

Port Stephens Council – Design Review Panel

ITEM No. 1

Date of Panel Assessment:	13 March 2025
Address of Project:	42 Donald Street NELSON BAY; 7 Church Street NELSON BAY; 5 Church Street NELSON BAY
Number of Project: (if applicable)	
Pre - DA Number:	18-2024-34-1
No. of Buildings:	One
No. of Units:	57
Declaration of Conflict of Interest:	Nil.
Attendees:	<u>Applicant</u> - Robert Hellbery – Architect - Daryl Ryan – Planner - Jon Lindsay – Fortezza Group <u>Port Stephens Council</u> - Isaac Lancaster - Mathew Egan

1. Context and Neighbourhood Character

The site currently enjoys some attractive views to the waters of Port Stephens and possibly to Yacaaba Headland on the northern side of the Port entry. Some views from the western portion of the site may also be attained northwards down Church Street, although these are not as outstanding as the north easterly views are at present. All or the north easterly views are obtained over properties that are likely to be developed in the future, including the former Rivers Store site adjacent, and the public at-grade car park owned by Port Stephens Council. Consideration should be given to inter-property relationships, and possible impacts arising from compliant development of adjoining and nearby properties.

- Additional site and context analysis documentation is required as per ADG requirements. This should include an understanding of the unique character of each of the site's interfaces which will assist in determining the appropriate treatment and setbacks at each boundary.

- To assist in establishing the site strategy, Context Analysis should also identify potential issues of lot isolation, and future redevelopment of adjoining sites.
- Development of the site potentially offers the opportunity of providing a good quality mixed-use residential development that contributes positively to the local context.

2. Built Form and Scale

BUILT FORM

As discussed above under Context, the proposal presents a positive opportunity to contribute to the local streetscape. The Architect's thoughtful approach to the design and to built form is acknowledged and supported, however the current proposal must further address site setbacks and building separation which are non-compliant. In particular concern is raised in relation to the potentially isolated Northern lot and to the Eastern neighbour which is likely to be redeveloped in the future.

- The current proposal does not achieve the required ADG building separation distances to the North and East, limiting the potential for development on adjoining lots and potentially compromising privacy and amenity for both future neighbouring residents and residents of the subject development. Setbacks to the eastern boundary should be increased to comply with ADG recommendations for building separation for habitable and non-habitable areas. Setbacks are currently substantially short of ADG recommendations, and cannot be supported as illustrated.
- The overall site strategy of locating vehicular access at the lower end of the site with a generous lobby and activated common spaces at a street level podium is supported in principle, however suggestions were made by the Panel regarding potential improvements for Safety and Landscape outcomes at the streetscape.
- Opportunities for relocation of the small commercial space should be investigated, potentially switching its location with the adjacent fire-stair exit to allow greater visual connection to the lobby and improve wayfinding. Also Refer Comments under 'Safety'.
- The dwelling floor plans are generally well designed and offer good amenity (subject to resolution of setback issues). Refer comments under 'Amenity' for recommendations for potential improvements to the 'tunnel' bedrooms on Level 4 and above.
- Plant and Equipment areas are nominated on Level 7 and on the communal rooftop. A conflict exists between plans and 3D renders regarding the treatment and screening of these areas. Where plant areas are potentially visible from the street or screens contribute to the façade it is critical for these elements to be clearly documented, including ensuring proposed heights and materials provide adequate screening for the specific equipment proposed. The planters proposed in the 3d renders currently contribute to the character of the façade- refer also 'Landscape' for comments.

