

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/1395
----------------------------	-------------

Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot 3 DP 6777, 1012 Pittwater Road COLLAROY NSW 2097 Lot 2 DP 314645, 1014 Pittwater Road COLLAROY NSW 2097 Lot 4 DP 6777, 1010 Pittwater Road COLLAROY NSW 2097
Proposed Development:	Demolition works and construction of Shop Top housing
Zoning:	Warringah LEP2011 - Land zoned E1 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	The Trustee for Collaroy Projects Unit Trust

Application Lodged:	04/10/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	06/05/2024 to 03/06/2024
Advertised:	06/05/2024
Submissions Received:	29
Clause 4.6 Variation:	4.3 Height of buildings: 21.8%
Recommendation:	Approval

Estimated Cost of Works:	\$ 13,814,600.00
---------------------------------	------------------

EXECUTIVE SUMMARY

The application seeks consent for demolition works and construction of a three and four-storey shop top housing development comprising 21 residential units, 3 ground floor commercial tenancies and basement and ground floor car parking car parking.

The application is reported to the Northern Beaches Local Planning Panel (NBLPP) as it attracted more than 10 submissions in objection to the proposal and involves a variation to the height of buildings development standard exceeding 10%.

The 11m height of buildings standard is breached in relation to the level 2 roof (11.3m), level 3 communal rooftop (13m) and lift overrun (13.4m), equating to a maximum variation of 21.8%. The applicant has submitted a Clause 4.6 written request in support of the proposed variation to the building height standard. As detailed in this report, it is considered that the applicant's written request is well-founded and adequately justifies the variation sought. In this regard, the total volume of the building form that breaches the height standard is relatively minor, will contribute positively to the overall amenity of the development and will not cause unreasonable visual or amenity impacts.

The proposal exhibits a high level of compliance with the Warringah Development Control Plan (WDCP) built form controls. The number of storeys and front setback variations are assessed in this report, as are the proposed side and rear setbacks for which the controls require a merit assessment. The proposal is found to achieve the Design Quality Principles set out in SEPP Housing and responds appropriately to the design criteria of the Apartment Design Guide (ADG). A detailed assessment is provided in relation to the proposed inconsistencies with regard to the communal open space, visual privacy and apartment depth criteria.

The application was referred to Council's Design and Sustainability Advisory Panel for review. The Panel provided written advice concluding that *"The Panel does not support the proposal in its current form. Further amendments to the design as noted in the recommendations should be undertaken which can be reviewed by Council Staff."* Following this review, the proposal was amended as described in the detailed description section of this report. The amended proposal incorporates the majority of the recommendations made by the DSAP as detailed in this report. The amendments made are considered to adequately resolve the concerns raised by the Panel in that they achieve substantial improvements in relation to the overall design outcome, the amenity of the development and minimisation of impacts to surrounding properties and the public domain.

The application was publicly exhibited in accordance with Council's Community Participation Plan, whereby the proposal was notified to a total of 105 surrounding residents/owners. In response to Council's exhibition a total of 28 submissions were received, of which 27 were in objection to the proposal and 1 was in support. The issues raised in the submissions are addressed in this report and are broadly categorised as follows:

- Building height variation and supporting Clause 4.6 variation request,
- Incompatibility with surrounding character, building bulk and setbacks,
- Impacts on traffic network and on-street car parking demand,
- Excavation and construction impacts,
- Tree and biodiversity impacts, and
- Stormwater design and management.

The issues raised in the submissions have been sufficiently addressed where necessary by the amendments made to the proposal (described below) and the conditions of consent included in the recommendation of this report. An assessment of each of the concerns raised in the submissions is undertaken in this report and none of these matters are found to justify the refusal of the application in the public interest.

It is noted that a deferred commencement condition is recommended requiring the creation of an easement for drainage.

On balance, the proposal is considered to satisfy the relevant planning controls and has sufficient merit to be recommended for **approval** by the NBLPP, subject to the conditions listed in the recommendation.

PROPOSED DEVELOPMENT IN DETAIL

Proposed Development

The proposal seeks consent for demolition works and the construction of a shop top housing development with basement and at-grade car parking.

Specifically, the development proposes:

- Demolition of all existing structures;
- Excavation, site preparation and stormwater works;
- Tree removal;
- New driveway and crossover;
- 3 x ground floor commercial tenancies;
- 2 x car parking levels accommodating 26 residential spaces, 5 visitor spaces, 17 commercial spaces, 1 loading bay, 26 bicycle spaces, plant, services and bin rooms and storage;
- 21 apartments over two levels (5 x 1 bedroom, 10 x 2 bedroom & 6 x 3 bedroom);
- Ground floor landscaped and paved areas to the east of the building; and
- Level 3 covered and accessible rooftop communal open space area.

The below images illustrate the general character, design and external appearance of the proposal:



Figure 1. View from Pittwater Road frontage (west).



Figure 2. View from rear (west).

Amendment of Application

On **20 March 2024**, amended plans (Rev. B) were lodged including the following amendments to the proposed development:

- Deletion of level 3 units;
- Reduction from 22 to 21 units, including various internal reconfigurations and revision of unit mix;
- Amendment of rooftop communal open space, including a roof, WC & bbq facilities, and associated access;
- Increased rear (eastern) setbacks;
- Amendment of northern interface/setbacks of units 9 & 18 (previously 8 & 17);
- Reconfiguration of commercial tenancies, residential lobby, vehicular access, car parking, building circulation and services;
- Deletion of ground floor communal rooms;
- Revision of southern wall adjacent to light well;

The amended proposal was not re-notified as it was incomplete, with various supporting documents not updated as required.

On **29 April 2024**, further amended plans (Rev. D) were lodged including the following amendments to the proposed development:

- Reconfiguration of car parking;
- Minor revision of residential lobby level and grades;
- Minor level 1, 2 and 3 layout reconfigurations to comply with accessibility requirements;
- Increased front setback to level 2 unit 14 bedroom;
- Provision of revised supporting documentation and reports.

The amended proposal was re-notified in accordance with the Northern Beaches Community Participation Plan.

On **10 July 2024**, a further set of amended plans (Rev. E) were lodged including the following amendments to the proposed development:

- Increased northern side setbacks to units 9 & 18, reconfiguration of internal layouts;
- Revision of level 2 unit 21 southern balcony wall;
- Increased eastern setback to rooftop communal terrace, increased planter box width and re-orientated roof over.

The amended proposal resulted in various reductions in the environmental impacts of the development and therefore did not require re-notification, in accordance with Council's Community Participation Plan.

On **5 August 2024**, a further set of amended plans (Rev. F) were lodged including the following amendments to the proposed development:

- Reconfiguration of basement and ground floor car parking layouts to accommodate retention of tree T12;
- New paved area and bicycle parking within enlarged rear setback area;
- Relocated bioscape system away from tree T12;
- Deleted planter boxes from rear (eastern) elevation;
- North-eastern planter boxes reduced in height;
- Replaced level 1 eastern pergolas with external blinds;
- Reduced length of southern wall on boundary to increase depth of light well opening;
- New fire protection blade walls to unit 1, 12, 13 & 21 light well windows;
- Reduced height of southern parapet and increased setback to AC unit area;
- Increased depth of unit 12 western planter box.

The amended proposal resulted in various reductions in the environmental impacts of the development and therefore did not require re-notification, in accordance with Council's Community Participation Plan. The amended plans were informally notified to adjoining residents.

On **4 September 2024**, a further set of amended plans (Rev. J) were lodged including the following amendments to the proposed development:

- Reconfiguration of basement and ground floor car parking layouts, including a reduction of 2 commercial parking spaces.

The amended proposal does not result in any change in environmental impacts (the commercial parking provision complies with the required 17 spaces) and therefore does not require re-notification, in accordance with Council's Community Participation Plan.

Commercial Tenancies

No approval for the use of the 3 ground floor commercial tenancies is granted under this consent. A condition is imposed requiring separate consent to be obtained for the use of these premises.

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 Local Environmental Plan 2011 - Zone E1 Local Centre
Warringah Development Control Plan - B2 Number of Storeys
Warringah Development Control Plan - B6 Merit Assessment of Side Boundary Setbacks
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - B10 Merit assessment of rear boundary setbacks
Warringah Development Control Plan - C2 Traffic, Access and Safety
Warringah Development Control Plan - C7 Excavation and Landfill
Warringah Development Control Plan - D3 Noise
Warringah Development Control Plan - D6 Access to Sunlight
Warringah Development Control Plan - D7 Views
Warringah Development Control Plan - D8 Privacy
Warringah Development Control Plan - D9 Building Bulk
Warringah Development Control Plan - E10 Landslip Risk
Warringah Development Control Plan - F1 Local and Neighbourhood Centres

SITE DESCRIPTION

Property Description:	Lot 3 DP 6777 , 1012 Pittwater Road COLLAROY NSW 2097 Lot 2 DP 314645 , 1014 Pittwater Road COLLAROY NSW 2097 Lot 4 DP 6777 , 1010 Pittwater Road COLLAROY NSW 2097
Detailed Site Description:	The subject site consists of three (3) allotments located on the eastern side of Pittwater Road. The site is irregular in shape with a frontage of

45.72m along Pittwater Road and a maximum depth of 45.72m. The site has a surveyed area of approximately 1858m².

The site is located within the E1 Local Centre zone and accommodates three residential and commercial buildings along with various outbuildings and ancillary structures.

The site slopes approximately 1.3m from front (west) to rear (east).

The site contains 4 significant trees and a variety of smaller planted vegetation.

Detailed Description of Adjoining/Surrounding Development

The adjoining properties to the north and south are zoned E1 Local Centre and accommodate three-storey shop-top housing developments. Properties adjoining the site to the east and across Pittwater Road to the west are zoned R2 Low Density Residential and accommodate detached dwelling houses.

Map:



SITE HISTORY

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

PLM2021/0151

A Pre-lodgement meeting for the construction of a Shop Top Housing Development was held on 6 July 2021. In summary, the PLM notes advised that Council was not supportive of the proposal due to the

proposed building height variation, inappropriate streetscape presentation and inadequate amenity afforded to occupants of the development and adjoining properties.

The PLM proposal was also referred to Council's Design and Sustainability Advisory Panel. The Panel's advice included a total of 19 recommendations in relation to site analysis, scale and built form, landscaping, amenity, aesthetics and sustainability, and concluded that:

"The Panel does not support the proposal in its current form. The Panel considers the floor space proposed excessive, resulting poor amenity for a number of the units."

The changes made to the proposal prior to and following lodgement of the development application are considered to have adequately resolved the issues raised in relation to the pre-lodgement application.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in the form of amended plans and additional information to address concerns raised by Council.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration	Comments
	<p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental 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 application has been publicly exhibited from 06/05/2024 to 03/06/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment

Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 29 submission/s from:

Name:	Address:
Ian William Redfern	32 / 1000 - 1008 Pittwater Road COLLAROY NSW 2097
Mr Ryan Paul Maloney	17 Cotentin Road BELROSE NSW 2085
Mrs Jacqueline Christina Hay	24 / 1000 - 1008 Pittwater Road COLLAROY NSW 2097
Mr Michael Lewis Connaghan Mrs Roberta Connaghan	Level 6 72 Christie Street ST LEONARDS NSW 2065
Mr Peter Dawson	9 / 22 - 26 The Avenue COLLAROY NSW 2097
Mrs Beth Louise Sheard	26 / 1000 - 1008 Pittwater Road COLLAROY NSW 2097
Mr Anthony Tassone	10 Cliff Road COLLAROY NSW 2097
Mr Edward Frances Crump Ms Nan-Maree Crump	1018 Pittwater Road COLLAROY NSW 2097
Mr Ian Patrick Crowe Mrs Joan Elizabeth Crowe	22 / 1000 - 1008 Pittwater Road COLLAROY NSW 2097
Mr The Vinh Tran	16 Arnott Crescent WARRIEWOOD NSW 2102
Mr Gary Roy Stafford Mrs Lorraine Fay Stafford	6 Cliff Road COLLAROY NSW 2097
Anthony John Haines	5 / 26 Ocean Grove COLLAROY NSW 2097
Withheld Withheld Mr Roderick Ian Macqueen Elizabeth Jeanette Macqueen	COLLARROY NSW 2097
Withheld Withheld Mr Roderick Ian Macqueen Elizabeth Jeanette Macqueen	6 Beach Road COLLAROY NSW 2097
Mr Jorn Gregor Sanda	16 Woorarra Avenue NORTH NARRABEEN NSW 2101
Mr Nigel John Rock	PO Box 1090 DEE WHY NSW 2099
Simon Harold Nelson	14 Cliff Road COLLAROY NSW 2097
Mr William John Buckle	29 Beach Road COLLAROY NSW 2097
Margaret Mary Hedge	30 / 1000 - 1008 Pittwater Road COLLAROY NSW 2097
Ms Jennifer Marie Kinsela	2 Seaview Parade COLLAROY NSW 2097
Withheld	COLLARROY NSW 2097
Mr Peter John Carson	3 Anzac Avenue COLLAROY NSW 2097
Mr Michael Kevin Bourke Mrs Holly Madeline Alice Holmes	24 Ocean Grove COLLAROY NSW 2097
Mrs Katherine Jenkins	5 Anzac Avenue COLLAROY NSW 2097
Mr Keith Graham Tucker	245 Pittwater Road MANLY NSW 2095

Name:	Address:
Mrs Toni Frances Evans	31 / 1000 - 1008 Pittwater Road COLLAROY NSW 2097
Ms Julie Alice Leighton	35 / 1000 - 1008 Pittwater Road COLLAROY NSW 2097
Withheld	COLLARROY NSW 2097
Scott Ian Macqueen Felicity Therese Macqueen	12 Cliff Road COLLAROY NSW 2097
Mr Gregory John Carson Mrs Robyn Lynette Carson	14 / 1000 - 1008 Pittwater Road COLLAROY NSW 2097

The issues raised in the submissions are addressed as follows:

- **Building height variation**

The submissions raised concerns that the proposed building height and number of storeys variations would be inconsistent with the existing and desired character of the locality and would cause adverse visual amenity impacts upon surrounding properties. Concern was also raised that the submitted Clause 4.6 variation request does not adequately justify the variation.

Comment:

The proposed building height variation is assessed in detail in the Clause 4.6 section of this report. The design and location of the height-breaching elements minimise the resulting visual and amenity impacts and ensure that the development achieves consistency with the objectives of the height standard. The volume of the proposed building above the height control is not substantial and approval of the variation would not create an undesirable precedent for future development in the locality. The applicant's written request is successful in justifying the variation sought by the amended development.

- **Character, bulk and setbacks**

The submissions raised concerns that by virtue of its height, bulk and scale, the proposal would be inconsistent with the character of the locality and represents an overdevelopment of the site. Concerns were also raised that the proposed front, side and rear setbacks and the inclusion of a rooftop terrace would adversely impact the amenity of surrounding properties.

Comment:

The desired character and development potential of the site and locality is dictated by the applicable planning controls. As assessed in this report, the height, bulk and scale of the proposal responds appropriately to the controls and is compatible with surrounding development. The proposed front, side and rear setbacks have been assessed against the relevant WDCP and ADG controls and are found to be acceptable.

It is acknowledged that the proposed level 2 southern wall will impact on the amenity of units 22 and 35/1000-1008 Pittwater Road to the south. However, it is concluded that the northerly outlook/views and solar access presently enjoyed by units 22 and 35 is unable to be

reasonably protected in the circumstances where the subject site is significantly underdeveloped (having regard to the applicable planning controls) and the current level of amenity of those units is achieved by virtue of outdoor terraces and large windows in close proximity to a side boundary. Notwithstanding, the amendments made to the application following lodgement have included substantial reductions in the height and length of the level 2 southern wall that minimise the impact upon the available outlook and solar access.

Similarly, the amendments made have also improved the interface to 26 Ocean Grove through a reduction in the height of the ground floor boundary wall and increased setbacks to levels 1 and 2. It is noted that a bedroom window at the western elevation of 2/26 Ocean Grove will be covered by the ground floor eastern wall of the proposal; the maintenance of natural light to this window is not considered achievable as it is located on the side boundary and is comprised of glass bricks. The amended proposal largely complies with the 9m required separation distance to the rear (western) boundary, with only the rear terraces extending to within 7.5m-8.7m of the boundary.

The inclusion of a rooftop terrace is appropriate in the context of the E1 zone. The proposed terrace is centrally located within the building footprint, away from the low-density residential properties to the east, to avoid adverse visual and aural privacy impacts to surrounding properties.

- **Traffic and car parking**

The submissions raised concerns that the locality experiences a high demand for car parking and that the proposed development would exacerbate traffic issues and increase demand for parking.

Comment:

Council's Traffic Engineer advises that the proposal raises no concerns in relation to traffic generation and that a compliant number of resident, visitor and commercial car parking spaces are provided. The application was also referred to TfNSW, who raised no objection to the proposal. With regard to the proposed car parking provision, Section 4.15(3A)(a) of the *Environmental Planning & Assessment Act 1979* prevents Council from imposing more onerous standards upon development than those prescribed in the WDCP. Accordingly, Council is unable to require that the development provide in excess of the minimum car parking requirements set out in the WDCP. A condition is recommended requiring that a minimum of one car parking space be assigned to each residential unit.

- **Excavation and construction impacts**

The submissions raised various concerns in relation to geotechnical risk and the impacts resulting from excavation and construction works.

Comment:

Conditions are imposed requiring the approval of and compliance with demolition and construction traffic management plans. The submitted geotechnical assessment includes suitable recommendations in relation to footing design, excavation, retaining structures and drainage to manage geotechnical risk, all of which are incorporated into the conditions of consent. The preparation of pre and post-dilapidation surveys of adjoining buildings is also required. Conditions are imposed in relation to the handling and removal of asbestos materials.

