate drawings and approved by the Certifying Authority prior to the issue of any Construction Certificate

(Reason: To maintain view sharing between the building and No. 9 Lower Wycombe Street, to improve streetscape articulation and reduce the impact of the car lift structure on the street)

Plans on Site

- A3. A copy of all stamped approved plans, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifier.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the Principal Certifier upon their request.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)

No Demolition of Extra Fabric

- A4. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

External Finishes and Materials

- A5. External finishes and materials must be in accordance with the submitted schedule of materials indicated on the approved Schedule of Materials, prepared by PBD Architects,

dated 18 August 2023, unless otherwise modified by Council in writing.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

B. Matters to be Completed before the lodgement of an Application for a Construction Certificate

Construction Management Plan - Local Traffic Committee Approval

B1. A Construction Management Program prepared by a suitably qualified and experienced traffic consultant must be submitted for consideration by the Manager Traffic & Transport Operations and approved in writing by North Sydney Council's Traffic Division PRIOR TO THE ISSUE OF ANY Construction Certificate. Any use of Council property will require appropriate approvals prior to any work commencing. At a minimum, the Construction Management Program must specifically address the following matters:

- a) A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
 - i. Dedicated temporary construction site driveway entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways and footways;
 - ii. The proposed signage for pedestrian management to comply with the relevant Australian Standards, including pram ramps;
 - iii. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;
 - iv. The locations of any proposed Work Zones in the frontage roadways (to be approved by Council's Traffic Committee);
 - v. Locations of hoardings proposed;
 - vi. Location of any proposed crane standing areas;
 - vii. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
 - viii. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected; and
 - ix. The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
- b) A detailed heavy vehicle access route map through the Council area to Arterial Roads. Provision is to be made to ensure through traffic is maintained at all times.
- c) The proposed phases of works on the site, and the expected duration of each phase.
- d) How access to neighbouring properties will be maintained at all times and the proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of process.
- e) The road is not to be used as a waiting area for trucks delivering to or awaiting pick up of materials.

- f) 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 and must not involve any permanent or temporary encroachment onto Council's property.
- g) Proposed protection for Council and adjoining properties. Details are to include site fencing and the provision of "B" class hoardings over footpaths and laneways.
- h) A Waste Management Plan. The Waste Management Plan must include, but not be limited to, the estimated volume of waste and method of disposal for the construction and operation phases of the development, design of on-site waste storage and recycling area and administrative arrangements for waste and recycling management during the construction process.

All traffic control work and excavation, demolition and construction activities must be undertaken in accordance with the approved Construction Management Program and any conditions attached to the approved Program. A certificate of compliance with this condition must be obtained from Council's development engineers. The certificate and the approved Construction Management Program must be submitted as part of the documentation lodged with the application for approval of a construction certificate. A copy of the approved Construction Management Program and any conditions imposed on that Program, must be kept on the site at all times and made available to any officer of Council upon request.

Notes:

- 1) North Sydney Council's adopted fee for certification of compliance with this condition shall be payable on lodgement, or in any event, prior to the issue of the relevant approval.
- 2) Any use of Council property will require appropriate approvals and demonstration of liability insurances prior to such work commencing.
- 3) Failure to provide complete and detailed information may result in delays. It is recommended that your Construction Management Plan be lodged with Council as early as possible, as a **minimum six (6) weeks' assessment period** is required, including referral to the Traffic Committee.
- 4) Dependent on the circumstances of the site, Council may request additional information to that detailed above.

(Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the demolition process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

C. Prior to the Issue of a Construction Certificate (and ongoing, where indicated)

Requirements from Ausgrid

- C1. The following requirements from Ausgrid must be incorporated and considered in the final design and construction methodology:

Ausgrid Overhead Powerlines are in the Vicinity of the Development

The developer should refer to SafeWork NSW Document - Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.

Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.

The "as constructed" minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at www.ausgrid.com.au.

It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost.

Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances".

This document can be found by visiting the following Ausgrid website: www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries.

(Reason: To avoid and minimise potential impacts on existing power services and infrastructure)

Access Report Recommendations

- C2. Any recommendations within the Access Report, prepared by Lindsay Perry Access, must be implemented and integrated within the final design.

(Reason: To comply with anti-discrimination laws and maximise inclusion for people with disabilities)

Dilapidation Report Damage to Public Infrastructure

- C3. A dilapidation survey and report (including photographic record) must be prepared by a

suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate.

The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.

The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development, and no occupation of the development shall occur until damage caused as a result of the carrying out of the development is rectified.

A copy of the dilapidation survey and report must be lodged with North Sydney Council by the Principal Certifier with submission of the Construction Certificate documentation.

(Reason: To record the condition of public infrastructure prior to the commencement of construction)

Dilapidation Report Private Property (Excavation)

- C4. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey is to be prepared by a consulting structural/geotechnical engineer agreed to by both the applicant and the owner of any affected adjoining property.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by the developer or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: To record the condition of property/ies prior to the commencement of construction)

Geotechnical Report (Larger Projects imposed by Engineers only)

C5. Prior to issue of any Construction Certificate a Geotechnical/Civil Engineering report must be prepared which addresses at a minimum (but is not limited to) the following:-

- a) the type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs must be related to Australian Height Datum;
- b) the appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations must be discussed and mechanisms to ameliorate any such impacts recommended;
- c) the proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support must be provided within the subject site);
- d) the existing groundwater levels in relation to the basement structure, where influenced;
- e) the drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater. Where it is considered there is the potential for the development to create a "dam" for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path is constructed, artificial drains such as perimeter drains and through drainage may be utilised; and
- f) recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by an appropriately qualified consulting geotechnical/ hydrogeological engineer with previous experience in such investigations and reporting.

It is the responsibility of the consulting geotechnical/ hydrological specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures both during and after construction. The report must contain site-specific geotechnical recommendations and shall specify the necessary hold/inspection points by relevant professionals as appropriate.

The design principles for the geotechnical report are as follows:

- a) no ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure;
- b) no changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- c) no changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- d) vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development;
- e) appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles; and
- f) an adverse impact can be assumed to be crack damage as identified within the relevant Australian Standard for determining such damage.

The report, satisfying the requirements of this condition, must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate.

The professional recommendations, implementation program, monitoring program, mitigation measures and the like contained in the report must be implemented in full during the relevant stages of excavation and construction.

(Reason: To ensure the structural integrity of the subject site and adjoining sites during the excavation process)

Sediment Control

- C6. Where construction or excavation activity requires the disturbance of the soil surface or existing vegetation, erosion and sediment control techniques, as a minimum, are to be in accordance with the publication *Managing Urban Stormwater: Soils & Construction* (4th edition, Landcom, 2004) commonly referred to as the "Blue Book" or a suitable and

effective alternative method.

A Sediment Control Plan must be prepared and submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate and prior to any works commencing. The Sediment Control Plan must be consistent with the Blue Book and disclose:

- a) All details of drainage to protect and drain the site during the construction processes;
- b) All sediment control devices, barriers and the like;
- c) Sedimentation tanks, ponds or the like;
- d) Covering materials and methods; and
- e) A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.
- f) Methods for the temporary and controlled disposal of stormwater during construction.

All works must be undertaken in accordance with the approved Sediment Control plan.

The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Waste Management Plan

- C7. A Waste Management Plan is to be submitted for approval by the Principal Certifier prior to the issue of any Construction Certificate. The plan must include, but not be limited to:
- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
 - b) The design of the on-site waste storage and recycling area; and
 - c) Administrative arrangements for waste and recycling management during the construction process.

The approved Waste Management Plan must be complied with at all times in the carrying out of the development.

(Reason: To encourage the minimisation of waste and recycling of building waste)

Colours, Finishes and Materials (Conservation Areas)

- C8. The finishes, materials and exterior colours shall be complementary to the architectural style of the original building and sympathetic to the character of the Conservation Area. A schedule of finishes, materials and external colours shall be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted fully satisfy the

requirements of this condition prior to the release of the Construction Certificate.

(Reason: To ensure that the completed colours, finishes and materials are complementary to the Conservation Area)

Reflectivity Index of Glazing

- C9. The glazing for windows, walls or roof finishes of the approved development must be factory pre-finished with low glare and reflectivity properties. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Note: The reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement.

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

Roofing Materials - Reflectivity

- C10. Roofing materials must be factory pre-finished with low glare and reflectivity properties to be compatible with the colours of neighbouring buildings. The selected roofing material must not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development)

No External Service Ducts

- C11. Service ducts must be provided within the building to keep external walls free of plumbing, drainage or any other utility installations. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure quality built form of the development)

Work Zone

- C12. If a Work Zone is proposed, an application must be made to the North Sydney Local Traffic Committee to install the 'Work Zone'. A Work Zone permit is required to be issued by the Council prior to the issue of any Construction Certificate.

Work Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Work Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Work Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Principal Certifier to enable issue of the Construction Certificate.

Where approval of the 'Work Zone' is given by the Committee, the requirements of the Committee, including installation of the necessary 'Work Zone' signage and payment of any fees, must occur prior to commencement of any works on the site. Further, at the expiration of the Work Zone approval, the developer is required to remove the Work Zone signs and reinstate any previous signs, all at the developer's cost. The requirements imposed by the Committee on the Work Zone permit (or permits) must be complied with at all times.

(Reason: Amenity and convenience during construction)

Maintain Property Boundary Alignment Levels

- C13. Except where otherwise approved by Council, the property boundary alignment levels must match the levels which existed prior to the commencement of works. Plans and specifications which document existing and proposed levels adjacent to the site boundaries and which comply with the requirements of this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate.

The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure interface between property and public land remains uniform)

Parking Meter Relocation

- C14. All costs associated with relocating the metered parking including all sign changes, parking bay line markings must be paid in full to North Sydney Council prior to issue of any Construction Certificate.

The Principal Certifier must ensure that the specifications submitted, accompanying the issued Construction Certificate, fully satisfy this condition.

(Reason: To ensure the proper management of public land and funds)

Bicycle Storage and Parking

- C15. The bicycle storage area must accommodate a minimum of seven (7) bicycles. Any bicycle storage lockers and bicycle rail shall be designed in accordance with the applicable Australian Standards. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure that the building plans and specifications, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To promote and provide facilities for alternative forms of transport)

Accessible Parking Spaces to be Provided

- C16. A total of two (2) accessible parking spaces shall be provided as part of the total car-parking requirements. Consideration must be given to the means of access from the car-parking spaces to adjacent buildings, to other areas within the building and to footpath and roads. All details shall be prepared in consideration of, and construction completed in accordance with applicable Australian Standards to achieve compliance with the Disability Discrimination Act. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate.

