

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/1684
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Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 1 DP 1001963, 638 Pittwater Road BROOKVALE NSW 2100
Proposed Development:	Alterations and additions to a shop top housing development approved under Development Consent DA2019/0239
Zoning:	Warringah LEP2011 - Land zoned E3 Productivity Support WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	S & A Apartments Pty Ltd

Application Lodged:	17/12/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Mixed
Notified:	25/06/2025 to 09/07/2025
Advertised:	25/06/2025
Submissions Received:	1
Clause 4.6 Variation:	4.3 Height of buildings: 70.91%
Recommendation:	Approval

Estimated Cost of Works:	\$ 6,015,826.00
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### EXECUTIVE SUMMARY

The proposed development is an amending Development Application that seeks consent for substantial alterations and additions to an approved three-storey shop top housing development that was approved pursuant to Development Consent DA2019/0239. The additions are largely to create a fourth storey of residential development that contains 20 additional residential apartments and roof top communal open space area. The proposal would modify the existing development consent in accordance with Sections 4.17(1)(b)

and (5) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

The application is reported to the Northern Beaches Local Planning Panel (NBLPP) for determination because the development is subject to Chapter 4 of State Environmental Planning Policy (Housing) 2021 (more than 3 storeys and 4 apartments) and due to the development involving a 37.72% (to parapet level) - 70.91% (to lift overrun) variation to Clause 4.3 of the Warringah Local Environmental Plan 2011 (WLEP 2011), which sets the height of buildings development standard to be 11.0m above the existing ground level on the site.

The applicant has submitted a written request pursuant to Clause 4.6 of the WLEP 2011 to justify a contravention to the height of buildings development standard. The written request argues that the height of the development is commensurate with other shop top housing developments within the Pittwater Road corridor, and that the height of the development is located well below the future height limit for the site that has been adopted under the Brookvale Structure Plan (BSP).

The assessment concludes that the applicant's written request has adequately satisfied the jurisdictional matters within Clause 4.6 of the WLEP 2011, and considers that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify a variation to the development standard. The site is a prominent corner location between a classified road and local roads and is of a suitable size to accommodate the size, scale and density of development as proposed.

The application was referred to the Design and Sustainability Advisory Panel (DSAP), who provided several recommendations to address construction issues with the existing development consent and provided recommendations to enhance the residential amenity (noting that the existing podium communal open space on Level 1 would receive less sunlight as a consequence of the fourth storey) and improve the overall design of the new additions proposed under this amending Development Application. The applicant has made amendments to the Development Application to overcome the issues raised by the DSAP. These amendments included raising the floor-to-floor heights of Levels 1 and 2 (approved levels) from 3.05m - 3.2m, providing additional recessing of the fourth storey, providing greater articulation on the prominent south-western corner of the building, and providing a rooftop communal open space area which will enable the future occupants to access communal open space in full sunlight during the winter solstice. The assessment finds that the amended development application has adequately resolved the concerns raised by the DSAP and concludes that the new 20 apartments satisfy the performance objectives of the Apartment Design Guide.

Other key assessment issues relate to car parking allocation / bicycle parking and operational waste management. The amended plans submitted throughout the assessment process have provided suitable waste storage rooms to accommodate for the new 20 residential apartments that are proposed under this amending Development Application. Council's Traffic Engineer has also recommended suitable conditions of consent to rationalise the car parking, end of trip facilities and bicycle parking within the basement levels, such that suitable bicycle parking, car parking and end of trip facilities are provided on the site that are commensurate with the density and scale of development that is proposed.

The application has been publicly exhibited for 14-days on two occasions and one (1) submission was received. The submission did not object to the development, but requested that appropriate acoustic treatment be provided to the building to ensure that adequate acoustic amenity is maintained to the apartments. The recommended conditions of consent will ensure that appropriate construction measures are

incorporated into the development to ensure that the new apartments enjoy adequate acoustic amenity.

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

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

## **PROPOSED DEVELOPMENT IN DETAIL**

The application involves substantial alterations and additions to an approved three-storey shop top housing development, that was approved pursuant to Development Consent DA2019/0239.

The proposal largely comprises the creation of a fourth storey containing 20 residential apartments including a roof top communal open space area.

The proposed development is detailed below:

### **Basement Level B3**

The amendments to Basement Level B3 do not alter the footprint or finished floor level; however, include the following amendments:

- The provision of six (6) wall hung single bike racks within the south-western corner of Basement Level B3.
- Minor amendments to lift core L5.
- Minor amendments to the bike racks within the north-eastern corner of Basement Level B3. These amendments do not reduce the amount of bike racks within this location, being 39 bike racks.

### **Basement Level B2**

The amendments to Basement Level B2 do not alter the footprint or finished floor level; however, including the following amendments:

- Provision of eight (8) wall hung bike racks adjacent to lift core L4 and provision of six (6) wall hung bike racks within the south-western corner of Basement Level B2.
- Provision of a bulky goods waste storage area between car parking spaces 1 and 12.
- Minor amendments to lift core L5.

### **Basement Level B1**

The amendments to Basement Level B1 do not alter the footprint or finished floor level; however, including the following amendments:

- Provision of 20 wall hung bike racks within a prior storage location within the south-eastern corner of Basement Level B1 (note: the other bike racks that have been shown on the floor plan have already been approved and therefore, do not form part of this application).
- Minor amendments to lift core L5.

### **Ground Floor Level**

The amendments to the Ground Floor Level do not alter the footprint, finished floor level or number of commercial tenancies; however, include the following amendments:

- Minor amendments to the recycling rooms.
- Minor amendments to lift core L5.
- Amend the layout of the fire stairs to coordinate with the mezzanine floor above.
- Submission of a floor plan to show the approved mezzanines within the ground floor commercial tenancies which are shown on the approved section plans but not shown on a detailed floor plan.

### **First Floor Level**

The amendments to the First Floor Level do not alter the footprint, finished floor level or number of residential apartments including the layout of the apartments; however, include the following amendments:

- Window mullions added to south-western corner balcony.
- Window awnings re-instated within the south-western corner of the building.

### **Second Floor Level**

The amendments to the Second Floor Level do not alter the footprint, finished floor level or number of residential apartments including the layout of the apartments; however, include the following amendments:

- Window mullions added to south-western corner balcony.
- Window awnings re-instated within the south-western corner of the building.
- Increase the finished floor level height by 150 millimetres (mm) to comply with the current Apartment Design Guide (ADG) floor-to-floor heights.

### **Third Floor Level**

The development includes a completely new fourth storey that comprises 20 residential apartments, as follows:

- Thirteen (13) one-bedroom apartments.
- Five (5) two-bedroom apartments (two of these apartments achieve the silver liveable housing standard).
- Two (2) three-bedroom apartments (both of these apartments are adaptable units).

### **Roof Top Communal Open Space**

The development includes a new roof top communal open space that is accessed via internal lifts and fire stairs. The roof communal open space includes open areas, on-slab planting around the edge of the building, various trees and a covered BBQ area including shade cloth areas. Solar panels are also included within the north-eastern corner of the rooftop area.



**Figure 1 – Photomontage of the proposed development when observed from the corner of Pittwater Road and Orchard Road**

## **ASSESSMENT INTRODUCTION**

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## **SUMMARY OF ASSESSMENT ISSUES**

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings

Assessment - Concurrence - Roads and Maritime Service - SEPP (Transport and Infrastructure) 2021, s2.118  
Warringah Local Environmental Plan 2011 - 2.5 Additional permitted uses for particular land  
Warringah Local Environmental Plan 2011 - Zone E3 Productivity Support  
Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land  
Warringah Development Control Plan - B2 Number of Storeys  
Warringah Development Control Plan - B7 Front Boundary Setbacks

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 1001963 , 638 Pittwater Road BROOKVALE NSW 2100
<b>Detailed Site Description:</b>	<p>The subject site is located on the eastern side of Pittwater Road, the northern side of Orchard Road and the western side of Charlton Lane. The site is located within the Brookvale locality.</p> <p>The site is 'L' shaped and has an area of 2,662 square metres (sqm). The site has boundaries of 16.21 metres (m) to Pittwater Road, 7.365m with the corner of Pittwater Road and Orchard Road, 90.61m to Orchard Road, 40.235m to Charlton Lane, 39.655m to the shared boundary with 642 Pittwater Road, and 21.925m and 39.85m to the shared boundaries with 640 Pittwater Road.</p> <p>The site is currently vacant, comprising of a large hardstand area and several trees that are confined to the eastern and western edges of the site. The site is zoned E3 Productivity Support under the Warringah Local Environmental Plan 2011 (WLEP 2011).</p> <p>The surrounding development consists of industrial properties to the east and north, commercial properties to the west and the Brookvale bus depot to the south. Warringah Mall is located a few hundred metres to the south-west.</p> <p>Development along the Pittwater Road corridor ranges between one to four storeys in height, with a predominant height between two to three storeys. A four-storey shop top housing development exists at 517 Pittwater Road located approximately 260m to the north of the site, while the NBLPP has also recently approved a four-storey shop top housing development under Development Application DA2023/1371 at 8 Roger Street, which is located approximately 130m to the south-west of the site.</p>

Map:





## SITE HISTORY

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

### **Development Application No. DA2019/0239**

On 15 April 2020, the Northern Beaches Local Planning Panel granted development consent to Development Application DA2019/0239 for demolition works and the construction of a three-storey shop top housing development, comprising of:

- Three levels of basement parking with 164 car parking spaces with separate motorcycle and bicycle parking, residential storage and commercial storage for the largest tenancies.
- Three ground floor retail/business tenancies with additional basement floor space for the largest tenancies, waste storage and service vehicle loading areas, and eight small-office style units (i.e. SOHO apartments which are non-residential).
- Two storeys of residential apartments containing 40 apartments in total with a mix of studio, one-bedroom, two-bedroom and three-bedroom apartments, with communal open space being provided on the podium level (i.e. 2<sup>nd</sup> storey).
- An illuminated light disk on the roof on the corner of Pittwater Road and Orchard Road.
- Vehicular access via Charlton Lane for residential, retail and business parking, and via Orchard Road for loading and services.

### **Modification Application No. Mod2020/0598**

On 24 February 2021, Council modified Development Application DA2019/0239 under Modification Application Mod2020/0598 pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The Modification Application approved the following modifications to the development consent:

- Minor modifications to the basement level layouts to reduce the total number of approved car parking spaces from 157 to 152.
- The provision of mezzanine storage areas to each of the approved commercial tenancies including those associated with the SOHO apartments.

These modifications did not alter the approved height, bulk or footprint of the development, nor did they alter the external finishes and materials of the building.

To date, a Construction Certificate has not been issued for the proposed development and so the construction of the approved development has not commenced. However, the applicant has carried out the demolition of the former two storey commercial building in accordance with the development consent (Note: A Construction Certificate is not required for demolition works) and lawfully commenced the consent. These demolition works were sufficient to commence the consent under the former Environmental Planning and Assessment Regulation 2000 that applied at the time of the consent being granted.

## **CURRENT APPLICATION**

Following the preliminary assessment of the application, which included a detailed site inspection, Council wrote to the applicant raising concerns in relation to the design of the fourth storey, the inadequate articulation of the south-eastern prominent corner, internal residential amenity, bike and car parking, waste management and discrepancies of the finished levels between various plans. The specific content of Council's concerns can be viewed in the Request for Further Information letter (RFI) on Council's webpage. As part of this RFI, Council recommended that the applicant provide communal open space on the roof top level, noting that the existing area of communal open space on the first floor level would not receive optimal sunlight on June 21 as a consequence of the proposed fourth storey. The RFI also referred to the DSAP Report that provided recommendations to enhance the existing approved development which did not form part of this amending Development Application, including a recommendation to increase the floor-to-floor heights within the residential levels from 3.05m to 3.2m in accordance with the current ADG requirements.

The applicant subsequently amended the current Development Application pursuant to section 37 of the Environmental Planning and Assessment Regulation 2021 as follows:

- The facade of the fourth storey was setback 730 millimetres (mm) from the lower floors when observed from the Orchard Road frontage.
- A rooftop communal space with lift lobbies, outdoor open space, covered areas, BBQ area and on-slab vegetation planting was provided. This area is accessed via various lift cores and fire stairs. Additional solar panels were also provided within the northern parts of the roof. The balustrade that separates the trafficable area of the roof terrace from the remainder of the roof is setback a minimum 1.9m from the roof edge to reduce the prominence of the roof terrace.



- Additional articulation of the prominent south-western corner of the building was provided via the use of window awnings and window mullions.
- Apartment 43 became an adaptable unit, replacing Apartment 48 that was previously an adaptable unit.
- Privacy screens were provided to part of the balconies of Apartments 48 and 49 to prevent overlooking into adjacent apartments within the development on Level 3 to the north of Apartments 48 and 49.
- Additional bike storage was provided within the basement levels, the allocation of car parking was slightly amended and a bulky goods waste storage area was provided within Basement Level B2.
- The floor-to-floor heights of Levels 2 and 3 (i.e. the height between the finished floor levels between two levels) was increased from 3.05m to 3.2m in accordance with the current ADG requirements.

The amended Development Application was re-advertised for 14 days. One (1) submission was received in response, which is discussed within the body of this report.

#### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

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

<b>Section 4.15 Matters for Consideration</b>	<b>Comments</b>
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p>Part 4, <u>Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to amended architectural plans to address issues pertaining to residential amenity, car and bike parking and waste management. This information was subsequently received to Council's satisfaction.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Environmental Planning Instruments and Warringah Development Control Plan 2011 sections in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will provide positive social impacts through the provision of additional housing on the site that will meet the housing needs of the community.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is large in area, located on a prominent corner and is suitable to accommodate for the density and scale of development that is proposed.

<b>Section 4.15 Matters for Consideration</b>	<b>Comments</b>
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	One submission was received. This is detailed within the body of this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## **EXISTING USE RIGHTS**

Existing Use Rights are not applicable to this application.

## **BUSHFIRE PRONE LAND**

The site is not classified as bush fire prone land.

## **NOTIFICATION & SUBMISSIONS RECEIVED**

The subject application has been publicly exhibited from 25/06/2025 to 09/07/2025 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

<b>Name:</b>	<b>Address:</b>
Samuel John Connor Wilkins	T/As Soulaudio 25 O'Connors Road BEACON HILL NSW 2100

One (1) submission was received as a result of the public exhibition.

The submission did not object to the development, but requested that appropriate acoustic treatment be provided to the building to ensure that adequate acoustic amenity is maintained to the apartments.

It is noted that several noise mitigation construction measures will be incorporated into the development to ensure that the apartments receive adequate amenity, which were recommended within the applicant's Noise Impact Assessment. This is discussed within the section of this report relating to State Environmental Planning Policy (Transport and Infrastructure) 2021.

The sole concern raised within the submission has been appropriately dealt with via the recommended conditions of consent.

The submission does not warrant the refusal of the application.

## **REFERRALS**

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p><b>NOT SUPPORTED - AMENDMENTS HAVE ADEQUATELY ADDRESSED DSAP RECOMMENDATIONS</b></p> <p><b><i>General</i></b></p> <p>The development involves an Amending Development Application to a current Development Consent No. DA2019/0239, which was granted for a three-storey shop top housing building, noting modifications to slightly reduce car parking (which remains in excess of requirements), mezzanine storage to commercial tenancies and SOHO have also been previously approved.</p> <p>The proposed Amending DA includes the addition of a fourth storey accommodating 20 residential units, a further mezzanine to commercial Tenancy 01 and associated amendments for its fire egress, and some changes to the façade presentation and detailing.</p> <p>The Panel raises concerns with regards to the objectives of SEPP (Housing) Schedule 9 Design Principles and the accompanying Apartment Design Guide design criteria for <i>minimum</i> amenity which the proposal will have on the design approved in 2019.</p> <p>These are primarily around the following:</p> <ul style="list-style-type: none"> <li>- natural daylight</li> <li>- natural ventilation</li> <li>- natural ventilation and noise</li> <li>- solar access over the long term</li> <li>- natural cross ventilation</li> <li>- visual and acoustic privacy</li> </ul> <p>These are discussed in this report because they have implications for the design quality resulting from the proposed fourth storey in context of the entirety of the proposed development, and a context where construction has not commenced.</p> <p><b><i>Strategic context, urban context: surrounding area character</i></b></p> <p><u>Strategic Context</u></p> <p>a) The Panel notes Council adopted the Brookvale Structure Plan in November 2023. However, the draft Northern Beaches Local Environmental Plan currently awaiting DPHI Gateway Approval, has not reflected the new height (and density) provisions that would now apply to the subject site.</p> <p>b) The Panel further understands the original approval included a significant excess of car parking spaces for ‘future proofing’ against the possibility of the Brookvale Structure Plan coming into effect and the</p>