- **Tree and biodiversity impacts**

The submissions raised concerns that the proposed development will adversely impact the health of a large pine tree, T12, within the rear setback of the site.

Comment:

Assessment of the proposal by Council's Landscape Officer identified that the extent of the tree protection zone and structural root zone of tree T12 are greater than those indicated in the arboricultural assessment. The proposed development has been amended to provide significantly increased basement and ground floor setbacks to the tree and ensure its retention. The proposal does not include the removal of any significant trees and includes new planting that will contribute to the biodiversity value of the site.

- **Stormwater design and disposal**

The submissions raised concerns in relation to the proposed stormwater design and disposal method.

Comment:

The amended proposal includes the relocation of the bioscape system away from tree T12. Council's Development Engineer is satisfied that the imposition of a deferred commencement condition requiring the creation of a drainage easement is appropriate in this circumstance, if one is able to be obtained, and such a condition is included in the recommendation of this report.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p>Not Supported (Based on DA as lodged).</p> <p>The application was referred to the DSAP for consideration and comment.</p> <p>The DSAP raised a number of issues with the design of the development and did not support the proposal. The Panel made a total of 19 recommendations to improve the design quality, contextual fit, amenity, landscape outcome and sustainability of the proposal.</p> <p>The applicant has sought to respond to the DSAP recommendations through the amended proposal (including the submission of an itemised written response).</p> <p>Each of the Panel's recommendations are listed below with commentary from the assessing planner.</p>

Internal Referral Body	Comments
	<p><u>Strategic context, urban context: surrounding area character</u></p> <p>1. <i>Site analysis – needs to be more thorough.</i></p> <p><u>Comment:</u></p> <p>The proposed design, as amended, is found to demonstrate an appropriate contextual analysis and 'fit'. The amended proposal largely complies with the applicable controls; the submitted Clause 4.6 request demonstrates the benefits of the height of buildings and number of storeys variations and the front setback breaches at level 2 are sufficiently justified. Notably, the habitable floor area at level 3 has been deleted from the proposal and the rear setbacks increased, both of which result in a significant reduction in the bulk of the development when viewed from the adjoining R2 zone. The southern boundary wall has been amended to minimise the loss of sunlight access and daylight to 1000-1008 Pittwater Road to the south.</p> <p>2. <i>Reconsider where the height of the upper floor lies and how this impacts the neighbours to the east.</i></p> <p><u>Comment:</u></p> <p>The habitable floor area at level 3 has been deleted from the proposal in its entirety. The built form remaining at the upper level is now limited to the rooftop communal terrace and lifts, which are positioned away from the neighbouring R2-zoned properties to the east.</p> <p>3. <i>Reduce the height of the southern wall of the courtyard to increase the amenity of the space for both the scheme and the neighbours. Include appropriate measures for acoustic and visual privacy for all.</i></p> <p><u>Comment:</u></p> <p>The southern wall has been amended to provide a substantial break adjacent to the light well along with reduced wall/parapet heights at the eastern and western ends adjacent to the terraces of units 22 and 35 within the adjoining development. In this regard, it is understood that height and length of the southern wall are dictated by fire safety requirements. The design of the southern wall, as amended, is considered to maintain reasonable amenity for occupants of the subject development and the adjoining property. Figure 3 below illustrates the extent of the wall on the southern boundary as lodged (and reviewed by DSAP) relative to the proposal as amended.</p>

Internal Referral Body	Comments
	<div data-bbox="624 358 1430 629" data-label="Image"> </div> <p data-bbox="624 667 1430 801">Figure 3. Extent of the wall on the southern boundary as lodged outlined in red and the reductions made to the wall through various rounds of amended plans shaded red.</p> <p data-bbox="624 842 1082 875"><u>Scale, built form and articulation</u></p> <p data-bbox="560 913 1430 1014">4. <i>Reduce thickness of buildings and re-plan to allow greater access of light to all common corridor spaces as well as habitable spaces within apartments.</i></p> <p data-bbox="624 1055 759 1088"><u>Comment:</u></p> <p data-bbox="624 1126 1430 1328">The thickness of the building has been reduced through the provision of increased rear setbacks. Improved natural light is provided to the ground floor residential lobby/hall via skylights within the central courtyards above and to stair 3 and the central areas of units 16 and 17 via skylights positioned adjacent to the rooftop terrace.</p> <p data-bbox="560 1368 1430 1503">5. <i>Improve interface with rear of 26 Ocean Grove. Set back 6m so that adequate building separation, privacy and daylight access may be achieved in the event that lot is developed in the future.</i></p> <p data-bbox="624 1543 759 1576"><u>Comment:</u></p> <p data-bbox="624 1615 1430 1861">The amended proposal increases the level 1 and 2 setbacks to 26 Ocean Grove from nil-1.5m to 2.5m-3.4m. The ground floor wall to the car park has been lowered such that it is approximately 350mm above the height of the existing boundary fence. The reduced wall height and increased setbacks are considered to maintain adequate privacy and daylight access to the units within 26 Ocean Grove.</p> <p data-bbox="560 1901 1430 1968">6. <i>Exceedance of the height limit is not supported as proposed.</i></p> <p data-bbox="624 2009 759 2042"><u>Comment:</u></p> <p data-bbox="624 2080 1430 2114">As noted above, the habitable floor area at level 3 has been</p>

Internal Referral Body	Comments
	<p>deleted from the proposal. The remaining height variation is supported as assessed in this report.</p> <p>7. <i>Increase floor to floor heights to allow for adequate building tolerances.</i></p> <p><u>Comment:</u></p> <p>This recommendation has not been taken up. The project architect has responded that increased floor to floor heights is not required as the service areas align vertically.</p> <p><u>Access, vehicular movement and car parking</u></p> <p>8. <i>Explore simplifying residential entries, connecting to courtyards wherever possible and allowing sources of natural light to assist in wayfinding.</i></p> <p><u>Comment:</u></p> <p>The amended proposal includes a complete redesign of the residential building entry, providing a consolidated residential lobby with simplified access to each of the three building cores. Skylights positioned over the common hallway allow natural light access.</p> <p>9. <i>Explore separating retail lobby and residential lobby to provide a greater sense of security.</i></p> <p><u>Comment:</u></p> <p>The amended proposal has separated the retail and residential lobby areas.</p> <p>10. <i>Consider how to improve undercroft space associated with driveway visibility splay.</i></p> <p><u>Comment:</u></p> <p>This matter has been resolved with the relocation and redesign of the driveway requiring a significantly smaller sight-line splay.</p> <p><u>Landscape</u></p> <p>11. <i>Respond to the local area context by repeating plants and materiality in the landscape.</i></p> <p><u>Comment:</u></p> <p>Council's Landscape Officer is supportive of the proposed</p>

Internal Referral Body	Comments
	<p>landscape design, subject to the recommended conditions.</p> <p>12. <i>A revised landscape documentation package should include sections and elevations to provide more context with the landscape response to the proposed building footprint and the response to the existing conditions along Pittwater Road.</i></p> <p><u>Comment:</u></p> <p>This recommendation has not been taken up in full, though the submitted landscape plans are satisfactory and in conjunction with the architectural plans, provide sufficient detail in relation to the proposed landscape design.</p> <p>13. <i>A structural root cell system should be incorporated into the Pittwater Road frontage tree planting design to work in and around the existing services under the footpath. A slightly raised planter box of either 150mm kerb height or 450mm seating height should be explored to provide a deeper soil area for the proposed trees. Trees should be able to reach a height of at least 10 metres.</i></p> <p><u>Comment:</u></p> <p>Given that Pittwater Road is a state road under the control of TfNSW, assessment of the proposed street tree planting is to be made under a separate application under the Roads Act.</p> <p>14. <i>The proposed communal open spaces in the upper stories should include a list of amenities such as but not limited to:</i> <i>a. Retractable awning for shade</i> <i>b. 1 x DDA compliant unisex toilet</i> <i>c. BBQ and utility sink</i> <i>d. Power point</i> <i>e. Natural shade from deciduous trees</i> <i>f. Permanent seating such as benches affixed to planter box walls</i> <i>g. Rubbish receptacle.</i></p> <p><u>Comment:</u></p> <p>The proposed rooftop terrace is partially roofed and incorporates a DDA compliant toilet and provision for and BBQ and sink, power, seating and rubbish disposal. The soil volume within the perimeter planter box is sufficient to accommodate a variety of suitable vegetation.</p> <p>15. <i>The raised planter boxes should be in accordance with the depth and overall dimensions as outlined in the ADG</i></p>

Internal Referral Body	Comments
	<p><i>for planting on structures which dictates a minimum planter box size of 3.5 x 3.5 metres with a depth of .8 metres to support the healthy and successful growth of a small tree to 8 metres in height. A permanent and automated irrigation system should be supplied.</i></p> <p><u>Comment:</u></p> <p>The proposed planter boxes vary in depth from 400mm to 1m and generally exceed the above dimensions.</p> <p><u>Amenity</u></p> <p>16. <i>Reconfigure to allow light and air to Northern most lift lobbies and corridors.</i></p> <p><u>Comment:</u></p> <p>This recommendation has not been taken up due to the necessary position of the northern lift lobbies and corridors in relation to the northern light well and rooftop terrace. Notwithstanding, a skylight is proposed to the northern stairwell.</p> <p>17. <i>Avoid dark internal spaces within apartments – replan to comply with ADG Objective 4D-2.</i></p> <p><u>Comment:</u></p> <p>As noted in relation to recommendation 4 above, skylights have been provided to the central areas of units 16 and 17. Further, the previously proposed unit 6 (3 bedroom) has been split into units 6 and 7 (both 1 bedroom).</p> <p>18. <i>Where courtyards are being used as a primary source of light and air to habitable spaces, ensure ADG 4A-2. Consider reduction of overhangs to increase access to daylight.</i></p> <p><u>Comment:</u></p> <p>The design and dimensions of the proposed courtyards are considered to be acceptable.</p> <p>19. <i>The rooftop communal open space needs to be further developed to include:</i></p> <ul style="list-style-type: none"> • <i>access from all lift cores</i> • <i>accessible toilet facilities</i> • <i>cooking and cleaning facilities</i> <p><u>Comment:</u></p>

Internal Referral Body	Comments
	<p>The proposed rooftop terrace has been redesigned to incorporate these facilities, as discussed under recommendation 14.</p> <p>20. <i>Consideration should be given to relocating the gym /lounge so that it is sited parallel (and more central) to the communal open space. Reconfigure so that the long face of the gym/lounge opens to the landscape.</i></p> <p><u>Comment:</u></p> <p>The previously proposed gym/lounge has been deleted from the proposal due to the required reconfiguration of the ground floor retail tenancies and residential and vehicular access.</p> <p><u>Façade treatment/Aesthetics</u></p> <p>21. <i>Investigate suitability of this material in this environment and consider maintenance.</i></p> <p><u>Comment:</u></p> <p>The project architect has responded that the proposed facade material is fibre cement weatherboards and is appropriate for the environment and maintenance requirements of the subject site.</p> <p>22. <i>Provide greater information around the detailing of the material proposed such that the character and robustness can be understood as appropriate.</i></p> <p><u>Comment:</u></p> <p>The project architect responded that the selected materials are consistent with the character of the locality, assist in minimising the perceived facade length and create a fine grain appearance.</p> <p>23. <i>Incorporate hydrant booster cupboard.</i></p> <p><u>Comment:</u></p> <p>The amended proposal includes a hydrant booster cupboard adjacent to the relocated driveway.</p> <p><u>Sustainability</u></p> <p>24. <i>Decarbonisation of energy supply</i></p> <ul style="list-style-type: none"> • <i>All services should be electric – gas for cooking, hot water and heating should be avoided.</i> • <i>Heat pump systems for apartments or other ways of</i>

Internal Referral Body	Comments
	<p><i>providing electric hot water should be considered.</i></p> <ul style="list-style-type: none"> <i>• The storage of hot water can be considered a de facto battery if heated by PVs during the day.</i> <i>• Onsite power generation and battery storage should be considered. On site battery storage has benefits for the grid and may be a highly desirable back-up during the transition to a de-carbonised grid</i> <i>• Unshaded roof space is a valuable resource for PV installations. Their efficacy can be greatly enhanced when placed over a green roof, which has additional ecological benefits.</i> <p>25. <i>EV Charging</i></p> <ul style="list-style-type: none"> <i>• Clearly note the EV charging points or infrastructure for future installation for each unit (Min 15 amp) to suit level 1 charging.</i> <p>26. <i>Passive design and thermal performance of building fabric</i></p> <ul style="list-style-type: none"> <i>• Higher BASIX thermal performance standards commenced on 1 October 2023 require an average 7 stars NatHERS, with no unit below 6 stars. This is consistent with the National Construction Code for 2022. Given the coastal location a very comfortable indoor environment should be achievable.</i> <i>• The inclusion of ceiling fans to all bedrooms and living rooms will provide comfort with minimal energy while reducing the need and energy required for air-conditioning.</i> <i>• Incorporate external blinds to the window boxes on the western façade to enable appropriate control of the western sun.</i> <p>27. <i>Water use minimisation</i></p> <ul style="list-style-type: none"> <i>• All fixtures and appliances should be as water efficient as possible</i> <i>• Water storage for rainwater from the roofs should be increased and plumbed to the landscaping</i> <i>• Landscape design and planting should be water tolerant and suitable for the microclimate</i> <p><u>Comment:</u></p> <p>The above recommendations made by the DSAP in relation to sustainability exceed the requirements of SEPP BASIX, which apply to the development. However, cls. 8 and 9 of the SEPP make clear that the requirements of BASIX prevail in the event of an inconsistency. The proposal complies with the applicable BASIX requirements and the incorporation of recommendations 24-27 is at the applicant's discretion. The applicant has advised that several of these recommendations</p>

Internal Referral Body	Comments
	<p>will be considered through the design development stage.</p> <p><u>Conclusion</u></p> <p>The comments and recommendations provided by the DSAP were based on the original design of the proposal at the time of lodgement of the DA, which has since been amended to respond directly to the majority of the recommendations. The amendments made improve the development's overall level of compliance and reduce impacts to the surrounding properties and public domain. The building is assessed as exhibiting a high level of design and amenity for future residents. Whilst the design and amenity of development could almost always be improved, the level provided by the revised proposal achieves that which is envisaged by the provisions of the Warringah LEP and DCP, SEPP Housing/ADG and SEPP BASIX, as detailed in this report.</p>
Building Assessment - Fire and Disability upgrades	<p>Supported with conditions.</p> <p>The application has been investigated with respects to aspects relevant the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Environmental Health (Contaminated Lands)	<p>Supported with conditions.</p> <p>General Comments</p> <p>This application is seeking consent for shop top housing at 1010 - 1014 Pittwater Road, Collaroy. Basement car parking is proposed resulting in significant excavation of soils. A Preliminary Site Investigation report in relation to potential Land Contamination was undertaken by eiaustralia reference E26053.E01_REV1 dated 20 July 2023.</p> <p>The report concluded there is low to medium chance of land contamination onsite however, EI considers the site suitable for its proposed development subject to the implementaiton of the recommendations in Section 6 of the report.</p> <p>Environmental Health recommends approval subject to conditions.</p>
Environmental Health (Industrial)	<p>Supported with conditions.</p> <p>General Comments</p>

Internal Referral Body	Comments
	<p>This application is seeking consent for shop top housing at 1010-1014 Pittwater Road, Collaroy.</p> <p>An acoustic report has been prepared and suitable conditions can be applied.</p> <p>Environmental Health recommends approval subject to conditions</p>
Landscape Officer	<p><u>Supported with conditions.</u></p> <p><u>Amended Plans Comment 29/08/2024</u> Amended architectural and stormwater plans indicating greater setback from Tree 12 and relocated biofilter area are noted.</p> <p>The setbacks provided reduce impacts on the tree to an acceptable level, subject to Arboricultural supervision and management during works.</p> <p>Conditions have been provided to address specific tree protection measures.</p> <p>No objections are raised with regard to landscape issues subject to conditions as recommended.</p> <p><u>Updated Arborist's Report comment 19/06/2024</u> Receipt of an addendum to the Arborist's report by Jacksons Nature Works is noted.</p> <p>The addendum addresses impacts of the amended plans on Tree 12 - <i>Araucaria columnaris</i>, located at the rear of the property.</p> <p>The amended basement encroaches 19.5% into the Tree Protection Zone of T12.</p> <p>No encroachment into the Structural Root Zone of the tree is proposed, which, based on AS4970-2009, supports the comments that the tree will not be structurally compromised by the works.</p> <p>The addendum Report indicates that a 15-20% incursion can be considered a Moderate impact on the tree and includes an assessment of mitigating factors to support retention of the tree.</p> <p>The Report indicates that the tree has been assessed as in good health and vigour and compensatory root volume area is provided outside of the area of root removal contiguous with the TPZ. and the tree is not a particularly sensitive species.</p> <p>The Addendum Report maintains that the tree can be retained.</p> <p>The findings of the addendum report are concurred with, subject to specific tree protection conditions and supervision by a Project Arborist, as included in recommended conditions.</p>

