

**STATEMENT OF
ENVIRONMENTAL EFFECTS**

Mixed use development including
ground floor commercial tenancies
and upper level boarding house with
caretaker's apartment

**1299 - 1131 Pittwater Road
Collaroy**



NOTE: This document is Copyright. Apart from any fair dealings for the purposes of private study, research, criticism or review, as permitted under the Copyright Act, no part may be reproduced in whole or in part, without the written permission of Boston Blyth Fleming Pty Ltd, 1/9 Narabang Way Belrose NSW 2085.

Statement of Environmental Effects

Mixed use commercial and boarding house development

1299 – 1131 Pittwater Road, Collaroy

prepared under instructions from

Lotus Projects

by

Greg Boston
B Urb & Reg Plan (UNE) MPIA

Boston Blyth Fleming Pty Ltd
(ACN 121 577 768)
Suite 1/9 Narabang Way
Belrose NSW 2085
Tel: (02) 99862535

April 2020

TABLE OF CONTENTS

1.0 INTRODUCTION

2.0 SITE DESCRIPTION AND LOCATION

3.0 PROPOSED DEVELOPMENT

4.0 STATUTORY PLANNING FRAMEWORK

4.1 Warringah Local Environmental Plan 2011

4.1.1 Zone and Zone Objectives

4.1.2 Height of Buildings

4.1.3 Heritage Conservation – Heritage Impact Assessment

4.1.4 Earthworks

4.1.5 Flood Planning

4.1.6 Development on Sloping Lands

4.2 Warringah Development Control Plan 2011

4.2.1 Compliance Table

4.2.2 Local and Neighbourhood Centres

4.3 State Environmental Planning Policy (Affordable Rental Housing) 2009

4.3.1 Land to which Division applies

4.3.2 Clause 29 – Standards that cannot be used to refuse consent

4.3.3 Clause 3 – Standards for Boarding Houses

4.3.4 Character of Local Area

4.4 State Environmental Planning Policy (Infrastructure) 2007

4.5 State Environmental Planning Policy No. 55 - Contaminated Lands

4.6 Matters for Consideration Pursuant to Section 4.15 of the EP&A Act

6.0 CONCLUSION

ATTACHMENTS

1. Clause 4.6 Variation - Height of buildings

1.0 INTRODUCTION

This document forms a component of a development application proposing the demolition of the existing site structures and the construction of a mixed use development incorporating 2 ground floor commercial tenancies with a 23 room boarding house and caretakers apartment above and car parking for 21 vehicles pursuant to the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 (“SEPP ARH”).

The architect has responded to the client brief to design a purpose-built boarding house which acknowledges the constraints and opportunities associated with the subject site whilst maintaining appropriate levels of amenity to adjoining and nearby residential properties. The client is particularly motivated by the identified housing affordability crisis on the Northern Beaches as detailed in the Northern Beaches Affordable Housing Needs Analysis December 2016.

The Northern Beaches is one of the least affordable local government areas in NSW both for rental and purchase. The proposed development will increase the stock of affordable housing within the Northern Beaches LGA and thereby provide an important social benefit. The development will also provide an alternative to detached, multi dwelling and residential apartment style housing in a location which has excellent access to public transport and access to a range of shops, services and outdoor recreational areas. The development improves housing choice and therefore responds positively to the housing needs of the local community.

The built form outcome has been developed through detailed site, context, flood risk and shadow analysis to ensure an appropriate contextual and streetscape fit, a development safe from hazards and a development which maintains appropriate levels of residential amenity to adjoining properties in particular privacy, views and solar access. The final design and documentation also represents a considered response to the issues arising from formal pre-DA discussions with Council. In preparation of this document consideration has been given to the following:

- The Environmental Planning and Assessment Act, 1979 as amended (“the Act”);
- Warringah Local Environmental Plan 2011 (WLEP);
- Warringah Development Control Plan 2011 (WDCP);
- State Environmental Planning Policy (Affordable Rental Housing) 2009;
- State Environmental Planning Policy (Infrastructure) 2007; and

- State Environmental Planning Policy No. 55 - Contaminated Lands

The subject application is accompanied by survey plans, architectural plans, landscape plans, boarding house management plan, concept stormwater management plans, traffic impact assessment, acoustic report, access report, flood impact assessment, geotechnical, hydrogeological and acid sulfate assessment, preliminary site investigation, BCA report, NCC report, waste management plan, QS report and montage.

This report clearly and comprehensively addresses the statutory regime applicable to the application and demonstrates that the proposed mixed use development including a boarding house is permissible with consent, represents a complimentary and compatible building form located in an accessible area, and is compliant with the relevant provisions/ considerations of SEPP ARH, WLEP 2011 and WDCP.

