

STATEMENT OF ENVIRONMENTAL EFFECTS

Proposed shop top housing
development

21 Oaks Avenue, Dee Why

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Statement of Environmental Effects

Proposed Shop top Housing Development



RESPONSIBLE FOR THIS REPORT:

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Director - BBF Town Planners

April 2024

TABLE OF CONTENTS

Statement of Environmental Effects.....	2
TABLE OF CONTENTS.....	3
1 Introduction.....	1
1.1 Overview.....	1
1.2 Statement of Environmental Effects.....	2
1.3 Expert inputs.....	2
2 Site Analysis.....	4
2.1 Site Description.....	4
2.2 Features of the site and premises.....	5
2.3 Zoning and key environmental considerations.....	5
2.4 Features of the location.....	5
3 Description of Proposed Development.....	10
3.1 Overview.....	10
3.1.1 Proposed building profile by level.....	12
3.2 Unlocking access to adjoining properties.....	13
3.3 Alternate podium and setback outcomes considered.....	14
4 Environmental Assessment.....	16
4.1 Section 4.15 of the Environmental Planning & Assessment Act, 1979.....	16
4.2 Planning Controls Overview.....	17
5 Section 4.15 (1)(i) the provisions of any environmental planning instrument.....	18
5.1 State Environmental Planning Policies.....	18
5.1.1 State Environmental Planning Policy (Housing) 2021.....	18
5.1.2 State Environmental Planning Policy (Sustainable Buildings) 2022.....	18
5.1.3 State Environmental Planning Policy (Resilience and Hazards) 2021.....	19
5.1.4 State Environmental Planning Policy – Infrastructure.....	19
5.2 Warringah Local Environmental Plan 2011.....	21
5.2.1 Zone.....	21
5.2.2 Other relevant provisions of the LEP.....	23
5.3 Part 7 of LEP - Dee Why Town Centre B4 Mixed use zone.....	25
5.3.1 LEP Clause 7.3 Objectives for development within Dee Why Town Centre.....	25
5.3.2 LEP Clause 7.4 Development must be consistent with objectives for development and design excellence.....	27
5.3.3 LEP Clause 7.5 Design excellence within Dee Why Town Centre.....	28
5.3.4 LEP clause 7.13 Mobility, traffic management and parking.....	29
5.4 BCA and access considerations.....	30

6	Development Control Plan	31
6.1.1	Development Control Plan - Part G1 Dee Why Town Centre.....	31
6.1.2	Development Control Plan 2011 – other aspects.....	35
6.1.3	Conclusion	39
7	Section 4.15 the Environmental Planning and Assessment Act 1979 - Summary	40
8	Conclusion	41

1 Introduction

1.1 Overview

This Statement of Environmental Effects (SoEE) has been prepared in support of a development application seeking the demolition of existing site structures and the construction of a shop top housing development on the subject land comprising 22 apartments and 2 office suites above a ground floor retail tenancy and parking for 28 vehicles over 3 levels. The proposal is a permissible land use within the zone and supports Council's urban renewal and growth objectives for increased residential density within the Dee Why town Centre.

The Architect has responded to the client brief to provide for a mixed use development of exceptional design quality which appropriately responds to the constraints and opportunities associated with the depth and geometry of site, the spatial relationship of existing residential apartment development and the 6.095 metre wide drainage canal easement at the rear of the properties, the fragmented nature of surrounding property ownership which frustrates land consolidation and the built form characteristics of recently constructed development to the west of the site, in the same street block, which whilst creating a precedent in terms of form and street wall/ podium height and setbacks does not reflect mixed use development which complies with the design principles within Schedule 9 of State Environmental Planning Policy (Housing) 2021 (SEPP Housing) and the Apartment Design Guide (ADG).

In this regard, the design has been developed through detailed site and context analysis with a number of built form outcomes modelled and ultimately discarded in favour of the design the subject of this application. Such design development is consistent with that encouraged by Council and the Northern Beaches Design and Sustainability Advisory Panel (DSAP) through formal pre-lodgement discussions (PLM2023/0087). The courtyard building typology adopted, where residential pavilions are separated by an appropriately designed and proportioned courtyard, facilitates the orderly and economic development of the land and superior residential amenity and broader urban design outcomes. It is our submission that such built form arrangement should create a precedent for the development of the balance of the properties located on the southern side of Oaks Avenue whereby a cohesive streetscape and urban form outcome compliant with SEPP Housing and the ADG will be achieved.

Unfortunately, compliance with the podium height and tower setback provisions do not facilitate such outcome with variations to these provisions necessary to achieve the enhanced residential amenity and urban design outcomes sought whilst also providing for the orderly and economic use and development of the land. This submission will demonstrate that strict compliance is not only unreasonable and unnecessary but also undesirable given the circumstances outlined above.

We confirm that attempts have been made to acquire and consolidate with the adjoining properties at No's 17 – 19 and 23 Oaks Avenue based on the accompanying valuation reports prepared by Winter Valuation with above market offers forwarded to the owners of the adjoining property by Upstate Commercial. Both offers have been formally rejected. Notwithstanding, we note that the development makes for provision for a shared driveway and basement access arrangement to facilitate access to the basement level of any future development on these adjoining properties as detailed on plan A24(A).

Whilst the application requires the consent authority to give favourable consideration to a variation to the podium height development standard this report demonstrates that strict compliance is both unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify the variation sought. The clause 4.6 variation request is well founded.

The identified non-compliances with the dwelling mix and tower setbacks provisions of Warringah Development Control Plan (WDCP) have been acknowledged and appropriately justified having regard to the associated objectives. Such variations succeed pursuant to section 4.15(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of controls/ standards for dealing with that aspect of the development.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended. It is considered that the application, the subject of this document, succeeds on merit and is appropriate for the granting of consent.

1.2 Statement of Environmental Effects

This report is a Statement of Environmental Effects (SEE), pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal has been considered under the relevant provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979.

In preparation of this document, consideration has been given to the following:

- Environmental Planning and Assessment Act, 1979
- Warringah Local Environmental Plan 2011
- Relevant State Environmental Planning Policies
- Warringah Development Control Plan 2011

The proposal is permissible and generally in conformity with the relevant provisions of the above statutory planning policies as reasonably applied to the subject property.

Overall, it is assessed that the proposed development is satisfactory, and the development application may be approved by Council.

1.3 Expert inputs

This application is supported by the following expert inputs:

- Architectural plans prepared by Gartner Trovato Architects.
- Boundary survey prepared by SDG.
- Landscape plans prepared by Sym Studio.
- Preliminary Site Investigation prepared by EIAustralia.
- Traffic and parking report prepared by Terraffic.
- Stormwater management plans prepared by Barrenjoey Consulting Engineers.

- Access assessment report prepared by Jensen Hughes.
- Construction noise and vibration management plan prepared by Acoustic Dynamics.
- Environmental noise impact assessment prepared by Acoustic Dynamics.
- BCA assessment report prepared by Jensen Hughes.
- Flood management report prepared by Barrenjoey Consulting Engineers.
- Geotechnical report prepared by EIAustralia.
- QS report prepared by D.P. Martin.
- BASIX certificate prepared by Gartner Trovato Architects.

2 Site Analysis

2.1 Site Description

The property is located at 21 Oaks Avenue, Dee Why. The property is legally described as Lot 10, section 15 in DP 8172. The subject site is located on the southern side of Oaks Avenue and has an area has a land area of 770.9m² and is rectangular in shape. The site's dimensions are as follows:

- Front and rear boundaries 15.24m
- Side boundaries 44.49m

The survey extract below confirms that the site is burdened by the following easements and restrictions:

- Easement to drain water 6.095m wide adjacent to the rear boundary.
- Proposed road widening 6.095m wide adjacent to the front boundary.

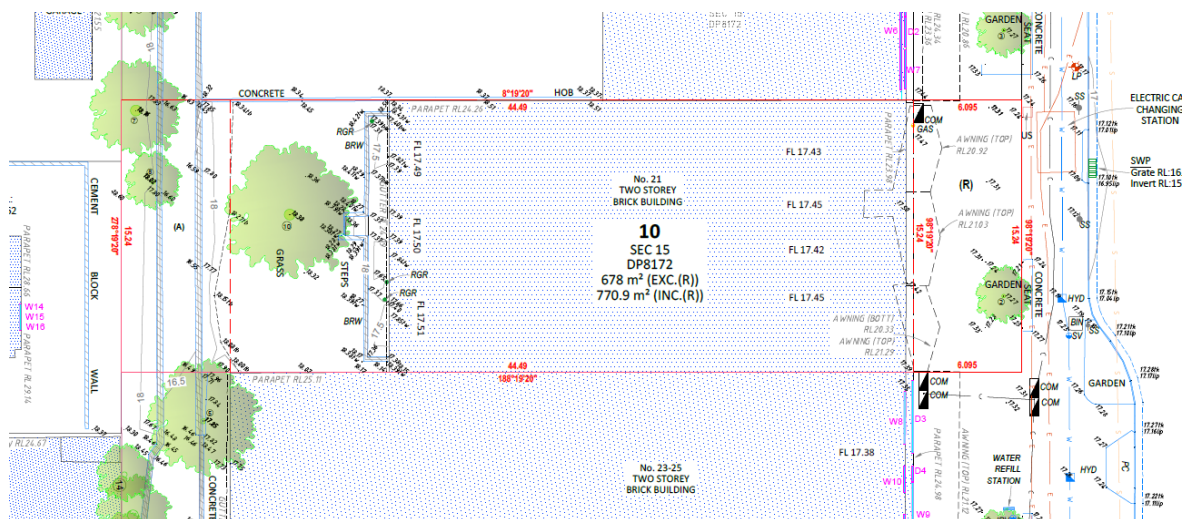


Figure 1 - Boundary survey extract

2.2 Features of the site and premises

The key features of the site and its development include:

