

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0431
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Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 1 DP 859613, 1131 Pittwater Road COLLAROY NSW 2097 Lot 4 DP 7445, 1129 Pittwater Road COLLAROY NSW 2097
Proposed Development:	Demolition works and construction of a Mixed Use Development comprising commercial units and a Boarding House
Zoning:	Warringah LEP2011 - Land zoned B2 Local Centre Warringah LEP2011 - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Pidaro Pty Ltd United Equity Group Pty Ltd
Applicant:	Boston Blyth Fleming Pty Ltd

Application Lodged:	04/05/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Mixed
Notified:	30/10/2020 to 13/11/2020
Advertised:	30/10/2020
Submissions Received:	45
Clause 4.6 Variation:	4.3 Height of buildings: 20%
Recommendation:	Approval

Estimated Cost of Works:	\$ 4,995,964.00
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EXECUTIVE SUMMARY

The application seeks approval for a mixed use development which consists of commercial premises at the ground floor level, two levels of boarding house rooms and a top level accommodating the boarding house manager's residence.

The application is referred to the NBLPP due to the number of submissions (45) received in response to the public notification.

Submissions raised issues including; traffic (and the use of a rear access right of way), the suitability of a boarding house in the area, the amenity impacts of the proposal and the character of the development.

The proposal involves variations to the development standard under the Warringah Local Environmental Plan 2011 for building height and the built form control for number of storeys under the Warringah Development Control Plan 2011.

Given significant compliant setbacks, the visual quality of the building, the existing character of the Collaroy Local Centre and a lack of any significant amenity impacts, the variations can be supported.

The request to vary the building height development standard under Clause 4.6 of the WLEP is supported as the applicant has demonstrated that strict adherence to the height standard is unnecessary in the circumstances, that they have demonstrated that there are sufficient environmental planning grounds and that there is no public interest matter that would render the departure unacceptable.

The proposal has been assessed in accordance with the View Loss Planning Principle established by the Land and Environment Court, and it has been determined that it would result in a minor to moderate impact on views. Given the corridors provided for views through the side setback areas, the fact that certain views are highly vulnerable as they are over side boundaries, the non-compliant height does not feature in view loss and that the existing building is very low scale, the view sharing outcome is supported.

In relation to the constraints on access to this site and its reliance upon a height and width limited right of way over an adjoining site, it is recommended that a deferred commencement condition can provide an acceptable outcome for traffic by restricting the commercial premises on the ground floor level to "offices" only, thus limiting the intensity of traffic (including the size, height and number of vehicles needing to service the site).

The assessment concludes that conditions can be imposed to control amenity impacts to a reasonable level, and that the design is appropriate given the context and character of other shop top housing development in this B2 zone.

Therefore, it is recommended that the Clause 4.6 variation be supported and the application be approved, subject to a deferred commencement condition and other special and standard conditions.

PROPOSED DEVELOPMENT IN DETAIL

The proposal is for a mixed use development, including 2 commercial units and a 23 room boarding house with a caretakers apartment. In detail, the proposal includes:

Basement Parking

- 20 vehicle spaces (13 allocated for boarding house)
- 6 bicycle storage spaces
- 3 motorcycle spaces
- Access from right of carriageway to the rear of the property

- Storage areas for boarding house
- Stair and lift access

Ground Floor

- Two commercial tenancies facing Pittwater Road
- Entrance foyer for Boarding house
- Bathroom facilities
- Waste storage areas
- Disabled car space
- Service vehicle bay
- Driveway access to basement

Boarding House

- 12 Boarding rooms on first floor level including 1 accessible room
- 11 boarding rooms on second floor level including 1 accessible room
- Balconies with privacy blades
- Common room with balcony

Caretakers Apartment

- Three bedrooms
- Open plan kitchen area
- living area
- Dining area
- Balcony

Amended plans

The applicant lodged amended plans on 20/10/2020 to address issues raised by Council. These plans involved the following changes:

- Reduction in the footprint of the caretakers dwelling (including increased southern setbacks)
- Redesign of stairwell located to south to provide a larger light well
- A break provided in the southern wall plane
- Separate office and boarding house waste storage areas, including a bulky waste room
- Bollards along the northern edge of right of footway (to prevent pedestrian vehicle conflict)
- Vertical fire rated windows to Units 7 and 18 and the common room
- Consistency in privacy screen detailing for eastern and western balconies
- Reconfiguration of metal pergola for caretakers flat (including reduction at northern boundary)

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

Warringah Development Control Plan - B2 Number of Storeys

Warringah Development Control Plan - B6 Merit Assessment of Side Boundary Setbacks

Warringah Development Control Plan - D7 Views

Warringah Development Control Plan - D8 Privacy

Warringah Development Control Plan - F1 Local and Neighbourhood Centres

SITE DESCRIPTION

Property Description:	<p>Lot 1 DP 859613 , 1131 Pittwater Road COLLAROY NSW 2097</p> <p>Lot 4 DP 7445 , 1129 Pittwater Road COLLAROY NSW 2097</p>
Detailed Site Description:	<p>The subject site consists of an allotment located on the western side of Pittwater Road.</p> <p>The site is irregular in shape with a frontage of 13.5m along Pittwater Road and a depth of 34.4m-40.96m. The site has a surveyed area of 814.6m².</p> <p>The site is located within the B2 Local Centre zone and accommodates ground floor commercial premises.</p> <p>The site is located on Pittwater Road within close proximity to a number of services and shops. The site is also in very close proximity to the Collaroy B-line bus station.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by a variety of commercial uses and large residential buildings.</p>

Map:



SITE HISTORY

The land has been used for commercial purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- CDC2018/0814 for change of use from existing restaurant to café along with associated fitout works approved on 6 September 2018

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 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 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 30/10/2020 to 13/11/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 45 submission/s from:

Name:	Address:
John William Tansley	19 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Kim Hildebrand	42 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Miss Michelle Jane Haskard	100 Prahran Avenue DAVIDSON NSW 2085
Fiona Foster	6 / 1187 Pittwater Road COLLAROY NSW 2097
Ms Margaret Jean Stanley	11 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Mr Terence Victor Brady	106 Narrabeen Park Parade MONA VALE NSW 2103
Withheld Mrs Dorothea Ann Young	COLLAROY NSW 2097
Withheld Mrs Dorothea Ann Young	44 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Mr Chris Woodward	9 / 1125 - 1127 Pittwater Road COLLAROY NSW 2097
Mr Peter Gordon Jenkins	1 / 1135 - 1137 Pittwater Road COLLAROY NSW 2097
Mrs Judith Lynette Roberts	40 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Mrs Louise Clare Woolford	9 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Turnbull Planning International Pty Ltd	2301 / 4 Daydream Street WARRIEWOOD NSW 2102
Mr Stephen Lydiate	11 / 1125 - 1127 Pittwater Road COLLAROY NSW 2097
Miss Debra Marie Sellars	41 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Mrs Irene Nassibian	14 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Mrs Julia Skye Olivares	10 / 8 Fielding Street COLLAROY NSW 2097
Mr Robert Colin Cunneen	19 / 1135 - 1137 Pittwater Road COLLAROY NSW 2097
Mrs Pamela Joy Rodgers Cunneen	24 Bimbadeen Crescent FRENCHS FOREST NSW 2086
Stephan Pawelczyk	13 / 1135 - 1137 Pittwater Road COLLAROY NSW 2097
Benjamin Gillings	Address Unknown
Julie Robyn Donald	7 / 1125 - 1127 Pittwater Road COLLAROY NSW 2097
Ms Stephanie Lianos	16 Douglas Haig Street OATLEY NSW 2223
Robert Joseph Jurd	3 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Sheelyn Ann Ross	13 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Mr Glenn Allan Keith Carter	15 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Byron Joseph McDonald	38 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Miss Kelsey Jane Hunter	7 A Hillpine Place TERREY HILLS NSW 2084
Maxine Anne Armstrong	1 Tamworth Place ALLAMBIE HEIGHTS NSW 2100
Ingham Planning Pty Ltd	19/303 Pacific Highway LINDFIELD NSW 2070
Margaret Agnes Newport	1 Tiarri Avenue TERREY HILLS NSW 2084
Joanne La Torraca	Address Unknown
Nicholas Murdocca	C/- LJ Hooker Collaroy Shop 5 1030-1034 Pittwater Road COLLAROY NSW 2097
Mrs Maureen Wannell	12 / 1125 - 1127 Pittwater Road COLLAROY NSW 2097
James Steven Haslam	16 Undercliff Road FRESHWATER NSW 2096

Name:	Address:
Mr Peter Sardelic	34 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Nicholas Lianos	43 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Jennifer Stephanie Mitchell	1135 - 1137 Pittwater Road COLLAROY NSW 2097
Ms Renee Eleanor Jackman	45 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Arthur Aguiar	37 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Ms Karyn Riches	20 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Christopher John Nicola	1 Parkwood Place NORTH ROCKS NSW 2151
Diana Finnis	Address Unknown
Erika Dellaretti Guimaraes	Address Unknown
Ms Karen Anne Alexanderson	67 Cowells Lane ERMINGTON NSW 2115
Ms Judith Lynette Roberts	40 / 1 - 5 Collaroy Street COLLAROY NSW 2097

The matters raised within the submissions are addressed as follows:

- **Increase in traffic and associated traffic impacts as well as pedestrian safety and Right of Way easement is inadequate for the proposed use**

Comment:

A deferred commencement condition (as recommended by Council's Traffic Officer) has been provided in order to restrict the use of the ground floor units as office premises. This restriction will ensure that there is a sufficient limitation on the size and number of vehicles that are required to access the ground floor uses. This limitation will assist in reducing overall traffic impacts and providing suitable pedestrian safety.