(Reason: To ensure equity of access and appropriate facilities are available for people with disabilities in accordance with Federal legislation)

Basement Car Park to Comply with Relevant Standards

- C17. The basement layout must comply with all requirements of Australian Standard AS2890.1. Certification from a suitably qualified and practicing Civil Engineer that the basement design will comply with the requirements of the Australian Standard must be provided to the Principal Certifier for approval prior to issue of any Construction Certificate.

(Reason: To ensure the basement layout complies with relevant standards)

Obtain Driveway Crossing Permit under s.138 Roads Act 1993

- C18. A driveway crossing and roads infrastructure works permit to suit the approved off-street parking facilities must be granted by the Council prior to the issue of any Construction Certificate. In order to obtain a permit under S.138 of the Roads Act 1993, an application must be made to Council on the 'Vehicular Access Application' form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the Applicant's Civil Engineer to verify design details and enable issue of the permit. The requirements of the permit must be complied with at all times.

The civil design drawings must include the following at a minimum: -

Prior to the issue of the Construction Certificate, North Sydney Council must issue the

applicant with a driveway crossing and road infrastructure works permit to suit the approved off-street parking facilities. To obtain the permit, an application must be made to Council on a 'Vehicular Access Application' form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the applicant's Civil Engineer to verify design details and enable permit issue. The responsibility for accuracy of the design fully rests with the designing engineer. All responsibility on implementation and supervision of works specified on design plans fully rests on designing engineer or whoever is chosen to be applicant's engineering representative. The civil design drawings shall detail the following infrastructure construction requirements of Council in relation to the consent:

- a) The proposed vehicular access ways must comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking floor.
- b) The redundant layback crossing on Lower Wycombe Road must be reinstated as upright kerb gutter and concrete footpath.
- c) The width of the vehicular layback must match the existing one in position, size and levels.
- d) The vehicular laybacks must be set square to the kerb.
- e) The boundary footpath levels must match the existing levels and shall not be altered unless agreed to by Council.
- f) The full frontage footpath and grass verge on Lower Wycombe Road must be reconstructed
- g) The kerb gutter, and 1200 mm road shoulder wide- strip, adjacent to all new layback and gutter works, on Lower Wycombe Road must be reconstructed, to ensure uniformity in the road reserve.
- h) All inspection openings, utility services must be adjusted to match the proposed driveway levels and location.
- i) The design detail has to be provided with vehicular access application and must include sections along centreline and extremities of the crossing at a scale of 1:25.
- j) Sections are to be taken from the centre of the roadway through to the parking area itself and shall include all changes of grade and levels, both existing and proposed.
- k) A longitudinal section along the gutter line of Lower Wycombe Road at a scale of 1:50 showing how it is intended to transition the layback with the existing gutter levels and shall include all changes of grade and levels, both existing and proposed.
- l) A longitudinal section along the footpath property boundary at a scale of 1:50 is required and shall include all changes of grade and levels, both existing and proposed.
- m) The sections must show the calculated clearance to the underside of any overhead structure.
- n) A swept path analysis is required demonstrating that an 85th percentile vehicle can manoeuvre in and out of the garage spaces in accordance with AS 2890.1 2004 "Off Street Parking."

All driveway and infrastructure works on the road reserve must proceed in accordance with the terms of the permit issued by Council. Inspections by Council will be required as

specified on the permit. The Principal Certifier issuing the Construction Certificate must ensure that the permit issued by Council is obtained prior to its issue, is referenced on and accompanies the relevant Construction Certificate issued.

(Reason: To facilitate appropriate vehicular access to private sites, without disruption to pedestrian and vehicular traffic)

Stormwater Management and Disposal Design Plan - Construction Issue

C19. Prior to issue of the Construction Certificate, the applicant shall have a site drainage management plan prepared by a qualified drainage design engineer. The site drainage management plan must detail the following requirements of North Sydney Council:

- a) Compliance with BCA drainage requirements, Councils Engineering Performance guide and current Australian Standards and guidelines, such as AS/NZ3500.3.2 1998, National Plumbing and Drainage Code.
- b) Stormwater runoff and subsoil drainage generated by the approved dwellings must be conveyed in a controlled manner by gravity to Neutral Bay waters.
- c) All sub-soil seepage drainage shall be discharged via a suitable silt arrester pit.
- d) The design and installation of the Rainwater Tanks shall comply with Basix and Sydney Water requirements. Overflow from tank shall be connected by gravity to the stormwater disposal system.

Details demonstrating compliance are to be submitted with the Construction Certificate.

The Principal Certifier issuing the Construction Certificate must ensure that the approved drainage plan and specifications, satisfying the requirements of this condition, is referenced on and accompanies the Construction Certificate.

(Reason: To ensure controlled stormwater management and disposal without nuisance)

Bond for Damage and Completion of Infrastructure Works - Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement

C20. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of **\$20,000.00** to be held by Council for the payment of cost for any/all of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with this consent
- c) remedying any defects in any such public work that arise within six months after

the work is completed.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following:

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Principal Certifier must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

Footpath, Entries and Fire Exit Details (Mixed-use/Commercial/Apartments)

C21. Footpaths, entries and exits and fire exits for the development must be designed by an appropriately qualified and practising Civil Engineer and submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The design must include (but is not limited to) the following: -

- a) cross section along the centre-line of each access point to the building including fire exits at a scale of 1:50 to be taken from the centre of the road and shall include all changes of grade both existing and proposed;
- b) the sections must show all relevant levels and grades (both existing and proposed) including those levels stipulated as boundary levels;
- c) the sections must show the calculated clearance to the underside of any overhead structure;
- d) a longitudinal section along the boundary line showing how it is intended to match the internal levels of the building with the boundary footpath levels. The footpath must be designed (at a single straight grade of 3% falling to top of kerb) so that it

is smooth without showing signs of dipping or rising particularly at entrances; and

- e) a longitudinal section along the gutter and kerb line extending 5 metres past property lines showing transitions.

Details, plans and specifications complying with this condition are to be certified as complying with the National Construction Code (NCC) and Council's standard footpath specifications, and the certification, details, plans and specifications must be provided to the Principal Certifier for approval prior to the issue of any Construction Certificate. Written concurrence confirming there will be no change to existing boundary and footpath levels is to be provided to the Certifier and North Sydney Council, prior to issue of any Construction Certificate.

(Reason: To facilitate suitable pedestrian and disabled access to private sites, and to ensure that internal levels reflect footpath boundary levels)

Arborist to be commissioned C88

- C22. An experienced consulting arborist with minimum qualification of AQF Level 5 must be commissioned to assist the design development and contract documentation for the approved development. The commissioned arborist must oversee construction works on the site for their duration, must ensure all tree protection measures are implemented and maintained at all times during demolition and construction and must undertake regular inspections of works in progress and provide advice to the developer in relation to tree matters.

Written details of the engagement of the experienced arborist must be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Note: This condition, and any advice given by the consulting arborist, should not be construed as authorising the carrying of development with/ otherwise than in accordance with the development consent.

(Reason: To ensure that all matters relating to trees are resolved and recorded using best practice.)

Tree Bond for Public Trees

- C23. Prior to the issue of any construction certificate, security in the sum of **\$27,500.00** must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate but only upon inspection and release by Council's Landscape Development Officer.

If any tree is removed or damaged Council may deduct from this security the reasonable cost of replacement with a tree of the same species and to a similar stage of growth it would have attained at the completion of the work.

In the case of any tree, which cannot be replaced with a similar specimen, the security for that tree will be forfeited to Council and used to provide replacement street plantings.

SCHEDULE

Tree Species	Location	Bond
T16 <i>Tristaniopsis laurina</i> -8x12m	Council verge in front of 5-7 Lower Wycombe Rd	\$20,000
T19 <i>Sapium sebiferum</i> -5x5m	Council verge in front of 3 Lower Wycombe Rd	\$7,500

(Reason: Protection of existing environment public infrastructure, community assets and significant trees)

Tree Protection Measures to be shown on Construction Drawings

C24. The tree protection measures contained in the Arborist Report, prepared by Arborlogix (dated 23 August 2023), shall be shown clearly on the Construction Certificate drawings. Plans and specifications showing the said tree protection measures must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure the construction plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that appropriate tree protection measures are shown on construction drawings)

Protection of Trees

C25. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 - Protection of trees on development sites:

SCHEDULE

Tree	Location	Height
T16 1 x Water Gum <i>Tristaniopsis laurina</i>	Within road reserve, immediately adjacent to No. 5-7 Lower Wycombe Road, Neutral Bay.	8x12m
T19 1 x Chinese Tallowood <i>Sapium</i>	Within road reserve, in front of No. 5-7 and 3 Lower Wycombe Road, Neutral Bay.	5x5m

<i>sebiferum</i>		
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Site Trees

Tree	Location	Height
T1 1 x Lemon-scented Gum <i>Corymbia citriodora</i>	Front setback	20x16m
T2 1 x Lemon-scented Gum <i>Corymbia citriodora</i>	Western side setback	15x7m
T3 1 x Broad-leaved Paperbark <i>Melaleuca quinquenervia</i>	Western side setback	10x7m
T4 1 x Lemon-scented Gum <i>Corymbia citriodora</i>	Western side setback	20x16m
T6 1 x Lemon-scented Gum <i>Corymbia citriodora</i>	Western side setback	18x12m
T7 1 x River She Oak <i>Casuarina cunninghamiana</i>	Rear, south-western corner next to building	15x7m
T14 1 x Lemon-scented Gum <i>Corymbia citriodora</i>	Front setback, planter bed adjacent to driveway	18x18m

Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Sensitive construction techniques including hand excavation, pier and beam, flexible location of piers/footings must be used within the TPZ of any protected tree. No roots greater than 40mm shall be cut.

All work within the TPZ of protected trees (including realignment of SW and utilities pits) shall be carried out using sensitive construction techniques including hand excavation, final location of pits shall be flexible to avoid cutting roots or further impacting trees, no roots greater than 40mm shall be cut.

Any canopy pruning shall be carried out by a AQ3 qualified arborist in accordance with AS4373. Only minor pruning shall be permitted, no more than 10% canopy shall be removed.