Further, the proposal satisfies the Clause 5(a)(viii) objective of the Act through the provisions of affordable housing in a location identified as being suitable for this form of housing.

Whilst the proposal requires the consent authority to give favourable consideration to a building height variation, strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the attainment of an appropriate contextual fit and general paucity of streetscape and residential amenity impacts. Sufficient environmental planning grounds existing to support the variation proposed with the accompanying clause 4.6 variation requests well founded.

The identified non-compliances with WDCP in relation to storeys has been acknowledged and appropriately justified having regard to the associated objectives. Such variations succeed pursuant to section 4.15 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 Act and is appropriate for the granting of consent.

2.0 SITE DESCRIPTION AND LOCATION

The subject properties are located on the western side of Pittwater Road within the Collaroy Local Centre and directly opposite Collaroy Beach. The properties are legally described as Lot 4, DP 7445, No. 1129 and Lot 1, DP 859613, No. 1131 Pittwater Road, Collaroy. The consolidated allotment has frontage and address to Pittwater Road of 27.005 metres, variable depth of between 40.965 (southern boundary) and 27.9 metres (northern boundary) and a rear boundary width of 23.66 metres. The allotment has a combined area of 814.6 square metres with an aerial location / context photograph at Figure 1 below.



Source: Google Earth

Figure 1 – Aerial location/ context photograph

The properties are occupied by 1 and 2 storey commercial buildings with frontage and address to Pittwater Road and car parking at the rear accessed via a right of carriageway of variable width from Collaroy Street over Lot 2, DP 859613, SP 58961, No 1 – 5 Collaroy Street. No. 1131 Pittwater Road is burdened by a right of footway of variable width providing access from Pittwater Road to Lot 2, DP 859613, SP 58961, No 1 – 5 Collaroy Street. A The sites do not contain any remarkable natural or built form features as depicted on the site survey extract at Figure 2 over page.



Figure 2 – Site survey extract



Figure 3 – Subject property as viewed from Pittwater Road

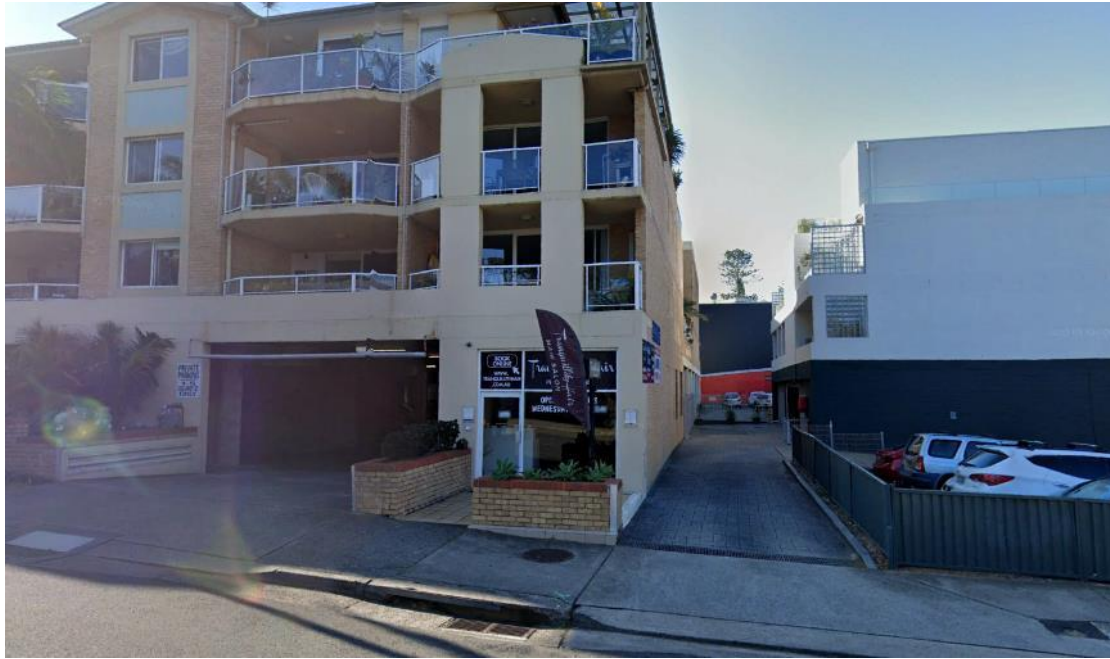


Figure 4 – View looking north from Collaroy Street down right of carriageway benefiting the subject properties over Lot 2, DP 859613, SP 58961, No 1 – 5 Collaroy Street.