Council's Traffic Officer has also imposed a number of conditions to reduce and/or manage the impact of traffic. This includes requirements for waste and service vehicle access, and a basement garage traffic signal system. Subject to these conditions and the restriction on the title to limit the ground floor occupancies to office premises, use of the right of way will be adequately controlled and the overall traffic impact is acceptable.

- **Impact on surrounding property values**

Comment:

Property value is not a relevant consideration under the provisions of Section 4.15 of the EP&A Act 1979.

- **Site suitability (including potential contamination) and inappropriate location for a boarding house**

Comment:

The site is located in an area that is close to a range of shops, transport options and other necessary services and the site is suitable for residential use.

- **Boarding houses and residents occupying boarding houses including 'transient' nature of residents**

Comment:

A variety of persons are likely to reside in the boarding house. Further, controls are not placed on the 'type' of person who can reside in a boarding house as this would be discriminatory and unlawful.

In addition, the boarding house would be run in accordance with a Plan of Management. This would ensure appropriately control of boarding house residents for maintaining the amenity and safety of the local area.

In the event residents behaviour disturbs the local amenity or raises any safety concerns, the Boarding House Manager will be responsible for policing the occupants in line with the Plan of Management and their lease agreements. Should this not happen, it would then be appropriate for the Police to be notified, the same as with any similar problems for any other type of development.

Boarding houses are designed for minimum three (3) months stays and are not used as backpacker or bed and breakfast accommodation. A boarding house is therefore not designed for short-term occupancy.

- **Noise impacts, anti-social behaviour, proximity to licensed premises and bottle shops, lack of appropriate quiet times (including lack of consistency with surrounding quiet times) and amenity impacts from outdoor area including manager courtyard. Insufficient management plan and lack of opportunity for complaints outside business hours**

Comment:

Noise is discussed in detail under Part D8 Privacy, below in this report. In summary, the boarding rooms will be occupied by one or two people. The rooms include small outdoor open areas, however, these are not of sufficient size to hold a large gathering.

The common rooms and common outdoor areas are located to the north of the site in a location that is well separated from neighbouring occupancies. This will provide an appropriate buffer to minimise amenity impacts.

Given boarding houses are permitted in the zone under the WLEP 2011 and for this reason are envisaged to be located in such commercial centres, the close proximity of the boarding houses to licensed premises is not a valid reason for refusal

The Boarding House Management Plan includes a complaints process should any nearby resident(s) be impacted by noise. The managing agent can be contacted between 9.00am and 6.00pm and any issues out of this time needs to be dealt with by management within 24 hours. Given the relatively small outside areas for the boarding rooms, this is a suitable control. Furthermore, any issues that are more urgent than this can be directed to the Police.

The Managers residence is to be permanently occupied by a Boarding House Manager. As with any other unit nearby, noise issues with the manager residence can be reported to the Police. Given the relatively small open space areas, a "quiet time" of 10:30pm-7am is a reasonable control for the use and site.

Overall, the siting and design of the proposal, along with the imposition of conditions of consent, will provide a suitable level of acoustic privacy for occupants and neighbours.

- **Inconsistency with requirements under the Warringah LEP, including building height development standard and application to vary the standard under Clause 4.6**

Comment:

The non-compliance with the building height development standard is discussed in detail below. This discussion has found that the proposed non-compliance is acceptable due to the significant stepping back of the upper level from the street, the substantial side setbacks, and

the lack of unreasonable amenity impacts and the compatibility of the height with adjoining and nearby development in the B2 zone within the Collaroy Commercial Centre.

- **Inconsistency with the built form controls under the Warringah DCP, including the number of storeys control**

Comment:

The built form controls table (see below in this report) shows that the only non-compliance with the built form controls is in relation to the number of storeys. The numerical requirement is 3 storeys.

The non-compliance, it being a 4 storey building, has been discussed in detail and it has been found that it does not result in any unreasonable impacts to any surrounding properties, does not result in any unreasonable visual impact and is compatible with other 4 storey development in the vicinity.

The assessment has also found under a merit assessment that the side and rear setbacks are suitable for the site given the context of the area, including similar neighbouring building setbacks.

- **Loss of views and request for height poles**

Comment:

Height poles were requested and were erected onsite to demonstrate the outline of the proposed upper level. Amendments were also provided in order to provide a greater corridor for views through the southern setback of the subject site.

An assessment in accordance with the Land and Environment Court Planning Principle in relation to View Sharing has found that the view impacts are minor to moderate, and that the proposal provides an appropriate outcome for view sharing.

- **Loss of access to light and overshadowing**

Comment:

The orientation of the site and the setbacks of the proposal will mean that all neighbouring properties private open space will retain more than three hours of sunlight between 9.00am and 3.00pm in mid winter.

Amendments to the proposal were also made to provide an additional break in the wall at the southern elevation, and to provide a light well to improve amenity for the southern neighbour.

- **Loss of Privacy**

Comment:

Privacy is discussed in detail under Part D8 Privacy, below in this report. In summary, the proposal does not result in any unreasonable privacy impacts to surrounding properties as a result of substantial physical separation, buffers (including landscaping), and the suitable location for communal space.

Conditions are also provided to minimise acoustic privacy impacts and a Boarding House Management Plan will assist in providing an appropriate outcome for acoustic privacy.

- **Inadequate justification of shortfall to 12.0sqm boarding house room size requirement**

Comment:

The WLEP 2011 does not have minimum requirements for room sizes. The SEPP ARH does have these standards, however, it does not apply to this proposal. Notwithstanding, all proposed rooms are between 16.4sqm and 24.6sqm and can therefore cater for two lodgers each. The SEPP requires a minimum of 16sqm for double rooms and 12sqm for single rooms. The proposal meets these standards.

- **Increase to density of site and number of people in the area**

Comment:

There is no density control (such as a FSR) for a boarding house and boarding houses are permitted in the zone. In lieu of such a control, other development controls are applicable (such as height, setbacks, carparking, size of rooms, caretakers residence) and conditions are imposed to mitigate amenity impacts associated with density,

- **Overbearing bulk, lack of a break in southern setback, smaller footprint and one less storey**

Comment:

The upper level is well setback from all boundaries so as to sufficiently minimise the presentation of building bulk. Landscaping is also integrated into the built form to provide relief in the presentation of building bulk. Amended plans provided, involve a break in the southern setback and this provides an outcome which allows for a satisfactory presentation of building bulk at the southern boundary interface.

- **Inappropriate planting on terrace (Lilly Pilly and Cordyline)**

Comment:

A condition is imposed to require all planting on the terrace to be native species which have a mature height of no more than 3.0m. This will reduce amenity impacts such as loss of views.

- **Impacts during construction, hours of construction during COVID, potential for asbestos, potential for damage during construction**

Comment:

A condition is provided to require a Construction Management Plans. A condition is imposed to require a dilapidation report. A condition has been imposed to ensure appropriate protocol is adhered to if any asbestos is found. Hours of construction imposed on the consent are Council's standard hours, however, extended hours are allowed due to COVID for a limited period, which is mandated by the State Government.

- **Geotechnical concerns and structural integrity of adjoining buildings**

Comment:

A geotechnical report has been provided with the application and the recommendations are imposed as a condition of consent. Further requirements regarding structural integrity are addressed at the Construction Certificate stage and during the construction of the building.

- **Lack of landscaping**

Comment:

The DCP does not contain a control for landscaping in this zone. However, landscaping and

planter boxes have been incorporated into the design and provide an appropriate relief of the built form.

- **Inappropriate caretaker dwelling including being too large and not fit for purpose**

Comment:

The proposed caretakers dwelling is suitable for a manager. It is noted that this manager is required under the ARH SEPP and that this manager is available to manage and regulate issues associated with boarder conduct such as noise generation.

- **Waste Management and Waste Collection**

Comment:

Council's Waste and Traffic officers have provided suitable conditions to ensure waste management and collection is appropriate for the development.

- **Acoustic report accuracy**

Comment:

An assessment of the acoustic report provided with the application has been reviewed by Council's Environmental Health Officer. the acoustic report is sufficient to assess the suitability of the use and its design and recommend control measures for implementation to reduce impacts on the surrounding residential properties.

- **Objection to building over Liquorland walkway**

Comment:

The building over the walkway is at a low level of the development and would not cause any unreasonable amenity impact.

- **Lack of parking, lack of visitor parking and inappropriate tandem style parking**

Comment:

The number of car spaces complies with the requirements of Part C3 Parking Facilities of the WDCP. In summary, the proposal includes 23 boarding rooms and one managers room. The WDCP requires a comparison to be made with similar developments to determine a reasonable parking rate. This comparison has found that 0.2 spaces per room is reasonable. The development is therefore required to provide 6 on-site parking spaces (i.e. five for the boarding rooms and one for the manager). The development includes the provision of 13 on-site parking spaces and therefore complies. The parking layout and access arrangements are suitable for the uses and site.

The development is also required to provide 0.5 spaces per 40m² for the ground floor office spaces. In this regard, the requirement is 6 spaces. Seven (7) spaces are provided, including 2 which are in tandem. The 2 tandem parking spaces are appropriate for an office use, given the immediate proximity to the regular bus services provided by the B-Line.

- **Character and overdevelopment**

Comment:

Character has been discussed in detail under the SEPP ARH section, below in this report. In summary, the character assessment has found that, in the context of the Land and Environment Court Planning Principles, the proposal is compatible with the character of the local area and the

surrounding wider locality.