- The subject site is located on the southern side of Oaks Avenue.
- The site has a public frontage to Oaks Avenue however there is no vehicle access to the property from this frontage.
- The site is situated within close walking distance of the B1 public bus interchange located at the corner of Pittwater Road and St David Avenue.
- The property has an historical built form and land use as a commercial/retail building with a combined floor area of approximately 740m² comprising 350m² of commercial floor space and 390m² of retail floor space.
- The site contains elements of the broad drainage system that transverses Dee Why CBD to the receiving waters of Dee Why Lagoon. Within the development site components of this system include the concrete drainage channel (~ 1.35/1.9mD x 2.4mW) along the sites southern boundary, and the Oaks Ave extents (ie kerb to kerb cross section) along the sites northern boundary.
- The land is designated as medium to high flood risk based on Councils flood risk maps.
- An electrical substation is located within the road reserve adjacent to the frontage of the site.
- The site is generally flat with a slight fall towards Oaks Avenue.

2.3 Zoning and key environmental considerations

The property is zoned MU1 Mixed Use under the Warringah Local Environmental Plan 2011 (LEP) as is most of the surrounding land.

The site and proposal are not affected by key environmental considerations like, for example, heritage, acid sulfate soils, bush fire, biodiversity, geotechnical, waterways and geotechnical risk. The property is affected by flooding as addressed within this report. There are no zoning or environmental characteristics that present impediments to the proposal.

2.4 Features of the location

The site is located within the heart of the Dee Why town centre, convenient to a range of facilities and services, within easy walking distance of high frequency bus services and a short distance to Dee Why Beach.

Dee Why town centre is characterised by a mix of older style commercial buildings generally 1 to 3 storeys in height with retail uses at ground level and office or residential development above ground. Newer development within the Dee Why Town Centre has occurred on larger sites (some being amalgamated), achieving building heights of 7 to 18 storeys and accommodating a greater mix of land uses with a significantly increased residential housing component.

The area is well advanced in its transition from an older style commercial precinct into a contemporary mixed use area incorporating commercial and residential land uses. This transition is being supported by current development activity, recent approvals and further planned development. The immediate surrounds include a range of building forms which are a mix of older, low-rise and newer high rise commercial and multi-storey mixed use residential buildings.

The subject site is set within an area that is in a state of transition between the older 2 storey retail and commercial development and the new high-rise, mixed use business and residential developments. The character of the local area, being the visual catchment of the site, comprises a mix of older 2-6 storey commercial buildings intermixed with 3 to 8 to upto 18 storey mixed, commercial and residential developments. Furthermore, the site is within convenient proximity to a range of employment opportunities, services, retail shops, transport and recreation opportunities; notably:

- The B1 'B-Line' Bus service, which is a turn-up-and-go, high frequency, bus service that runs every 8-12 minutes, from approximately 5.30am to 1.21am, Mon to Fri; and 5.40am to 1.31am on weekends.
- High pedestrian accessibility facilitated by signalised intersections and an extensive pedestrian pathway network within and connecting to the town centre.
- Recreational opportunities include parks, playgrounds, sportsfields, beaches and the PCYC community and sports facility.
- Opposite to the land is the large Lighthouse development (by Meriton) comprising upto 18 storeys over three towers, containing approximately 360 residential units, 450 car parking spaces and 17,000m² of retail, commercial and other non-residential floor space.
- Adjoining properties to the east and west are occupied by 2 storey commercial buildings with no off-street parking.
- Multi storey apartment development is to the south of the site with frontage and address to Pacific Parade.

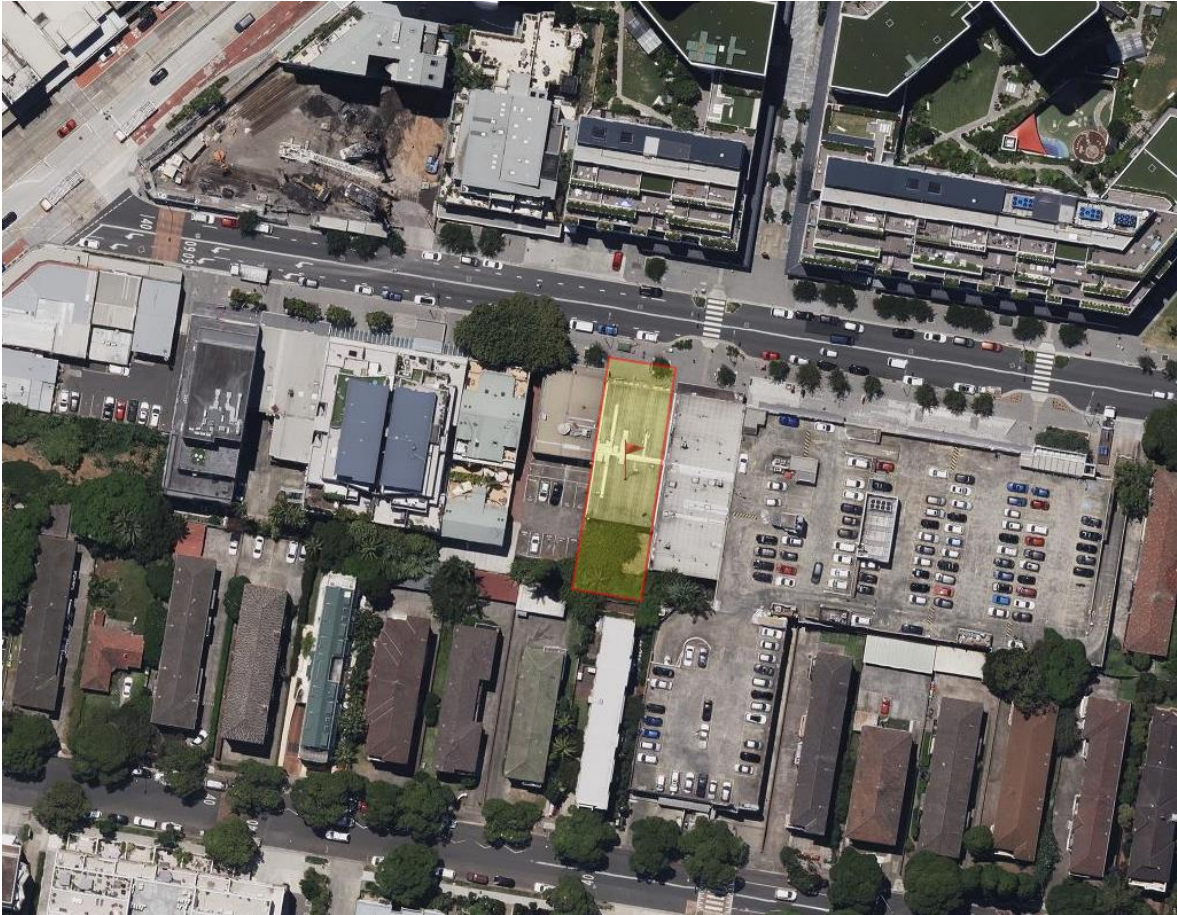


Figure 2 – Aerial location/ context photograph (SIX maps)



Figure 3 – Subject property and adjoining development as viewed from Oaks Avenue



Figure 4 – Residential apartment development to the south of the subject site with frontage and address to Pacific Parade



Figure 5 – Meriton Lighthouse development opposite subject site



Figure 6 – Mixed use development with 3 storey podium at 7 Oaks Avenue



Figure 7 – Mixed use development with 3 storey podium at 11 - 13 Oaks Avenue

3 Description of Proposed Development

3.1 Overview

The application seeks development consent for the demolition of existing site structures and the construction of a shop top housing development on the subject land comprising 22 apartments and 2 office suites above a ground floor retail tenancy and parking for 28 vehicles over 3 levels.