SCALE

- The proposal currently exceeds the LEP height limit. The majority of the non-compliance is located at the Eastern end of the rooftop due to the natural fall of the site. While images indicate there may be limited visual impact generated by the proposed variation, this area is currently to be utilised for private terrace access from the apartment below. Height exceedances for private use are not generally supported by the Panel and it is recommended that this area be returned to common use or left as rooftop, removing the need for an additional stairwell and reducing non-compliance with height controls.
- It is noted that the increased Eastern setback required to address building separation concerns will also assist in reduce building bulk and building height in this area. View sharing is also an important consideration in respect to setbacks and the height control.
- The typical residential floor to floor height proposed of 3.0m is recommended to be increased to 3.2m to allow for services and construction requirements and to ensure a 2.7m minimum ceiling height is maintained to living areas as per ADG requirements. The DRP's experience is that floor to floor dimensions of less than 3.2m are very difficult to achieve once compliance at CC stage is taken into account.
- It is noted that the required increase in floor to floor height may also impact the calculation of effective height under the NCC. It is understood that specialist advice has already been provided to the Architect that the rooftop is excluded under these calculations. If the increased floor heights to meet ADG and NCC requirements cause Level 7 (penthouse level) to sit above the 25m effective height, additional exits and services may need to be accommodated within the building. It is recommended that NCC compliance advice and any required Performance Solutions be thoroughly investigated during the Design Phase to avoid the requirement for Modification Applications later during construction documentation.
- During the meeting it was raised that any proposed adjustment to ground floor levels to lower the building and address potential 'effective height' issues would need to ensure amenity to ground floor apartments was not compromised and take into consideration existing ground levels and the streetscape and entry experience.

3. Density

- The proposal is well located to achieve additional density and housing of high amenity adjacent the Town Centre.
- Addressing the concerns raised above regarding building separation and setbacks is likely to require some reduction in density.

4. Sustainability

The DRP recommends that the development be all electric, and that in addition to providing the required number of electric vehicle charging spaces (Level 2 rate or better) provision also be made for all parking bays to be provided with EV charging as required in the future. This provision should take into account the power supply capacity of the development to ensure capacity. Protection from summer sun for western and eastern glazing should be provided by external shading, with reliance upon dark tinted glazing strongly discouraged.

Embodied energy should be considered in materials selection. Materials should be selected for durability and longevity, with inherently durable materials, such as salt-resistant face brick being preferable to painted finishes which require frequent maintenance.

Durability and low maintenance should be primary considerations for selecting materials– including avoiding the need to repaint retaining walls and planter beds.

5. Landscape

Landscape in deep soil should be optimised, with plantings of a scale appropriate to that of the building. The area in its undisturbed areas has an abundance of useful and attractive flora species Locally endemic species, which should be utilised for an authentic regional landscape outcome.

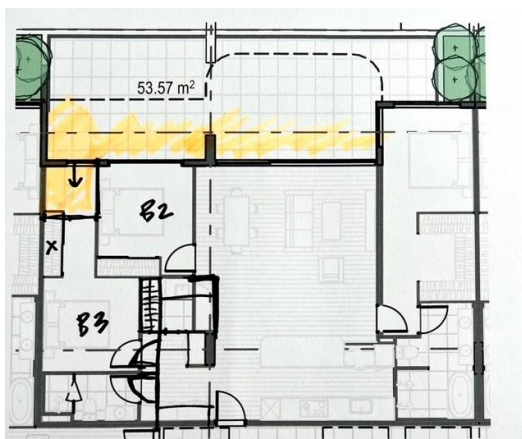
Masonry planter walls around deep soil planting areas should be minimised, as these are found to conflict with the opportunities of getting appropriately scaled trees and shrubs around the development. Retaining by means such as stacked mortarless natural rock walls allows some movement in response to root growth, and is less likely to require costly ongoing maintenance, as these can accommodate minor movement without aesthetic detracting.

Landscape on structure and in deep soil, wherever this contributes to the external appearance of the building, should be maintained under the management of the Owners Corporation. It should be able to be accessed safely, and without entering private apartments and their balconies adjacent to living spaces. Irrigation should be provided for all landscape, and soil volumes should meet the requirements outlined in the ADG. Planters with low soil volumes – especially narrow planters on structure, are not supported as they dry out very quickly, and experience has demonstrated that these areas fail to provide a viable, contributory landscape outcome.