Whether the proposal is of a density that is excessive for the site and the area can be determined by how it performs against the relevant planning and related controls. The performance of the development against the controls applies will determine if the proposal is an 'overdevelopment' of the site, and based on the assessment in this report, the proposal is not considered to be an overdevelopment.

In terms of how the proposal will fit within the character of the area, it must be noted that boarding houses are a permitted use with consent in the B2 Local Centre zone.

All non-compliances are discussed in detail below, along with amenity concerns and impacts. Overall, this assessment has found that the proposal performs well against the specific controls, meets the objectives of the controls, and has no unreasonable amenity impacts on surrounding and nearby properties.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application proposes demolition of existing site buildings and construction of a mixed use development with 2 ground floor commercial tenancies and a 23 room boarding house with caretakers apartment above. There will also be car parking for 21 vehicles.</p> <p>The application does not comply with the DTS provisions of the NCC and a fire engineered solution relating to CP9, EP1.3, EP1.4, EP1.6, EP2.2 and EP3.2 (et al), will need to be determined after consultation with the NSW Fire Brigade as part of the Construction Certificate process. Building Certification and approvals raises no objections subject to conditions as the Fire Engineering solution may be possible to achieve without recourse to Consent Modification</p>
Environmental Health (Acid Sulphate)	<p>General Comments</p> <p>Geotechnical, Hydrogeological and Acid Sulfate Soil Assessment Report dated March 2020 ref number P1907336JR04V01 states:</p> <p>Laboratory analytical results indicate that none of the tested soil samples exceed the action criteria for the acid trail and sulfur trail. Therefore, the fill and marine deposits are not considered ASS and preparation of an ASSMP is not required.</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
Environmental Health (Contaminated Lands)	<p>A Preliminary Site Investigation report has been prepared by Martens Consulting Engineers (saved in Trim as record number 2020/257390). The report advises that during the excavation works the premises will</p>

Internal Referral Body	Comments
	<p>be rendered fit for the intended use in accordance with the development proposal.</p> <p>An area of existing fill on the site potentially contains asbestos. Other materials suspected to include contaminants have also been identified. The excavated materials (included any potentially contaminated materials) are to be classified, removed and disposed of to suitably licensed waste disposal facilities. The report advises that a dry-cleaning shop is currently operating up gradient of the premises and there is a low risk of contamination however, groundwater screening is to be considered for appropriate Contaminants of Potential Concern (COPC).</p> <p>The report advises that the status of any Areas of Environmental Concern (AOEC) and Contaminants of Potential Concern (COPC) are to be considered further with groundwater screening and also where any fill material is encountered below the final bulk excavation level.</p> <p>An Acid Sulphate Soils (ASS) assessment has been carried out in a separate internal Environmental Health Referral.</p> <p>No objection is raised to the proposal. Conditions of consent have been incorporated into this referral.</p>
Environmental Health (Industrial)	<p>General Comments</p> <p>The development proposes a boarding house therefore registration requirements as well as public health requirements apply through the Boarding Houses Act 2012 (NSW).</p> <p>An assessment of the acoustic report provided with the proposal has been reviewed and discussed with the acoustic consultant. Control measures have been provided for implementation to reduce impacts on the residential tenants. Conditions apply.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
Environmental Health (Food Premises, Skin Pen.)	<p>General Comments</p> <p>There is no mention in the application documents of the proposed occupancy of the two commercial premises on the ground level therefore a separate approval application will be required for these before occupancy can occur.</p> <p>No conditions are required for use of individual kitchenettes in rooms or common room as this is not food for sale.</p> <p>Recommendation</p>

Internal Referral Body	Comments
	APPROVAL - no conditions
Landscape Officer	<p>No landscape features are on the site at present. The landscape plan provided indicates tree and shrub and groundcover in planters across the front and in an area at the rear of the site.</p> <p>No objections are raised to the proposed landscape works subject to conditions.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Warringah LEP 2011 and Warringah DCP 2011.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 As the subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is also applicable to the proposed development.</p> <p>The subject land has been included on the 'Coastal Use Area' map but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 14 and 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>On internal assessment, the DA satisfies requirements under clauses 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Warringah LEP 2011 and Warringah DCP 2011</p> <p>No coastal related issues identified.</p>

Internal Referral Body	Comments
	<p>As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Warringah LEP 2011 and Warringah DCP 2011.</p>
NECC (Development Engineering)	<p>Comments 30/10/20</p> <p>All previous stormwater drainage concerns have now been addressed, no objections to the development subject to conditions.</p> <p>The proposal has been assessed by Development Engineering and the following information/amendments are required:</p> <p>1) Stormwater drainage and flood mitigation.</p> <p>a) The stormwater concept plans detailing the provision are generally acceptable however in accordance with Councils On site stormwater detention technical specification the DRAINS model is to be submitted to Council for review to verify the outputs as presented in the report by Martens Consulting Engineers.</p> <p>b) The Flood Mitigation tank is supported however as currently designed the tank will be impacted by the back flow of stormwater from the adjoining box culvert. The design is to address this issue.</p> <p>2) The right of footway and right of way (vehicular access)</p> <p>a) The terms of the right of footway running along the northern boundary are to be provided to Council to establish there are no height controls that will conflict with the building envelope.</p> <p>b) Also the right of way for vehicle access that runs within SP58961 has specific height planes. The applicant is to provide evidence that the proposed building does not conflict with the height planes.</p> <p>c) The right of way width adjacent to the western site boundary is only 4.35m wide. In this location the ROW is to be widened to 5.5m to allow for the passage of two vehicles . Also a turning template is to demonstrate that two vehicles can pass safely at the corner of the existing ROW,</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>Please see Development Engineering referral in relation to any management of overland flows and local stormwater.</p>
Strategic and Place Planning (Urban Design)	<p>Issues identified in the previous scheme have been satisfactorily addressed in the revised scheme including;</p> <ol style="list-style-type: none"> 1. Separation of pedestrian and vehicular access 2. Addition of windows to the northern blank facade to improve solar access to Units 7 and 18 3. Addition of windows to the northern blank facade of Common Room on Level 1 4. Redesign of verandah parti walls to reflect better the whole scheme and provide a cohesive design outcome 5. Pergola structure profile reduced/tapered to better reflect a less imposing awning structure to the upper level verandah

Internal Referral Body	Comments
	<p>6. Reduction in floor area by the setback increase to the southern boundary reflecting recommendations in the ADG for building separation whilst also increasing view aspects from properties to the west.</p> <p>The proposed amendments demonstrate the scheme can be supported.</p>
Traffic Engineer	<p>The proposal seeks to introduce a mixed use development comprising:</p> <ul style="list-style-type: none"> - 23 boarding rooms - 2 commercial tenancies - 21 parking spaces - 6 bicycle spaces <p>Traffic: The site is a 4 storey development with 1 storey of commercial tenancies and the remaining 3 storeys as boarding rooms. The site would therefore act as a 'Medium Density Unit' in accordance with the RMS Guide to Traffic Generating Developments.</p> <p>Based on the above;</p> <ul style="list-style-type: none"> - Boarding Rooms: $24 \times 0.5 = 12$ vehicles in the peak hour - Commercial: $228.2 \times (2/100) = 4.56 \sim 5$ vehicles in the peak hour <p>With the convenient access to public transport, a reduction of 20% is permissible in the calculations.</p> <p>Therefore the total vehicle generation from the site would be considered as: $17 \times 0.8 = 14$ vehicles in the peak hour.</p> <p>Whilst the report indicates 10 vehicles, the additional 4 expected vehicles in not considered to impact the network negatively. However the report will need to be amended to reflect actual numbers.</p> <p>Parking: The following breakdown of parking is required:</p> <ul style="list-style-type: none"> - boarding rooms: $(23 \times 0.5) + 1 = 12.5 \sim 13$ Spaces - Commercial: $228.2 \times (1/40) = 5.7 \sim 6$ Spaces <p>Total: 19 spaces.</p> <p>The applicant has provided 21 spaces in accordance with their report which is deemed acceptable.</p> <p>Noting that 2 of the commercial spaces are in tandem, these spaces should be allocated to staff from only of the commercial units.</p> <p>Car park: The location of the waiting bay at the ground level is deemed unsuitable. A driver waiting in the proposed location would then have</p>

Internal Referral Body	Comments
	<p>to reverse back into the aisle before continuing down the ramp. Visibility is poor in this location, not to mention the safety concerns with reversing given the poor visibility.</p> <p>The applicant should provide a more suitable layout for this process to occur at ground level. Noting that there is a surplus of parking, the applicant could consider removing the accessible parking space at ground level to better accommodate a more appropriate waiting bay.</p> <p>Waste Servicing / Loading: More detail is required as to where Council's Waste Vehicle is to service the site for the residential related waste bins. Council's Waste Services Team are required to comment.</p> <p>The commercial component is to be serviced by a commercial contractor. The applicant shall ensure the contractor is aware of the dimension restrictions of the site.</p> <p>Pedestrian Access: Pedestrian movements within the basement and external to the site are deemed adequate. The applicant will be required to upgrade the footpath on the frontage of the site along Pittwater Road.</p> <p>Conclusion: Based on the Car Park concerns raised above, the application cannot be supported in its current form. Amendments will be necessary to accommodate a more appropriate waiting bay and signal interface between the ground floor and basement level.</p> <p>UPDATED COMMENTS TO BE PROVIDED BASED ON MEETING HELD ON 16 SEPTEMBER</p> <p>The Traffic concerns were discussed on the 16 September and the following issues raised:</p> <ul style="list-style-type: none"> • Delivery access to the development site needs to be managed without the use of the Pittwater Road site frontage. • The commercial tenancy component needs to be fixed as to prevent it being converted into another use in the future. • As the development is a commercial development the property is to contract a suitably sized waste collection vehicle service provider. • The waiting bay configuration is less than ideal, however a suitably conditioned access signal design and operational management plan. <p>These issues can be partially addressed as follows:</p> <ul style="list-style-type: none"> • The Commercial Tenancy component restriction is to be

