

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/0739
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<b>Responsible Officer:</b>	Lashta Haidari
<b>Land to be developed (Address):</b>	Lot 13 DP 801798, 62 May Road NARRAWEENA NSW 2099 Lot 14 DP 801798, 60 May Road NARRAWEENA NSW 2099 Lot 15 DP 801798, 58 May Road NARRAWEENA NSW 2099 Lot 16 DP 801798, 56 - 56 May Road NARRAWEENA NSW 2099 Lot 17 DP 801798, 54 - 54 May Road NARRAWEENA NSW 2099
<b>Proposed Development:</b>	Demolition works and construction of a Shop Top Housing Development with basement carparking
<b>Zoning:</b>	Warringah LEP2011 - Land zoned B1 Neighbourhood Centre
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Ji Hui Pty Ltd
<b>Applicant:</b>	Jvurban Pty Ltd

<b>Application Lodged:</b>	03/07/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Mixed
<b>Notified:</b>	10/07/2020 to 24/07/2020
<b>Advertised:</b>	10/07/2020
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	4.3 Height of buildings: Building - 20.35% Lift overrun - 40.35%
<b>Recommendation:</b>	Deferred Commencement Approval

<b>Estimated Cost of Works:</b>	\$ 7,923,678.00
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### EXECUTIVE SUMMARY

The proposal involves demolition works and construction of mixed-use development (Shop Top Housing and Retail Premises) on the five (5) lots located at No. 52 to 62 May Road, Narrabeena.

The site sits within the May Road Neighbourhood Centre, which comprises a strip of a predominantly single storey shops and business premises. The site as a whole contains eight (8) torrens title lots. Current occupancies are mainly food and drink premises. The development site adjoins No's 64 to 72 May Road, being single storey shops that extend to the west and comprise the remainder of the neighbourhood centre.

The site has an area of 1,417.34m<sup>2</sup>, and has a front boundary to an open at grade public carpark and Warringah Road beyond, a rear boundary to Poplar Lane and an eastern side boundary with a Public Reserve. The site is zoned B1 Neighbourhood Centre under the WLEP 2011 and the proposed development is a permissible land use.

The proposal is reliant upon a variation to the maximum building height development standard prescribed by clause 4.3 of WLEP 2011. In this regard, the proposal is assessed as being consistent with the objectives of the standard and the zone and the applicant has satisfactorily established that the proposed variation is appropriate in the context of the neighbourhood centre and the surrounds. The development will not result in unreasonable impacts to adjoining properties, the streetscape or the adjoining public reserve by virtue of the non-compliant building height.

For this reason, the applicant has successfully demonstrated that strict compliance with the development standard is unreasonable and unnecessary and there are sufficient environmental planning grounds to justify contravening the development standard. It is considered that the Clause 4.6 variation is well founded and has addressed the matters within Clause 4.6(3) and should be supported.

The proposal is subject to the provisions of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development as it is 3 storeys in height and contains 16 apartments. The proposal has been assessed as being consistent with the design principles and the relevant guidelines under the Apartment Design Guide.

The proposal will result in a non-compliance with the WDCP 2011 in terms of the number of car parking spaces required for the proposed development, as it relates to the retail and commercial component of the development. The shortfall in car parking on this site has been the subject of detailed assessment in terms of the DCP requirements and the applicant's justification. The applicant has demonstrated that the proposed car parking is adequate for the development, which is supported by Council's Traffic Engineering section.

The DA was publicly exhibited in accordance with the Northern Beaches Community Participation Plan and no submissions were received.

The assessment concludes that the character, design and external appearance of the development are satisfactory, the internal amenity of the residential units is satisfactory, the development will be afforded with the necessary functional and operational components and the impacts of the development are acceptable and can be appropriately managed or mitigated by the imposition of suitable conditions of consent.

Special conditions are recommended in relation to contamination, acoustic treatments, landscaping and construction and traffic management.

Accordingly, the assessment considers the development is in the public interest and should be approved.

## PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks consent for demolition works and construction of mixed use development which consists of the following:

- Six (6) retail tenancies providing a total floor area of 425.5m<sup>2</sup>;
- Three (3) commercial tenancies providing a total floor area of 182.1m<sup>2</sup>; and
- 16 residential apartments, containing: 4 one bedroom dwellings; 10 two bedroom dwellings; and 2 three bedroom dwellings.

Specifically, the proposed development incorporates:

### Basement Level

- 34 vehicle parking spaces total
- 25 resident spaces and storage (incl 2 accessible + 4 visitor)
- 9 retail spaces (incl. 1 accessible)
- 18 resident bicycle spaces/storage
- Plant and services rooms
- Stairs and 2 lifts to other levels
- Vehicle ramp to laneway

### Ground Floor Level

- 6 x retail premises (facing car park)
- 3 x commercial premises (facing central courtyard)
- 2 x separate garbage rooms (residential + commercial storage)
- Plant and services rooms
- Stairs and lift to other levels
- Central courtyard with lifts, stairs to basement and landscaping
- Vehicle ramp from Poplar Lane to basement

### Level 1

- 8 x residential apartments
- Stairs and lift to other levels

### Level 2

- 8 x residential apartments
- Stairs and lift to lower levels

The proposal also includes landscape works.

Figure 1 and Figure 2 below is provided to assist in the identification of the proposed building footprint

within the site and the appearance of the building, as viewed from the public carparking on May Road.

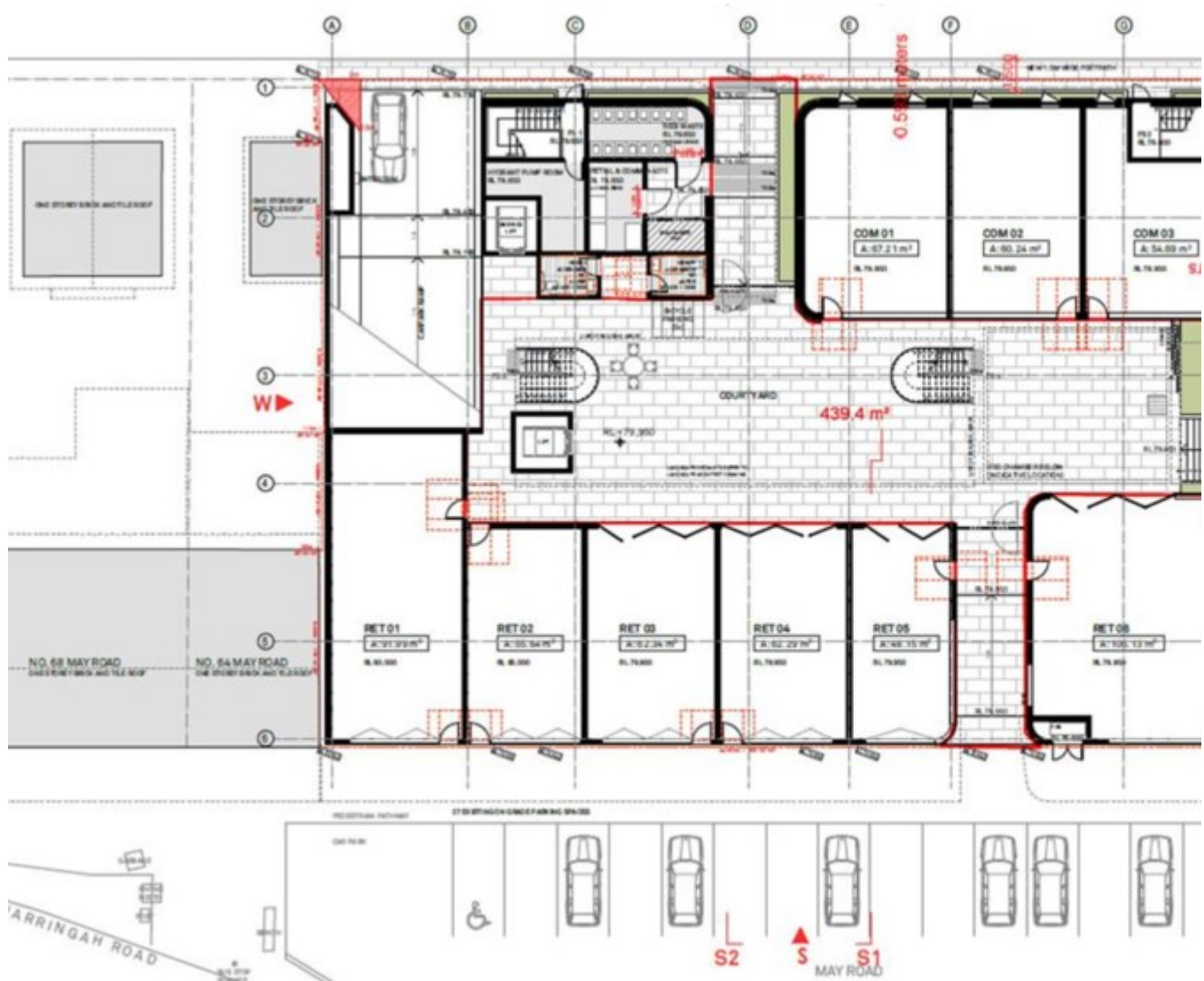


Figure 1 – Ground Floor Plan (Source: Benson McCormack Architecture)





**Figure 2 – View of the proposed development from May Road (Source: Benson McCormack Architecture)**

## **ASSESSMENT INTRODUCTION**

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest

- groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings

Warringah Local Environmental Plan 2011 - 6.2 Earthworks

Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - D3 Noise

## SITE DESCRIPTION

<b>Property Description:</b>	<p>Lot 13 DP 801798 , 62 May Road NARRAWEENA NSW 2099</p> <p>Lot 14 DP 801798 , 60 May Road NARRAWEENA NSW 2099</p> <p>Lot 15 DP 801798 , 58 May Road NARRAWEENA NSW 2099</p> <p>Lot 16 DP 801798 , 56 - 56 May Road NARRAWEENA NSW 2099</p> <p>Lot 17 DP 801798 , 54 - 54 May Road NARRAWEENA NSW 2099</p>
<b>Detailed Site Description:</b>	<p>The subject site comprises 5 individual allotments and is located within the May Road neighbourhood shopping centre. The combined allotments have an area of approximately 1,417.34m<sup>2</sup>. The lot has a development site area of 1,417.34sqm with front boundary to an open at grade car park, which fronts Warringah Road, of 44.285m, rear boundary fronting Poplar Lane of 44.485m, eastern boundary, fronting the May Road park of 32.005m and western boundary, adjoining No. 64 May Road, of 32.005m.</p> <p>The May Road shops are unique as they read as an island site, which is currently occupied by a traditional strip retail building containing a range of mostly local shops and businesses. Existing buildings are single storey with pitch tile roofs over. None of the existing properties within the centre provide off-street customer car parking. The centre benefits from 28 at public at grade car parking spaces within the adjoining May Road Reserve.</p> <p>The property is zoned B1 Neighbourhood Centre under the Warringah Local Environmental Plan 2011 (LEP), and is adjacent to a 580m<sup>2</sup> pocket park and playground to the east.</p> <p>The surrounding development consists of new townhouse development undertaken by NSW Department of Housing</p>



and low density residential dwellings, with vehicle access onto Poplar Lane, which is located to the north west of the subject site.

The western side is occupied by No.s 64 – 72 May Road, being single storey shops that comprise the remainder of the neighbourhood centre. The car park of the May Road Neighbourhood Centre and the Warringah Road corridor is immediately south of the development site.

Map:



## SITE HISTORY

The subject site has been used for neighbourhood shops for a significant period of time.

### Pre-Lodgement Meeting

A pre-lodgement meeting for the demolition works and construction of a shop-top housing development was held between the applicant and Council on 20 August 2019.

### Amendments and additional information

The application has been subject to the following amendments and additional information since lodgement:

- Revised Clause 4.6 in relation to the building height, dated 18 January 2020;
- Desktop Report Environmental Review" by Canopy Enterprises dated December 2020
- Relocation of lift core to the western end of courtyard at Ground Level.
- Basement entry / exit ramp realigned and car parking spaces re-allocated. These changes to address comments made by Councils Traffic Engineer.
- Introduction of breaks within both the Southern and Northern facades to reduce the perceived bulk and scale of the proposal, whilst providing greater solar access to the internal courtyard.
- The entry from May Road to the internal courtyard has been widened at the entry and the relocation of the passenger lift.
- Additional opening to the east elevation to reduce the bulk of the development when viewed from the

adjoining park.

