

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1113
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Responsible Officer:	Rebecca Englund
Land to be developed (Address):	Lot 1 DP 715158, 1753 Pittwater Road MONA VALE NSW 2103
Proposed Development:	Construction of a Shop Top Housing development and strata subdivision
Zoning:	B4 Mixed Use
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Bellevue Co (Mona Vale) Pty Ltd
Applicant:	Bellevue Co (Mona Vale) Pty Ltd

Application lodged:	28/06/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Mixed
Notified:	11/07/2018 to 29/07/2018
Advertised:	14/07/2018
Submissions Received:	0
Recommendation:	Approval

Estimated Cost of Works:	\$ 4,008,726.00
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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.

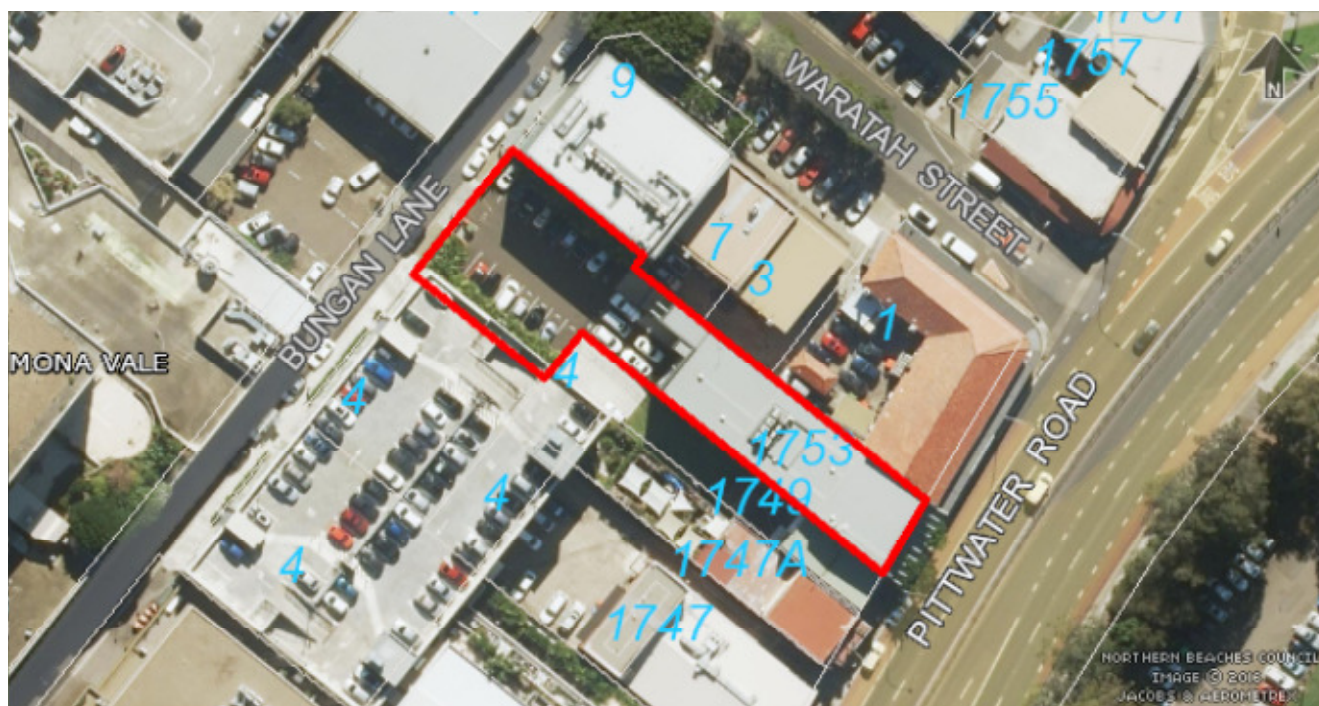
SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings
 Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements
 Pittwater 21 Development Control Plan - B8.4 Construction and Demolition - Site Fencing and Security
 Pittwater 21 Development Control Plan - C1.1 Landscaping
 Pittwater 21 Development Control Plan - C1.4 Solar Access
 Pittwater 21 Development Control Plan - C1.12 Waste and Recycling Facilities
 Pittwater 21 Development Control Plan - C2.2 Safety and Security
 Pittwater 21 Development Control Plan - C2.3 Awnings
 Pittwater 21 Development Control Plan - C2.22 Plant, Equipment Boxes and Lift Over-Run
 Pittwater 21 Development Control Plan - D9.6 Front building line

SITE DESCRIPTION

Property Description:	Lot 1 DP 715158 , 1753 Pittwater Road MONA VALE NSW 2103
Detailed Site Description:	<p>The site is legally described as Lot 1 in Deposited Plan 715158, and is commonly known as 1753 Pittwater Road, Mona Vale. The is irregular in shape, with a 12.19m wide frontage to Pittwater Road, a 21.195m wide frontage to Bungan Lane, a maximum depth of 79.32m, and a total area of 1167m². A two storey commercial building is located on the eastern part of the site fronting Pittwater Road, with at at-grade car park for 22 vehicles on the western part of the site. Pedestrian access can be gained from both Pittwater Road and Bungan Lane, with vehicular access limited to Bungan Lane. The site experiences a slight fall of approximately 3.3m from Bungan Lane down to Pittwater Road, with a slope of approximately 4%.</p> <p>The site adjoins a classified road (Pittwater Road) and is located within the Mona Vale Commercial Centre. Whilst the eastern-most portion of the site that adjoins Pittwater Road is subject to flooding, the majority of the site is above the Flood Planning Level and is not subject to any hazards. The site is surrounded by development of varying use, scale, age and character, including a multi-storey public carpark to the south-west, and two and three storey mixed use buildings to the north.</p>

Map:



SITE HISTORY

Relevant history of the Site

On 29 July 2008, development consent was granted for alterations and additions to the existing commercial development, including the addition of a first floor.

On 31 October 2008, development consent was granted for further alterations and additions to the existing commercial development, including the installation of a lift.

On 5 July 2012, development consent was granted to subdivide 1 existing ground floor tenancy to provide for 3 smaller tenancies.

On 26 September 2016, a prelodgement meeting was undertaken to discuss options to subdivide the site to provide for the retention of the existing commercial building fronting Pittwater Road, with a shoptop housing development at the rear of the site fronting Bungan Lane.

History of the Application

On 28 June 2018, the development application was lodged with Council.

On 29 August 2018, the assessing officer undertook an inspection of the site.

On 2 November 2018, the assessing officer undertook a further inspection of the site.

On 4 October 2018, the assessing officer met with the Applicant to discuss concerns regarding:

- Building height
- Landscaping
- Solar access
- Proximity to 1749 Pittwater Road
- Acoustics

- Parking shortfall
- Waste collection
- Construction methodology
- Indicative allocation/subdivision
- Access through the ground floor
- Apartment design/internal amenity

On 9 October 2018, Council advised of these concerns in writing and provided a 3 week time-frame to address these concerns.

On 1 November 2018, amended plans were provided to Council.

On 5 November 2018, an amended clause 4.6 submission was provided to Council, in acknowledgement of the amended plans.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the construction of a shoptop development at the subject site. Specifically, the application proposes:

- the retention of the existing commercial building fronting Pittwater Road, with a gross floor area of 1014m²
- the demolition of the existing at-grade parking area
- the construction of a four storey shoptop housing development over two levels of basement carparking fronting Bungan Lane, comprised of:
 - a new ground floor commercial tenancy with a gross floor area of 49.7m²,
 - 24 x retail parking spaces, inclusive of 1 space for people with disabilities
 - 16 x residential spaces
 - 2 x residential visitor spaces
 - 4 x 1 bedroom apartments
 - 4 x 2 bedroom apartments
 - 2 x 3 bedroom apartments

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	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan ('P21 DCP') applies to this proposal.
Section 4.15 (1) (a)(iii a) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions"