Internal Referral Body	Comments
	<p>added to the property title through an 88E instrument drafted to the effect that Council is the party that can approve the release or variation.</p> <ul style="list-style-type: none"> The operational plan for the waiting bay management will require an additional signal installed at the head of the bay on the ground floor and priority/waiting signal will be vehicles entering from 1-5 Collaroy Street access, with the ongoing operational performance guaranteed through an 88B instrument. <p>However, the outstanding issue to address by the applicant is the service vehicle access and deliveries to the property, which can be managed through a potential right of way across an adjoining property (1125 Pittwater Road) to allow service vehicle access only. Despite assurances that the site will only be serviced by vehicles that can use the existing right of way, concerns based on the commercial reality of logistics services require Council to be satisfied that the development will not adversely impact the existing amenity of the area.</p> <p>As such the development is currently not supported until this outstanding issue has been addressed to the satisfaction of the Transport Team.</p> <p>Third Referral Response The applicant has addressed all issues raised or agreed to put measures in place to address Transport concerns. Supported subject to conditions provided.</p> <p><u>Assessing officer comment</u></p> <p>A deferred commencement condition has been drafted to resolve all previous traffic concerns. This condition requires a restriction to be placed on the title so that only offices can be provided to the ground floor. This ensures that the traffic intensity (including size and number of vehicles) is reduced to an acceptable level. The condition is also drafted in a way that allows future opportunity for changes to this restriction if an updated traffic arrangement can be provided by way of a further application.</p>
Waste Officer	<p>Waste Services Updated Referral (Proposed plans received 19/10/2020 through Tom Prosser)</p> <p>Proposal is approved with conditions.</p> <p>The ROW pathway and access between the Waste Storage Area and Collection Point must be hazard free to ensure ongoing clear access for collection staff to wheel and empty the bins.</p> <p>Any doors fitted to the Waste Storage Area must be able to be latched</p>

Internal Referral Body	Comments
	<p>in the open position and unobstructed by any locks and security devices to ensure ongoing clear access to empty the bins.</p> <p>The Bulky Goods room cannot be accessed via the Waste Storage Area. The Bulky Goods room and Waste Storage Area must be separate rooms with their own separate access.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
NSW Roads and Maritime Services (Traffic Generating Development)	<p>Transport for NSW provided a letter with a list of requirements to be included in the development consent. This letter is added as a reference document to the conditions of consent.</p> <p>The following comments are also provided for Council's consideration in the determination of the application:</p> <p><i>1. The proposed development will generate higher vehicle trips than the existing land uses, which results in the increased possibility of vehicle movement conflict at the Right of Way area, which not allow 2 vehicles passing simultaneously. The applicant should demonstrate how this conflict to be managed.</i></p> <p><u>Comment:</u> A deferred commencement condition is recommended to restrict the use of the commercial premises to be office premises. this will provide a greater alignment with the existing use so that the conflict can be appropriately managed. Furthermore, the conflict is managed with a condition requiring a traffic signal system for the basement.</p> <p><i>2. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004, AS2890.6-2009 and AS 2890.2 – 2002 for heavy vehicle usage. Parking Restrictions may be required to maintain the required sight distances at the driveway.</i></p> <p><u>Comment:</u> Conditions have been imposed by Council's Traffic officer to ensure these standards are met.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and

LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for commercial purposes for a significant period of time with no prior land uses that would have been likely to result in contamination, apart from some asbestos. In this regard, it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential/commercial land use.

SEPP 70 - Affordable Housing (Revised Schemes)

The applicant has not nominated to include the provisions of SEPP 70 as part of the application for "Affordable Housing". Generally this SEPP addresses financial rental mechanisms that may be implemented to limit rents applying to a building / dwelling to create affordable housing. Therefore, no further assessment pursuant to SEPP 70 is required. The proposal remains subject to SEPP (Affordable Rental Housing) 2009 which addresses the *building design* as one of a number of *cheaper styles* or *forms* of more affordable *building construction* for housing.

SEPP (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

Division 3: Boarding houses

Clause 25: Definition

For the purposes of this Division, the Standard Instrument defines a 'boarding house' as a building that:

*"(a) is wholly or partly let in lodgings, and
(b) provides lodgers with a principal place of residence for 3 months or more, and
(c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
(d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,*

but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment".

In this Division 'communal living room' means "a room within a boarding house or on site that is available to all lodgers for recreational purposes, such as a lounge room, dining room, recreation room or games room".

Clause 26: Land to which this Division applies

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone B1 Neighbourhood Centre, or (f) Zone B2 Local Centre, or (g) Zone B4 Mixed Use.	Consistent The site is located within the B2 Local Centre zone and, as such, the proposed use is permissible with consent under WLEP 2011.

Clause 27: Development to which this Division applies

(1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.

Requirement	Comment
(2) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area. Note: Accessible area means land that is within: (c) 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.	Consistent The site is located within the B2 Local Centre zone and is situated not more than 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.
(3) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.	Not applicable. The site is located within the Sydney region.

Clause 28: Development may be carried out with consent

Requirement	Comment

Development to which this Division applies may be carried out with consent.	The development constitutes the construction of a boarding house, as defined by the Standard Instrument. Therefore, the development may be considered under this Division of the SEPP as development which may be carried out with consent.
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Clause 29: Standards that cannot be used to refuse consent

Standard	Requirement	Proposed	Compliant/Comment
(1) Density and scale A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:	(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or	Floor space ratios are not applied in the WLEP or WDCP	Not applicable
	(b) if the development is on land within a zone in which no residential accommodation is permitted - the existing maximum floor space ratio for any form of development permitted on the land, or	Floor space ratios are not applied in the WLEP or WDCP	Not applicable
	(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register - the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus: (i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or (ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space	The B2 Local Centre zone does not permit "residential flat buildings" and no FSR applies to the land.	Not applicable.

	ratio is greater than 2.5:1.		
(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:			
(a) building height	if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,	The proposed building height (13.2m) does not comply with the development standard (11.0m).	An assessment of this non-compliance is made under the Warringah LEP section of this report.
(b) landscaped area	if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,	The proposal is in a Local Centre zone in which the character is formed by shop fronts at the street frontage. As such landscaping in this area is not appropriate. However, suitable landscaping is provided to the upper levels to provide relief in the presentation of building bulk and enhance residential amenity.	Consistent
(c) solar access	where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	The common room will receive more than 3 hours direct sunlight between 9.00am and 3.00pm in mid-winter.	Consistent
(d) private open space	if at least the following private open space areas are provided (other than the front setback area): (i) one area of at least 20m ² with a minimum dimension of 3.0m is provided for the use of the lodgers, (ii) if accommodation is provided on site for a boarding house manager—one area of	The boarding house includes a common room with a private open space area of 20.1m ² . Each boarding room is also provided with a private open space area. A private open space area of 114m ² is provided for the Managers residence.	Compliant

	at least 8.0m ² with a minimum dimension of 2.5m is provided adjacent to that accommodation,		
(e) parking	<p>if:</p> <p>(i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and</p> <p>(ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</p> <p>(iia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</p>	<p>The site is opposite the B-line bus stops and is on a flat section of Pittwater Road. This is a location that is a highly accessible area.</p> <p>The proposal involves 13 car parking spaces allocated to the boarding house component and this complies with the requirement.</p>	Compliant
(f) accommodation size	if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:	Each room has an area of at least 12 square metres (excluding any area used for the purposes of private kitchen or bathroom facilities).	Compliant

	(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or (ii) 16 square metres in any other case.		
	(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.	Each room is provided with kitchen and bathroom facilities.	Consistent
	(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).	The proposal complies with all requirements above with the exception of building height.	Supported Despite the non-compliance with the building height, support is given to the proposal due to the appropriate visual nature of the proposal, complementary nature with surrounding character, and lack of unreasonable amenity impact (subject to conditions).

Clause 30: Standards for boarding houses

Standard requirement	Proposed	Compliant/Comment
(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:		
(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	Two communal rooms have been provided.	Compliant
(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25m ² ,	The largest room is 24.6m ² .	Compliant
(c) no boarding room will be occupied by more than 2 adult lodgers,	A condition of consent is recommended to ensure this.	Compliant
(d) adequate bathroom and kitchen facilities will be available within the boarding house for the	Bathroom and kitchen facilities are provided to each room.	Consistent

use of each lodger,		
(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,	A manager dwelling is provided to the third floor level.	Consistent
(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,	The proposal is for a mixed use development in which the ground floor is for commercial purposes only.	Consistent
(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	The proposal provides 6 bicycle places and space for 5 motorcycles.	Compliant
(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	The proposal is for a new boarding house.	Not applicable.

Clause 30AA: Boarding houses in Zone R2 Low Density Residential

A consent authority must not grant development consent to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone unless it is satisfied that the boarding house has no more than 12 boarding rooms.

Comment:

Comment: Not applicable

Clause 30A: Character of the local area

The matter of assessing the character compatibility of development has been examined by the Land and Environment Court in *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC 268 and *Project Venture Developments v Pittwater Council (2005)* NSWLEC 191 where Senior Commissioner Roseth set out Planning Principles to better evaluate how a development should respond to the character of its environment. The following provides an assessment against the Planning Principles established in those two cases.