- The wastes rooms have been rearranged to separate the Residential Waste Storage Area and the Bulky Waste Storage Area. The waste rooms/storage are provided with minimum opening width for maneuvering. Rear gate access is relocated closer to the courtyard to provide unobstructed access to waste areas. This change looks to address comments made in the Waste Management Assessment.
- Basement entry / exit ramp realigned and 1.5m wide footpath introduced to Poplar Lane frontage. These changes seem to address comments received from Councils Traffic Engineer.
- Introduction of translucent canopy to the top floor common corridor to improve solar access to the courtyard.
- External wall of Units 12 and 13 realigned in part.

The amendments are addressed in this report. Revised plans were not re-notified as it was considered that they represented a reduction in impact and would have a negligible difference to surrounding residences.

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

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The suitability of the site addressed under SEPP 55 of this report and found to be satisfactory.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;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>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to proposed development to address various referral issues.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent</p>



Section 4.15 Matters for Consideration'	Comments
	<p>authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This matter may 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) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	<p>The various controls contained within WLEP 2011 and the WDCP 2011 provide the community with a level of certainty as to the scale and intensity of future development and the form and character of development that is in keeping with the future character envisaged for the zone.</p> <p>Whilst the development does not achieve compliance with the relevant Height of Buildings Development Standard 8.5m, the variations were considered to be minor and are supported under Clause 4.6 of WLEP 2011. The development has been found to be consistent with the key Controls contained within the WDCP 2011.</p>

Section 4.15 Matters for Consideration'	Comments
	This assessment has found the development to be consistent with the scale and intensity of development that the community can reasonably expect to be provided on this site and within the respective zones and is therefore considered, in its current form, to be in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 10/07/2020 to 24/07/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

## REFERRALS

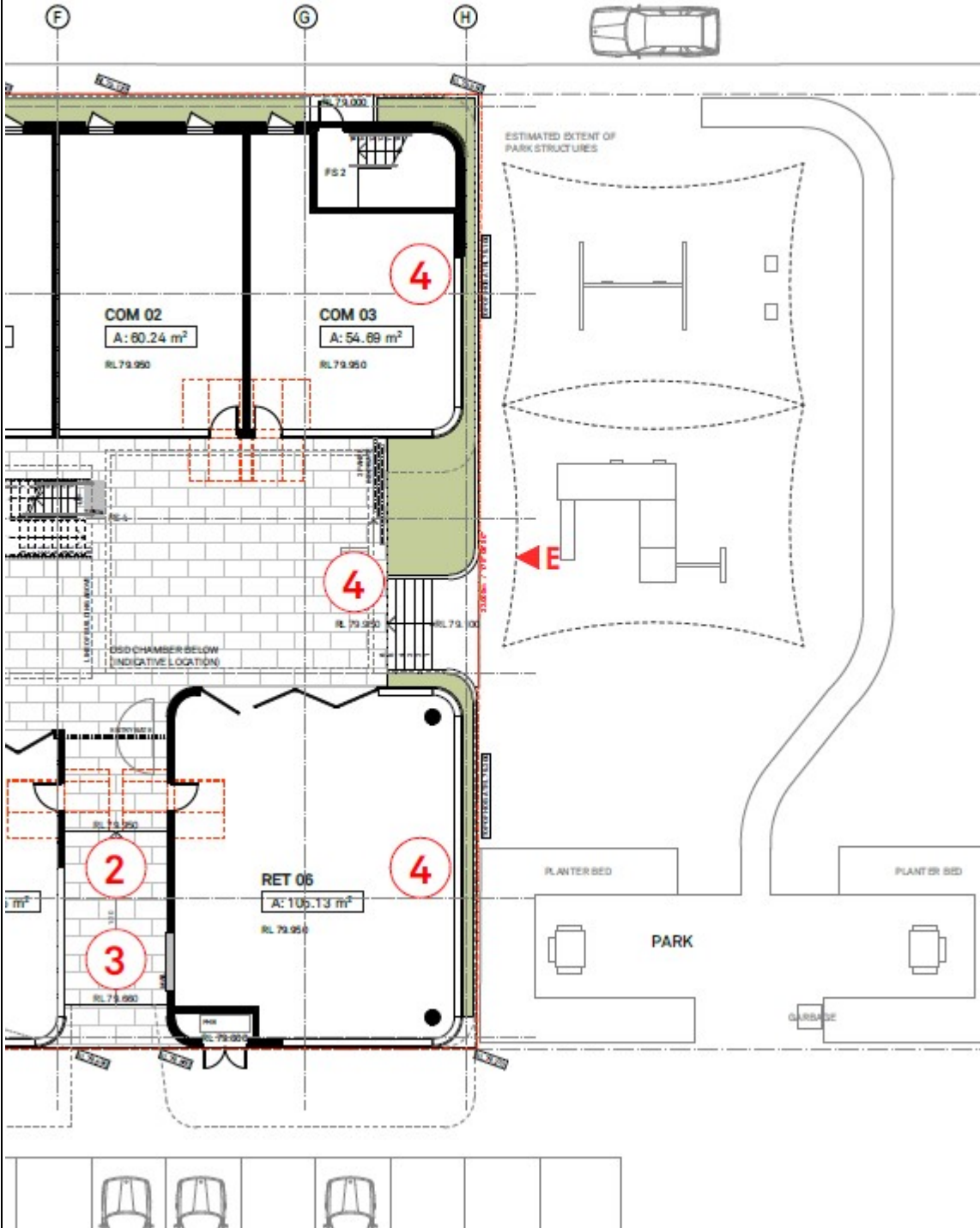
Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p><b>Supported (subject to condition)</b></p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Environmental Health (Contaminated Lands)	<p><b>General Comments</b></p> <p>Environmental Health have been requested to consider the proposal for "Demolition and construction of a Shop Top Housing Development with basement carparking". The State of Environmental Effects states <i>"The proposal involves the excavation and construction of a basement level for parking and services – across the majority of the site. This work will essentially remove the existing soil and bund the site along its boundaries. A Stage 1 Environmental Site Assessment is not submitted with the DA documentation as the site has a long and established history of non pollution creating uses."</i></p> <p>Based on the limited information Environmental Health are unsure of the level of contamination (if any). Conditions are to be imposed in relation to contamination.</p> <p><b>Amendment to above information dated 19 January 2021:</b></p>

Internal Referral Body	Comments
	<p>Since the original referral response was generated by Environmental Health, the applicant supplied an report titled "Desktop Report Environmental Review" by Canopy Enterprises December 2020.</p> <p>The report states that soil will be removed from the site and also takes into account the potential presence of asbestos containing materials.</p> <p>As a result of this report, and given the known history of uses at the site, Environmental Health considers the proposal acceptable.</p> <p>It is considered necessary to condition to the development to ensure future use of the site protected from contamination.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>
Environmental Health (Industrial)	<p><b>Not supported (Satisfactory subject to condition)</b></p> <p>Environmental Health have been requested to consider the proposal for "Demolition work and construction of a Shop Top Housing Development with basement carparking". It is considered necessary to ascertain how the amenity of the neighborhood, as well as the residences may be affected by the proposed development as a whole, particularly in relation to any potential noise impacts. As no acoustic report has been supplied with the application the proposal is not considered acceptable at this time.</p> <p><u>Comment:</u> The requirement of an acoustic report has been imposed as condition of consent.</p>
Landscape Officer	<p><b>Supported (subject to conditions)</b></p> <p>The Arborist's Report and Landscape Plans provided with the application are noted.</p> <p>The Arborist's Report recommends removal of 2 trees on the site due to health and structural issues. The trees, 1 x Lemon Scented Gum <i>Corymbia citriodora</i> and 1 x Jacaranda <i>Jacaranda mimosifolia</i> (an exempt species) have been rated as Low significance and High hazard. Whilst mature and providing significant canopy cover, the trees are not supported for retention in the report due to their poor condition regardless of the proposed development.</p> <p>The Landscape Plan indicates replanting of 6 trees and 8 palms/tree ferns within the development.</p> <p>In consideration of the above, the proposal is considered to adequately address the planning concerns with regard to landscape issues.</p> <p>Comments from Council's Parks and recreation section are noted, raising concerns with location of the access stairs into the adjoining park and play equipment.</p> <p>If this access was deleted, additional soft landscape could be incorporated by extending planter over the location of the stairs.</p>

Internal Referral Body	Comments
	No objections are raised to approval subject to conditions as recommended.
NECC (Development Engineering)	<p><b>Supported (subject to conditions)</b> The proposed OSD system is satisfactory. The stormwater connection to the council pit be via a new gully pit at the kerb adjacent to the subject site as conditioned.</p> <p>No objections to approval subject to conditions as recommended.</p>
Parks, reserves, beaches, foreshore	<p><b>Supported (subject to conditions)</b> Following a meeting with the applicant's consultants Planner and Architect, Parks can support the application subject to the following conditions, which include removal of the stairs on eastern side of the site and replacing with an extension of the planter and landscape treatment.</p> <p><u>Original Comment</u> Parks reserves and Foreshores provided PLM comments regarding impacts on the adjacent park to the east of the site.</p> <p>The proposal has not addressed the comments provided.</p> <p>The access stairs to the park land into the children's playground, which is not acceptable outlined previously. (See plan extract and PLM comments below)</p> <p>The visual transition is also poor with minimal setback to the park.</p> <p>At this stage, the proposal is not able to be supported.</p>





Internal Referral Body	Comments
	 <p>PLM comments:</p> <p>In principal, Parks has no issue with the development establishing a direct access into the adjacent May Reserve; however, the current entry/exit point in the plans does not fit with</p>

Internal Referral Body	Comments
	<p>existing infrastructure in the reserve.</p> <p>If this access is something that the developer wants to pursue, then further discussion will be required with the Parks team, to address issues such as:</p> <ul style="list-style-type: none"> <li>• Entry/exit location on eastern side of development</li> <li>• Reserve infrastructure location <ul style="list-style-type: none"> <li>o Shade sail locations</li> <li>o Playground location</li> </ul> </li> <li>• Pedestrian/playground conflict</li> <li>• Reserve landscaping</li> </ul> <p>Developers should be ensuring they address part E7 of the DCP, requirements as follows</p> <p>Objectives</p> <ul style="list-style-type: none"> <li>• To protect and preserve bushland adjoining parks, bushland reserves and other public spaces.</li> <li>• To ensure that development responds to its adjacent surroundings to preserve and enhance the natural qualities of the environment.</li> <li>• Development on land adjoining open space is to complement the landscape character, public use and enjoyment of the adjoining parks, bushland reserves and other public open spaces.</li> </ul> <p>Requirements</p> <ol style="list-style-type: none"> <li>1. Development on land adjoining public open space is to complement the landscape character and public use and enjoyment of the adjoining parks, bushland reserves and public open spaces.</li> <li>2. Public access to public open space is to be maximised.</li> <li>3. Buildings are to be located to provide an outlook to public open space, without appearing to privatise that space.</li> <li>4. Development is to provide a visual transition between open space, bushland reserves and other public spaces and buildings, including avoiding abutting public open space with boundaries or fences.</li> <li>5. Development is to protect views to and from public open space.</li> <li>6. Development is to provide buffers for bushfire protection on private land, not on public land.</li> <li>7. If the adjoining parks, bushland reserves or public open space contain bushland, development is not to threaten the protection or preservation of the bushland.</li> <li>8. Development should be designed to maximise opportunities for casual surveillance of public open space.</li> <li>9. Development is to utilise landscaping or existing landscape elements to screen development.</li> </ol>
Road Reserve	<p><b>Supported</b></p> <p>No impact on existing road assets. Applicant to give consideration to upgrading paving on Warringah Road/May Road Frontage as this infrastructure is over now 20+ years old. Planning and Recreation to advise regarding property access off May Road Public Reserve.</p>
Strategic and Place Planning	<p><b>Supported</b></p> <p>The subject site is within the draft Brookvale Structure Plan 1.5km area of influence. No objections are raised to the proposed development.</p>
Strategic and Place	<p><b>Supported</b></p> <p>The proposal has addressed the following issues identified in the Pre-Lodgement Meeting</p>