No stormwater or other services shall be directed through the TPZ of any protected tree.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Approval for Removal of Trees

C26. The following tree(s) are approved for removal in accordance with the development consent:

Street Tree that is acceptable to remove	Location	Height
1 x Chinese Tallowood Tree reference T17	Within the central road reserve, in front of No. 5-7 Lower Wycombe Road	4m

Trees that are acceptable to remove	Location	Height
T5 <i>Corymbia citriodora</i>	Western setback-5-7 Lower Wycombe Rd	9x2m
T8 <i>Casuarina cunninghamiana</i>	Southern setback-5-7 Lower Wycombe Rd	5x4m
T9 <i>Acacia implexa</i>	Southern setback-5-7 Lower Wycombe Rd	5x3m
T10-T13 <i>Casuarina cunninghamiana</i>	Southern setback-5-7 Lower Wycombe Rd	5x4m
T15 <i>Tristaniopsis laurina</i>	Front setback-5-7 Lower Wycombe Rd	6x5m
T17 <i>Sapium sebiferum</i>	Council verge in front of 5-7 Lower Wycombe Rd	8x9m
T18 <i>Melaleuca quinquenervia</i>	Front setback-5-7 Lower Wycombe Rd	10x9m
T20 Broad-leaved Paperbark <i>Melaleuca quinquenervia</i>	Front setback-5-7 Lower Wycombe Rd	9m
T21,T22 <i>Melaleuca quinquenervia</i>	Front setback-5-7 Lower Wycombe Rd	9x2m

Removal or pruning of any other tree on the site is not approved, excluding species exempt under Council's Tree Preservation Order.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Pruning of Trees

C27. All pruning works shall to the following tree(s) shall be undertaken under the guidance of an appropriately qualified arborist/tree surgeon in accordance with Australian Standard AS 4373-2007 - Pruning of Amenity Trees:

Trees	Location	Height
T1 <i>Corymbia citriodora</i>	NW corner 5-7 Lower Lower Wycombe Rd	20x16m
T2 <i>Corymbia citriodora</i>	Western setback-5-7 Lower Lower Wycombe Rd	15x7m
T3 <i>Melaleuca quinquenervia</i>	Western setback-5-7 Lower Lower Wycombe Rd	10x7m
T4 <i>Corymbia citriodora</i>	Western setback-5-7 Lower Lower Wycombe Rd	20x16m
T6 <i>Corymbia citriodora</i>	Western setback-5-7 Lower Lower Wycombe Rd	18x12m

T7 <i>Casuarina cunninghamiana</i>	Western setback-5-7 Lower Lower Wycombe Rd	15x7m
T14 <i>Corymbia citriodora</i>	Easten (front) setback-5-7 Lower Lower Wycombe Rd	18x18m

Only pruning as strictly detailed in section 8.3 (p32-33) of the Arborist Report prepared by Arborlogix dated 23/8/23 shall be permitted. No other canopy pruning to any tree shall be permitted, all scaffolding, access, and associated excavation and construction works shall be designed to minimise the need for any canopy pruning.

A report detailing the measures to be employed during construction shall be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate.

All measures required by the said report must be complied with at all times in the carrying out of the development.

(Reason: To ensure the protection and longevity of existing significant trees)

Amendments to the Landscape Plan

C28. The landscape plan referred to in Condition A1 must be amended as follows to provide an appropriate landscaped setting:

- The arborist requires that the booster and bin storage must be constructed above any roots of T1 (see p28 of report). Confirmation is required that this is what is proposed (via suspended slab or similar) and that no excavation for pipework or other shall be required within the TPZ of T1, T19, or any other protected tree shown for retention. Should such confirmation not be provided, the location of booster and bin storage shall be relocated outside the TPZ of any protected tree.
- An amended SW Plan that does not direct any pipework or associated works through the TPZ of any protected tree shall be prepared in consultation with a AQ5 qualified arborist for approval by council.
- The 9 x tree symbols shown on Landscape Plan prepared by Wyer & Co. dated 21/8/23 and referenced only as 'Native Trees' are assumed to be the *Tristaniopsis laurina* (75l) shown in the plant schedule. Confirmation of this is required and shall be shown on drawings. All these trees shall be the cultivar 'Luscious' rather than the straight species, and the replacement street tree shall be 150l (min) rather than the 75l indicated. An additional *T. laurina* 'Luscious' (75l) shall be planted in the southwestern setback of the subject site, to the east of that shown in this location.
- 2 x *Corymbia maculata* (75l) shall be included within the western setback amongst the existing *Corymbia citriodora* and replacement *T. laurina* shown.

An amended landscape plan complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the amended landscape plan and other plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure residential amenity)

Root Mapping

C29. Non-invasive/non- destructive root mapping is to be undertaken within the tree protection zone (TPZ) (identified as per AS4970-2009) of any protected tree to determine the size and depth of the tree roots prior to the design of any excavation or construction works within the TPZ.

Root mapping is to be undertaken under the direct supervision of an AQF level 5 arborist. The said consulting/ project arborist is to prepare a written report, with images, addressing the following:

- a. describing the results of the root mapping;
- b. providing an assessment of potential tree impacts of the excavation; and
- c. making recommendations of protection measures to be implemented for the duration of excavation and construction activity to ensure the ongoing health and viability of the tree.

The report is to be provided to the Certifying Authority for approval (with a copy provided to Council) prior to the issue of any Construction Certificate. Plans and Specifications submitted to the Certifier for approval must comply with the recommendations of the arborist report referred to in this condition, and the development must be carried out in accordance with the said report.

(Reason: To ensure the protection of significant trees)

Garbage and Recycling Facilities

C30. An appropriate area must be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises. The following requirements must be met:

- a) all internal walls of the storage area must be rendered to a smooth surface, covered at the floor/wall intersection, graded and appropriately drained with a tap in close proximity to facilitate cleaning;
- b) provision for the separation and storage in appropriate categories of material suitable for recycling;
- c) the storage area must be adequately screened from the street, with the entrance to the enclosures no more than 2m from the street boundary of the property;

- d) if a storage facility is to be provided at another suitable location within the building, a complementary garbage bin holding bay must be provided no more than 2m from the street boundary of the property;
- e) garbage enclosures serving residential units are not to be located within areas designated for non-residential uses; and
- f) garbage enclosures serving non-residential uses are not to be located within areas designated for dining purposes.

Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate.

The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Note: The applicant may wish to discuss bin storage requirements and location with Council's Environmental Services prior to finalisation of the required detail, and a copy of Council's Waste Handling Guide should be obtained for reference purposes before the design is finalised.

(Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste by collection contractors)

Asbestos and Hazardous Material Survey

- C31. A report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Principal Certifier as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure that the report, and other plans, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

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

Storage of Hazardous or Toxic Material

C32. To ensure hazardous and toxic materials are not a threat to the environment they must be stored in accordance with WorkCover Authority requirements. All tanks, drums and containers of toxic and hazardous materials must be stored in a bunded area. The bund walls and floors must be constructed of impervious materials and are to be of sufficient size to contain 110% of the volume of the largest tank plus the volume displaced by any additional tanks within the bunded area.

Plans and specifications complying with this condition must be submitted to the Principal Certifier for Approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure the environmental health and safety of the public and workers)

Location of Plant

C33. All plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement of the building and is not to be located on balconies or the roof. Plans and specifications complying with this condition must be submitted to the Principal Certifier for Approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Minimise impact on surrounding properties, improved visual appearance and amenity for locality)

Noise from Plant and Equipment

C34. The use of all plant and equipment installed on the premises must not:

(a) Contribute an LAeq (15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver. The modifying factor adjustments in Section 4 of the EPA Noise Policy for Industry 2017 shall be applied.

(b) Cause “offensive noise” as defined in the *Protection of the Environment Operations Act 1997*.

“affected receiver” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship and parks and such other affected receiver as may be notified by the Council in writing.

“boundary” includes any window or elevated window of an affected receiver.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Noise Policy for Industry published by the NSW Environment Protection Authority.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

Vibration from Plant and Equipment

C35. The use of all plant and equipment to be installed on the premises must comply with the vibration limits specified in “Assessing Vibration: a technical guideline” issued by the NSW Environment Protection Authority, at the boundary of any affected receiver.

A certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants must be submitted to the Principal Certifier, certifying that all plant and equipment on the site, together with the proposed plant and equipment, operating contemporaneously will comply with the requirements of this condition.

The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

“affected receiver” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship and commercial premises and such other affected receiver as may be notified by the Council in writing.

“boundary” includes any window or elevated window of an affected residence.

“contemporaneously” means *existing at or occurring in the same period of time* (Macquarie Dictionary 3rd rev. ed. 2004).

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

Air Conditioners in Residential Premises

C36. The use of any air conditioner installed on the premises must comply with the requirements of the Protection of the Environment Operations (Noise Control) Regulations 2017 and State Environmental Planning Policy (Infrastructure) 2007 and must not:

- (a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
 - (i) before 8.00am and after 10.00pm on any Saturday, Sunday or Public Holiday; or
 - (ii) before 7.00am or after 10.00pm on any other day
- (b) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Noise Policy for Industry 2017 will be applied.

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Noise Policy for Industry published by the NSW Environment Protection Authority.

(Reason: To maintain residential amenity)

Swimming Pool Pumps on Residential Premises

C37. The Principal Certifier must be satisfied that the swimming pool pump to be installed on the premises must not:

- a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
 - (i) before 8.00am and after 8.00pm on any Sunday or Public Holiday; or
 - (ii) before 7.00am or after 8.00pm on any other day
- b) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Noise Policy for Industry 2017 shall be applied.

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals .

“boundary” includes any window or elevated window of an affected residence.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Noise Policy for Industry published by the NSW Environment Protection Authority.

Details demonstrating compliance with the requirements of this condition must be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

(Reason: To maintain residential amenity)

Acoustic Privacy (Residential Apartments)

C38. Noise levels in sole occupancy units of residential apartments must not exceed the following:

Location	Maximum
Habitable Rooms other than Sleeping Areas	40 LAeq (1hr)
Sleeping Areas	35 LAeq (1hr)

The “Maximum” limits are to apply in any hour of a 24-hour period with the windows of the sole occupancy unit closed.

“habitable room” has the same meaning as in the National Construction Code.