The proposal is depicted on the following architectural plans by Gartner Trovato Architects

DRAWING No:	DRAWING TITLE
A 00	COVER SHEET
A 01	SITE PLAN + SITE ELEVATION
A 02	SITE ANALYSIS PLAN
A 03	BASEMENTS 02 + 01
A 04	GROUND FLOOR + LEVEL 01
A 05	LEVELS 02 + 03
A 06	LEVELS 04 + 05
A 07	LEVELS 06 + ROOF
A 08	SECTION A-A
A 09	SECTION B-B
A 10	ELEVATIONS NORTH + SOUTH
A 11	ELEVATIONS EAST
A 12	ELEVATIONS WEST
A 13	SHADOW DIAGRAMS
A 14	3D VIEWS
A 15	CONTEXT VIEWS SHEET 01
A 16	CONTEXT VIEWS SHEET 02
A 17	DEVELOPMENT SUMMARY OPTION A- PLANS
A 18	DEVELOPMENT SUMMARY OPTION A- DRAWINGS
A 19	DEVELOPMENT SUMMARY OPTION B- PLANS
A 20	DEVELOPMENT SUMMARY OPTION B- DRAWINGS
A 21	AREA CALCULATIONS
A 22	SUN ACCESS VIEW FROM SUN
A 23	COUTYARD ELEVATIONS

Key aspects of the proposal are noted as follows:

UNIT SCHEDULE				
UNIT No	UNIT TYPE	UNIT AREA m2	SOLAR ACCESS	NATURAL VENTILATION
01	STUDIO	50	SOLAR = NO	VENT = NO
02	1 BED (A)	54	SOLAR = NO	VENT = NO
03	STUDIO	53	SOLAR = NO	VENT = NO
04	2 BED (S)	80	SOLAR = YES	VENT = YES
05	2 BED	77	SOLAR = YES	VENT = YES
06	2 BED	70	SOLAR = NO	VENT = YES
07	2 BED	70	SOLAR = NO	VENT = YES
08	2 BED	80	SOLAR = YES	VENT = YES
09	2 BED	77	SOLAR = YES	VENT = YES
10	2 BED	71	SOLAR = NO	VENT = YES
11	2 BED	71	SOLAR = NO	VENT = YES
12	2 BED	72	SOLAR = YES	VENT = YES
13	2 BED	70	SOLAR = YES	VENT = YES
14	2 BED	70	SOLAR = NO	VENT = YES
15	2 BED	70	SOLAR = YES	VENT = YES
16	1 BED (A)	52	SOLAR = YES	VENT = YES
17	2 BED	70	SOLAR = YES	VENT = YES
18	1 BED (S)	56	SOLAR = YES	VENT = YES
19	1 BED (S)	56	SOLAR = YES	VENT = YES
20	1 BED (A)	52	SOLAR = YES	VENT = YES
21	2 BED	70	SOLAR = YES	VENT = YES
22	3 BED	94	SOLAR = YES	VENT = YES

SOLAR ACCESS & NATURAL VENTILATION**FSR**

SOLAR ACCESS = 14 / 22 (64%)
 X-VENTILATION = 19 / 22 (86%)

2.9:1

Other aspects of the proposed development include:

- Proposed landscaping works are depicted in the accompanying landscape plans by Sym Studio Landscape Architects. Landscaping works include (but not limited to) landscaping to the ground and up podium level of the development relating to deep soli areas, on slab planting within communal spaces and communal gardens.
- All stormwater disposal has been designed to meet the relevant standards and Council policy as detailed in the accompanying plans and documentation prepared by Barrenjoey Consulting Engineers.
- The proposal is serviced by the high frequency B-Line bus service and the proposal is accompanied and supported by a traffic and parking impact assessment prepared by Terraffic Consulting.

3.1.1 Proposed building profile by level

The proposed building levels are profiled and described as follows:

- Basement 02 at AHD RL 11.700 – comprising: 12 resident parking spaces, bicycle parking and residential storage.
- Basement 01 at AHD RL 14.750 – comprising 6 residential, 1 commercial and 4 residential visitor spaces, passing bay, bicycle parking and mechanical plant area.
- Ground Level at AHD 17.500 – comprising a 42m² retail tenancy, residential foyer, driveway entrance with waiting bay, residential bin storage room, 2 retail and 3 commercial parking spaces, passing bay and commercial waste storage area.
- Level 01 being at AHD RL 21.500 – comprising: 2 x commercial tenancies and bathroom facilities fronting Oaks Avenue, residential storage, 2 x studio and 1 x 1 bedroom apartments,
- Level 02 being at AHD RL 24.650 - comprising: 2 x 2 bedroom apartments facing Oaks Avenue, a central communal open space courtyard and amenities and 2 x 2 bedroom apartments in a separate pavilion at the rear of the site.
- Level 03 being at AHD RL 27.800 - comprising: 2 x 2 bedroom apartments facing Oaks Avenue and 2 x 2 bedroom apartments in a separate pavilion at the rear of the site.
- Level 04 being at AHD RL 30.950 - comprising: 2 x 2 bedroom apartments facing Oaks Avenue and 2 x 2 bedroom apartments in a separate pavilion at the rear of the site.
- Level 05 being at AHD RL 34.100 – comprising: 1 x 1 and 1 x 2 bedroom apartments facing Oaks Avenue and 2 x 1 bedroom apartments in a separate pavilion at the rear of the site.
- Level 06 being at AHD RL 37.250 – comprising: 1 x 1 and 1 x 2 bedroom apartments facing Oaks Avenue and 1 x 3 bedroom apartment in a separate pavilion at the rear of the site.

3.2 Unlocking access to adjoining properties

We confirm that attempts have been made to acquire and consolidate with the adjoining properties at No's 17 – 19 and 23 Oaks Avenue based on the accompanying valuation reports prepared by Winter Valuation with above market offers forwarded to the owners of the adjoining property by Upstate Commercial. Both offers have been formally rejected.

Notwithstanding, we note that the development makes for provision for a shared driveway and basement access arrangement to facilitate access to the basement level of any future development on these adjoining properties as detailed on plan A24(A). This can be dealt with by way of an appropriately worded condition of consent.

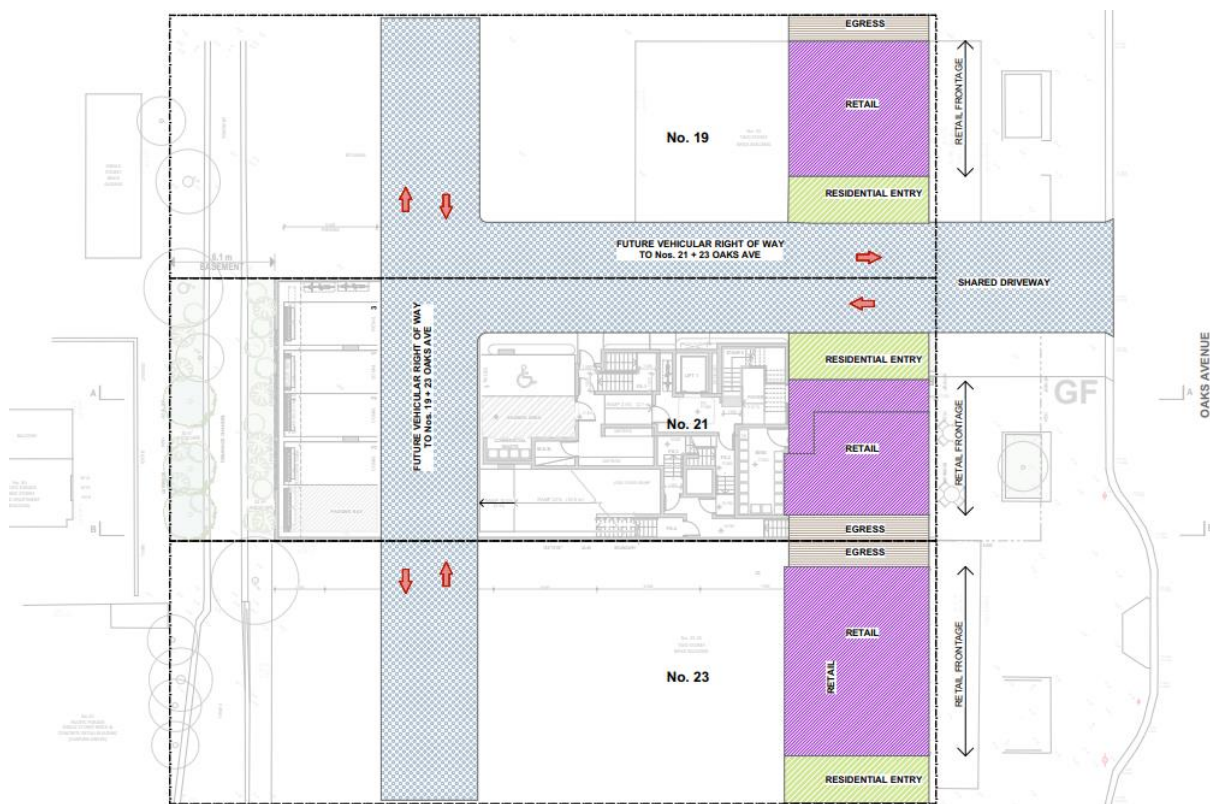
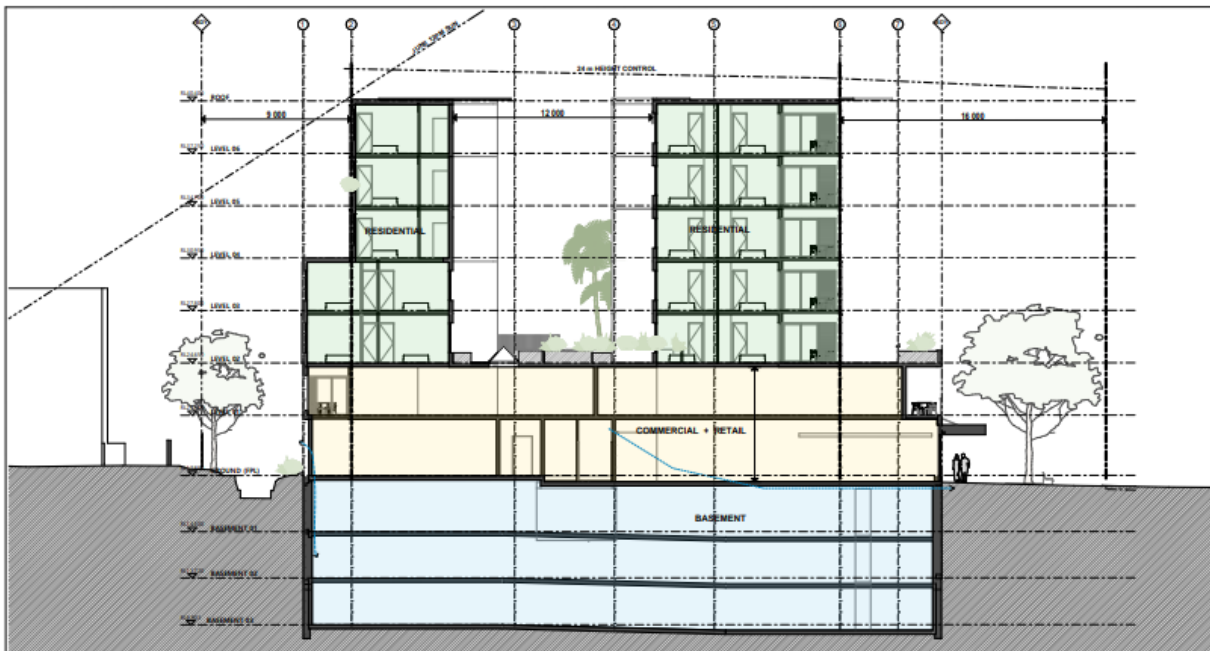