Internal Referral Body	Comments
Planning (Urban Design)	<p>1. The building height of 8.5m has been exceeded with the third storey proposal. The CI variation can be supported if public benefits in the form of a public central courtyard is provided and the exceedance in height sensitively treated. The top storey has been set backed 3m. It should be cladded with a roofing material preferably in a darker colour to contrast against the bottom two floors so that it gives the impression of a roof form. <b>Response:</b> The building height breach has been set-backed from the edge of the building 3m and treated with a darker colour scheme to give the impression of a two-storey and a form when viewed from the surrounding streets.</p> <p>2. Solar access to 50% of the courtyard should be achieved. Consider creating a solar courtyard by deleting the top storey residential units to the north and replacing with a roof garden communal open space. Apartment Design Guide (page 55) recommends communal open space has a minimum area equal to 25% of the site area. <b>Response:</b> The building gap on the top floor facing north has been increased to 9m to allow more solar access into the internal courtyard.</p> <p>3. The central courtyard should be designed as a conducive public space with sensitive treatment of the balustrading details and softening the potentially harsh common corridor surrounds with green walls and soft landscaping. <b>Response:</b> Soft landscaping, glass balustrades, feature wall and entry door recesses have been proposed to create an interesting space in the courtyard.</p> <p>4. The access to the park next door from the central courtyard should take into account feedback from Council's Parks and Recreation team. The thoroughfare introduced through the middle of the park could create an undesirable safety concern. However visual surveillance in the form of a raised deck café sitting area overlooking the park could be a improvement to the park safety. <b>Response:</b> Visual surveillance overlooking the park has been increased using full height glazing and a wide entry gap to the internal courtyard.</p>
Traffic Engineer	<p><b>Supported (subject to conditions)</b></p> <p>Following the meeting with the applicant on 25/11/2020, it was agreed that the proposed development can be supported subject to the provision of 2 additional retail parking spaces conversion of two parking spaces in the basement carpark to vertical mechanical stacker. Therefore, the proposal can be supported subject to conditions.</p>
Waste Officer	<p><b>Supported (subject to conditions)</b></p> <p>The proposal now complies with the Waste Management Design Guidelines.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p><b>Supported (subject to conditions)</b></p> <p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>
Concurrence – NSW Roads	<p><b>Supported (subject to conditions)</b></p>

External Referral Body	Comments
and Maritime Services - SEPP Infrastructure (cl 100 Development on proposed classified road)	The application was referred to Transport for NSW (TfNSW) for comment in accordance with the State Environmental Planning Policy (Infrastructure) 2007. TfNSW by letter dated 26 July 2020 has raised no objection to the proposed development subject to conditions.

## 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 retail/ commercial purposes for a significant period of time with no prior land uses.

In response to the above requirements of the SEPP, the applicant has submitted a Preliminary Environmental Review dated December 2020 and prepared by Canopy Enterprises. In its conclusion, the review states:

The desktop review herein has not identified information which would indicate a discernible concern for contamination or otherwise trigger a requirement for further environment assessment at the Site.

The surface layer of soils at the Site however have a discernible potential to be contaminated at levels of concern due to the following:

- soil material may have been imported in the past from unknown sources which have been and remains contaminated;
- unknown past (and present) use of the land by various occupiers, in particular at the rear sections of the retail outlets;
- historic construction (and past part demolition or variations to structures) which may have been fabricated from Asbestos Containing Materials (ACM) pre circa the 1980s; and
- present use of the Site by a Fish and Chip Shop and Pool Shop which may involve uses which are known to potentially cause contamination.

It is Canopy's opinion however, based on the desktop research and extensive experience in assessment of contaminated land that on the balance of probability any contamination at levels of concern in soils (if present) will be limited to the surface fill layer.



Based on the above and subject to the excavated soils to accommodate the carpark basement are disposed of off-site and there being no material amendments to the development proposal it is Canopy's opinion that the Site will be made suitable for the proposed land use in accordance with SEPP 55 Clause 7 (1) (a-c) without further assessment.

Council's Environmental Health Department have reviewed the Phase 1 Investigation and advise:

*The report states that soil will be removed from the site and also takes into account the potential presence of asbestos containing materials.*

*As a result of this report, and given the known history of uses at the site, Environmental Health considers the proposal acceptable.*

In this regard, Council can be satisfied that the land can be made suitable for the purpose for which the development is proposed to be carried out subject to the recommendations included in the investigation and the conditions imposed by Council's Environmental Health Department within the draft consent.

### **SEPP 65 - Design Quality of Residential Apartment Development**

Clause 4 of State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment Development (SEPP 65) stipulates that:

(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

(a) the development consists of any of the following:

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

(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and

(c) the building concerned contains at least 4 or more dwellings.

As previously outlined the proposed development is for the construction of a shop top housing development with basement car parking for the provision of sixteen (16) apartments and six (6) retail premises.

As per the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are applicable to the assessment of this application.

As previously outlined within this report Clause 50(1A) of the Environmental Planning and Assessment 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.

Clause 28 of SEPP 65 requires:

(2) In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are

required to be, or may be, taken into consideration):

- (a) the advice (if any) obtained from the design review panel, and
- (b) the design quality of the development when evaluated in accordance with the design quality principles, and
- (c) the Apartment Design Guide.

## **DESIGN REVIEW PANEL**

Northern Beaches Council did not have an appointed Design Review Panel at the time of lodgment of the development application.

## **DESIGN QUALITY PRINCIPLES**

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

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

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

#### Comment:

The proposed development is on land which currently comprises of neighbourhood shops in accordance with a B1 Zone, adjoins a May Reserve Playground to the east and is surrounded by residential development of varying scale and character located on land zoned R2 zone. As such, the context of the development differs from each side of the site. With the provision of progressive setbacks that help to break up the building massing, through-site pedestrian connections and the use of a variety of materials, the development will contribute to the character of the streetscape and neighbourhood without physically or visually dominating the surrounding area.

The portions of the development facing Warringah Road, May Road and May Reserve Playground incorporates active retail frontages. Through-site links also provide visual relief to the building along the public frontages of the site, which is particularly apparent along Poplar Lane. The topmost level has also been setback to minimise excessive bulk and scale in the streetscape and ensure compatibility with development in the adjacent R2 Low Density Residential zone. The design of the development presents an appropriate relationship in terms of scale, height and architectural design between the subject development and surrounding context and character of the neighbourhood.

Accordingly, the proposed development is found to be consistent with this principle.

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

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

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

including their views and vistas, and provides internal amenity and outlook.

Comment:

The development includes a scale, bulk and height which is appropriate to the existing and desired character of the street and surrounding buildings.

The proposed development generally presents as a three storey shop-top housing development, consistent with the size/scale of other shop-top housing developments within Narraweena. Whilst the topmost level of the proposal exceeds the maximum building height plane, the perceived scale is not a dominant feature when viewed from the public domain due to an increased setbacks.

The architectural design of the development also includes good levels of articulation and building proportions that ensure amenity impacts to neighbouring properties are minimised and are reasonable. The use of a range of external finishes and incorporating landscape elements ensure the development is complementary to the zone.

The proposed built form defines the public domain and contribute to the character of the streetscape which predominantly features a development that responds to the business zoning.

Accordingly, the proposed development is found to be consistent with this principle.

### **Principle 3: Density**

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

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

Comment:

There are no provisions within WLEP 2011 or WDCP 2011 that relate to the density anticipated on the subject site, and as such, the appropriateness of the density proposed is appraised based on the amenity of the development, the size/scale of the development and the impact of the development upon the surrounding environment.

The use of shop-top housing is permissible within the B1 Neighbourhood Centre zone and that the addition of 16 units will be an appropriate contextual fit for the site, without unreasonable detriment to the surrounding locality. Furthermore, the development being a shop-top housing complex provides amenities for both residents of the development and surrounding residents that will contribute to creating an active and complementary development.

Accordingly, the proposed development is found to be consistent with this principle.

### **Principle 4: Sustainability**

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

Comment:

The proposed development is supported by a BASIX Certificate, which include recommendations to ensure that the building performs in accordance with industry standards. Furthermore, the majority of apartments achieve natural cross ventilation with adequate levels of natural daylight, such that the amenity and liveability of apartments is high, without excessive reliance upon air-conditioning and artificial lighting.

Accordingly, the proposed development is found to be consistent with this principle.

**Principle 5: Landscape**

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

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

Accordingly, the proposed development is found to be consistent with this principle.

Comment:

The application was supported by detailed landscape plans that demonstrate an appropriate landscape solution for the site, including the provision of trees and planters integrated throughout the development. The landscaping has further been positioned in a manner to increase privacy for the subject and surrounding sites.

Accordingly, the proposed development is found to consistent with this principle.

**Principle 6: Amenity**

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

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

Comment:

As detailed in the assessment against the ADG and WDCP 2011, the proposed development provides a reasonable level of amenity for future occupants of the development, without unreasonably compromising the amenity of adjoining residences.

The development is considered to achieve the required levels of sunlight access and natural ventilation required by the ADG and provides for generally efficient layouts which allow for ease of access for all age groups and degrees of mobility through the provision of the lift from the basement car park.



Accordingly, the proposed development is found to be consistent with this principle.

### **Principle 7: Safety**

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

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

#### Comment:

The development provides for acceptable levels of safety and security in accordance with the principles of Crime Prevention Through Environmental Design (CPTED).

The elevated and exposed nature of the development enables an improved degree of passive surveillance above what is already achievable from the site and which appropriately fits the intended higher density residential purpose.

The territorial spaces within the site are appropriately defined to identify communal and private areas and includes clearly defined secure and visible access points that could be easily maintained.

Accordingly, the proposed development is found to be consistent with this principle.

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

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

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

#### Comment:

The development proposes 1, 2 and 3 bedroom apartments which are not common in the neighbourhood, as predominantly low density detached housing is found. The proposed development provides for housing that will be more affordable than what is existing and has spaces which are able to accommodate diverse groups such as singles, couples, small families and retirees.

The development is considered to be beneficial to the locality by providing housing diversity and social interaction with a mix of people, further enhanced by the provision of communal open space proposed.

Accordingly, the proposed development is found to be consistent with this principle.

### **Principle 9: Aesthetics**

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

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

Comment:

The development has been designed to provide a transition between the surrounding residential zone by virtue of increased setbacks where the site abuts another site of a different zoning. Through the provision of progressive setbacks, articulation and the use of a variety of materials, the development is considered to contribute towards the existing or future local context of the character of the streetscape and neighbourhood.

Accordingly, the proposed development is found to be consistent with this principle.