In the case of *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC 268 Senior Commissioner Roseth developed the following Planning Principles:

- *The first principle is that buildings in a development do not have to be single-storey to be compatible with the streetscape even where most existing buildings are single storey. The principle does not apply to conservation areas where single storey dwellings are likely to be the major reason for conservation.*

Comment:

The subject site is located at a section of Pittwater Road in which there is a variable character in terms of the number of storeys. This includes a mix of buildings that are generally 2-4 storeys in height. The proposed development will be compatible with this varied character by providing stepping of the upper levels so that the development appears as 3 storey building with a recessive and stepped-in 4th storey. This ensures that the presentation will not be visually dominant in relation to nearby development.

In this regard, it is considered that the scale of the development is compatible with the streetscape and consistent with the first principle.

- *The second principle is that where the size of a development is much greater than the other buildings in the street, it should be visually broken up so that it does not appear as one building. Sections of a building, or separate buildings should be separated by generous breaks and landscaping.*

Comment:

The proposal provides significant setbacks to the uppermost level (4th storey). In additions to this, landscaping is provided on the decks and terraces within the setbacks so as to assist in breaking up the bulk of the building. This breakdown ensures that the development will not involve large continuous planar walls, so as to be compatible with the character of newer mixed developments in the area.

In this regard, the development is considered to be compatible with the scale of surrounding development and consistent with the second principle.

- *The third principle is that where a site has existing characteristics that assist in reducing the visual dominance of development, these characteristics should be preserved. Topography that makes development appear smaller should not be modified. It is preferable to preserve existing vegetation around a site's edges to destroying it and planting new vegetation.*

Comment:

The proposal provides significant stepping back to the upper floors (front setback to 3rd floor and front/side/rear to 4th floor) to be consistent with the character exemplified in the streetscape. This maintains a presentation for the site that is not visually dominant.

In this regard, it is considered that effective methods have been employed in the design of the development to reduce its visual dominance and is consistent with the third principle.

- *The fourth principle is that a development should aim to reflect the materials and building forms of other buildings in the street. This is not to say that new materials and forms can never be introduced only that their introduction should be done with care and sensitivity.*

Comment:

The proposal provides a materials palette including muted tones that will complement the existing character of the area. Furthermore, the proposal provides visual interest by minimising continuous built

planes and instead providing a mix of materials, colours and textures. In this regard, the development is considered to be consistent with the fourth principle.

The above principles were further developed in ***Project Venture Developments v Pittwater Council (2005) NSWLEC 191*** to include the following:

Are the proposal's physical impacts on surrounding development acceptable?. The physical impacts include constraints on the development potential of surrounding sites.

Comment:

The physical impacts of the development on surrounding properties have been assessed and are satisfactory.

Constraints on the development potential of surrounding sites

The proposed development is set back from all boundaries to varying degrees, particularly at the front and rear for the main portion of the building and on all sides to the upper level. The proposal will therefore not constrain surrounding sites from developing in the future.

Privacy

Privacy is discussed in detail under Part D8 Privacy in this report. In summary, the proposal does not result in any unreasonable privacy impacts to surrounding properties as a result of substantial physical separation, buffers including landscaping, and suitable location for communal space.

Conditions are also provided to minimise acoustic privacy impacts and a Boarding House Management Plan will also assist in providing an appropriate outcome for acoustic privacy.

Overshadowing

The orientation of the site and the setbacks of the proposal will mean that the private open space of all neighbouring properties will retain more than three hours of sunlight between 9.00am and 3.00pm in mid winter.

Amendments to the plans were also made to provide a break in the wall at the southern elevation, and to provide a light well to improve amenity for the southern neighbour.

Noise

Noise is discussed in detail under Part D8 Privacy in this report. In summary, the boarding rooms will be occupied by one or two people. The rooms include small outdoor open areas, however, these are not large enough to hold a large gathering.

Conclusion to Character Assessment

The above character assessment has found that, in the context of the Land and Environment Court Planning Principles, the proposal is compatible with the character of the local area and surrounding wider locality.

This matter does not warrant the refusal of the Development Application.

The above assessment has found that the proposal is compliant with the requirements and standards

within the SEPP ARH (subject to conditions).

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1088157M).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	35	43

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid 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.

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

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Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	11.0m	13.2m	20%	No (see comments)

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of Non-compliance

Development Standard	Height of Buildings
Requirement	11m
Proposed	13.2m
Percentage variation to requirement	20%

Assessment of Request to Vary a Development Standard

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

Clause 4.6 Exceptions to Development Standards

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

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

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

Comment:

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

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

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

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

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

(a) the consent authority is satisfied that:

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

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

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

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

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

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

Comment:

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

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

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act

The objects of this Act are as follows:

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

The applicants written request argues, in part:

The proposed development for mixed use (with a shop top housing style) provides a greater consistency and compatibility with nearby shop top housing developments along Pittwater Road. It is also stated that a localised depression exists at the rear of the site which contributes to the height breach.

It is agreed that the 4 storey building would provide a greater level of compatibility with the character of the area given the predominant height and scale of nearby shop top housing developments along the Collaroy strip. It is further agreed that a minor depression in the site contributes to the height breach at the rear of the site.

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

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

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

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

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

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

Comment:

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

Objectives of the Building Height Development Standard

The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the WLEP 2011 are:

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

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

Comment:

The proposal involves a four storey shop top housing/boarding house style development that is consistent in built form with nearby shop-top housing developments. Further, the proposed building is compatible with the varied form of buildings in the area due to the substantial setbacks of upper levels to reduce the presentation of bulk and scale.

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

Comment:

As discussed in this report, the proposed upper level is substantially setback from the lower floors and all boundaries. This separation provides a situation in which there are substantial open corridors through the top portion of the development to allow for minimisation of view loss, separation for privacy and spacing to allow access for sunlight.

c) to minimise adverse impact of development on the scenic quality of Warringah’s coastal and bush environments,

Comment:

The significant setbacks of the upper level along with landscaping to surround this level, provides an outcome in which the developments visual impact is minimised. This minimises the presentation of building bulk so as to ensure there is not unreasonable impact on the scenic quality of the area.

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

Comment:

The proposed development will appear as a two to three storey building from many public spaces, and this minimises the presentation of the development. The modulation, articulation, and provision of landscaping also assists in providing a presentation in which the built form is adequately broken in to sections so as to minimise visual impact.

Objectives of the B2 Local Centre Zone

The underlying objectives of the B2 Local Centre zone are:

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

Comment:

The proposal includes both commercial premises and residential occupancies and provides opportunities for both housing and employment in the area.

- *To encourage employment opportunities in accessible locations.*

Comment:

The proposed commercial premises ("office premises" only by way of condition) are opposite the Collaroy B-line bus stops. These are future employment opportunities in an accessible location.

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

Comment:

The site is within close proximity to bus stops and is located in a relatively flat area so that walking and cycling are possible. The development also provides for a bicycle storage area to encourage cycling.

- *To provide an environment for pedestrians that is safe, comfortable and interesting.*

Comment:

The restriction of the commercial premises to be an "office premises" will reduce vehicular traffic so as to provide an appropriate situation for pedestrians.

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

Comment:

The substantial setbacks of the upper levels and the landscaping on the terrace areas provides a situation in which the presentation of the development will integrate appropriately with the surrounding natural environment.

- *To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of any adjoining or nearby residential land uses.*

Comment:

The setback of the upper levels and break in the southern elevation ensures that the amenity of surrounding residential uses is well protected.

Conclusions on Consistency with the Objectives of the Zone

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

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

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

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of Buildings Development Standard is assumed by the Local Planning Panel.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B2 Number of storeys	3	4	33.33%	No (see comments)
B5 Side Boundary Setbacks	Merit assessment	0m-6.335m	N/A	Yes (see comments)
B7 Front Boundary Setbacks	Ground and 1st Floor: Maintain streetfront	Streetfront setback maintained	N/A	Yes
B7 Front Boundary Setbacks	2nd floor and up:5m	5m-8m	N/A	Yes
B9 Rear Boundary Setbacks	Merit assessment	7.3m	N/A	Yes (see comments)

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

Clause	Compliance with Requirements	Consistency Aims/Objectives
B7 Front Boundary Setbacks	Yes	Yes
B10 Merit assessment of rear boundary setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	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
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes
F1 Local and Neighbourhood Centres	Yes	Yes

Detailed Assessment

B2 Number of Storeys

Description of non-compliance

The control permits a building that is a maximum of three (3) storeys in height. The proposed development is four (4) storeys in height.

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:

The fourth storey of the building is not easily visible from the street by virtue of its substantial setback from the front boundary and from the floors below. The fourth storey has also been designed to provide substantial setbacks to the northern and southern sides of the building, which provides appropriate visual relief and interest when viewed from surrounding properties.

Further, the proposal is located next to buildings that have similar heights and also within the proximity of other examples of four storey shop top housing development.

In this regard, the development does not visually dominate its surrounds.

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

Comment:

The proposed development will appear as a three storey building from many vantage points, including public spaces, which will minimise the visual impact of the development. The modulation, articulation and provision of landscaping will also assist in providing a visual presentation that is adequately broken down to minimise visual impact.

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

Comment:

The development provides a reasonable and equitable sharing of views to and from public and private properties. The fourth storey element provides substantial setbacks from the northern and southern boundaries to ensure view corridors are maintained for the adjacent building and for residential properties to the rear of the site.

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

Comment:

Despite the non-compliance with this control, the fourth storey does not result in any unreasonable overshadowing of adjoining properties, nor does it result in any unreasonable privacy or view impacts on adjoining or nearby properties.