Section 4.15 Matters for Consideration'	Comments
Regulation 2000 (EP&A Regulation 2000)	<p>of development consent. These matters can be addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 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>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter can be 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 P21 DCP 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	No submissions were received.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments																							
Building Assessment - Fire and Disability upgrades	The application proposes shop top housing mixed use development with three (3) residential levels, three (3) car parking levels being located at the ground floor and the basement, plus a retail tenancy located on the ground floor. The building will contain ten (10) sole occupancy units. Note that no formal assessment of the existing 'PRP building' has been undertaken except that the exit path of travel which needs to pass through the 'new development' car park will need to be addressed by Fire Engineering Report or a Modification to any Consent issued, prior to proceeding with the building.																							
Environmental Health (Acid Sulphate)	<table border="1"> <tr> <td data-bbox="520 920 1155 1003">Was sufficient documentation provided appropriate for referral?</td> <td data-bbox="1155 920 1428 1003">YES</td> </tr> <tr> <td data-bbox="520 1003 1155 1086">Are the reports undertaken by a suitably qualified consultant?</td> <td data-bbox="1155 1003 1428 1086">YES</td> </tr> <tr> <td data-bbox="520 1086 1155 1169">What class is the site in on the WLEP2011 Acid Sulfate Soils Map?</td> <td data-bbox="1155 1086 1428 1169">Class 5</td> </tr> <tr> <td data-bbox="520 1169 1155 1207">Is there risk of acid sulfate soil disturbance?</td> <td data-bbox="1155 1169 1428 1207">YES</td> </tr> <tr> <td data-bbox="520 1207 1155 1290">Will the excavations exceed the depth determined in the risk map?</td> <td data-bbox="1155 1207 1428 1290">NO</td> </tr> <tr> <td data-bbox="520 1290 1155 1373">Does the report adequately address acid sulfate risk mitigation?</td> <td data-bbox="1155 1290 1428 1373">YES</td> </tr> <tr> <td data-bbox="520 1373 1155 1456">Have you considered disposal of water during excavation, pump out etc.</td> <td data-bbox="1155 1373 1428 1456">YES</td> </tr> <tr> <td data-bbox="520 1456 1155 1538">Have you considered disposal of contaminated soil.</td> <td data-bbox="1155 1456 1428 1538">YES</td> </tr> <tr> <td colspan="2" data-bbox="520 1538 1428 1644"> General Comments The Environmental Health Department has no objections to the development subject to conditions being imposed. </td> </tr> <tr> <td data-bbox="520 1644 1155 1758"> Recommendation </td> <td data-bbox="1155 1644 1428 1758"> APPROVAL - subject to conditions </td> </tr> <tr> <td colspan="2" data-bbox="520 1758 1428 1841"> Comments completed by: Max Payne Date:19/07/2018 </td> </tr> </table>		Was sufficient documentation provided appropriate for referral?	YES	Are the reports undertaken by a suitably qualified consultant?	YES	What class is the site in on the WLEP2011 Acid Sulfate Soils Map?	Class 5	Is there risk of acid sulfate soil disturbance?	YES	Will the excavations exceed the depth determined in the risk map?	NO	Does the report adequately address acid sulfate risk mitigation?	YES	Have you considered disposal of water during excavation, pump out etc.	YES	Have you considered disposal of contaminated soil.	YES	General Comments The Environmental Health Department has no objections to the development subject to conditions being imposed.		Recommendation	APPROVAL - subject to conditions	Comments completed by: Max Payne Date:19/07/2018	
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Internal Referral Body	Comments	
	<p>Have you reviewed the Statement of Environmental Effects, and consider ongoing use, such as:</p> <ul style="list-style-type: none"> - Processes with emphasis on potential pollution (air, noise, water and land) - Hazardous Materials, liquids stored on site - Waste storage, disposal. - Mechanical ventilation 	YES
	<p>Have you Consider impact of noise, hours of operation, location to nearest residential, location of equipment, times of deliveries, noise management plans, acoustic reports etc.</p>	YES
	<p>If the proposal is a scheduled premises have you recommended that the DAO refer the proposal to OEH?</p>	N/A
	<p>General Comments</p> <p>The Environmental Health Department has no objections to the development application subject to the recommended conditions being imposed.</p> <p>Please note that hours of operation may become an issue if the use of the site generates noise. It is recommend that a condition is imposed on the hours of operation for the use of the commercial/retail component of the development as the use of the site is currently unknown. Recommend imposing the requirement to lodge a development application if a food premise or other noise generating establishment is to operate from the retail/commercial component of premise as the sensitive receivers are directly above the location of the retail/ commercial component of the development.</p>	
	<p>Recommendation</p>	<p>APPROVAL - subject to conditions</p>
	<p>Comments completed by: Max Payne Date: 19/07/2018</p>	
Landscape Officer	<p>In terms of deep soil provisions, the landscape proposal is not supported in its current form.</p> <p>The landscape proposal fails to achieve the landscape intent of the SEPP No. 65 - Apartment Design Guide, with reference to the desired landscape intent within deep soil areas. Deep soil areas are required to be sufficient in ground surface area to support trees. The suggested ground area for planting of a small tree as classified within the Apartment Design Guide is 15m³, which may be interpreted as 5m x 3m x 1m depth or similar. It is noted that a 1m depth zone is typically required to be considered as landscaped area within Pittwater 21 DCP controls.</p> <p>The 2.5m setback limits the opportunity to satisfy this requirement, whereas the required 3.5m setback at ground level may achieve the</p>	

Internal Referral Body	Comments
	<p>required landscape result within deep soil for shop top housing.</p> <p>The existing substation Kiosk occupies deep soil within the proposal, but it is not able to be planted to achieve the intent of deep soil (ie. planting of trees). The existing Kiosk restricts any planting, and Ausgrid requirements for horizontal and vertical access will exclude planting immediately around the Kiosk. Retention of the existing Yellow Cane Palms around the Kiosk do not provide landscape amenity and shade as required by the Apartment Design Guide for deep soil area.</p> <p>The proposed Livistona (Cabbage Tree Palm) planting along the laneway frontage provides delivery of the minimum 4m² planter or landscaped area to be provided as a feature at the ground level of the front building façade, and provide landscaping to the front of the development, under C1.1 Landscaping.</p> <p><u>Assessing Officer Comment:</u> The proposal was amended to include additional planters, including a 6.6m x 4.6m x 1m deep planter in the centre of the site. The proposal is considered to provide adequate landscaping for a shop top housing development located within a commercial centre.</p>
NECC (Development Engineering)	The submitted stormwater management plan and access proposal for the development is acceptable. No Development Engineering objection is raised subject to conditions.
Strategic and Place Planning (Urban Design)	<p>CURRENT ASSESSMENT 13.11.2018</p> <p>The revised drawings demonstrate a slight breach of the height control (3-5%), which in the context of the immediate neighbourhood, streetscape and urban design context, is acceptable. The revised drawings have addressed most of the issues raised in the previous Urban Design assessment where practicable.</p> <p>Recommended for approval.</p> <p>END</p> <p>PREVIOUS ASSESSMENT</p> <p>1. Built Form Controls</p> <p><i>Pittwater 21 LEP 2014 (PLEP) - Part 4 Principal Development Standards</i></p> <p><i>(1) The objectives of this clause are as follows:</i></p> <p><i>(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,</i></p> <p><i>(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,</i></p> <p><i>(c) to minimise any overshadowing of neighbouring properties,</i></p> <p><i>(d) to allow for the reasonable sharing of views,</i></p> <p><i>(e) to encourage buildings that are designed to respond sensitively to</i></p>

Internal Referral Body	Comments
	<p><i>the natural topography,</i> <i>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</i></p> <p>RESPONSE The proposed development exceeds the Pittwater LEP 13m Height control. The drawings do not demonstrate lift over runs, mechanical plant and associated screening that would feature over and above that demonstrated on the drawings and will result in further increases in the proposed height. Associated with this is the requirement to increase the floor to ceiling height on the commercial level which will push the current proposed height further over the height control.</p> <p>There are a number of issues associated with and factors contributing to the height exceedance. The upper storey penthouses are not supported.</p> <p>Refer also ADG comments below Commercial Ceiling heights.</p> <p>2. Pittwater 21 Development Control Plan - 2014</p> <p><i>A4.9 Mona Vale Locality</i></p> <p><i>Desired Future Character</i> <i>a. . . . Future development will maintain a building height limit below the tree canopy and minimise bulk and scale. . .</i></p> <p>RESPONSE Aspects/ views from particular locations to the west toward the ridge line will reveal the height exceedance and is not in keeping with the desired future character.</p> <p><i>b. The design, scale and treatment of future development within the Mona Vale commercial centre will reflect principles of good urban design. Landscaping will be incorporated into building design. Outdoor cafe seating will be encouraged.</i></p> <p>RESPONSE Landscaping treatment combined with the setback on Bungan Lane provide relief from the adjacent developments' zero lot alignments and is supported.</p> <p>Consideration should be made regards the large feature palm tree and the health and safety of pedestrians on the footpath below and amenity to the apartment residents.</p> <p>It is common for bats to nest, reside and feed off large fruit bearing palm trees. Consideration of amenity and health issues associated</p>

Internal Referral Body	Comments
	<p>with bats and the associated health risks to future residents, particularly apartments directly adjacent to the palm tree is to be addressed.</p> <p>In addition, there are safety issues with the dropping of large palm fronds onto pedestrian pathways below.</p> <p>Consideration should be given to alternative feature plantings, preferably native species to encourage birdlife to the area. Refer C1.1 Landscaping; Landscaping retains and enhances Pittwater's biodiversity by using locally native plant species (En)</p> <p><i>C1.4 Solar Access</i></p> <p><i>Outcomes</i></p> <p><i>Residential development is sited and designed to maximise solar access during mid-winter. (En)</i></p> <p><i>A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development. (En)</i></p> <p><i>Reduce usage and/dependence for artificial lighting. (En)</i></p> <p><i>Variations</i></p> <p><i>General</i></p> <p><i>Where the following constraints apply to a site, reasonable solar access to the main private open space and to windows to the principal living area will be assessed on a merit basis:</i></p> <ul style="list-style-type: none"> <i>• where the orientation or shape of a lot precludes northerly orientation (20o west to 30o east of north),</i> <i>• where there is adverse slope or topography,</i> <i>• where there is existing vegetation, obstruction, development or fences that overshadow, or</i> <i>• where other controls have priority, e.g. heritage and landscaping considerations.</i> <p><i>Subject to a merit assessment, consent may be granted where a proposal does not comply with the standard, provided the resulting development is consistent with the general principles of the development control, the desired future character of the locality and any relevant State Environmental Planning Policy.</i></p> <p><i>Shop top housing</i></p> <p><i>Council may consider a variation for shop top housing on sites constrained by orientation, existing or proposed development, etc provided that:</i></p> <ul style="list-style-type: none"> <i>• the outcomes of this clause are achieved</i> <i>• the principal living area and private open space for at least 70% of dwellings proposed receive a minimum 3 hours of sunlight between 9am and 3pm on 21st June, . . .</i> <p>RESPONSE</p> <p>Solar Access constrained by adjacent bounding properties and site/lot</p>

Internal Referral Body	Comments
	<p>orientation. The design has optimised opportunities on the site to achieve adequate solar gain however there remain several units that are non-compliant with solar access controls. Deletion of the upper storey penthouse apartments provides an opportunity to address solar roof skylights that may assist to achieve solar gain within the depth of the plan where solar access is compromised.</p> <p>3. Apartment Design Guide (ADG)</p> <p>2F Building Separation The proposed development demonstrates adequate separation to the building in the rear courtyard.</p> <p>2H Side and Rear Setbacks The proposed development provides adequate setbacks.</p> <p>3C Public Domain interface The proposed development is in a B4 Mixed Use Zone. The narrow laneway divides and is predominantly development of a similar bulk and scale on both sides of the laneway. Directly opposite to the west is a vacant lot, posing no issues with overlooking, overshadowing and amenity by virtue of the separation.</p> <p>3F Visual Privacy Direct lines of sight should be avoided for windows and balconies across corners (refer page 63-65 ADG) There are several apartment windows on the eastern elevation that do not benefit from deep balconies to provide privacy screening. Windows on this orientation should provide screening to avoid overlooking from and to the internal courtyard.</p> <p>4A Solar and Daylight Access The drawings demonstrate adequate orientation to optimise limited daylight and solar access to the majority of apartments. The addition of skylights to internal rooms deep into the plan as suggested above is recommended. The applicant is encouraged to demonstrate solar gain to the internal spaces through the use and representation of internal shadow diagrams. (See page 78 ADG)</p> <p>4B Natural Ventilation Apartments 2, 4, 6 and 8 have compromised ventilation strategies. The remainder of the proposed development demonstrates cross ventilation requirements can be achieved with most of the apartments. Additional measures to optimise cross ventilation in the compromised apartments, through exploration of the floor plans across the development, is encouraged.</p>