A floor separating sole occupancy units shall have a weighted standardised impact sound pressure level $L'_{nT,w}$ not more than 55dB when measured in-situ in accordance with AS ISO 140.7-2006 “Field measurements of impact sound insulation of floors” and rated to AS ISO 717.2-2004 “Rating of sound insulation in buildings and of building elements. Part 2: Impact sound insulation.” This clause shall not apply to the floor of a kitchen, bathroom, toilet or laundry in a residential sole occupancy unit.

Mechanical equipment such as lift plant, air conditioning plant servicing the building and pumps shall not be located immediately adjacent bedrooms.

A statement from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, certifying that the acoustic mitigation measures outlined above have been satisfied, must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate.

(Reason: To comply with best practice standards for residential acoustic amenity)

Construction Noise Management Plan

C39. A Construction Noise Management Plan must be prepared by an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, and must include the following:

- (a) Identification of noise affected receivers near to the site.
- (b) A prediction as to the level of noise impact at noise affected receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite.
- (c) Details of work schedules for all construction phases.
- (d) A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the Environment Protection Authority's Construction Noise Guideline.
- (e) Representative background noise levels should be submitted in accordance with the ICNG.
- (f) Confirmation of the level of community consultation that is to be undertaken by occupants at noise affected receivers likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- (g) Confirmation of noise monitoring methodology that is to be undertaken during the noise intensive stages of work including details of monitoring to be undertaken at the boundary of any noise affected receiver.
- (h) What course of action will be undertaken following receipt of a complaint concerning offensive noise?
- (i) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupants at noise affected receivers.
- (j) Details of selection criteria for any plant or equipment that is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on occupants at noise affected receivers and other less intrusive technologies available; and
- (k) Details of site induction to be carried out for all employees and contractors undertaking work at the site.

"affected receiver" includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship, commercial premises and parks and such other affected receiver as may be notified by the Council in writing.

"boundary" includes any window or elevated window of an affected residence.

The Construction Noise Management Plan must be submitted to the Principal Certifier and a copy provided to Council prior to the issue of the Construction Certificate.

(Reason: To ensure noise generating activities are appropriately managed and nearby sensitive receivers protected)

Provision of Accessible Paths of Travel

C40. The building must be designed and constructed to provide access and facilities in accordance with the National Construction Code and Disability (Access to Premises - Buildings) Standards 2010. Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Notes:

1. If, in complying with this condition, amendments to the development are required, the design changes must be submitted for the approval of Council prior to a Construction Certificate being issued. Approval of a modification application may be required.
2. It is not within Council's power to set aside National legislation which requires the upgrade of buildings to meet modern access standards. Such decisions remain the jurisdiction of the Building Professionals Board Access Advisory Committee who may grant an exemption in certain exceptional circumstances.
3. Information on making an application for an "unjustifiable hardship exemption" under the accessibility standards can be found on the website of the NSW Building Professional Boards at <http://www.bpb.nsw.gov.au/page/premises-standards>.

(Reason: To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards)

Underground Electricity and Other Services

C41. (a) All electricity and telecommunication provision to the site is to be designed in conjunction with Ausgrid and any other relevant authority so that it can be easily connected underground when the street supply is relocated underground. Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To provide infrastructure that facilitates the future improvement of the streetscape by relocation of overhead lines below ground)

Adaptable Housing

C42. A minimum of two (2) x apartments are to be designed such that these are capable of being adapted and modified with accessible features for disabled persons and must incorporate level entries and wider doorways and corridors, slip resistant surfaces, reachable power points, disabled toilet, and lever door handles and taps. These features are to be designed generally in accordance with the relevant Australian Standard 4299-1995. Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure equity of access and availability of accommodation in the future for an ageing population)

Pool Access

C43. Access to the pool must be restricted by a child resistant barrier in accordance with the regulations prescribed in the Swimming Pools Act 1992, and the barrier is to conform to the requirements of the applicable Australian Standard. Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the safety of children and make applicant aware of the need to comply with applicable pool fencing legislation)

Swimming Pool Water to Sewer

C44. The swimming pool, including overflow water, must be drained to the sewer. The consent of Sydney Water to dispose of wastewater must be obtained prior to the issue of the relevant Construction Certificate. Plans and specifications complying with this condition and any conditions/ requirements of Sydney Water must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully comply with this condition and any conditions/ requirements imposed by Sydney Water.

(Reason: Water from a swimming pool is classified as wastewater and cannot be legally disposed of into the stormwater system)

Pool Filter

C45. The pool filtering equipment must be encased by a soundproof cover and must be located six (6) metres from any habitable room in a dwelling on a neighbouring property. Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure noise generated by equipment does not result in offensive noise)

Section 7.12 Contributions

C46. A monetary contribution pursuant to the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979 is to be paid to Council, in accordance with the North Sydney Council's Contribution Plan, to provide for local infrastructure improvements.

Based on the cost of development at the date of determination, the total contribution payable to Council is **\$131,033.39**.

Indexation

The monetary contribution required under this consent will be indexed between the date of the grant of the consent and the date on which the contribution is paid the time of payment in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

Timing of Payment

The contribution must be paid to Council prior to issue of any Construction Certificate for any work approved by this consent.

A copy of the North Sydney Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at www.northsydney.nsw.gov.au.

(Reason: To provide for local infrastructure identified in the North Sydney Council Local Contributions Plan 2020)

Security Deposit/Guarantee Schedule

C47. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Bond for Damage and Completion of Infrastructure Works	\$20,000.00
Tree Bond	\$27,500.00
TOTAL BONDS	\$42,500.00

Note: The following fees applicable

Fees	
Section 7.12 Contributions	\$131,033.39
TOTAL FEES	\$131,033.39

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

BASIX Certificate

C48. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2021, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. A401448, dated 17 December 2021 for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

Outdoor Lighting C85

C49. All outdoor lighting must comply with, where relevant AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282:1997 Control of the Obtrusive Effects of Outdoor lighting. Details demonstrating compliance with these requirements must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To maintain the amenity of adjoining land uses)

Noise Management Plan - Construction Sites (Large DAs only)

C50. A noise management plan prepared by an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate.

The plan must include, but not be limited to, the following:

- a) identify sensitive locations near the site;
- b) identify potential impacts (i.e., exceedence of the goals at the identified locations);
- c) identify mitigation measures to control noise and vibration from the site, the reduction in noise and vibration likely and the feasibility and reasonableness of these measures;
- d) selection criteria for plant and equipment;
- e) community consultation;
- f) details of work schedules for all construction phases;
- g) selection of traffic routes to minimise residential noise intrusion;
- h) schedule of plant and equipment use and maintenance programs;
- i) noise monitoring techniques and method of reporting results;
- j) the methodology to be employed for handling and investigating any complaints should they arise;
- k) site induction details for employees and contractors; and
- l) a declaration of available technologies and the reason for the selection of the preferred technology from a noise generating perspective should be included.

The approved plan must be complied with at all times.

(Reason: To maintain appropriate amenity to nearby occupants)

Telecommunication Infrastructure Provision

C51. Prior to the issue of the Subdivision or Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Principal Certifier that arrangements have been made for:

- (i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose, and
- (ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

All such facilities shall be underground if within or visible from a current or future public place.

Note: Real estate development project has the meanings given in section 372Q of the Telecommunications Act.

(Reason: To ensure that modern telecommunications infrastructure is provided in respect of all premises to be constructed in developments)

D. Prior to the Commencement of any Works (and continuing where indicated)

Rock Outcrops and Aboriginal Heritage

- D1. Any natural rock outcrops within the foreshore area must be retained and protected at all times. This consent does not grant approval for removal/extraction or demolition/destruction of any rock outcrops.

Any recommendations provided in the Aboriginal Due Diligence Report, prepared by Artefact (Gareth Holes) (dated 22 August 2023) must be implemented prior to commencement of works.

(Reason: To retain natural features within the site and to minimise potential risk of damage and impacts on undiscovered Aboriginal items and objects)

Protection of Trees

- D2. All trees that are specifically nominated to be retained by notation on plans or by condition as a requirement of this consent must be maintained and protected during demolition, excavation and construction on the site in accordance with AS4970-2009 (Protection of trees on development sites). A report containing recommendations, and methods of tree protection prepared by an appropriately qualified person must be provided to the Principal Certifier for approval by an appropriately qualified person prior to commencement of any works on the site. Any recommendations must be undertaken for the duration of works on the site.

(Reason: To ensure compliance with the requirement to retain significant planting on the site)

Project Arborist Engaged

D3. A qualified and practicing Arborist is to be engaged to oversee all construction work, and must attend the site in conjunction with the following:

- The project arboriculturist shall inspect tree protection measures and certify in writing to the Principal Certifying Authority the measures comply with the approved Tree Protection Plan and as directed by the project arboriculturist before work commences.
- The project arboriculturist shall provide guidance and oversight of tree protection and management to ensure that the stability and ongoing viability of trees being retained is not compromised.
- The project arboriculturist must contact the tree pruning contractor and Council's Tree Management Officer (giving at least 2 working days' notice) to arrange a joint site meeting, prior to commencing any pruning, to determine the exact location and extent of pruning that is permissible, with the tree pruning contractor to comply with any instructions issued by Council, acting reasonably.
- Any pruning must be undertaken by a practicing arborist with a minimum Australian Qualification Framework Level 3 in arboriculture, in accordance with the principles of the Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and the NSW Work Cover Code of Practice for the Amenity Tree Industry (1998), as well as any instructions issued on site by Council, acting reasonably.
- The practicing arborist must keep a log of dates and times of when they attended the site, the type of works that were performed, and must form part of the certification required prior to Occupation.

(Reason: Tree protection measures)

Protection of Public Trees

D4. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

SCHEDULE

Tree	Location	Protection
T16 <i>Tristaniopsis laurina</i> -8x12m	Council verge in front of 5-7 Lower Wycombe Rd	1.8m high steel mesh tree protection fencing. Trunk, branch & root protection as required.
T19 <i>Sapium sebiferum</i> -5x5m	Council verge in front of 3 Lower Wycombe Rd	1.8m high steel mesh tree protection fencing

Trunk protection to be installed by first wrapping the stem of the tree in hessian or like material then strapping timber battens over the top. It is recommended that timber battens with the dimensions of length 2000mm, width 75mm and depth 50mm are used. The battens are not to be directly screwed or nailed into the tree.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Protection of existing environmental and community assets)

Temporary Fences and Tree Protection

- D5. All protected trees on-site that are specifically nominated to be retained by notation on plans or by any other condition as a requirement of this consent must be tagged with luminous tape or the like for purposes of identification prior to demolition, excavation or construction works and must remain so for the duration of works on the site. No materials or builder's waste are to be stored in the vicinity of the nominated tree/trees at any time.