Internal Referral Body	Comments
	<p data-bbox="531 309 1029 342"><u>Amended Plans Comment 08/05/2024</u></p> <p data-bbox="531 342 1423 376">Amended Architectural. Stormwater and Landscape Plans are noted.</p> <p data-bbox="531 416 1417 483">No objections are raised to the amended plans in general terms and previous conditions are still recommended.</p> <p data-bbox="531 524 1433 696">It is noted that the reconfiguring of the entrance drive and ground floor arrangement seems to make access to the rear Common Open Space for residents rather poor. There is no objection to the provision of the space, but it seems that other amendments requested reduce the desirability of accessing the space.</p> <p data-bbox="531 736 1433 943">It is noted that the DSAP notes suggested raised planters/kerbs to the trees proposed along Pittwater Road. Provision of raised planters would not be supported with preference for plantings at ground level to allow for extended root development. However, conditions recommended indicate that a separate application will be required for works in the road reserve and details can be assessed at that stage.</p> <p data-bbox="531 983 1404 1050">No objections are raised with regard to landscape issues subject to conditions.</p> <p data-bbox="531 1090 767 1124"><u>Original Comment</u></p> <p data-bbox="531 1124 1423 1191">The application seeks consent for demolition works and construction of Shop Top housing.</p> <p data-bbox="531 1232 1353 1299">The Arborist's Report prepared by Jackson's Nature Works and Landscape Plans prepared by Sym Studio are noted.</p> <p data-bbox="531 1339 1315 1406">The Arborist's Report indicates that 4 exempt trees are to be removed to accommodate the proposed works.</p> <p data-bbox="531 1447 1433 1608">The Report appears to include one tree on an adjoining property, identified as Tree 7. It would appear that this has been included in error as the works do not impact on the tree. Subsequently, 3 within trees the site are to be removed. Removal of exempt trees on the site is not objected to.</p> <p data-bbox="531 1648 1302 1715">The Landscape Plans indicate a range of trees, shrubs and groundcovers across the site and within the floor levels.</p> <p data-bbox="531 1756 1410 1890">It is considered that the proposal would benefit from the inclusion of an additional canopy tree in the rear deep soil area to provide improved softening of the built form and transition to the adjoining residential land.</p> <p data-bbox="531 1930 1391 2031">The Landscape Plans also indicate planting of street trees to Pittwater Road. The trees are located between proposed awnings, which are indicated to be set back from the roadway.</p> <p data-bbox="531 2072 1362 2105">Works within the road reserve will require a separate application</p>

Internal Referral Body	Comments
	<p>under the Roads Act. Assessment of street trees is best left to be addressed as part of that application.</p> <p>No objections are raised with regard to landscape issues subject to conditions.</p>
NECC (Development Engineering)	<p>Supported with conditions.</p> <p>The subject site is located on the low side of the road and as such a drainage easement must be obtained for the connection of stormwater drainage from the site. The submitted stormwater management plans indicate a proposed 1 metre wide drainage easement through 24 Ocean Grove to discharge to Council's piped drainage on Ocean Grove. The application has not included any evidence of the proposed easement or plans and long sections for the connection into Council's piped drainage system. In this regard, the applicant must provide evidence of the creation of the easement prior to consent. Also the applicant's Engineer is to provide details of the piped connection including plans and long sections up to the existing Council pit in Ocean Grove in front of 20 Ocean Grove. The line is to include a new inlet pit with lintel in front of 24 Ocean Grove with a minimum 375mm RCP between this pit and the existing pit.</p> <p>The subject site may be affected by overland flows along Pittwater Road in the 1% AEP storm event, which may enter the basement via the proposed driveway. In this regard, the applicant's Engineer is to provide an overland flow report for all storms in excess of the 5% AEP, up to and including the 1% AEP storm event to determine if the subject site is affected by any overland flows. The report is to include measures to protect the site from flooding in accordance with the requirements of the Flood Prone Land clause of the DCP.</p> <p>The submitted stormwater management plans including OSD is acceptable subject to conditions.</p> <p>The submitted Geotechnical report requires the basement to be tanked. Conditions to reflect this requirement can be provided.</p> <p>The driveway crossing is to utilise Council's Normal profile which can also be conditioned. The footpath will need to be reconstructed in accordance with Council's Design Guidelines which can also be conditioned.</p> <p>Development Engineering cannot support the proposal due to insufficient information to address stormwater management in accordance with clause C4 of the DCP.</p> <p><u>Amended plans and additional information submitted 29/04/2024</u></p> <p>The applicant has advised that they are in the process of negotiating the easement with the downstream property owners. It is considered that a deferred commencement condition can be provided for the</p>

Internal Referral Body	Comments
	<p>creation of the easement. The applicant has provided plans for the easement pipeline and connection to Council's piped drainage system which is acceptable.</p> <p>The submitted overland flow study is also acceptable. The architectural plans have been amended to include the recommendations of the report with regard to providing sufficient freeboard to the basement driveway and other access points to the basement.</p> <p>The revised driveway position and grades are acceptable.</p> <p>Development Engineering support the proposal, subject to conditions as recommended.</p> <p><u>Amended plans submitted 5/08/2024 and 16/08/2024</u></p> <p>The amended stormwater and architectural plans are acceptable.</p> <p>Development Engineering support the proposal, subject to conditions as recommended.</p>
NECC (Water Management)	<p><u>Supported with conditions.</u></p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Northern Beaches Water Management for Development Policy (WM Policy);and • Relevant LEP and DCP clauses <p>The proposed water managements strategy is based on water conservation and stormwater quality treatment system.</p> <p>The site stormwater annual balance model is indicating a satisfactory reduction of flow and pollutants.</p> <p>Rainwater tank as per BASIX certificates.</p> <p>Dewatering for construction to comply with WaterNSW General Terms of Approval (under s89, 90 or 91 of the Water Management Act 2000) reference IDAS1154620 dated 12 June 2024.</p> <p>Please contact catchment@northernbeaches.nsw.gov.au for Council dewatering permit application.</p> <p><u>Amended plans submitted 5/08/2024 and 16/08/2024</u></p> <p>The amended stormwater plans are acceptable.</p> <p>NECC Water Management support the proposal, subject to conditions as recommended.</p>
Traffic Engineer	<p><u>Supported with conditions.</u></p> <p><u>Additional comments on amended plans and extra information - 17/9/2024</u></p>

Internal Referral Body	Comments
	<p>The additional material has addressed the concerns raised in the traffic engineering referral response dated 26/8/24. The proposal can now be supported from a traffic engineering perspective subject to conditions.</p> <p><u>Additional comments on further amended plans - 26/8/24</u></p> <p>The amended plans revision F dated 5/8/24 have been reviewed.</p> <p><u>Parking</u> It is noted that these plans have maintained the residential parking at 26 spaces all located in the basement level, and compliant with DCP requirements, this is acceptable. There are 5 visitor parking spaces required and five have been provided all located in the basement levels. This is acceptable.</p> <p>The amended plans have however reduced the number of retail spaces from 19 to 17 with the loading bay, which was previously provided in addition to the 19 retail spaces now designated as one of the retail spaces. The loading/courier bay must be provided in addition to the 17 retail parking spaces and clearly marked for courier/deliveries or else it is likely to be occupied when needed for delivery purposes. As outlined in earlier comments on this DA, the long term availability of kerbside parking on the Pittwater Road frontage of the development cannot be guaranteed and it is therefore essential that compliant retail parking levels and some ability for offstreet loading/unloading activities to be undertaken is available. The retail parking is therefore unacceptable.</p> <p>It has also been noted that the parking bays for unit 13 are substandard. i.e the parking bays are too narrow. The combined internal width of the garage must be at least 5.4m for compliance with AS2890.1. The garage for unit 13 is only 5.3m in width. This issue can be easily rectified by swapping the garages for units 14 & 13, with the garage for unit 14 having an internal width of 5.4m but only accommodating a single parking space.</p> <p><u>Bicycle Parking</u> It is noted that there are now 11 resident bike parking spaces in the basement level and 6 retail bike parking spaces on the ground level coupled with significant areas of storage which could accommodate extra bikes if required. This is acceptable.</p> <p><u>Traffic Circulation</u> There is concern that there may not be adequate space for passing and circulation of a B85 & B99 vehicle at the point where the basement carpark ramp meets the ground level parking level. Swept path plots to demonstrate passing of B85 & B99 vehicles at this point as required by AS/NZS2890.1 clause 2.5.2 (c)</p>

Internal Referral Body	Comments
	<p data-bbox="531 315 659 342"><u>Summary</u></p> <p data-bbox="531 349 1310 450">The parking and circulation issues outlined above should be investigated and amended plans and information provided addressing the concerns.</p> <p data-bbox="531 524 1193 551"><u>Additional comments on amended plans - 14/06/24</u></p> <p data-bbox="531 595 1430 835">Amended plans have been received dated 29 Apr 24. The amended plans have increased to total retail GFA from 241.83m² to 270.6m² spread over 3 tenancies. There are now 21 residential units instead of 22. The 21 units are comprised of 5 x 1 bed, 10 x 2 bed and 6 x 3 bed units. The quantum of parking has been reduced from 51 spaces to 50 spaces comprised of 26 parking spaces for residents, 5 visitor spaces and 19 retail spaces.</p> <p data-bbox="531 875 1430 1115">The residential parking includes 3 adaptable parking spaces each 3.8m wide x 6m deep and 2.5m overhead clearance. Another 5 of the residential spaces are silver level adaptable spaces each 3.2m wide x 5.4m deep with 2.2m head clearance. The DCP requires 26 residential spaces and 4.2 visitor spaces (round up to 5). In addition a minimum of 10% of units must be adaptable including suitable parking for those units. All the above requirements have been met.</p> <p data-bbox="531 1155 1398 1290">The retail parking (19 spaces) includes 7 staff spaces including 1 x disabled parking space and 12 shopper spaces including 1 x disabled shopper space. This exceeds the DCP requirement of 17 spaces and is acceptable.</p> <p data-bbox="531 1330 842 1357"><u>Loading/Courier parking</u></p> <p data-bbox="531 1402 1430 2096">As outlined in the original referral comments there is concern that development does not provide an offstreet loading bay parking space capable of accommodating a delivery truck. The Warringah DCP requires that facilities for the loading and unloading of service, delivery and emergency vehicles, appropriate to the size of the development. The loading/courier bay that has been provided in the ground level parking area is of dimensions 7.44m x 2.62m and is capable of accommodating delivery vans but not trucks. The developer's traffic consultant advises that larger delivery vehicles will park in the 1P parking on the Pittwater Road frontage of the development. Given the small size of the retail tenancies it is not anticipated that there will be a high demand for truck deliveries to the these premises and these deliveries could adequately be accommodated within the 1P parking zone. As outlined in the TfNSW referral comments the use of kerbside parking zones should not be relied upon to accommodate the development's service vehicle demands, as the continued provision of on-street parking zones in any location cannot be guaranteed long term. This is particularly relevant on Pittwater Road a State Road frontage subject to bus lane restrictions. Should parking at some stage be removed from</p>

Internal Referral Body	Comments
	<p>Pittwater Road, delivery trucks would then need to find parking on Ocean Grove. This is not insurmountable and the lack of an offstreet loading bay for trucks is considered acceptable in this case.</p> <p><u>Bicycle Parking</u> A total of 15 bike racks are now provided. Five bicycle parking spaces are provided on the ground floor including 2 for visitors, 2 for staff and 1 for shoppers with an additional 10 bike racks also provided for residents in the basement. It is noted that there are also sizeable storage areas adjacent to many of the residential parking spaces which could be used for additional bike storage. The bicycle parking provision remain acceptable</p> <p><u>Pedestrian sight lines</u> The amended plans have relocated the driveway but have retained a pedestrian sight line triangle consistent with the requirements of AS2890.1 section 3.2.4(b) and Fig 3.3 which has been shown on the amended DA plans ensuring adequate visibility to pedestrians using the Pittwater Road footpath. It is also noted that driveway gradients on approach to the footpath are compliant with AS/NZS 2890.1 clause 3.3 which also ensures acceptable sightlines for traffic exiting the development</p> <p>The development can be supported subject to conditions from a traffic perspective.</p> <p><u>Original comments - 17/1/24</u></p> <p>The development proposal is for a 3 storey shop top housing development comprising 22 units and three small retail tenancies with a combined GFA of 241.83m². Car parking on the ground floor and in a basement level is proposed for 51 cars including; 17 retail spaces 7 for staff and 10 for shoppers (1 disabled space), 29 residential spaces and 5 visitor spaces. 3 of the residential spaces are accessible parking as well as 2 of the retail spaces. 27 bicycle parking spaces are also proposed with access to the development from Pittwater Road via a new driveway of approximately 5.9m in width.</p> <p>A traffic and parking impact report should be submitted to support the development application.</p> <p><u>Traffic Generation</u> - Traffic generation impacts have been discussed in the traffic and parking impact and the proposed development is likely to generate less traffic than the existing retail development on the site. The traffic from this development will however be concentrated at the new vehicle crossing however the driveway has been designed to provide acceptable sightlines to pedestrians and</p>

Internal Referral Body	Comments
	<p>the traffic to and from the driveway is unlikely to result in any appreciable impact to the function of the State Road it egresses to. Transport for NSW who own the road have not raised concerns about the new point of vehicle access.</p> <p><u>Off-street parking</u> – the Warringah DCP requires the development to provide 28.5 (29) residential spaces, 4.4 (5) visitor spaces, and 14.8 (15) retail spaces i.e a total of 49. It is proposed to provide 51 spaces which exceeds requirements and is acceptable.</p> <p><u>Accessible parking</u> – The building code of Australia requires disabled parking at a rate of 1 for every 50 spaces or part thereof for retail and the development proposes 2 accessible retail spaces to support retail uses which is acceptable. 10% of dwellings are required to be adaptable under the DCP and to suit the adaptable dwellings 3 of the residential spaces are designed as accessible spaces. Accessible parking space provision is satisfactory.</p> <p><u>Bicycle parking</u> – The DCP requires 1 bicycle parking space per dwelling for residents and 1 per 12 dwellings for visitors plus 1 per 200sqm for retail and 1 per 600sqm for retail visitors. This would equate to approximately 27 spaces. The development proposes 22 residential bicycle parking racks all located in the secure basement carpark. The visitor and retail parking (5 spaces) is located on the ground level for convenient access. These arrangements are acceptable.</p> <p><u>Loading/Servicing</u> - The comments from Transport for NSW advise that the use of kerbside parking zones should not be relied upon to accommodate the development's service vehicle demands, as the continued provision of on-street parking zones in any location cannot be guaranteed long term and are subject to change. In the recent past TfNSW considered the introduction of Clearway restrictions along Pittwater Road and although electing not to proceed at that time may well do so again in the interests of improving public transport travel times and reducing congestion.</p> <p>Given the above, provision for the offstreet loading of the largest anticipated delivery and service vehicles is considered essential. The DCP requires that facilities for loading and unloading of service, delivery and emergency vehicles be provided. The developer currently proposes a service bay that can only cater for deliveries by courier vans similar in size to the B99 vehicle with deliveries by trucks to be accommodated on-street. This is considered unsuitable as the continued availability of parking on-street in this location cannot be relied upon and the currently proposed on-site bay bay is</p>

Internal Referral Body	Comments
	<p>inadequate to cater for the delivery needs of 3 retail tenancies and for the servicing needs of the retail and residential components of the development. A loading/servicing bay for at least a Small Rigid Vehicle (SRV) is required.</p> <p>A loading bay is proposed on the ground floor. This bay appears to be sized in terms length to cater for deliveries by small rigid vehicles, however it is unclear if vertical clearance between the street and the loading bay by a small rigid vehicle is feasible. This will need to be demonstrated by a long section clearance and swept path plots demonstrating that forwards entry and exit by a small rigid vehicle with 3.5m of overhead clearance is available. Amended details addressing the above are required.</p> <p><u>Vehicle Access</u> As Pittwater Road is a State Road, Transport for NSW concurrence is required for a the new point of vehicular access. It is noted that TfNSW in their referral comments have not opposed the new vehicle crossing but have requested that detailed design plans be lodged with them by the developer for their approval prior to a construction certificate.</p> <p><u>Pedestrian sight lines</u> A pedestrian sight line triangle consistent with the requirements of AS2890.1 section 3.2.4(b) and Fig 3.3 has been shown on the DA plans ensuring adequate visibility to pedestrians using the Pittwater Road footpath.</p> <p><u>Parking Space Allocation</u> All parking spaces have been annotated to identify the use to which they apply. Residential spaces also indicate which unit they are allocated to. The parking space allocation is acceptable</p> <p><u>Summary</u></p> <p>The development is acceptable in all respects from a traffic perspective other than the provisions for loading/servicing. The loading/servicing bay must be increased in size to accommodate at least a small rigid vehicle and access to and from that bay by a small rigid vehicle demonstrated with swept path and overhead clearance long section plots.</p>
Waste Officer	<p>Supported with conditions.</p> <p><u>Waste Management Assessment - amended plans (submitted</u></p>

Internal Referral Body	Comments
	<p>29/4/2024)</p> <p>Supported - subject to conditions</p> <ul style="list-style-type: none"> Door to the bulky goods room to be a minimum of 1200mm wide and open outwards. Service door to residential bin room to be fitted with a timer lock programmed to be unlocked from 5.00am to 6.00pm on scheduled day of collection <p>Existing waste conditions of consent to remain. A small change to the wording of condition "<i>Waste Room Access Doors</i>" has been made.</p> <p><u>Waste Management Assessment</u></p> <p>Supported - subject to conditions</p> <ul style="list-style-type: none"> Doors to all three waste rooms (residential bins, commercial bins & bulky goods) to be a minimum of 1200mm wide. Service door to residential bin room to be fitted with a timer lock programmed to be unlocked from 5.00am to 6.00pm on scheduled day of collection.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>Supported with conditions.</p> <p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>
Roads and Maritime Service - Roads Act 1993, s138 (Non-integrated)	<p>Supported with conditions.</p> <p>Reference is made to Council's referral, regarding the abovementioned application which was referred to Transport for NSW (TfNSW) for comment under Clause 2.119 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 and concurrence under Section 138 of the Roads Act 1993.</p> <p>TfNSW has reviewed the submitted application and would provide concurrence to the proposed civil works on the Pittwater Road frontage under Section 138 of the Roads Act 1993, subject to Council's approval and the following requirements being included in the development consent.</p>
Nominated Integrated Development - WaterNSW - Water Management Act 2000, s90(2) - Water management works approval to construct and use a specified water	<p>Supported with conditions.</p> <p>The proposal was referred to WaterNSW under Section 90(2) of the Water Management Act 2000. WaterNSW raised no objections to the development, and provides General Terms of Approval (ref:IDAS1154620 dated 12 June 2024) as endorsed by the recommendation of this report.</p>

External Referral Body	Comments
supply/drainage/flood work at a specified location	

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

Housing and Productivity Contribution

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

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

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

Comment:

The subject site is located within the Greater Sydney region. The proposal is for the construction of a shop top housing development and the contributions payable have been calculated using the NSW Planning Portal Infrastructure Contributions Estimator as follows:

Step 5 - Estimated Infrastructure Contributions

Proposed property address

Contributions amount is estimated based on the following address:

- 1010 PITTWATER ROAD COLLAROY 2097

Below outlines the inputs that you have entered:

Proposed

Development	Total number of units	Unit of charge
Retail Premise	270	SQM of GFA
Shop Top Housing	21	Dwellings

Existing

Development	Total number of units	Unit of charge
Retail Premise	882	SQM of GFA
Shop Top Housing	4	Dwellings

Housing and Productivity Contribution

Housing and Productivity contribution amount is estimated based on the following contributions plan/s:

- Greater Sydney -Base HPC

Base Housing and Productivity Contribution	\$159,776.81
Total Housing and Productivity Contribution :	\$159,776.81
<hr/>	
Estimated total infrastructure contributions	\$159,776.81

As such, the contribution payable is \$159,776.81.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1421151M_03 dated 29 April 2024).