Internal Referral Body	Comments
	<p>4C Ceiling Height <i>Greater than minimum ceiling heights for retail and commercial floors of mixed use developments are encouraged to promote flexibility of use. Café and Restaurant type tenancies require greater minimum ceiling heights of 4m to allow additional servicing needs. The tenancy type is not defined in the documentation, and as such would assume the tenancy allows for café/restaurant and retail as alternatives.</i></p> <p>The current floor to ceiling height is 3.3m (assuming the 3.5m datum on the drawing is inclusive of 200mm slab)</p> <p>The minimum floor to ceiling height as recommended by the ADG has not been achieved.</p> <p>Compliance with the recommended floor to ceiling height to allow for a variety of tenancies is recommended.</p>
Traffic Engineer	<p>Servicing: The servicing of the site should occur wholly within the site. 1P parking restrictions apply along Bungan Lane. As such servicing from the street is unfavorable. The plans shall be amended to provide servicing facilities onsite. This will enable residential tenants to engage removalist vehicles so as to move into and out of the building. Accommodation of Council's 8.8m MRV waste vehicle would also be beneficial.</p> <p>Parking: The existing 22 spaces are to be retained for the current commercial building onsite. An additional 18 spaces are proposed for the new commercial and residential tenancies. Based on the RMS Guidelines, - 2 spaces required for the Commercial. - 12 spaces for the residential. However in accordance with Council's DCP, there would be a shortfall of 3 spaces. Due to the fact that the site is well serviced by public transport, the 18 spaces is deemed adequate to service the additional components of the site. Traffic Team raises no objections subject to any comments raised by the Development Engineer.</p> <p>Traffic: The existing commercial building is to be retained, as well as the associated parking. Therefore any impacts of traffic will be calculated on the net increase generated from the proposed site. Based on RMS Guidelines:</p>

Internal Referral Body	Comments
	<p>- 1 vehicle in the peak hour for the Commercial. - 4 vehicles in the peak hour for the medium density residential. The net increase of 5 vehicles in the peak hour is deemed negligible on the road network. Traffic Team raise no objection.</p> <p>Pedestrian: Upgrade of the footpath and Public Domain on both site frontages will be required to ensure pedestrian safety to, from and around the site. Traffic Team raise no objections subject to conditions.</p> <p>Car Park Layout: Parking layout and ramp grades deemed compliant with AS2890.1. Further detail of the waiting bay and ramp operation will be required. Traffic Team raises no objection subject to conditions.</p> <p><u>Assessing Officer Comment:</u> Whilst identified by the Traffic Engineer as being unfavourable, the incorporation of a loading bay at the frontage of the site would not only be of benefit to the subject site, but to a number of retail premises in the vicinity of the site that do not have vehicle access or on-site loading facilities, including the tenancies at 7, 9 and 11 Waratah Street. Although a timed loading bay would remove 2 on-street 1 hour parking spaces, it is noted that there are hundreds of short-stay public parking spaces provided in the adjoining public car park, located less than 20m from the parking spaces that would be removed.</p> <p>The ability for a garbage/removalist truck to enter the site is considered to be an unreasonable requirement with respect to the size and scale of the site, particularly noting that the turning requirements required at the driveway entrance would result in the permanent removal of 2 parking spaces. As such, a condition of consent is recommended to require a timed limited loading bay at the frontage of the site.</p>
Waste Officer	<p>The submission does not satisfy the requirements of Northern Beaches Waste Management Guideline. Details as follows</p> <p>Bin room location and design The bin room does not accommodate 8 x 240L bins. The plan only shows a suitable area for 7 x 240L bins. The bin room is located further than 6500mm from the front property boundary and behind doors which may be secured The bin room must be fully enclosed and integrated into the development so it does not appear from the street as a bin room to discourage illegal dumping. The bin room is to not house other services such as pipes, electrical and air con units.</p> <p>Bulk waste room The applicant has not provided a bulk waste room on the plans. This is to be 4 cubic meters of practical space to fit a lounge, fridge or</p>

Internal Referral Body	Comments
	<p>mattress. This is ideally to be adjacent to the bin room and enclosed (integrated as part of the development to ensure it does not stand out).</p> <p>Amended Comments (dated 15.11.2018)</p> <p>Waste Management will support the location of the binroom in this instance even though it is beyond the 6.5m requirement.</p> <p>The following will need to be resolved before we will support this proposal entirely:</p> <ul style="list-style-type: none"> • Removal of the gates. <p>With the bulky waste room located in a lower level of the building it will be the owners corporation's responsibility to place the materials at the kerbside for collection.</p> <p>Collection of waste from this development will result in the blocking of vehicular traffic in Bungan Lane whilst the collection service is undertaken.</p> <p>Is it possible to have parking restrictions placed in the lane in front of this building on collection day?</p> <p><u>Assessing Officer Comments:</u> See further comment with regard to clauses C1.12 and C2.9 of P21 DCP.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated.

Council records indicate that the subject site has been used for a commercial purpose for a significant period of time. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55.

SEPP 65 - Design Quality of Residential Apartment Development

The application seeks consent for a 4 storey shop top housing development comprising 10 dwellings, and as such, the provisions of *State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment Development* ('SEPP 65') apply.

Clause 28 of SEPP 65 requires a consent authority to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration) the design quality of the development when evaluated in accordance with the design quality principles identified in Schedule 1 of SEPP 65, and the *Apartment Design Guide*.

The design quality principles are considered as follows:

- *Principle 1: Context and Neighbourhood Character*

Comment: The proposed development is considered to be an appropriate fit for the site, providing further activation and much needed softening of Bungan Lane. The proposed built form responds well to the scale and form of adjoining buildings, with minimal impact upon the current or potential future use of adjoining sites and the urban environment.

- *Principle 2: Built Form and Scale*

Comment: The subject site is surrounded by buildings of varied use, proportion, height and scale. However, it is noted that the more recent shop top housing developments throughout the Mona Vale Commercial Centre are generally 4 storeys in height, consistent with that currently proposed. The development is well-modulated, particularly compared with adjoining and nearby buildings, and will positively contribute to the character of the lane way. The individual apartments are also of an appropriate scale, providing good amenity for future occupants of the development.

- *Principle 3: Density*

Comment: The proposed development comprises 10 dwellings, inclusive of 4 x 1 bedroom apartments, 4 x 2 bedroom apartments and 2 x 3 bedroom apartments. The medium density development is consistent with the density anticipated within the zone, and within the Mona Vale Commercial Centre. The proposed density is considered to be the appropriate balance in consideration of the size of the footprint of the development, with an appropriate mix of apartment sizes and designs.

- *Principle 4: Sustainability*

Comment: As discussed further with respect to the Apartment Design Guide and P21 DCP, the proposed shop top housing development is considered to be an appropriate design response in consideration of the context and orientation of the site. The majority of the apartments achieve natural cross ventilation and will receive adequate natural light, such that the amenity and livability of the apartments is high, without excessive reliance upon air-conditioning and artificial

lighting. The application was also supported by a BASIX Certificate to ensure that the development will be constructed and maintained in a manner that is consistent with relevant industry standards.

- *Principle 5: Landscape*

Comment: The proposed landscape solution will appropriately soften the built form of the development as seen from Bungan Lane. Furthermore, the balcony landscaping on the eastern facade, combined with the larger elevated planter between the existing and proposed buildings on the site will actively to soften the appearance of the development as seen from the east. The proposed landscaping will also soften and screen the outlook from within the proposed apartments, which is considered to be of most importance within the commercial centre.

- *Principle 6: Amenity*

Comment: The proposed apartments are appropriately sized, with well resolved layouts, and adequate access to natural ventilation and daylight. Although technically non-compliant with the solar access requirements of the ADG, the amount of cross-through apartments has been maximised and the dimensions of rooms and window openings will ensure that the spaces do not feel dark or enclosed. The proposal does not provide communal open space, however the individual areas of private open space meet or far exceed the minimum requirements prescribed.

- *Principle 7: Safety*

Comment: The ground floor has been designed to provide a designated and accessible path of travel through the building, to the existing commercial premises fronting Pittwater Road. Whilst not evident in the detail provided at this stage, it is considered that adequate measures can be employed to maximise security through the mixed use site.

- *Principle 8: Housing Diversity and Social Interaction*

Comment: The proposal provides a good mix of apartment sizes, with 2 apartments designed to meet the Silver Level design requirements of the *Liveable Housing Guideline*.

- *Principle 9: Aesthetics*

Comment: The proposed development is well articulated, with an appropriate mix of colours and materials, and complemented by landscaping. The development will be a positive contribution to the Bungan Lane streetscape.