## APARTMENT DESIGN GUIDE

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

Development Control	Criteria / Guideline	Comments
<b>Part 3 Siting the Development</b>		
<b>Site Analysis</b>	Does the development relate well to its context and is it sited appropriately?	<b>Consistent</b> A Site Analysis Plan (in conjunction with the Statement of Environmental Effects) has been submitted with the application.
<b>Orientation</b>	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	<b>Consistent</b> As discussed elsewhere in this report under the Design Quality Principles and within the relevant clauses under the WDCP 2011, the development responds to the streetscape and site and optimises solar access within the development and to neighbouring properties.
<b>Public Domain Interface</b>	Does the development transition well between the private and public domain without compromising safety and security?  Is the amenity of the public domain retained and enhanced?	<b>Consistent</b> The transitional space between the public ground floor and the private first and second floor is accessible via stairways and a lift which enhance the safety and security of the building. The open central courtyard as well as

		<p>unit private open spaces with views towards the playground allow passive surveillance of the public realm to occur.</p> <p>The amenity of the public domain is significantly enhanced compared to what is existing and is satisfactory for the area.</p>						
<b>Communal and Public Open Space</b>	<p>Appropriate communal open space is to be provided as follows:</p> <ol style="list-style-type: none"> <li>1. Communal open space has a minimum area equal to 25% of the site</li> <li>2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter)</li> </ol>	<p><b>Consistent</b></p> <p>The communal open space comprises of the central courtyard and the associated landscape and seating areas.</p> <p>The communal open space is calculated to be 439m<sup>2</sup> equivalent to 31% of the total site area. The communal open space is for public use, and is also accessible from the retail premises. It is considered that the areas of communal open space are sufficient on this site and will significantly enhance the public domain, in particular with the through-site linkages to the May Road, Poplar Lane frontages and May Reserve Playground.</p> <p>Further, it is calculated that at least 50% of the communal courtyard (the principal usable space) will receive a minimum of 2 hours of sunlight between 9.00 am and 3.00 pm on 21 June (Winter Solstice).</p>						
<b>Deep Soil Zones</b>	<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1"> <thead> <tr> <th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr> </thead> <tbody> <tr> <td>Less than 650m<sup>2</sup></td><td>-</td><td>7%</td></tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m <sup>2</sup>	-	7%	<p><b>Not Consistent - (satisfactory on merit)</b></p> <p>The proposed development site is surveyed to be 1417m<sup>2</sup> thereby requiring 7% of the site area to be deep soil landscaping with</p>
Site area	Minimum dimensions	Deep soil zone (% of site area)						
Less than 650m <sup>2</sup>	-	7%						

	<table><tr><td>650m<sup>2</sup> – 1,500m<sup>2</sup></td><td>3m</td></tr><tr><td>Greater than 1,500m<sup>2</sup></td><td>6m</td></tr><tr><td>Greater than 1,500m<sup>2</sup> with significant existing tree cover</td><td>6m</td></tr></table>	650m <sup>2</sup> – 1,500m <sup>2</sup>	3m	Greater than 1,500m <sup>2</sup>	6m	Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m	<p>minimum dimensions of 3m.</p> <p>In accordance with the calculations of the criteria, the site has 0% deep soil landscape area.</p> <p>Despite varying this requirement, it is found that the development has introduced adequate areas of landscaping (through raised planters and the like) on the Ground Floor and the upper levels of the building to afford residents opportunities to harness the benefits of landscaping. Therefore, the landscape treatment proposed is considered to be appropriate and acceptable in this particular circumstance.</p>						
650m <sup>2</sup> – 1,500m <sup>2</sup>	3m													
Greater than 1,500m <sup>2</sup>	6m													
Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m													
<b>Visual Privacy</b>	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table> <p><b>Note:</b> Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p><b>Consistent</b></p> <p>The proposed separation between the subject development and adjacent property boundaries of Poplar Lane is 5.4m. This northern boundary is however seen to be secondary street frontage, rather than a side or rear boundary.</p> <p>Notwithstanding this, it is recognised that habitable room windows located between 5.7-5.8m from habitable room windows and the swimming pool in the rear yard at No. 43 Oceana Street. In order to protect privacy, the northern elevation of the proposed First Floor incorporates recessed balconies and narrow windows.</p>
Building height	Habitable rooms and balconies	Non-habitable rooms												
Up to 12m (4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												
<b>Pedestrian Access</b>	Do the building entries and pedestrian access	<b>Consistent</b>												

<b>and entries</b>	<p>connect to and addresses the public domain and are they accessible and easy to identify?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>	<p>The development comprises of three pedestrian entrances into the complex through to the large communal courtyard. The entry is publically accessible and easily identifiable.</p>
<b>Vehicle Access</b>	<p>Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?</p>	<p><b>Consistent</b></p> <p>The proposed vehicular access has been assessed by Council's Traffic Engineer and Roads &amp; Assets team who have raised no objections the proposal, subject to conditions.</p> <p>As such, the development satisfies the criteria.</p>
<b>Bicycle and Car Parking</b>	<p>For development in the following locations:</p> <ul style="list-style-type: none"> <li>On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or</li> <li>On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</li> </ul> <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>	<p><b>Consistent</b></p> <p>The subject allotment is not within 80m of a railway station or light rail stop in the Sydney Metropolitan Area and is not zoned nor within 400mm of land zoned B3 Commercial Core or B4 Mixed Use.</p> <p>A total of 23 bicycle parking spaces provided on site, 5 of which are publicly accessible within the central courtyard is compliant with requirements of the WDCP.</p>
<b>Part 4 Designing the Building</b>		
<b>Amenity</b>		
<b>Solar and Daylight Access</b>	<p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> <li>Living rooms and private open spaces of</li> </ul>	<p><b>Consistent</b></p> <p>A total of 13 out of 16 units (81.2%) achieve a compliant provision of solar and daylight access in</p>



	<p>at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter.</p>	<p>accordance with the guidelines.</p>								
	<ul style="list-style-type: none"><li>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter.</li></ul>	<p><b>Not Consistent - (satisfactory on merit)</b></p> <p>Whilst only 3 south facing units receive no direct sunlight in mid-winter, this amounts of 19% of the total number of units.</p> <p>Despite varying this requirement, each of these south facing units are seen to provide an adequate level of natural light and benefit from expansive views. As discussed earlier, the central courtyard with its seating areas is also readily accessible from these units. Therefore, the proposal is considered to be appropriate and acceptable in this particular circumstance.</p>								
<b>Natural Ventilation</b>	<p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:</p> <ul style="list-style-type: none"><li>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</li></ul>	<p><b>Consistent</b></p> <p>75% (i.e. 12 units) will achieve natural cross ventilation</p> <p>The development achieves a satisfactory number of apartments with cross ventilation.</p>								
<b>Ceiling Heights</b>	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table><tr><th colspan="2">Minimum ceiling height</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor 2.4m for second floor, where its</td></tr></table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its	<p><b>Consistent</b></p> <p>The development proposes the following floor to ceiling heights:</p> <ul style="list-style-type: none"><li>Basement - 2700-3300mm;</li><li>Ground floor retail - 3200mm;</li><li>First Floor residential -</li></ul>
Minimum ceiling height										
Habitable rooms	2.7m									
Non-habitable	2.4m									
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its									

	<table><tr><td></td><td>area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table>		area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	<ul style="list-style-type: none"><li>2900mm; and Second Floor residential - 2900mm.</li></ul>				
	area does not exceed 50% of the apartment area											
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope											
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use											
Apartment Size and Layout	<p>Apartments are required to have the following minimum internal areas:</p> <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m<sup>2</sup></td></tr><tr><td>1 bedroom</td><td>50m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 bedroom</td><td>90m<sup>2</sup></td></tr></table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> 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> <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> <p>Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space).</p> <p>Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension.</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p>	Apartment type	Minimum internal area	Studio	35m <sup>2</sup>	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	<p><b>Consistent</b></p> <p>All 16 apartments within the complex meet the minimum internal area criteria.</p>
Apartment type	Minimum internal area											
Studio	35m <sup>2</sup>											
1 bedroom	50m <sup>2</sup>											
2 bedroom	70m <sup>2</sup>											
3 bedroom	90m <sup>2</sup>											

	<ul style="list-style-type: none"><li>3.6m for studio and 1 bedroom apartments</li><li>4m for 2 and 3 bedroom apartments</li></ul> <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>																
<b>Private Open Space and Balconies</b>	<p>All apartments are required to have primary balconies as follows:</p> <table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m<sup>2</sup></td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m<sup>2</sup></td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m<sup>2</sup></td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m<sup>2</sup></td><td>2.4m</td></tr></table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3m.</p>	Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m <sup>2</sup>	-	1 bedroom apartments	8m <sup>2</sup>	2m	2 bedroom apartments	10m <sup>2</sup>	2m	3+ bedroom apartments	12m <sup>2</sup>	2.4m	<p><b>Consistent</b></p> <p>The proposed apartments are all compliant with depths and areas specified within the criteria.</p>
Dwelling Type	Minimum Area	Minimum Depth															
Studio apartments	4m <sup>2</sup>	-															
1 bedroom apartments	8m <sup>2</sup>	2m															
2 bedroom apartments	10m <sup>2</sup>	2m															
3+ bedroom apartments	12m <sup>2</sup>	2.4m															
<b>Common Circulation and Spaces</b>	<p>The maximum number of apartments off a circulation core on a single level is eight.</p>	<p><b>Consistent</b></p> <p>The development proposed 8 apartments on the first floor with another 8 apartments on the second floor. Both floors are connected via common circulation spaces which include 2 separate stairways and 1 lift.</p>															
<b>Storage</b>	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling Type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m<sup>2</sup></td></tr><tr><td>1 bedroom apartments</td><td>6m<sup>2</sup></td></tr><tr><td>2 bedroom apartments</td><td>8m<sup>2</sup></td></tr><tr><td>3+ bedroom apartments</td><td>10m<sup>2</sup></td></tr></table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling Type	Storage size volume	Studio apartments	4m <sup>2</sup>	1 bedroom apartments	6m <sup>2</sup>	2 bedroom apartments	8m <sup>2</sup>	3+ bedroom apartments	10m <sup>2</sup>	<p><b>Consistent</b></p> <p>Each apartment within the development has scope to occupy a single storage 'cage' within the basement car parking level adjacent to the car parking spaces. These spaces are considered satisfactory to store bulky goods.</p> <p>Further this, the apartments have an</p>					
Dwelling Type	Storage size volume																
Studio apartments	4m <sup>2</sup>																
1 bedroom apartments	6m <sup>2</sup>																
2 bedroom apartments	8m <sup>2</sup>																
3+ bedroom apartments	10m <sup>2</sup>																

		<p>appropriate level of storage internally by virtue of wardrobes and kitchen storage.</p> <p>Each apartment within the development has sufficient storage as per the recommendations of the ADG.</p>
<b>Acoustic Privacy</b>	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	<p><b>Consistent</b></p> <p>The development has been designed in such a manner that the plant services and driveway access will not give rise to unreasonable acoustic intrusion to occupants of the subject development or adjoining sites.</p>
<b>Noise and Pollution</b>	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	<p><b>Consistent</b></p> <p>The development has been designed in a manner to minimise impacts of external noise and to mitigate noise transmission. The units are broken up by circulation corridors, and the central courtyard that acts as an open atrium resulting in minimal shared walls between the units. The proposed balconies are not of a size that is able to accommodate a large number of persons. Further, the existing buffer zone of Warringah Road will significantly contribute to reducing impact of noise transmission from building to those properties southwards.</p>
<b>Configuration</b>		
<b>Apartment Mix</b>	Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within	<p><b>Consistent</b></p> <p>The development proposes a mix of 1, 2 and 3</p>

	the building.	<p>bedroom apartments. Given that the surrounding area is largely R2 Low-Density Residential, this subject site is one of the few allotments within the vicinity that has the capacity and permissibility to provide apartment living. The development will provide housing more affordable than that of the surroundings and as such, is considered to support the needs of the community now and in the future where the population will continue to increase.</p>
<b>Facades</b>	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	<p><b>Consistent</b></p> <p>The building provides two facades to the street and one façade directly adjoining to a neighbouring property. The visual massing and bulk of the development is considered satisfactory by virtue of the significant articulation and stepping of which the design presents. Most notably is the central courtyard within the development that acts as the focal point of the design. The design consists of well composed horizontal and vertical elements that contribute to aiding the proportion of the building through visual manipulation - i.e. deep setbacks of balconies and portions of the building to provide a 'break' from the massing. The development is respectful of the surrounding residential character through the massing and as such, it is considered that the façade treatment is appropriate to enhance the streetscape</p>