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

Commitment	Required Target	Proposed
Water	40	42
Thermal Comfort	Pass	Pass
Energy	45	62

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

SEPP (Housing) 2021

Application of Chapter

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

(1) This chapter applies to development only if:

(a) the development consists of:

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

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

(c) the building contains at least 4 dwellings.

Comment:

As previously outlined the proposed development is for the erection of a four-storey shop-top housing development comprising 21 self-contained dwellings. As per the provisions of Clause 144 outlining the application of the policy, the provisions of Chapter 4 SEPP Housing are applicable to the assessment of this application.

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

Referral to design review panel for development applications

Clause 145 of SEPP Housing requires:

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

Comment:

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

Determination of development applications and modification applications for residential apartment development

Clause 147 of SEPP Housing requires that:

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

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

(b) the Apartment Design Guide,

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

Comment:

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

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

The consent authority has considered the advice received from the DSAP and the applicant has amended the proposal where necessary in response to the DSAP recommendations. Overall, the DSAP was not supportive of the proposal as lodged and provided various recommendations relating to the amendment of the design.

Non-discretionary development standards for residential apartment development

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

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

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

Comment:

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

DESIGN QUALITY PRINCIPLES - Schedule 9

Principle 1: Context and Neighbourhood Character

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

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

Comment:

The desired future character of the locality is set out by the planning controls contained within the Warringah LEP and DCP. The proposed shop-top housing use is permitted with consent in the zone and is compatible with the uses of adjoining land fronting Pittwater Road. The proposal provides for an active frontage comprised predominantly of three retail tenancies and a residential lobby. The proportion of the frontage occupied by the vehicle access and services is minimal relative the total frontage length and is acceptable. The proposed building design and appearance is an appropriate response to the coastal location of the site and the context of the locality.

The proposed building generally aligns with the height of the adjacent developments to the north and south, with the exception of the rooftop communal terrace and lifts; the limited scale of these elements minimises their visibility from surrounding land and ensures that the proposal remains compatible with the surrounding character. The proposal maintains the nil front and side-setback characteristics of the adjoining developments and the proposed rear setbacks provide an appropriate interface to the adjoining R2 Low Density zone to the east.

The proposal is compatible with the scale, proportions and density envisaged by the planning controls and is therefore consistent with Principle 1.

Principle 2: Built Form and Scale

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

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

Comment:

The appropriate level of bulk and scale is dictated by what is permissible under the applicable planning controls. There is no FSR standard applicable to the site. The proposal exceeds the building height control, though this is generally limited to the rooftop communal terrace and lifts, and is supported for the reasons discussed in the Clause 4.6 section of this report. The proposal generally complies with the front setback controls and the minor variation sought is acceptable. The Warringah DCP does not include numerical side or rear setback controls for the subject site and as such the assessment has been carried out against the objectives of the setback controls and the requirements of the ADG.

The proposed building bulk, scale and height represent an appropriate response to the zoning and controls applicable to the site, the built form of the adjacent developments and the interface to the R2 zone to the east.

The proposed development is of a scale, bulk and height that achieves the desired future character intended by the planning controls, and is therefore consistent with Principle 2.

Principle 3: Density

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

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public

transport, access to jobs, community facilities and the environment.

Comment:

As there are no density-specific controls applicable to the site, the density is dictated by what can be accommodated within the prescribed controls. There is no FSR standard applicable to the site, and as noted above, there are no numerical side or rear setback controls for the subject site. The habitable floor areas of the proposed development are almost entirely compliant with the building height standard, with the non-compliance relating to roof elements and roof top structures.

The proposal generally complies with the front setback requirements, with the proposed level 2 terraces and minor portions of the habitable floor areas located within the 5m setback. While the proposal does not strictly meet the required separation distances under the ADG, the variations relate to terraces and not habitable floor areas, and the proposed setbacks are considered to be acceptable in the context. Each of the proposed apartments within the development meet the required internal dimensions and are afforded a high level of internal amenity.

The density of the proposal is found to be consistent with the development potential of the site and is therefore consistent with Principle 3.

Principle 4: Sustainability

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

Comment:

The application is accompanied by the required documentation to ensure that the building achieves the relevant sustainability targets in relation to energy, water, and thermal performance. The proposal achieves the solar access, natural ventilation and deep soil targets specified in the ADG and also includes a rooftop PV array and green-roof areas.

Given the above, the proposal is consistent with Principle 4.

Principle 5: Landscape

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

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

Comment:

The proposal provides a compliant deep soil area as required by the ADG adjacent to the rear boundary in addition to on-structure and rooftop planting. The proposed landscape design is acceptable in the context of the E1 Local Centre zone.

The proposal is therefore consistent with Principle 5.

Principle 6: Amenity

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

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

Comment:

The proposed design affords a high level of amenity to future occupants of the development while reasonably maintaining the amenity of adjoining properties. These matters are assessed in detail in the below ADG compliance table and against the relevant provisions of WDCP 2011 - Part D.

The proposal is therefore consistent with Principle 6.

Principle 7: Safety

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

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

Comment:

The proposal has adequate regard from the provisions of CPTED. The proposal defines the interface between the public domain, commercial tenancies and residential spaces within the development and affords opportunities for passive surveillance.

The proposal is therefore consistent with Principle 7.

Principle 8: Housing Diversity and Social Interaction

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

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

Comment:

The proposal includes a mix of one, two and three bedroom units, including sufficient accessible and adaptable units, to cater for a range of occupants and contribute to the variety of housing on offer in the locality. The proposal also includes formal and informal communal areas and is in close proximity to retail and commercial premises, beaches and parks, ensuring that future occupants will have good opportunities for social interaction.

The proposal is therefore consistent with Principle 8.

Principle 9: Aesthetics

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

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

Comment:

The proposal incorporates a variety of suitable materials, colours and textures and for the reasons discussed in relation to the above Principles and the below provisions of the ADG, is found to be of appropriate proportions, composition and overall built form. The landscape features incorporated into the design also contribute to the proposal's compatibility with the streetscape and desired future character.

The proposal is therefore consistent with Principle 9.

APARTMENT DESIGN GUIDE

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

Development Control	Criteria / Guideline	Comments
Part 3 Siting the Development		
Site Analysis	Does the development relate well to its context and is it sited appropriately?	Consistent The proposal is orientated, sited and designed in response to the site constraints, surrounding development and the applicable controls.
Orientation	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	Consistent The proposed siting and layout of the development are compatible with the desired streetscape and will provide for reasonable solar access to the subject

		site and adjoining properties.						
Public Domain Interface	<p>Does the development transition well between the private and public domain without compromising safety and security?</p> <p>Is the amenity of the public domain retained and enhanced?</p>	<p>Consistent</p> <p>The proposed building incorporates safe and secure access from the street frontage and provides opportunities for casual surveillance of the public domain.</p> <p>The building facade awning will retain and enhance the amenity of the public domain.</p>						
Communal and Public Open Space	<p>Appropriate communal open space is to be provided as follows:</p> <ol style="list-style-type: none"> 1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter) 	<p>Inconsistent - Acceptable on merit</p> <p>The proposal provides 53m² (2.85%) of the site area as communal open space in the form of a rooftop terrace. The proposed rooftop terrace will enjoy a high level of solar access and amenity, and is positioned to minimise impacts upon surrounding properties. Given the site's proximity to numerous parks, beaches and other outdoor recreational opportunities, the provision of additional communal open space within the development is not considered essential.</p> <p>More than 50% of the provided communal open space will receive sunlight between 9am and 1pm.</p>						
Deep Soil Zones	<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1"> <thead> <tr> <th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr> </thead> <tbody> <tr> <td>Less than 650m²</td><td>-</td><td>7%</td></tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m ²	-	7%	<p>Consistent</p> <p>The proposal provides a deep soil area of 219m² (11.8%) adjacent to the rear boundary of the site.</p>
Site area	Minimum dimensions	Deep soil zone (% of site area)						
Less than 650m ²	-	7%						

	<table><tr><td>650m² – 1,500m²</td><td>3m</td></tr><tr><td>Greater than 1,500m²</td><td>6m</td></tr><tr><td>Greater than 1,500m² with significant existing tree cover</td><td>6m</td></tr></table>	650m ² – 1,500m ²	3m	Greater than 1,500m ²	6m	Greater than 1,500m ² with significant existing tree cover	6m							
650m ² – 1,500m ²	3m													
Greater than 1,500m ²	6m													
Greater than 1,500m ² with significant existing tree cover	6m													
Visual Privacy	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>Inconsistent - Acceptable on merit</p> <p><u>1000-1008 & 1016 Pittwater Road</u> The proposed interfaces to these properties are blank walls and therefore no ADG building separation is required. The proposed setbacks to these boundaries are assessed against the WDCP side setback objectives.</p> <p><u>26 Ocean Grove</u> The ADG requires 6m building separation to this property. The proposed units 7, 8, 16 & 17 are set back 6m from the western boundary of No. 26, in accordance with the requirement. The proposed units 9 & 18 living room walls and terraces are set back 2.5m-3.3m from the southern boundary of No. 26. The north-facing living room windows consists of glass bricks and the rear terraces incorporate 1.8m high privacy louvres. Given the irregular interface between these properties, the proposed privacy measures are</p>
Building height	Habitable rooms and balconies	Non-habitable rooms												
Up to 12m (4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												

		<p>considered to be sufficient in lieu of the 6m separation requirement.</p> <p><u>24 Ocean Grove & 12 & 14 Cliff Road</u></p> <p>As these properties are zoned R2 Low Density Residential, the ADG requires 9m building separation.</p> <p>The proposed rear terraces are less than the 9m required separation, being set back 7.5m-8.5m at the first floor and 8.5m-8.7m at the second floor. All windows to habitable rooms are set back a minimum of 9m.</p> <p>The proposal is considered to be acceptable as reduced setback distances apply to only portions of the trafficable terraces and the total separation to the dwellings and primary private open spaces of the adjoining properties are sufficient. The existing and proposed landscaping adjacent to the western boundary will also provide supplementary visual screening.</p>
Pedestrian Access and entries	<p>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>	<p>Consistent</p> <p>The proposed pedestrian and building entries are easily identifiable and provide suitable access to the development. The proposal also appropriately separates commercial, residential and vehicular entries.</p>
Vehicle Access	<p>Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?</p>	<p>Consistent</p> <p>The location of the proposed driveway is acceptable in relation to the streetscape and enables safe and suitable</p>

		access to the site. As noted above, the vehicular entry comprises a minor proportion of the overall site frontage.
Bicycle and Car Parking	<p>For development in the following locations:</p> <ul style="list-style-type: none"> On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>	<p>Consistent</p> <p>The proposal includes adequate provision of car, motorcycle and bicycle parking to meet the requirements of the WDCP.</p>
Part 4 Designing the Building		
Amenity		
Solar and Daylight Access	<p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter. 	<p>Consistent</p> <p>71% (12/21) of apartments within the development will receive the required hours of sunlight access. It is noted that of the six apartments that do not comply, five of those (01, 02, 03, 05 & 06) will receive close to the required 2 hours between 1pm and 3pm.</p>
	<ul style="list-style-type: none"> A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter. 	<p>Consistent</p> <p>There are no apartments within the development that will receive no direct sunlight access.</p>
Natural Ventilation	The number of apartments with natural cross ventilation is maximised to create a comfortable	<p>Consistent</p> <p>81% (17/21) of apartments</p>

	<p>indoor environment for residents by:</p> <ul style="list-style-type: none">At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	<p>within the development are cross-ventilated.</p>												
	<ul style="list-style-type: none">Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.	<p>Inconsistent - Acceptable on merit</p> <p>Two of the proposed apartments (16 & 17) have maximum depths of 18m-20m measured glass line to glass line. Given the extent of glazing proposed at the front and rear of these apartments and the inclusion of central skylights, the exceedance is acceptable.</p>												
Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table><tr><th colspan="2">Minimum ceiling height</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	<p>Consistent</p> <p>The building design is satisfactory in this regard.</p>
Minimum ceiling height														
Habitable rooms	2.7m													
Non-habitable	2.4m													
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area													
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope													
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use													
Apartment Size and Layout	<p>Apartments are required to have the following minimum internal areas:</p> <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr></table>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	<p>Consistent</p> <p>Each of the apartments exceed the minimum dimensions for the relevant number of bedrooms.</p>						
Apartment type	Minimum internal area													
Studio	35m ²													
1 bedroom	50m ²													

2 bedroom	70m ²
3 bedroom	90m ²

The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.

A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.

Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.

Consistent
The requirement is achieved.

Habitable room depths are limited to a maximum of 2.5 x the ceiling height.

Consistent
The requirement is achieved.

In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.

Inconsistent - Acceptable on merit
Two of the proposed apartments (5 & 17) have maximum open plan depths of 9m and 11m respectively. In both apartments, the areas deeper than 8m are dining areas and the primary living areas and kitchens are within 8m of a window. Apartment 17 includes skylights over the dining area.

Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space).

Consistent
The requirement is achieved.

Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension.

Consistent
The requirement is achieved.

Living rooms or combined living/dining rooms have a minimum width of:

- 3.6m for studio and 1 bedroom apartments
- 4m for 2 and 3 bedroom apartments

Consistent
The requirement is achieved.

The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts

Consistent
The requirement is achieved.