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

Comment:

The development provides a modern flat roof design that is consistent with that of new medium density residential developments in the area. In this regard, the development provides sufficient scope for innovative roof pitch and variation in roof design.

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

Comment:

The development results in a non-compliance with the the Height of Buildings Development Standard. This non-compliance is for the upper level and is toward the rear of the site, away from the street. The assessment of this application and the variation proposed to the development standard is justified

on the basis that it is well founded and is supported in the circumstances.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of the WLEP2011, the WDCP 2011 and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B6 Merit Assessment of Side Boundary Setbacks

Merit consideration:

To provide ample opportunities for deep soil landscape areas.
Comment:

Given the site is located within the B2 Local Centre zone and within a mixed-use setting and context, it is envisaged that the ground floor areas will be occupied by commercial spaces, carparking and servicing areas. Furthermore, the WDCP does not contain a landscaped area control. Finally, the proposed planter boxes and landscaping throughout the development will provide opportunities for screening and softening planting.

To ensure that development does not become visually dominant.
Comment:

The proposal has adequate articulation and modulation to ensure it does not become visually dominant.

The proposal also provides significant setbacks to the upper levels from the street and lower floors. In additions to this, landscaping is provided on the decks and terraces within these setbacks so as to assist in breaking up the bulk of the building.

To ensure that the scale and bulk of buildings is minimised.
Comment:

The building is well modulated and steeps back significantly at the upper floor levels. This results in a bulk and scale which is compatible with the varied bulk and scale in the close vicinity of the site.

To provide adequate separation between buildings to ensure a reasonable level of amenity and solar access is maintained.
Comment:

The proposed development provides substantial separation between the upper levels and neighbouring properties to the upper level. The development also provides a recess in the southern elevation to allow for light access for the southern neighbour. This separation and breaking up of the built form ensures a reasonable level of amenity is provided the surrounding residential properties.

To provide reasonable sharing of views to and from public and private properties.
Comment:

The proposal provides substantial view corridors through the north and south of the 4th storey of the development to provide appropriate view sharing for the nearby developments that obtain views of the side boundaries.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent

with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D7 Views

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To allow for the reasonable sharing of views.*

Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal. This is done for two separate sites, being 1125-1127 Pittwater Road and 1-5 Collaroy Street.

1125-1127 Pittwater Road, Collaroy

1. Nature of the views affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment to Principle 1:

The views that will be affected are ocean views toward Collaroy Beach. The views of the water are made somewhat partial by existing trees and the Collaroy Hotel building on the opposite site of the street.



Figure 1: View from Living room of Unit 11, 1125-1127 Pittwater Road



Figure 2: View from rear deck of Unit 11, 1125-1127 Pittwater Road

- 2. What part of the affected property are the views obtained**

“The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic”.

Comment to Principle 2:

The views are obtained from living areas within the unit and also from a deck which wraps around from the front of the unit to the side and rear (Figure 1 shows the view from the rear). These views are obtained from both standing and sitting positions and are over a side boundary.

3. Extent of impact

"The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating".

Comment to Principle 3:

Given the setback of the upper levels, there is a retention of a substantial view corridor through the southern setback of the subject site. This corridor can be obtained from the deck area as well as living areas. Given the nature of the view over a side boundary, the overall impact is assessed as being **minor**.

4. Reasonableness of the proposal that is causing the impact

"The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."

Comment to Principle 4:

The proposal complies with the controls for side and front setbacks and in this instance these are the controls that provide the greatest benefit to maintaining views. As a result of this and the overall minor view impact, the proposal is reasonable in terms of view sharing, despite the non-compliance with the development standard.

1-5 Collaroy Street, Collaroy

• 1. Nature of the views affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment to Principle 1:

The views that will be affected are ocean views towards Collaroy Beach. The views of the ocean are made somewhat partial by the other existing buildings. In particular, the building in front of the site (1125-1127 Pittwater Road) results in a substantial disruption to ocean views.



Figure 3: View from central unit of 1-5 Collaroy Street, Collaroy



Figure 4: View from Northern Unit of 1-5 Collaroy Street



Figure 5: View from southern unit of 1-5 Collaroy Street

2. What part of the affected property are the views obtained

“The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic”.

Comment to Principle 2:

The views are generally obtained from decks and living rooms associated with these decks. The views are across a side boundary and diagonally across the subdivision pattern. This diagonal nature of the view corridor results in the views being somewhat vulnerable.

3. Extent of impact

“The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating”.

Comment to Principle 3:

Given the vulnerable nature of the views and the view corridor through the southern part of the site which is retained from many angles, the overall impact is considered as being **minor-moderate**.

4. Reasonableness of the proposal that is causing the impact

“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”

Comment to Principle 4:

The proposal complies with the controls for side and front setbacks and in this instance these are the controls that provide the greatest benefit to maintaining views. As a result of this and the overall minor-moderate view impacts, the proposal is reasonable in terms of view sharing in this instance, despite the non-compliance with the development standard.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The proposal provides a design solution that allows for corridors for views to the side and front of the proposed development. Given the vulnerable nature of surrounding views, this is an innovative and acceptable design solution.

- *To ensure existing canopy trees have priority over views.*

Comment:

the surrounding canopy trees at the beach front maintain priority over the views.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011/WDCP 2011 and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D8 Privacy

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.

Comment:

Visual Privacy

The site does not directly adjoin any residential properties to the north. As such, the location and orientation of the decks and terraces to be generally in this direction provides a design that minimises overlooking between the site and sites toward the north. The properties to the west are also well buffered from the terrace areas at the managers area provides a screen between these areas. Furthermore, the decks are surrounded by planter boxes to provide a further buffer for overlooking between the site and adjacent properties.

Acoustic Privacy

The boarding rooms will be occupied by one or two people. All of the rooms include small terraces or decks, however, these are not large enough to hold a large gathering.

The common room and common outdoor areas are located toward the north of the site in a location that is well separated from the neighbouring residential occupancies.

Given the screen planting, the relatively large distance to the closest neighbouring dwelling, the relatively small size of the outdoor area and that it is very unlikely that the space will be used by any more than a few residents at a time, the common outdoor area will not result in unreasonable acoustic privacy impacts.

Conditions are also imposed to ensure controls are provided so noise is minimised and a plan of management for the site ensures areas prone to noisiness can only be used at appropriate times.

Overall, the siting and design of the proposal, along with the conditions of consent, will provide a satisfactory level of visual and acoustic privacy for occupants and neighbours.

To encourage innovative design solutions to improve the urban environment.

Comment:

The proposed boarding house is well designed with adequate separation and buffers to minimise impacts to neighbours.

To provide personal and property security for occupants and visitors.

Comment:

The proposal includes swipe card accessible entry and exit doors and enclosed living areas. The development will therefore provide suitable personal and property security for occupants and visitors.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the

Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, subject to conditions, in this particular circumstance.

F1 Local and Neighbourhood Centres

The following requirement under 14. Pittwater Road, Collaroy applies to the site:

"Buildings greater than 2 storeys in height within the centre are to be designed so that the massing is substantially reduced on the top floors thereby reducing the visual bulk of the development and enabling views between buildings."

Comment:

The proposal provides substantial setbacks to the upper level floors from the lower level floors. This provides for an appropriate degree of stepping of the built form so that the building does not become excessive in terms of bulk and scale and negatively impact on streetscape, considering the Collaroy commercial strip is a "Local Centre". Views between the building and adjoining properties are maintained as envisaged by the controls applying to the site.

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 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$49,960 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$4,995,964.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- 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:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

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

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

Conclusions on the Assessment of the Application

The assessment of the proposed development against the provisions of WLEP 2011 has found that the proposal does not comply with the 'Height of Buildings' development standard of 11.0m.

In this case, the design provides sufficient setbacks, modulation and articulation to reduce amenity impact and the visual impact is reasonable and acceptable. Furthermore, the applicant has provided sufficient justification for the departure from the development standard, which is considered to be well founded.

In addition, the assessment of the proposed development against the provisions of the Warringah DCP 2011 found that the proposal does not comply with the number of storeys control. Given the character of the area and amenity outcome, assisted by good levels of modulation at the upper levels, some flexibility in applying these controls is required. It is considered that the non-compliances will not have an unreasonable amenity impact on adjoining properties and are consistent with the streetscape character of the locality.

There were 43 submissions made in response to the public notification. A number of conditions have been imposed to alleviate the amenity impacts that were raised in the submissions.

Furthermore, a deferred commencement condition is recommended to limit the usage of the ground floor commercial premises to "offices" to ensure the use of the right of way will have a reasonable intensity of traffic usage and so that it is conducive to the limitations on the size of service vehicles, thus providing a satisfactory outcome in response to the concerns raised by residents and Council's Traffic Section.

In summary, the proposal should be approved as the design is reasonable for the site and locality by virtue of the supportable non-compliances that do not translate into any unreasonable amenity impacts.

The proposed mixed development will integrate with the existing streetscape and is likely to be consistent with future development in the local centre having regard to the predominant height and scale of development fronting Pittwater Road.

Based on the above detailed assessment, the Clause 4.6 variation to the building height is supported.

Therefore, the application is recommended for approval.

It is considered that all processes and assessments have been satisfactorily addressed and that proposed development constitutes the proper and orderly planning for the site or the locality.