The following table is an assessment against the criteria of the *Apartment Design Guide* as required by SEPP 65:

ADG Reference	Subclause	Criteria / Guideline	C	G	O
Part 3 Siting the Development					

Site Analysis	3A-1	Design decisions based on site analysis.	-	Y	Y							
Orientation	3B-1	Layouts respond to the streetscape and optimise solar access.	-	Y	Y							
	3B-2	Overshadowing of neighbouring properties is minimised during mid winter.	-	Y	Y							
Public Domain Interface	3C-1	Transition between private and public places is achieved without compromising safety and security.	-	Y	Y							
	3C-2	Amenity of the public domain is retained and enhanced.	-	Y	Y							
Communal and Public Open Space	3D-1	Appropriate communal open space is to be provided as follows: <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) 	N	N	N							
	3D-2	Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.	-	N	N							
	3D-3	Communal open space is designed to maximise safety.	-	N	N							
	3D-4	Public open space is responsive to the existing pattern and uses of the neighbourhood.	-	N	N							
Deep Soil Zones	3E-1	Deep soil zones are to meet the following minimum requirements:	N	Y	Y							
		<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 33%;">Site area</th> <th style="width: 33%;">Minimum dimensions</th> <th style="width: 33%;">Deep soil zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>Less than 650m²</td> <td style="text-align: center;">-</td> <td rowspan="4" style="text-align: center; vertical-align: middle;">7%</td> </tr> <tr> <td>650m² – 1,500m²</td> <td style="text-align: center;">3m</td> </tr> <tr> <td>Greater than 1,500m²</td> <td style="text-align: center;">6m</td> </tr> <tr> <td>Greater than 1,500m² with significant existing tree cover</td> <td style="text-align: center;">6m</td> </tr> </tbody> </table>				Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m ²	-	7%	650m ² – 1,500m ²
Site area	Minimum dimensions	Deep soil zone (% of site area)										
Less than 650m ²	-	7%										
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	3F-1	Minimum required separation distances from buildings to the side and rear boundaries are as follows:	N	Y	Y							

		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			
		<i>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</i>					
	3F-2	Building design elements increase privacy without compromising access to light and air and balance outlook from habitable rooms and private open space.			-	Y	Y
Pedestrian Access and entries	3G-1	Entries and pedestrian access connects to and addresses the public domain.			-	Y	Y
	3G-2	Access, entries and pathways are accessible and easy to identify.			-	Y	Y
	3G-4	Large sites provide pedestrian links for access to streets and connection to destinations.			-	Y	Y
Vehicle Access	3H-1	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.			-	Y	Y
Bicycle and Car Parking	3J-1	Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.			-	Y	Y
	3J-2	Parking and facilities are provided for other modes of transport.			-	Y	Y
	3J-3	Car park design and access is safe and secure.			-	Y	Y
	3J-4	Visual and environmental impacts of underground car parking are minimised.			-	Y	Y
	3J-5	Visual and environmental impacts of on-grade parking are minimised.			-	Y	Y
	3J-6	Visual and environmental impacts of above ground enclosed car parking are minimised.			-	Y	Y
Part 4 Designing the Building							
Amenity							
Solar and Daylight Access	4A-1	To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space: 1. Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct			N	Y	Y

		<p>sunlight between 9 am and 3 pm at mid winter.</p> <p>2. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter</p>													
	4A-2	Daylight access is maximised where sunlight is limited.	-	Y	Y										
	4A-3	Design incorporates shading and glare control, particularly for warmer months.	-	Y	Y										
Natural Ventilation	4B-1	All habitable rooms are naturally ventilated.	-	Y	Y										
	4B-2	The layout and design of single aspect apartments maximises natural ventilation.	-	Y	Y										
	4B-3	<p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:</p> <p>1. 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> <p>2. Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.</p>	N	Y	Y										
Ceiling Heights	4C-1	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="630 1344 1252 1534"> <thead> <tr> <th colspan="2">Minimum ceiling height</th> </tr> </thead> <tbody> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td>If located in mixed used areas</td> <td>3.3m</td> </tr> </tbody> </table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	If located in mixed used areas	3.3m	N	Y	Y		
	Minimum ceiling height														
	Habitable rooms	2.7m													
Non-habitable	2.4m														
If located in mixed used areas	3.3m														
4C-2	Ceiling height increases the sense of space in apartments and provides for well proportioned rooms.	-	Y	Y											
4C-3	Ceiling heights contribute to the flexibility of building use over the life of the building.	-	-	-											
Apartment Size and Layout	4D-1	<p>Apartments are required to have the following minimum internal areas:</p> <table border="1" data-bbox="630 1870 1252 2105"> <thead> <tr> <th>Apartment type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m²</td> </tr> <tr> <td>1 bedroom</td> <td>50m²</td> </tr> <tr> <td>2 bedroom</td> <td>70m²</td> </tr> <tr> <td>3 bedroom</td> <td>90m²</td> </tr> </tbody> </table>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	Y	Y	Y
	Apartment type	Minimum internal area													
	Studio	35m ²													
	1 bedroom	50m ²													
	2 bedroom	70m ²													
3 bedroom	90m ²														

		<p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>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.</p>																		
	4D-2	<p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p>	Y	Y	Y															
	4D-3	<p>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space).</p> <p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> - 3.6m for studio and 1 bedroom apartments - 4m for 2 and 3 bedroom apartments <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</p>	Y	Y	Y															
Private Open Space and Balconies	4E-1	<p>All apartments are required to have primary balconies as follows:</p> <table border="1" style="margin-left: 20px;"> <thead> <tr> <th>Dwelling Type</th> <th>Minimum Area</th> <th>Minimum Depth</th> </tr> </thead> <tbody> <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> </tbody> </table> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.</p>	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	Y	Y	Y
	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																		
	4E-2	<p>Primary private open space and balconies are appropriately located to enhance liveability for residents.</p>	-	Y	Y															
	4E-3	<p>Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.</p>	-	Y	Y															

	4E-4	Private open space and balcony design maximises safety.	-	Y	Y										
Common Circulation and Spaces	4F-1	The maximum number of apartments off a circulation core on a single level is eight.	Y	Y	Y										
	4F-2	Common circulation spaces promote safety and provide for social interactions between residents.	-	Y	Y										
Storage	4G-1	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table border="1" data-bbox="630 611 1251 943"> <thead> <tr> <th>Dwelling Type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <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> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling Type	Storage size volume	Studio apartments	4m ²	1 bedroom apartments	6m ²	2 bedroom apartments	8m ²	3+ bedroom apartments	10m ²	N	Y	Y
	Dwelling Type	Storage size volume													
Studio apartments	4m ²														
1 bedroom apartments	6m ²														
2 bedroom apartments	8m ²														
3+ bedroom apartments	10m ²														
	4G-2	Additional storage is conveniently located, accessible and nominated for individual apartments.	-	Y	Y										
Acoustic Privacy	4H-1	Noise transfer is minimised through the siting of buildings and building layout.	-	Y	Y										
	4H-2	Noise impacts are mitigated within apartments through layout and acoustic treatments.	-	Y	Y										
Noise and Pollution	4J-1	In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.	-	Y	Y										
	4J-2	Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.	-	Y	Y										
Configuration															
Apartment Mix	4K-1	A range of apartment types and sizes is provided to cater for different household types now and into the future.	-	Y	Y										
	4K-2	The apartment mix is distributed to suitable locations within the building.	-	Y	Y										
Ground Floor Apartments	4L-1	Street frontage activity is maximised where ground floor apartments are located.	-	-	-										
	4L-2	Design of ground floor apartments delivers amenity and safety for residents.	-	-	-										
Facades	4M-1	Building facades provides visual interest along the street while respecting the character of the local area.	-	Y	Y										

	4M-2	Building functions are expressed by the facade.	-	Y	Y
Roof Design	4N-1	Roof treatments are integrated into the building design and positively respond to the street.	-	Y	Y
	4N-2	Opportunities to use roof space for residential accommodation and open space are maximised.	-	Y	Y
	4N-3	Roof design incorporates sustainability features.	-	Y	Y
Landscape Design	4O-1	Landscape design is viable and sustainable.	-	Y	Y
	4O-2	Landscape design contributes to the streetscape and amenity.	-	Y	Y
Planting on Structures	4P-1	Appropriate soil profiles are provided.	-	Y	Y
	4P-2	Plant growth is optimised with appropriate selection and maintenance.	-	Y	Y
	4P-3	Planting on structures contributes to the quality and amenity of communal and public open spaces.	-	Y	Y
Universal Design	4Q-1	Universal design features are included in apartment design to promote flexible housing for all community members.	-	Y	Y
	4Q-2	A variety of apartments with adaptable designs are provided.	-	Y	Y
	4Q-3	Apartment layouts are flexible and accommodate a range of lifestyle needs.	-	Y	Y
Adaptive Reuse	4R-1	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.	-	-	-
	4R-2	Adapted buildings provide residential amenity while not precluding future adaptive reuse.	-	-	-
Mixed Use	4S-1	Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement.	-	Y	Y
	4S-2	Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents.	-	Y	Y
Awnings and Signage	4T-1	Awnings are well located and complement and integrate with the building design.	-	Y	Y
	4T-2	Signage responds to the context and desired street character.	-	-	-
Performance					
Energy Efficiency	4U-1	Development incorporates passive environmental design.	-	Y	Y
	4U-2	Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer.	-	Y	Y
	4U-3	Adequate natural ventilation minimises the need for mechanical cooling.	-	Y	Y
Water Management and Conservation	4V-1	Potable water use is minimised.	-	Y	Y

	4V-2	Urban stormwater is treated on sit before being discharged to receiving waters.	-	Y	Y
	4V-3	Flood management systems are integrated into site design.	-	-	-
Waste Management	4W-1	Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.	-	Y	Y
	4W-2	Domestic waste is minimised by providing safe and convenient source separation and recycling.	-	Y	Y
Building Maintenance	4X-1	Building design detail provides protection from weathering.	-	Y	Y
	4X-2	Systems and access enable ease of maintenance.	-	Y	Y
	4X-3	Material selection reduces ongoing maintenance costs.	-	Y	Y

Detailed Assessment

3D Communal and Public Open Space

The proposed development does not comprise any communal open space, resulting in non-compliance with the design criteria of Objective 3D-1 of the *Apartment Design Guide*, which requires a communal area equal to 25% of the site. However, it is noted that non-compliance with this requirement is anticipated in certain circumstances, such as small sites and sites within business zones. The proposed non-compliance is not considered to compromise the amenity or livability of the development, noting that each apartment has private outdoor area/s of a size that meets or exceeds the minimum dimensions prescribed. Furthermore, the site is located opposite a large community park (Kitchener Park), which may be utilised by the occupants of the development for any open space requirements.