Appropriate fencing or barricades in accordance with AS4970-2009 (Protection of trees on development sites), not less than the distance shown in the schedule hereunder, must be installed to the satisfaction of the Principal Certifier prior to demolition or commencement of any works and must be maintained for the duration of the works:

(Reason: To protect the trees to be retained on the site during construction works)

Archaeological Survey

- D6. An archaeological survey must be conducted of the site prior to the commencement of any demolition, earthworks or excavation on site. The survey and a report of the findings must be submitted to the Principal Certifier for approval prior to the issue of any construction certificate and prior to the commencement of any works on the site.

The survey and report must be carried out by an appropriately qualified person (Heritage Planner, Archaeologist or the like) and must identify the likelihood of remains and/or artefacts, whether European or Aboriginal, being present on site. A copy of the survey and report must be provided to Council if it is not the Principal Certifier.

If the report identifies that such items are likely to be on site, then demolition, earthworks and excavation must be undertaken under the direct supervision of an appropriately qualified archaeologist. A permit under the provisions of the Heritage Act 1977 or the National Parks and Wildlife Act 1974 may also be required to be obtained.

In the event that archaeological deposits or artefacts are found during the progression of works on the site, all works are to cease.

Archaeological deposits and artefacts discovered during demolition, earthworks or excavation must be photographed, catalogued by location and description and stored and preserved in a place agreed to by Council.

Disposal of the archaeological deposits and artefacts must only occur in consultation with, and subject to the agreement of, Council's Historian.

(Reason: To ensure the proper management of historical artefacts and ensure their heritage preservation)

Public Liability Insurance - Works on Public Land

D7. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

(Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.)

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

Notification of New Address Developments

D8. Prior to the commencement of any building works, an application must be made and written confirmation received from North Sydney Council of the allocated street address (house number) and/or unit numbers of the completed project.

To assist Council, a plan for unit numbering should be submitted for concurrence. These details will be recorded in Council records and must be displayed at the property in accordance with the provisions of the applicable Australian Standard relating to rural and urban addressing. A copy of the allocation confirmation must be submitted to the Principal Certifier with the application for a Construction Certificate.

(Reason: To ensure that Council records are accurate, and that house numbering complies with the requirements of Council's House Numbering Policy. Proper house numbering also assists emergency services in readily locating properties)

Sydney Water Approvals

D9. Prior to the commencement of any works, the approved plans must be submitted to Sydney Water to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Principal Certifier must ensure that Sydney Water has appropriately stamped the plans before the commencement of building works.

Notes:

- **Sydney Water Building Plan Approvals** can be obtained from the Sydney Water Tap in™ online service. Building plans must be submitted to the Tap in™ to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. For further information visit <http://www.sydneywater.com.au/tapin/index.htm> or call 13 000 TAP IN (1300 082 746) for further information.

(Reason: To ensure compliance with Sydney Water requirements)

Asbestos Material Survey

D10. Prior to the commencement of any works, a report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Principal Certifier as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure that the report, and other plans, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

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

Commencement of Works Notice

- D11. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two days' notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

(Reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

E. *During Demolition and Building Work*

Works Within Reclaimed Area

- E1. Effective sediment and erosion controls including fencing and traps must be installed within the site boundaries, prior to starting any works within the reclaimed land. Any controls must be designed to ensure all stockpiles/materials and litter/waste matter are contained within the premises at all times.

No disposal of sediment laden water, chemicals or any form of contamination of the adjoining foreshore, waterway and public land (Hayes Street Beach) shall occur at any time. Should pollution of such areas occur, all works must stop immediately and Council's Environmental Health Team shall be notified. Any remediation/corrective actions required by Council must be undertaken prior to commencement of works.

(Reason: Appropriate management of waste and stormwater runoff and minimal impacts to foreshore/waterway and public land)

Reuse of Sandstone

- E2. Sandstone blocks (if any) removed from the site are to be either stored for re-use on site or offered to Council in the first instance.

Note: The provisions of the Heritage Act may also apply to altering any sandstone elements on any site.

(Reason: To allow for preservation of cultural resources within the North Sydney Council area)

Parking Restrictions

- E3. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerbside parking provisions are not compromised during works)

Road Reserve Safety

- E4. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

Where public infrastructure is damaged, repair works must be carried out in when and as directed by Council officers (at full Developer cost). Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

(Reason: Public Safety)

Temporary Disposal of Stormwater Runoff

- E5. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Principal Certifier.

(Reason: Stormwater control during construction)

Geotechnical Stability during Works

- E6. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure.

Geotechnical aspects of the development work, namely appropriate excavation method and vibration control, support and retention of excavated faces, and hydro geological considerations must be undertaken in accordance with the recommendations of the Geotechnical Engineer and all subsequent geotechnical inspections carried out during the excavation and construction phase.

Approval must be obtained from all affected property owners, including North Sydney Council where rock anchors (both temporary and permanent) are proposed below adjacent private or public property.

(Reason: Ensure appropriate professional are engaged at appropriate stages during construction)

Council Inspection of Public Infrastructure Works

- E7. During the works on public infrastructure reverting to Council's care and control, Council's development engineer may undertake inspections of the works at the following hold points:
- a) Formwork for layback, kerb/gutter, footpath, etc.;
 - b) All reinforcement for the concrete base beneath pavers;
 - c) Formwork and reinforcement for in-situ stormwater pits; and
 - d) Pipe connections prior to back filling.

All works must proceed in accordance with Roads Act 1993 approvals or other permits relating to roads issued by Council. A minimum of 48 hours' notice must be given to Council to book an inspection. Work must not proceed until the works or activity covered by the inspection is approved.

(Reason: To ensure quality of construction joints and connections in the drainage system)

Progress Survey

- E8. In order to ensure compliance with approved plans, a Survey Certificate, prepared to Australian Height Datum, must be prepared by a Registered Surveyor showing the following:
- a) at the completion of excavation, prior to the placement of any footings, showing the completed level of the excavation and its relationship to the boundaries;

- b) prior to placement of concrete at the ground floor level, showing the level of the form work and its relationship to boundaries including relevant footpath and roadway levels;
- c) prior to placement of concrete at each fifth-floor level showing the principal level of the formwork and the intended relationship of the completed works to the boundary;
- d) prior to roofing, or completion of the highest point of the building showing the anticipated level of the completed work and its relationship to the boundary; and
- e) at completion, works showing the relationship of the building to the boundary and showing the maximum height of the overall works and the height of the principal roof elements.

Progress certifications in response to points (a) through to (e) must be provided to the Principal Certifier for approval at the time of carrying out relevant progress inspections. In the event that such survey information is not provided or reveals discrepancies between the approved plans and the proposed works, all works, save for works necessary to bring the development into compliance with the approved plans, must cease. Works may only continue upon notification by the Principal Certifier to the Applicant that survey information (included updated survey information following the carrying out of works to comply with the approved plans) complies with this condition.

(Reason: To ensure compliance with approved plans)

Dust Emission and Air Quality

E9. The following must be complied with at all times:

- (a) Materials must not be burnt on the site.
- (b) Vehicles entering and leaving the site with soil or fill material must be covered.
- (c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction.
- (d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Noise and Vibration

E10. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Compliance with Construction Noise Management Plan

E11. All works conducted on site which form part of this development must be carried out in accordance with the submitted Construction Noise Management Plan submitted with the Construction Certificate and all conditions of consent.

(Reason: To ensure noise generating activities are appropriately managed and nearby sensitive receivers protected)

No Work on Public Open Space

E12. No work can be undertaken within adjoining public lands (ie. Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the developer is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

(Reason: Protection of existing public infrastructure and land and to ensure public safety and proper management of public land)

Applicant's Cost of Work on Council Property

E13. The applicant must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

(Reason: To ensure the proper management of public land and funds)

No Removal of Trees on Public Property

E14. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

(Reason: Protection of existing environmental infrastructure and community assets)

Protection of Trees

E15. All trees required to be retained, as part of this consent must be protected from any damage during construction works in accordance with AS4970-2009. All recommendations contained within the Arborist Report prepared by Arborlogix dated 23/8/23 must be implemented for the duration of the works.

In the event that any tree required to be retained is damaged during works on the site, notice of the damage must be given to Council forthwith.

Notes:

- a. If the nominated tree is damaged to a significant degree or removed from the site without prior written approval being obtained from Council, the issuing of fines or legal proceedings may be commenced for failure to comply with the conditions of this consent.
- b. An application to modify this consent pursuant to Section 4.55 of the Environmental Planning and Assessment Act 1979 will be required to address the non-compliance with any of the conditions of consent relating to the retention of nominated trees, and Council may require tree replenishment.

(Reason: Protection of existing environmental infrastructure and community assets)

Trees to be Removed

- E16. All trees on the site must be protected and retained save for those expressly identified below as being approved for removal: -

Trees that are acceptable to remove	Location	Height
T5 <i>Corymbia citriodora</i>	Western setback-5-7 Lower Wycombe Rd	9x2m
T8 <i>Casuarina cunninghamiana</i>	Southern setback-5-7 Lower Wycombe Rd	5x4m
T9 <i>Acacia implexa</i>	Southern setback-5-7 Lower Wycombe Rd	5x3m
T10-T13 <i>Casuarina cunninghamiana</i>	Southern setback-5-7 Lower Wycombe Rd	5x4m
T15 <i>Tristaniopsis laurina</i>	Front setback-5-7 Lower Wycombe Rd	6x5m
T17 <i>Sapium sebiferum</i>	Council verge in front of 5-7 Lower Wycombe Rd	8x9m
T18 <i>Melaleuca quinquenervia</i>	Front setback-5-7 Lower Wycombe Rd	10x9m
T21,T22 <i>Melaleuca quinquenervia</i>	Front setback-5-7 Lower Wycombe Rd	9x2m

(Reason: To ensure compliance with the terms of this development consent)

Special Permits

- E17. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

The developer, owner or builder may apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property. In the event that a permit is granted by Council for the carrying out of works, processes, storage of materials, loading and unloading associated with the development on Council's property, the development must be carried out in accordance with the requirements of the permit. A minimum of forty-eight (48) hours notice is required for any permit: -

1) **On-street mobile plant**

Eg. cranes, concrete pumps, cherry-pickers, etc. - restrictions apply to the hours of operation, the area of operation, etc. Separate permits are required for each occasion and each piece of equipment. It is the developer's, owner's and builder's responsibilities to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

(Reason: Proper management of public land)

2) **Hoardings**

Permits are required to erect Class A and Class B hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

(Reason: Proper management of public land)

3) **Storage of building materials and building waste containers (skips) on Council's property**

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given. Storage of building materials and waste containers on open space reserves and parks is prohibited.