		and character of the area.																																			
<b>Roof Design</b>	<p>Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features.</p> <p>Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top.</p>	<p><b>Consistent</b></p> <p>The proposed roof design is satisfactory and cannot be maximised for residential accommodation and open space without significant amendment.</p> <p>The roof design is not dissimilar to the roof of other surrounding developments.</p>																																			
<b>Landscape Design</b>	<p>Was a landscape plan submitted and does it respond well to the existing site conditions and context.</p>	<p><b>Consistent</b></p> <p>The documentation accompanying the development application includes comprehensive landscape plans that respond well to the site and its context.</p>																																			
<b>Planting on Structures</b>	<p>When planting on structures the following are recommended as minimum standards for a range of plant sizes:</p> <table><tr><th>Plant type</th><th>Definition</th><th>Soil Volume</th><th>Soil Depth</th><th>Soil Area</th></tr><tr><td>Large Trees</td><td>12-18m high, up to 16m crown spread at maturity</td><td>150m<sup>3</sup></td><td>1,200mm</td><td>10m x 10m or equivalent</td></tr><tr><td>Medium Trees</td><td>8-12m high, up to 8m crown spread at maturity</td><td>35m<sup>3</sup></td><td>1,000mm</td><td>6m x 6m or equivalent</td></tr><tr><td>Small trees</td><td>6-8m high, up to 4m crown spread at maturity</td><td>9m<sup>3</sup></td><td>800mm</td><td>3.5m x 3.5m or equivalent</td></tr><tr><td>Shrubs</td><td></td><td></td><td>500-600mm</td><td></td></tr><tr><td>Ground Cover</td><td></td><td></td><td>300-450mm</td><td></td></tr><tr><td>Turf</td><td></td><td></td><td>200mm</td><td></td></tr></table>	Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Large Trees	12-18m high, up to 16m crown spread at maturity	150m <sup>3</sup>	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m <sup>3</sup>	1,000mm	6m x 6m or equivalent	Small trees	6-8m high, up to 4m crown spread at maturity	9m <sup>3</sup>	800mm	3.5m x 3.5m or equivalent	Shrubs			500-600mm		Ground Cover			300-450mm		Turf			200mm		<p><b>Consistent</b></p> <p>The predominant area of planting on structures is within the Central Courtyard, Ground Floor and planters around balcony areas on the Second Floor.</p> <p>The landscaping plans and proposal have been reviewed by Council's Landscape Officer who has raised no objection to the Landscape aspect of the development, and as such, it is considered that the development has sufficient scope to allow for the establishment of landscaping.</p>
Plant type	Definition	Soil Volume	Soil Depth	Soil Area																																	
Large Trees	12-18m high, up to 16m crown spread at maturity	150m <sup>3</sup>	1,200mm	10m x 10m or equivalent																																	
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Ground Cover			300-450mm																																		
Turf			200mm																																		

<b>Adaptable Reuse</b>	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.	Not applicable.
<b>Mixed Use</b>	<p>Can the development be accessed through public transport and does it positively contribute to the public domain?</p> <p>Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.</p>	<p><b>Consistent</b></p> <p>The subject site is easily accessible by public transport (bus) within a 200m radius of the site.</p> <p>The proposed development will continue to contribute to the public domain by virtue of commercial opportunities, the development also proposes the inclusion of 16 dwellings which will provide essential housing within the locality.</p> <p>The non-residential uses are located on the ground floor and can be accessed via the three public frontages which emphasises the use of the space and encourages street activation through to the central courtyard.</p> <p>The non-residential uses are in an area considered to be appropriate by virtue of zoning, desirability and that shops already exist in this location.</p>
<b>Awnings and Signage</b>	<p>Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development.</p> <p>Signage must respond to the existing streetscape character and context.</p>	<p><b>Consistent</b></p> <p>The proposed awning design is considered to be acceptable for the context of the site and will contribute to providing cover to pedestrians along the May Road frontage.</p> <p>The application indicates building identification signage 'may's place' to the south-eastern corner of this awning, which is considered to acceptable</p>

		with responding to the existing streetscape character and context.
<b>Performance</b>		
<b>Energy Efficiency</b>	Have the requirements in the BASIX certificate been shown in the submitted plans?	<b>Consistent</b> BASIX requirements have been addressed in the application documentation and in this report.
<b>Water Management and Conservation</b>	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	<b>Consistent</b> Water management and conservation through the means of the on-site stormwater detention system has been assessed as compliant by Council's Development Engineer and further, compliance with the supplied BASIX Certificate has been conditioned.
<b>Waste Management</b>	Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?	<b>Consistent</b> The application includes a Waste Management Plan which demonstrates safe and convenient collection and storage of waste and recycling.
<b>Building Maintenance</b>	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	<b>Consistent</b> The application includes a Schedule of Materials and Finishes which ensures the longevity and sustainability of the building.

## STANDARDS THAT CANNOT BE USED TO REFUSE DEVELOPMENT CONSENT

Clause 30 of SEPP 65 Standards that cannot be used as grounds to refuse development consent or modification of development consent states that:

(1) If an application for the modification of a development consent or a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:

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

**Note.** The Building Code of Australia specifies minimum ceiling heights for residential flat buildings.

Comment:

The development applications is not being refused pursuant to any of the standards listed within Clause 30 of SEPP 65.

(2) Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:

- (a) the design quality principles, and
- (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.

(3) To remove doubt:

- (a) subclause (1) does not prevent a consent authority from refusing an application in relation to a matter not specified in subclause (1), including on the basis of subclause (2), and
- (b) the design criteria specified in subclause (1) are standards to which clause 79C (2) of the Act applies.

**Note.** The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant or modify development consent.

Comment:

Council has reviewed the proposed development in depth in conjunction with the ADG and is satisfied that the development satisfactorily complies with the design quality principles and meets the objectives and criteria/guidelines specified within the ADG.

## **SEPP (Infrastructure) 2007**

### Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of

Practice. These recommendations will be included as a condition of consent.

#### Roads and Maritime Service (Transport for NSW)

#### **Clause 102 - Impact of road noise or vibration on non-road development states:**

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

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

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

#### Comment:

The applicant has not submitted an acoustic report stating that the carpark in front of the site acts as a road between the subject site and Warringah Road, therefore the requirement of this Clause is not applicable to the proposed development. Council disagrees with the applicant's position as the site is located adjacent to Warringah Road which has volume in order of 47,000 vehicles per day, therefore this Clause is considered to apply to the proposed development.

Council requested confirmation from the applicant that the development is able to comply with the requirement of this Clause. In response, the applicant's architect (by letter dated 30 November 2020) has stated that the development is capable of complying with the acoustic levels as stipulated by this Clause.

Accordingly, Council is satisfied that the requirements of this Clause can be addressed by way of a deferred commencement condition.

Clause 104 and Schedule 3 of the SEPP requires that the following development(s) are referred to the RMS as Traffic Generating Development:

<b>Purpose of Development</b>	<b>Size or Capacity</b> (Site with access to any road)	<b>Size of Capacity</b> (Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road)
Shops	2,000m <sup>2</sup>	500m <sup>2</sup>

**Note:** Under Clause 104(2) of the SEPP, 'relevant size of capacity' is defined as meaning:

*"(2) (a) in relation to development on a site that has direct vehicular or pedestrian access to any road - the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or*

*(b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection - the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3."*



Comment:

The application was referred to Transport for NSW (TfNSW) for comment as Traffic Generating Development under Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007, as the proposed development is located within 90m of a Classified Road and proposes retail and commercial tenancies of 607.6m<sup>2</sup>

TfNSW has provided their response which raises no objection to the proposed development, subject to conditions.

**Warringah Local Environmental Plan 2011**

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	Building - 10.23m Lift overrun -11.93m	20.35% 40.35%	No

Compliance Assessment

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

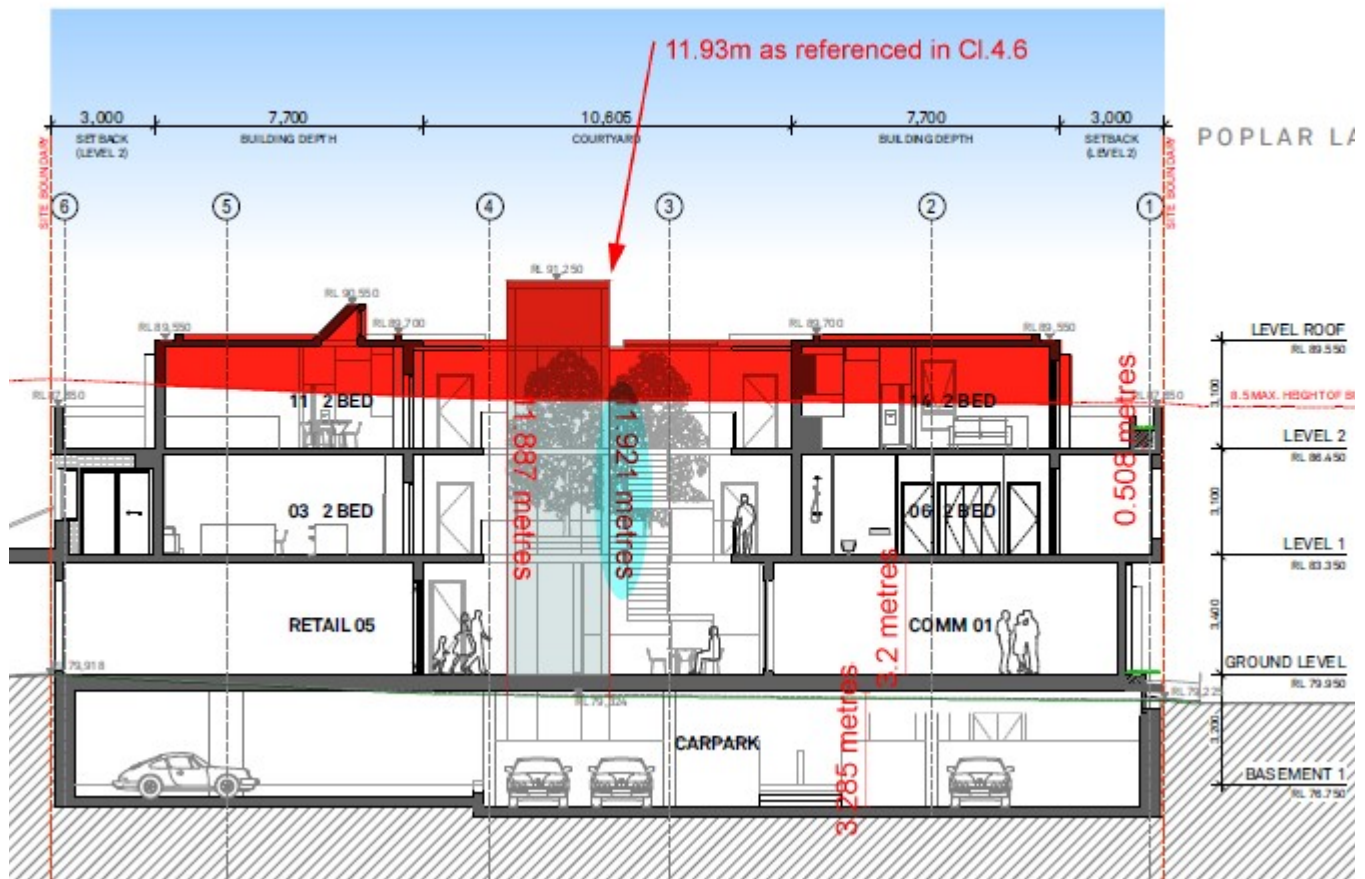
Detailed Assessment

**4.6 Exceptions to development standards**

Description of Non-compliance:

Development Standard:	Height of Buildings
Requirement:	8.5m
Proposed:	Building - 10.23m

	Lift overrun -11.93m
Percentage variation to requirement:	Building - 20.35% Lift overrun - 40.35%



**Figure 3 - Areas of Building Height Non-compliance are shown in Red (Source: Benson McCormack Architecture)**

#### Assessment of request to vary a development standard:

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

#### Clause 4.6 Exceptions to development standards:

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

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

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental*

*planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment:

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

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

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

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

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

*(a) the consent authority is satisfied that:*

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

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

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

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

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

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

Comment:

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

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

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

Comment:

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

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

s 1.3 of the EPA Act reads as follows:

### *1.3 Objects of Act(cf previous s 5)*

*The objects of this Act are as follows:*

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

### **Applicants Written Justification:**

The applicants written request argues, in part:

- The height variation to the top of the lift overrun is 11.93m and to the roof varies between 9.34m and 10.5m. The lift overrun is located in the central courtyard – barely discernible from ground level around the outside of the building. The upper level is well setback from the building alignment below making the upper level and variation not readily apparent or offensive on the streetscape or when viewed from surrounding road network or public places or surrounding residential properties.
- The consequence of strict compliance in the circumstances would necessitate the loss of an entire residential floor which would make the development economically unviable (refer to feasibility analysis) and be contrary to object (c) of the Act at s1.3 which seeks to promote the orderly and economic development of land. In this regard, the success of the development which is dependent on the additional level (i.e. the variation), is important in terms of the positive social and economic impacts that it will have on the viability and sustainability of the local centre which is tired and outdated and requires stimulation provided by a positive urban design based outcome, including providing necessary active retail uses with pleasant amenity and additional residential population in the form of various housing mix contributing to the village atmosphere, and also providing additional security and surveillance of the open carpark and also integrating with the public open space area to the east by providing both a visual and physical link and access.