3E Deep Soil Zones

The proposed development does not provide any deep soil zones, inconsistent with the 7% minimum prescribed by the design criteria of Objective 3E-1 of the *Apartment Design Guide*. However, once again, this non-compliance is anticipated by the *Apartment Design Guide* in certain circumstances, including commercial centres and where non-residential uses are anticipated on the ground floor. Despite non-compliance in this regard, the proposal is still adequately landscaped and will appear appropriately 'green' and softened by vegetation.

3F Visual Privacy

The proposal has been designed with nil setbacks to the adjoining sites. This outcome is consistent with the setbacks prescribed by P21 DCP, however the nil setbacks are technically non-compliant with the spatial separation requirements prescribed by the design criteria of this objective. Furthermore, the rear of the proposed shop top housing development is located at a minimum distance of 5m from the existing building on the site, also inconsistent with the spatial separation distances prescribed.

The nil side setbacks to the adjoining sites allows for a continual facade to the lane way, and despite the lack of a setback, visual privacy is maximised for the proposed apartments without compromising the amenity of adjoining sites. Whilst the setback to the existing commercial building is not ideal, the spatial separation is considered to be adequate, given both the difference in levels between the two buildings, and the level of privacy attenuation measures proposed, which includes extensive

landscaping and screening devices.

4A Solar and Daylight Access

The proposal is inconsistent with the requirement of the design criteria of Objective 4A-1 of the *Apartment Design Guide*, which requires living rooms and private open space of at least 70% of the proposed apartments to receive a minimum of 2 hours of sunlight between 9am and 3pm in midwinter.

Whilst the shadow diagrams provided to support the application demonstrate that 8 of the 10 (80%) units will have direct sunlight to the windows associated with living rooms between 1pm and 3pm, the area of sunlight for Units 3, 5 and 7 at 1pm is not sufficient to provide benefit to the residents of the units, and as such, it is more realistic to say that these units will benefit from 1.5 hours of direct sunlight between 9am and 3pm in midwinter. As such, only 5 of the 10 (50%) units are considered to achieve compliance in this regard.

However, it is appreciated that 8 of the 10 (80%) units are cross-through apartments, with direct morning sun obtained to rooms on the eastern side of the dwellings. Furthermore, the units comprise expansive glazed surfaces and adequate ceiling heights such that the apartments will achieve adequate natural light, despite non-compliance with regard to direct sunlight. With this in mind, the proposal is considered to maximise sunlight to the proposed apartments, such that high levels of amenity will be achieved.

4C Ceiling Heights

The ceiling height of the proposed commercial tenancy is 2.7m, inconsistent with the 3.3m minimum recommended by Objective 4C-1 of the *Apartment Design Guide*. Despite non-compliance with the design criteria prescribed, the ceiling height is considered to be adequate in light of the limited depth and floor space of the commercial tenancy proposed. Furthermore, the ceiling height is not considered to limit the potential future uses or flexibility of the space, such that the intent of the larger ceiling height will still be achieved.

4G Storage

Whilst the proposal provides the necessary volume of storage required by the design criteria of Objective 4G-1 of the *Apartment Design Guide*, the proposed development does not provide 50% of the necessary storage area within individual apartments (in addition to storage in kitchens, bathrooms and bedrooms), resulting in inconsistency in this regard. However, the size of the robes proposed in each of the bedrooms exceeds the minimum size prescribed by the design guidance of Objective 4D-3, and as such, well designed and convenient storage is considered to be available to future occupants of the development.

SEPP (Infrastructure) 2007

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

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

power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Pittwater Local Environmental Plan 2014

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:	13m	13.6m	4.6%	No

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.10 Essential services	Yes

Detailed Assessment

4.3 Height of buildings

and 4.6 Exceptions to development standards

The proposal is non-compliant with the 13m maximum building height prescribed by clause 4.3 of PLEP 2014. The maximum building height is a development standard, as defined by the *Environmental Planning and Assessment Act 1979* ('**EP&A Act**'), and as such, the provisions of clause 4.6 of PLEP 2014 can be applied.

Pursuant to clause 4.6(2) of PLEP 2014, consent may be granted for development even though the development would contravene a development standard prescribed by an environmental planning instrument. Whilst this clause does not apply to standards expressly excluded from this clause, the maximum building height is not expressly excluded and thus the clause can be applied in this instance.

Requirement:	13m
Proposed:	13.6m
Is the planning control in question a development standard?	YES
Is the standard expressly excluded from this clause?	NO
If numerical, enter a % variation to requirement	4.6%

Has the applicant's submission addressed the relevant criteria?

Pursuant to clause 4.6(4)(a) of PLEP 2014, consent can only be granted if the consent authority is satisfied that the applicant's written request to vary the development standard has addressed the criteria of clause 4.6(3) of PLEP 2014. The application was supported by a detailed submission (**attached**) addressing the provisions of clause 4.6 of PLEP 2014. The submission is considered with regard to the criteria of clause 4.6(3) of PLEP 2014, as follows:

- *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,*

Comment: In accordance with the NSW LEC findings in the matter of *Wehbe v Pittwater Council*, one way in which strict compliance with a development standard may be found to be unreasonable or unnecessary is if it can be demonstrated that the objectives of the standard are achieved, despite non-compliance with the development standard. The applicant's submission has satisfactorily demonstrated that the proposal will achieve consistency with the objectives of the building height development standard, and as such, strict compliance is considered to be unreasonable and unnecessary in the circumstances of this application.

- *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*, "environmental planning grounds" were found to refer to grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects prescribed by clause 1.3 of that Act. In this regard, the applicant's submission provides that minor breach promotes a better and more orderly planning outcome for the site, avoiding the need to include steps in the floor levels/plates of the three residential levels, which would otherwise be required as a consequence of the minor fall in the land. Furthermore, the statement demonstrates that, despite minor non-compliance with the maximum height prescribed, the proposed shop top housing development is of good design and amenity, the height of which is compatible with surrounding built form, consistent with the objects of the EP&A Act.

With this in mind, it is considered that the applicant's justification for non-compliance, satisfactorily demonstrates that there are sufficient environmental planning grounds to justify contravention of the 13m maximum building height development standard.

Therefore, the consent authority can be satisfied that the applicant's written request has satisfactorily addressed the matters required by clause 4.6(3) of PLEP 2014.

Is the proposal in the public interest?

Under the provisions of clause 4.6(4)(a) of PLEP 2014, consent must not be granted to a proposal that contravenes a development standard unless that proposed development (as a whole) will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is to be carried out.

The proposal is considered to be consistent with the objectives of the building height development standard, as follows:

- *to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*

Comment: The desired future character statement for the Mona Vale locality prescribes that the scale of new development is to reflect principles of good design and that the height of new buildings is to be maintained below tree canopy.

The scale of the proposed development is well articulated and, as evident in the assessment further in this report, consistent with the outcomes and objectives of the relevant built form controls in P21 DCP and the Apartment Design Guide. The height of the development will also sit below the height of significant trees within the vicinity of the site, and those proposed at the rear of the proposed building. As such, the height and scale of the proposed development is considered to be consistent with the desired future character of the Mona Vale locality.

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

Comment: The height and scale of buildings within the Mona Vale Commercial Centre are varied, as exemplified by the single storey post office building to the south-east of the site and the multi-storey office tower to the south-west of the site. However, it is noted that the majority of recent shop top housing developments in the vicinity of the site have a four storey presentation to the public domain. In this regard, the height and scale of the proposed four storey shop top housing development is considered to be compatible with that of other development within the Commercial Centre.

More specifically, as evident in the elevations provided to support the application, the height and scale of the proposed development appears to align with that of adjoining development such that the development will not be incompatible with immediately adjoining buildings, in so far as the development will not be jarring or at odds with surrounding built form.

- *to minimise any overshadowing of neighbouring properties,*

Comment: The proposed development does not result in any unreasonable impacts upon adjoining properties with regard to overshadowing.

- *to allow for the reasonable sharing of views,*

Comment: The proposed development provides for the reasonable sharing of views, in so far as the proposal will not unreasonably impact upon views from public/private places.

- *to encourage buildings that are designed to respond sensitively to the natural topography,*

Comment: This objective is not considered to be entirely relevant with respect to the B4 zoning of the site. However, the proposed development is considered to have an appropriate response to the topography of the site, in so far as the proposal adopts an increased setback to the rear of the upper floor, so that the building has the appearance of stepping down the site.

- *to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

Comment: The development is not within the visual catchment of any heritage conservation areas or heritage items, and the visual impact of the proposal has been well resolved, such that the resultant development will not have any adverse impacts upon the natural environment.

Further, the proposal is considered to be consistent with the objectives of the B4 Mixed Use Zone, as follows:

- *To provide a mixture of compatible land uses.*

Comment: The proposed shoptop housing development is anticipated within the B4 Mixed Use Zone and will complement the existing mix of buildings and land uses in the vicinity of the site. The proposal will not be incompatible with surrounding development.

- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

Comment: Located within the Mona Vale Commercial Centre, the development is located within walking distance of a variety of shops, services, and bus stops which will actively encourage walking and promote the use of public transport. Furthermore, the ground floor has been designed to both activate the laneway and facilitate pedestrian connectivity through the site to connect to Pittwater Road.

- *To strengthen the role of Mona Vale as a centre of employment in Pittwater.*

Comment: The proposal maintains and enhances the amount of commercial floor space on the site, providing further employment opportunities within the Mona Vale Commercial Centre,

- *To provide healthy, attractive, vibrant and safe mixed use areas.*

Comment: The proposed will significantly improve the amenity of Bungan Lane, providing much need activation and softening of the street frontage.

- *To provide an active day and evening economy.*

Comment: The commercial floor space ensures continual activity on the site during the day, whilst the apartments provide occupants who will activate the site at night.