Figure 8 – Plan extract showing potential access arrangement with adjoining properties

3.3 Alternate podium and setback outcomes considered

Various alternate front tower setbacks and podium heights were modelled and considered however ultimately not progressed on the basis of poor residential amenity and streetscape outcomes. Compliance with the tower front setback would prevent the adoption of a courtyard style built form typology and prevent the orderly and economic use and development of the land as summarised in the images below.

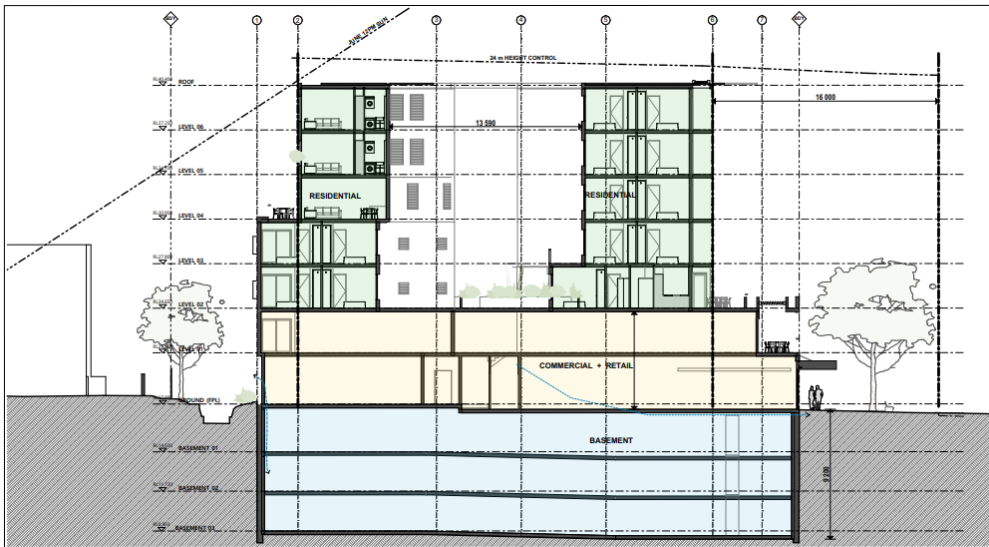
Option A – 2 storey commercial podium, compliant 16 metre tower setback and 12 metre internal courtyard



NOTES- OPTION A

1. COMPLIANT FRONT SETBACK
2. ADG COMPLIANCE FOR
SOLAR: 80% (12/15 APARTMENTS)
CROSS VENTILATION: 100%
3. SITE AREA: 770.9m²
4. FSR CONTROL - 3.4:1
FSR (INCLUDING RESTRICTIONS)
MAX FSR - 2621m² (3.4:1)
PROPOSED FSR - 2121 m²
FSR - 2.75:1
5. NON - UTILISED FSR - 500 m²
6. RESIDENTIAL - 1358 m² (64.02%)
7. COMMERCIAL - 679 m² - 17 UNITS
RETAIL - 84m² - 5 UNITS
TOTAL - 763m² (35.98%)
(COMMERCIALLY NOT VIABLE)
NO DEMAND
8. EXCESS EXCAVATION REQUIRED : 9.2M
9. 15 APARTMENTS ONLY (NOT COMMERCIALLY FEASIBLE)

Option B – 2 storey commercial podium, compliant 16 metre tower setback and variable >12m width internal courtyard



NOTES- OPTION B

- 1. COMPLIANT FRONT SETBACK
- 2. ADG COMPLIANCE FOR
SOLAR: 50% (10/20 APARTMENTS)
CROSS VENTILATION: 100%
POOR AMENITY: 50%
- 3. SITE AREA: 770.9m²
- 4. FSR CONTROL - 3.4:1
FSR (INCLUDING RESTRICTIONS)
MAX FSR - 2621m² (3.4:1)
PROPOSED FSR - 2421 m²
FSR - 3.14:1
- 5. NON - UTILISED FSR - 200 m²
- 6. RESIDENTIAL - 1646 m² (66.30%)
- 7. COMMERCIAL - 684 m² - 17 UNITS
RETAIL - 91m² - 5 UNITS
TOTAL - 775m² (33.70%)
(COMMERCIALLY NOT VIABLE)
NO DEMAND
- 8. EXCESS EXCAVATION REQUIRED : 9.2M
- 9. 20 APARTMENTS ONLY (NOT COMMERCIALLY FEASIBLE)

4 Environmental Assessment

4.1 Section 4.15 of the Environmental Planning & Assessment Act, 1979

The following sections of the report assess the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 4.15 of the Environmental Planning & Assessment Act, 1979 as amended. Those matters which are required to be addressed are outlined, and any steps to mitigate against any potential adverse environmental impacts are discussed below.

In summary assessment of the proposal reveals the following:

- The proposed development is permissible under the Warringah Local Environmental Plan (LEP) 2011 and satisfies the range of assessment criteria relevant to the site.
- The proposed development is suitable when considering the characteristics of the land and the established (and anticipated) built form character (scale and height) of its setting.
- The proposed development satisfies the objectives of the Dee Why Town Centre Masterplan 2013 and the LEP and DCP that support the transformation of the town centre into a modern, mixed use town centre.
- The proposed development will not result in any unacceptable off-site impacts.
- The site is suitable to accommodate the proposal and there are no physical or statutory impediments to the approval of the proposed development.
- The proposal will result in community infrastructure, through developer contributions which will advance the renewal of the Dee Why Town Centre and is in the public interest.

In coming to this view, the following detailed assessment of the proposal is provided and which is based on the heads of consideration contained in Section 4.15 of the Environmental Planning and Assessment Act 1979.

4.2 Planning Controls Overview

The proposal has been designed with regard to the objectives and standards of the relevant planning instruments and policies that apply to the site.

Under the provisions of the Environmental Planning and Assessment Act 1979 (the Act), the key applicable planning instruments and policies are:

- State Environmental Planning Policy (Affordable Rental Housing) 2009
- Warringah Local Environmental Plan 2011
- State Environmental Planning Policy No.55 – Remediation of Land
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- Warringah Development Control Plan 2011
- Warringah Local Environmental Plan relating to the B4 zone including the site
- Warringah Development Control Plan relating to the B4 zone including the site

The application of the above plans and policies is discussed in detail in the following section of this SEE.

5 Section 4.15 (1)(i) the provisions of any environmental planning instrument

5.1 State Environmental Planning Policies

5.1.1 State Environmental Planning Policy (Housing) 2021

Chapter 4 of State Environmental Planning Policy (Housing) 2021 aims to improve the design quality of shop top housing development to provide sustainable housing in social and environmental terms that is a long-term asset to the community and presents a better built form within the streetscape.

It also aims to better provide for a range of residents, provide safety, amenity and satisfy ecologically sustainable development principles. In order to satisfy these aims, the plan sets design principles in relation to context, scale, built form, density, resources, energy and water efficiency, landscaping, amenity, safety and security, social dimensions and aesthetics to improve the design quality of residential flat building in the State.

These provisions apply to new shop top housing developments that are at least 3 or more storeys in height and that contain at least 4 dwellings.

As the proposed development is for the erection of a 7 storey shop top housing development containing 22 dwellings, these provisions are applicable to the proposed development.

Clause 147(1)(a) requires the proposal to be assessed against the 9 design quality principles contained in Schedule 9. The proposal's compliance with the design quality principles is detailed in the Architect Design Statement prepared by Gartner Trovato Architects is provided to support this application.