Internal Referral Body	Comments
	<p>likelihood of a future modification to increase height and density. As a principle of good city making for urban densification, the Panel does not support the provision of car parking in excess of requirements particularly at a time where cities need to embrace public transport and its use and rapidly move away from reliance on private vehicles. This is to avoid the increasing impacts of traffic congestion and to avoid furthering impacts to air quality as we move to full electrification.</p> <p><u>Streetscape analysis</u> – the site is on the corner of a busy arterial road. It becomes more visually prominent when approaching from the south due to the skewed geometry of the junction of Orchard Road as it meets Pittwater Road which winds through the otherwise regular street grid layout of the Brookvale bounded by Green Street to the west, Harbord Road to the east, Federal Road to the north and Wattle Road to the south generally defining the Brookvale E4 General Industrial zone.</p> <p>This has implications for the façade treatments and internal layouts for the south-western corner. The Panel is not supportive of the full height glazed wintergarden façade. While this was generally accepted in the original DA approval, it fails to adequately consider privacy amenity of the residents making the balconies unlikely to be used or likely to include ad hoc and unattractive screening as individual residents try to manage their desired levels of privacy in full view of buses and vehicles travelling past along Pittwater Road. The Amending DA seeks further modifications to this facade, (see comments at Aesthetics). Visual privacy amenity requires further consideration for this prominent exposed corner.</p> <p>The inclusion of an additional storey requires streetscape analysis that should include provisions for the Brookvale Structure Plan and current draft amendments to the LEP (which do impact on adjacent sites along Orchard Street).</p> <p>The Panel acknowledges the prominent corner site has possibilities for localised height in defining the character of the public domain it edges. In general, the Panel supports the increasing of density consistent with the intent of the public policies where a design demonstrates a high-quality urban form and detail that contributes positively to the surrounding and changing urban fabric. The proposed development has not demonstrated the required level of merit to support the modification for the reasons detailed at the section headings within this report.</p> <p><u>Streetscape Character</u></p> <p>a) General comment – loss of detail around openings, and building elements removes those elements that define the building’s long-term character and importantly serve a purpose for water shedding and controlling weathering needed to maintain its visual appearance over the long term. The loss of façade modelling and details is not supported. Multiple changes of colour and/or material within a flat wall plane represents a poor streetscape outcome.</p> <p>b) Additional residential storey – is proposed as an extrusion of the levels below, which has a certain logic albeit a superficial response. The proposed result presents an unrelieved flat vertical wall plane, delineated solely by colour. This is a poor-quality outcome and is not</p>

Internal Referral Body	Comments
	<p>supported. The additional storey needs to read as a characterful, modulated termination of the building – base, middle and top. While the darker colour is visually recessive, it is a surface applique with no 3-dimensional quality. Further, the dark colour is prone to poor performance over time (discolouring, visible drip lines, and avoidable heat gain) all exacerbated where the wall plane and building elements are unarticulated. Flat painted render/surface application wall planes with openings punched are not supported.</p> <p>c) Corner glazed façade – loss of detailed building elements diminishes the original approved character and is not supported. The loss of facade detail has the effect of further transferring visual interest onto the private activities of resident's private open spaces behind. This is not supported or appropriate for the location.</p> <p><b>Recommendations</b></p> <ol style="list-style-type: none"> <li><i>1. Provide streetscape analysis scenarios to test and support any proposed additional storey: under the existing LEP controls; and the Brookvale Structure Plan with current draft LEP amended controls.</i></li> <li><i>2. Generally, the façade treatments must retain the approved level of detail and modelling of building elements if not actively seek to improve them.</i></li> <li><i>3. The additional storey is to present a clear physical separation from the storeys below including areas of wall planes extending from storeys below. This is needed so the base, middle and top of the building is coordinated to be 3-dimensionally defined.</i></li> <li><i>4. The curved corner façade is to increase the modulation more consistent with the approved DA and reduce the extent of glazing. This is needed to address the following:</i> <ul style="list-style-type: none"> <li><i>- so building elements in the façade demonstrate a 3-dimensional quality to the edge detailing</i></li> <li><i>- so junctions of materials and articulation of building elements can better control long-term weathering,</i></li> <li><i>- to increase the level of visual interest as a positive contribution to the street, and</i></li> <li><i>- better manage resident amenity. Note: dark tinted glazing or colour-backed glazed panels to manage solar heat gain and/or visual privacy is not supported as it disengages from the public domain, has poor internal amenity for residents/tenants, and would introduce a further busyness to an already busy materials/colour palette.</i></li> </ul> </li> </ol> <p><b>Scale, built form and articulation</b></p> <p><u>Scale</u> – is generally acceptable subject to streetscape analysis and addressing identified deficiencies of the design proposition as currently proposed. However, the medium density mixed use scale is expected to present a characterful building.</p> <p><u>Built form</u> – a proposed additional storey may be appropriate for the site and its wider context where the addition demonstrates a high-quality outcome. The combination of the top floor presenting as a mix</p>



Internal Referral Body	Comments
	<p>of recessed spaces (private open spaces) or an extension of the wall plane of Levels 1 and 2 below is not achieving a desirable built form as it presents holistically.</p> <p>The inconsistent treatment of the perimeter edge of the top storey fails to clearly define the building form to achieve a satisfactory urban character.</p> <p>The Panel suggests either reinforcing the overall building form consistently or consistently setting the proposed addition's building line inboard of the building edge to create a meaningful shadow line and expressive and recessive top storey and an expressed roof form.</p> <p>The proposed use of surface painted colour to make the top storey addition 'appear' recessive is not supported. It does not achieve a level of design quality expected on this prominent corner and is generally considered poor practice. This is further discussed below and at Aesthetics.</p> <p><u>Articulation</u></p> <p>a) Generally, articulation of the built form is achieved at the building entries which are expressed as a vertical recess in the massing when viewed along the streets. This vertical recess extends through for the fourth storey addition. Overall, this is a generally positive approach for the built form and becomes a visual cue for locating each lobby entry along the long Orchard Road and Charlton Lane frontages. The previous approval for a 3-storey development sensibly presents a clear commercial ground floor shop front address that is delineated by the footpath awning, with the mass of the two residential storeys presenting as a cohesive piece. The proposed additional storey has not achieved a satisfactory response to the building articulation due to the combination of split treatment of 'space' and 'solids' at the building edge, the materials and colour use.</p> <p>b) Top storey – it is suggested that the mass of the additional storey is consistently inboard of the building edge along all street frontages. This is to address the otherwise flat wall planes created and their poor-quality vertical expression proposed by a change in surface paint colour.</p> <p>c) Façade treatments - need to retain the approved framing elements/hoods around the wintergardens and other windows. These had achieved generally positive plays of light, shadow and texture that gives the minimum structural wall thicknesses some essential 3-dimensional depth. Deleting these framing elements results in:</p> <ul style="list-style-type: none"> <li>- flattened, unarticulated and bland wall planes</li> <li>- elevations that have lost the approved DA's sense of rhythm in the street</li> <li>- lost the visual interest expected when viewed from the public domain.</li> </ul> <p>Poor outcomes associated with extensive use of appliques/painted rendered finishes and an absence of edge detailing around building elements, their junctions and where changes of material/colour/texture occur is to be avoided. See also comments at Aesthetics.</p> <p><u>Building Height (floor-to-floor height)</u></p> <p>The Panel notes the 3-metre residential floor-to-floor heights of the</p>

Internal Referral Body	Comments
	<p>approved DA do not satisfy ADG minimum accepted as being 3.1m. While 3m has long been rejected as sound industry practice, the Panel notes this now creates significant compliance implications for the proposed development due to legislative changes.</p> <p>The introduction of the Design and Building Practitioners Act had reinforced the need for at least 3.1m to address the influx of building defects around waterproofing performance. This has gradually further changed so that accepted industry practice accommodates a minimum of 3.2m at DA stage – or more – depending on the vertical relationships of wet areas and habitable rooms. Further adding to this difficulty is that 2025 will introduce amendments to the National Construction Code (NCC) for compliant water proofing. As a result, current professional development recommendations consistent with the NSW Building Commission is that a minimum floor-to-floor height of 3.2m will be required to comply with the 2025 NCC for effective waterproofing and for achieving the SEPP (Housing) development standard for minimum ADG unobstructed floor-to-ceiling height of 2.7m. The Panel therefore strongly suggests that the applicant consider addressing this in the Amending DA.</p> <p><b>Recommendations</b></p> <p><i>5. The addition is to be physically defined not rely on painted surface finishes.</i></p> <p><i>6. The top floor is to be modulated consistently so that it expresses the termination of the built form – top floor and roof.</i></p> <p><i>7. Building height/floor-to-floor heights should be included in the current application to demonstrate a minimum of 3.2m plus realistic structural depths in section drawings. This should be increased where wet areas are proposed above habitable rooms of units below.</i></p> <p><i>8. Reinstate the framing building elements deleted from openings to street frontages – also required to mitigate western sun.</i></p> <p><i>9. See Amenity for implications for acoustic treatments and natural ventilation that may impact on the built form of the addition.</i></p> <p><b>Access, vehicular movement and car parking</b></p> <p>The excess of car parking is noted. While this results in the proposed additional units still having allocated parking, it would be good to understand the extent of the excess as there are implications for wasted costs and resources, and site impacts including loss of street trees through excavation on the street boundary where it could otherwise be avoided.</p> <p>The Panel in general does not support the provision of car parking in excess of minimum requirements. As cities grow, increasing the reliance on private transport above public transport options is contrary to sound city-making principles for managing high amenity density and an efficiently working city. The Panel further notes the site is well served by the B-Line buses and other local bus routes.</p> <p>Approved truck movements are located centrally at ground level and accessed from Orchard Road. The Panel notes the approval, however, the location has flow-on impacts for managing visual and acoustic separation both for the adjacent SOHO units and the noise transfer to</p>

Internal Referral Body	Comments
	<p>the podium level above which is discussed at Amenity.</p> <p><b>Recommendations</b></p> <p><i>10. Consideration be given to car parking to be at the minimum required rates where impacts could be reduced.</i></p> <p><i>11. Considered whether amenity improvements can be made between the ground level truck/loading and adjacent SOHO and podium above.</i></p> <p><b>Landscape</b></p> <p>The Panel notes revised landscape plans did not form part of the submission. Reference is therefore made to the existing approved plans prepared by Conzept Landscape Architects dated 04.09.2018. The Panel notes the approval included the removal of a mature Eucalyptus microcorys (Tallowood tree) to accommodate the proposed basement carpark.</p> <p>While a zero-lot boundary is permitted along Pittwater Road, consideration should be given to the established trees that may be worthy of retention at the corner of Pittwater Road and Orchard Road. With the considerable variations proposed to the approved scheme, the Panel suggests there are opportunities for DA2025/168 to design around the retention of additional streetscape-contributing trees. The continuing retention of trees along the Charlton Lane setback is supported. These trees and the deep soil zone provide the only meaningful landscape for the site and make an important contribution to the future character of Charlton Lane as it meets Orchard Road.</p> <p><b>Recommendations</b></p> <p><i>12. Consideration should be given to street planting within a structural root cell system to enhance the streetscape and provide critical shade to the development. Tree species with an appropriate canopy spread should be selected to minimise or indeed eliminate the need for heavy pruning of branches on the building side of the trees in future years.</i></p> <p><i>13. Some building articulation to allow for planting on structures or some type of planter boxes to soften the building with overspill planting should be considered – including the detailed design of awnings to allow trees to grow and for canopy spread over time.</i></p> <p><i>14. The existing trees along the eastern boundary need to be assessed by a Level 5 Arborist and appropriate measures taken to ensure their health is protected and long-term viability is delivered.</i></p> <p><i>15. The proposal should consider a green roof option with low growing ground covers – (there are several companies specialising in this area) to respond to reducing the heat island effect, reduce the reliance on heating and cooling, and improve the performance of rooftop PV.</i></p> <p><i>16. The internal courtyard area does not seem to address the space well and does not provide much in the way of vegetation especially tree planting. Consideration for redesigning this space including its relationship with the ground level could be undertaken with little design changes to any other part of the building or infrastructure.</i></p> <p><b>Amenity</b></p>

Internal Referral Body	Comments
	<p>The following deficiencies are reasons why the proposed development intended duplication of existing unit types and layouts cannot be supported in the fourth-storey:</p> <p><u>Solar Access</u> – sun-eye 3-d modelling does not include future permitted development envelopes of neighbouring properties. This is needed to demonstrate the long-term solar access performance for consistency with the ADG requirements and definitions. The submitted modelling appears as if the site is in isolation. The Panel appreciates the original DA may have presented the modelling similarly, however, it is inconsistent with the ADG and the proposed application must demonstrate consistency with ADG requirements.</p> <p><u>Natural Cross Ventilation</u> – The Panel notes that the ADG is clear in stating natural cross ventilation of units and natural ventilation of habitable rooms is not achieved by internal courtyards. While the existing surrounding development conditions may currently provide unobstructed air flow paths beyond the site's boundaries, it appears the approved DA likely had not considered future permitted development of those neighbouring properties. The proposed development likewise has not considered future permitted development. This is not supported.</p> <p>The foreseeable risk is that both courtyards on the subject site will become fully internalised if neighbouring properties build to their side boundaries as is permitted.</p> <p>As a result, the Panel finds the true performance of the DA approved design for natural cross ventilation is demonstrated by only 4 of 20 units per floor representing only 25% of the units across the development. This is a significant departure from the ADG's minimum of 60%.</p> <p>It is noted that the access stairs from Charlton Lane appears will be open to the above ground central podium, which is a better outcome than the western courtyard. However, an effective flow path through the podium level as a consolidated central space could have been achieved if similar open access was proposed along the three Orchard Road entries and the building form of Units 6, 26 and 46 and Units 19/20, 39/40, and 59/60 was not built to their northern boundaries. (Even the loss of at least Unit 6 if not also Unit 26 would connect the two courtyards and provide an airflow path to Charlton Lane for natural ventilation.)</p> <p>In this context, it is not unreasonable to expect all new units to achieve long-term and effective natural cross ventilation to address some of the approved shortfall, and/or that the design use the opportunity of the Amended DA pathway to address these previous deficiencies.</p> <p><u>Natural Ventilation</u> – similar to the previous point, habitable rooms deriving their primary source of natural ventilation from an enclosed courtyard is not supported by the ADG. This impacts on 10 of the 20 units per floor or 50% of the development. The Panel does not support any habitable rooms having no access to natural daylight or ventilation</p>

Internal Referral Body	Comments
	<p>as previously approved Units 2 and 22 and in the proposed Unit 42, and Units 27 and 47.</p> <p><u>Visual and Acoustic Privacy</u> – the Panel notes visual and acoustic privacy is compromised by:</p> <p>a) Units with an internal corner relationship. While directional screening can largely resolve this proximity, the risk is that screens will further impact on natural daylight and ventilation amenity.</p> <p>b) Units 1 and 21 private open space – full height floor-to-ceiling glazing does not achieve adequate levels of visual privacy, which is exacerbated by the south-western corner's visual prominence. This also and leaves the balconies exposed to the western sun with no shade protection. The approved façade design is noted, however, the Amending DA should improve the level of resident amenity for these units. As proposed it is unlikely the spaces will be used other than for storing items, drying washing, and or installing ad hoc screening which would impact on the building appearance over the long term.</p> <p>c) Conflict for bedroom windows opening into a common walkway – Units 4 and 5 affected. This is a poor design outcome for long term amenity noting this being further exacerbated due to the apartments opening into an enclosed courtyard space.</p> <p>d) Conflicts for units opening directly into the central courtyard – Units 3 and 6 bedrooms affected with added conflicts for the proximity of the common walkway.</p> <p>e) Voids in the podium - intended to provide needed natural daylight into otherwise internalised SOHO spaces 2, 4, 6, 7 and 8 require sensitive detailing to manage overlooking to and from the private open spaces of adjacent units above.</p> <p><u>SOHO</u></p> <p>a) Entry sequence – SOHO units 2, 4, 6, 7 and 8 address the internal central courtyard space. Being at ground level the central space is compromised by accommodating truck movements in and out of the development for commercial deliveries and other servicing. These SOHO unit entries are via a long and walled corridor on the western side resulting in a poor quality address and poor levels of amenity.</p> <p>b) Daylight and ventilation amenity – SOHO units 2, 4, 6, 7 and 8 are effectively internalised with poor levels of access to natural daylight and ventilation. These spaces are all single aspect, oriented into the central courtyard space as do their attached residential Units 11, 13, 15 17 and 18.</p> <p><u>Lift lobbies 3 and 4 entry conflicts and entry character</u> – The Panel notes there appear conflicts for the residential lobbies that also serve the SOHO units. SOHO tenancies may be accessed from the residential entries/lobbies for Lifts 3 and 4. If SOHO spaces 2, 4, 6, 7 and 8 are assumed as back-of-house, the long double-loaded corridor presents as a series of doors with no entry residential character. If the corridor is also intended for public access, a conflict arises for resident security.</p> <p><u>Acoustic amenity and natural ventilation in noisy locations</u> – The Panel notes the conflict for achieving acoustic amenity and required natural ventilation for Units 1, 2, 21, and 22. These units are single aspect and</p>

Internal Referral Body	Comments
	<p>there appears no solution integrated with the design that enables a flow of natural air into these units if the wintergardens are closed. This should be further considered.</p> <p>For the above reasons, the Panel does not support the proposal that seeks both to duplicate known deficiencies and has not sought to improve overall performance with the opportunity of an Amending DA.</p> <p><b>Recommendations</b></p> <p>17. <u>Solar modelling</u> – sun-eye (or views-from-the-sun) analysis is to include compliant building envelopes for future development of neighbouring sites/sites in the vicinity to determine solar performance and overshadowing to and from permitted development.</p> <p>18. <u>Natural ventilation and cross ventilation</u> – all new units are to demonstrate they satisfy the ADG design criteria. It is recommended natural and cross ventilation performance be improved through deletion of 2 or three units, which would still result in a net increase of 17 units. This would enable the Lift 2 lobbies to be open and create a single northern courtyard space linking the airflow path to the Charlton Lane as a similar treatment to the open entry between buildings L3 and L4.</p> <p>19. <u>Natural daylight</u> – all new units are to provide natural daylight to all habitable rooms consistent with ADG design criteria.</p> <p>20. <u>Floor-to-floor heights</u> – the applicant should consider broadening the current application to include all residential floor to floor heights be increased to a minimum of 3.2 metres noting additional height may be required for additional ceiling insulation for wet areas/terraces and the like above habitable rooms below, and to accommodate adequate structure for the podium, paving and landscape and complaint waterproofing.</p> <p>21. <u>Existing departures from the ADG minimum performance</u> – it is recommended there is an opportunity as an Amending DA, for the development to address existing deficiencies to improve the overall building performance and resident amenity expected by ADG minimum performance benchmarks.</p> <p>22. <u>Clarify lift lobbies 3 and 4</u> - for managing the perceive conflicts for the SOHO back of house and residential uses.</p> <p>23. <u>Clarify natural ventilation</u> – how is it proposed for single aspect units in the noisy location.</p> <p>24. <u>Confirm acoustic requirements</u> – for the fourth-floor level. This may impact on the building line and how the addition relates to the levels below such as the need for wintergardens, setting the building mass inboard of the building edge below.</p> <p><b>Façade treatment/Aesthetics</b></p> <p><u>Materials</u> - The Panel is not supportive of the extensive use of low-quality materials that generally do not perform well over the long term in polluted environments. The extent of painted surface finishes is prone to a build-up of particulate pollution in combination with the lack of edge detailing has not adequately considered how the building will control and manage weathering.</p>