- *To provide for residential uses above ground level, where they are compatible with the characteristics and uses of the site and its surroundings.*

Comment: The proposed shoptop housing development, in particular the dwellings in the upper levels of the site, are compatible with the characteristics and uses of the site and its surrounds.

- *To encourage retail vitality and provide a high level of amenity for pedestrians and cyclists.*

Comment: As above, the proposed additional commercial tenancy is considered to contribute to enhanced vitalisation and amenity of Bungan Lane.

Therefore, the consent authority can be satisfied that the proposal is in the public interest.

Has concurrence been obtained?

Pursuant to clause 4.6(4)(b) of PLEP 2014, development consent must not be granted to a development that contravenes a development standard unless the concurrence of the Secretary has been obtained. In accordance with Planning Circular PS 18-003 (dated 21 February 2018) issued by the NSW Department of Planning, the Secretary's concurrence may be assumed in this instance as the application relates to a development standard within an EPI that adopts clause 4.6 of the Standard Instrument.

Conclusion

Overall, the consent authority can be satisfied of the matters prescribed by clause 4.6 of PLEP 2014, and the proposal can be supported, despite contravention of the building height development standard.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	3.5m, 6.0m	0.7m	80%, 88%	No
Rear building line	-	-	-	-
Side building line	Nil	Nil	-	Yes
	Nil	Nil	-	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.9 Mona Vale Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B2.6 Dwelling Density and Subdivision - Shop Top Housing	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	N/A	N/A
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	N/A	N/A
B3.13 Flood Hazard - Flood Emergency Response planning	N/A	N/A
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.9 Stormwater Management - Water Quality - Other than Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	No	Yes
C1.4 Solar Access	No	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	No	Yes
C1.15 Storage Facilities	Yes	Yes
C1.18 Car/Vehicle/Boat Wash Bays	Yes	Yes
C2.1 Landscaping	No	Yes
C2.2 Safety and Security	No	Yes
C2.3 Awnings	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C2.5 View Sharing	Yes	Yes
C2.6 Adaptable Housing and Accessibility	Yes	Yes
C2.9 Waste and Recycling Facilities	No	Yes
C2.10 Pollution Control	Yes	Yes
C2.12 Protection of Residential Amenity	Yes	Yes
C2.16 Undergrounding of Utility Services	Yes	Yes
C2.20 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C2.22 Plant, Equipment Boxes and Lift Over-Run	No	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.2 Scenic protection - General	Yes	Yes
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	No	Yes
D9.7 Side and rear building line	Yes	Yes
D9.16 Character of the Public Domain - Mona Vale Commercial Centre	Yes	Yes

Detailed Assessment

B6.3 Off-Street Vehicle Parking Requirements

Existing commercial development (GFA 1014m²):

- 22 x commercial parking spaces, inclusive of 1 parking space for people with disabilities.

Demand associated with proposed shop top housing development:

- 2 x commercial parking spaces, inclusive of 1 parking space for people with disabilities.
- 16 x residential parking spaces,
- 4 x residential visitor parking spaces, inclusive of 1 parking space for people with disabilities, and
- 1 x car wash bay.

Proposed parking arrangement:

- 24 x commercial parking spaces, inclusive of 1 parking space for people with disabilities (compliant),
- 16 x residential parking spaces (complaint), and
- 2 x residential visitor spaces, inclusive of 1 car wash bay (non-compliant).

The proposed development is non-compliant with respect to the residential visitor parking, falling 2 spaces short of the minimum prescribed by this control, inclusive of 1 x parking space for people with

disabilities. However, the requirement for 1 visitor parking space per 3 residential units (rounded up) applies equally for residential flat buildings and multi-unit housing developments, which do not have the benefit of publicly accessible retail parking that can also be used by residential visitors to the site. In the circumstances of the proposed development, residential visitors may also park in the 24 commercial parking spaces on site, and as such, the shortfall is considered to be reasonably absorbed by other publicly accessible parking provided by the development.

Furthermore, it is noted that the development is located immediately adjacent to a public car park, and is in the vicinity of a number of other public and private car parks, such that shortfall will not unreasonably impact upon parking within the Mona vale Commercial Centre. Overall, the proposed parking arrangement is considered to be safe and convenient, with an adequate number of parking spaces available to meet the demand generated by the resultant development. As such, despite technical non-compliance, the proposal is consistent with the outcomes of this development control and supportable in this regard.

Conditions of consent are recommended to ensure:

- all spaces are allocated in accordance with the plans provided to support the application, and
- all 24 x commercial parking spaces are accessible to the public (ie: the parking area should not be enclosed by a garage/security door).

B8.4 Construction and Demolition - Site Fencing and Security

The proposed shop top housing development is to be located in the area of the site currently occupied by the at-grade parking area for the existing commercial premises, and as such, the existing commercial premises will have no on-site parking during construction and no pedestrian access to/from Bungan Lane. To mitigate this impact, the applicant has obtained owners consent for temporary access over the adjoining property at 1749 Pittwater Road, providing direct pedestrian access to the adjoining public car park and through to Bungan Lane. The short term impact upon parking within Mona Vale Commercial Centre during construction is not considered to be unreasonable, and no concerns have been raised in this regard by the public, adjoining properties owners or Council's engineering and traffic referral bodies.

C1.1 Landscaping

and C2.1 Landscaping

Clauses C1.1 and C2.1 of P21 DCP require a minimum landscaped area of 350m² (35m² per dwelling) to be provided at the ground level of the site. The proposed development provides a landscaped area of 21m² at the ground level of the site, well short of the minimum landscaped area prescribed.

However, in comparison to other adjoining development, the proposal will appear comparably green and well landscaped, with additional landscaping provided on the upper residential levels on both the front facade and in the centre of the site. Subject to conditions of consent requiring the landscaped areas to be irrigated and maintained by the body corporate of the resultant development, the proposal will be consistent with the relevant objectives of these clauses, as follows:

- *A built form softened and complemented by landscaping*

Comment: A combination of palms and ground covers are provided at ground level fronting Bungan Lane, with planters provided on each of the 3 upper residential levels, featuring plants

that will both cascade over the balustrade and grow up the trellises proposed. Furthermore, additional landscaping is proposed on the rear facade of the shop top housing development, with a large elevated planter accommodating canopy that will provide a vegetated break between the built form. Overall, the proposed built form is considered to be adequately softened and complemented by landscaping.

- *Landscaping that reflects the scale and form of development*

Comment: The proposed landscaping is considered to adequately reflect the scale and form of the proposed shop top housing development, within the context of the B4 Mixed Use zone.

C1.4 Solar Access

The proposal is inconsistent with the provisions of this clause, which require a minimum of 3 hours of direct sunlight to areas of private open space and windows associated with living rooms of each dwelling between 9am and 3pm in midwinter. However, these requirements differ from those prescribed in the Apartment Design Guideline, and in accordance with clause 6A(2) of SEPP 65, these requirements are of no effect. See further discussion with regard to solar access in the the SEPP 65 discussion, above.

C1.12 Waste and Recycling Facilities

and C2.9 Waste and Recycling Facilities

Over the course of the assessment of this application, P21 DCP was amended with respect to the controls relating to waste management. At the time of lodgement, clauses C1.12 and C2.9 of P21 DCP required:

- waste and recycling bins to be stored within the property boundaries (compliant),
- separate bins for waste, paper recyclables and container recyclables (compliant),
- for the bin enclosure / waste room to be designed to meet certain design criteria and integrated into the building (compliant), and
- for the residential waste room to be separate from the commercial waste room (compliant).

On 20 October 2018, Amendment 24 of P21 DCP came into force, which changed the provisions of clauses C1.12 and C2.9 of P21 DCP to require compliance with Northern Beaches Council's *Waste Management Guidelines*. These guidelines differ from those identified above, and require:

- the bin room for residential development to be located a maximum of 6.5m from the front boundary (non-compliant),
- a bulk store waste room to be located adjacent to the residential bin store room (non-compliant), and
- for a garbage truck to be able to enter the site to collect the waste (non-compliant).

With the exception of the ability for a garbage truck to enter the site, the applicant has nonetheless tried to accommodate these requirements within the proposal, with a bin room located in close proximity to the front setback and a separate bulk waste room in the basement. Council's Waste Officer has since confirmed that the design and location of the bin room and bulk store waste room is acceptable and can be serviced by Council's waste contractors, subject to the removal of the proposed open grille gate in

the lobby and the provision of a time specific loading bay in front of the property. As such, a condition of consent is recommended in this regard, with a further condition to require the commercial waste to be collected by a private contractor.

C2.2 Safety and Security

The proposed development is technically non-compliant with the provisions of this clause, which require separate entries for the residential and retail component of the development. Whilst the proposed new commercial area fronting Bungan Lane can be accessed independently, the residential lobby also acts as a pedestrian thoroughfare to the existing commercial development fronting Pittwater Road, and provides access to the commercial parking and visitor bathroom in the basement below (via the stairs and lift). The application has not been supported by any detail as to how the site is to maximise safety for residents whilst maintaining adequate public access, and as such the following recommendations are made to ensure consistency with the outcomes of this control:

- Access to the 24 x commercial parking spaces must not be restricted, and
- The open grill gates at the eastern and western ends of the ground floor lobby are to be removed.

These recommendations have been included as conditions within the draft determination, attached.

C2.3 Awnings

The proposal does not comprise awnings that extend over the adjacent footpath, resulting in inconsistency with the provisions of this clause. The incorporation of an awning is somewhat restricted by virtue of the existing electricity substation in the western corner of the site and by the proposed landscaping, which is required under the provisions of clauses C1.1 and C2.1 of P21 DCP. Noting that the majority of the footpath along Bungan Lane is uncovered, including the section adjacent to the comparably recently constructed public car park, the lack of an awning is not considered to be a detrimental outcome that would warrant the refusal of the subject application.