(Reason: Proper management of public land)

4) **Kerbside restrictions, construction zones**

Attention is drawn to the existing kerbside restrictions adjacent to the development. Should alteration of existing kerbside restrictions be required, or the provision of a construction zone, the appropriate application must be made and the fee paid to Council. Alternatives to such restrictions may require referral to Council's Traffic Committee and may take considerable time to be resolved. An earlier application is suggested to avoid delays in construction programs.

(Reason: Proper management of public land)

Construction Hours

E18. Construction activities and works approved under this consent must be carried out only within the hours stipulated in the following table:

Standard Construction Hours		
Location	Day	Hours
All other zones	Monday - Friday	7.00 am - 5.00 pm
	Saturday	8.00 am - 1.00 pm
	Sunday Public holiday	No work permitted

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above and any Construction Noise Management Plan required under this consent.

In the event of breach to the approved hours of construction Council take may take enforcement action under Part 9 of the EP&A Act 1979 and in accordance with Council's adopted Compliance & Enforcement Policy.

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

Out-of-hours' Work Permits

E19. Where it is necessary for works to occur outside those hours allowed by these conditions, an application may be made to Council's Customer Services Centre for a permit to carry out works outside of the approved hours. If a permit is issued the works approved must be carried out in accordance with any requirements specified in the permit. Permits will only be approved if **public safety is at risk**. Applications which seek a variation to construction hours solely to benefit the developer will require the lodgement and favourable determination of a modification application pursuant to the provisions of Section 96 of the Environmental Planning and Assessment Act 1979.

Notes:

- 1) Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued, or Council pursuing any action required (including legal proceedings) to have the out of hours work cease, without prior warning.
- 2) Applications for out of hour's works should be lodged with Council no later than seven (7) calendar days prior to the date of the intended works.
- 3) Examples of activities for which permits may be granted include:
 - the erection of awnings,
 - footpath, road and other infrastructure works which cannot be carried out for public convenience reasons within normal hours,
 - the erection and removal of hoardings and site cranes, and

- craneage of materials which cannot be done for public convenience reasons within normal working hours.
- 4) Examples of activities for which permits WILL NOT be granted include;
- extended concrete pours
 - works which are solely to convenience the developer or client, and
 - catch up works required to maintain or catch up with a construction schedule.
- 5) Further information on permits can be obtained from the Council website at www.northsydney.nsw.gov.au.

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

Installation and Maintenance of Sediment Control

E20. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and erosion control plan submitted and approved with the Construction Certificate.

Erosion and sediment measures must be maintained in accordance with the publication Managing Urban Stormwater: Soils & Construction (4th edition, Landcom, 2004), commonly referred to as the “Blue Book” and can only be removed when development activities have been completed and the site fully stabilised.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Sediment and Erosion Control Signage

E21. A durable sign must be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained. A sign of the type referred to in this condition is available from Council.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Site Amenities and Facilities

E22. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of work place determines the type of amenities required.

Further information and details can be obtained from the Internet at www.workcover.nsw.gov.au

(Reason: To ensure the health and safety of the community and workers on the site)

Health and Safety

- E23. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site and provide a contact telephone number for enquiries.

Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the internet at www.workcover.nsw.gov.au

(Reason: To ensure the health and safety of the community and workers on the site)

Community Information

- E24. Reasonable measures must be undertaken at all times to keep nearby residents informed about the proposed work, such as by way of signs, leaflets, public meetings and telephone contact numbers, to ensure that adjoining residents are aware of the likely duration of the construction works on the site

(Reason: To ensure that residents are kept informed of activities that may affect their amenity)

Archaeological Discovery During Works

- E25. Should any historical or Aboriginal relic be discovered on the site during demolition, excavation or site preparatory works, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW must be informed in accordance with the provisions of the Heritage Act 1977 and/or National Parks and Wildlife Act, 1974. Works must not recommence until such time as approval to recommence is given in writing by Council or a permit from the Director of the NPWS is issued.

(Reason: To prevent the unnecessary destruction or removal of unrecorded historical or Aboriginal relics)

Prohibition on Use of Pavements

- E26. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

(Reason: To ensure public safety and amenity on public land)

Plant and Equipment Kept Within Site

- E27. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction zones and the like are available on Council's website at www.northsydney.nsw.gov.au.

(Reason: To ensure public safety and amenity on public land)

Imported Fill Material

- E28. The only waste derived fill material that may be received at the development site is: -
- a) Virgin excavated natural material (within the meaning of the Protection of the Environment Operations Act 1997); and
 - b) Any other waste-derived material the subject of a resource recovery exemption under cl. 51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.

Any waste-derived material the subject of a resource recovery exemption received at the development site, must be accompanied by documentation as the material's compliance with the exemption conditions and must be provided to the Principal Certifier on request.

(Reason: To ensure that imported fill is of an acceptable standard for environmental protection purposes)

Waste Disposal

- E29. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

(Reason: To ensure the lawful disposal of construction and demolition waste)

Asbestos Removal

E30. All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission.

(Reason: To ensure works are carried out in accordance with relevant WorkCover requirements)

F. *Operational Conditions imposed under EP&A Act and Regulations and other relevant Legislation*

National Construction Code

F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

Home Building Act

F2. 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) for which the *Home Building Act 1989* requires there to be a contract of insurance under Part 6 of that Act must not be carried out unless the Principal Certifier for the development to which the work relates has given North Sydney Council written notice of the contract of insurance being issued and of the following:

a) in the case of work for which a principal contractor is required to be appointed:

- i) the name and licence number of the principal contractor, and
- ii) the name of the insurer by which the work is insured under Part 6 of that Act, or

(b) in the case of work to be done by an owner-builder:

- (i) the name of the owner-builder, and
- (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

- 2) If arrangements for doing residential building work are changed while the work is in progress such that the information submitted to Council in accordance with this conditions is out of date, work must cease and no further work may 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.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifier (PCA)

- F3. Building work, demolition or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifier for the building work in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Construction Certificate

- F4. Building work, demolition or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Occupation Certificate

- F5. A person must not commence occupation or use of the whole or any part of a new building (*new building* includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifier appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

Critical Stage Inspections

F6. Building work must be inspected by the Principal Certifier on the critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed Principal Certifier.

(Reason: Statutory)

Commencement of Works F7

F7. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two (2) days' notice to North Sydney Council of the person's intention to commence the erection of the building .

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Excavation/Demolition

- F8. 1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- 2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- 3) Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

(Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage)

Protection of Public Places

- F9. 1) A hoarding and site fencing must be erected between the work site and adjoining public place.
- 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 4) Any such hoarding, fence or awning is to be removed when the work has been completed.

- 5) No access across public reserves or parks is permitted.

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained. Any application needs to be accompanied by plans indicating the type of hoarding and its layout. Fees are assessed and will form part of any approval given. These fees must be paid prior to the approval being given. Approval for hoardings will generally only be given in association with approved building works, maintenance or to ensure protection of the public. An application form for a Hoarding Permit can be downloaded from Council's website.

(Reason: To ensure public safety and the proper management of public land)

Site Sign

- F10. 1) A sign must be erected in a prominent position on the site
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - c) showing the name, address and telephone number of the Principal Certifier for the work.
- 2) Any such sign must be maintained while building work or demolition work is being carried out but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

G. Prior to the Issue of an Occupation Certificate

Infrastructure Repair and Completion of Works

- G1. Prior to the issue of any Occupation Certificate any and all works relating to the development:
- a. in the road reserve must be fully completed; and
 - b. to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of Public assets)

Line Marking

- G2. A certificate prepared by an appropriately qualified and practising Civil Engineer certifying the construction, paving, line marking and signposting of all off-street carparking spaces, together with access driveways, in accordance with the approved development plans, appropriate Australian Standards and industry best practice as appropriate must be submitted to, and approved by, the Certifying Authority prior to issue of any Occupation Certificate.

(Reason: To ensure ongoing compliance with this development consent and Australian Standards relating to manoeuvring and access of vehicles)

Access to Premises

- G3. Prior to the issue of any Occupation Certificate, a certificate must be prepared an appropriately qualified and practising Civil Engineer certifying that access and facilities for persons with a disability in accordance with the Building Code of Australia and AS Disability (Access to Premises - buildings) Standards 2010 (Premises Standards) has been provided. This certificate must be submitted to, and approved by, the Certifying Authority prior to issue of the Occupation Certificate.

(Reason: Equitable access and facilities for people with a disability)

Noise Certification

- G4. Prior to issue of the any Occupation Certificate a certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants is to be submitted to, and approved by, the Certifying Authority certifying that the noise and vibration from use of the development complies with the conditions of consent herein.

(Reason: To ensure acoustic amenity)

Certification - Civil Works

- G5. a) An appropriately qualified and practising Civil Engineer must certify to the Certifying Authority that the stormwater drainage system is constructed in accordance with this consent and the provisions of the applicable Australian Standard. A copy of the certificate must be submitted to Council (if it is not the Certifying Authority) upon completion of the development works and prior to the issue of an Occupation Certificate.

- b) An appropriately qualified and practicing Civil Engineer must certify to the Certifying Authority that the vehicular crossing and associated works and road works were constructed in accordance with this consent and any approval for works in the road reserve issued by the Council. A copy of the certificate must be submitted to Council (if it is not the Certifying Authority), upon completion of the development works and prior to the issue of an Occupation Certificate.

(Reason: Compliance with the Consent)

Works as Executed Drawings and Video

- G6. A works-as-executed survey drawing (W.A.E.) of the completed stormwater drainage system must be obtained. The W.A.E. survey drawing must show the alignment, depth and grade of the stormwater drainage pipelines, pits and ancillary plumbing. The W.A.E. survey drawing must be reviewed by a qualified and practising civil engineer and certification provided to the Certifying Authority that the as-built system achieves the design intent of the plans approved with the Construction Certificate. Certification must be provided with the W.A.E. survey drawing to the Certifying Authority prior to the issue of an Occupation Certificate.