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

RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.3 Height of Building development standard pursuant to clause 4.6 of the WLEP 2011 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2020/0431 for Demolition works and construction of a Mixed Use Development comprising commercial units and a Boarding House on land at Lot 1 DP 859613, 1131 Pittwater Road, COLLAROY, Lot 4 DP 7445, 1129 Pittwater Road, COLLAROY, subject to the conditions printed below:

DEFERRED COMMENCEMENT CONDITIONS

1. Restriction on Title

The applicant is to submit a Section 88E instrument to be approved by Council prior to being lodged with Property NSW placing a restriction on the title to limit the use of the commercial tenancy to commercial office uses only and explicitly prohibits the conversion of the commercial space to retail uses.

This restriction should be drafted so that Council has authority to vary the restriction.

Reason: To limit the traffic impact of the approval on the surrounding area and to provide opportunity for the restriction to be lifted in the future if a further application or design is provided that addresses traffic concerns to Council's satisfaction. (DACTRADC1)

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

2. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A02A- Basement Floor Plan	16/09/2020	Barry Rush and

		Associates Pty Ltd
A03A- Ground Floor Plan	16/09/2020	Barry Rush and Associates Pty Ltd
A04A- First Floor Plan	16/09/2020	Barry Rush and Associates Pty Ltd
A05A- Second Floor Plan	16/09/2020	Barry Rush and Associates Pty Ltd
A06A- Third Floor Plan	16/09/2020	Barry Rush and Associates Pty Ltd
A07- Roof Plan	16/09/2020	Barry Rush and Associates Pty Ltd
A08A- Elevations East and North	16/09/2020	Barry Rush and Associates Pty Ltd
A09A- Elevations West and South	16/09/2020	Barry Rush and Associates Pty Ltd
A10A- Sections A-A & B-B	16/09/2020	Barry Rush and Associates Pty Ltd
A11- Demolition Plan	16/09/2020	Barry Rush and Associates Pty Ltd
A12- External Colour Schedule	16/09/2020	Barry Rush and Associates Pty Ltd

Engineering Plans

Drawing No.	Dated	Prepared By
A14- Driveway Section	19/03/2020	Barry Rush and Associates Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
Boarding House Management management Plan	April 2020	Applicant
Ausgrid Letter	20/05/20	AUSGRID
Geotechnical, hydrogeological and Acid Sulfate Soil Assessment	March 2020	martens consulting engineers
Access Report	20 March 2020	Ergon Consulting
Traffic Impact Assessment	27 March 2020	Urbis
Flood Assessment and Preliminary Flood Emergency Response Plan	April 2020	martens consulting engineers
Road Traffic Noise Assessment and Environmental Noise Impact Assessment	27 March 2020	DK Acoustics

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent and the deferred commencement condition.

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

Landscape Plans		
Drawing No.	Dated	Prepared By
LPDA 20- 155 Landscape Plan	Feb 2020	Barry Rush and Associates Pty Ltd
LPDA 20- 155 Landscape Plan - 3F	Feb 2020	Barry Rush and Associates Pty Ltd
LPDA 20- 155 Specification and Detail	Feb 2020	Barry Rush and Associates Pty Ltd

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Demolition and Construction Management Plan	February 2020	Apex Engineers

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

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

3. **Prescribed Conditions**

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

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

- B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

4. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$49,959.64 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 2019. The monetary contribution is based on a development cost of \$4,995,964.00.

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

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

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

6. Security Bond

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

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

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

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

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

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

A bond of \$10000 as security against damage to Council's footpath paving fronting the site caused by the transport and disposal of materials and equipment to and from the site.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE SUBDIVISION WORKS CERTIFICATE

28. Traffic Management and Control

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Subdivision Works Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

8. On slab landscape planting and associated works

- a) Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing to all internal walls and slab, and drainage of the concrete slab over which soil and planting is being provided.
- b) Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil volume, soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.
- c) The following soil depths are required in order to be counted as landscaping:
 - 300mm for lawn
 - 600mm for shrubs
 - 1metre for trees

Reason: To ensure appropriate and secure waterproofing and drainage is installed to direct water flow into the drainage system and adequate soil depths for proposed planting

9. Traffic Management and Control

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

10. Car Parking Standards

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1-2004.

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

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

11. Vehicular Swept Paths

Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required car parking spaces. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

This is to include all vehicles entering the subject site and include the demonstration of the vehicle clearances in the right of carriageway in the adjoining property 1-5 Collaroy Street. This is to ensure that two way vehicle traffic can be maintained through the site with impacting on the shared amenity.

Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the issue of the construction Certificate.

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

12. Construction Traffic Management Plan

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and

submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

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

The CTMP must address following:

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

- appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

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

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

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

13. Waste and Service Vehicle Access

Access to the on-site loading bay area including ramp grades, transitions and height clearance shall be designed for safe forward in and forward out access of a 6.4m SRV Service Vehicle, as a minimum requirement. The height clearance required is 2.5m, measured from the floor level to any overhead structures such as pipes.

Plans showing the ramp grades, transitions and height clearance and swept path diagrams of 6.4m SRV Service Vehicle shall be submitted to and approved by the Certifying Authority prior to the issue of the Construction Certificate. Swept path diagrams must include details of the road including, kerb line, line marking, signs, traffic devices, power poles, other structures and neighbouring driveways.

Reason: To ensure adequate service vehicle access.

14. Amendments to the approved plans- Replacement Landscaping

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

- All trees marked on the landscape plans as having a mature height of over 3m are to be replaced with a native species with a mature height of no greater than 3m.

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

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

15. Boundary Identification Survey

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

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

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

16. **On-site Stormwater Detention Details**

The Applicant is to submit stormwater drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's **WARRINGAH WATER MANAGEMENT POLICY PL850**, and generally in accordance with the concept drainage plans prepared by Marten and Associates, drawing number PS03-E100 B, E101 A, E200 C, Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NER) Civil or RPENG (Civil) Professionals Australia.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

17. **Tanking of Basement Level**

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

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

18. **Contaminated Land Requirements**

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

- a) How all the requirements and / or recommendations contained within the Preliminary Site Investigation Report numbered P1907336JR01V01 prepared by Martens Consulting Engineers and dated April 2020 are to be implemented;
- b) A Remedial Action Plan (RAP) prepared by a suitably qualified Environmental Consultant in accordance with State Environmental Planning Policy No. 55 - Remediation of Land, and with any contaminated land planning guidelines under the Contaminated Land Management Act 1997;
- c) Stipulate reporting and processes associated with discovery of any new contamination that is revealed during excavation, demolition or development works. This process shall include the ability to contact NSW Fire and Rescue for pollution incidents, have on call (24 hours a day), a suitably qualified Environmental Consultant to undertake immediate investigations and provide recommendations for containment and rectification of contaminants or toxins and a process for notification to Northern Beaches Council and the Principal Certifying Authority.
- d) A requirement to complete ongoing water and soils testing during excavation, demolition and development works as follows:
 - (a) During construction in order to monitor water and soil quality the following is to

be implemented:

- i) Water testing is to be completed in accordance with Section 3 of the NSW RTA's Guideline for Construction Water Quality Monitoring
- ii) Soil Testing in order to detect contaminants is occur weekly with two (2) samples in accordance with the NSW EPA Contaminated Site Sampling Design Guidelines.

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

- i) Fortnightly during excavation works
- ii) Monthly during building works

e) To ensure water quality is maintained runoff must be drained to an adequately banded central collection sump and treated, to meet NSW Department of Environment and Climate Change (formerly Environment Protection Authority) discharge criteria.

Note: Other options for the disposal of excavation pump-out water include disposal to sewer with prior approval from Sydney Water, or off-site disposal by a liquid waste transported for treatment/disposal to an appropriate waste treatment/processing facility.

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

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

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

- i) Protection of the Environment Operations Act 1997; and
- ii) Environment Protection Authority's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).
- g) Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of Saework NSW and the Environment Protection Authority and the provisions of all relevant Acts, Regulations and Guidelines.
- h) Stipulate protocols for the importation of any landfill material onto the site the protocols shall include:
 - o 'Chain of Custody' documentation shall be kept and submitted for the transport of the validated fill material from the any site to the subject premises.
 - o Requirement that any landfill material being brought to the site shall be free of contaminants or toxins and shall suitable for the use on the land.
 - o Any landfill material being brought to the site shall have a validation report prepared to the satisfaction of the Principal Certifying Authority (prepared in accordance with the Department of Environment & Climate Change's guidelines).

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

Reason: Protection of the environment, SEPP 55 compliance.

19. **Prior to construction certificate - Noise from Mechanical Equipment**

An noise assessment is to be undertaken by a suitably qualified person of the mechanical plant including air-conditioning plant associated with the use of the development. This assessment is

to be undertaken to assess noise emission from the mechanical plant and a report is to be submitted to the Principal Certifying Authority prior to Construction Certification.

Reason: Protect noise amenity of the area and public health.(DACHPCPCC6)

20. **Prior to construction certificate - Noise Control Building Specifications**

Within the acoustic report dated 27 March 2020 ref: 200131 prepared by DK Acoustics Pty Ltd, the following noise control measures are to be implemented to provide the required external noise reduction to comply with acceptable noise criteria.

External Walls must comply with recommendations in Section 5.1 of the above report.

Roof/ceiling must comply with recommendations in Section 5.3 of the above report.

Windows and external glazed doors must comply with recommendations in Section 5.4 of the above report.

Reason: To protect the noise amenity of the area and public health (DACHPCPCC6)

21. **Pre-commencement Dilapidation Report**

The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

The pre-construction / demolition dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifying Authority prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

Reason: Protection of Council's infrastructure during construction.

22. **Compliance with Standards**

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

(Note: At the time of determination the following (but not limited to) Australian Standards applied:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'**
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 – 2009* Design for access and mobility - General requirements for access – New building work**
- (m) AS 1428.2 – 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website [www.hreoc.gov.au/disability rights /buildings/good.htm](http://www.hreoc.gov.au/disability%20rights%20/buildings/good.htm). <www.hreoc.gov.au/disability%20rights%20/buildings/good.htm>

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to.)