Internal Referral Body	Comments
	<p><u>Edge Detailing</u> – deletion of building elements that had made important contributions to the quality of the facades is not supported. These include the framed hoods around wintergardens and other openings and the general loss of parapet details. The building has not demonstrated a satisfactory presentation to the public domain has been achieved. The Panel considered the amended design to lessen the aesthetic quality of the approved DA.</p> <p><b>Recommendations</b></p> <p><i>25. Reinstate building elements such as framing around wintergardens, so that the facades demonstrate a modulated depth needed to contribute positively to the streets.</i></p> <p><i>26. Minimise the use of high maintenance materials such as painted finishes that do not perform well over the long term. On-going and frequently required maintenance so the quality of the building's appearance is retained over the life of the building is an unreasonable burden for future residents when more robust and durable materials are available.</i></p> <p><i>27. Reconsider the massing, materiality and colour selection for the fourth storey addition and include meaningful parapet edge detailing to terminate the wall plane around the building and generous roof eaves for shadow reveals and solar protection for exposed aspects.</i></p> <p><b>Sustainability</b></p> <p>See notes at Amenity regarding better layouts to ensure good natural light and ventilation for all commercial and residential spaces. See notes at Strategic Context for excess of car parking.</p> <p>The following should be considered in context of the changing regulatory environment that includes, or will include efficiency, electrification, zero emissions and mandatory disclosure:</p> <ul style="list-style-type: none"> <li>- NatHERS 7 star minimum (as required under law)</li> <li>- All electric (no gas)</li> <li>- PV panels to the roof with provision for battery storage (include consideration of a green roof for improved performance and mitigating urban heat)</li> <li>- Hot water via centralised electric heat pump</li> <li>- Water and energy efficient appliances</li> <li>- Double glazing as standard – tinting is not supported due to poor associated amenity</li> <li>- Aim for all apartments to be naturally cross-ventilated – dual aspect</li> <li>- Materials and building designed for longevity and durability</li> <li>- Accommodate EV charging capacity for 100% of the development (over time).</li> </ul> <p><b>Recommendations</b></p> <p><i>28. Remove gas from the building.</i></p> <p><i>29. Gas cooktops can be replaced with induction.</i></p> <p><i>30. The gas hot water system should be replaced by heat pump - the location may need to be on the roof to ensure adequate ventilation.</i></p>

Internal Referral Body	Comments
	<p>31. A 9kW PV array is very small for this size building. Increase the array and consider a green roof under the PV.</p> <p>32. Also consider increasing the PV provision to avoid challenges of proposed 4-star dryers which are heavier and impact architectural layouts and structural requirements.</p> <p>33. Surplus car parking should not be provided, ensure the spaces provided are restricted to the minimum required for the development.</p> <p>34. The solar protection for the fully glazed corner wintergardens is to be provided which should include providing a solid balustrade to also address visual privacy.</p> <p><b>PANELS CONCLUSION</b></p> <p>The Panel acknowledge the existing consent which the applicant benefits from, and the constraints associated with the assessment being limited to the discrete scope of the current amending Development Application. Advice has been provided in relation to the existing development consent, as this current application provides an opportunity for the applicant to make significant improvements and overcome identified construction issues to the 2019 consent.</p> <p>In regard to the scope of the current application, the proposal in its current form is <b>not supported</b>. The proposal compounds issues with privacy, acoustic privacy, solar access, natural light and ventilation with the approved development (but not yet constructed) that sits below. These impacts must be considered and addressed in conjunction with the likely development outcomes/resulting impacts which could be realised from adjoining properties redevelopment. It is likely that to address these issues a reduction in the proposed floorplate will be required to remove the resulting impacts on the approved building below.</p> <p><b><u>Assessment Officer's Comment:</u></b></p> <p>The applicant has subsequently amended the Development Application to address an array of issues raised by the DSAP. These amendments include:</p> <ul style="list-style-type: none"> <li>• The facade of the fourth storey was setback 730 millimetres (mm) from the lower floors when observed from the Orchard Road frontage.</li> <li>• Provision of a rooftop communal space with lift lobbies, outdoor open space, covered areas, BBQ area and on-slab vegetation planting was provided to provide communal open space that has equitable solar access.</li> <li>• Additional solar panels were also provided within the northern parts of the roof.</li> </ul>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>• Additional articulation of the prominent south-western corner of the building was provided via the use of window awnings and window mullions.</li> <li>• The floor-to-floor heights of Levels 2 and 3 (i.e. the height between the finished floor levels between two levels) was increased from 3.05m to 3.2m in accordance with the current ADG requirements.</li> </ul> <p>It is noted that the majority of the concerns raised within the DSAP Report related to the development already approved under Development Consent DA2019/0239, which do not form part of this amending Development Application. Nonetheless, the applicant has made amendments to the approved components of the development to address the DSAP comments.</p> <p>Overall, the assessment finds that the amended development provides an appropriate response to the recommendations raised by the DSAP and that the amended development has sufficient merit and is worthy of support.</p>
Building Assessment - Fire and Disability upgrades	<p><b><i>SUPPORTED - SUBJECT TO RECOMMENDED CONDITIONS</i></b></p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no concerns with the application subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p><u>Note:</u> The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>

Internal Referral Body	Comments
Environmental Health (Industrial)	<p><b><i>SUPPORTED - SUBJECT TO RECOMMENDED CONDITIONS</i></b></p> <p><b>General Comments</b></p> <p>This proposal appears to add a new floor of apartments.</p> <p>This new floor plate incorporates 13 x 1 bedroom, 5 x 2 bedroom and 2 x 3 bedroom apartments accessed via an extension of the stair and lift cores from the levels below.</p> <p>most environmental Health items have previously been addressed</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>
Landscape Officer	<p><b><i>SUPPORTED - SUBJECT TO RECOMMENDED CONDITIONS</i></b></p> <p>The proposal is supported with regard to landscape issues.</p> <p><u>Additional Information Comment 19/06/25:</u> The amended reports and plans are noted.</p> <p>The rooftop planting shall meet the ADGs minimum soil depth requirements.</p> <p><u>Original Comment:</u> The application is for alterations and additions to an approved mixed use development. No concerns are raised with the additional level as proposed. It is noted the original consent DA2019/0239 was approved prior to the adoption of the Northern Beaches Public Space Vision &amp; Design Guidelines (2021) and in order to align to this document amended public domain landscape plans will be required, as outlined in the conditions of consent.</p>
NECC (Development Engineering)	<p><b><i>SUPPORTED - SUBJECT TO RECOMMENDED CONDITIONS</i></b></p> <p>The proposal includes the construction of an additional level to the current approval of DA2019/0239 with no modifications to the stormwater system or vehicular access. This application will require a construction certificate and as such a condition has been provided requiring the stormwater to connect to the approved drainage system of DA2019/0239. All other Development Engineering conditions have been provided in the original consent.</p> <p>Development Engineering support the proposal, subject to condition as recommended.</p>

Internal Referral Body	Comments
NECC (Water Management)	<p><b><i>SUPPORTED - NO RECOMMENDED CONDITIONS</i></b></p> <p>Supported</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Northern Beaches Water Management for Development Policy (WMD Policy); and</li> <li>• Relevant LEP and DCP clauses.</li> </ul> <p>No significant change to stormwater management as a result of proposed modifications.</p> <p>No objections regarding water management.</p>

Internal Referral Body	Comments
Strategic and Place Planning	<b><i>SUPPORTED - NO RECOMMENDED CONDITIONS</i></b>
	<b>STRATEGIC PLANNING ASSESSMENT</b>
	<b>Discussion of reason for referral</b>
	<p>The proposal has been referred to Strategic Planning as the site is within an area for change under the Brookvale Structure Plan.</p> <p>The proposal is for alterations and additions to an approved three storey shop top housing development (DA2019/0239). This includes changes to the ground floor layout to address BCA requirements and an additional storey (fourth floor) to provide an additional 20 units. The development will provide a total of 60 units (39 x 1-bed, 15 x 2-bed, 6 x 3-bed). No other changes are proposed.</p>
	<b>Brookvale Structure Plan</b>



Internal Referral Body	Comments
	<p data-bbox="539 344 1428 622">The Brookvale Structure Plan (Structure Plan) was adopted by Council in 2023 and provides the strategic land use planning framework for the area over the next 15 years. The Structure Plan is not a statutory document. Council is currently implementing the Structure Plan via a Council-initiated Planning Proposal for the Brookvale Precinct. This is anticipated to be sent to the Department of Planning for a Gateway determination in 2026.</p> <p data-bbox="539 672 1428 786">Under the Structure Plan, the site falls within the Pittwater Road Character sub-precinct. The Structure Plan recommends the following changes to the zoning, land use and development controls:</p> <ul data-bbox="584 792 1428 1664" style="list-style-type: none"> <li>• MU1 Mixed Use zone with additional permitted uses for residential flat buildings (where ground floor is used for light industry or creative industries)</li> <li>• Ground floor non-residential uses with a single storey street wall height</li> <li>• Land uses that are encouraged within the eastern side of Pittwater Road include creative industries where creators, makers and entrepreneurs set up shop and share space, skills and ideas, and display their wares. Opportunities also exist for goods repair and reuse premises to locate here, which will allow community recycling or reuse centres for repairing, reusing and recycling used materials.</li> <li>• Buildings up to 8 storeys (30 metres) in height.</li> <li>• Maximum floor space ratio (FSR) of 2.5:1.</li> <li>• Buildings will be set back 3 metres from Pittwater Road to enhance the pedestrian environment and provide opportunities for widened footpaths, street tree planting and a shared cycleway.</li> <li>• Encourage mixed active frontages addressing rear laneways that support some active ground floor uses while supporting rear lane access to parking and basement loading facilities.</li> <li>• 5% affordable housing contribution levy for new residential floorspace.</li> <li>• A Section 7.11 Contribution levy will apply.</li> </ul> <p data-bbox="539 1675 890 1709"><b>Matters for consideration</b></p>

Internal Referral Body	Comments
	<p>The development proposes to exceed the current LEP height limit of 11m. The proposed variation to the current height control and consideration of grounds to justify this variation is a matter for development assessment. Strategic Planning note that the proposed development is within the proposed height limit of 30m (8 storeys) envisaged by the Structure Plan.</p> <p>Whilst the Structure Plan also envisages a range of other changes, as the modification largely relates to one additional storey with no changes to DA2019/0239, the development cannot be reasonably opposed.</p>
	<p>COMPLETED BY: Strategic Planning Officer</p> <p>DATE:140/1/2025</p>

Internal Referral Body	Comments
Traffic Engineer	<p><b><i>SUPPORTED - SUBJECT TO RECOMMENDED CONDITIONS</i></b></p> <p><b><u>Referral Comments 16/7/25</u></b></p> <p>The Applicant has provided further updated Architectural Plans Revision B, dated 3 July 2025. The Transport Network section has reviewed the proposal providing comments on the outstanding issues. Reference must be made to the previous Mod2020/0598 which introduced storage mezzanines into the commercial, retail/business and Soho units; and conditions in relation to parking.</p> <p><b><i>82. Allocation of Spaces</i></b></p> <p><i>152 car parking spaces shall be provided, made accessible, and maintained, at all times (unless they must be removed to comply with the condition requiring vehicle access to No. 640 Pittwater Road). The spaces shall be allocated as follows:</i></p> <p><i>87 - Residential (Including spaces for persons with a disability)</i></p> <p><i>9 - Residential - Visitors (Including spaces for persons with a disability)</i></p> <p><i>56 - Commercial/retail including customer parking (Including spaces for persons with a disability)</i></p> <p><i>Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space allocated to a particular unit / tenancy shall be line marked and numbered or signposted to indicate the unit / tenancy to which it is allocated.</i></p> <p><i>Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.</i></p> <p><i>Reason: To ensure that adequate parking facilities to service the development are provided on site.</i></p> <p><b><i>85. Surplus Parking Spaces</i></b></p> <p><i>The 53 surplus car parking spaces must not be allocated to any of the proposed apartments or retail tenancies.</i></p> <p><i>They may be used for visitor/customer parking prior to any redevelopment of the site but must be available to be reallocated when an application for the redevelopment of the site is lodged (i.e. any application to add additional apartments).</i></p> <p><i>Reason: To ensure the site is suitably developed in the future and adequate car parking is provided.</i></p> <p>A total of 152 parking spaces is provided for the development site and Condition 82 allocated all the 152 parking spaces to the residential (87 spaces), residential visitors (9 spaces) and commercial/retail (56 spaces) uses. However, Condition 85 refers to the 53 surplus parking</p>

Internal Referral Body	Comments
	<p>spaces, which must not be allocated to any of the proposed apartments or retail tenancies. Condition 82 therefore contradicts Condition 85.</p> <p>It should be noted that the number of surplus parking spaces is also incorrect and overstated. The original DA2019/0239 for the 40 residential unit shop-top development required a total of 106 spaces with 159 spaces proposed. The modified condition to reflect the changes under Mod2020/0598 should actually reduce the surplus, based on the loss of 7 spaces in the basement level car park to accommodate storage, plant and services rooms. The surplus parking would therefore be <b>46 spaces</b> (not the 53 spaces shown in Condition 85) for the total 152 spaces.</p> <p>Condition 85 only allows the surplus parking spaces to be used for visitor/customer parking prior to any redevelopment of the site. The Condition also allows for the surplus spaces to be reallocated when the redevelopment of the site is lodged, to ensure the site is suitably developed in the future and adequate car parking is provided for the designated uses. The parking allocation should therefore be reviewed and rectified to reflect the intention of Condition 85.</p> <p>The WDCP requires a total of 66 resident parking spaces and 12 resident visitor spaces for the resident component of the shop-top development. The 87 resident spaces provided (65 spaces on Basement Level B3 and 22 spaces on Basement Level B2) is therefore excessive and takes away from the non-resident parking requirements, which cannot be supported. The proposal could however be supported with some changes to the car park layout and parking allocation to address the requirements under the WDCP and Condition 85. The recommended changes arranges the parking spaces according to each use and located near or with convenient lift access to the associated premises. A marked sketch plan has been provided showing the required changes.</p> <p><b>Basement Level B3</b></p> <p>All required 66 resident parking spaces under the WDCP for the 60 unit development, including 6 adaptable spaces (minimum 3.8m width); can be provided within the same level of the car park with some minor amendments to the Basement Level B3 plan. There is a distinct benefit in isolating the resident parking spaces to a single floor separate from the other parking uses for security and wayfinding reasons.</p>

Internal Referral Body	Comments
	<p>Accessible spaces No.32 and 33 can be converted to standard spaces with an additional parking space created with the removal of the Shared Area. There appears to be an excessive amount of columns in the car park design. AS2890.6 (2022) allows a column to be situated within the bollard zone of the Shared Area. Spaces Nos. 28, 31, 39 and 64 can be converted to adaptable (3.8m wide) spaces by removing excess columns, relocating columns to the Shared Area, or relocating columns by shifting the row of spaces and maintaining minimum circulation widths and manoeuvring requirements. These changes will provide 4 adaptable and 2 accessible parking (spaces Nos. 35 and 36) which still meets the WDCP requirements. The adaptable spaces must be allocated to the adaptable units and it is recommended that the spaces be marked 3.8m wide. Changes to the locations of the bicycle parking, motorcycle parking and storage areas are required to facilitate the changes.</p> <p>The main resident bicycle parking spaces are provided on Basement Level B3 behind parking spaces Nos.29-31. The bicycle parking needs to be within a secure storage enclosure, and include two rows of 10 double-bicycle rails to provide 40 resident bicycle parking spaces.</p> <p><b>Basement Level B1</b></p> <p>All parking required by Retail/Business Unit 2 &amp; 3 (9 spaces) and Commercial Unit 1 Basement (19 spaces) including 2 accessible parking spaces for each use can be provided within the Basement Level B1 car park.</p> <ul style="list-style-type: none"> <li>• Parking spaces Nos. 8, 11-18 should be allocated to Retail/Business Unit 2 &amp; 3.</li> <li>• Parking spaces Nos. 1-7, 9-10 and 19-28 should be allocated to Commercial Unit 1 Basement.</li> </ul> <p>The Basement Level B1 plan has been updated to provide a secured bicycle storage facility which accommodates 20 vertical bicycle racks in the south-eastern corner of the Basement Level B1 Plan, however no end of trip facilities have been provided. The facilities must include at least one toilet, wash basin, shower cubicle and change area as detailed in the WDCP. Clothes lockers must also be provided however these can be located within the secured bicycle storage area.</p> <p>Currently the only toilet facilities provided for the non-residential component, are situated within the Basement Commercial Area shown on the Basement Level B1 Plan, which does not appear very accessible for the other businesses. The end of trip facilities should therefore be located directly below the Retail/Business and SOHO units which also provides convenient access and amenity for these</p>