Private Open Space and Balconies	All apartments are required to have primary balconies as follows:	Consistent The requirements are achieved.															
	<table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table>		Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m
	Dwelling Type		Minimum Area	Minimum Depth													
	Studio apartments		4m ²	-													
1 bedroom apartments	8m ²	2m															
2 bedroom apartments	10m ²	2m															
3+ bedroom apartments	12m ²	2.4m															
The minimum balcony depth to be counted as contributing to the balcony area is 1m																	
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.	N/A																
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	Consistent The requirement is achieved.															
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	N/A															
Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:	Consistent Each of the proposed apartments incorporate adequate built-in storage or sufficient area for storage furniture, in addition to storage areas provided within the basement.															
	<table><tr><th>Dwelling Type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m²</td></tr><tr><td>1 bedroom apartments</td><td>6m²</td></tr><tr><td>2 bedroom apartments</td><td>8m²</td></tr><tr><td>3+ bedroom apartments</td><td>10m²</td></tr></table>		Dwelling Type	Storage size volume	Studio apartments	4m ²	1 bedroom apartments	6m ²	2 bedroom apartments	8m ²	3+ bedroom apartments	10m ²					
Dwelling Type	Storage size volume																
Studio apartments	4m ²																
1 bedroom apartments	6m ²																
2 bedroom apartments	8m ²																
3+ bedroom apartments	10m ²																
	At least 50% of the required storage is to be located within the apartment.																
Acoustic Privacy	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	Consistent The building design is satisfactory in this regard.															
Noise and Pollution	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	Consistent The submitted acoustic assessment includes recommendations relating to noise transmission and															

		the west-facing level 1 apartments include winter gardens in lieu of unenclosed balconies. The building design is satisfactory in this regard.					
Configuration							
Apartment Mix	Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.	Consistent The building design is satisfactory in this regard.					
Ground Floor Apartments	Do the ground floor apartments deliver amenity and safety for their residents?	N/A					
Facades	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	Consistent The proposed facades are well-articulated and incorporate a range of contemporary materials and finishes that are compatible with the character of the locality.					
Roof Design	Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top.	Consistent The proposed roof design is compatible with the adjoining buildings and and incorporates PV panels and landscape planter elements. A rooftop communal terrace is proposed and is not considered to adversely impact the amenity of surrounding properties.					
Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	Consistent The application is accompanied by a comprehensive landscape plan which has been assessed as satisfactory by Council's Landscape Officer.					
Planting on Structures	When planting on structures the following are recommended as minimum standards for a range of plant sizes: <table><tr><td>Plant type</td><td>Definition</td><td>Soil Volume</td><td>Soil Depth</td><td>Soil Area</td></tr></table>	Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Consistent The proposed on-structure landscaped areas generally provide adequate soil volume, depth and area to support the growth of the
Plant type	Definition	Soil Volume	Soil Depth	Soil Area			

	Large Trees	12-18m high, up to 16m crown spread at maturity	150m ³	1,200mm	10m x 10m or equivalent	proposed planting. Notwithstanding the dimensions shown on the plans, additional conditions are recommended by Council's Landscape section to ensure that the soil depths are adequate to accommodate a range of plant sizes.
	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m ³	1,000mm	6m x 6m or equivalent	
	Small trees	6-8m high, up to 4m crown spread at maturity	9m ³	800mm	3.5m x 3.5m or equivalent	
	Shrubs			500-600mm		
	Ground Cover			300-450mm		
	Turf			200mm		
Universal Design	Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features.				Consistent 24% (5/21) of the proposed apartments incorporate the silver level universal design features. A further 3 of the proposed apartments are adaptable dwellings.	
Adaptable Reuse	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.				N/A	
Mixed Use	Can the development be accessed through public transport and does it positively contribute to the public domain? Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.				Consistent The development is accessible by various bus routes along Pittwater Road. The commercial tenancies create an active frontage that will contribute to the public domain.	
Awnings and Signage	Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development.				Consistent The proposal does not seek any approval for signage. The submitted plans	

	Signage must respond to the existing streetscape character and context.	include an awning projecting over the Pittwater Road footpath, however no specific details are provided. A condition is recommended requiring that the alignment of the awning is consistent with the existing awning to the south. Specific design details of this structure over Council land can be resolved at a later date under the provisions of s138 or s139 of the Roads Act.
Performance		
Energy Efficiency	Have the requirements in the BASIX certificate been shown in the submitted plans?	Consistent The minimum BASIX requirements are included on the submitted plans.
Water Management and Conservation	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	Consistent The proposal has been assessed by Council's Development Engineering and Water Management sections as complying with the Water Management for Development Policy.
Waste Management	Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?	Consistent The proposal complies with Council's Waste Management Design Guidelines.
Building Maintenance	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	Consistent The requirement is achieved.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 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 raised no objections, subject to conditions which have been included in the recommendation of this report.

Transport for NSW (TfNSW)

Section 2.119 - Development with frontage to classified road states:

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

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

Comment:

The development application was referred to TfNSW and Council's Traffic section. No objections were raised in relation to the location of the proposed vehicular access or the safety, efficiency and ongoing operation of Pittwater Road. As discussed below, appropriate design measures are incorporated to minimise the impact of traffic noise and vehicle emissions within the development.

Section 2.120 - Impact of road noise or vibration on non-road development states:

- (2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.*
- (3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—*
 - (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
 - (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

Comment:

The submitted acoustic assessment includes an assessment and recommendations relating to traffic noise ingress into the proposed apartments. These recommendations are incorporated into the conditions of consent.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the consent authority to consider whether land is contaminated.

In response to the above requirements of Chapter 4, the applicant has submitted a Preliminary Environmental Site Investigation dated 20 July 2023 and prepared by EI Australia. In its conclusion, the investigation states:

*"Based on the findings of this PSI, and with consideration of EI's Statement of Limitations (**Section 7**), it was concluded that there is a low-medium potential for contamination to be present at the site. EI considers the site suitable for its proposed redevelopment, subject to the implementation of the recommendations outlined in **Section 6**."*

Council's Environmental Health section has reviewed the above report and raised no objection to the proposal, subject to the recommended conditions 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

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	11m	L2 Roof: 11.3m	2.7%	No
		L3 Communal: 13m	18.2%	
		Lift overrun: 13.4m	21.8%	

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under

Clause	Compliance with Requirements
	Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone E1 Local Centre

The proposal is assessed against the objectives of the E1 Local Centre Zone as follows:

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

Comment:

The proposal includes a quantity of commercial floor area that is compatible with surrounding development and the intent of the zoning of the site.

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

Comment:

The proposed development constitutes investment in local commercial development that will achieve this objective.

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

Comment:

The proposed mix of residential and commercial development will contribute to the vibrancy and activity of the locality by facilitating additional housing stock and employment opportunities.

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

Comment:

The proposed ground floor predominantly comprises retail uses and associated services and facilities.

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

Comment:

The majority of the proposed ground floor street frontage is occupied by commercial tenancies and will provide an active and vibrant streetscape.

- *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 proposed building is compatible with the scale and landscape treatment of adjoining developments and generally aligns with what is envisaged by the planning controls. The architectural form, including articulation and building finishes, relates appropriately to the site context and natural environment.

Conclusion

Based on the above assessment, the proposed development is found to be consistent with the objectives of the zone.

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	11m
Proposed:	13.4
Percentage variation to requirement:	21.8%



Figure 4. Applicant's illustration of the proposed building height breach as measured from existing ground levels.

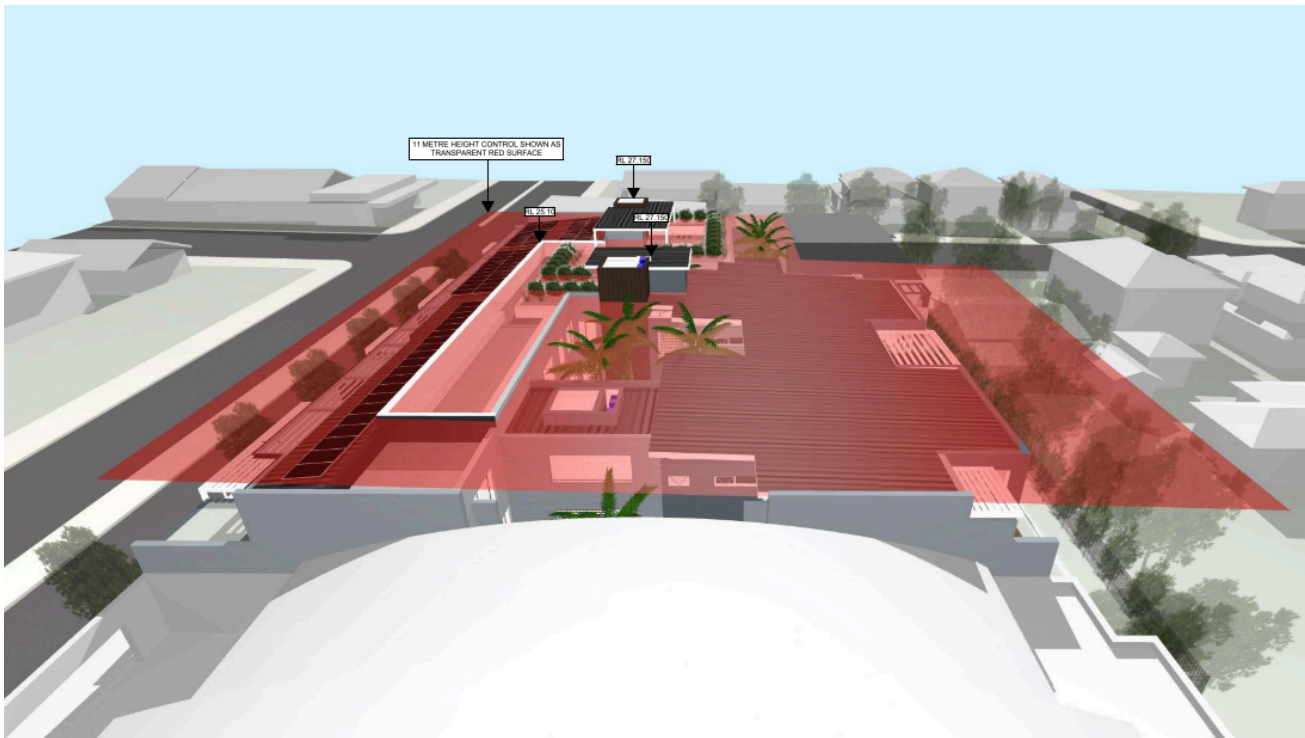


Figure 5. Applicant's illustration of the proposed building height breach as measured from existing ground levels.

The above height plane diagrams are not certified, however the portions of buildings projecting above the height plane are generally in alignment with Council's assessment, and are presented in a more practical format than a two dimensional sectional drawing. On that basis, the diagrams are included for illustrative purposes. Figure 6 below illustrates Council's calculation of the proposed maximum building height breach.

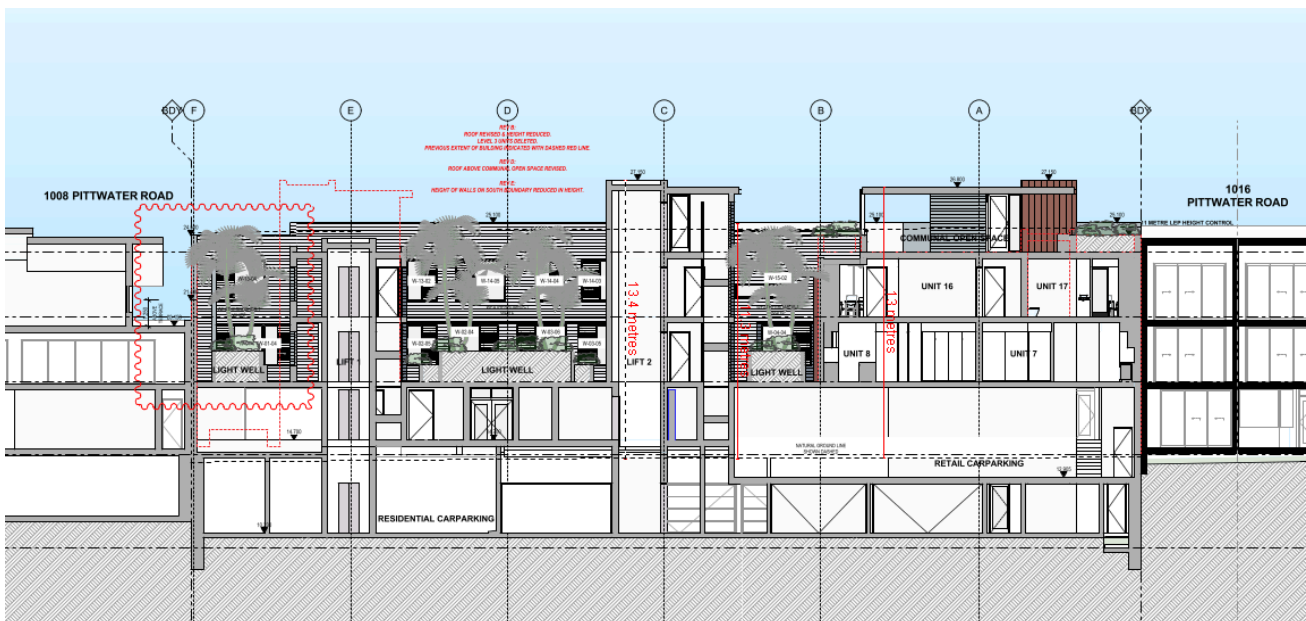


Figure 6. Council calculation of maximum building height breach - 13.4m to Lift 2 overrun.

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 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(cf previous s 5)

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:

- *"Despite non-compliance with the 11m building height development standard, the proposed development is consistent and compatible with the height of contemporary development within the immediate context of the site including the 1008 Pittwater Road directly to the south of the development site.*

- *Council's acceptance of the proposed height variation will ensure the orderly and economic development of the site, in so far as it will facilitate the provision of rooftop communal open space in a location where it will receive exceptional levels of amenity without adverse streetscape or residential amenity impacts. Such outcome is consistent with Objective 1.3(c) of the EP&A Act.*
- *The proposed development has been sensitively designed to respond to both the location of the site and also the form and massing of adjoining development.*
- *The building is of high design quality with the variation facilitating enhanced residential amenity, informal rooftop communal open space, consistent with Objective 1.3(g) of the Act."*

Comment:

It is agreed that the height of the proposed development is compatible with the site context including adjacent developments to the north and the south. It is also agreed that the design and location of the proposed rooftop communal terrace will provide a high level of amenity to occupants of the proposed development while minimising impacts upon the public domain and the amenity of surrounding properties.

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 and amenity, 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 E1 Local Centre zone. An assessment against these objectives is provided below.

Objectives of 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 proposed building height is compatible with the height and scale of the adjoining developments to the north and south, fronting Pittwater Road, within the E1 zone. The proposed parapet height generally aligns with the roofs of the adjacent buildings. The proposed roof terrace and lift overruns exceed the heights of those adjoining buildings, however these structures are of limited additional height and bulk and will be minimally visible from surrounding land.

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

Comment:

As illustrated above, the elements of the proposed building that breach the height standard are the communal roof terrace, lift overruns and a minor portion of the level 2 roof at the front (west) of the light wells. The total volume of built form above the height plane is relatively minor and will not contribute to any adverse visual impact, disruption of views or loss of privacy or solar access. A detailed assessment of each of these matters is undertaken in this report.

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

Comment:

Based on the location of the height-breaching elements and the limited volume of the building above the height plane as noted above, the proposal will not result in unacceptable impacts upon the scenic quality of the surrounding environment.

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

Comment:

For the reasons outlined above, the proposed design adequately manages the visual impact of the development as viewed from the public domain.

Zone objectives

The underlying objectives of the E1 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.*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*
- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To ensure new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*

- *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 proposed development is found to be consistent with the objectives of the E1 zone as assessed earlier in this report. The proposed building height variation does not detract from this consistency.

Exception to Development Standards conclusion

The submitted written Clause 4.6 variation request is considered to be well founded having regard to the circumstances of the development and it is therefore considered appropriate to allow flexibility in the application of the height of buildings development standard. The proposal meets the Objects of the Environmental Planning and Assessment Act 1979, contained in Section 1.3, having considered the relevant provisions under s.4.15 of the Act. Consequently, the development is considered to be in the public interest, subject to conditions.

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 PS20-002 dated 5 May 2020, 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	Habitable: 3	N/A	Yes
		Non-habitable: 4	33.3%	No
B6 Side Boundary Setbacks	N: Merit Assessment	B-L2: Nil - 2.5m	N/A	Yes
		L3: 3.1m	N/A	Yes
	S: Merit Assessment	B-L2: Nil	N/A	Yes
		L3: 20m	N/A	Yes
B7 Front Boundary Setbacks	Ground and First Floor: Nil	Nil	N/A	Yes
	Second Floor: 5m	Terraces: 2m	60%	No
		Walls: 4.2m - 5.8m	16%	No
B10 Rear Boundary Setbacks	Merit Assessment	B: 5.5m - 8.8m	N/A	Yes

		G: 9m	N/A	Yes
		L1: 7.2m - 9m	N/A	Yes
		L2: 8.5m - 9m	N/A	Yes
		L3: 8m (26 Ocean Gr)	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	N/A - See SEPP Housing	N/A	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
B2 Number of Storeys	No	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	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
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
D15 Side and Rear Fences	Yes	Yes
D18 Accessibility and Adaptability	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
E6 Retaining unique environmental features	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E10 Landslip Risk	Yes	Yes
F1 Local and Neighbourhood Centres	No	Yes

Detailed Assessment

B2 Number of Storeys

Description of non-compliance

The control permits a maximum of three storeys in any one place, excluding basement levels. The proposed development includes three habitable levels and a fourth-storey rooftop communal open space area with associated facilities and access, which is non-compliant with the three-storey control.

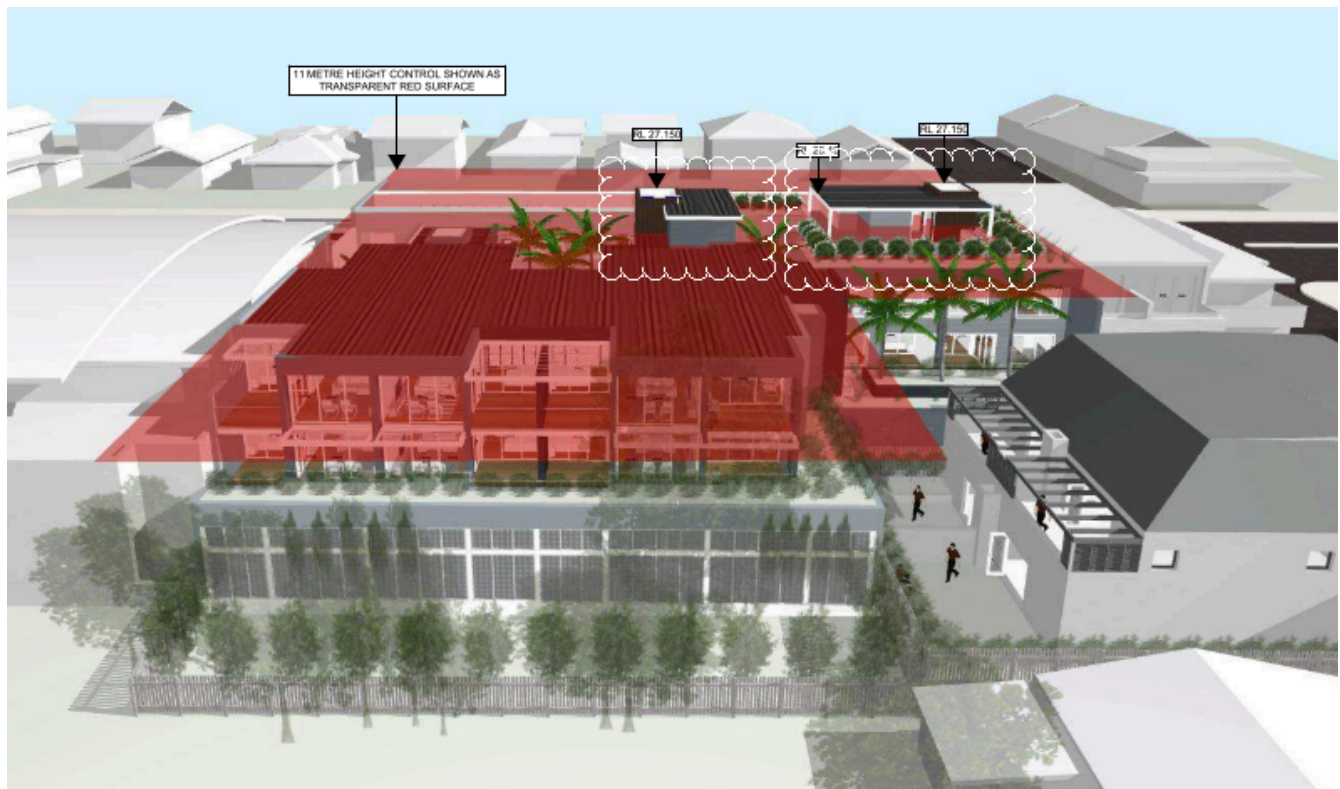


Figure 7. View of the development from the east with proposed four-storey elements clouded.