Clause 147(1)(b) requires the consent authority to take into consideration the Apartment Design Guide. In this regard, an Apartment Design Guide compliance table prepared by Gartner Trovato Architects accompanies this application.

5.1.2 State Environmental Planning Policy (Sustainable Buildings) 2022

State Environmental Planning Policy (Sustainable Buildings) 2022 applies to the residential component of the development and aims to encourage sustainable residential development.

A BASIX Assessment accompanies the development application and demonstrates that the proposal achieves compliance with the BASIX water, energy and thermal efficiency targets.

5.1.3 State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 of SEPP (Resilience and Hazards) applies to all land and aims to provide for a state-wide planning approach to the remediation of contaminated land.

Clause 4.6(1)(a) of this policy requires the consent authority to consider whether land is contaminated. The application is supported by a Preliminary Site Investigation which concludes that provided the recommendations contained within the report are adopted that the site can be made suitable for the proposed use. This includes the preparation of a Detailed Site Investigation upon demolition of the existing site structures with the recommendation indicating that the DSI can be made a condition of development consent.

These provisions are satisfied.

5.1.4 State Environmental Planning Policy – Infrastructure

In relation to traffic generation, the proposed development has frontage to a classified road pursuant to S.100 of the SEPP and is to be referred to the RMS for comment. The SEPP states:

(1) The objectives of this clause are—

(a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and

(b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.

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

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Pursuant to the provisions of S.101 and S.102 of the SEPP the land use proposed by the application is residential accommodation as defined.

In response, the proposal is accompanied and supported by a traffic and parking assessment report prepared by TEF traffic consultants which concludes that the proposal is supportable on traffic and parking grounds. In summary, the proposal satisfies the SEPP noting that:

- It will not increase the existing traffic generated by the retail and office development, that until recently, has been long established upon the site.
- It does not propose access from Pittwater Road (a classified road).
- An acoustic assessment accompanies the application. The proposal's minor environmental impacts can be mitigated in accordance with recommendations from the supporting acoustic Assessment report. The recommendations within the report may reasonably form conditions of development consent.
- Makes appropriate allowance for waste collection as detailed within the accompanying operational waste management plan.
- Makes provision within its design for future adaption of the rear of the property for vehicle access and parking as detailed within the plan set and the traffic and parking assessment report.

Based on the above, the proposal is assessed as satisfying SEPP Infrastructure 2007.

5.2 Warringah Local Environmental Plan 2011

5.2.1 Zone

As previously noted, the site is zoned MU1 Mixed Use pursuant to the provisions of the Warringah Local Environmental Plan 2011 (LEP).



Figure 8 – Zoning map extract – Northern Beaches Council

The proposal is shop top housing as defined which is a permissible land use with consent in the zone.

Clause 2.3(2) of the LEP requires the consent authority to 'have regard to the objectives for development in a zone' in relation to the proposal. The objectives of the zone are stated as follows:

- *To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*

- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To provide an active day and evening economy encouraging, where appropriate, weekend and night-time economy functions.*

The proposed development meets the relevant zone objectives by providing ground and first floor level commercial uses which appropriately activate the street frontage and which will contribute to vibrant, diverse and functional streets and public spaces.

The development has been designed through detailed site and streetscape analysis to ensure that it is of an intensity and scale is compatible with surrounding building form and development character with potential conflicts with adjoining development and development within other zones minimised.

Accordingly, the proposal has had sufficient regard to the zone objectives and there is no statutory impediment to the granting of consent.

5.2.2 Other relevant provisions of the LEP

Other provisions of the LEP that are relevant to the assessment of the proposal are noted and responded to as follows:

LEP Provision	Response	Complies
Part 4 of LEP – Principal Development Standards		
LEP Clause 4.1 Minimum subdivision lot size	NA	NA
LEP Clause 4.3 – Height of Buildings – 24m	The proposal complies with the Height of Buildings development standard.	Yes
LEP Clause 4.4 – Floor space ratio – 3.4:1	The proposal provides an FSR of 2.9:1 and therefore complies with the FSR development standard.	Yes
LEP Clause 4.6 – Exceptions to development standards	A Clause 4.6 exception accompanies the proposal in relation to clause 7.6A of WLEP 2011.	Yes
Part 5 of LEP – Miscellaneous Provisions		
LEP Clause 5.4 Controls relating to miscellaneous permissible uses	NA	NA
LEP Clause 5.5 Development within the coastal zone	NA	NA
LEP Clause 5.10 Heritage Conservation	Applies. Addressed separately below the table.	Yes
Part 6 of LEP – Additional Local Provisions		
LEP Clause 6.1 Acid sulfate soils	All excavation above RL 5.0m AHD.	Yes
LEP Clause 6.2 Earthworks	<p>Excavation for footings is proposed below the existing site levels.</p> <p>The siting and design of the proposed development has considered the matters within clause 6.2(3) of the LEP and results in appropriate outcomes against these criteria.</p> <p>Furthermore, the proposal is accompanied by a geotechnical assessment that concludes that the proposal is appropriate for the site.</p> <p>Based on the above the proposed development satisfies the considerations within clause 6.2 and the site is suitable for the development proposed.</p>	Yes

LEP Clause 6.3 Flood planning	<p>The site is affected by the Flooding. The application is accompanied and supported by a flood risk assessment report.</p> <p>The siting and design of the proposed development has considered the matters within clause 6.3(3) of the LEP and results in appropriate outcomes against these criteria.</p> <p>Based on the above the proposed development satisfies the considerations within clause 6.3 and the site is suitable for the development proposed.</p>	Yes
LEP Clause 6.4 development on sloping land	<p>The property is located within Area A on the LEP maps.</p> <p>The design of the proposed development has considered the matters within clause 6.4(3) of the LEP and results in appropriate outcomes against these criteria.</p> <p>Furthermore, the proposal is accompanied by a geotechnical assessment that concludes that the proposal is appropriate for the site.</p> <p>Based on the above the proposed development satisfies the considerations within clause 6.4 and the site is suitable for the development proposed.</p>	NA
LEP Clause 6.5 Terrestrial biodiversity	NA	NA
Part 7 of LEP - Dee Why Town Centre		
LEP Clause 7.1 Definitions	Definitions noted.	Noted
LEP Clause 7.2 Land to which this Part applies	Applies to all land within the Dee Why MU1 zone. Part 7 is therefore applicable to the subject site.	Yes
LEP Clause 7.3 Objectives for development within Dee Why Town Centre	Applies. Addressed separately below the table.	Yes
LEP Clause 7.4 Development must be consistent with objectives for development and design excellence	Applies. Addressed separately below the table.	Yes
LEP Clause 7.5 Design excellence within Dee Why Town Centre	Applies. Addressed separately below the table.	Yes
LEP Clause 7.6 Height of buildings	The provisions relate to Oaks Avenue, Site A and B and the town square.	NA

LEP Clause 7.6A Podium heights Land not fronting Pittwater Road – 2 storeys	The application proposes a 4 storey podium consistent with development on the northern side of Oaks Avenue. A clause 4.6 variation request accompanies this application.	No Refer to Clause 4.6 variation request
LEP Clause 7.7 Site A Oaks Avenue above podium elements	Not applicable to the proposal.	NA
LEP Clause 7.8 Site B Oaks Avenue above podium elements	Not applicable to the proposal.	NA
LEP Clause 7.9 Site A Proposed New Road above podium elements	Not applicable to the proposal.	NA
LEP Clause 7.10 Allowance for external ancillary plant and roof access	Applies.	Yes
LEP Clause 7.11 Town Square and pedestrian connections	Not applicable to the proposal.	Yes
LEP Clause 7.12 Provisions promoting retail activity	Applies. The proposal provides 2 levels of employment generating floor space/ uses.	Yes
LEP Clause 7.13 Mobility, traffic management and parking	Applies. Addressed separately below the table.	Yes
LEP Clause 7.14 Community infrastructure floor space in Dee Why Town Centre	Not applicable to the proposal.	Yes

5.3 Part 7 of LEP - Dee Why Town Centre B4 Mixed use zone

5.3.1 LEP Clause 7.3 Objectives for development within Dee Why Town Centre

The objectives for development within Dee Why Town Centre are:

- (a) *to create an attractive living centre that sustains the social, economic and environmental needs of its community and visitors,*
- (b) *to ensure a balance between the provision of high quality housing with a mix of retail, business, employment, civic, cultural and recreational facilities,*
- (c) *to ensure that development is consistent with the role of Dee Why as a major centre for the sub-region,*
- (d) *to create a built environment on Site A and Site B that has unified and consistent building form that includes—*
 - (i) *definition of street edges by the establishment of podiums to create walls of 3 and 4 storeys in height, and*
 - (ii) *above podium level elements that step back to achieve adequate levels of natural sunlight and high levels of amenity to occupiers of the buildings, surrounding development and the adjacent public domain, and*