Internal Referral Body	Comments
	<p>businesses. A change room with toilet and shower facilities can be accommodated within an area 2.5m long x 3m wide. This could be achieved by reducing the length of the bicycle storage area to provide a facility south of the MSB &amp; Comms Room. The new staff bicycle storage area (8m long) can still provide 15 vertical bicycle racks on one side and 15 lockers (0.5m depth x 0.35m wide x 0.9m height) on the other side separated by a minimum 1.5m aisle to meet the WDCP requirements.</p> <p>With respect to the visitor bicycle parking spaces for the non-residential component, the 5 double-bicycle rails shown on Basement Level B1 provides the required 10 spaces in one convenient and accessible location. No additional rails or vertical racks are required to satisfy the visitor parking needs on the other basement levels.</p> <p><b>Basement Level B2</b></p> <p>All parking required by SOHO Units 1-8 (15 spaces), Commercial Unit 1 (17 spaces) and Resident Visitor spaces (12 spaces) including an accessible parking space for each use can be provided within the Basement Level B2 car park. This results in a surplus of 15 parking spaces which should be allocated to visitor/customer parking as intended by Condition 85. The surplus spaces allows for future flexibility of use for the Commercial units with current parking provisions based on the office parking rate of 1 space per 40m<sup>2</sup>. It should be noted that the retail/business component of shop-top developments have a parking rate of 1 space per 16.4m<sup>2</sup> GLFA. This rate is 2.5 times the office rate. Takeaways and restaurants have an even greater parking rate of at least 6 times higher than office rates.</p> <p>The accessible spaces No.4 and 5 with adjacent Shared Area should be relocated one space westwards with the Shared Area situated between spaces No.3 and 4, to provide separation between designated parking uses.</p> <ul style="list-style-type: none"> <li>• Resident parking spaces Nos. 1-3, and 13-21 can then be allocated to Resident Visitor parking.</li> <li>• Resident parking spaces Nos. 4-12 and 22 should be allocated to Commercial Unit 1 parking.</li> <li>• Visitor car spaces 1-5 should be allocated to Commercial Unit 1 parking.</li> <li>• Commercial parking spaces Nos. 15-16 should be allocated to Commercial Unit 1 parking.</li> <li>• Visitor car spaces 6-9 should be allocated to SOHO unit parking.</li> <li>• Commercial parking spaces Nos. 17-27 should be allocated to Commercial Unit 1 parking.</li> </ul>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>Commercial parking spaces Nos. 1-14 and 28 are the remaining 15 surplus spaces which should be allocated to visitor/customer parking.</li> </ul> <p>The additional 20 residential units requires 20 resident bicycle parking spaces in a secure room/enclosure. A secure storage enclosure (5.5m wide x 4.5m long) should be provided between parking space No.3 and the security boom gate on Basement Level B2. This can accommodate the required 20 resident bicycle parking spaces with two parallel rows of 8 vertical bicycle racks and one row of 4 racks. The 6 vertical bicycle racks located at the western end of the car park provides the required necessary 6 resident visitor bicycle parking spaces.</p> <p>The Architectural Plans Drawing Nos A02B, A03B and A04B, should be updated to address the abovementioned requirements and submitted to Council for review prior to the issue of a Construction Certificate. These changes provide a structured and considered layout with the location and allocation of parking spaces to best accommodate the proposed and future uses.</p> <p>The amended proposal could therefore be supported subject to the recommended Conditions.</p> <p><b><u>Referral Comments 6/3/24</u></b></p> <p>This application seeks to provide an additional 20 apartments through the construction of an additional storey residential accommodation to an approved shop top housing development at 638 Pittwater Road, Brookvale. A Traffic Impact Assessment (TIA) has been prepared by Apex Engineers (dated April 2024), with respect to the parking and traffic generation impacting the road network.</p> <p><b>Traffic Generation</b></p> <p>The future traffic generation has been assessed in accordance with Roads and Maritime Services (RMS) 'Guide to Traffic Generating Developments'. The TPA states that the proposed additional 20 residential units generates 4 vehicle trips during the AM peak hours. The existing retail/commercial site generates 29 vehicle trips during the weekday peak hours. The traffic generated by the proposed additional 20 apartments is unlikely to have any material impact on the operations of the local transport network.</p> <p><b>Car Parking</b></p> <p>The development site currently provides a total of 152 car park spaces across the basement car park levels. The Architectural Plans shows</p>

Internal Referral Body	Comments
	<p>65 residential spaces on Basement Level B3, 22 residential spaces + 9 visitor spaces + 28 commercial spaces on Basement Level B2, and 28 commercial spaces on Basement Level B1.</p> <p>The Architectural Plans shows the following mixed-use areas:</p> <p>Commercial (Unit 1) = 863m<sup>2</sup> (662+201 Mezzanine)  Basement Commercial = 763m<sup>2</sup>  Retail/Business (Unit 2 &amp; 3) = 167m<sup>2</sup> (130+37 Mezzanine)  SOHO (Unit 1-8) = 794m<sup>2</sup> (591+203 Mezzanine)</p> <p>The applicable parking rates and required number of spaces are:</p> <p>Commercial (Unit 1) = 22 @ 1 space per 40m<sup>2</sup>  (863/40m<sup>2</sup>)  *Basement Commercial = 19 @ 1 space per 40m<sup>2</sup>  (763/40m<sup>2</sup>)*  Retail/Business (Unit 2 &amp; 3) = 10 @ 1 space per 16.4m<sup>2</sup> GLFA  (167/16.4m<sup>2</sup>)  SOHO (Unit 1-8) = 20 @ 1 space per 40m<sup>2</sup>  (794/40m<sup>2</sup>)  Total for mixed-use = 52 spaces  (*71 if Basement Commercial area is used as offices)</p> <p>The previously approved 40 residential units (1 x studio unit + 23 x 1 bed units + 2 x 1 bed and study units + 10 x 2 bed units + 4 x 3 bed units) requires 44 residential spaces and 8 residential visitor spaces. The additional 20 residential units (13 x 1 bed units + 5 x 2 bed units + 2 x 3 bed units) proposed on the Third Floor Plan requires 22 residential spaces and 4 residential visitor spaces under the WDCP 2011.</p> <p>The TIA states that the approved development includes 53 surplus car parking spaces and that the required 26 spaces can be accommodated, with a remaining surplus of 27 car parking spaces. The TIA overstates the number of surplus spaces, based on the mixed uses for this site as an office rate of 1 space per 40m<sup>2</sup> GFA was applied to all non-residential areas. Therefore the required number of spaces would be at least 104 car park spaces, which is a surplus of 48 spaces and not 53. If the basement commercial area (763m<sup>2</sup>) was also to be used for office purposes and included in the GFA, an additional 19 car park spaces would be required which reduces the surplus to 29 spaces.</p> <p>The required 26 spaces for the additional 20 residential units can be accommodated within the existing car park, however it should be noted that retail and commercial uses, especially takeaways and restaurants; have greater parking rate requirements (2.5-6 times higher than office rates) so the surplus may not be sufficient depending on the future usage.</p>



Internal Referral Body	Comments
	<p>The development must also make provisions for accessibility and adaptability. According to the WDCP 2011, where a development comprises at least five (5) dwellings, 10% (rounded up to next whole number) of dwellings shall be capable of being adapted (Class C) under AS4299, and provide a 3800mm wide adaptable space. The development site which includes the approved 40 units and proposed 20 additional units, requires a total of 6 adaptable spaces. The proposed Third Floor Plan shows Units 46 and 48 as Adaptable Units but Units 44 and 45 are proposed as Liveable Units. The Liveable Housing Design Guidelines requires that Silver Level car park spaces be at least 3200mm (width) x 5400mm (length). The Architectural Plans show a total of 12 disability parking spaces, which provides sufficient needs for the overall site. However, at least 6 disability parking spaces should be allocated to the residential units, and at least 1 disability parking space should be provided for each of the mixed uses.</p> <p>The modified Condition 85. Surplus Parking Spaces for the approved Modification of Development Consent DA2019/0239 granted for demolition works and construction of a mixed-use development at 638 Pittwater Road, Brookvale; states that the 53 surplus car parking spaces must not be allocated to any of the proposed apartments or retail tenancies. They may be used for visitor/customer parking prior to any redevelopment of the site but must be available to be reallocated when an application for the redevelopment of the site is lodged (i.e. any application to add additional apartments).</p> <p>The overall development site should therefore provide for the following parking allocation:</p> <ul style="list-style-type: none"> <li>· Provision of 66 Resident spaces, including at least 6 spaces capable of being adapted (Class C) under AS4299 (minimum 3.8m wide) or designed for people with disabilities in accordance with AS/NZS 2890.6.</li> <li>· Provision of 12 Resident visitor spaces, including at least 1 space for persons with a disability.</li> <li>· Provision of 22 spaces for Commercial (Unit 1), including at least 1 space for persons with a disability.</li> <li>· Provision of 10 spaces for Retail/Business (Unit 2 &amp; 3), including at least 1 space for persons with a disability.</li> <li>· Provision of 20 spaces for SOHO (Units 1-8), including at least 1 space for persons with a disability.</li> <li>· Any surplus parking spaces are to be used for visitor/customer parking only and may only be reallocated to the Commercial Unit 1 if the parking demand requirements are greater than those applied for office uses (1 space per 40m<sup>2</sup>).</li> </ul> <p>The previously approved DA2019/0239 for the shop-top development including the 40 apartments, provided future proofing with the provision of additional basement parking and the potential use of the upper-level basement for retail/business purposes. Depending on how this area shown as Basement Commercial (763m<sup>2</sup>) is used, the Commercial Unit 1 (662m<sup>2</sup>) above may not have direct lift access to the Basement</p>

Internal Referral Body	Comments
	<p>Level B2 parking levels as Lifts L1, L2 and L5 are all located on the current plans as part of the residential parking areas. A review of the car park layout should be undertaken with allocation of the minimum required 66 Resident spaces and 12 Resident visitor spaces (instead of the 88 Resident spaces and 9 Visitor spaces shown across the Basement Level B3 and B2 plans), so that a portion of commercial car park area can be located below Commercial Unit 1. This will ensure direct access to the commercial basement parking spaces using Lifts L2 and L5, where connectivity may not be possible if the entire Basement Commercial area was used for purposes other than parking.</p> <p><b>Bicycle Parking and End of Trip Facilities</b></p> <p>Part C3(A) of the WDCP 2011 specifies bicycle parking and end of trip facilities requirements which would apply to this development. Part 7.6 of the NSW Planning Guidelines for Walking and Cycling provides further particulars on bicycle storage.</p> <p>The rates for the residential component are 1 per dwelling (High-Medium Security Level) and 1 per 12 dwellings (High-Low Security Level) for visitors. The development requires a total of 60 resident 60 spaces (Class 2 - locked to rails within a secure room/enclosure) and 5 visitor spaces (Class 3- locked to high quality rails).</p> <p>The rates for businesses and retail premises are 1 per 200m2 GFA (High-Medium Security Level) and 1 per 600m2 GFA (High-Low Security Level) for visitors. The development requires 9 staff spaces (792+238m+763)/ 200m2 Class 2 and 3 visitor spaces (1793m2 / 600m2) Class 3, for the businesses/retail tenancies (Units 1-3).</p> <p>The rates for office premises are 1 per 200m2 GFA (High-Medium Security Level) and 1 per 750m2 GFA (High-Low Security Level) for visitors. The development requires 4 staff spaces (591+199m2)/ 200m2 Class 2 and 1 visitor spaces (790m2 / 600m2) Class 3, for the office tenancies (Soho Units 1-8).</p> <p>The overall development should provide 60 residents spaces and 13 staff spaces Class 2 (locked to rails within a secure room/enclosure); and 5 visitor (resident) and 4 visitor (business/retail) Class 3 (locked to high quality rails).</p> <p>The Architectural Plans shows a total of 54 bicycle spaces (12 spaces in basement level 1, 2 spaces in basement level 2, and 40 in basement level 3), which is less than the WDCP 2011 requirements. All bicycle parking spaces are provided with double bike racks, which is only suitable for visitor parking (Class 3). Furthermore, no end of trip facilities appear to have been provided for the entire development.</p> <p>The TIA states that an additional 22 bicycle spaces, comprising 20 resident and 2 visitor spaces; be provided as part of the conditions of consent and that there is ample area in the basement car park level to accommodate the required bicycle spaces. The Applicant should show on amended plans the location of the required 20 residents bicycle</p>

Internal Referral Body	Comments
	<p>parking spaces as they should be conveniently located together in a secure enclosure accessible for the residents. The location should not obstruct circulation within the car park or access to parking spaces.</p> <p>All resident and staff bicycle parking must comply with the WDCP 2011 which requires a secure room/enclosure (Class 2). Basement Level B2 Plan shows an area marked as 'STORAGE' immediately north of the security boom gate for the residential parking area. This would be a possible location for the additional 20 resident bicycle parking enclosure which would require a minimum area measuring 5m long x 5.1m wide, to provide 2 rows of 10 bicycle parking spaces (1.8m x 0.5m) separated by a 1.5m wide aisle. This would require changes to the parking layout so that resident car park spaces 10, 11 and 12 are adjacent with the column relocated to the eastern side of car park space 12. The existing column located near the boom gate could then be removed so that it does not obstruct the access to the secure enclosure.</p> <p>There is an existing bicycle parking area on Basement Level B3, which could provide the required 40 bicycle parking spaces for the approved 40 residents, however this would also need to be provided in a secure enclosure.</p> <p>The development must provide visitor bicycle parking for both the residential (5 spaces) and non-residential (4 spaces) components. The stand-alone bike racks (for 2 bicycles) located on Basement Level B1 near L4 lift and on Basement Level B2 near the Resident parking space 15, may comply for visitors to the Retail/Business or Soho Units but it is unlikely that they would be able to easily locate the facilities within the basement car park levels. It would be more convenient for visitors, if the bike racks could be located on the ground floor paved areas near entrances without obstructing access. could be located together on Basement Level B2, on the eastern side of L4 lift. Alternatively all visitor bicycle parking spaces could be provided in one area on Basement Level B1, where 5 double bike racks are shown near car park space 1, with clear wayfinding signage.</p> <p>The end of trip facilities must be provided for mixed-use buildings in accordance with WDCP 2011 and include a bathroom/change room containing at least one toilet and shower cubicle. Clothes lockers must also be provided for every required bicycle parking space.</p> <p>The Basement Level B1 Plan does show 2 unisex toilets labelled WC 3 and WC 4 in the north-eastern corner of the Retail/Business Unit 1 basement area, however this is likely to be used for the units own purposes. The location is not accessible for Retail/Business Unit 2 and 3 or for Soho Units 1-8, and there does not appear to be any other toilet facilities in the non-residential part of the building.</p> <p>The south-eastern corner of the Basement Level B1 Plan is marked as 'STORAGE' but there are no walls or lines outlining the extent of the</p>

Internal Referral Body	Comments
	<p>area. This would be a suitable location for toilet facilities including a shower cubicle, that services the above ground floor retail/business and SOHO units which could be accessed by both nearby lifts and stairs. Ideally the staff bicycle parking should also be conveniently located in this area, if minor adjustments can be made to accommodate all of the required services. A secured bicycle storage facility for staff providing 13 vertical bicycle parking racks (1.2m long x 0.5m wide) and lockers (0.5m depth x 0.35m wide x 0.9m height) can be provided within an area measuring 4.5m long x 3.9m wide. If there is insufficient space on the Basement Level B1, the staff bicycle storage enclosure could be located on Basement Level B2, between the ramp and L4 lift. This would not be very convenient for cyclists as it would require accessing the building from the ground level off Charlton Lane, use L4 lift to the staff bicycle parking on Basement Level B2, use the L4 lift again to access Basement Level B1, and then walk through the car park to get to the bathroom and shower facilities.</p> <p>The proposal is not acceptable in its current form. The Architectural plans should be updated to show the required parking allocation and further consideration should be made with regards to the car park layout and parking access to the different mixed-use components, especially Commercial Unit 1. There is insufficient details regarding the location of bicycle parking, level of security and lack of end of trip facilities. The TIA does not specify the location of the additional resident bicycle parking spaces, which are not clearly assigned within the basement car park. Some of the existing bicycle rack locations are also randomly located without much thought for the user, especially visitors who would be unfamiliar with the parking layout. Bicycle parking spaces for residents and staff must also be High-Medium Security Level, where the bicycle frames and wheels are locked to high quality rails within a secure room/enclosure. There are also insufficient end of trip facilities with no shower cubicle, change room or lockers provided for bicycle users. Furthermore, the 2 toilets provided are located in the basement level of the Business/Retail Unit 1, which is not accessible to other users in the building. Additional toilet facilities incorporating a shower would provide the necessary amenity for the rest of the business/retail and SOHO units, and it is preferable that the staff bicycle storage enclosure with lockers be located in close proximity for access. It is requested that the above suggestions be considered to address the issues and Architectural Plans updated prior to further review.</p>