A copy of the W.A.E. survey drawing and certification must be submitted to the Council if it is not the Certifying Authority.

(Reason: Compliance with the Consent)

Pool Access

- G7. Access to the pool must be restricted by a child resistant barrier in accordance with the regulations prescribed in the Swimming Pools Act 1992, and the requirements of the applicable Australian Standard. The pool must not be filled with water or be allowed to collect stormwater until the installation of the child resistant barrier is completed. Certification from an appropriately qualified person confirming compliance with these requirements must be provided prior to the issuing of any Occupation Certificate.

(Reason: To ensure that any person acting upon this consent is aware of their obligations under the provisions of the Swimming Pools Act)

Pool Safety Requirements

- G8. A notice must be displayed in a prominent position in the immediate vicinity of the pool at all times showing:
- a) Appropriate instructions of artificial resuscitation methods.
- b) A warning stating:

- (i) "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL," and
- (ii) "POOL GATES MUST BE KEPT CLOSED AT ALL TIMES," and
- (iii) "KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900 MILLIMETRES CLEAR OF THE POOL FENCE AT ALL TIMES."

Details demonstrating compliance are to be provided with any Occupation Certificate issued for the pool.

This notice must be kept in a legible condition and at the poolside.

(Reason: To ensure an adequate level of safety for young pool users)

Certification for Mechanical Exhaust Ventilation

- G9. Prior to issue of an Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2(a)(iii) of the Building Code of Australia, must be submitted to, and approved by, the Certifying Authority.

(Reason: To ensure compliance with acceptable standards for the construction and operation of mechanical plant)

Damage to Adjoining Properties

- G10. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

(Reason: To ensure adjoining owner's property rights are protected)

Utility Services

- G11. All utility services shall be adjusted to the correct levels and/or location/s required by this consent, prior to issue of an occupation certificate. This shall be at no cost to Council.

(Reason: To ensure compliance with the terms of this consent)

Notification of New Address Developments

- G12. Prior to any Occupation Certificate being issued, the person acting upon this consent must comply with the following:

- (a) Notify Australia Post of the address(es) as issued by Council and the location in plan form of any secondary, internal addresses, in relation to built public roads. Check Australia Post Website (www.auspost.com.au) to find your nearest Australia Post Delivery Facility.

(Reason: To ensure that Council records are accurate, and that house numbering complies with the requirements of Council's House Numbering Policy. Proper house numbering also assists emergency services in readily locating properties)

Asbestos Clearance Certificate

- G13. For building works where asbestos based products have been removed or altered, an asbestos clearance certificate signed by an appropriately qualified person (being an Occupational Hygienist or Environmental Consultant) must be submitted to and approved by the Principal Certifier (and a copy forwarded to Council if it is not the Principal Certifier) for the building work prior to the issue of any Occupation Certificate, the asbestos clearance certificate must certify the following:

- a) the building/ land is free of asbestos; or
b) the building/ land has asbestos that is presently deemed safe.

The certificate must also be accompanied by tipping receipts, which detail that all asbestos waste has been disposed of at an approved asbestos waste disposal depot. If asbestos is retained on site the certificate must identify the type, location, use, condition and amount of such material.

Note: Further details of licensed asbestos waste disposal facilities can be obtained from www.epa.nsw.gov.au

(Reason: To ensure that building works involving asbestos based products are safe for occupation and will pose no health risks to occupants)

Certification of Tree Condition

- G14. Prior to the issue of an Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Certifying Authority, describing the health of the tree(s) specifically nominated below: -

Tree	Location	Height
T1 <i>Corymbia citriodora</i>	NW corner 5-7 Lower Lower Wycombe Rd	20x16 m
T2 <i>Corymbia citriodora</i>	Western setback-5-7 Lower Lower Wycombe Rd	15x7m
T3 <i>Melaleuca quinquenervia</i>	Western setback-5-7 Lower Lower Wycombe Rd	10x7m
T4 <i>Corymbia citriodora</i>	Western setback-5-7 Lower Lower Wycombe Rd	20x16 m
T6 <i>Corymbia citriodora</i>	Western setback-5-7 Lower Lower Wycombe Rd	18x12 m
T7 <i>Casuarina cunninghamiana</i>	Western setback-5-7 Lower Lower Wycombe Rd	15x7m

<i>T14 Corymbia citriodora</i>	Easten (front) setback-5-7 Lower Lower Wycombe Rd	18x18 m
<i>T16 Tristaniopsis laurina</i>	Council verge in front of 5-7 Lower Wycombe Rd	8x12m
<i>T19 Sapium sebiferum</i>	Council verge in front of 3 Lower Wycombe Rd	5x5m
<i>Howea forsteriana</i>	Southern setback-5-7 Lower Lower Wycombe -to be transplanted on site as shown	3m
<i>Tristaniopsis laurina 'Luscious'</i>	Council verge in front of 5-7 Lower Wycombe Rd to west of proposed driveway	150l

The report must detail the condition and health of the nominated tree(s) upon completion of the works, and shall certify that the tree(s) has/have not been significantly damaged during the works on the site, and has/have reasonable prospects for survival.

(Reason: To ensure compliance with the terms of this consent)

Required Tree Planting

- G15. On completion of works and prior to the issue of an Occupation Certificate trees in accordance with the schedule hereunder must be planted in Council's nature strip/footpath:

Schedule

Tree Species	Location	Pot Size
<i>Tristaniopsis laurina 'Luscious'</i>	Council verge in front of 5-7 Lower Wycombe Rd to west of proposed driveway	150l

The installation of such trees, their current health and their prospects for future survival must be certified upon completion by an appropriately qualified horticulturalist.

Upon completion of installation and prior to the issue of an Occupation Certificate an appropriately qualified horticulturalist must certify that any trees planted in accordance with this condition are healthy and have good prospects of future survival. The certification must be submitted with any application for an Occupation Certificate.

(Reason: To ensure that replacement plantings are provide to enhance community landscaped amenity and cultural assets)

Vehicle Egress Signs

- G16. Prior to the issue of an Occupation Certificate, appropriate sign(s) must be provided and maintained within the site at the point(s) of vehicular egress to ensure all vehicles stop before proceeding onto the public way.

(Reason: To ensure pedestrian safety)

Disposal Information

G17. Upon completion of works and prior to occupation, a report including the following information must be provided to Council's Open Space and Environmental Services Department:

- (a) the total tonnage of all waste and excavated material disposed of from the site (including any tipping docket); and
- (b) the disposal points and methods used.

(Reason: To ensure appropriate disposal methods are undertaken for auditing and inspection purposes)

Height

G18. Upon completion of the works and prior to the issue of any Occupation Certificate the RL of the development measured for the lift overrun, roof parapets, balustrades and planter boxes within the building must be surveyed and certified by an appropriately qualified and practising surveyor as compliant with the maximum approved levels in accordance with the approved plans showing heights. This survey and certification must be submitted to the Principal Certifier with the application for an Occupation Certificate and a copy provided to Council (if it is not the Principal Certifier).

(Reason: To ensure compliance with the terms of this development consent)

Sydney Water

G19. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.

The final Section 73 Certificate must be submitted to the Principal Certifier prior to release of any linen plan for subdivision or prior to occupation of the development, whichever is the earlier.

Notes: Application must be made through an authorised Water Servicing Co-ordinator, for details see the Sydney Water web site www.sydneywater.com.au/customer/urban/index, or telephone 13 20 92.

Following application, a 'Notice of Requirements' will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

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

BASIX Completion Certificate

G20. In accordance with Section 45 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, prior to issuing a final occupation certificate, the Principal Certifier must provide a BASIX completion receipt.

(Reason: To ensure compliance with the Regulations)

House Numbering (Dwellings)

G21. Prior to any Occupation Certificate being issued an application must be made to North Sydney Council for written confirmation, or allocation, of the street address(es) or apartment number(s) for the completed project in accordance with Council's Property Addressing Policy. These are the numbers that will be recorded in Council records and must be displayed at the property in accordance with the provisions of AS/NZS 4819:2011.

Note: If apartments are to be sold off the plan, the applicant must have written confirmation from Council of the address and apartment numbering if the apartment number is to be identified on the contract.

(Reason: To ensure that Council records are accurate, and that house numbering complies with the requirements of Council's House Numbering Policy. Proper house numbering also assists emergency services in readily locating properties.)

Landscaping

G22. The landscaping shown in the landscape plan referred to in Condition A1 of this consent, together with any tree replenishment and except where otherwise amended by conditions of this consent, must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Damage to Adjoining Properties

G23. On completion of the development the subject of this consent and prior to the issue of the Occupation Certificate, a report is to be prepared by an appropriately qualified consultant and is to be provided to the Principal Certifier (and a copy to Council if it is not the Principal Certifier) certifying:

- a) whether any damage to adjoining properties has occurred as a result of the development;
- b) the nature and extent of any damage caused to the adjoining property as a result of the development;
- c) the nature and extent of works required to rectify any damage caused to the adjoining property as a result of the proposed development;

- d) the nature and extent of works carried out to rectify any damage caused to the adjoining property as a result of the development; and
- e) the nature and extent of any agreements entered into for rectification of any damage caused to the adjoining property as a result of the development.

The report and certification must reference the dilapidation survey and reports required to be provided to the Principal Certifier in accordance with this consent.

Where works required to rectify any damage caused to adjoining property as a result of the development identified in the report and certification have not been carried out, a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible prior to the issue of an Occupation Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the developer.

(Reason: To ensure adjoining owner's property rights are protected in so far as possible)

Verification Statement (External Finishes and Materials)

- G24. Prior to the issue of any Occupation Certificate, a verification statement from a qualified designer or architect (preferably the original designer), must be submitted to Council and the Principal Certifier certifying that the external finishes and materials are in accordance with the approved schedule of finishes and materials identified in this consent.

"qualified designer" means a person registered as an architect in accordance with the Architects Act 2003 cf 50(1A) EP&A Regs 2000.

(Reason: To ensure the design quality and finishes for residential flat development)

Unpaved Verge

- G25. The unpaved verge area must be constructed/reconstructed with an appropriate species of grass prior to completion of the works at no cost to Council.

(Reason: To ensure that community assets are presented in accordance with reasonable community expectations)

Intercom

- G26. An intercom system must be provided in a convenient location adjacent to the visitor parking entry to enable easier and safe access to visitor parking prior to issue of any occupation Certificate.