- (iii) 2 iconic slimline towers in the western part of the centre (Site B) and one smaller tower in the eastern part of the centre (Site A) that will largely provide for a transition in height from west to east, and*
 - (iv) mid-rise elements that reflect the simple clarity of design displayed by the tower and podium elements,*
- (e) to ensure that taller buildings that are distributed across the Dee Why Town Centre from west to east provide a coordinated, modulated and varied skyline and that the towers are spatially separated to provide useable public spaces, including a Town Square,*
- (f) to achieve a pattern of development that reflects the underlying urban form in Dee Why with predominantly east-west orientated buildings and high levels of visual and physical permeability,*
- (g) to achieve good sunlight penetration to public spaces and Oaks Avenue,*
- (h) to ensure that development responds to the surrounding natural environment and protects the scenic qualities of Dee Why and its views and vistas,*
- (i) to establish ground floor levels that are occupied by retail uses that—*
 - (i) are highly active, accessible to the street and create a lively ambience, and*
 - (ii) provide a mix of retail shops, cafes and restaurants at the edges of street, pedestrian areas and open spaces, and*
 - (iii) are at the same level as the footpaths and provide opportunities for a generous promenade and distinctive street tree planting for shade and shelter,*
- (j) to accommodate additional employment opportunities, service functions and space for business, consistent with the role of Dee Why as a major centre, by providing at least 2 levels (including the ground floor) of development for non-residential purposes,*
- (k) to ensure that signage associated with the new development is of high quality, is innovative, coordinated and minimised to avoid visual clutter and will complement the overall urban design, streetscape and architectural quality and amenity of the Dee Why Town Centre,*
- (l) to ensure that development within the Dee Why Town Centre is designed to take account of, and be compatible with, the hydrological conditions associated with the Dee Why Lagoon South Catchment,*
- (m) to ensure that development within the Dee Why Town Centre positively contributes to the visual quality and pedestrian comfort of the public domain and provides a seamless integration between public and private spaces,*
- (n) to achieve a consistent built form character that features podiums that define street edges, and to reduce the visual scale of built form, except on land on Site A or Site B,*

- (o) *to ensure that development is designed with consideration of transport infrastructure,*
- (p) *to ensure that development within the Dee Why Town Centre is designed to contribute to the provision of a network of green spaces, natural systems and semi-natural systems, including parks, waterways, bushland and private gardens that are strategically planned, designed and managed to support a good quality of life in an urban environment.*

The proposed building design has appropriately considered these provisions and it is concluded that the proposal is not inconsistent with or antipathetic to these provisions.

5.3.2 LEP Clause 7.4 Development must be consistent with objectives for development and design excellence

The objectives for development and design excellence within Dee Why Town Centre are:

- (1) *Development consent must not be granted to development on land in the Dee Why Town Centre unless the consent authority is satisfied that the development—*
 - (a) *is consistent with the objectives of this Part that are relevant to that development, and*
 - (b) *incorporates—*
 - (i) *stormwater management measures, including water sensitive urban design and ecologically sustainable development principles, and*
 - (ii) *innovative design solutions that minimise stormwater impacts, including stormwater quantity and quality impacts, on the Dee Why Lagoon system, and*
 - (iii) *finished floor levels and basement car park entry levels that include adequate freeboards to protect against the entry of stormwater from the Council's street drainage system, and*
 - (iv) *continuous colonnades or pedestrian awnings on those parts of any building that are on the edges of streets or public spaces.*
- (2) *Development consent must not be granted to development on Site B, at the Howard Avenue frontage, unless the consent authority is satisfied that the development will be lined by trees of distinctive coastal indigenous species that provide landscape elements while not obscuring the views into and out of the Town Square from Pittwater Road or Howard Avenue.*
- (3) *Development consent must not be granted to development involving the construction of a new building or external alterations to an existing building on land within the Dee Why Town Centre unless the consent authority is satisfied that the development exhibits design excellence.*

The proposed building design has appropriately considered these provisions and it is concluded that the proposal is not inconsistent with or antipathetic to these provisions.

5.3.3 LEP Clause 7.5 Design excellence within Dee Why Town Centre

The provisions relating to the achievement of design excellence within Dee Why Town Centre are:

In determining whether development exhibits design excellence, the consent authority must have regard to the following matters—

- (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
- (b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,*
- (c) whether the building meets sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security and resources, energy and water efficiency,*
- (d) whether satisfactory arrangements have been made to ensure that the proposed design is carried through to the completion of the development concerned,*
- (e) whether the configuration and design of communal access and communal recreational areas within the residential elements of development incorporate exemplary and innovative treatments and will promote a socially effective urban village atmosphere,*
- (f) whether the development connects with and provides a high quality interface with surrounding streets and public domain areas at the pedestrian level,*
- (g) whether the development contributes to the provision of a network of green spaces, natural systems and semi-natural systems, including parks, waterways, bushland and private gardens that are strategically planned, designed and managed to support a good quality of life in an urban environment.*

The proposal has considered and appropriately responded to provisions for the achieving of design excellence as detailed within the accompanying Architect Design Statement prepared by Gartner Trovato Architects and noting the following characteristics:

- The development provides an appropriate external appearance having an architectural design, materials palette and detailing fitting with the context and heritage characteristics of the property, in a manner that will enhance the will improve the quality and amenity of the public domain.
- The development provides a high-quality interface with surrounding streets and public domain area at the pedestrian level noting that the first 2 storeys fronting Oaks Avenue involve business functionality.
- The proposed building will meet sustainable design principles noting that is accompanied and supported by a BASIX compliance report.

Based on the above the proposal has appropriately considered this provision and it is concluded that the proposal is not inconsistent with or antipathetic to these provisions.

5.3.4 LEP clause 7.13 Mobility, traffic management and parking

The relevant aspects of the clause state:

- (1) *The objectives of this clause are as follows—*
- (a) *to ensure improved vehicle access and circulation in the Dee Why Town Centre through good design and the management of traffic flows within the existing and new roads servicing the centre,*
 - (b) *to ensure increased road network capacity and improved vehicle circulation through the Dee Why Town Centre'*
 - (c) *to encourage alternative forms of transport from private vehicle use,*
 - (d) *to minimise the disruption of pedestrian movement and safety,*
 - (e) *to reduce the visual scale of parking, loading and waste collection facilities.*
- (2) *Development consent must not be granted to the construction of new buildings in the Dee Why Town Centre unless the consent authority is satisfied that—*
- (d) *the development will improve vehicle access and circulation within the Dee Why Town Centre and will reinforce the priority of pedestrian movements and networks to make the Dee Why Town Centre safe, enjoyable and attractive, and*
 - (e) *car parking will be provided principally underground and will accommodate the demand generated by the additional residential, retail and commercial uses, and*
 - (f) *(Repealed)*
 - (g) *if car parking adjoins a street frontage, the amenity of the adjoining and nearby uses is protected, and*
 - (h) *loading facilities and waste collection facilities are accommodated in a way that does not adversely impact on the visual amenity of the public domain, the amenity of adjoining or nearby residential properties or conflict with pedestrian access, and*
 - (i) *there will be minimal disruption to retail and commercial activity at street level because the proposed development—*
 - (i) *minimises the width of footpath crossings and vehicle entrances, and*
 - (ii) *ensures that loading facilities are substantially enclosed by occupied floor space, and*
 - (iii) *demonstrates high standards of civic design to portions of loading dock and car park entrances that are visible from the street.*

In response to the provisions of clause:

- Appropriate arrangements are proposed for waste collection and delivery functions suitable for the demands generated by the proposed development. These are further addressed within the accompanying operational waste management plan.
- The proposal will have minimal disruption to retail and commercial activity at street level because the proposed development has a single driveway access which can be utilised by the 2 immediately adjoining properties should they be developed in the future.
- The proposal will reinforce the priority of pedestrian movements, by not interrupting such movements at the site's street frontage and thereby positively contribute to pedestrian safety within the town centre,
- The proposal will improve vehicle access and circulation within the Dee Why Town Centre by providing appropriately for car parking and promoting public transport use.

The proposal has considered these provisions and it is concluded that the proposal is not inconsistent with or antipathetic to this provision.

5.4 BCA and access considerations

The application is accompanied and is supported by an assessment of the design against the key provisions of the BCA as detailed in the BCA and Access Assessment Reports prepared by Jensen Hughes. These reports find that the proposal is capable of satisfying building safety and access requirements subject to further detailed design and documentation at the Construction Certificate stage. In conclusion, the relevant safety and accessibility considerations are appropriately addressed and satisfied by the proposal.

6 Development Control Plan

In response to Section 4.15 (1)(iii) of the Act, the Warringah Development Control Plan (DCP) is applicable to the property. The relevant provisions of Warringah DCP have been considered below to assist in the assessment of the proposal and its compatibility with the local development character.