Internal Referral Body	Comments

Internal Referral Body	Comments
Waste Officer	<p><b><i>SUPPORTED - SUBJECT TO RECOMMENDED CONDITIONS</i></b></p> <p><u>Waste Referral Comments 18/6/2025</u></p> <p>Updated Waste Management Prepared by Apex Engineers June 2025 and Amended plans (2025/419185 A05A and A03B)</p> <p>Residential Bin Storage Room 1 (Off Orchard Road) and Residential Bin Storage Room 2 (Off Charlton Lane) are satisfactory.</p> <p>For collection:</p> <p>Bins are not to be presented at kerbside. Council provides a wheel out/wheel in service, and it must be demonstrated that councils waste HRV (10.5m long, 2.5m wide and 3.7m travel height) is able to park adjacent to or within 6.5m of the bin storage rooms entrances to perform service on Orchard Road and Charlton Lane in a dedicated service bay. Provision of a dedicated truck loading bay adjacent to the bin storage rooms will be conditioned.</p> <p>Commercial Bin Storage Room is satisfactory and commercial collection contractor to be engaged.</p> <p>Bulky goods storage area. The proposed 60 dwellings require 24m<sup>3</sup> of bulky goods storage area. The WMP indicates that provision has been made for separate storage spaces within the basement parking level. The plans examined (2025/419185 A03B) show one bulky waste storage cage of 29.4m<sup>3</sup> which is satisfactory. The development will need to designate an accessible collection point for bulky waste.</p> <p>Proposed mixed use, multi unit development at 638 Pittwater Rd. Bound by 3 roads – Pittwater Rd which is major arterial route, Orchard Rd with parking on street and Charlton Lane which is a narrow lane to the rear.</p> <p>Proposed development includes:</p> <p>60 residential units made up of 39 x 1 bed, 15 x 2 bed and 6 x 3 bed.</p> <p>8 commercial units totaling 794 m<sup>2</sup></p> <p>3 retail units totaling 1030 m<sup>2</sup></p> <p>152 parking spaces accessed from Charlton Lane.</p> <p>2 service vehicle Bays at ground level accessed from Orchard Lane</p> <p><b>All Waste Storage Areas including Bulky Waste Storage Room will:</b></p> <p>Have a practical layout, be free of obstructions and have only 90 degree angle corners.</p> <p>Minimum ceiling height 2.1m throughout with minimum door width of 1.2m able to be latched in an open position and opening outwards.</p> <p>Be at street level and permit easy, direct and convenient access for the residents, Council and Council's waste contractors. Bulky goods must not be placed on the kerbside so the storage room or suitable holding</p>

Internal Referral Body	Comments
	<p>area must be accessible for council's waste contractors to service from the kerbside.</p> <p>Be clear of any obstructions and security devices.</p> <p>Be clear of any entry points to stormwater systems and prevent wastewater from entering any stormwater system.</p> <p>The commercial waste storage room should be square or rectangular with only 90o angles, not rhomboid.</p> <p><b>Domestic waste bin allocation by Council</b> will be:-  20 x 240L Red Lid waste bins  13 x 240L Yellow Lid container recycling bins  13 x 240L Blue Lid paper recycling bins</p> <p>Landscaping and vegetation will be managed by a contractor so no green lid bins required.</p> <p><b>Pathway, access and door requirements</b></p> <p>A minimum width of 1.2m opening outwards and able to be latched open.</p> <p><b>Bulky goods waste storage area requirements</b>  The bulky goods storage room must be provided according to the following:-</p> <p>Have a volume of 4m<sup>3</sup> per 10 units or part thereof.  Be square or rectangular with only 90o corners.  Have a floor area that allows for materials to be stacked to a maximum height of 2m.  It must be incorporated entirely within the site boundary and not visible to the public  Minimum ceiling height 2.1m throughout with minimum door width of 1.2m</p> <p>For this development which constitutes 60 units, a bulky goods waste storage room or caged area separate from the waste storage room of minimum 24m<sup>3</sup> with a ceiling height of 2.1m and doors with minimum width of 1.2m opening outwards must be provided that is accessible for Councils Waste Contractor. Items cannot be placed at kerbside on Pittwater or Orchard St or Charlton Lane.</p> <p>The space indicated on the plans does not satisfy these requirements  The plans provided with the Waste Management Plan should show path to the waste storage rooms for residents, path for collection and exact dimensions including ceiling heights and door widths opening outwards.</p> <p><b>Waste collection requirements (wheel in wheel out)</b>  As this is a multi-development proposal, Council provides a "wheel in/wheel out" service for the residential bins. The site</p>

Internal Referral Body	Comments
	<p>management/building manager or occupants are not required or instructed to place the bins at the kerbside for collection.</p> <p>Residential waste bins will be collected from Waste Storage Room 1 on Orchard and Waste Storage Room 2 on Charlton. The pathway between the residential bin storage and the property boundary must be a maximum distance of 6.5m.</p> <p>Service access for Council's waste collection staff must be via a pathway that is separate to any vehicular driveway and is to have a flat smooth nonslip surface with a maximum gradient of 1:8 and contain no steps.</p> <p><b>Commercial Waste Service</b></p> <p>Council does not provide commercial waste collection services. The commercial and retail waste will need to be completed by a private waste contractor. Bin configuration and frequency of collection will depend on the retail and commercial use and the service provider selected.</p> <p>The plans show access for service vehicles 3.6m x 6.4m with a height clearance of 3.5m. The standard Heavy Rigid Vehicle used for waste services is typically 10.5m long, 2.5m wide with a service height of 4.5m and a travel height of 3.7m. Vehicle weight is 22.5T with a turning circle of 19m.</p> <p>The clearance height of 3.5m will limit truck movement in and out.</p> <p>Vehicles must be able to enter and exit the development in a forward direction using a maximum of a 3-point turn. The use of a turn table is not acceptable.</p> <p>Bins in the commercial waste storage room must not be stacked at any time and must provide opportunities for retail and commercial tenancies to recycle appropriately.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p><b><i>SUPPORTED - SUBJECT TO RECOMMENDED CONDITIONS</i></b></p> <p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>

#### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.



In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

## **State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)**

### **Housing and Productivity Contribution**

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

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

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

#### Comment:

This amending Development Application proposes 20 new residential apartments (i.e. strata dwelling lots) within the Greater Sydney Region. There is no increase in commercial gross floor area.

Based on the new residential strata lots and commercial gross floor area proposed under this amending Development Application, the contributions payable under this scheme equates to \$200,000.00. It is noted that the contributions for the existing 40 residential apartments cannot be levied pursuant to the Housing and Productivity Contribution Order (HPC Order) as they were approved prior to the coming into force of the HPC Order.

### **SEPP (Sustainable Buildings) 2022**

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

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

### **SEPP (Housing) 2021**

## **Chapter 4 - Design of Residential Apartment Development**

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

*(1) This chapter applies to development only if:*

*(a) the development consists of:*

*(i) the erection of a new building,*

*(ii) the substantial redevelopment or the substantial refurbishment of an existing building, or*

*(iii) the conversion of an existing building, and*

*(b) the building concerned is at least 3 or more storeys, not including underground car parking storeys, and*

*(c) the building contains at least 4 dwellings.*

This amending Development Application proposes an additional 20 residential apartments to an approved shop top housing development. The resulting development will have 60 residential apartments within a part four-five storey building. As per the provisions of Clause 144 outlining the application of the policy, the provisions of Chapter 4 of the Housing SEPP are applicable to the assessment of this application.

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

### **Referral to design review panel for development applications**

Clause 145 of the Housing SEPP requires:

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

#### **Comment:**

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

### **Determination of development applications and modification applications for residential apartment development**

Clause 147 of SEPP Housing requires that:

*(1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—*

*(a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*

*(b) the Apartment Design Guide,*

*(c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.*

Comment:

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

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

The consent authority has considered the advice received from the DSAP and the applicant has amended the proposal where necessary to respond to the DSAP advice. Overall, the DSAP was not supportive of the original proposal, however, the applicant has made significant and substantive amendments to the development application to address the recommendations by the DSAP, including those recommendations that were provided to improve areas within the approved development. As such, the development is considered appropriate and adequate in this regard.

**Non-discretionary development standards for residential apartment development**

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

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

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

Comment:

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

**DESIGN QUALITY PRINCIPLES - Schedule 9**

***Principle 1: Context and Neighbourhood Character***

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

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

Comment:

While the predominant character of this precinct is two to three-storey buildings, a four-storey shop top housing development exists at 517 Pittwater Road located approximately 260m to the north of the site, and the NBLPP has also recently approved a four-storey shop top housing development under Development Application No. DA2023/1371 at 8 Roger Street, which is located approximately 130m to the south-west of the site. The proposed four-storey built form to the top of the residential parapet height will not be out of context with these shop top housing developments within the Pittwater Road corridor within Brookvale.

Additionally, on 28 November 2023, Council adopted the Brookvale Structure Plan (PSP) at the Council Meeting dated 28 November 2023. The BSP anticipates building heights of 30m or 8 storeys along the Pittwater Road corridor within the Brookvale locality, which includes the subject site. The development will be significantly below the future heights that are anticipated by the BSP.

It is noted that the existing maximum building height limit of 11.0m that applies to the subject site has not been increased in the draft Northern Beaches Local Environmental Plan that is subject to a Gateway Determination at the NSW Department of Planning, Housing and Infrastructure. However, all land within the E4 General Industrial zone, which adjoins the site to the east and south, has been increased from 11m to 18m in the draft Northern Beaches Local Environmental Plan. The parapet height of 15.15m is below the 18.0m height limit that will apply immediately to the east and south of the site and the lift overrun heights of 18.8m are only slightly above the 18m height limit that will apply on the adjacent sites; however, the lift overruns are setback from the edge of the parapet and will not add any significant height or bulk to the development when observed from the public domain.

The site is also located on a prominent corner of Pittwater Road and Orchard Road and can appropriately accommodate a building of this size, scale and intensity.

For the reasons outlined above, the height and bulk of the building will respond to existing development within the Brookvale corridor and the emerging character of development that will occur within Brookvale.

The development is consistent with Principle 1.

### ***Principle 2: Built Form and Scale***

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

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

#### Comment:

As detailed above, the scale of the development will maintain an appropriate visual relationship with the existing and future character of the precinct. The development also provides a high quality design with sufficient building articulation that will present positively to the public domain. This is achieved in the following ways:

- The prominent south-western corner of the building has been articulated with projecting window awnings and window millions.
- The fourth-storey component has been setback from the facades of the lower floors and incorporated darker tones to add to the recessive nature of the fourth-storey - which is the primary component of this amending Development Application.
- Planter boxes with vegetation planting are provided around the curtilage building above the parapet level to soften the building and provide suitable visual amenity.
- The long building elevation fronting Orchard Road includes building modulation and differing external finishes across the building elevation to prevent the appearance of a long single building facade.

The assessment finds that Principle 2 is achieved.

### ***Principle 3: Density***

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

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

#### Comment:

The additional 20 apartments that are proposed under this amending Development Application are well appointed and proportioned, providing a high level of amenity for future occupants. The development is also located in close proximity to various public transport services within Brookvale, including the B-Line bus service, and within close proximity to retail stores, employment areas, community facilities and health infrastructure.

The proposed building density is appropriate on this site and the development is consistent with Principle 3.

### ***Principle 4: Sustainability***

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

#### Comment:

The development incorporates a number of passive and technological sustainable features including natural cross ventilation, solar access, photovoltaic (PV) charging and a roof with tree planting.

The development is consistent with Principle 4.

### ***Principle 5: Landscape***

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

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

Comment:

The development provides excellent amenity to the residents through the provision of a large communal open space area that includes various tree planting. A deep soil landscape zone within the eastern setback zone of the site is being maintained, while street tree planting within the public domain along Orchard Road and Pittwater Road will be provided to soften the building when observed from the public domain.

The development is consistent with Principle 5.

**Principle 6: Amenity**

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

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

Comment:

Internally the development provides generous internal and external spaces that shall influence a positive amenity for occupants of the building, while all apartments enjoy either a northern, eastern or western aspect to obtain adequate solar amenity. As detailed above, the rooftop communal open space will provide excellent amenity for residents within the building and encourage social interaction.

The development is consistent with Principle 6.

**Principle 7: Safety**

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

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

Comment:

There are opportunities for passive surveillance of the lower podium communal open space from various

apartments and opportunities for passive surveillance of the public domain from various apartments. The is also secure access to the residential lifts that are separate from the commercial access points.

The development is consistent with Principle 7.

### ***Principle 8: Housing Diversity and Social Interaction***

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

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

#### Comment:

The development provides a mix of one, two and three-bedroom apartments to cater for a variety of demographics, living needs and household budgets. As detailed above, the rooftop communal open space will provide excellent amenity for residents within the building and encourage social interaction.

The development is consistent with Principle 8.

### ***Principle 9: Aesthetics***

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

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

#### Comment:

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

The development is consistent with Principle 9.

## **APARTMENT DESIGN GUIDE**

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

Development Control	Criteria / Guideline	Comments
Part 3 Siting the Development		

<b>Site Analysis</b>	Does the development relate well to its context and is it sited appropriately?	<b>Compliant</b>  The development relates well to the emerging character of the Pittwater Road precinct and some examples of existing development that lie within the precinct, as outlined above within the section of this report relating to Principles 1 and 2 of the Housing SEPP.
<b>Orientation</b>	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	<b>Compliant</b>  The new 20 apartments achieve the solar access guidelines within the ADG. Moreover, being a corner site that is located directly to the north of Orchard Road and the Brookvale Bus Depot, and with industrial zoned-land being located to the east of the site, the development does not result in overshadowing of any residential properties.
<b>Public Domain Interface</b>	Does the development transition well between the private and public domain without compromising safety and security?  Is the amenity of the public domain retained and enhanced?	<b>Compliant</b>  As detailed within the section of this report relating to Principle 7 of the Housing SEPP, the safety and security of residents will be safeguarded.



<b>Communal and Public Open Space</b>	<p>Appropriate communal open space is to be provided as follows:</p> <ol style="list-style-type: none"> <li>1. Communal open space has a minimum area equal to 25% of the site</li> <li>2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter)</li> </ol>	<p><b>Compliant</b></p> <p>The development provides approximately 741.1sqm of communal open space on the roof terrace and 342.8sqm of podium communal open space on the first floor plan, amounting to a total area of 1,083.9sqm or 40.72% of the site area. The roof terrace will receive sunlight throughout the winter months and will meet the 2 hour sunlight requirement on June 21 as the roof terrace occupies 68.37% of the proposed communal open space.</p>
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<b>Deep Soil Zones</b>	<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1" data-bbox="440 371 1062 913"> <thead> <tr> <th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr> </thead> <tbody> <tr> <td>Less than 650m<sup>2</sup></td><td>-</td><td rowspan="4">7%</td></tr> <tr> <td>650m<sup>2</sup> – 1,500m<sup>2</sup></td><td>3m</td></tr> <tr> <td>Greater than 1,500m<sup>2</sup></td><td>6m</td></tr> <tr> <td>Greater than 1,500m<sup>2</sup> with significant existing tree cover</td><td>6m</td></tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m <sup>2</sup>	-	7%	650m <sup>2</sup> – 1,500m <sup>2</sup>	3m	Greater than 1,500m <sup>2</sup>	6m	Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m	<p><b>Inconsistent (Acceptable on Merit)</b></p> <p>5.33% (142sqm) of the site contains deep soil landscaping; however, this area along the Charlton Road frontage is only 4.5m in width as there is a 1.5m wide path adjacent to the building.</p> <p>While technically non-compliance with Part 3E of the ADG, the assessment meets the performance objectives for the following reasons:</p> <ul style="list-style-type: none"> <li>• The extent of deep soil landscaping remains unchanged from what is already approved on the site.</li> <li>• The development provides on-slab roof planting which will ensure the visual amenity of the development when observed from the public domain.</li> </ul>
Site area	Minimum dimensions	Deep soil zone (% of site area)												
Less than 650m <sup>2</sup>	-	7%												
650m <sup>2</sup> – 1,500m <sup>2</sup>	3m													
Greater than 1,500m <sup>2</sup>	6m													
Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m													

<b>Visual Privacy</b>	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="440 409 1061 763"> <thead> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table> <p><b>Note:</b> Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p><b>Compliant</b></p> <p>The new habitable rooms comply with Part 3F for the following reasons:</p> <ul style="list-style-type: none"> <li>Internal building separation between the opposing facing apartments at the different tower levels are setback 12m from one another.</li> <li>The habitable rooms facing the western boundary are setback 6m from the boundary.</li> </ul>
Building height	Habitable rooms and balconies	Non-habitable rooms												
Up to 12m (4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												
<b>Pedestrian Access and entries</b>	<p>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>	<p><b>Compliant</b></p> <p>Pedestrian access to the building is accessible and easily identifiable.</p>												
<b>Vehicle Access</b>	<p>Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?</p>	<p><b>Compliant</b></p> <p>The vehicular access points to the building remain unchanged from the approved scheme.</p>												

<b>Bicycle and Car Parking</b>	<p>For development in the following locations:</p> <ul style="list-style-type: none"> <li>On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or</li> <li>On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</li> </ul> <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>	<p><b>Compliant</b></p> <p>The proposal satisfies the car parking and bicycle requirements under the WDCP.</p>
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#### Part 4 Designing the Building

##### Amenity

<b>Solar and Daylight Access</b>	<p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> <li>Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter.</li> </ul>	<p><b>Compliant</b></p> <p>85% (17 of 20 new apartments) of apartments receive 2 hours of sunlight to living rooms and private open space on June 21.</p>
	<ul style="list-style-type: none"> <li>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter.</li> </ul>	<p><b>Compliant</b></p> <p>No new apartments received no sunlight.</p>