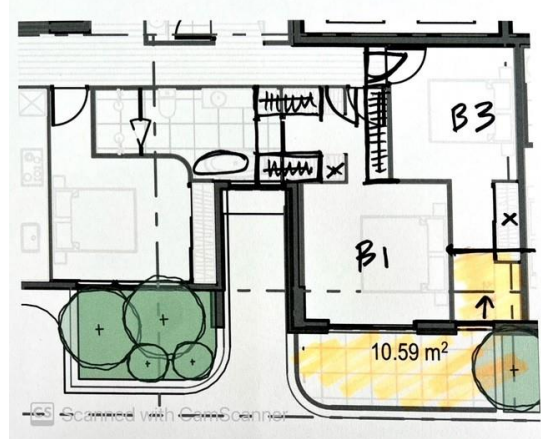
6. Amenity

The proposal demonstrates the potential to achieve a building of high amenity, however additional information is required to confirm compliance with ADG requirements. A Design Statement addressing the nine design principles under schedule 9 of State Environmental Planning Policy (Housing) 2021, was not provided to the Panel as part of the documentation package.

- Summary tables confirming solar, cross flow ventilation and storage compliance should be provided.
- Preliminary review of the plans indicates that cross flow ventilation may be approximately 50% (a minimum is 60% required). This should be addressed in the amended plans.
- The provision of natural light in circulation corridors on lower levels is supported. This should also be incorporated into upper floors in the revised plans for ADG compliance.
- Unit numbers should be indicated on the Architectural Plans to allow ease of documentation review.
- ‘Tunnel’ type bedrooms- (where bedrooms are recessed behind other rooms and only served by narrow windows at the end of a corridor) are not generally supported by the Panel and are not compliant with the ADG. These are currently proposed in the central North and South dwellings on floor 4 and above. Options for plan adjustments to improve these rooms were discussed during the meeting and should include removing the built in robe from the ‘tunnel’ to maximise the potential glazing and useable width, and further indenting the window to minimise length of the ‘tunnel’. A range of possible alternatives could be explored, one example is included below, sliding the Laundry in the Northern units to allow for relocation of the robe, or sliding the Walk in Robe in the Southern Units; the depth of the tunnel (“snorkel”) should be no greater than illustrated, and width no less – as this is intended to indicate a minim level of amenity to be achieved with this arrangement.



NORTHERN MIDDLE UNIT



SOUTHERN MIDDLE UNIT

7. Safety

The development has the opportunity to improve safety for residents, visitors, workers, service providers and the wider community. As the site is located on the edge of the CBD, it is important that safety is integrated into the design to avoid spaces where antisocial or criminal activity could occur. The goal should be to make it risky and difficult to commit a crime, encouraging offenders to move on.

There are several areas for improvement:

Front Setback:

While the streetscape is visually appealing, it is heavily vegetated with layered planting that limits views to and from the street, creating pockets of entrapment and concealment. The Applicant has expressed a desire to create 'enclosed spaces' in both the landscape and built form of the front setback; however, the design must consider all users, particularly women and vulnerable people, who may be at greater risk or feel unsafe in enclosed or hidden areas. These types of spaces can negatively impact perceived and actual safety. The Panel recommends reducing the layering of vegetation (e.g. multiple deep garden beds layered back from the street), and carefully selecting plant species that don't block view lines between the lower branches of trees and the top of ground covers and low shrubs.

Commercial Entry (Office Access):

The office entry is via a meandering path behind visitor bike racks and landscaping. This area does not relate clearly to the street, making wayfinding difficult for visitors and potentially facilitating excuse-making or loitering. Although the protruding front entry clearly marks the entrance, it also obstructs views of the office and wellness centre façades, especially in combination with the landscaping. Opportunities to simplify the landscape design and reduce walls are encouraged, as excessive walls can be costly and prone to failure, as discussed in other sections. Improving direct visibility and access from the street - by potentially realigning the Donald Street stairs or modifying the Church Street path - should be explored.