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 proposed fourth storey comprises a partially roofed communal terrace with toilet facilities, stair and lift access. The design and location of the structures at the fourth storey are such that

the development will not be not visually dominant.

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

Comment:

The nature, design and location of the proposed fourth storey structures minimises their visual impact when viewed from adjoining properties and the public domain.

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

Comment:

The proposed fourth storey will not cause any adverse impacts upon views from surrounding public or private properties.

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

Comment:

The proposed communal terrace is appropriately located and set back to maintain the privacy and amenity of adjoining properties.

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

Comment:

The site conditions and proposed design do not warrant an innovative roof pitch or variation in roof design.

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

Comment:

The proposed fourth storey is subject to a Clause 4.6 variation request that is assessed in detail in this report. The variation request is considered to be well-founded and is worthy of support.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the objectives of the control. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

B6 Merit Assessment of Side Boundary Setbacks

Consideration of compliance

The control provides that appropriate side boundary setbacks will be determined having regard to the streetscape, amenity of surrounding properties and setbacks of neighbouring development.

Based on the below considerations and assessment against the objectives of the control, it is determined that the proposed nil-side setbacks are appropriate in the context of the site and surrounding properties:

- The adjoining developments to the east and west, 1000-1008 and 1016 Pittwater Road, are primarily built to the common boundaries of the subject site.
- Where the upper level northern wall of 1000-1008 Pittwater Road is set back from the common boundary, the height and length of the proposed southern wall has been minimised to reduce the resulting visual bulk and overshadowing impacts.
- The nil-side setback to 26 Ocean Grove relates only to the ground floor level and the proposed wall/planter height only marginally exceeds the height of the existing boundary fence.

Merit consideration:

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

- *To provide ample opportunities for deep soil landscape areas.*

Comment:

The proposed deep soil area provided within the rear setback is sufficient and is compatible with the adjoining development to the south.

- *To ensure that development does not become visually dominant.*

Comment:

The proposal, as amended, is not considered to be visually dominant or to give rise to unreasonable visual impact.

- *To ensure that the scale and bulk of buildings is minimised.*

Comment:

The proposed building is well-articulated at the front, rear and side elevations to minimise bulk and scale. The proposed height-breaching elements are located centrally within the site and do not result in excessive visual bulk.

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

Comment:

The proposed design of the northern and southern elevations ensures adequate building separation and facilitates a compliant level of solar access to surrounding properties.

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

The proposal provides an acceptable view sharing outcome, as assessed in this report.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of the control. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

B7 Front Boundary Setbacks

Description of non-compliance

The proposal complies with the nil-setback requirement at the ground and first floor levels. The proposal does not comply with the 5m setback at the second floor level, proposing setbacks of 2m to the trafficable terrace areas and 4.2m-5.8m to the wall/glass line. Figure 8 below illustrates the location of the proposed level 2 floor area (shaded red) and terraces within the 5m front setback.

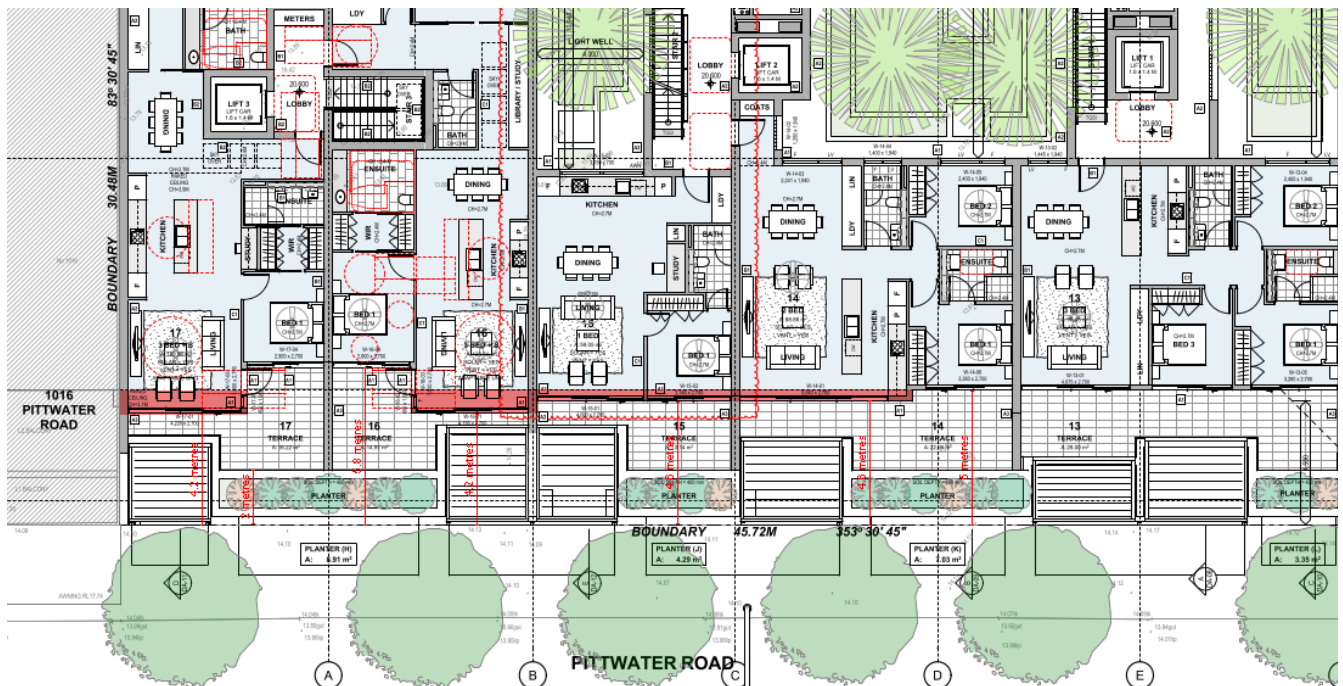


Figure 8. Level 2 floor plan illustrating the extent of the floor area and terraces within the 5m front setback.

Merit consideration:

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

- *To create a sense of openness.*

Comment:

The proposal creates an appropriate sense of openness at the street frontage that is visually consistent with the adjoining properties. Given that they are unenclosed, the proposed terraces

within the setback do not cause the development to be inconsistent with this or any other objective of the control. The proposed use of solid and open elements within the facade creates a high level of visual interest and assists in breaking down the bulk of the building. The proposed breaches at the second floor level are relatively minor and do not result in excessive building bulk or enclosure of the front setback.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

The proposed upper level setback is generally consistent with the alignment of the adjoining buildings to the north and south, thereby maintaining the visual continuity of the streetscape. The nil-front setback control does not anticipate the provision of landscape elements at the site frontage.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

The proposed building facade is well-articulated to protect and enhance the visual quality of the streetscape. The minor breaches of the front setback control at level 2 will not detract from the appearance of the proposal.

- *To achieve reasonable view sharing.*

Comment:

The proposed front setback breach will not cause any unreasonable impacts in relation to view sharing.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of the control. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

B10 Merit assessment of rear boundary setbacks

Consideration of compliance

The control provides that appropriate rear boundary setbacks will be determined having regard to the streetscape, amenity of surrounding properties and setbacks of neighbouring development.

Based on the below considerations and assessment against the objectives of the control, it is determined that the proposed rear setbacks are appropriate in the context of the site and surrounding properties:

- The proposed rear building lines generally align with those of the adjoining buildings to the north and south.
- The proposed rear setback area accommodates adequate deep soil landscaping and the retention of tree T12.
- The proposal maintains sufficient separation distances to ensure the privacy of adjoining developments as intended by the ADG requirement.

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 opportunities for deep soil landscape areas are maintained.*

Comment:

The proposed deep soil area provided within the rear setback is sufficient and is compatible with the adjoining development to the south.

- *To create a sense of openness in rear yards.*

Comment:

The proposal provides an open rear setback that is consistent with surrounding properties.

- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

Comment:

As assessed in this report, the proposed rear setback ensures sufficient separation to maintain the privacy and amenity of surrounding properties.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment:

The proposal is compatible with surrounding development with regard to the siting of buildings, rear gardens and landscaped areas.

- *To provide opportunities to maintain privacy between dwellings.*

Comment:

The proposal affords suitable privacy for occupants to the subject development and surrounding properties.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of the control. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

C2 Traffic, Access and Safety

The application was referred to Council's Traffic section who raised no objection in relation to the traffic impacts, access, safety or parking provision of the development, subject to the recommended conditions.

C7 Excavation and Landfill

The application is accompanied by a geotechnical report and has been referred to WaterNSW and Council's Development Engineering and Water Management sections. Subject to the recommendations included in the geotechnical report and the conditions recommended by the relevant referral bodies, the proposed excavation works are not expected to adversely impact adjoining properties or the natural environment.

D3 Noise

Compliance with control

Requirements

1. Noise from combined operation of all mechanical plant and equipment must not generate noise levels that exceed the ambient background noise by more than 5dB(A) when measured in accordance with the NSW Industrial Noise Policy at the receiving boundary of residential and other noise sensitive land uses.

Comment:

The submitted acoustic report addresses this matter and Council's Environmental Health section have recommended appropriate conditions of consent in this regard.

2. Development near existing noise generating activities, such as industry and roads, is to be designed to mitigate the effect of that noise.

Comment:

The submitted acoustic report addresses this matter and Council's Environmental Health section have recommended appropriate conditions of consent in this regard.

3. Waste collection and delivery vehicles are not to operate in the vicinity of residential uses between 10pm and 6am.

Comment:

A condition of consent is recommended to ensure compliance with this requirement.

D6 Access to Sunlight

Compliance with control

Requirements

- 1. Development should avoid unreasonable overshadowing any public open space.*

Comment:

The proposal complies with the building height standard and minimises overshadowing of Pittwater Road to the west.

- 2. At least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.*

Comment:

1000-1008 Pittwater Road

As demonstrated on the submitted sun-view diagrams, the minimum 3 hours of solar access will be retained to the private open spaces of the upper level units (22 and 35) throughout the day. Unit 22 is located at the rear (west) of the upper floor and will receive sunlight to its rear terrace from 9am until approximately 1pm. Unit 35 is located at the front (east) of the upper floor and will receive sunlight to its front terrace from 11am until 3pm. The design of the southern elevation has been amended to ensure that reasonable solar access is maintained to these terraces.

8-14 Cliff Road

The rear private open spaces of these properties are not affected by the proposal until approximately 2pm and will retain a compliant level of solar access throughout the day.

Based on this assessment, the proposal is found to comply with the requirements of the control.

Merit consideration

Notwithstanding that the proposal complies with the above requirements, the following assessment is made against the underlying Objectives of the Control:

- *To ensure that reasonable access to sunlight is maintained.*

Comment:

While there will be a substantial reduction in solar access to units 22 and 35 at 1000-1008 Pittwater Road relative to the existing conditions, the WDCP does not provide for the maintenance/protection of solar access to windows or living areas of adjoining dwellings. The controls seek to maintain solar access to private open space areas and the proposed development complies with this required as assessed above. Based on their location immediately adjacent to the side boundary, the portions of the terraces of units 22 and 35 within the northern side setback are not considered to be private open space areas. Further, the level of sunlight maintained to the windows of those units is considered sufficient given that they are set back only 3m from a side boundary, in a location which is not envisaged by the current planning controls.

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

Comment:

The amendments made to the proposal, namely the articulation/reduction of the southern boundary wall and light well, achieve an appropriate balance between the development of the subject site and the minimisation of amenity impacts to the adjoining property.

- *To promote passive solar design and the use of solar energy.*

Comment:

The proposal ensures a reasonable level of sunlight access and natural light to adjoining properties and units within the development itself.

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

with the requirements and objectives of the control. Accordingly, this assessment finds that the proposal is 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.

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:

An inspection of the level 2 units 22 and 35 at 1008 Pittwater Road was undertaken as part of the assessment. This inspection identified the existence of ocean views to the east/north-east from both units. The views are limited in extent and are interrupted by existing development and vegetation. No land-water interface is visible from either unit. As such, the available views are partial views.

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:

Unit 22

The views are available primarily from the living room and north-eastern terrace. The views are distant and are obtained across the southern side and rear (eastern) boundaries of the subject site.



Figure 9. Available views from 22/1000-1008 Pittwater Road rear terrace.



Figure 10. Available views from 22/1000-1008 Pittwater Road living room.

Unit 35

The views are available primarily from the north-western terrace and to a lesser extent from the north-facing living room and bedroom windows. The views are distant and are obtained across the southern side and rear (eastern) boundaries of the subject site.



Figure 11. Available views from 35/1000-1008 Pittwater Road terrace.

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:

Unit 22

The rear setback to level 2 of the proposed building generally aligns with the rear terrace of unit 22 and will not significantly impact the available views. The extent of the impact is assessed as negligible.

Unit 35

The proposed development will block the entirety of the water view available from unit 35. Despite this, the extent of the impact is assessed as moderate based on the following considerations:

- The partial nature and limited value of the view;

- The view is highly vulnerable as it is obtained across the side and rear boundary of the subject site, looking eastward from a west-facing unit;
- The view is obtained through the developable envelope of the site;
- The view would likely be lost even with the provision of a level 2 setback commensurate to or greater than that of the upper level of 1000-1008 Pittwater Road.

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 proposed building height variation relates to the roof of level 2 and the rooftop communal area/structures and does not contribute to the loss of views. Similarly, the number of storeys breach relates to the rooftop communal area and lifts and is not relevant to any view impact. The level 2 front setback breaches do not contribute to view impacts as the available views are not obtained through the front setback. The WDCP does not prescribe any numerical side or rear setbacks and requires a merit assessment be undertaken. There is no material impact to the available views from unit 22. It is anticipated that the retention of views from unit 35 would require such a significant increase to the proposed level 2 side and rear setbacks that the development potential of the subject site would be significantly diminished. Given the limited extent and quality of the views, the necessary reduction in development potential would be unreasonable and unwarranted in this case.

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

Comment:

The siting and design of the building is appropriate for the context.

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

Comment:

No existing canopy trees are proposed to be removed for the enhancement of views.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of the control. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

D8 Privacy

Compliance with control

Requirements

1. *Building layout should be designed to optimise privacy for occupants of the development and occupants of adjoining properties.*

Comment:

The proposed building layout is considered to provide appropriate privacy for occupants of the development and those of adjoining properties, as assessed below and against the relevant provisions of the ADG.

2. *Orientate living areas, habitable rooms and windows to private open space areas or to the street to limit overlooking.*

Comment:

The proposed living areas and habitable rooms are largely orientated to the front and rear of the site; the bedrooms orientated to the courtyards/light wells are suitably designed and located for privacy. Overlooking from the east-facing windows and private open spaces is minimised through the separation distances provided and supplementary screen planting.

3. *The effective location of doors, windows and balconies to avoid overlooking is preferred to the use of screening devices, high sills or obscured glass.*

Comment:

As noted above, adequate separation distances are primarily relied upon for privacy, with alternate privacy measures generally limited to side boundaries and internally within the site where necessary.

4. *The windows of one dwelling are to be located so they do not provide direct or close views (ie from less than 9 metres away) into the windows of other dwellings.*

Comment:

Various windows opening onto the southern light well (units 01, 12, 13 & 21) are within 9m of windows of units within 1000-1008 Pittwater Road to the south. Despite their proximity, privacy treatments, including obscured glazing and blade walls, are incorporated to ensure that these windows do not provide direct or close views to any adjoining dwelling windows within 9m, as required by the control. Aside the from these windows, the proposal does not include any other dwelling windows within 9m of windows to adjoining dwellings.

5. *Planter boxes, louvre screens, pergolas, balcony design and the like are to be used to screen a minimum of 50% of the principal private open space of a lower apartment from overlooking from an upper apartment.*

Comment:

The proposal includes appropriate privacy measures to screen the private open spaces of lower apartments from those above.

Based on this assessment, the proposal is found to comply with the requirements of the control.

Merit consideration

Notwithstanding that the proposal complies with the above requirements, the following assessment is made against the underlying Objectives of the Control:

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

Comment:

Based on the proposal's performance against the control and the ADG privacy guidance, the siting and design of the development demonstrates that a high level of visual and acoustic privacy is afforded for occupants and adjoining properties.

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

Comment:

The proposal incorporates design solutions appropriate for the site context.