(Reason: To ensure convenient access is available for visitors to the building)

Allocation of Spaces

G27. Car parking spaces must be provided and maintained at all times on the subject site. The spaces shall be allocated to uses within the building in accordance the following table:

9 car spaces		Residential
2 car spaces		Visitors
2 accessible spaces (included in the residential spaces)		Accessible
9 car spaces		Residential

10 bicycle spaces		Residential
Total of 10 bicycle spaces		

The car parking spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of Occupation Certificate. Car parking spaces provided must only be used in conjunction with the approved uses contained within the development.

In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lots' unit entitlement.

Visitor parking facilities must be designated as common property on the strata plan. Visitor parking facilities must not at any time be allocated, sold, licensed or leased for the exclusive use of any occupier or owner and must be retained as common property by the Owners Corporation for use by building visitors.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

I. On-Going / Operational Conditions

Pool Filter

11. The swimming pool pump installed at the premises must not operate so as to:
- (a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
 - (j) before 8.00 am and after 8.00 pm on any Sunday or Public Holiday; or
 - (ii) before 7.00 am or after 8.00 pm on any other day

- (b) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy shall be applied.

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

- (Reason: To ensure noise generated by equipment does not result in offensive noise)

Connection to Sewers of Sydney Water Corporation

12. In the event a Trade Waste licence is required, wastewater arising from the use must be directed to the sewers of the Sydney Water Corporation (**SWC**) under a Trade Waste License Agreement. Details of the Corporation's requirements should be obtained prior to the commencement of any work.

- (Reason: To ensure compliance with Sydney Water's requirements and protect the environment)

Visitors' Parking Sign

13. A sign, legible from the street, must be permanently displayed to indicate that visitor parking is available on the site and the visitor car parking spaces must be clearly marked as such.

- (Reason: To ensure that visitors are aware that parking is available on site and to identify those spaces to visitors)

Use of Car Parking Spaces

14. Car parking spaces provided must only be used in conjunction with the approved uses contained within the development. Visitor parking facilities must be designated as common property on any strata plan. Visitor parking facilities must not at any time be allocated, sold, licensed or leased for the exclusive use of any owner or occupier or third party and must be retained as Common Property by the owner's corporation for use by building visitors.

- (Reason: To ensure that visitor parking is not allocated to building occupants and remains available on an ongoing basis)

Allocation of Spaces

15. The allocation of carparking spaces within the development must be maintained at all times in accordance with the terms of this consent. The allocation of spaces must be maintained in accordance with the following table:

9 car spaces		Residential
2 car spaces		Visitors
2 accessible spaces (included in the residential spaces)		Accessible
Total of 11 car spaces		
9 car spaces		Residential

10 bicycle spaces		Residential
Total of 10 bicycle spaces		

Carparking spaces provided must only be used in conjunction with the approved uses contained within the development.

In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lot's unit entitlement.

Visitor parking facilities must be designated as common property on the strata plan. Visitor parking facilities must not at any time be allocated, sold, licensed or leased for the exclusive use of any occupier or owner and must be retained as common property by the owner's corporation for use by building visitors.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

Minimum Headroom for Car Parking

16. Minimum headroom of 2.2 m must be provided over all car-parking areas.

(Reason: To ensure compliance with relevant standards and provide appropriate headroom)

Maintenance of Approved Landscaping

17. The owner of the premises at 5-7 Lower Wycombe Rd is to maintain the landscaping approved by this consent generally in accordance approved Landscape Plan.

Any replacement plants required shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved.

Should it be desired to substitute plants which are not of the same mature height, canopy density and nature (particularly flowering for non-flowering, native for exotic, deciduous for non-deciduous or the reverse of any these) a modification to this consent will be required.

(Reason: To ensure maintenance of the amenity, solar access and views of adjoining properties)

Landscape Maintenance Plan

18. A Landscape Maintenance Plan is to be prepared by a suitably qualified Horticulturalist that ensures the ongoing viability and vigour of plant species, the practicalities of undertaking landscape maintenance are met as well as the retention of the intended aesthetic values of the Landscape Plan, including but not limited to:

- a) Maintenance and usage of irrigation
- b) Mowing schedule
- c) Fertilising schedule
- d) Pruning and trimming schedule
- e) Re-mulching
- f) Replanting schedule
- g) Cleaning of exterior pavements, furniture and lighting
- h) Storage of materials
- i) Disposal of landscape waste
- j) Access of maintenance staff
- k) Use and noise control of power tools

Compliance with the requirements of this condition shall be ongoing for the life of the development.

(Reason: To ensure maintenance of the amenity, solar access and views of adjoining properties)

K. Prior to the Issue of any Strata Certificate

Registered Plans (Strata)

K1. The applicant must submit to Council's documentary evidence that the Strata Plan has been registered and the lot(s) exists. The use of the premise must not commence until the documentary evidence has been submitted to and approved by Council.

(Reason: To ensure that the allotments of land are created prior to the commencement of the approved use.)

Fire Safety Upgrade

- K2. Prior to issue of any Strata Certificate, works involving the upgrading/installation of essential fire safety measures (as recommended in the BCA Assessment and Fire Safety Upgrading Report prepared by McKenzie Group, dated 12 May 2022, are to be fully completed.

A **fire safety schedule** and **final fire safety certificate** (as specified in clauses 168 to 174 of the Environmental Planning and Assessment Regulation 2021) must be issued with the Construction Certificate and Occupation Certificate respectively.

A report from an appropriately qualified person in relation to fire safety and the Building Code of Australia, certifying that the fire upgrading works have been completed and indicating all required essential fire safety measures have been installed and verified as functioning in accordance with the above-named report, must be submitted to the Principal Certifier for approval prior to the issue of any Strata certificate.

Note: The requirement to undertake physical building works in relation to the installation/upgrade of essential fire safety measures in the building constitutes building work and as such will necessitate obtaining a Construction Certificate, appointing a Principal Certifier and obtaining an Occupation Certificate (pursuant to section 81A and 109M of the EP&A Act.

(Reason: To meet legislative requirements and ensure adequate provision is made for fire safety in the premises)

Strata Subdivision

- K3. A Strata Certificate pursuant to the *Strata Schemes (Freehold Development) Act 1973*, that authorises registration of the strata plan, strata plan of subdivision or notice of conversion at NSW Land and Property Information Office must be obtained. If the Strata Certificate is obtained from an Accredited Certifier, other than the Council, the certifier is to provide Council with a copy of the endorsed Strata Certificate within seven (7) days of issuing the same, pursuant to the *Strata Schemes (Freehold Development) Regulation 2002*.

Notes: For approval of the Strata Certificate by North Sydney Council, the following must be submitted to Council:

- a) the original strata plans or strata plans of subdivision and administration sheets plus two (2) copies of each, and any original Instrument (including but not limited to any section 88B or 88E instruments) to be endorsed, all **enclosed in a protective cardboard tube** (to prevent damage during transfer);
- b) two additional copies of the strata plans or strata plans of subdivision and any relevant Instrument for submission to Council Customer Services and records department for electronic database scanning and copying;

- c) a completed *Subdivision or Strata Certificate Application* form together with payment of fee current at lodgement;
- d) written evidence that all applicable conditions of consent required to be satisfied, prior to issue of the Strata Certificate, have been satisfied. Council will check the consent conditions on the relevant consent(s). Failure to submit the required information will delay endorsement of the Strata Certificate, and may require payment of rechecking fees;
- e) **plans of subdivision and copies must not be folded; and**
- f) **council will not accept bonds in lieu of completing subdivision works.**

(Reason: To ensure compliance with relevant legislative requirements and maintenance of up-to-date Council records)

Sydney Water

- K4. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.

The Section 73 Certificate must be submitted to the Principal Certifier or North Sydney Council with the documentation to enable the issue of the Strata Certificate.

Notes:

1. Application must be made through an authorised Water Servicing Co-ordinator, for details see the Sydney Water web site www.sydneywater.com.au or telephone 13 20 92.
2. Following application, a 'Notice of Requirements' will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

(Reason: To ensure compliance with Sydney Water requirements)

Release of Strata Certificate

- K5. The Strata Certificate that authorises registration of the Strata Plan, Strata Plan of Subdivision or Notice of Conversion at NSW Land and Property Information shall not be issued until bounding walls, floors and ceilings between proposed strata lots have been constructed in accordance with the approved plans identified in Condition A1 of this Consent.

(Reason: To ensure that the registered strata plan relates to approved development)

Allocation of Parking and Visitor Parking

- K6. Car-parking provided must only be used in conjunction with the units and tenancies contained within the development. Any carparking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lot's unit entitlement.

The allocation of spaces must be maintained in accordance with the following table:

9 car spaces	Residential
2 car spaces	Visitors
2 accessible spaces (included in the residential spaces)	Accessible
Total of 11 car spaces	

10 bicycle spaces	Residential
Total of 10 bicycle spaces	

The car parking spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of Occupation Certificate. Carparking spaces provided must only be used in conjunction with the approved uses contained within the development.

In the case of Strata subdivision any carparking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lot's unit entitlement.

Visitor parking facilities must be designated as common property on the strata plan. Visitor parking facilities must not at any time be allocated, sold, licensed or leased for the exclusive use of any occupier or owner and must be retained as common property by the Owners Corporation for use by building visitors.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

Building and Unit Numbering (Strata Subdivisions)

- K7. Prior to issue of the Strata Certificate, the person acting upon this consent must apply to North Sydney Council and receive written confirmation of the allocated street address and unit numbers for the building and the approved strata allotments within the completed project. These are the property addresses that will be recorded in Council records and must be displayed at the property in accordance with the provisions of the applicable Australian Standard (AS/NZS 4819:2011).

To assist Council, a draft proposal for numbering within the strata scheme or street should be submitted for concurrence to Council, as these numbers will be used to maintain Council's property and mapping database.

(Reason: To ensure that Council records are accurate, and that building and unit numbering complies with the requirements of Council's Property Addressing Policy. Proper building and unit numbering also assist emergency services in readily locating properties)

Services within Lots

K8. A report must be provided by a Registered Surveyor certifying that all services (including but not limited to stormwater drainage, gas, electricity, telephone cable) as constructed or to be constructed are/will be contained within each lot or within the necessary easements to accommodate such services. The report must be submitted to the Principal Certifier for approval prior to the issue of any Subdivision Certificate.

(Reason: To ensure adequate servicing of the development)