Driveway Entry from Donald Street:

The driveway is proposed to be open to the street, which allows direct access to a concealed lift lobby area. This is a high-risk zone for malicious damage, such as graffiti and criminal and anti-social behaviour, such as theft from cars. Particularly as Nelson Bay is a coastal tourism town that experiences seasonal crime and anti-social behaviour. Spaces designed in this way have a stronger reliance on CCTV which is only useful when constantly monitored. Visitor parking is proposed at the same level as resident storage cages, which are vulnerable and should be relocated to the secured, private level below. Storage cages are easy targets.

We acknowledge the challenge of providing sufficient height clearance for service vehicles from the street while securing the carpark. However, it is equally important that carparks are safe for residents and those servicing the building 24/7, and design decisions are not

solely to enable building servicing from time to time. During the meeting, there was a discussion about providing a gate deep within the building, around the corner, to separate the visitor carpark from the resident carpark and then leave the visitor carpark open during the day and secured at night. However, if the carpark gate is to be relocated around the corner, care must be taken to ensure this does not worsen concealment or sightline issues, even during the day.

The optimal solution provides a gate between the truck (open air section) and the visitor parking area. This will also secure the lobby access and leave two parking spaces outside the secure line, and these could be retained or removed and used for building services. A second gate could be included internally to separate visitor parking from resident parking. Note that gates should prevent both pedestrian and vehicular access to prevent pedestrian access to the building, storage cages, vehicles and people.

8. Housing Diversity and Social Interaction

The development includes a communal rooftop space for residents that features a pool, seating areas, a BBQ area and toilet facilities. This space is supported as it encourages social interaction among residents and contributes positively to community life within the development. Limited height exceedance for communal space, providing this does not result in significant impacts outside the site, is generally supported by the Panel – however this concession does not extend to private spaces – indoor or out.

At least one of the two rooftop open spaces at the western and eastern ends of the rooftop, are private spaces for the units below, are not supported if they exceed the height control. Any exceedance should be limited to spaces that provide a clear community benefit, as well as limiting height impacts to surrounding properties. As the private spaces serve only individual units, they cannot be considered to deliver a broader benefit and are not justified in this context if outside of the height controls.

A wellness centre is also proposed on the ground floor near the entry. It is unclear whether this space is intended solely for residents or as a public-facing commercial offering. Given its ground floor location at the edge of the CBD, it could operate as a commercial business. As such, this review has focused on the rooftop communal space as the main area supporting social interaction for residents.

The development includes a mix of 2, 3, and 4 bedroom dwellings, which provides reasonable housing diversity appropriate to this location.

9. Aesthetics

The building aesthetics have good potential to be attractive and – subject to material selection and other design development - will potentially be a positive contribution to the Nelson Bay area. The Applicant suggested the landscape treatments for the building are

biophilic. While this outcome would be welcomed, it would be required to achieve a high level of landscape quality, which would not be readily achieved with limited access to deep soil. It is also important that landscape provisions are not “watered down” during any cost engineering processes. To the extent that landscape contributes to the qualities of the building, any approved landscape design needs to be carried through to completion of the building. The building itself should achieve a strong aesthetic outcome without heavy reliance upon the landscape elements. The Panel notes that renders shouldn’t overstate the extent of achievable contributory landscape at maturity. Furthermore, the built form should be illustrated separately without landscape layers “turned on” to demonstrate the underlying buildings aesthetics.

Recommendation

While acknowledging the positive qualities of the proposal, the DRP noted that it is essential to consider future development of adjacent sites and their likely capacity to be developed in the future. The lots at 3 and 3A Church Street would appear to be at risk of becoming isolated sites - with any future development capacity being restricted by their width and the proximity of the proposal to the common boundary. The best and most desirable outcome is for these sites to be amalgamated into the development, as their future development is also likely to have adverse impacts upon the subject dwellings. Possible development on adjacent sites to the east and north-east should be considered, and appropriate, ADG compliant setbacks provided. Other specific recommendations under the headings above should be addressed in design development.