6.1.1 Development Control Plan - Part G1 Dee Why Town Centre

Control	Response	Compliance
Part G1 Dee Why Town Centre		
G3 Desired Character for the Dee Why Town Centre	<p>The DCP states: <i>“Dee Why will be home to a thriving cosmopolitan community who cherish their past, celebrate its unique and engaging vibe and embrace its bold commitment to urban sustainability. It will be a place of both energy and refuge, a city at the beach, with a distinctive modern urban identity.”</i></p> <p>The proposal is assessed as being consistent with the Desired Character for the Dee Why Town Centre because it will renew the existing commercial development on the land into a modern mixed use development in a form that is anticipated by the zoning and contextually appropriate in terms of building form.</p>	Yes
G4 Streetscape and Public Domain	<p>Pedestrian Connections</p> <p>The proposal appropriately addresses and activates the street frontage with the ability for adjoining properties to be developed utilising a shared access arrangement maximising active street frontage and public domain utility.</p> <p>Kerb setbacks</p> <p>In relation to minimum setbacks for podiums facing roads, the proposal is located on the southern side of Oaks Avenue to which an 8 metre setback to the kerb applies.</p> <p>The proposed 4 storey podium is setback in excess of 8 metres from the kerb in strict accordance with the control.</p> <p>In response to the provisions for awnings, the proposal provides a continuous pedestrian awning to Oaks Avenue.</p> <p>Retail Activation</p> <p>The proposal incorporates retail floor space at ground floor level that is capable of accommodating a future retail use. The balance of the frontage is occupied by required pedestrian and vehicular access including a waiting bay.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

Control	Response	Compliance
<p>G5 Design and Architectural Diversity</p>	<p>Architectural Design</p> <p>The proposal incorporates a façade of high design quality which will set a desirable precedence in relation to podium height and design for future development along the southern side of Oaks Avenue.</p> <p>Housing</p> <p>The development provides a combination of studio, 1, 2 and 3 bedroom apartments with 4 out of the 22 (18.18%) Silver Level Liveable dwellings. Whilst only 1 x 3 bedroom apartment is provided the mix is considered appropriate having regard to the objective of the control and the constraints associated with the size and geometry of the site.</p> <p>The minor variation to the 20% Silver Level Liveable dwellings provision is also acceptable given they minor nature of the non-compliance.</p> <p>3 of 22 (13.6%) apartments are adaptable which exceeds the minimum 10% control.</p> <p>Tower Setbacks</p> <p>A 16 metre tower setback from the kerb is required. The relevant objective of the control is as follows:</p> <p><i>To provide solar access to the ground level and reduce the appearance of building bulk from the public domain.</i></p> <p>A variable tower setback of between 12.5 and 16 metres is provided with the variation facilitating the courtyard building typology proposed given the depth of the site and the required courtyard and rear setback controls. Strict compliance would force the development into a single massing where central apartments would be orientated towards the side boundaries and solar access and natural cross ventilation severely compromised.</p> <p>Being located on the southern side of the street, the proposed tower setbacks do not compromise solar access to the public domain with a contextually appropriate building bulk outcome in a streetscape context. The tower setbacks will not be perceived as inappropriate or jarring with such setbacks creating a desirable precedence in relation to tower setbacks and courtyard building typology for future development along the southern side of Oaks Avenue.</p> <p>As the objective is achieved strict compliance is unreasonable and unnecessary.</p>	<p>Yes</p> <p>No acceptable on merit</p> <p>No acceptable on merit</p> <p>Yes</p> <p>Yes</p> <p>No acceptable on merit</p>

Control	Response	Compliance
<p>G6 Site amalgamation</p>	<p>We confirm that attempts have been made to acquire and consolidate with the adjoining properties at No's 17 – 19 and 23 Oaks Avenue based on the accompanying valuation reports prepared by Winter Valuation with above market offers forwarded to the owners of the adjoining property by Upstate Commercial. Both offers have been formally rejected.</p> <p>Notwithstanding, we note that the development makes for provision for a shared driveway and basement access arrangement to facilitate access to the basement level of any future development on these adjoining properties as detailed on plan A24(A).</p>	<p>Yes</p>
<p>G7 Traffic and Parking</p>	<p>The objectives of the control are:</p> <ul style="list-style-type: none"> ▪ <i>To encourage walking, cycling, public transport and car sharing.</i> ▪ <i>To encourage integrated basement car parking areas with shared access in suitable locations.</i> ▪ <i>To reduce overall building bulk and scale (particularly within podiums) by locating parking underground.</i> ▪ <i>To ensure the security of residential parking areas in mixed use developments.</i> <p>In response, the proposal is accompanied and supported by a Traffic and Parking Assessment prepared by Terraffic. Such report confirms:</p> <p><i>The proposed development satisfies the DCP requirement with the provision of 28 off-street car parking spaces comprising 18 resident spaces, 4 visitor spaces, 2 retail tenant spaces and 4 commercial tenant spaces.</i></p>	<p>Yes</p>
<p>G8 Car Share</p>	<p>The control relates to developments that have more than 25 dwellings (apartments). Only 22 dwellings are proposed.</p>	<p>NA</p>
<p>G9 Sustainability</p>	<p>The objectives of the control are:</p> <p><i>To supplement controls contained within Part D22 Conservation of Energy and Water.</i></p> <p><i>To ensure substantial new developments incorporate best practice sustainability.</i></p> <p><i>To establish benchmarks for building rating scheme compliance.</i></p> <p>In response, the proposal includes a range of sustainable development including:</p>	<p>Yes</p>

Control	Response	Compliance
	<ul style="list-style-type: none"> • 62 m2 (8% of site area) deep soil landscaping at the rear of the site. • Landscaped internal courtyard on Level 2 to provide light, outlook, ventilation, and cooling for the residential units. • Passive solar design with sun hoods, external screens, and balcony overhangs to control summer sun. 14 / 22 units (64%) receive 2 hours of sunlight between 9 am and 3 pm on 21 June. • Large areas of glazing to maximise natural light and minimise the need for artificial lighting in daylight hours. Operable sashes are provided to allow for cross ventilation of 19 / 22 (86%) of the units. • BASIX certificate specifications of low water use taps and fittings. • Low energy light fittings for minimisation of power consumption. • 10,000 litre rainwater tank for landscape irrigation. 	
G10 Water Sensitive Urban Design (WSUD)	The proposal is accompanied and supported by stormwater management plans and satisfies this control.	Yes
G2 11 Landscaping	<p>20% of the site area is to be provided as landscaped area, which may be located on balconies, ground, podium and roof top levels or green walls of buildings.</p> <p>Landscaping is proposed in 3 key areas of the development: the rear set-back on the ground floor level, the podium on Level 2 and the Level 4 planter boxes to the units overlooking Oaks Avenue. The landscaping is detailed on the accompanying plans prepared by Sym Studio.</p> <p>The deep soil landscaping in the rear set-back area features canopy trees (<i>Angophora floribunda</i>), small trees and shrubs (<i>Casuarina glauca</i>) and ground covers (<i>Lomandra longifolia</i> and <i>Cissus hypoglauca</i>). These plants are locally occurring natives and establish a riparian habitat along the existing water course. The deep soil landscaping provides for water and soil management, a riparian microclimate, tree canopy, habitat values, establishment of a green network, as well as privacy and screening to and from adjacent developments.</p> <p>The Level 2 podium landscaping consists of palms (<i>Livistona australis</i>) and shrubs (<i>Syzygium australe</i>, <i>Hibiscus tileaceus rubra</i>, etc) as well as ground covers and accents. These</p>	Yes

Control	Response	Compliance
	<p>plantings are a combination of locally occurring natives and exotic species, and have been selected to provide screening, privacy, solar access, visual interest, and a setting for the communal open space.</p> <p>The Level 4 planter box landscaping consists of shrubs, accents, and ground covers. The plantings have been selected to provide for solar access, visual interest and softening of the façade when viewed from Oaks Avenue.</p> <p>An existing street tree with ground covers and seating is located within the public domain on Oaks Avenue.</p> <p>Total area landscaped exceeds 20% of the site area.</p>	
G12 Key Sites	The subject site is not identified as a key site.	NA
G13 Civic Centre Site	Not applicable to the proposal.	NA
G14 Residential Flat Buildings	Not applicable to the proposal.	NA

6.1.2 Development Control Plan 2011 – other aspects

Control	Response	Compliance
Part C: Siting Factors (as relevant)		
C2. Traffic, Access and Safety	<p>The proposal is accompanied and supported by a Traffic and parking assessment prepared by Terraffic.</p> <p>The proposed development is appropriate in terms of Traffic, Access and Safety considerations as concluded within the accompanying assessment report.</p>	Yes
C3. Parking Facilities	The proposed development is appropriate in terms of Traffic, Access and Safety considerations as concluded within the accompanying traffic and parking assessment report and addressed earlier within this report.	Yes
C3A. Bicycle Facilities Objectives 1 space per dwelling	Compliant quantum of bicycle parking proposed.	Yes

Control	Response	Compliance
1 space per 12 dwellings for visitors		
C4. Stormwater	The proposal is accompanied and supported by stormwater management plans and satisfies this control.	Yes
C5. Erosion and Sedimentation	Erosion and sediment control plans have been provided.	Yes
C8. Demolition and Construction	Shown on architectural plans	Yes
C9. Waste Management	The application is accompanied by construction and operational waste management plans. Appropriate residential and commercial waste storage and collection arrangements have been provided.	Yes

Part D: Design Factors (as relevant)		
D2. Private Open Space	Sufficient area is provided to comply with the provisions of the ADG.	Yes
D3. Noise	The proposal is accompanied and supported by a Construction Noise and Vibration Management Plan and an Environmental Noise Impact Assessment by Acoustic Dynamics. The assessment confirms that the proposal is satisfactory and able to address noise attenuation requirements.	Yes
D7. Views	<p>New development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.</p> <p>The design response relates appropriately to other development within proximity of the site and represents the form of development anticipated by the zoning of the land and height standard applicable to this location.</p> <p>Given the design and orientation of the development and its location within a mixed use zone, it is assessed that the proposal is unlikely to result in any unacceptable or unanticipated amenity impacts in terms of view loss. The proposed development is considered appropriate in considering view sharing principles. Accordingly, it can be concluded that the proposal is likely to have a satisfactory impact in terms of view loss.</p>	Yes