Natural Ventilation	<p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:</p> <ul style="list-style-type: none"><li>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</li></ul>	<p><b>Compliant</b></p> <p>Twelve (60% of 20 new apartments) of the new apartments are naturally cross ventilated.</p>												
	<ul style="list-style-type: none"><li>Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.</li></ul>	<p><b>Compliant</b></p> <p>No apartments have a depth that exceeds 18m.</p>												
Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table><tr><th colspan="2">Minimum ceiling height</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor  2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor  2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	<p><b>Compliant</b></p> <p>The floor to ceiling heights comply with the criteria for habitable and non-habitable rooms.</p>
Minimum ceiling height														
Habitable rooms	2.7m													
Non-habitable	2.4m													
For 2 storey apartments	2.7m for main living area floor  2.4m for second floor, where its area does not exceed 50% of the apartment area													
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope													
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use													

<b>Apartment Size and Layout</b>	Apartments are required to have the following minimum internal areas:	<b>Inconsistent (Acceptable on Merit)</b>  All one and two-bedroom apartments comply with the internal size requirements; however, the three-bedroom apartments (which have two bathrooms), being Apartments 46 and 48, have respective areas of 91sqm and 93sqm, where 95sqm is required.  The assessment concludes that the minor shortfall is acceptable and that the development complies with the objectives of Part 4D of the ADG for the following reasons: <ul style="list-style-type: none"><li>• The three-bedroom apartments have a surplus of private open space above what Part 4E requires, which will enhance the amenity of the apartments.</li><li>• The layout of the three-bedroom apartments are well organised and will provide a high standard amenity for the future residents, despite the minor shortfall in area.</li><li>• The residents will have access to a generous area of communal open space at the podium and roof top area. This communal open space is well above the ADG</li></ul>										
	<table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m<sup>2</sup></td></tr><tr><td>1 bedroom</td><td>50m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 bedroom</td><td>90m<sup>2</sup></td></tr></table>		Apartment type	Minimum internal area	Studio	35m <sup>2</sup>	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>
	Apartment type		Minimum internal area									
	Studio		35m <sup>2</sup>									
	1 bedroom		50m <sup>2</sup>									
	2 bedroom		70m <sup>2</sup>									
3 bedroom	90m <sup>2</sup>											
The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m <sup>2</sup> each.												
A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m <sup>2</sup> each.												

	guideline of 25% of the site area.
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.	<b>Compliant</b>  The habitable rooms comply with this requirement.
Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	<b>Compliant</b>  The habitable rooms comply with this requirement.
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	<b>Compliant</b>  The habitable space within open plan layouts do not exceed 8m.
Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space).	<b>Compliant</b>  The bedrooms meet this requirement.
Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension.	<b>Compliant</b>  The bedrooms meet this requirement.
Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> <li>• 3.6m for studio and 1 bedroom apartments</li> <li>• 4m for 2 and 3 bedroom apartments</li> </ul>	<b>Compliant</b>  The living and dining rooms depths comply with this requirement.
The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	<b>Compliant</b>  The width of the cross-over apartments are greater than 4m.

Private Open Space and Balconies	<p>All apartments are required to have primary balconies as follows:</p> <table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m<sup>2</sup></td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m<sup>2</sup></td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m<sup>2</sup></td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m<sup>2</sup></td><td>2.4m</td></tr></table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m <sup>2</sup>	-	1 bedroom apartments	8m <sup>2</sup>	2m	2 bedroom apartments	10m <sup>2</sup>	2m	3+ bedroom apartments	12m <sup>2</sup>	2.4m	<p><b>Compliant</b></p> <p>Each apartment contains compliant balconies with compliant dimensions.</p>
	Dwelling Type	Minimum Area	Minimum Depth														
	Studio apartments	4m <sup>2</sup>	-														
1 bedroom apartments	8m <sup>2</sup>	2m															
2 bedroom apartments	10m <sup>2</sup>	2m															
3+ bedroom apartments	12m <sup>2</sup>	2.4m															
	<p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3m.</p>	<p>N/A</p>															
Common Circulation and Spaces	<p>The maximum number of apartments off a circulation core on a single level is eight.</p>	<p><b>Compliant</b></p> <p>The maximum number apartments off a circulation core is six apartments.</p>															
	<p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	<p>N/A</p>															
Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling Type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m<sup>2</sup></td></tr><tr><td>1 bedroom apartments</td><td>6m<sup>2</sup></td></tr><tr><td>2 bedroom apartments</td><td>8m<sup>2</sup></td></tr><tr><td>3+ bedroom apartments</td><td>10m<sup>2</sup></td></tr></table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling Type	Storage size volume	Studio apartments	4m <sup>2</sup>	1 bedroom apartments	6m <sup>2</sup>	2 bedroom apartments	8m <sup>2</sup>	3+ bedroom apartments	10m <sup>2</sup>	<p><b>Compliant</b></p> <p>The apartments contain compliant storage.</p>					
	Dwelling Type	Storage size volume															
Studio apartments	4m <sup>2</sup>																
1 bedroom apartments	6m <sup>2</sup>																
2 bedroom apartments	8m <sup>2</sup>																
3+ bedroom apartments	10m <sup>2</sup>																
Acoustic Privacy	<p>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.</p>	<p><b>Compliant</b></p> <p>The new apartments proposed under this amending Development Application are located more than 3m from the listed noise sources.</p>															



<b>Noise and Pollution</b>	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	<b>Compliant</b>  As detailed earlier within this report, the Noise Impact Assessment has provided several recommendations pertaining to glazing and insulation type to ensure that the apartments are not adversely impacted by noise emissions. These recommendations form part of the recommended conditions of consent.
<b>Configuration</b>		
<b>Apartment Mix</b>	Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.	<b>Compliant</b>  The development provides a mix of one, two and three-bedroom apartments to cater for a variety of demographics, living needs and household budgets.
<b>Ground Floor Apartments</b>	Do the ground floor apartments deliver amenity and safety for their residents?	N/A - no ground floor apartments proposed.
<b>Facades</b>	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	<b>Compliant</b>  The proposal incorporates a variety of materials, colours and textures, in addition to modulated wall planes and roof planting, to provide for an aesthetically pleasing building.
<b>Roof Design</b>	Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top.	<b>Compliant</b>  The roof area contains a generous area of communal open space and also incorporates vegetation planting and PV charging.

Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	<b>Compliant</b>  The proposed landscaping scheme is supported by Council's Landscape Officer. The proposed landscaping is suitable in the context of the site conditions and the local context.																																			
Planting on Structures	When planting on structures the following are recommended as minimum standards for a range of plant sizes:	<b>Compliant</b>  Council's Landscape Officer is satisfied that the soil depths and volume for the on-slab planting complies with the ADG.																																			
	<table><tr><th>Plant type</th><th>Definition</th><th>Soil Volume</th><th>Soil Depth</th><th>Soil Area</th></tr><tr><td>Large Trees</td><td>12-18m high, up to 16m crown spread at maturity</td><td>150m³</td><td>1,200mm</td><td>10m x 10m or equivalent</td></tr><tr><td>Medium Trees</td><td>8-12m high, up to 8m crown spread at maturity</td><td>35m³</td><td>1,000mm</td><td>6m x 6m or equivalent</td></tr><tr><td>Small trees</td><td>6-8m high, up to 4m crown spread at maturity</td><td>9m³</td><td>800mm</td><td>3.5m x 3.5m or equivalent</td></tr><tr><td>Shrubs</td><td></td><td></td><td>500-600mm</td><td></td></tr><tr><td>Ground Cover</td><td></td><td></td><td>300-450mm</td><td></td></tr><tr><td>Turf</td><td></td><td></td><td>200mm</td><td></td></tr></table>		Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Large Trees	12-18m high, up to 16m crown spread at maturity	150m³	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m³	1,000mm	6m x 6m or equivalent	Small trees	6-8m high, up to 4m crown spread at maturity	9m³	800mm	3.5m x 3.5m or equivalent	Shrubs			500-600mm		Ground Cover			300-450mm		Turf			200mm	
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Universal Design	Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features	<b>Compliant</b>  Four (4) out of the 20 new residential apartments (20% of new apartments) incorporate the Livable Housing Guideline's silver level universal design features.																																			

<b>Adaptable Reuse</b>	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.	<b>Compliant</b>  The new additions proposed under this amending Development Application follow the layout of the apartments on the lower levels; however, the new additions are recessed back from the facade on the lower levels to reduce the visual prominence of the fourth storey.
<b>Mixed Use</b>	Can the development be accessed through public transport and does it positively contribute to the public domain?  Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.	<b>Compliant</b>  The development is located in close proximity to public transport services and the non-residential uses of the building remain on the ground floor.
<b>Awnings and Signage</b>	Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development.  Signage must respond to the existing streetscape character and context.	<b>Compliant</b>  The awnings on the ground floor remain in accordance with the existing development consent. This will assist in improving the pedestrian environment.
<b>Performance</b>		
<b>Energy Efficiency</b>	Have the requirements in the BASIX certificate been shown in the submitted plans?	<b>Compliant</b>  The requirements of the BASIX Certificate are reflected on the architectural plans.
<b>Water Management and Conservation</b>	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	<b>Compliant</b>  Stormwater from the development will be managed in accordance with the approved development. Council's Development Engineer has provided conditions to this effect.

<b>Waste Management</b>	Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?	<b>Compliant</b>  The Waste Management Plan complies with Council's Waste Management Guidelines.
<b>Building Maintenance</b>	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	<b>Compliant</b>  The material selection will ensure longevity and sustainability of the building.

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

## **SEPP (Transport and Infrastructure) 2021**

### **Chapter 2 - Infrastructure**

Various provisions within Chapter 2 of State Environmental Planning Policy (Transport and Infrastructure) 2021 (TI SEPP) are applicable to this application. They are assessed below.

#### **Section 2.48 - Determination of development applications - other development**

Section 2.48 of Chapter 2 requires the relevant electricity authority (i.e. Ausgrid) to consider any development application (or an application for modification of consent) for any development carried out in close proximity to electrical infrastructure.

The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

#### **Section 2.119 - Development with frontage to a classified road**

Section 2.119 of the TI SEPP requires that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
  - (i) *the design of the vehicular access to the land, or*
  - (ii) *the emission of smoke or dust from the development, or*
  - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or*

*vehicle emissions within the site of the development arising from the adjacent classified road.*

The development is consistent with these requirements for the following reason:

- Access to the site and the development is maintained via Carlton Lane and Orchard Road, which are not classified roads.
- Transport for NSW have assessed the application and are satisfied that the additional traffic generated by the development will not adversely impact upon the performance of Pittwater Road, being the classified road.
- The development relates to shop top housing and will not generate any significant on-going smoke or dust emissions, noting that the air emissions from the additional vehicles will not cause significant air quality impacts.
- The Noise Impact Assessment submitted with this application has provided recommendations in relation to the glazing and insulation type to ensure that the new residential apartments are not adversely impacted by road traffic noise.

#### **Section 2.120 - Impact of road noise or vibration on non-road development**

Section 2.120 of the TI SEPP requires that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

*(1) This section applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration—*

- (a) residential accommodation,*
- (b) a place of public worship,*
- (c) a hospital,*
- (d) an educational establishment or centre-based child care facility.*

*(2) Before determining a development application for development to which this section applies, the consent authority must take into consideration any guidelines that are issued by the Planning Secretary for the purposes of this section and published in the Gazette.*

*(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—*

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

The development is consistent with these requirements for the following reasons:

- The assessment has considered the *Development near rail corridors and busy roads -interim guideline* and finds that the development is consistent with this guideline, as appropriate measures will be in place to ensure that residential development is not adversely impact by road noise and vibration.
- The Noise Impact Assessment submitted with this application has provided recommendations in relation to the glazing and insulation type to ensure that the new residential apartments achieve the required noise amenity criteria for habitable rooms.

### Conclusion

As demonstrated above, the development satisfies the relevant provisions of the TI SEPP.

## **SEPP (Biodiversity and Conservation) 2021**

### Chapter 2 - Vegetation in non-rural areas

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

Part 2.3 has been considered and the development does not propose the removal of any vegetation in order to facilitate the development. Therefore, no further consideration of Chapter Two is required.

The development satisfies the requirements within the BC SEPP.

## **SEPP (Resilience and Hazards) 2021**

### Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. The matter of land contamination was considered as part of the assessment of Development Application DA2019/0239. Condition 19 of Development Consent DA2019/0239 has included a requirement for a Detailed Site Investigation (DSI) (i.e. Phase 2 Environmental Site Assessment) to be carried out prior to the commencement of excavation or construction work on the site. If the DSI requires any remediation to occur on the site, Condition 19 contains a requirement for site remediation works to be undertaken prior to the commencement of excavation or construction work on the site.

It is noted that no additional excavation works are proposed under this amending Development Application. As such, the assessment finds that the conditions imposed under Development Consent DA2019/0239 are sufficient to ensure that the site can be made suitable for the proposed shop top housing development.

The amending Development Application is consistent with Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021.

## Warringah Local Environmental Plan 2011

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

### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	11.0m (max)	15.15m (parapet) - 18.8m (lift overrun)	70.91%	No

### Compliance Assessment

Clause	Compliance with Requirements
2.5 Additional permitted uses for particular land	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.4 Development on sloping land	Yes

### Detailed Assessment

#### **2.5 Additional permitted uses for particular land**

While prohibited in the E3 Productivity Support zone, shop top housing is permissible with consent as an additional permitted land use on the site pursuant to section 5 of Schedule 1 of the WLEP 2011. This is contingent on the development not having an adverse impact on the adjoining E4 General Industrial zone land.

The development does not result in adverse impacts on the adjoining E4 zone, insofar as the development does not sterilize or hinder adjoining land from being developed to their industrial potential. The BCA Report and Noise Impact Assessment submitted with this application provide recommendations in relation to insulation and glazing to ensure the apartments are not adversely impact by industrial or road noise.

#### **Zone E3 Productivity Support**

As detailed earlier within this report, shop top housing is permissible with consent as an additional permitted use pursuant to section 5 of Schedule 1 of the WLEP 2011.

The assessment finds that the development is consistent with the objectives of the E3 Productivity

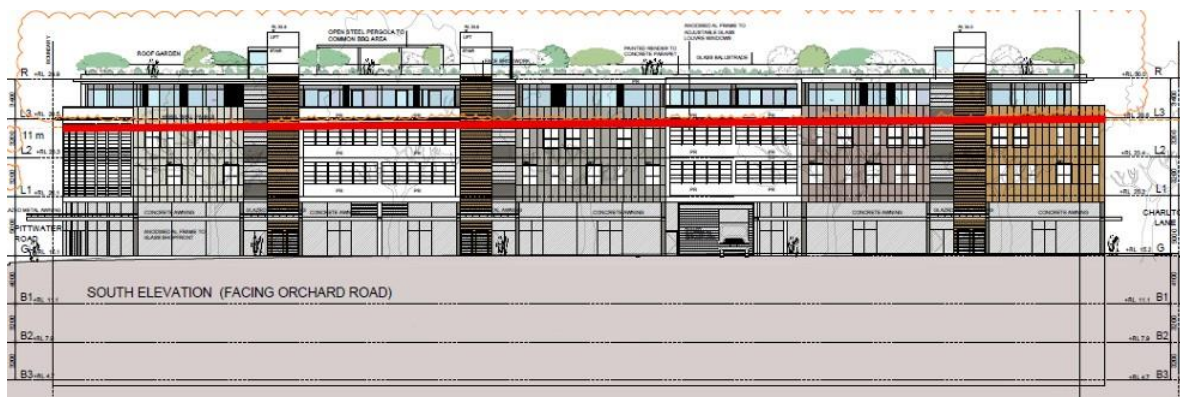
- The development creates pedestrian safe environment that is safe, activity and interesting.
- The development is of a high visual quality that relates favorably in architectural and landscape treatment, particularly when considered in the context of the immediately adjacent industrial land uses located to the east of the development.
- Suitable glazing and insulation are incorporated into the new residential apartments to ensure that the amenity of the residential apartments are not significantly impact by road or industrial traffic noise.

Clause 4.3 of the WLEP 2011 states that the maximum height of development on the site must not exceed 11.0m above the existing ground level.

This amending DA involves a building with a maximum height of 15.15m to the parapet above the fourth storey and a maximum height of 18.8m at the lift overrun points. This represents a variation to the development standard ranging between 37.72% for the parapet and 70.91% for the lift overruns. It is important to note that the floor-to-floor heights between the approved residential levels on Levels 1 and 2 have been increased to 3.2m (they were previously 3.05m) to satisfy the current ADG requirements. This was done as per the DSAP advice.

**Figure 2 - Building height diagram showing the non-compliant elements above the 11.0m height plane on the northern facade**





**Figure 3 - Building height diagram showing the non-compliant elements above the 11.0m height plane on the southern facade**

With reference to Section 35B of the Environmental Planning and Assessment Regulation 2021, the development application is accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the WLEP 2011 (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:

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

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

Comment:

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

Subclause (2) of this clause provides that:

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

Comment:

Clause 4.3 is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:

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

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

Comment:

Council is satisfied that the applicant has demonstrated that compliance with Clause 4.3 of the WLEP 2011 is unreasonable or unnecessary in the circumstances of this application as the applicant has demonstrated that the objectives of Clause 4.3 of the WLEP 2011 are achieved, notwithstanding the contravention of the development standard. The matter of *Wehbe v Pittwater Council [2007] NSWLEC 827* has established that this method is an appropriate way to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

Council's assessment against the objectives of Clause 4.3 of the WLEP 2011 are provided below.