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

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

23. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

24. **Certification of recommendations in reports prior to CC**

All recommendations that relate to issues prior to construction certificate are to be complied with for the following reports:

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Ausgrid Letter	20/05/20	AUSGRID
Geotechnical, Hydrogeological and Acid Sulfate Soil Assessment	March 2020	martens consulting engineers
Access Report	20 March 2020	Ergon Consulting
Traffic Impact Assessment	27 March 2020	Urbis
Flood Assessment and Preliminary Flood Emergency Response Plan	April 2020	martens consulting engineers
Road Traffic Noise Assessment and Environmental Noise Impact Assessment	27 March 2020	DK Acoustics

Details are to be provided prior to the issue of a Construction Certificate.

Reasons: To ensure compliance with recommendations in expert reports.

25. DRAINS Model and Flood mitigation

The following issues are to be resolved prior to the issue of an Construction Certificate:

- A DRAINS model is to be submitted to Council for review to verify the outputs as presented in the report by Martens Consulting Engineers.
- Details and a redesign is to be provided to show the Flood mitigation tank will not be impacted by the back flow of stormwater from the adjoining box culvert.

Reason: To ensure appropriate outcome for Stormwater and Flooding.

26. Basement Garage Traffic Signal System.

To prevent conflicting vehicle flows on the internal basement garage ramp and avoid vehicles having to reverse up/ down the ramp, a traffic signal system must be installed at each ramp entry, and be visible from the assigned waiting bays, designed to warn drivers about to enter the road of any conflicting vehicle approaching.

The signal system must;

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

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

Reason: To ensure no vehicle conflicts within the basement carpark.(DACTRCPC1)

27. Waste and Recycling Requirements

Details demonstrating compliance with Northern Beaches Development Control Plan – Part C9 Waste Management, including the required Northern Beaches Waste Management Plan, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with Northern Beaches Development Control Plan – Part C9 Waste Management, 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.
(DACWTC01)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

29. Pre-Construction Dilapidation Report

Dilapidation reports, including photographic surveys, of all adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

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

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

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

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

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

30. **Public Liability Insurance - Works on Public Land**

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

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

31. **Tree protection**

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to

commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

32. Road Reserve

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

33. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

34. Demolition Works - Asbestos

If asbestos is found:

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

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

35. **Requirement to Notify about New Contamination Evidence**

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

Reason: To protect human health and the environment.

36. **Imported Fill**

Prior to the importation of any landfill material onto the site, a validation report prepared in accordance with the Department of Environment & Climate Change's guidelines shall state that any fill material is suitable for the proposed use within the subject premises.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the fill being imported to the site.

Reason: To ensure that imported fill is of an acceptable standard.

37. **Compliance with the Preliminary Site Investigation Report**

The requirements of the Preliminary Site Investigation Report numbered P1907336JR01V01 prepared by Martens Consulting Engineers and dated April 2020 required by this consent are to be fully implemented from commencement of any excavation, demolition or development works until the issue of any interim / final occupation certificate.

Reason: Protection of the environment, SEPP 55 compliance.

38. **Waste Materials**

All waste materials are to be classified prior to removal of any waste materials from the premises. All wastes (including any potentially contaminated wastes) shall only be transported to and disposed of within a licensed waste facility that is suitably authorised to accept the wastes. Evidence of waste disposal shall be retained at the premises for the duration of the development.

Reason: To ensure the premises a maintained in an appropriate manner in perpetuity.

39. **Compliance with the Boarding House Plan of Management**

The requirements of the Boarding House Management Plan dated April 2020 are required by this consent is to be fully implemented in perpetuity from the issue of any interim / final occupation certificate.

Reason: To ensure the premises a maintained in an appropriate manner in perpetuity.
(DACHPEDW2)

40. **Contaminants of Potential Concern - Preliminary Site Investigation Report**

Any Areas of Environmental Concern (AOEC) and Contaminants of Potential Concern (COPC) are to be managed in accordance with all of the requirements and recommendations contained within the Preliminary Site Investigation Report numbered P1907336JR01V01 prepared by Martens Consulting Engineers and dated April 2020. This includes the requirement for groundwater screening to be carried out during the excavation works and further contamination assessments where any fill material is encountered below the final bulk excavation level.

Reason: For the protection of human health and environmental health

41. **Installation and Maintenance of Sediment Control**

Measures used for erosion and sediment control on building sites are to be adequately

maintained at all times and must be installed in accordance with Council's Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

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

42. Waste/Recycling Requirements (Waste Plan Submitted)

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan dated February 2020.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided. (DACWTE01)

43. 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. (DACWTE02)

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

44. Landscape completion certification

a) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and inclusive of any conditions of consent.

b) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been established and maintained in accordance with the approved landscape plan.

Reason: To ensure that the landscape treatments are installed to provide landscape amenity.

45. Stormwater Disposal

The stormwater drainage works including the flood storage tank shall be certified as compliant with all the approved plans by the design engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

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

46. Post-Construction Dilapidation Report

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

- Compare the post-construction report with the pre-construction report,

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

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

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

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

47. Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures and Flood storage tank

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures and the flood storage tank within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal and flood management system is maintained to an appropriate operational standard.

48. Preliminary Site Investigation Report Certification

Written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority stating that all the works/methods/procedures/control measures/recommendations approved by Council in the Preliminary Site Investigation Report numbered P1907336JR01V01 prepared by Martens Consulting Engineers and dated April 2020 have been satisfactorily implemented and completed within the premises.

Details demonstrating effective compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To ensure compliance with standards.

49. Prior to Occupation Certification - Mechanical Ventilation Certification

Windows and doors in rooms facing Pittwater Road need to be closed and have acoustic seals fitted to reduce internal noise to an acceptable level therefore mechanical ventilation is to be provided in each room facing Pittwater Road and the ventilation must comply with AS1668.2-2012. Certification is to be provided to a principal certifying authority prior to Occupation certification.

Reason: To ensure that the mechanical ventilation system complies with the design requirements. (DACHPFPOC4)

50. **Prior to Occupation Certificate - Registration of Boarding House**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided to the principal certifying authority identifying the Boarding House has been registered with the appropriate regulatory authority as prescribed under Part 2 of the Boarding Houses Act 2012. This includes any relevant licences required under Division 2 of said Act.

Reason: To ensure the premises a maintained in an appropriate manner in perpetuity. (DACHPFPOC7)

51. **Required Planting**

Trees, shrubs and groundcovers shall be planted in accordance Landscape Plans Dwg Nos. LPDA 20-155 C pages 1 and 2 dated 23.03.20 Prepared by Conzept

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

Reason: To maintain environmental amenity.

52. **Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management. (DACPLF01)

53. **Garbage and Recycling Facilities**

All internal walls of the storage area 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.

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

Reason: To prevent pollution of the environment and to protect the amenity of the area. (DACPLF03)

54. **Sydney Water**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

Reason: To ensure compliance with the statutory requirements of Sydney Water.

55. 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 Certifying Authority prior to the issue of the Interim / Final 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 Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

56. Certification of recommendations in reports Prior to OC

All recommendations that relate to issues prior to Occupation certificate are to be complied with for the following reports:

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Ausgrid Letter	20/05/20	AUSGRID
Geotechnical, Hydrogeological and Acid Sulfate Soil Assessment	March 2020	martens consulting engineers
Access Report	20 March 2020	Ergon Consulting
Traffic Impact Assessment	27 March 2020	Urbis
Flood Assessment and Preliminary Flood Emergency Response Plan	April 2020	martens consulting engineers
Road Traffic Noise Assessment and Environmental Noise Impact Assessment	27 March 2020	DK Acoustics

Details are to be provided prior to the issue of a Occupation Certificate.

Reasons: To ensure compliance with recommendations in expert reports.

57. Waste and Recycling Facilities Certificate of Compliance

The proposal shall be constructed in accordance with Northern Beaches Development Control Plan – Part C9 Waste Management

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

Reason: To ensure waste and recycling facilities are provided. (DACWTF01)

58. Waste/Recycling Compliance Documentation

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled. (DACWTF02)

59. Positive Covenant for Waste Services

A positive covenant shall be created on the title of the land requiring the proprietor of the land to provide access to the waste storage facilities prior to the issue of an Interim/Final Occupation Certificate. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Northern Beaches Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. 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 (DACWTF03)

60. Authorisation of Legal Documentation Required for Waste Services

The original completed request form (Department of Lands standard form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

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

Reason: To create encumbrances on the land. (DACWTF04)

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

61. On going - Boarding Houses Act

Compliance with the relevant sections of the Boarding Houses Act NSW in perpetuity from the issue of any interim/final occupation certificate.

Reason: Compliance with the Boarding House Act NSW (DACHPGOG5)

62. Landscape maintenance

- i) Trees shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.
- ii) 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.

Reason: To maintain local environmental amenity.

63. **Boarding house Requirements**

The following are on going requirements for the boarding house:

- There are to be no more than 23 boarding rooms (without further consent).
- The boarding rooms are to have no more than 2 boarders per room.
- Car parking is to be allocated as follows: 1 space for the boarding house manager, 13 spaces for the boarding house occupants and 6 spaces for the office premises.

Reason: To ensure compliance with the requirements of SEPP ARH and provide other appropriate controls for the boarding house.

64. **Boarding house units**

The boarding house units are to be used only for the purpose of a boarding house.

Reason: To ensure compliance with this consent for a boarding house.