- *To provide personal and property security for occupants and visitors.*

Comment:

The proposal ensures adequate personal and property security for occupants and visitors, particularly with regard to the separation of residential and commercial uses within the building.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of the control. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

D9 Building Bulk

Compliance with control

Requirements

1. *Side and rear setbacks are to be progressively increased as wall height increases.*
2. *Large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief.*
3. *On sloping land, the height and bulk of development (particularly on the downhill side) is to be minimised, and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope. In particular:
The amount of fill is not to exceed one metre in depth.*

Fill is not to spread beyond the footprint of the building.

Excavation of the landform is to be minimised.

4. *Building height and scale needs to relate to topography and site conditions.*
5. *Orientate development to address the street.*
6. *Use colour, materials and surface treatment to reduce building bulk.*
7. *Landscape plantings are to be provided to reduce the visual bulk of new building and works.*
8. *Articulate walls to reduce building mass.*

Comment:

The proposal avoids large continuous wall planes through the articulation of elevations, use of glazing and varied external finishes. The building siting and height responds appropriately to the topography and site context, and landscaping is incorporated to minimise the visual impact of the development. The proposed commercial and residential uses at the western elevation are orientated to address the street and contribute to the visual interest of the streetscape. The proposal exhibits an appropriate level of compliance with the applicable built form controls and is designed to achieve a bulk and scale that is compatible with surrounding development and is anticipated within the E1 zone.

Merit consideration

Notwithstanding that the proposal complies with the above requirements, the following assessment is made against the underlying Objectives of the Control:

- *To encourage good design and innovative architecture to improve the urban environment.*

Comment:

As assessed above, the proposal is considered to be well-designed to ensure an appropriate contextual fit within the locality.

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

Comment:

The facade design utilises articulation and appropriate materials and finishes to minimise the resulting visual impact when viewed from Pittwater Road.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of the control. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

E10 Landslip Risk

The site is mapped as Landslip Risk Area A and a geotechnical assessment has been submitted with the application, which concludes that the proposal is suitable for the site subject to the implementation of the recommendations included in the report. These recommendations are incorporated into the conditions of consent.

F1 Local and Neighbourhood Centres

Compliance with control:

The proposal is found to comply with requirements 1-10, but does not comply with requirement 14.

Requirements

1. Buildings are to define the streets and public spaces and create environments that are appropriate to the human scale as well as being interesting, safe and comfortable.

Comment: The proposed building facade is appropriately designed to define the street edge and create an active streetscape.

2. The minimum floor to ceiling height for buildings is to be 3.0 metres for ground floor levels and 2.7 metres for upper storeys.

Comment: The proposal complies with the required floor to ceiling heights.

3. The design and arrangement of buildings are to recognise and preserve existing significant public views.

Comment: No significant view corridors through the site from the public domain have been identified.

4. Development that adjoins residential land is not to reduce amenity enjoyed by adjoining residents.

Comment: The proposed building setbacks, communal open space location and landscaping ensure that the amenity of surrounding residential-zoned land is reasonably maintained.

5. The built form of development in the local or neighbourhood retail centre is to provide a transition to adjacent residential development, including reasonable setbacks from side and rear boundaries, particularly above ground floor level.

Comment: The proposed rear setbacks are assessed as acceptable in relation to the ADG privacy provisions, which require additional building separation to ensure a transition to lower-density land. The proposed side setbacks are also found to be acceptable as assessed against the WDCP control.

6. Buildings greater than 2 storeys are to be designed so that the massing is substantially reduced on the top floors and stepped back from the street front to reduce bulk and ensure that new development does not dominate existing buildings and public spaces.

Comment: The proposed level 2 built form is set back generally in accordance with the WDCP control, which seeks to provide a stepped facade and minimise bulk. The proposal is considered to achieve the objectives of the front setback control and will not dominate existing buildings or public spaces.

7. Applicants are to demonstrate how the following significant considerations meet the objectives of this control:

- *Scale and proportion of the façade;*
- *Pattern of openings;*
- *Ratio of solid walls to voids and windows;*
- *Parapet and/or building heights and alignments;*
- *Height of individual floors in relation to adjoining buildings;*
- *Materials, textures and colours; and*
- *Architectural style and façade detailing including window and balcony details*

Comment: The submitted plans demonstrate that adequate consideration has been given to the above matters. The facade alignment, height and composition are compatible with the adjoining developments and contribute to the visual interest of the streetscape.

8. *Footpath awnings should be designed to allow for street tree planting.*

9. *Awnings should be consistent in design, materials, scale and overhang with adjacent retail developments.*

10. *Awnings should have an adequate clearance from the kerb.*

Comment: A condition is imposed to ensure that the design and positioning of the proposed awning is compatible with the existing awning to the south and sufficiently set back from the kerb. As Pittwater Road is a classified road, the suitability of street tree planting would require consideration by TfNSW.

14. *Pittwater Road, Collaroy*

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 massing of the level 2 built form is sufficiently minimised by the stepped design of the facade. The proposed setbacks and alignment of the northern and southern elevations are considered to be acceptable as assessed in this report. With regard to the facilitation of views between buildings, no view corridors through the site from the west have been identified and the retention of the views available from 35/1000-1008 Pittwater Road would necessitate a significant and unwarranted reduction in the development potential of the site. It is noted that the upper level northern setback of the development is compatible with adjacent building at 1016 Pittwater Road. Further, it is considered that the approximately 3m northern setback to the upper level of 1000-1008 Pittwater Road is of minimal benefit in relation to reducing visual bulk or enabling views between buildings given the overall size and width of the building.

Merit consideration:

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

- *To encourage good design and innovative architecture.*

Comment:

The proposal is well-designed in response to the controls and the site context.

- *To provide a safe and comfortable environment for pedestrians*

Comment:

The proposed facade and awning create an active and safe streetscape for pedestrians.

- *To provide a range of small-scale shops and business uses at street level with offices or low-rise shop-top housing to create places with a village-like atmosphere.*

Comment:

The proposal provides a mix of retail and residential land uses as envisaged by the zoning and planning controls.

- *To enhance the established scale and pattern of development and the continuity of existing streetscapes.*

Comment:

The siting of the proposed building is compatible with the adjoining developments and ensures a consistent streetscape appearance.

- *To enhance the public domain.*

Comment:

The proposal will renew and enhance the existing streetscape and public domain.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of the control. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

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 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$138,146 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$13,814,600.

CONCLUSION

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

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

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

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

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

Council is satisfied that:

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.

PLANNING CONCLUSION

The application seeks consent for demolition works and construction of a three and four-storey shop top housing development comprising 21 residential units, 3 ground floor commercial tenancies and basement and ground floor car parking.

The proposal, as amended, demonstrates an acceptable level of compliance with the applicable built form controls and ensures that the proposed height, scale, and density of the development is compatible with both the existing and desired future character of the locality. The proposed design also provides a reasonable level of amenity for occupants of the development and adjoining properties as envisaged by the controls.

This assessment finds that the submitted Clause 4.6 variation request is well founded and successfully demonstrates that the proposal is consistent with the objectives of the building height standard and provides sufficient environmental planning grounds for the variation.

The amended application incorporates the majority of the recommendations made by the DSAP and represents a significantly improved design that is considered to satisfactorily address the Panel's concerns.

In response to Council's advertising, a total of 27 submissions were received in objection to the proposal. The amendments made to the application result in a development that is compatible with the surrounding context and will not unreasonably impact adjoining properties. The issues raised in the submissions are addressed in detail in this report and are not considered to warrant refusal of the application in the public interest.

The assessment concludes with a recommendation that the NBLPP should **approve** the application, subject to the conditions listed in the report.

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

RECOMMENDATION

That Northern Beaches Council as the consent authority permits a contravention of 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 DA2023/1395 for Demolition works and construction of Shop Top housing on land at Lot 3 DP 6777, 1012 Pittwater Road, COLLAROY, Lot 2 DP 314645, 1014 Pittwater Road, COLLAROY, Lot 4 DP 6777, 1010 Pittwater Road, COLLAROY, subject to the conditions printed below:

Terms and Reasons for Conditions

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

DEFERRED COMMENCEMENT CONDITIONS

1. Stormwater Drainage Easement

As the natural fall of the land is towards the rear of the site the disposal of stormwater drainage is to be in accordance with the drainage plan submitted by ISTRUCT Consulting Engineers, drawing number 230602 D01 Rev C and D08 Rev B and D09 Revision B dated 16/08/2024. The easement is to be created under Sections 46 and/or 46A of the Real Property Act 1900 No 25 or under Sections 88B and/or 88K of the Conveyancing Act 1919. The applicant must provide Council with evidence of the created easement on title in order to activate the consent.

Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner that protects adjoining properties.

Evidence required to satisfy these conditions must be submitted to Council (through the NSW Planning Portal) within two (2) years of the date of this consent, or the consent will lapse in accordance with the Environmental Planning and Assessment Regulation.

Applicants must submit a request for operational consent to Council via the NSW Planning Portal and upload all relevant documentation. This can be completed through accessing the relevant portal application ID and navigating to 'Request for Operational Consent' in the Actions dropdown menu.

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

GENERAL CONDITIONS

2. **Approved Plans and Supporting Documentation**

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

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA-02	E	Site Plan	Gartner Trovato Architects	5 August 2024
DA-03	J	Basement Plan	Gartner Trovato Architects	30 August 2024
DA-04	J	Ground Floor Plan	Gartner Trovato Architects	30 August 2024
DA-05	F	Level 1 Plan	Gartner Trovato Architects	5 August 2024
DA-06	E	Level 2 Plan	Gartner Trovato Architects	5 August 2024
DA-07	F	Level 3 Plan	Gartner Trovato Architects	5 August 2024
DA-08	E	Roof Plan	Gartner Trovato Architects	5 August 2024
DA-09	E	Section A	Gartner Trovato Architects	5 August 2024
DA-10	E	Section B	Gartner Trovato Architects	5 August 2024
DA-11	E	Section C	Gartner Trovato Architects	5 August 2024
DA-12	E	Section D	Gartner Trovato Architects	5 August 2024
DA-13	E	Section E	Gartner Trovato Architects	5 August 2024
DA-14	E	Section 2	Gartner Trovato Architects	5 August 2024
DA-15	E	Section 3	Gartner Trovato Architects	5 August 2024
DA-16	E	North & East Elevations	Gartner Trovato Architects	5 August 2024
DA-17	E	South & West Elevations	Gartner Trovato Architects	5 August 2024
DA-19	D	Schedule of Exterior Finishes & Materials	Gartner Trovato Architects	5 August 2024
DA-002	A	Indicative Plant Schedule	Sym Studio	5 April 2024
DA-101	C	Landscape Plan - Ground Level	Sym Studio	12 April 2024

DA-102	C	Landscape Plan - Level 1	Sym Studio	12 April 2024
DA-103	C	Landscape Plan - Level 2	Sym Studio	12 April 2024
DA-104	C	Landscape Plan - Level 3	Sym Studio	12 April 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate No. 1421151M_03	-	The Trustee for THE GTA TRUST	29 April 2024
DA Noise Assessment	1	Acoustic Dynamics	25 September 2023
Report on Geotechnical Investigation	0	Crozier Geotechnical Consultants	4 August 2023
Preliminary Site Investigation	1	EIAustralia	20 July 2023
Arboricultural Impact Assessment Report	-	Jacksons Nature Works	24 June 2023
BCA Assessment Report	2	Jensen Hughes	11 April 2024
Access Assessment Report	2	Jensen Hughes	12 April 2024
Waste Management Plan	-	-	-

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

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

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

3. **Compliance with Other Department, Authority or Service Requirements**

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response - Clearance Guide	26 October 2023
Ausgrid	Ausgrid Referral Response - Underground Cables	26 October 2023
Ausgrid	Ausgrid Referral Response - Overhead Cables	26 October 2023

Transport for NSW	TfNSW Referral Response	30 October 2023
WaterNSW	Referral Response - WaterNSW	12 June 2023

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

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

4. **Approved Land Use**

Nothing in this consent shall authorise the use of the site/building as detailed on the approved plans for any land use beyond the definition of a *shop top housing*, in accordance with the Dictionary of the Warringah Local Environmental Plan 2011, as follows:

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

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

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

5. **No Approval for Land Use**

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

Reason: To ensure compliance with the relevant Local Environmental Plan.

6. **Prescribed Conditions**

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

7. General Requirements

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place

- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

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

FEES / CHARGES / CONTRIBUTIONS

8. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$138,146.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$13,814,600.00.

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

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

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

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

9. **Security Bond**

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

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

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

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

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

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

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

Contribution Type	Amount
Housing and Productivity Contribution	\$159,776.81
Total:	\$ 159,776.81

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

highest PPI number

consent PPI number

where—

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

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

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

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

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

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

4. The HPC must be paid using the NSW planning portal (<https://pp.planningportal.nsw.gov.au/>).

5. If the Minister administering the Environmental Planning and Assessment Act 1979 agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:
- a) the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,
 - b) the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.

If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition 2 at the time of payment.

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

Reason: Statutory requirement.

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

11. Amended Landscape Plan

The approved landscape plans shall be amended to reflect the approved architectural plans listed in this consent, inclusive of the below requirement:

- The addition of 1 x *Angophora costata* to be located within the rear deep soil area.

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

Reason: Landscape amenity.

12. Tree Protection Plan

- a) A Tree protection plan shall be submitted to the Certifier for approval prior to the issue of a Construction Certificate, demonstrating tree protection measures in accordance with AS4970-2009 Protection of Trees on Development Sites, to protect all trees to be retained within 5m of the approved works, with particular reference to Tree 12 *Araucaria columnaris* as identified in the Arboricultural Impact Assessment dated 24 June 2023 and addendum report dated 12th June 2024 prepared by Jacksons Nature Works.
- b) The Tree Protection Plan shall be prepared by an Arborist with minimum AQF Level 5 in arboriculture, incorporating the following:
 - i) location of all trees identified for retention, including extent of canopy,
 - ii) access routes throughout the site for construction activity,
 - iii) location of tree protection fencing / barriers,

- iv) root protection in the form of mulching or boards proposed within the tree protection zone,
- v) trunk and branch protection within the tree protection zone,
- vi) location of stockpile areas and materials storage,
- vii) other general tree protection measures including works approved within the Tree Protection Zone of the tree. All stormwater installations within the TPZ of T12 is to be undertaken via tunnel boring or hand digging to avoid damage to tree roots.

Reason: Tree protection.

13. **On Slab Landscape Works**

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

The following soil depths are required to support landscaping:

- i) 300mm for groundcovers, perennials, grasses and lawn
- ii) 600mm for shrubs
- iii) 1m for small trees

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

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

14. **On-Site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by ISTRUCT Consulting Engineers, drawing number 230602 D01 Rev C, D02 Rev C, D03 Rev C, D04 Rev C, D05 Rev C, D08 Rev B and D09 Rev B, dated 16/08/2024. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

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

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

15. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

16. Flood Protection Design and Certification

In order to protect property and occupants from flood risk the following is required:

Car Parking

All access, ventilation and any other potential water entry points, including entry ramp crests to the basement car park shall be at or above the Flood Planning Level of 14.650m AHD in accordance with the Overland Flow Investigation & Report by Barrenjoey Consulting Engineers Pty Ltd, Job No 240403 dated April 2024.

The applicant is to submit plans and certification by an appropriately qualified Civil Engineer who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) demonstrating compliance.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

17. Erosion and Sediment Control Plan

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

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

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

Reason: Protection of the receiving environment.

18. Detailed Design of Stormwater Treatment Measures - Major

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the iSTRUCT stormwater management plan (230602 D01 to D07 rev B 29/04/2024) and Council's Water Management for Development Policy.

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

Reason: Protection of the receiving environment.

19. Car Parking Standards

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

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

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

20. Construction Traffic Management Plan

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

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
 - Evidence of the legal right and terms to use the access route or provide owners consent from the owners/strata/community association.
 - Demonstrate that direct access from a public space/road is not viable for each stage of works.
 - An assessment to be carried out of the physical constraints of the Right of Carriageway to determine the maximum size of vehicle that may access the site via the Right of Carriageway during construction.
 - Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise

the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.

- No construction vehicles, materials or plant are to be located or parked in the private road/driveway, community title road or right of way.
 - How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
 - If trees are located within or overhang the access route, a tree protection plan prepared by an Arborist with minimum AQF Level 5 in arboriculture demonstrating how any trees within the Right of Carriageway will be protected from damage by construction vehicles. Should any tree protection measures be required on private land in accordance with AS4970-2009 Protection of trees on development sites, owner's consent must be obtained.
 - A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets (including trees) or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
 - A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
 - Compare the post-construction report with the pre-construction report,
 - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
 - Should any damage have occurred, identify remediation actions taken.
 - Be submitted to Council with the Occupation Certificate.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
 - Make provision for parking onsite. All Staff and Contractors are to use any basement parking once available.
 - Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
 - Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
 - The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
 - Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
 - Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours,

crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.

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

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

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

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

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

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

21. **Vehicle Access & Parking**

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

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

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

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

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

22. **Internalised Services**

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

must be provided underground.

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

Details demonstrating compliance with this requirement must be provided to the certifying authority prior to the issuance of the construction certificate.

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

23. Amendments to the approved plans

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

- The proposed awning over the Pittwater Road footpath shall be continuous along the length of the site frontage for a minimum depth of 2m from the site boundary. The awning shall be set back from the kerb alignment to match the existing awning to the south of the subject site, or as otherwise specified by Council.

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

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

24. 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 Certifier prior to the issue of any Construction Certificate.