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

Comment:

While the predominant character of this precinct is two to three-storey buildings, a four-storey shop top housing development exists at 517 Pittwater Road located approximately 260m to the north of the site, while the NBLPP has also recently approved a four-storey shop top housing development under Development Application DA2023/1371 at 8 Roger Street, which is located approximately 130m to the south-west of the site.

The proposed four-storey built form to the top of the residential parapet height will not be out of context with these shop top housing developments within the Pittwater Road corridor within Brookvale and the additional building elements on the roof top terrace level including the lift overruns will not add any significant height or bulk to the building as they are setback from the edge of the parapet level on the fourth storey.

The height of the development will also be consistent with the imminent building height limits that will apply to the adjoining sites to the south and east of the subject site under the Northern Beaches Draft Local Environmental Plan and the future heights that have been endorsed for the Pittwater Road corridor under the BSP.

For these reasons, the assessment concludes that the development is consistent with this objective.

*(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*

Comment:

The site is located within a unique corner site that is located directly to the north from the Brookvale bus depot and has industrial zoned land to the east of the site, including Pittwater Road to the west of the site. These factors ensure that the development does not result in any overshadowing of residential properties. Furthermore, while commercially zoned land is located to the north of the site (which has the potential to accommodate shop top housing), the development will not result in overshadowing of future development to the north due to the subject site being located to the south from the adjacent commercially zoned land.

Additionally, any habitable rooms and balconies that are orientated towards the boundaries of commercially zoned land to the north employ a setback that is above the 6.0m ADG building separation guideline, which will safeguard the privacy and visual amenity of any future development to the north. The rooftop terrace areas employ additional setbacks beyond the lower levels to the trafficable areas of the roof, which will mitigate

privacy impacts to future development to the north.

An examination of the site and the surrounds has also concluded that the development will not obstruct any significant view corridors.

For these reasons, the assessment finds that the development is consistent with this objective.

*(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,*

Comment:

N/A - the site is not located in a coastal or bush environment.

*(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.*

Comment:

As detailed above, the scale of the development will maintain an appropriate visual relationship with the existing and future character of the precinct. The development also provides a high quality design with sufficient building articulation that will present positively to the public domain. This is achieved in the following ways:

- The prominent south-western corner of the building has been articulated with projecting window awnings and window millions.
- The fourth-storey component has been setback from the facades of the lower floors and incorporated darker tones to add to the recessive nature of the fourth-storey - which is the primary component of this amending Development Application.
- Planter boxes with vegetation planting are provided around the curtilage building above the parapet level to soften the building and provide suitable visual amenity.
- The long building elevation fronting Orchard Road includes building modulation and differing external finishes across the building elevation to prevent the appearance of a long single building facade.

As demonstrated above, the development is consistent with this objective.

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

Comment:

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

*'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written*

*request under cl 4.6 must be “environmental planning grounds” by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.’*

### **Applicant's Written Request**

The Clause 4.6 Request argues, in part:

#### **Ground 1 - Contextually responsive building design**

*Despite non-compliance with the 11m building height development standard, the proposed development is consistent and compatible with the height of contemporary development within the immediate context of the site, including development at No's 517 and 694 Pittwater Road at the northern gateway to this section of Pittwater Road.*

*Council's acceptance of the proposed height variation will ensure the orderly and economic development of the site, in so far as it will ensure conformity with the scale and character established by other developments approved under the provisions of WLEP 2011 within the visual catchment of the site, consistent with Objective 1.3(c) of the EP&A Act. The proposed development has been sensitively designed to respond to both the location of the site and also the form and massing of adjoining development. The building is of high design quality with the variation facilitating a height that provides for contextual built form compatibility, consistent with Objective 1.3(g) of the Act.*

#### **Ground 2 – Brookvale Structure Plan**

*This application seeks to provide an additional 20 apartments through the construction of an additional storey residential accommodation noting that the shop top housing land use, height, form and residential density proposed are entirely consistent within anticipated for development on the land following the adoption of the Brookvale Structure Plan (BSP) by Northern Beaches Council at its meeting of 28 November 2023 which anticipates building heights of 30 metres or 8 storeys on the site.*

*Council's acceptance of the proposed height variation will ensure the orderly and economic development of the site, in so far as reflects consistency with Council's own findings conveyed in the Brookvale Structure Plan, being that additional building height is appropriate along this section of Pittwater Road.*

*Overall, there are sufficient environmental planning grounds to justify contravening the development standard.*

### **Assessment Officer Comment:**

The environmental planning grounds advanced by the applicant are concurred with. In particular, the assessment finds that the development will be a contextually responsive design with other four-storey shop top housing developments along the Pittwater Road corridor.

The subject site is also on a prominent corner within the Pittwater Road corridor that can accommodate for the height, bulk and scale of development that is proposed without causing unreasonable visual impacts on the public domain and adverse amenity impacts to surrounding properties. The site constitutes a "marker-site" and announces the south-eastern beginning of the commercial strip on the eastern side of Pittwater Road.

The assessment also notes that the development will be compatible with the height anticipated under the BSP. This environmental planning ground was endorsed by the NBLPP when granting consent for the four-storey shop top housing development at 8 Roger Street, which is located approximately 130m to the

south-west of the site and also within the Pittwater Road corridor.

In this regard, the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, thereby satisfying objects 1.3(c) and (g) of the EP&A Act.

### Public Interest

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

### Conclusion

Council is satisfied as to the matters set out in Clause 4.6 of the WLEP 2011.

As demonstrated above, the proposed development satisfies the relevant considerations under Clause 4.6 of the WLEP 2011.

Therefore, the contravention to Clause 4.3 of the WLEP 2011 is **supported** in this instance and it is reasonable that flexibility to the standard be applied.

### 6.4 Development on sloping land

The application has been accompanied by an addendum to the Geotechnical Report approved under Development Consent DA2019/0239. The addendum report outlines that the recommendations of the approved Geotechnical Report remain relevant and that no additional recommendations are required to mitigate geotechnical risk. These recommendations of the approved Geotechnical Report are captured by Development Consent DA2019/0239.

### Warringah Development Control Plan

#### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B2 Number of storeys	3 storeys	4 storeys (to the parapet level of residential accommodation) - partially 5 storeys (for the roof top lobby and toilet areas)	66.67%	No
B5 Side Boundary Setbacks	Northern Boundaries - Merit Assessment	Nil setback – consistent with DA2019/0239 and acceptable on merit	-	Yes

B7 Front Boundary Setbacks	Western half of site (Pittwater Road and Orchard Road) – must be consistent with adjoining buildings	Nil setback to Pittwater Road and Orchard Road – consistent with adjoining buildings	-	Yes
	Eastern half of site (Orchard Road and Charlton Lane) – 4.5m	Orchard Road – Nil setback – consistent with DA2019/0239	100%	<b>No (consistent with DA2019/0239)</b>
		Charlton Lane – 6.0m	-	Yes
C3(A) Parking Facilities and End of Trip Facilities	82 bicycle parking spaces	92 bicycle parking spaces	-	Yes
Appendix 1 Car Parking	108 car parking spaces (refer to Traffic Engineering referral space for how this is allocated to each land use)	152 car parking spaces with appropriate allocation to each land use	-	Yes

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B2 Number of Storeys	No	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D21 Provision and Location of Utility Services	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

### Detailed Assessment

## **B2 Number of Storeys**

### **Description of Non-compliance**

Section B2 of the Warringah Development Control Plan 2011 (WDGP) states that development should not exceed three-storeys above ground level.

The proposed development is predominantly four-storeys and includes some five-storey components for the rooftop lobby and toilet areas. These fifth storey elements are setback from the edge of the parapet level and the building will predominantly read as a four-storey building within the streetscape and locality.

### **Merit Consideration**

With regard to the consideration for a variation, the development is considered against the underlying objectives of the control as follows:

- ***To ensure development does not visually dominate its surrounds.***

#### Comment:

As detailed within the section of this report relating to Clause 4.6 of the WLEP 2011, the development will be visually compatible in its scale with other four-storey shop top housing developments within the Pittwater Road corridor. The development is also highly articulated, includes a recessive fourth storey and vegetation planting on the roof level. These design elements will ensure that the development presents positively to the public domain.

- ***To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.***

#### Comment:

As detailed above and within the section of this report relating to Clause 4.6 of the WLEP 2011, the development will not have an unreasonable visual impact when observed from adjoining properties and the public domain.

- ***To provide equitable sharing of views to and from public and private properties.***

#### Comment:

An examination of the site and the surrounds has also concluded that the development will not obstruct any significant view corridors.

- ***To ensure a reasonable level of amenity is provided and maintained to adjoining and nearby properties.***

Comment:

As detailed within the section of this report relating to the Housing SEPP and ADG, a high level of amenity will be provided to the future residents, and the development will not result in any adverse off-site amenity impacts.

- ***To provide sufficient scope for innovative roof pitch and variation in roof design.***

Comment:

The curved parapet above the fourth storey softens the prominent south-western corner of the building and appropriate articulation has been provided on the facades fronting the public domain to provide for an aesthetically pleasing building.

- ***To complement the height of buildings control in the LEP with a number of storeys control.***

Comment:

An assessment of the WLEP 2011 height of buildings standard is provided in detail earlier within this report.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the objectives of Section B2 of the WDCP.

Therefore, flexibility has been afforded to the prescriptive requirements of this control, consistent with Section 4.15(3A)(b) of the EP&A Act.

## **B7 Front Boundary Setbacks**

### **Description of Non-compliance**

Section B7 of the WDCP requires development to be setback 4.5m from the eastern half of the site along the Orchard Road frontage and a nil setback (which is consistent with adjoining buildings) for the western half of the site closer to Pittwater Road. A 4.5m setback to Charlton Lane is also required.

The development provides a compliant 6m setback to the Charlton Lane frontage; however, maintains a nil setback to the Orchard Road frontage, with the fourth storey facade being setback at least 730mm from the facade of the lower levels along Orchard Road and the rooftop terrace being setback a minimum of 2.33m from the parapet edge. The nil setback arrangement along Orchard Road was approved by the NBLPP under Development Consent DA2019/0239, which this amending Development Application relates to.

### **Merit Consideration**



With regard to the consideration for a variation, the development is considered against the underlying objectives of the control as follows:

- *To create a sense of openness.*
- *To maintain the visual continuity and pattern of buildings and landscape elements.*
- *To protect and enhance the visual quality of streetscapes and public spaces.*
- *To achieve reasonable view sharing.*

Comment:

The 4.5m setback is aimed at industrial sites/buildings that have their main frontage to Orchard Road. In this case, the proposal is for shop top housing, which requires street activation along all frontages. A nil setback along Pittwater Road and a 4.5m setback along Orchard Road is impractical for a shop top housing development and would not result in sufficient space to provide retail tenancies to activate the streetscape. The amending Development Application follows the footprint of the lower floors and provides additional recessing of the front facades on the fourth storey to reduce the visual impact of the fourth storey.

In this regard, the assessment finds that the development is consistent with the objectives of the control for the following reasons:

- The development maintains a sense of openness within the Charlton Lane frontage.
- The development maintains visual continuity with the existing development consent and adjacent commercial buildings along Pittwater Road.
- The front setback non-compliance will not reduce the visual quality of the streetscape.
- The front setback non-compliance will not obstruct any significant view corridors.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the objectives of Section B7 of the WDCP.

Therefore, flexibility has been afforded to the prescriptive requirements of this control, consistent with Section 4.15(3A)(b) of the EP&A Act.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2024**

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

A monetary contribution of \$60,158 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$6,015,826.

## **ASSESSMENT OF COMMUNAL ROOF LANDSCAPE PLANS**

The Communal Roof Landscape Plans include a draft watermark on the plans. The content of the plans have been assessed as being satisfactory by Council's Landscape Officer. In this regard, a condition is recommended requiring the draft watermark to be removed from the Landscape Plans that form part of the construction certificate application.

## **ASSESSMENT OF ENCROACHMENT INTO THE PUBLIC ROAD RESERVE**

The south-western corner of the building encroaches slightly into the public road reserve as a result of following the approved building footprint under Development Consent DA2019/0239. The existing development consent has conditions of consent, which are still applicable, to require these encroaching elements to be approved via way of a Section 138 Roads Act 1993 application. The existing conditions will address any further encroachments by the corner of the fourth storey of residential accommodation. As such, no additional conditions are required under this application.

## **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

Council is satisfied that the Applicant's written request under Clause 4.6 of the Warringah Local Environment Plan 2011 seeking to justify variation of the development standard contained within Clause 4.3 Height of

Buildings has adequately addressed and demonstrated that:

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

## **PLANNING CONCLUSION**

The proposal involves an amending Development Application seeking consent for substantial alterations and additions to an approved three-storey shop top housing development that was approved pursuant to Development Consent DA2019/0239, largely to create a fourth storey of residential development that contains 20 residential apartments including a roof top communal open space area.

The proposal would modify the existing development consent in accordance with Sections 4.17(1)(b) and (5) of the EP&A Act.

While the development involves a 37.72% (parapet level) - 70.91% (lift overrun) variation to the building height standard under the WLEP 2011, which requires development to be no more than 11.0m above the existing ground level, the applicant's written request has adequately addressed the jurisdictional matters within Clause 4.6 of the WLEP 2011 and the assessment has concluded that compliance with the development standard is unreasonable, and that there are sufficient environmental planning grounds to justify the variation. Furthermore, the building will remain visually compatible with surrounding development within the Pittwater Road corridor, consistent with the future height limits that will apply to the site under the BSP and the non-compliant building height elements will not result in any adverse visual impacts or amenity impacts to neighbouring properties.

The amended plans submitted throughout the assessment issues have resolved the concerns raised by Council and DSAP in relation to the built form, residential amenity and waste management. While there are outstanding issues with respect to car parking, bicycle parking and end of trip facilities, suitable conditions of consent have been recommended to require amendments to the layout of the basement levels to ensure that these facilities are provided on the site to reflect the scale and density of the amended Development Application.

The application was publicly exhibited for 14-days on two occasions and only one (1) submission was received. The submission did not object to the development, but raised certain issues to be addressed by Council, including a request for appropriate acoustic treatment to be provided to the building to ensure that adequate acoustic amenity is maintained to the apartments. The recommended conditions of consent will ensure that appropriate construction measures are incorporated into the development to ensure that the new apartments enjoy adequate acoustic amenity.

The subject site is a large and prominent corner allotment, which is suitable to accommodate for the increased building height, size, scale and density that is proposed on the site under this amended Development Application.

Overall, the development is consistent with all applicable environmental planning instruments and regulatory

provisions. Therefore, the development is considered to be in the public interest.

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

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

RECOMMENDATION

That Northern Beaches Council, as the consent authority, vary the development standard contained within Clause 4.3 Height of Buildings, pursuant to Clause 4.6 of the Warringah Local Environmental Plan 2011 because the Applicant’s written request has adequately addressed the merits required to be demonstrated by subclause (3) of Clause 4.6.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2024/1684 for Alterations and additions to a shop top housing development approved under Development Consent DA2019/0239 on land at Lot 1 DP 1001963, 638 Pittwater Road, BROOKVALE, subject to the conditions printed below:

Terms and Reasons for Conditions

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

GENERAL CONDITIONS

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

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
A02B	B	Basement Level B3	Barry Rush & Associates	5 July 2024
A03B	B	Basement Level B2	Barry Rush & Associates	5 July 2024
A04B	B	Basement Level B1	Barry Rush & Associates	5 July 2024
A05A	A	Ground Floor Level	Barry Rush & Associates	5 July 2024
A06B	B	First Floor Level	Barry Rush & Associates	17 April 2025
A07B	B	Second Floor Level	Barry Rush & Associates	17 April 2025
A20B	B	Third Floor Level	Barry Rush & Associates	17 April 2025
A08B	B	Roof Plan	Barry Rush & Associates	17 April 2025

A09B	B	Elevations	Barry Rush & Associates	17 April 2025
A10B	B	Elevations	Barry Rush & Associates	17 April 2025
A11B	B	Sections	Barry Rush & Associates	17 April 2025
A18A	B	External Colour Schedule	Barry Rush & Associates	17 April 2025
A19A	A	Mezzanine Floor Level	Barry Rush & Associates	14 May 2024
DWG Sheet 1	SK1	Rooftop Concept Plan	Conzept Landscape Architects	15 April 2025

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate	1747596M_02	Building Sustainability Assessments	28 October 2024
Access Report	20156, Issue A	Vista Access Architects Pty. Ltd.	26 April 2024
Noise Impact Assessment	Report 200230R1, Revision 2	Rodney Stevens Acoustics Pty Ltd	1 May 2024
BCA Assessment Report	110121, Revision 2	Jensen Hughes	12 April 2024
Waste Management Plan for 638 Pittwater Road, Brookvale NSW 2100	-	APEX Engineers	June 2025
Geotechnical Addendum Report	15076-GR-2-1 Rev A	Alliance Geotechnical Pty Ltd	7 July 2025

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

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

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

## 2. **Compliance with Other Department, Authority or Service Requirements**

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Referral - Ausgrid	N/A
Transport for NSW (TfNSW)	Referral - Transport NSW (TfNSW Reference: SYD24-02079/01)	10 January 2025

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

### 3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

#### 4. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (d) At all times after the submission of the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (e) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.