C2.22 Plant, Equipment Boxes and Lift Over-Run

The lift over-run protrudes beyond the roof plane, inconsistent with the provisions of this control that require lift over-runs to be integrated internally into the design fabric of the building. The Applicant has since confirmed that the extent of the lift over-run as shown on the architectural plans (approximately 600mm) is greater than required, and additional detail has been provided to demonstrate that the lift over-run can be reduced to 200mm. A 200mm protrusion, finished in the same colour/finish as the roof, will not be seen from the public domain and will not have an unacceptable visual impact as seen from up-slope/taller adjoining buildings. As such, the proposal is considered to meet the outcomes of this control which aim to reduce visual clutter, preserve views and minimise bulk and scale, such that the minor non-compliance is considered to be acceptable on merit.

D9.6 Front building line

Minimum front setback prescribed: 3.5m at ground level up to 8.49m in height, then 6m to that part of the building 8.5m and greater above ground (existing).

Proposed setbacks: ground level: 2.5m
first floor: 3.5m - 5.5m to external walls, 0.7m - 3.0m to
second floor: 3.5m - 5.5m to external walls, 0.7m - 3.0m to
third floor: 6m to external walls, 0.7m - 3.0m to balconies

The facade of the ground floor and the balconies of the upper levels are non-compliant with respect to minimum front setback prescribed by this control. However, the control provides a variation to the minimum setback prescribed in consideration of both established building lines and secondary street frontages, where it can be demonstrated that the outcomes of the control are achieved. The application of a variation is considered to be warranted in the circumstances of this application, as the proposal is considered to achieve consistency with the relevant outcomes of the front building line control, as follows:

- *Achieve the desired future character of the Locality.*

Comment: The desired future character statement for Mona Vale Locality prescribes that the the design, scale and treatment of future development within the Mona Vale Commercial Centre will reflect principals of good urban design. In this regard, it is noted that the *Apartment Design Guide* identifies that the street setback or building line of a building within a town centre should be set at the boundary to achieve a continuous plane with adjoining developments, with areas of articulation introduced to provide landscaping, where necessary. With this in mind, the proposed setbacks to Bungan Lane are considered to represent an appropriate balance for the site, consistent with the desired future character of the locality, noting the nil setbacks of all other developments along the street.

- *Equitable preservation of views and vistas to and/or from public/private places.*

Comment: The areas of technical non-compliance, specifically the balconies fronting Bungan Lane, will not unreasonably impact upon views and vistas to/from public/private places.

- *Vegetation is retained and enhanced to visually reduce the built form.*

Comment: An appropriate level of landscaping is proposed along the Bungan Lane frontage in consideration of the mixed use zoning of the site.

- *Vehicle manoeuvring in a forward direction is facilitated.*

Comment: Vehicles can enter and exit the site in a forward direction.

- *To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.*

Comment: The proposed development will result in a significant improvement to the existing character of Bungan Lane. Noting the developed nature of the laneway, and the commercial centre as a whole, the proposal is not appropriately considered/compared with respect to the height of the natural environment but rather the existing and desired urban environment. In this regard, the proposal is considered to be of an appropriate height and scale with respect to the context of the site.

- *To encourage attractive street frontages and improve pedestrian amenity.*

Comment: The proposed Bungan Lane facade is well modulated and appropriately softened by landscaping, and pedestrian amenity will be improved by further activation of the laneway.

- *To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.*

Comment: A nil setback has been established with regard to all buildings on both sides of Bungan Lane, with increased setbacks to upper floors seen on the buildings fronting Mona Vale Road. However, it is noted that the proposed development will be the first development with a residential component fronting Bungan Lane, and as such, it is appreciated that the treatment of the street facade is not entirely comparable to the adjoining buildings. With this in mind, the proposed setbacks to Bungan Lane are considered to appropriately respond to, reinforce and sensitively relate to the spatial characteristics of the existing and desired mixed use, urban environment.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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

Pittwater Section 94 Development Contributions Plan

The proposed development is likely to increase the demand for public amenities and services within the area. Accordingly, suitable conditions have been included requiring payment of a development contribution of \$200,000 (10 x \$20,000) in line with the *Pittwater Section 94 Contribution Plan for Residential Development*.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater 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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1113 for Construction of a Shop Top Housing development and strata subdivision on land at Lot 1 DP 715158, 1753 Pittwater Road, MONA VALE, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural & Landscape Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Plan DA.01, revision B	23 October 2018	Gartner Trovato Architects
Lower Basement Floor DA.02, revision C	1 November 2018	Gartner Trovato Architects
Basement Floor DA.03, revision C	1 November 2018	Gartner Trovato Architects
Ground Floor DA.04, revision C	1 November 2018	Gartner Trovato Architects
First Floor DA.05, revision C	1 November 2018	Gartner Trovato Architects
Second Floor DA.06, revision B	23 October 2018	Gartner Trovato Architects
Third Floor DA.07, revision B	23 October 2018	Gartner Trovato Architects
Elevations NW & SE DA.08, revision B	23 October 2018	Gartner Trovato Architects
Elevations NE & SW DA.09, revision B	23 October 2018	Gartner Trovato Architects
Section A-A DA.10, revision B	23 October 2018	Gartner Trovato Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
Stormwater Management Plans SW1 and SW2	20 June 2018	Barrenjoey Consulting Engineers Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Risk Management Report,	29 May 2018	Crozier Geotechnical

reference 2018-083		Consultants
BCA Compliance Report, reference 109405-BCA-r1	20 June 2018	BCA Logic Pty Ltd
Access Report, reference 109405-Access-r1	20 June 2018	BCA Logic Pty Ltd
BASIX Certificate 937764M	26 June 2018	Gartner Trovato Architects

b) Any plans and / or documentation submitted to satisfy the conditions of this consent.

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

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

2. **Amendments to the approved plans**

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

- the open grill gates at the eastern and western ends of the ground floor lobby are to be removed.
- the lift overrun is not to extend above RL22.15m AHD.

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

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

3. **Approved Land Use**

Nothing in this consent shall authorise the use of ground floor tenancy as detailed on the approved plans for any land use beyond the definition of a retail premises, as defined by *Pittwater Local Environmental Plan 2014*.

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

4. **Prescribed Conditions**

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

Any such sign is to be maintained while the building work, subdivision work or

demolition work is being carried out, but must be removed when the work has been completed.

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

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

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

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

Reason: Legislative Requirement

5. **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) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) 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.
- (d) 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.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) 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.

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

FEES / CHARGES / CONTRIBUTIONS

6. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security 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, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

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

7. **Construction, Excavation and Associated Works Bond (Crossing / Kerb)**

A bond of \$10,000.00 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter and full width footpath works required as part of this consent.

Reason: Protection of Council's infrastructure.

8. **Contributions**

A contribution of \$200,000 (\$20,000 per additional dwelling or allotment) is payable to Northern Beaches Council for the provision of public infrastructure and services pursuant to the Pittwater Section 94 Contributions Plan for Residential Development. The contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate (whichever occurs first) or prior to the issue of the Subdivision Certificate where no Construction Certificate is required.

The proponent may negotiate with Council for the direct provision of facilities and services specified in the Contributions Plan, the dedication of land or another material public benefit in lieu of full or partial payment of the monetary contribution. Any agreement shall be in accordance with the Pittwater Section 94 Contributions Plan for Residential Development. The agreement must be finalised, formally signed and in place prior to payment being due.

The Pittwater Section 94 Contributions Plan for Residential Development may be inspected at Council's Mona Vale office, 1 Park Street Mona Vale or on Council's website.

Cashier Codes:

SOPS – \$80,000 (\$8,000 per additional dwelling or allotment)

SLEL – \$20,000 (\$2,000 per additional dwelling or allotment)

SCSF – \$35,000 (\$3,500 per additional dwelling or allotment)

SVSS – \$65,000 (\$6,500 per additional dwelling or allotment)

Reason: To provide for contributions in accordance with Council's Development Contributions

Plan.

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

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

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Crozier Geotechnical Consultant (2018-083) dated 28th May 2018 are to be incorporated into the construction plans.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

10. **Fire Safety Engineering Assessment Report - Egress**

Prior to issue of the construction certificate, a Fire Safety Engineering Assessment Report is to be prepared addressing the adequacy of the existing rear exit path from the '*PRP Building*' that travels through the carpark of the proposed development (the subject of this Consent). This report is to provide a satisfactory solution, so the exit from the adjacent building (currently known as the '*PRP building*'), is adequately addressed so as to ensure Building Code of Australia Egress compliance is achieved.

The Construction Certificate is not to be issued for any part of the works on site until this matter is adequately resolved and an agreed solution achieved.

Reason: To ensure adequate provision is made for fire safety, occupant safety, egress and access in the buildings for building occupants.

11. **Stormwater Disposal**

Stormwater shall be disposed of to an existing approved system or in accordance with *Pittwater 21 Development Control Plan* and generally in accordance with the approved Stormwater Management Plans referenced in this consent. The stormwater discharge from the development must be piped and connected to the nearest Council's piped and pit drainage system.

A certificate is to be provided to the Principal Certifying Authority with the construction certificate application by a qualified experienced practicing Civil Engineer, with Corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a Corporate member and has appropriate experience and competence in the related field that the existing approved system can accommodate the additional flows or provide drainage plans demonstrating compliance with Council's requirements.

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

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

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

An Application for Works to be approved within Council Roadway, including engineering plans is 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 four (4) copies of Civil Engineering plans for the design of the full width fronting Bungan Lane, drainage and driveway crossing. The Full width footpath shall match with existing footpath to the north of the development. The plan shall be prepared by a qualified structural engineer. The design must include the following information:

- The vehicular crossing and footpath path must be graded to the lay back.
- Detail of the proposed pipe connection to Council piped drainage system.

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 Certifying Authority prior to the issue of the Construction Certificate

Reason: To provide public and private safety.

13. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

(a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and

(b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

14. **Shoring of Adjoining Property**

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings.

Council approval is required if temporary ground anchors are to be used within Council land. A Temporary Ground Anchors (Road Reserve) Application is to be submitted with Council for assessment and approval subject to Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Principal Certifying Authority 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.

15. **Construction Management Program**

An application for Traffic Management Plan is to be submitted to Council for approval. The Traffic Management Plan shall be prepared to RMS standard by an appropriately certified person. An approval is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

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

inconvenience to the community

16. **Erosion and Sediment Control Plan**

An approved Erosion and Sediment Management Plan is to be implemented from the commencement of works and maintained until completion of the development.