- A fundamental element of the design to achieve this by creating a large open courtyard and full height void by deletion of floor space at both ground and first floor levels, which is transferred to the upper level constituting the need for a height variation.
- The development due to its financial feasibility (only attributable to the additional storey) allows for the creation of an attractive contemporary development to replace the existing outdated buildings, and provides increased passive surveillance and the opportunity for small businesses in the area to occupy new, fresh and modern premises to the benefit of the community.
- Whilst there is argument that the additional floor space could be accommodated at ground floor, it would be strictly limited to retail or business premises which would generate additional traffic impacts and be counter to the village atmosphere advocated by the creation of smaller scale retail spaces. Further it would deprive the opportunity of the integral landscaped internal courtyard designed in collaboration with Council, which is a pleasant space active and passive space with a high quality amenity as a landscaped communal open space for the use of both residents and also patrons, facilitating outdoor dining and area for social interaction. The through site link, in particular to the park allows for parents to have a coffee whilst their children play in the park or for residents to have direct access to and facilitate the use of the park and improve its supervision and safety.
- In addition the void (the volume of which is displaced to the upper level) through the building, allows for improved solar access and cross ventilation to the building interior and courtyard improving the environmental performance and amenity of the building.
- In the circumstances, the environmental benefits outweigh any technical necessity or benefit of the deletion of an entire residential floor.
- Further, it is noted that the transferred floor space is also compensation for the lost floor space at ground floor with the proponent providing a setback to the rear lane to widen the existing deficient footpath for the betterment of the local community without any need or benefit for the development itself.
- The existing buildings are extremely tired and at the end of their useful life requiring substantial capital to provide lettable area of necessary minimum standards to comply with the BCA and other occupational and health standards. The rebuilding based on land value and necessity to provide a basement carpark to accommodate any additional floor space can only be viable and possible with the addition of the third level. Absent this, the development is unviable as is any upgrade of the centre which will fall into disrepair and decay which would be contrary to the public interest. An appraisal from Laing + Simmons Dee Why is attached which confirms that the proposal is not viable without the upper level, a relevant consideration under s1.3 of the Act.
- The upper level variation which has positive social and economic impacts can be



accommodated without being readily discernible as being a non compliant element and is accommodated within a building that sits comfortably within its physical and suburban context providing a building of high quality and bench mark for future development.

- In summary, the contravention of the HOB development standard is considered to have positive social and economic outcomes for the Site and the locality and positive amenity outcomes for existing residences and businesses in the immediate area.

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

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

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

#### **Clause 4.6 (4)(a)(ii) (Public Interest) Assessment**

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

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

#### **Comment:**

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the B1 Local Centre zone. An assessment against these objectives is provided below.

#### **Objectives of Development Standard**

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

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

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

#### **Comment:**

Whilst the subject development is a 3 storey building, the recessive setbacks and articulation of the massing of facades results in the development being of a scale, that is not considered unreasonable despite the non-compliance with the building height control. It is noted that there is no height in storey's control applying to the site.

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

Comment:

The visual impact of the development is reduced by virtue of setbacks (given the unique site location), landscaping and architectural treatment. There are no significant water views enjoyed from surrounding sites. Privacy and view loss have been addressed elsewhere in this report. In summary, the proposed development has been found to be consistent with the applicable planning controls in relation to amenity of the adjoining properties.

Shadow diagrams show that the areas of non-compliance will not impact on the solar access of adjoining properties.

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

Comment:

There would be no impact on the scenic quality of the area, including unreasonable obstruction of views from surrounding residential developments as a result of the proposal.

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

Comment:

The height variation will be visible from a number of vantage point, particularly from Warringah Road. Whilst visible, it is considered that the proposed development is a significant enhancement to what is existing on site and the visual impact is minimised by variations in the height and setbacks of the development and is further softened by the provision of landscaping. It is considered that the development will have no unreasonable or detrimental impacts on the surrounding areas.

The proposal is therefore consistent with the objectives of Clause 4.3 of the LEP.

## Zone Objectives

In assessing the developments non-compliance, consideration must be given to its consistency with the underlying objectives of the B1 Neighbourhood Centre zone.

The underlying objectives of the B1 Neighbourhood Centre zone are:

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

Comment:

The development includes commercial uses (retail and commercial) which, because of the centralised and accessible location, will serve the needs of people who live in, work in and visit the local area.

It is considered that the development, satisfies this objective.

- ***To ensure that neighbourhood centres provide a village-like atmosphere and safety and comfort for pedestrians.***

Comment:

The development provides sole vehicle access/egress onto May Road which will ensure the maintenance of a safe pedestrian thoroughfare along the remaining street frontages.

With regards to pedestrian comfort, the development provides an appropriate level of articulation and activation to the street in the form the shop fronts at ground level and recessed balconies and architectural design elements to the upper levels.

It is considered that the development, satisfies this objective.

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

Comment:

The subject site abuts the RE1- Public Recreation to the east of the site.

The development has been generally designed to respect this context by providing appropriate setbacks to the adjoining property to the east .Furthermore, careful consideration has been given to the interface between the site and the neighbouring low-density land opposite Poplar Lane by the inclusion of appropriate setbacks and Planter boxes on the upper level.

Conclusion:

For the reasons detailed above, the proposal is consistent with the objectives of the B1 Neighbourhood Centre zone.

**Clause 4.6 (4)(b) (Concurrence of the Secretary) Assessment**

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

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

**6.2 Earthworks**

The objectives of Clause 6.2 - 'Earthworks' require development:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and*
- (b) to allow earthworks of a minor nature without requiring separate development consent.*

In this regard, before granting development consent for earthworks, Council must consider the following matters:

*(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality*

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

*(b) the effect of the proposed development on the likely future use or redevelopment of the land*

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

*(c) the quality of the fill or the soil to be excavated, or both*

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of an suitable quality.

*(d) the effect of the proposed development on the existing and likely amenity of adjoining properties*

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

*(e) the source of any fill material and the destination of any excavated material*

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of an suitable quality.

*(f) the likelihood of disturbing relics*

Comment: The site is not mapped as being a potential location of Aboriginal or other relics.

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

## Warringah Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	Variation	Complies
B5 Side Boundary Setbacks (West)	Merit Assessment	Ground Floor: 0m First Floor: 0m Second Floor: 0m	- - -	Yes Yes Yes
B5 Side Boundary Setbacks (East)	Merit Assessment	Ground Floor: 0.5m First Floor: 0m Second Floor: 0m	- - -	Yes Yes Yes
B7 Front Boundary Setbacks (May Road)	Merit Assessment	Ground Floor: 0m First Floor: 0m Second Floor: 0m	- - -	Yes Yes Yes
B7 Secondary Front Setbacks (Poplar)	Merit	Ground Floor:	-	Yes

Lane)	Assessment	0.6m First Floor: 0m Second Floor: 0m	- -	Yes Yes
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#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B10 Merit assessment of rear boundary setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes
F1 Local and Neighbourhood Centres	Yes	Yes

#### Detailed Assessment

### C3 Parking Facilities

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Residential	1 space per 1 bedroom dwelling 1.2 spaces per 2 bedroom dwelling 1.5 spaces per 3 bedroom dwelling	$(1 \times 4) + (1.2 \times 10) + (1.5 \times 2) = 19$ spaces	21	+2
Residential (visitor)	1 visitor space per 5 units	$(16 / 5) = 3.2$ (4) spaces	4	-
Shop - Retail	6.1 spaces per 100m <sup>2</sup> GLFA	$425.5\text{m}^2 / 16.4\text{m}^2 = 25.9$ (26) spaces	9	-17
commercial premises	1 space per 40m <sup>2</sup>	$182.1\text{m}^2 / 40\text{m}^2 = 4.6$ (5) spaces	0	-5
<b>Total</b>		54	34	<b>-20</b>

The development provides nine (9) off-street parking spaces dedicated to the retail and commercial components of the development. The proposed development, generates a requirement of 31 spaces for the retail and commercial components, therefore resulting in a parking shortfall of 22 spaces.

The proposed shortfall of commercial and retail carparking is considered to be acceptable in this circumstance for the following reasons:

- The existing development on the site comprises 7 commercial tenancies and provides no on-street car parking spaces.
- The existing development results in a public parking demand of 37 spaces. The proposed development is expected to result in a public parking demand of 22 spaces. The proposed development therefore results in a nett reduction in on-street parking demand of 15 spaces.
- There are 27 spaces available within the public parking area immediately in front of the neighbourhood centre, which will continue to serve the subject site.
- The site is serviced by number bus services along Warringah Road.
- Council's Traffic Engineer has reviewed the proposed development and has raised no objection to the proposed development subject to conditions.

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

### D3 Noise



### Merit consideration

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

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

#### Comment:

The acoustic impacts generated from the proposed retail tenancies is considered to be lesser than what is existing by virtue of a reduction of tenancies, non-noise generating uses (offices) and the architectural design of the building which will limit the transmission of acoustic impacts on properties to the north-east of the site. The architectural acoustic treatment of the building provides landscaping to soften impacts and is designed in a formation to restrict direct contact with surrounding residential properties.

- *To ensure that noise emission does not unreasonably diminish the amenity of the area or result in noise intrusion which would be unreasonable for occupants, users or visitors.*

#### Comment:

As discussed above, the architectural design of the development will significantly contribute to mitigating the reverberation of noise and as such, it is considered that there will be no unreasonable or detrimental impacts upon the surrounding area.

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

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

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

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

### **POLICY CONTROLS**

#### **Northern Beaches Section 7.12 Contributions Plan 2019**

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

A monetary contribution of \$79,237 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$7,923,678.

### **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

Council is satisfied that:

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

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

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

The proposed development represents a significant redevelopment and urban renewal of a large part of the May Road neighbourhood shopping centre. The proposal will result in a significant improvement in the character of the centre, it will enhance the streetscape and locality, improve accessibility, introduce residential use and activity into the centre, improve the interface and relationship with the adjoining public reserve, increase the amount of off-street parking and provide some impetus for the redevelopment of the remainder of the centre.

Conversely, the proposal will increased traffic on adjoining streets and in the public carpark in front of the centre, involve temporary disruption to the functioning of the centre, result in a loss of amenity associated with a lengthy construction period and will introduce additional noise and activity in the rear laneway. However, all of these impacts can be managed or mitigated through good plans to deal with demolition, excavation and construction, as well as during the operations of the completed development.

The development has been assessed in accordance with the relevant planning controls applying to the site, including SEPP 65, SEPP 55, WLEP 2011 and WDCP 2011. Most significantly, the application is seeking a variation to the building height development standard of 8.5m under Clause 4.6 of the WLEP 2011. In this regard, the proposal is considered to be a suitable and appropriate development having regard to its height and scale in relation to surrounding development and its consistency with the objectives and intent of the height standard under Clause 4.3 of the WLEP 2011.

Strict compliance with height standard in this case, is considered to be unreasonable and unnecessary having regard to the following:

- The proposed building height is compatible and consistent with new shop top housing development in the B1 zones in the locality and the proposed built form and future streetscape envisaged for the site under the planning controls.
- The proposed variation is relatively minor in nature and allows for the redevelopment of the site in a manner that is respectful of the scale and context of surrounding development and of that envisaged by the WDCP.
- The non-compliance with the height standard does not result in any loss of views, overshadowing or privacy impacts on any surrounding or adjoining development or from the public domain.
- The 3<sup>rd</sup> storey element, whilst partly non-compliant with the height standard, is recessive and well setback from the edges of the lower two storeys and does not result in excessive building bulk and scale. The internal courtyard design, where floorspace has purposefully not been filled-in, affords a high level of internal amenity and functionality for the users and occupants of the commercial and residential components of the building.
- The proposal represents good design and good planning outcomes.