- (f) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
  - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
  - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
  - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (m) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.
- (p) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2018
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
  - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

#### 5. **Limitations of this Amending Consent (as it relates to parent Development Consent DA2019/0239)**

This amending consent does not approve the following works which are covered by the parent Development Consent No. DA2019/0239:

- (a) Demolition works,
- (b) Tree removal,

(c) Excavation,

(d) Below ground works consisting of foundation construction and structural basement construction including footings, columns, slabs and walls, excluding the minor layout changes relating to bike rack storage, the commercial lift core for L5 and the bulky goods waste storage that are hatched in orange on the Stamped Plans referenced in Condition 1 of this consent,

(e) The use, fit-out or operating hours of the commercial tenancies on the ground floor, excluding the bin storage and commercial lift core for L5 amendments that are hatched in orange on the Stamped Plans referenced in Condition 1 of this consent, and

(f) The use, fit-out and layout of the residential apartments located on the first floor plan and second floor plan, excluding the amendments to the glazing and awnings located on the corner of the Pittwater Road and Orchard Road frontages and the amendments to the finished floor level of second floor plan that are hatched in orange on the Stamped Plans referenced in Condition 1 of this consent.

Reason: To prevent any inconsistencies between consents applying to the site (pursuant to section 4.17 of Environmental Planning and Assessment Act 1979 & section 68 Environmental Planning and Assessment Regulation 2021).

## **FEES / CHARGES / CONTRIBUTIONS**

### **6. Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of \$60,158.26 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$6,015,826.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended). The development contributions for this development and Development Consent DA2019/0239 must be paid prior to the commencement of construction.

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

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

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

### **7. Security Bond**

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

adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

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

Contribution Type	Amount
Housing and Productivity Contribution	\$ 200,000.00
<b>Total:</b>	<b>\$ 200,000.00</b>

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

***highest PPI number***

***consent PPI number***

where—

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

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

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

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

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

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

4. The HPC must be paid using the NSW planning portal (<https://pp.planningportal.nsw.gov.au/>).
5. If the Minister administering the Environmental Planning and Assessment Act 1979 agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:
  - a) the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,
  - b) the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.

If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition 2 at the time of payment.
6. Despite condition 1, a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023 exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.

Reason: Statutory requirement.

## **BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

9. **National Construction Code (BCA) upgrade requirements and Fire Safety upgrade**  
The National Construction Code works and fire upgrading measures to upgrade the building as detailed and recommended in the BCA Assessment Report referenced in Condition 1 of this consent are to be carried out in full to the building or considered as part of the assessment of the Construction Certificate.

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

Reason: To ensure adequate provision is made for Health, Amenity, Access & Fire Safety for building occupant health & safety.

10. **Acoustic Design**

A suitably qualified acoustic consultant must provide written certification demonstrating that the noise mitigation design recommendations within the approved Noise Impact Assessment referenced in Condition 1 of this consent have been incorporated into the construction plans.

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

Reason: To ensure that adequate amenity is provided to the residential apartments.

11. **Amended Landscape Plans - Public Domain**

Amended Landscape Plans shall be issued to the Certifier prior to the issue of a Construction Certificate to include the following details:

a) amendments to drawing Public Domain Plan 01 Revision D

i) delete all shrub and groundcover planting skirting the building edge and replace with paving,

ii) extend the paving to the kerb in front of the main entry doors to commercial unit 1 on the corner of Pittwater and Orchard Road,

iii) change the tree species on Pittwater Road to *Xanthostemon chrysanthus* and install in accordance with Northern Beaches Standard Drawing 1300 - Tree Pit Details, Plan and Section, including strata cell system, 1600 x 1200 tree pit opening finished with mulch and Liriope 'Evergreen Giant' groundcover planting installed at 6 per square metres and at 140mm pot size,

iv) change the tree species on Orchard Road to *Tristaniopsis laurina* 'Luscious' and install as per detail on drawing Detail & Specification Revision B,

b) amendments to drawing Public Domain Plan 02 Revision D

i) delete all shrub and groundcover planting skirting the building edge and replace with paving,

ii) change the tree species on Orchard Road to *Tristaniopsis laurina* 'Luscious' and install as per detail on drawing Detail & Specification Revision B,

iii) extend the footpath to Charlton Lane including an appropriate kerb ramp.

c) all public domain works shall be completed in accordance with Northern Beaches Public Space Vision & Design Guidelines.

d) certification shall be submitted to the Certifier that these amendments have been documented.

Note: as part of any works within the road reserve, Public Domain Plans shall also be submitted under a Section 138 application to Council.

Reason: Landscape amenity.

12. **On Slab Landscape Works**

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

b) The following soil depths are required to support planting: 300-450mm for ground covers; 500-600mm for shrubs; 800mm for small trees and 1000mm for medium trees.

c) Design certification shall be submitted to the Certifier by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

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

13. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent in accordance with AS/NZS 3500 and Council's Water Management for Development Policy, prepared by an appropriately qualified and practicing Civil Engineer who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG), indicating all details relevant to the collection and disposal of stormwater from the proposed buildings and paved areas. Stormwater shall be conveyed from the site to the approved on-site stormwater detention system approved in consent DA2019/0239.

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

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

14. **Vehicle Access & Parking**

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

With respect to this, the following revision(s) must be undertaken to the car park layout and parking allocation shown on the Basement Level plans, Drawing Nos A02B, A03B and A04B Revision B.

**a) Basement Level B3 - Residential Parking (66 spaces including 4 adaptable (AS4299) and 2 accessible (AS2890.6) spaces)**

- Convert accessible spaces No.32 and 33 and Shared Area to provide 3 standard spaces (2.4m wide x 5.4m long).
- Convert space No.28 to an adaptable space (3.8m wide) by relocating columns and space Nos.26-28 westwards by approximately 1m.
- Convert space No.31 to an adaptable space. Relocate row of 9 double bike racks to eastern wall and remove one small storage cage to provide new access to the resident bicycle storage area.
- Convert space No.39 to an adaptable space with the removal of excess columns between space No.34 and 35 (alternatively relocate columns within the Shared Area).
- Convert space No.64 to an adaptable space by relocating column westwards. Relocate motorcycle parking space MC3 to the southern wall between space No.61 and the stairs. Swap locations of motorcycle parking space MC2 with 6 bike racks.

**b) Basement Level B2** - Commercial Unit 1 (17 spaces including 2 accessible (AS2890.6) spaces), SOHO Units 1-8 (15 spaces including 1 accessible (AS2890.6) space), Resident Visitor parking (12 spaces including 1 accessible (AS2890.6) space), and Visitor/Customer parking (15 spaces including 2 accessible (AS2890.6) spaces).

- Relocate accessible spaces No.4 and 5 with adjacent Shared Area one space westwards with the Shared Area situated between the new accessible spaces No.3 and 4.
- Resident parking spaces Nos. 1-3, and 13-21 allocated to Resident Visitor parking.
- Resident parking spaces Nos. 4-12 and 22 allocated to Commercial Unit 1 parking.
- Visitor car spaces 1-5 allocated to Commercial Unit 1 parking.
- Commercial parking spaces Nos. 15-16 allocated to Commercial Unit 1 parking.
- Visitor car spaces Nos. 6-9 allocated to SOHO unit parking.
- Commercial parking spaces Nos. 17-27 allocated to SOHO unit parking.
- Commercial parking spaces Nos. 1-14 and 28 allocated to visitor/customer parking.

**c) Basement Level B1** - Commercial Unit 1 Basement (19 spaces including 2 accessible (AS2890.6) spaces), and Retail/Business Unit 2 & 3 parking (9 spaces including 2 accessible (AS2890.6) spaces),

- Parking spaces Nos. 8, 11-18 allocated to Retail/Business Unit 2 & 3.
- Parking spaces Nos. 1-7, 9-10 and 19-28 allocated to Commercial Unit 1 Basement.

These amendment(s) must be clearly marked on the updated plans and submitted to Council's Transport Network team for review prior to the issue of a Construction Certificate.

Reason: To ensure allocation of parking spaces for the development and compliance with Australian Standards and WDCP relating to manoeuvring, access and parking.

**15. Amendments to the approved plans**

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

- The fixed privacy screens to the north-facing balconies of Apartments 48 and 49 must be at least 1.7 metres above the finished floor level and the openings between the battens must not be more than 20 millimetres.
- The draft watermark on the approved Rooftop Concept Plan referenced in Condition 1 of this consent must be deleted from the Construction Certificate documentation.

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

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

**16. Boundary Identification Survey**

The plans submitted for the Construction Certificate are to accurately reflect the property



boundaries as shown on a boundary identification survey, prepared by a Registered Surveyor, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

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

**17. Compliance with Standards**

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

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

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

**18. External Finishes to Roof**

The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.43 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

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

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

**19. Modification of Parent Development Consent DA2019/0239**

Prior to the issue of any Construction Certificate or commencement of any works approved under this consent, the applicant must submit for approval by Council, a marked-up document with track changes to the conditions in Development Consent DA2019/0239, which was granted by the Northern Beaches Local Planning Panel (as modified by Northern Beaches Council), which removes all of the development approved under Development Consent DA2019/0239, pursuant to section 4.17(1)(b) and (5) of the Environmental Planning and Assessment Act 1979, except for the following:

(a) demolition works,

(b) tree removal,

(c) excavation,

(d) below ground works consisting of foundation construction and structural basement construction including footings, columns, slabs and walls, excluding the minor layout changes relating to bike rack storage, the commercial lift core for L5 and the bulky goods waste storage that are hatched in orange on the Stamped Plans referenced in Condition 1 of this consent,

(e) the use, fit-out or operating hours of the commercial tenancies on the ground floor, excluding the bin storage and commercial lift core for L5 amendments that are hatched in orange on the Stamped Plans referenced in Condition 1 of this consent, and

(f) The use, fit-out and layout of the residential apartments located on the first floor plan and second floor plan, excluding the amendments to the glazing and awnings located on the corner of the Pittwater Road and Orchard Road frontages and the amendments to the finished floor level of second floor plan that are hatched in orange on the Stamped Plans referenced in Condition 1 of this consent.

The modifications to Development Consent DA2019/0239 proposed in the marked-up document must not authorise or require anything that is inconsistent with the conditions of this consent. The conditions of this consent and directions of Northern Beaches Council prevail to the extent of any inconsistency, ambiguity or conflict.

The applicant is to provide written notice to Northern Beaches Council pursuant to section 67 of the Environmental Planning and Assessment Regulation 2021 to modify Development Consent DA2019/0239 in accordance with this conditions of consent.

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

Reason: To prevent any inconsistencies between consents applying to the site (pursuant to section 4.17 of Environmental Planning and Assessment Act 1979 & section 68 Environmental Planning and Assessment Regulation 2021).

**20. Access Requirements**

A suitably qualified access consultant must provide written certification demonstrating that the access design recommendations within the approved Access Report referenced in Condition 1 of this consent have been incorporated into the construction plans.

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

Reason: To ensure equitable access for persons with a disability.

**21. Bicycle Parking and End of Trip Facilities**

All bicycle parking and end of trip facilities must be designed and constructed to comply with AS 2890.3 (Bicycle Parking) and Part C3(A) of the WDCP.

The development is to provide 66 bicycle parking spaces for the residential component, comprising 60 spaces for residents and 6 spaces for resident visitors (6 vertical racks on Basement Level B2); and 25 bicycle parking spaces including end of trip facilities for the non-residential component, comprising 15 spaces for staff and 10 spaces for visitors (5 double-bicycle rails on Basement Level B1).

With respect to this, the following revision(s) must be undertaken to the Basement Level plans, Drawing Nos A02B, A03B and A04B Revision B.

- a) Reduce the size of the of the secure storage enclosure for staff bicycle parking (8m long x 3.4m wide), to accommodate 15 vertical bicycle racks on one side and 15 lockers (0.5m depth x 0.35m wide x 0.9m height) on the other side separated by a minimum 1.5m aisle.
- b) Provide a bathroom/change area (2.5m long x 3.4m wide), including toilet, wash basin shower, and changing facilities on Basement Level B1.
- c) Provide 40 resident bicycle parking spaces (one row of 11 double-bicycle rails and row of 9 double-bicycle rails) within a secure storage enclosure located behind parking spaces Nos.29-31 on Basement Level B3.
- d) Provide 20 resident bicycle parking spaces (two parallel rows of 8 vertical bicycle racks and one row of 4 racks) within a secure storage enclosure (5.5m wide x 4.5m long) located between parking space No.3 and the security boom gate on Basement Level B2.

These amendment(s) must be clearly marked on the updated plans and submitted to Council's Transport Network team for review prior to the issue of a Construction Certificate.

Reason: To ensure the adequate provision of bicycle parking and end of trip facilities for the development and compliance with Australian Standards and WDCP.

## 22. **Waste and Recycling Requirements**

Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifier prior to the issue of any Construction Certificate.

If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

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

## DURING BUILDING WORK

## 23. **Survey Certificate**

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

- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
- (b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.
- (c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

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

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

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan referenced in Condition 1 of this consent.

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

25. **Waste/Recycling Requirements (Materials)**

During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

**BEFORE ISSUE OF THE OCCUPATION CERTIFICATE**

26. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of a part Occupation Certificate or Occupation Certificate. Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Parts 10, 11 & 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

27. **Acoustic Design**

A suitably qualified acoustic consultant must provide written certification demonstrating that the noise mitigation design recommendations within the approved Noise Impact Assessment referenced in Condition 1 of this consent have been incorporated into the as-built development.

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

Reason: To ensure that adequate amenity is provided to the residential apartments.

28. **Landscape Completion**

a) landscape works are to be implemented in accordance with the approved Amended Landscape Plans - Public Domain and generally in accordance with the Rooftop Concept Plan dated April 2025.

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

Reason: Environmental amenity.

29. **Accessible Parking Spaces**

Where accessible parking spaces are provided they must be in accordance with AS2890.6.

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

Reason: To ensure compliance with Australian Standards.

30. **Access Requirements**

A suitably qualified access consultant must provide written certification demonstrating that the access design recommendations within the approved Access Report referenced in Condition 1 of this consent have been incorporated into the as-built development.

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

Reason: To ensure equitable access for persons with a disability.

31. **Provision and Signposting of a Waste Truck Loading Bay**

An indented waste truck loading bay is to be provided at kerbside adjacent to (or within 6.5m of) the both of the street level bin storage rooms and are to be signposted to be only to be used for the servicing of waste bins and the removal of bulky goods from the property on collection days.

The parking of vehicles within the waste truck loading bay is prohibited.

Reason: To ensure ongoing waste truck access to the site for the collection of bins and removal of bulky goods.

32. **Garbage and Recycling Facilities**

All internal walls of the waste rooms shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

33. **Unit Numbering for Multi Unit Developments (Residential, Commercial and Industrial)**

The units within the development are to be numbered in accordance with NSW Address Policy and User Manual.

In this regard, the numbering is to be as per the Unit Numbering for Multi Unit Development Table available on Council's website Unit Numbering for Multi-Unit Developments Form

External directional signage is to be erected on site at driveway entry points and on buildings

and is to reflect the numbering in the table provided. Unit numbering signage is also required on stairway access doors and lobby entry doors.

It is essential that all signage throughout the complex is clear to assist emergency service providers in locating a destination within the development with ease and speed, in the event of an emergency.

Details are to be submitted with any Occupation Certificate or Strata Subdivision Certificate certifying that the numbering has been implemented in accordance with this condition and the Unit Numbering for Multi Unit Development Table.

Reason: To ensure consistent numbering for emergency services access.

34. **Adaptable parking spaces**

Adaptable parking spaces provided must be allocated to the adaptable units and linemarked 3.8m wide in accordance with AS4299. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To ensure adequate width to comply with Australian Standards.

35. **Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

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

Reason: To ensure waste and recycling facilities are provided.

36. **Waste/Recycling Compliance Documentation**

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

Reason: To ensure waste is minimised and recycled.

37. **Positive Covenant for Council and Contractor Indemnity**

A positive covenant shall be created on the title of the land prior to the issue of an Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities.

38. **Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of an Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. A Compliance Certificate, issued by the Certifying Authority, shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

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

### **39. Landscape Maintenance**

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

b) Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

c) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan(s) and any conditions of consent.

d) A maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

Reason: To maintain local environmental amenity.

### **40. Graffiti removal**

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

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

### **41. Use of Waste Truck Loading Bay**

The truck loading bays are to be reserved for the servicing of waste bins and the removal of bulky goods from the property on service day.

Reason: To ensure ongoing waste truck access to the site for the collection of bins and removal of bulky goods.

### **42. Commercial Waste and Recycling Storage**

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

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

### **43. Allocation of Spaces**

The development is to maintain the following parking allocation for the life of the development (unless they must be removed to comply with the condition requiring vehicle access to No.640 Pittwater Road):

- a) 66 x resident parking spaces (including 4 adaptable (AS4299) and 2 accessible (AS2890.6) spaces) marked with the number of the respective unit

- b) 12 x resident visitor spaces (including 1 accessible (AS2890.6) space), marked with the number of the respective unit
- c) 15 x SOHO unit spaces (including 1 accessible (AS2890.6) space), marked with the number of the respective unit
- d) 9 x Retail/Business unit spaces (including 2 accessible (AS2890.6) spaces), marked with the number of the respective unit
- e) 17 x Commercial Unit 1 spaces (including 2 accessible (AS2890.6) spaces)
- f) 19 x Commercial Unit 1 Basement spaces (including 2 accessible (AS2890.6) spaces)
- g) 15 x Visitor/Customer parking spaces (including 2 accessible (AS2890.6) spaces)
- h) 4 x resident motorcycle parking spaces (1.2m wide x 2.5m long)
- i) 4 x visitor motorcycle parking spaces (1.2m wide x 2.5m long)

Car parking provided should be used solely for the designated uses within the development. Each car parking space allocated to a particular unit/tenancy shall be linemarked and numbered and/or signposted to indicate the unit/tenancy to which it is allocated.

Manoeuvring areas must be kept clear of obstructions at all times.

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

Reason: To ensure the appropriate management of parking on site.