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

25. Services and Fire Hydrant Enclosure

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

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

Reason: To ensure essential services are appropriately screened.

26. Building Code of Australia Fire Safety Requirements

The Building Code of Australia fire safety requirements for the building as detailed and recommended in the BCA Assessment Report prepared by Jensen Hughes, dated 11/4/2024, Rev 114208-BCA-r2, including any required Performance Reviews, are to be considered as part of the assessment for any Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority, prior to the issue of a Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

27. Access and Facilities for Persons with Disabilities

Access and facilities to and within the building are to be provided as required for Persons with a Disability in accordance with the Building Code of Australia and AS1428. In this regard the recommendations contained within the Access Assessment Report prepared by Jensen Hughes dated 12/4/2024, Rev 2 are to be taken into consideration as part of the assessment of the Construction Certificate. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

28. Submission Roads Act Application for Civil Works in the Public Road

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include Civil Engineering plans for the design of the driveway crossing, footpath paving along the entire frontage and street tree planting which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer and Landscape Architect. The design must include the following information:

- 6 metre wide driveway crossing in accordance with Transport for NSW requirements. (An approval of the works from Transport for NSW in accordance with their letter dated 27 October 2023 must be submitted with the application).
- Full width paving along the frontage of the site in accordance with Council's Public Space Vision & Design Guideline.
- Street tree planting as nominated shall be installed at a pre-ordered 200 litre container size minimum, installed within the footpath in accordance with Council's Standard Drawing 1300 - Tree Pit Details, including strata cell subsurface with root barriers and planted understorey.
- Service pit locations and adjustment including concurrence from relevant service authority for any relocations.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

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

29. **Tanking of Basement Level**

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

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

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

30. **Utilities Services**

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

- a) a letter from Ausgrid demonstrating that satisfactory arrangements can be made for the installation and supply of electricity,
- b) a response from Sydney Water as to whether the proposed works subject to this consent would affect any Sydney Water infrastructure, and whether further requirements need to be met, and
- c) other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, the changes that are required to make the development satisfactory to them.

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

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

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

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

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

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

32. **Stormwater Drainage Application**

The applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include Civil Engineering plans for the design of the inter-allotment drainage system within 24 Ocean Grove and

connection to Council's piped drainage system adjacent to 20 Ocean Grove which are to be generally in accordance with the concept drainage plans by ISTRUCT Consulting Engineers approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website at www.northernbeaches.nsw.gov.au > Council Forms > Stormwater Drainage Application Form.

The plans are to include the following:

- Sections through the inter-allotment pipeline adjacent to the existing dwelling at 24 Ocean Grove with details of any construction techniques required for the protection of the structure.
- Pit and pipe details for the pipeline within Ocean Grove in accordance with Council's specifications.
- Services plan and depth to ensure no conflict.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges.

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

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

33. Waste Room Access Doors

The access doors to the bulky goods room and commercial bin room are to be a minimum of 1200mm wide.

Bulky goods door must open outwards.

Reason: To allow ease of movement of bins and other materials in and out of the rooms.

34. Acoustic Construction

An acoustic consultant is to review the design details of the walls and floors of the development to identify the effective noise control measures to be applied to ensure acoustic amenity.

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

Reason: To ensure the premises is effectively acoustically treated

35. Contaminated Land Requirements

Prior to the issue of any Construction Certificate and after demolition of all structures onsite, engage an environmental consultant to conduct an inspection of the ground surfaces for any potential contamination sources.

A Construction Environmental Management Plan (CEMP) for the excavation, waste classification and handling of all soils from the site is to be developed. The CEMP must be prepared in accordance with relevant Council Development Control Plans and Development Consent Conditions. The CEMP is to include provisions for the management of waste soils including, but not limited to:

Typical concerns to take into consideration during development, such as, but not limited to, dust, noise, odour, vibration, safety and traffic;

Waste management of soils (including fill) to ensure that these are appropriately classified for disposal in accordance with the NSW EPA,

Unexpected Finds Protocol should any unexpected contamination or hazardous material be identified during the site earthworks.

Reason: Protection of the environment, SEPP (Resilience and Hazards) 2021 compliance.

36. **Mechanical Plant**

All mechanical plant chosen for the operation of the development such as air conditioning units are to be acoustically assessed by a suitably qualified person to identify any noise control measures that need to be implemented to ensure no adverse noise impacts occur. The acoustic consultant is to review the positioning of the plant for the development and advise of any necessary noise control measures.

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

Reason: To ensure the noise amenity is not adversely affected.

37. **Compliance with Standards**

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

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

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

38. **External Finishes to Roof**

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

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

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

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

39. **Waste and Recycling Requirements**

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

40. **Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with the approved Tree Protection Plan and AS4970-2009 Protection of trees on development sites. The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment and approved Tree Protection Plan, and in particular:

- a) Works around T12 *Araucaria columnaris* located at the rear of the site.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Principal Certifier that all tree protection measures under AS4970-2009 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note: Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

41. **Tree Removal Within the Property**

This consent approves the removal of existing trees on the subject site as identified in the Arboricultural Impact Assessment dated 24 June 2023 prepared by Jackson's Nature Works:

- i) Trees numbered 1, 4 and 5
- ii) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised building works.

42. **Work Zones and Permits**

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

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane and a Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

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

43. Road Occupancy Licence

Prior to commencement of the associated works, the applicant shall obtain a Road Occupancy License from Transport Management Centre for any works that may impact on traffic flows on Pittwater Road.

Reason: Requirement of TMC for any works that impact on traffic flow.

44. Demolition Traffic Management Plan

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

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

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- Include a Traffic Control Plan prepared by an TfNSW accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

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

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

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

45. Pre-Construction Dilapidation Report

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

Properties:

1. 1000-1008 Pittwater Road, Collaroy
2. 1016-1018 Pittwater Road, Collaroy
3. 24 Ocean Grove, Collaroy
4. 26 Ocean Grove, Collaroy
5. 12 Cliff Road, Collaroy
6. 14 Cliff Road, Collaroy

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

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

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

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

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

46. Land Contamination - Hazardous Material Survey

Prior to the commencement of demolition works, a Hazardous Materials Survey is to be completed by a suitably qualified consultant to identify any hazardous materials present within the existing building fabrics.

All identified Hazardous materials must be appropriately managed to maintain worker health and safety during demolition works and to prevent the spread of potentially hazardous substance onto the site and soil surfaces.

An asbestos clearance inspection and certificate is to be completed by a suitably qualified professional.

Where clearance inspection indicates the presence of hazardous materials remaining on the site, further removal and validation or further clearance inspections works must be undertaken.

Reason: To ensure potential contamination is managed effectively.

47. Works within the road reserve

The proposed street tree planting and any paving works within the road verge shall be part of a road reserve works application under section 138 and 139 of the Roads Act.

Reason: Public liability and Protection of public assets

Note:

Council has two applications under 138 and 139:

Form 4025 Infrastructure Works on Council Roadway – generally civil, landscape, other

Form 4033 Minor Encroachments – generally minor in nature such as planting, letterboxes

DURING BUILDING WORK

48. Protection of Sites of Significance

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.

Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

49. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected, including:
 - i) all trees within the site not approved for removal,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all trees and vegetation within the road reserve.
- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with the recommendations of the approved Tree Protection Plan, the Arboricultural Impact Assessment dated 24 June 2023 prepared by Jacksons Nature Works and AS4970-2009 Protection of trees on development sites,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist,
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with the Project Arborist,
 - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by the Project Arborist on site,
 - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with the Project Arborist including advice on root protection measures,

- vii) should either or all of v) or vi) occur during site establishment and construction works, the Project Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Project Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

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

Reason: Tree and vegetation protection.

50. **Condition of Trees**

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to or by seeking arboricultural advice from an Arborist with minimum AQF Level 5 in arboriculture during the works.

In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

51. **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.

52. **Dewatering Management**

Construction work that requires excavation such as basements can often encounter groundwater.

The removal of the groundwater from its water source and the taking/using of water (even if the take and use is for disposal) is subject to WaterNSW approvals under the Water Management Act 2000 (WMA), refer General Terms of Approval IDAS1154620, 12 June 2024.

A permit from Council is required for any dewatering of groundwater during construction.

The groundwater/tailwater to be discharged must be compliant with the General Terms of Approval/Controlled Activity permit issued by WaterNSW, Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

All approvals, water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.

Reason: Protection of the receiving environment and groundwater resources. Construction work that requires excavation such as basements can often encounter groundwater.

53. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

54. Substitution of Stormwater Treatment Measures

The substitution of the proposed device (stormwater treatment measure approved under the Development Consent) must be based on biofiltration principles (filter media and vegetation). The substitution must be submitted to the Principal Certifier for approval prior to installation.

Reason: To ensure stormwater is appropriately managed and in accordance with the Water Management for Development Policy.

55. Implementation of Demolition Traffic Management Plan

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

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

56. Staff and Contractor Parking

The applicant is to make provision for parking for all construction staff and contractors for the duration of the project. All Staff and Contractors are to use the basement parking once available. All necessary facilities are to be provided to accommodate this requirement including lighting in the basement, security cameras, etc.

Reason: To ensure minimum impact of construction activity on local parking amenity.

57. Implementation of Construction Traffic Management Plan

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

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

58. Ongoing Management

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

59. 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.

60. Geotechnical Requirements

All recommendations included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

61. Survey Certificate

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

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

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

62. Requirement to Notify about New Contamination Evidence

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

Reason: To protect human health and the environment.

63. Imported Fill

Prior to the importation of any landfill material onto the site, a waste classification report is to be prepared in accordance with the NSW Environment Protection Authority Guidelines, the report shall state in an end statement that the fill material is suitable for the proposed use on the land.

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

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

64. Waste/Recycling Requirements (Waste Plan Submitted)

During demolition and/or construction the proposal/works shall be generally consistent with the

submitted Waste Management Plan titled dated [INSERT].

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

65. Waste/Recycling Requirements (Materials)

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

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

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

66. Acoustic Glazing Construction

Glazing recommendations provided in Section 4 of the Acoustic Report dated 25 September 2023 prepared by Acoustic Dynamics are to be implemented into the construction of the Units identified in Table 3.1 of the report.

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

Reason: To ensure acoustic treatments to protect noise amenity

67. Acoustic Treatment

Any acoustic treatment recommended by the acoustic consultant for the mechanical plant and construction of the development, are to be implemented into the development.

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

Reason: To ensure acoustic treatments have been implemented to protect noise amenity

68. Landscape Completion

Landscape works are to be implemented in accordance with the approved Landscape Plans as amended by Conditions of Consent.

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

Reason: Environmental amenity.

69. Condition of Retained Vegetation

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,

- c) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

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

The Applicant shall submit a certification by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) that the completed works have been constructed in accordance with this consent and the approved Section 138 and/or Construction Certificate plans. Works as Executed data certified by a registered surveyor in relation to boundaries shall be submitted to Council for acceptance and Council's written acceptance shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

71. **Certification of Council Drainage Works and Works as Executed Data in accordance with Local Government S68 Approval**

The Applicant shall submit certification by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) that the completed works have been constructed in accordance with this consent and the approved Section 68 application. Works as Executed data (details overdrawn on a copy of the approved drainage plans) certified by a registered surveyor in relation to boundaries and/or relevant easements prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Stormwater Assets', shall be submitted to Council for acceptance and Council's written acceptance shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

72. **Certification for the Installation of Stormwater Treatment Measures**

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the construction certificate approved plans. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. Vegetated measures must exhibit an 80 percent survival rate of plantings.

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

Reason: Protection of the receiving environment.

73. **Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater treatment measures, restricting any alteration to the measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification to the stormwater treatment measures is not carried out without Council's approval.

74. Stormwater Treatment Measures Operation and Maintenance Plan

An Operation and Maintenance Plan is to be prepared to ensure the proposed stormwater treatment measures remain effective.

The Plan must be attached to the Positive Covenant (and the community or strata management statement if applicable) and contain the following:

1. Detail on the stormwater treatment measures:
 - a) Work as executed drawings
 - b) Intent of the stormwater treatment measures including modelled pollutant removal rates
 - c) Site detail showing catchment for each device
 - d) Vegetation species list associated with each type of vegetated stormwater treatment measure
 - e) Impervious area restrictions to maintain the water balance for the site
 - f) Funding arrangements for the maintenance of all stormwater treatment measures
 - g) Identification of maintenance and management responsibilities
 - h) Maintenance and emergency contact information
2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:
 - a) Activity description, and duration and frequency of visitsAdditionally for vegetated devices:
 - b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
 - c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure
3. Maintenance schedule and procedure - ongoing

- a) Activity description, and duration and frequency of visits
- b) Routine maintenance requirements
- c) Work Health and Safety requirements
- d) Waste management and disposal
- e) Traffic control (if required)
- f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
- g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

Details demonstrating compliance shall be submitted to the Principal Certifier prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

75. Works as Executed Drawings - Stormwater Treatment Measures

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

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

Reason: Protection of the receiving environment.

76. Allocation of parking spaces (strata title)

All carparking spaces are to be assigned to individual units. All residential units must be assigned a minimum of one parking space. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To ensure parking availability for residents in accordance with section C3 of Warringah Council's Development Control Plan.

77. Disabled Parking Spaces

Where disabled parking spaces are provided they must be in accordance with AS2890.6:2022.

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

Reason: To ensure compliance with Australian Standards.

78. Shared Zone Bollard

A bollard is to be provided at the shared zone between disabled spaces in accordance to Australian Standards AS2890.6:2022.

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

Reason: To ensure compliance with Australian Standards.

79. **Post-Construction Dilapidation Report**

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

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

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

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

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

80. **Geotechnical Certification Prior to Occupation Certificate**

A Geotechnical Engineer or Engineering Geologist is to provide written confirmation that they have inspected the site during construction or reviewed information relating to the construction and that they are satisfied that development referred to in the development consent has been constructed in accordance with the intent of the Geotechnical Report referenced in Condition 1 of this consent.

Written certification is to be provided to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

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

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance of the pump-out facility on the property being developed. Northern Beaches Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Northern Beaches Council's delegate shall sign these documents prior to the submission to the NSW Land Registry Services. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

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

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

82. Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures

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

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgment 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 as to user is to be submitted.

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

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

83. Flood Protection Certification

A suitably qualified Civil Engineer and Registered Surveyor are to certify that the completed works have been constructed in accordance with this consent and the approved plans with respect to the following:

All access, ventilation, driveway crests and any other potential water entry points to the basement car park have been set at or above the Flood Planning Level of 14.650m AHD in accordance with the Overland Flow Investigation & Report by Barrenjoey Consulting Engineers Pty Ltd, Job No 240403 dated April 2024.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

84. Access to residential bin storage room for servicing staff.

The service door for the residential bin room is to be fitted with a timer lock programmed to be unlocked from 5.00am to 6.00pm on the scheduled day of collection.

Reason: To ensure ongoing access to residential waste and recycling bins for servicing staff.

85. Garbage and Recycling Facilities

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

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

Waste rooms shall be clear of any other services or utilities infrastructure such as gas,

electricity air-conditioning, plumbing, piping ducting or equipment.

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

86. House / Building Number

The building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

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

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

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

External directional signage is to be erected on site at driveway entry points and on buildings and is to reflect the numbering in the table provided. Unit numbering signage is also required on stairway access doors and lobby entry doors.

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

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

Reason: To ensure consistent numbering for emergency services access.

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

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

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

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

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

Reason: To ensure waste and recycling facilities are provided.

90. **Waste/Recycling Compliance Documentation**

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

Reason: To ensure waste is minimised and recycled.

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

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

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

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

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

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

Reason: To create encumbrances on the land.

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

93. **Landscape Maintenance**

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

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

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

The approved landscape area shall in perpetuity remain as planting under the development consent.

Reason: To maintain local environmental amenity.

94. **Maintenance of Stormwater Treatment Measures**

Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Vegetated stormwater treatment measures must maintain an 80 percent survival rate of plantings and limit weed cover to no more than 10 percent of the total area of the stormwater treatment measure.

Where replacement cartridges or other necessary components for the system become unavailable, an alternative system is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

95. **Visitor and Customer Parking**

The visitor parking is to be accessible at all times and the customer parking must be accessible during the operating hours of the retail tenancies. Signs are to be erected at the vehicular entry point of the development indicating the location of the visitor and customer parking.

Reason: To ensure visitors and customers are not forced to park on public streets when parking has been provided and is available within the development.

96. **Sight lines within carparks**

The required sight lines to pedestrians and other vehicles in and around the carpark and entrance(s) are not to be obstructed by landscaping or signage.

Reason: To maintain unobstructed sight distance for motorists.

97. **Car Parking Allocation**

The development is to maintain the following parking allocation for the life of the development:

- a. 26 x residential spaces, inclusive of 3 x accessible parking spaces and 5 x silver level car spaces,
- b. 5 x residential visitor spaces,
- c. 17 x commercial spaces, inclusive of 2 x accessible parking spaces,
- d. 1 x loading bay.

All spaces must be line-marked and identified accordingly.

Manoeuvring areas must be kept clear of obstructions at all times. Vehicles must not be required to queue on public roads at any time.

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

98. **Mechanical Plant**

The combined mechanical plant equipment shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

99. **Waste Collection, Deliveries and Servicing**

Waste collection, deliveries and servicing shall not occur between the hours of 10:00pm and 6:00am daily.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

100. **Commercial Waste and Recycling Storage**

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

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

101. **Liveable Housing Units**

The proposal must maintain five (5) apartments incorporating the Livable Housing Guideline's silver level universal design features in accordance with the Class C requirements of AS4299.

Reason: To maintain the appropriate quantity of liveable and adaptable units over the life of the development.