The proposed development has been assessed as being consistent with the Design Quality Principles of State Environmental Planning Policy No. 65 and the Apartment Design Guide. The development has also been found to be consistent with the aims and objectives and requirements for the B1 Neighbourhood Centre zone under the provisions of WLEP 2011 and WDCP 2011.

The public exhibition of the application resulted in no submissions being received, which is indicative of the overall merits and well resolved design of the proposal.

Special conditions are recommended in relation to contamination, acoustic treatments, landscaping and construction and traffic management.

Therefore, it is considered that the proposal has adequately addressed and satisfied the relevant planning controls and objectives applying to the zone and other relevant legislation and is a suitable and appropriate development for the site and the locality.

Accordingly, the application is recommended for approval.

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

## **RECOMMENDATION**

## DEFERRED COMMENCEMENT APPROVAL

A. Council is satisfied that:

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

a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and

b) There are sufficient environmental planning grounds to justify the contravention.

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

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant a Deferred Commencement Development Consent being subject to a two (2) year time frame for Deferred Commencement Consents detailed within Section 95 of the EP&A Regulation 2000 to DA2020/0739 for Demolition works and construction of a Shop Top Housing Development with basement carparking on land at Lot 13 DP 801798, 62 May Road, NARRAWEENA, Lot 14 DP 801798, 60 May Road, NARRAWEENA, Lot 15 DP 801798, 58 May Road, NARRAWEENA, Lot 16 DP 801798, 56 - 56 May Road, NARRAWEENA, Lot 17 DP 801798, 54 - 54 May Road, NARRAWEENA, subject to the conditions printed below:

B. THAT once the matters detailed within the Deferred Commencement Development Consent conditions are satisfactorily addressed then an operational development consent be issued subject to the time frames detailed within Part A of this recommendation.

## DEFERRED COMMENCEMENT CONDITIONS

### 1. **Acoustic Report**

An acoustic report is to be prepared by a qualified acoustic engineer, the report is confirm that the development that the following *LAeq levels are not exceeded within the development*:

(a) *in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*

(b) *anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

Reason: Complies with Clause 102 of State of Environmental Planning Policy (Infrastructure) 2007.

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

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

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 2. **Approved Plans and Supporting Documentation**

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

#### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
A-0006, A-0009, A-0010, and A2052 - Rev 02	26/11/2020	Benson McCormack Architecture
A-0105 - Rev. 03	26/11/2020	Benson McCormack Architecture
A-0007, A-0101, A-0103, A-1301, A-0201, A-0202, and A-0203 - Rev 04	26/11/2020	Benson McCormack Architecture
A-0104, and A-2051 - Rev 05	26/11/2020	Benson McCormack Architecture
A-0102 - Rev 06	26/11/2020	Benson McCormack Architecture

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
200014-DA-C03.01, 200014-DA-C03.21, 200014-DA-C05.01, 200014-DA-C05.02, 200014-DA-C13.01, 200014-DA-C14.01, and 200014-DA-C22.01 - Rev. 2	31/03/2020	Enspire Solutions Pty. Ltd.

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Access Report	12/03/2020	Accessible Building Solutions
Arborist Report	16/04/2020	Advanced Treescape Consulting
BCA Report - Ref. C002-0320	17/03/2020	Phoenix Building Approvals Pty. Ltd.
Geotechnical Report - Ref. 6093-G1	10/06/2020	AssetGeoEnviro
Section J Report	16/05/2020	Outsource Ideas Pty. Ltd.

c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

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

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	05/03/2020	Joe Vescio

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

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

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

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

<b>Other Department, Authority or Service</b>	<b>EDMS Reference</b>	<b>Dated</b>
Ausgrid	Ausgrid Referral Response	10/08/2020
TfNSW	Transport for NSW Referral Response	29/07/2020

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

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

### 4. **Food Businesses**

(a) Separate Development Consent from Council is required for the design, fit-out, construction and use of each tenancy as food businesses.

(b) Each development application must provide details to Council demonstrating compliance with Standard 3.2.3 of the Australia and New Zealand Food Standards Code, the Food Act 2003 and AS 4674 'Design, construction and fit out of food premises' and AS1668.2.

(c) Details must include plans for the design, construction and fit-out and of all kitchens, wet areas, garbage storage rooms, food store areas, kiosks/stalls used for sale of food and beverages, and requirements for mechanical ventilation.

Reason: To ensure that all food premises comply with the design requirements. (DACHPGOG5)

### 5. **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.

## 6. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

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

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

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

## FEES / CHARGES / CONTRIBUTIONS

### 7. **Policy Controls**

#### Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$79,236.78 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$7,923,678.00.

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

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

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

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

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

### 8. **Security Bond**

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

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

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

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

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

9. **Construction, Excavation and Associated Works Security Bond (Road works)**

The applicant is to lodge a bond with Council of \$10,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, removal of any redundant driveways road and pavement/shoulder reconstruction works as part of this consent.

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

Reason: Protection of Council's infrastructure.

10. **Construction, Excavation and Associated Works Bond (Drainage works)**

The applicant is to lodge a bond of \$25,000 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

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

Reason: Protection of Council's infrastructure.

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

11. **Traffic Management and Control**

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

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

12. **Working on and Access to Reserves Permit**

Works undertaken by principal contractors working without Council supervision on Land owned or managed by Council require a "Working on Reserves" permit prior to commencement. Applications can be obtained from Council's website or the Parks and Recreation business unit.

Reason: public safety and the protection of Council infrastructure.

13. **Shoring of Council Property**

a) Should the proposal require shoring to support Land owned or managed by Council, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings. Council approval is required if temporary rock anchors or other construction measures are to be used within Council land.

b) Details demonstrating compliance are to be submitted to the 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 Land owned or managed by Council.

14. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

Due to heavy traffic congestion throughout the town centre, truck movements will be restricted during the major commuter peak times being 6.00am-10.00am and 3.30-6.00pm. Truck movements must be agreed with Council's Traffic and Development Engineer prior to submission of the CTMP.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Seven (7) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or



the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent

- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

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

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

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

**15. Removal of Redundant Driveways**

All redundant driveways shall be removed and reinstated to Council standard kerb and gutter. Suitably prepared plans shall be submitted to for an approval under and approved by Council prior to the issue of the Construction Certificate. All costs associated with the works shall be borne by the applicant.

A plan checking fee (**amount to be advised**) and lodgement of a performance bond may be required from the applicant prior to the release of the approval.

Reason: To maximise on street car parking by removing driveways that are no longer needed in accordance with Council policy.

**16. Building Code of Australia Report**

The recommendations as detailed and recommended in the Building Code of Australia Assessment Report prepared by Phoenix Building Approvals P/L dated 17/3/2020, Report Ref No. C002-0320 are to be carried out in full to the Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

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

**17. Building Code of Australia Access Requirements**

The Building Code of Australia works and access measures to the building as detailed and recommended in the Access Report prepared by Accessible Building Solutions, dated 12/3/2020, Report Ref No. 220033 are to be carried out to the building. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for Access for building occupant safety.

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

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council’s Water Management for Development Policy”, and generally in accordance with the concept drainage plans prepared by Enspire Solutions Pty Ltd, drawing number 200014-DA-C05.01, 200014-DA-C05.02, 200014-

DA-C14.01 and 200014-DA-C22.01, dated 9/04/2020. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. An overflow pipe shall be provided above the TWL within the tank and connected to the outlet pipe to prevent backflow.

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

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

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

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

The application is to include four (4) copies of Civil Engineering plans for the design of driveway crossing, reinstatement of existing driveway crossings, stormwater connection from the site to new kerb inlet pit and connection to existing council gully pit which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

1. 5.5 metre wide driveway crossing in accordance with Northern Beaches Council Drawing No. A4-3330/1 N.
2. Reinstatement of all old driveway crossings to kerb and gutter and grass verge along the entire Popular Lane frontage.
3. 1.2 metre lintel and grate kerb inlet pit in front of the subject site with a Ø 375mm RRJ RCP extension to the council pit.

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 Certifying Authority prior to the issue of the Construction Certificate.

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

20. **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.

21. **Sub-Soil Seepage**

The Applicant is to submit plans demonstrating that all sub-soil seepage drainage is discharged via a suitable silt arrester pit, directly to Council's nearest stormwater drainage line being the kerb inlet pit at the edge of the parking area in May Road and is to be carried out in accordance with relevant Australian Standards. (Note: At the time of determination the following (but not limited to) Standards applied:

- Australian/New Zealand Standard AS/NZS 3500.3 - 2003 Plumbing and drainage - Stormwater drainage
- Australian/New Zealand Standard AS/NZS 3500.3 - 2003 / Amdt 1 - 2006 Plumbing and drainage - Stormwater drainage.

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

Reason: To ensure appropriate drainage and Stormwater management on site to protect amenity of residents.

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

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

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

23. **Amended Plans**

a) Plans are to be amended to delete the stairs and landing located on the eastern boundary of the site adjoining the public reserve.

b) The planter to the north of the stairs is to be extended across the area of the deleted stairs and landing.

c) Tree, shrub and groundcovers indicated on the Landscape Plan in the planter to the north are to be extended across the new planter.

d) Amended Plans are to be submitted to the Certifying Authority for approval prior to issue of a Construction Certificate.

Reason: Public safety

24. **Hazardous Building Materials Survey**

A hazardous building materials survey is to be conducted by a suitably qualified and experienced person. The survey is to include a survey of hazardous building materials including but not limited to asbestos. Following the survey a Hazardous Building Materials Register is to be prepared for the premises providing recommendations for the safe management/removal of hazardous building material.

Reason: To protect human health.

25. **Compliance with Standards**

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

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

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

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

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

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

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

26. **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.

**27. External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

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

**28. Sydney Water "Tap In"**

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

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

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

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

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

**29. Provision of two additional car spaces and allocation of parking spaces**

A total of 36 parking spaces shall be provided within the basement carpark. The additional 2 parking spaces in addition to the 34 parking spaces shown in the master plans shall be provided via provision of 2 sets of vertical mechanical stackers within the basement carpark. The allocation of the parking spaces shall be as per the following:

- 14 space to retail and commercial uses.
- 19 spaces to residential units.
- 3 spaces to residential visitors.

A total of 23 bicycle spaces including eighteen (18) bicycle spaces within the car park, and five (5) publicly accessible bicycle parking spaces within the central portion of the ground floor level courtyard must be provided.

Detail plans demonstrating the above shall be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: Compliance with Warringah DCP

**30. Waste and Recycling Requirements**

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

Note: If the proposal, when compliant with Warringah Development Control Plan – Part C9 Waste Management, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.  
(DACWTC01)

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

**31. No Access Through Adjoining Park/Reserves**

Access to the site through an adjoining park/reserve is prohibited without the written approval of the Council.

Reason: To ensure protection of council parks/reserves.

**32. Works adjoining Council Land**

a) Prior to commencement of work, the property/reserve boundary is to be surveyed by a registered surveyor and such boundary is to be clearly marked on site.

b) A dilapidation report established at the commencement of the works shall contain a survey of pre-existing land features including photographic record of the Land under Council's care control and management adjoining the development, detailing the physical condition of items such as, but not exclusively limited to, physical assets such as crossovers, driveways, footpaths, utilities, furniture, play equipment, trees, gardens, lawn areas, bushland, and any rock outcrops.

c) This dilapidation report shall be submitted to Council and the Certifying Authority prior to commencement of works, and shall be the basis for rectification of any damage to Council's assets as listed in the Post Construction Dilapidation report submitted prior to the issue of the Occupation Certificate.

d) Any damage to these assets during the works must be replaced like for like to the satisfaction of the Certifying Authority, and shall be subject to acceptance by Council.

e) The applicant may be held liable to any damage to public infrastructures in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition. In this regard, where required, the damage deposit lodged by the applicant may be used by Council to repair such damage on Council's property.

f) Prior to commencement of works on site, appropriate public safety site management measures must be in place as the site adjoins a public park with playground equipment. Construction Management must address public safety and protection at all stages of the works and incorporate the following throughout demolition and construction:

- g) safety and security of the site, road and footpath area including details of proposed fencing, hoarding and lighting,
- ii) methods of loading and unloading machinery and building materials,



- iii) location of storage materials, excavation and waste materials,
- iv) erosion, sediment and dust control measures, and
- v) protection of the public from impacts of demolition, excavation and construction works.

h) During works, the site management measures set out in the above must remain in place and be maintained until the completion of works.

i) Construction materials must not be stored on Land owned or managed by Council. Safe pedestrian access free of trip hazards must be maintained at all times on or adjacent to any public access routes connected to Land owned or managed by Council.