D8. Privacy	It is assessed that the proposal is satisfactory and appropriately designed to reasonably address privacy considerations. The courtyard building typology prevents side boundary facing balconies and accordingly facilitates the maintenance of good levels of privacy between adjoining development. The rear setbacks are compliant with the ADG and will maintain appropriate visual privacy to the southern adjoining residential apartment development.	Yes
D9. Bulk	<p>The proposal will result in significant improvements to the built form quality of the site and presents an appropriate building bulk.</p> <p>The building is highly articulated and modulated in both the vertical and horizontal planes and to that extent the bulk and scale of the development is not antipathetic to that anticipated on this site and within the street and townscape generally.</p> <p>The height, setback and footprint proposed will not give rise to any unacceptable overshadowing, privacy, view or visual bulk consequences. The scale of the development is appropriate given the spatial separation afforded to all adjoining properties, the stepping back of the upper floors and the design elements and landscape treatments proposed to achieve an appropriate bulk and scale of development.</p> <p>Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191 I have formed the considered opinion that most observers would not find the proposed development offensive, jarring or unsympathetic in a streetscape context nor the built form characteristics of development within the sites visual catchment. The proposal presents a contextually appropriate bulk and scale.</p>	Yes
D10. Building Colours and Materials	A schedule of materials and finishes is provided with the application.	Yes
D11. Roofs	The roof form is shown on the architectural plans are acceptable and comply with the objectives of D11.	Yes
D12. Glare and reflection	<p>Colours and materials shown on the architectural plans are acceptable and comply with the objectives of D12.</p> <p>The proposed external building elements are appropriate and not result in excessive or inappropriate visual glare from sun reflection.</p>	Yes
D14. Site facilities	The plans detail waste management areas, letterbox, communal, plant areas and garden areas. The location of these facilities is in accordance with the policy requirements.	Yes

D18. Access	The application is accompanied by a BCA and access report which addresses the particular requirements of the DDA, BCA and the relevant Australian Standards relating to accessibility.	Yes
D20. Safety & security	<p>Safety and security in the proposed development are well considered. The definitions of public and private space are clear. The terraces provide excellent overlooking of the public domain from private spaces to further enhance safety and security to Oaks Avenue, the Level 2 courtyard and to the deep soil landscaping within the rear set-back.</p> <p>Secure access is provided to the pedestrian and vehicular entrances. Video intercoms and lighting are provided at entry points. Retail and residential entrances are clearly defined and secured, with clear lines of sight between security doors and the main street addresses.</p> <p>A shared access lobby to Lift 1 for residential and commercial use is proposed on basement B1, ground floor and Level 1. These shared lobbies are secure and are considered a low security risk as the commercial workers will be known by either the residents or the building manager.</p>	Yes
D22. Conservation of energy and water	The application is accompanied by a BASIX report. The proposed development provides appropriate measures to conserve energy and water.	Yes
Part E: The Natural Environment		
Control	Response	Compliance
E1. Private Property Tree Management	In terms of vegetation, there are no trees upon or within proximity the property at land.	Yes
E4 Wildlife Corridors	Not Applicable	Yes
E5 Native Vegetation	Not Applicable	Yes
E8 Waterways and Riparian Lands	The proposal includes the revegetation of the drainage canal at the rear of the property.	Yes
E11 Flood Prone Land	A flood report is provided to demonstrate that the site conditions can support the proposed development.	Yes
E10 Landslip Risk	A geotechnical report is provided to demonstrate that the site conditions can support the proposed development.	Yes

6.1.3 Conclusion

Based on the above, it is concluded that the proposed dwelling mix and tower setback variations are appropriate and contextually reasonable, satisfying the objectives of the planning control.

Under clause (3A)(b) of Section 4.15 of the Act, it is appropriate for the consent authority to be flexible in applying the controls where the objectives of those controls have been satisfied.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of the DCP. Accordingly, our assessment finds that this aspect of the proposal is worthy of support, in this particular circumstance.

7 Section 4.15 the Environmental Planning and Assessment Act 1979 - Summary

The proposal has been assessed having regard to the matters for consideration pursuant to S.4.15 of the Act and to that extent Council can be satisfied of the following:

- There will be no significant or unreasonable adverse built environment impacts arising from the proposed physical works on the site.
- The site is appropriate for accommodating the proposed development. The proposal has sufficiently addressed environmental considerations. There will be no significant or unreasonable adverse environmental Impacts arising from the proposal.
- The proposal will result in positive social and economic impacts, noting:
 - Direct and broader economic benefits from the capital investment associated with the development.
 - Employment during the construction and operational phases of the development.
 - Economic benefits, arising from the investment in improvements to the land.
- The proposal is permissible and consistent with the objectives of the zone, pursuant to the LEP. Furthermore, is satisfies the relevant provisions of the Council's DCP.
- It is compatible with the current and likely future character of development within the local context.
- It will not result in any significant unacceptable offsite impacts that limit the use or enjoyment of nearby or adjoining land.
- The proposal will have an acceptable impact when considering key amenity issues such as visual impact, views, overshadowing, noise and privacy.
- Given the site's location and established function, the site is assessed as being entirely suitable for the proposed development.
- The public interest is best served through the approval of the application.

In terms of the site's suitability, the characteristics of the site, its land use context and its location are described in Section 2 of this report titled Site Analysis. The site is suitable in accommodating the proposed redevelopment for the following reasons:

- It is of sufficient location and of the appropriate zoning to accommodate the proposal.
- The site is located within a major, 'combined' strategic centre serving the region and is accessible to various transport modes including, private vehicles, buses, walking and cycling.
- It is compatible with the current and likely future land use mix of development within the zone.
- It will not result in any significant unacceptable offsite impacts that limit the use of nearby or adjoining land.
- It is not environmentally constrained.

8 Conclusion

The application seeks development consent for demolition of existing site structures and the construction of a shop top housing development on the subject land comprising 22 apartments and 2 office suites above a ground floor retail tenancy and parking for 28 vehicles over 3 levels. The proposal is a permissible land use within the zone and supports Council's urban renewal and growth objectives for increased residential density within the Dee Why town Centre.

The Architect has responded to the client brief to provide for a mixed use development of exceptional design quality which appropriately responds to the constraints and opportunities associated with the depth and geometry of site, the spatial relationship of existing residential apartment development and the 6.095 metre wide drainage canal easement at the rear of the properties, the fragmented nature of surrounding property ownership which frustrates land consolidation and the built form characteristics of recently constructed development to the west of the site, in the same street block, which whilst creating a precedent in terms of form and street wall/ podium height and setbacks does not reflect mixed use development which complies with the design principles within Schedule 9 of State Environmental Planning Policy (Housing) 2021 (SEPP Housing) and the Apartment Design Guide (ADG).

In this regard, the design has been developed through detailed site and context analysis with a number of built form outcomes modelled and ultimately discarded in favour of the design the subject of this application. Such design development is consistent with that encouraged by Council and the Northern Beaches Design and Sustainability Advisory Panel (DSAP) through formal pre-lodgement discussions (PLM2023/0087). The courtyard building typology adopted, where residential pavilions are separated by an appropriately designed and proportioned courtyard, facilitates the orderly and economic development of the land and superior residential amenity and broader urban design outcomes. It is our submission that such built form arrangement should create a precedent for the development of the balance of the properties located on the southern side of Oaks Avenue whereby a cohesive streetscape and urban form outcome compliant with SEPP Housing and the ADG will be achieved.

Unfortunately, compliance with the podium height and tower setback provisions do not facilitate such outcome with variations to these provisions necessary to achieve the enhanced residential amenity and urban design outcomes sought whilst also providing for the orderly and economic use and development of the land. This submission will demonstrate that strict compliance is not only unreasonable and unnecessary but also undesirable given the circumstances outlined above.

We confirm that attempts have been made to acquire and consolidate with the adjoining properties at No's 17 - 19 and 23 Oaks Avenue based on the accompanying valuation reports prepared by Winter Valuation with above market offers forwarded to the owners of the adjoining property by Upstate Commercial. Both offers have been formally rejected. Notwithstanding, we note that the development makes for provision for a shared driveway and basement access arrangement to facilitate access to the basement level of any future development on these adjoining properties as detailed on plan A24(A).

Whilst the application requires the consent authority to give favourable consideration to a variation to the podium height development standard this report demonstrates that strict compliance is both unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify the variation sought. The clause 4.6 variation request is well founded.

The identified non-compliances with the dwelling mix and tower setbacks provisions of WDCP have been acknowledged and appropriately justified having regard to the associated objectives. Such variations succeed pursuant to section 4.15(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of controls/ standards for dealing with that aspect of the development.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended. It is considered that the application, the subject of this document, succeeds on merit and is appropriate for the granting of consent.

BBF Town Planners



Greg Boston
Director

Appendix 1

Clause 4.6 Variation Request