The design and controls addressed in the Sediment and Erosion Management Plan must comply with the criteria identified in:

- The document “Managing Urban Stormwater: Soils and Construction” Volume 1, 2004.

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

17. **Detailed Landscape Plan**

A detailed landscape plan, consistent with the plantings shown on the Approved Architectural and Landscape Plans referenced in this consent, is to be prepared to demonstrate:

- the exact amount and location of individual plantings for all planters proposed,
- the incorporation of 3 x semi-mature *Livistona australis* palms (1 at the frontage to Bungan Lane and 2 in the elevated planter in the centre of the site), with a minimum height of 3m when planted,
- the incorporation of at least 6 shrubs in the elevated planter in the centre of the site, with a minimum maturity height of 2m, with a minimum pot size of 25L,
- the proposed method of waterproofing to all internal walls and slab, and drainage of the concrete slab over which soil and planting is being provided, and
- the proposed soil volume, soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The detailed landscape plan is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure a suitable landscaped outcome for the site.

18. **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 Certifying Authority prior to the issue of the Construction Certificate.

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

19. **Sewer / Water Quickcheck**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

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

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing

- and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

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

20. **External colours and finishes**

A schedule of external colours and finishes is to be produced to demonstrate consistency with the following:

- the use of red or white is not permitted,
- the roof is to be finished in a colour equivalent to or darker than Colorbond 'Woodland Grey',
- the lift overrun, and any other element on the roof, is to be finished in the same colour as the roof,
- where the side boundary walls extend past or above existing structures on adjoining sites, the outer face of the side wall is to be rendered and finished in a colour equivalent to or darker than Colorbond 'Woodland Grey', and
- the louvre screens shown on the Approved Plans are to be operative and are to comprise non-reflective, vertical aluminium panels/louvres.

Details demonstrating compliance with these requirements are to be provided to the certifying authority prior to the issuance of a construction certificate.

Reason: To ensure an appropriate visual outcome from the development and to minimise nuisance from glare from properties up slope.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

22. **Vehicle Crossings**

The provision of vehicle crossing 5.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

23. **Construction/Demolition/Excavation**

In order to maintain the amenity of adjoining properties, all work, including demolition, excavation and building work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (e.g. loading and unloading of goods, transferring of tools etc.) in connection with the proposed development must be restricted to the hours between 7.00am and 6.00pm, Monday to Friday and 7.00am to 1.00pm Saturday (including works undertaken by external contractors). No site works are permitted on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Noise must be controlled in accordance with the requirements of the Protection of the Environment Operations Act 1997 and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

Reason: To prevent disturbance to the surrounding community.

24. **Amenity**

The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

Reason: To ensure the surrounding area and people within the neighbourhood are not affected adversely and to ensure compliance with the *Protection of the Environment Operations Act 1997*.

25. **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 Certifying Authority.

Reason: To protect human health and the environment.

26. **Acid Sulfate Soil Management**

Any new information which comes to light during remediation, excavation or construction works which has the potential to alter previous conclusions about the uncovering of Acid Sulfate Soil must be notified to the Certifier as soon as reasonably practicable. This will also require an Acid Sulfate Soil Management Plan, including disposal of affected soil to an approved facility, to be submitted to the certifier, before work continues.

Reason: To ensure potential Acid Sulfate Soil is appropriately managed.

27. **Pedestrian access during construction**

Temporary pedestrian access, including a line-marked walkway, is to be provided to/from the rear of the existing commercial tenancy and through the adjoining property at 1749 Pittwater Road to provide access to Council's car park. This temporary access arrangement is to be removed upon completion of the construction works.

Reason: To retain appropriate access to the building to be retained on the site during

construction.

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

28. **Landscape completion certification**

Landscaping is to be implemented in accordance with the amended detailed landscape plan required by this consent.

a) Prior to the issue of any occupation certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the amended detailed landscape plan required by this consent and inclusive of any conditions of consent.

b) Prior to the issue of any occupation certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been established and maintained in accordance with the amended detailed landscape plan required by this consent.

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

29. **Landscape Maintenance**

Evidence of an agreement for the maintenance of all plants for a period of twelve (12) months from the date of practical completion of the building is to be provided to the Principal Certifying Authority prior to issue of the final Occupation Certificate.

Reason: To ensure landscaping will be appropriately maintained.

30. **Authorisation of Legal Documentation Required for Onsite Detention**

The original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

31. **Registration of Encumbrances for On-site Stormwater Detention**

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

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

A Positive Covenant (under the provisions of Section 88B of the Conveyancing Act 1919) is to be created on the property title to ensure the on-going maintenance of the stormwater pump-out facilities 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

Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

33. **Positive Covenant and Restriction as to User for On-site Stormwater Detention**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements 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 restriction.

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

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

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

Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

35. **Access Certification**

A suitably qualified accessibility consultant is to provide certification that the as-built development achieves the recommendations of the approved Access Report referenced in this consent and the following:

- Units 01 and 05, and access thereto, have been built in accordance with the Silver Level of the *Livable Housing Design Guidelines*, and
- An accessible and unimpeded path of travel is provided through the ground floor (between the existing development and Bungan Lane), and to each level of the development

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

Reason: To ensure that the development is appropriately accessible.

36. **Garbage and Recycling Facilities**

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

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

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

37. Unit Numbering

The units within the development are to be numbered in accordance with the Australia Post Address Guidelines (https://auspost.com.au/content/dam/auspost_corp/media/documents/Appendix-01.pdf).

In this regard, the numbering is to be as per the Unit Numbering for Multi Unit Development Table available on Council's website (<https://www.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/unit-numbering-multi-unit-developments-residential-commercial-and-industrial-form/unit-numbering-multi-unit-developments-residential-commercial-and-industrial-form.pdf>).

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 Interim/Final Occupation Certificate certifying that the numbering has been implemented in accordance with this condition.

Reason: To ensure consistent numbering for emergency services access.

38. Undergrounding of Services

All services connecting to the site are to be located underground.

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

Reason: To reduce visual clutter.

39. Sydney Water

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

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

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

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

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

40. **Fire Safety Matters**

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

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

Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

41. **Loading Zone**

A time-restricted loading zone is to be provided at the Bungan Lane frontage of the site, to provide for residential waste collection by Council's waste contractors and deliveries to the site and adjoining properties between 8am and 6pm.

Reason: To ensure that the site can be appropriately serviced, without restricting vehicular access to the site and along the lane way.

42. **External colours and finishes**

The project architect is to confirm that the external finishes of the as-built development are consistent with the external schedule of colours and finishes required by this consent.

Reason: To ensure that the development is completed in accordance with this development consent.

43. **Car Wash Bay Certification**

A suitably licenced plumber is to provide certification that a car wash bay has been provided on the site, in accordance with all relevant conditions of this consent.

Reason: To ensure consistency with this development consent.

44. **Positive Covenant for Waste Services**

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

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

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

45. **Landscape Maintenance**

Any existing landscaping required to be retained together with all landscaping required by this Consent is to be maintained by the Owners Corporation/Body Corporate of the resultant development for the life of the development.

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 amended detailed landscape plan required by this consent.

Reason: To maintain local environmental amenity and ensure landscaping continues to soften the built form.

46. **Environmental and priority weed control**

Condition: All weeds are to be removed and controlled in accordance with the Biodiversity Conservation Act 2016.

Reason: Preservation of environmental amenity.

47. **Noise Impact on Surrounding Areas**

Any noise from the retail premise shall not exceed more than 5dB(A) above the background level when measured from within any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy and any appropriate legislation to prevent offensive noise.

Reason: To ensure that noise generated from the premise does not create offensive noise.

48. **Mechanical ventilation system - DA required**

Should the retail component of the premises require a kitchen exhaust or mechanical ventilation system, no works in relation to the installation or operation of the system shall be undertaken prior to the submission of a development application to Council for approval to install, operate and use a mechanical ventilation system at the site.

Reason: To ensure consistency with this development consent.

49. **Hours of operation for use of the Commercial/Retail component of the development**

Hours of operation for the retail component of the development are to be limited to between 7am and 6pm, 7 days.

Reason: To minimise impacts associated with the retail use on the site.

50. **Visitors Sign**

A sign, legible from the street, shall be permanently displayed to indicate that commercial/retail visitor parking is available on the site and the commercial/retail visitor car parking spaces shall be clearly marked as such.

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

Reason: To ensure that visitors are aware that parking is available on site and to identify those spaces to visitors.

51. **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.

52. **Commercial Waste Collection**

Waste and recyclable material, generated by the retail and commercial premises at the site, are to be collected by a private waste collector and must not be collected between the hours of 6pm and 8am on any day.

Reason: To ensure the acoustic amenity of surrounding properties.

53. **Parking and Access Requirements**

The following parking and access arrangements/requirements are to be maintained for the life of the development:

- residential parking spaces and basement storage areas are to be allocated/subdivided in accordance with the allocation shown on the Approved Plans referenced in this consent,
- all 24 x commercial/retail parking spaces are to be accessible to the public at all times, and
- accessible public access is to be maintained through the ground floor and to/from all 24 x commercial/retail parking spaces at all times.

Reason: To ensure consistency with the development consent and maintain appropriate public access to the commercial/retail components of the development.

54. **Plant Equipment**

No plant equipment, including exhaust systems, hot water systems and air-conditioning units are permitted on the roof or in any location where they will be visible from the public domain.

Reason: To ensure that the visual impact of the development is appropriately minimised.

55. **External colours and finishes**

The development is to maintain consistency with the schedule of external colours and finishes required by this consent.

Reason: To minimise the visual impact of the development.

56. **Car Wash Bay**

A car wash bay is to be provided on site, that is suitably bunded and drained to the sewer. The car wash bay is to be within easy access to a tap fitting to facilitate car washing of residents vehicles.

Reason: to ensure that a suitably designed car wash bay is provided on the site.