Reason: Public Safety and to protect Council assets.

### 33. **Work Zones and Permits**

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

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

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

### 34. **Pre-Construction Dilapidation Report**

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

- No.41, 43 and 45 Oceana Street, Narrabeena
- 50 May Road (Public Reserve), Narrabeena
- Road Reserve in May Road; and
- Poplar Lane.

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

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

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

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

to the commencement of any works on site.

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

**35. 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.

**36. Installation and Maintenance of Sediment and Erosion Control**

a) Prior to commencement of works on site, sediment and erosion controls must be installed along the immediate downslope of the works area, in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the sediment controls following each heavy or prolonged rainfall period.

b) Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: to protect the surrounding environment from the effects of sedimentation and erosion from the site.

**37. Works on Land owned or managed by Council.**

No works are to be carried out on Land owned or managed by Council without the written approval of the Council.

Note: Separate approval from Council is required for access driveways, paths, stairs, connections to underground utilities (stormwater, gas, sewer, electricity, telecommunications etc.), and landscaping works on Land owned or managed by Council.

Reason: Protection of public assets, Public safety

**38. Tree protection**

(a) Existing trees which must be retained

i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation

ii) Trees located on adjoining land

(b) Tree protection

i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.

ii) All structures are to bridge tree roots greater than 50mm diameter unless directed

otherwise by a qualified Arborist on site.

iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.

iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause

E1 Private Property Tree Management and AS 4373 Pruning of amenity trees

v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

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

## CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

### 39. Road Reserve

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

Reason: Public safety.

### 40. Removing, Handling and Disposing of Asbestos

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

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

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

### 41. Survey Certificate

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

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

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

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

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

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

### 42. Property Boundary Levels

The Applicant is to maintain the property boundary levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

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

Reason: To maintain the existing profile of the nature strip/road reserve.

**43. Civil Works Supervision**

The Applicant shall ensure all civil works approved in the Section 138 approval are supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Roads Authority.

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

**44. Notification of Inspections (infrastructure works to be handed over to Council)**

Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

- (a) Installation of Silt and Sediment control devices
- (b) Prior to backfilling of pipelines
- (c) Prior to pouring of stormwater gully pits
- (d) Prior to pouring of kerb and gutter, driveway crossing
- (e) Subgrade level / basecourse level / subbase
- (f) Sealing road pavement

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification.

Reason: To ensure new Council infrastructure is constructed in accordance with Auspec 1 Council's design and specification standards.

**45. Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

**46. Kerb and Gutter Construction**

The Applicant is to construct kerb and gutter and associated works along the entire frontage of the site in Poplar Lane in accordance with Northern Beaches Council Drawing No. A4 2276/A. Prior to the pouring of concrete, the works are to be inspected by Council and an approval issued.

The approval is to be submitted to the Principal Certifying Authority.

Reason: To facilitate the preservation of on street parking spaces.

47. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

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

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

48. **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.

49. **No Access through Land owned or managed by Council.**

- a) Site access is not approved for delivery of materials nor construction of the development through adjacent Land owned or managed by Council.
- b) The dumping or storage of building materials, spoil, vegetation, green waste, or any other material in Land owned or managed by Council is prohibited.
- c) Any damage to Council's public assets shall be made good by the applicant and/or the contractor, to the satisfaction of Council.

Note:

Council's public assets include, but is not limited to the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993.

Reason: to protect and/or restore any damaged public asset, public safety.

50. **Protection of trees**

- a) Existing trees which must be retained
  - i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
  - ii) Trees located on adjoining land
- b) Tree protection
  - i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
  - ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by a qualified Arborist on site.
  - iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
  - iv) All tree pruning within the subject site is to be in accordance with relevant local planning controls and AS 4373 Pruning of amenity trees
  - v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

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

and adjacent to the site.

51. **Compliance with Recommendations within Hazardous Building Materials Register**

Recommendations within Hazardous Building Materials are to be implemented from commencement of any excavation, demolition or development works until the issue of any interim / final occupation certificate.

Reason: To protect human health.

52. **Off-site Disposal of Contaminated Soil - Chain of Custody**

'Chain of Custody' documentation shall be kept and submitted for the transport of the validated fill material from the (\*) site at (\*), to the subject premises.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority and Council within seven (7) days of transport.

Reason: For protection of environment.

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

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan titled [INSERT] and dated [INSERT].

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

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

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

Reason: To ensure waste is minimised and recovered for recycling where possible. (DACWTE02)

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

55. **Landscape completion certification**

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

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

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

56. **Post Construction Dilapidation Report of Land owned or managed by Council.**

a) Rectification works to Council's assets shall be contained in a Post Construction Dilapidation report submitted to Council prior to the issue of the Occupation Certificate.



b) The applicant may be held liable to any damage to public infrastructures in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition. In this regard, where required, the damage deposit lodged by the applicant may be used by Council to repair such damage on Council's property.

Reason: protection of Council's assets.

57. **Allocation of parking spaces (strata title)**

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

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

58. **Allocated Parking Spaces (retail/commercial)**

Parking allocated to this development must be clearly signposted and linemarked as being for the exclusive use of this development. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure parking availability.

59. **Stacked Parking Spaces (residential)**

Stacked parking spaces are to be assigned as the same residential unit which blocks in the parking spaces. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To minimize conflicts regarding parking areas.

60. **Footpath Construction**

The applicant shall construct 1.5m wide concentre footpath along full frontage of the site on Poplar Lane and the adjoining Council's reserve to provide pedestrian connection to the existing pathway within the Council's reserve. The applicant shall undertake any works associated with the footpath construction as required. This includes the construction of kerb and guttering and relocation of the playground fencing.

As the provision of public access way will rely on private property, a right of carriageway/right of footway will be created in Council's benefit for the ongoing preservation of pedestrian access.

Plans demonstrating the above requirements and designed in compliance with the Council's standards shall be submitted to and approved by Council prior to the issue of any Occupation Certificate.

Reason: To ensure the provision of safe and convenient pedestrian access to and from the

property

61. **Construction of a loading bay**

A dedicated loading bay shall be constructed within the Council car parking area on May Road. The loading bay is to accommodate small truck (SRV) and to be designed in compliance with AS2890 and in consultation with Council Transport team.

Plans demonstrating the above shall be submitted to Council for review and obtaining Traffic Committee approval.

The applicant shall undertake full construction of the loading bay and any associated works as required at no cost to Council.

Reason: To provide a designated loading bay to service the shops/retail.

62. **Mechanical Servicing**

The applicant is to include a Section 88E instrument on the title permitting Council to provide direction as to the repair/maintenance of any mechanical devices. In the instance where the building manager does not comply with the direction of Council, or fails to address repair/maintenance requirements in a timely manner, Council reserves the right to undertake the repairs and all fees associated will be borne by the building manager.

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

Reason: To ensure the mechanical services are maintained in a serviceable state at all times.

63. **Post-Construction Dilapidation Report**

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

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

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

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

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

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

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

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance of the pump-out facility on the property being developed. Northern Beaches

Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Northern Beaches Council's delegate shall sign these documents prior to the submission to the NSW Land Registry Services. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

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

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

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

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

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/guide-submitting-ldaa-nov19.pdf>

The form for the application can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/4023-legal-documents-authorisation-oct19.pdf>  
The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure the on-site stormwater detention system is maintained to an appropriate operational standard and not altered..

**66. Certification of Civil Works and Works as Executed Data on Council Land**

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works have been constructed in accordance with this consent and the approved Section 138 plans. Works as Executed data certified by a registered surveyor prepared in accordance with Council's 'Guideline for preparing Works as Executed data (details overdrawn on a copy of the approved civil plans) for Council Assets' in an approved format shall be submitted to Council for

approval prior to the release of any security deposits.

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

67. **Screen Planting**

The species within the planter box on the northern side of the first floor level terrace must be grown and be maintained to a minimum height of 1m above the finished floor level of the terrace.

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

Reason: To protect the privacy of the adjoining properties.

68. **Compliance with Recommendations within the Hazardous Building Materials Register**

Prior to the issuing of any interim / final occupation certificate, documentation is to be submitted to the satisfaction of the Principal Certifying Authority that any recommendations within the Hazardous Building Materials Register have been implemented.

Reason: To protect human health. (DACHPFPOC6)

69. **Mechanical Ventilation certification**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from the installer of the mechanical ventilation system that the design, construction and installation of the mechanical ventilation system is compliant with the requirements of AS1668 The use of mechanical ventilation.

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

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

70. **Removal of All Temporary Structures/Materials and Construction Rubbish**

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

b) Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Occupation Certificate.

Reason: to protect reserve amenity and public safety.

71. **Required Planting**

a) Trees, shrubs and groundcovers shall be planted in accordance with Landscape Plans Dwg Nos LP01, 02, 03 & 04 Rev A dated 26.03.20 prepared by Matthew Higginson Landscape Architecture:

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

Reason: To maintain environmental amenity.

**72. Garbage and Recycling Facilities**

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

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

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

**73. Garbage and Recycling Facilities**

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

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

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

**74. Undergrounding of Telecommunications Services**

Arrangements are to be made for the provision of underground telecommunications services to the building.

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

Reason: Provision of telecommunication facilities in a manner that facilitates the future underground provision of cable services. (DACPLF06)

**75. 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 the NSW Fire Brigade.

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 the NSW Fire Brigade 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.

**76. No parking restriction along Poplar Lane**

No Parking restriction shall be installed on both sides of Poplar Lane along the development site's frontage subject to local Traffic Committee approval. A plan demonstrating the proposed signage within Council's Public Domain shall be prepared by a suitably qualified person and

submitted to and approved by the Local Traffic Committee prior to the issue of any Occupation Certificate.

The applicant is to install all signage and linemarking, as per any Roads Act approval. These works are to be completed prior to the issue of any Occupation Certificate.

Note: The applicant is advised that the plan will require approval by the local Traffic Committee if the proposal requires change in existing parking conditions and hence, adequate time should be allowed for this process

The applicant is to install all signage and linemarking, as per any Roads Act approval.. These works are to be completed prior to the issue of any Occupation Certificate.

Reason: To improve vehicular access in poplar Lane simultaneous

(DACTRFPOC1)

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

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

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

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

**78. Waste/Recycling Compliance Documentation**

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

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

**79. Positive Covenant for Waste Services**

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

Reason: To ensure ongoing access for servicing of waste facilities (DACWTF03)

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

The original completed request form (Department of Lands standard form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved



plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

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

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

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

### 81. No Plant on Roof

No air conditioning units or plant is to be located on roof tops.

Reason: To ensure the amenity of the neighbouring residents

### 82. Landscape maintenance

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

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

Reason: To maintain local environmental amenity.

### 83. Hours of Operation

The ground floor retail tenancies are subject to the following operating hours:

- 7.00am - 7.00pm - Monday - Sunday

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Modification to these operating hours is to be made through a separate development application.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

### 84. Commercial Waste Collection (DACPLG18)

Waste and recyclable material, generated by this premises, must not be collected between the hours of 8pm and 6am on any day.

Reason: To protect the acoustic amenity of surrounding properties.(DACPLG18)

### 85. 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. (DACPLG19)

86. **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.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed. (DACPLG25)

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**

The application is determined on //, under the delegated authority of:

**Steven Findlay, Manager Development Assessments**

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**Peter Robinson, Executive Manager Development Assessment**