The property to the south is occupied by a 4 storey shop top housing development with basement parking accessed via a right of carriageway for Collaroy Street. The property to the north is occupied by a single storey retail premises with carparking at the rear accessed via driveway from Pittwater Road located immediately adjacent to the northern boundary of the subject site. A 4 storey shop top housing development is located to the north of this adjoining site.

The property to the west Lot 2, DP 859613, SP 58961, No 1 – 5 Collaroy Street, is occupied by a 4 storey shop top housing development with parking accessed from Collaroy Street. Development located on the eastern side of Pittwater Road includes the Collaroy Hotel, The Beach Club Collaroy and a number of ground floor retail tenancies utilising the heritage façade of the former Arlington Amusement Hall building. Photographs of surrounding development are on the following pages.

The property is located directly opposite the Collaroy Beach carpark and the Collaroy B-Line bus stop.



Figure 5 – Looking west down alignment of Right of Footway located along the northern boundary of the site benefiting Lot 2, DP 859613, SP 58961, No 1 – 5 Collaroy Street. This photograph also shows the driveway accessing car parking at the rear of the northern adjoining property.



Figure 6 – Photomontage depicting development to the south of the subject site



Figure 7 – Photomontage depicting development to the north of the subject site



Figure 6 – View towards development located on the eastern side of Pittwater Road including the Collaroy Beach car park, the former Arlington Amusement Hall building and the Collaroy Beach B-Line bus stop.

3.0 PROPOSED DEVELOPMENT

The application proposes the demolition of the existing site structures and the construction of a mixed use development incorporating 2 ground floor commercial tenancies with a 23 room boarding house and caretakers apartment above and car parking for 21 vehicles pursuant to the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 (“SEPP ARH”). The detail of the application is depicted on the following plans and documentation prepared by Barry Rush and Associates Pty Limited:

- A01 LOCATION DIAGRAM
- A02 BASEMENT FLOOR PLAN
- A03 GROUND FLOOR PLAN
- A04 FIRST FLOOR PLAN
- A05 SECOND FLOOR PLAN
- A06 THIRD FLOOR PLAN
- A07 ROOF PLAN
- A08 ELEVATIONS EAST & NORTH
- A09 ELEVATIONS WEST & SOUTH
- A10 SECTIONS A-A & B-B
- A11 DEMOLITION PLAN
- A12 EXTERNAL COLOUR SCHEDULE
- A13 SITE ANALYSIS PLAN
- A14 DRIVEWAY RAMP SECTION
- A15 SHADOW DIAGRAMS MID WINTER

The application also proposes the implementation of an integrated site landscape regime as depicted on plans prepared by Conzept Landscape Architecture at the rear of the site and at each level of the building adjacent to Pittwater Road.

Specifically, the application proposes the following built form outcome:

Basement Level - RL 2.0m AHD

This level incorporates off-street carparking for 20 vehicles (of which 13 are allocated to the boarding house use), 6 bicycle storage spaces and 3 motorcycle spaces all accessed via a driveway from the right of carriageway at the rear of the property. Storage for the boarding house occupants is also provided at this level with lift and stair access to the levels above.

Ground Floor - RL 5.2m AHD

This level incorporates 2 x Pittwater Road facing commercial tenancies and a centrally located entrance foyer to the boarding house use above. This floor plate also includes bathroom facilities, commercial storage and waste storage rooms.

The existing right of footway is maintained down the northern boundary of the site. At the rear of the site, and accessed via the adjacent right of carriageway, in an additional disabled car space and service vehicle bay with driveway access to the basement level below.

First Floor Plan - RL 8.8m AHD

This floor plate contains 12 boarding rooms including 1 accessible room. Each boarding room contains an open plan living/ bedroom/ kitchenette and separate bathroom. These boarding rooms have access to small balconies with integrated privacy attenuation blades. A common room with small balcony is also located at this level. Internal stair and lift access is provided to the levels above and below.

Second Floor Plan - RL 11.4m AHD

This floor plate contains 11 boarding rooms including 1 accessible room. A 26 square metre communal room with kitchenette is provided with direct access to a north east facing 20.1 square metre balcony. All rooms have access to small balconies with integrated privacy attenuation blades. Internal stair and lift access is provided to the levels above and below.

Third Floor Plan - RL 14m AHD

This floor plate contains a 3 bedroom managers apartment with open planning kitchen, living and dining area opening onto a north facing balcony.

All stormwater will be disposed to Pittwater Road as detail on the accompanying stormwater management plans prepared by Martens and Associates Pty Limited. The acceptability of the proposed excavation has been addressed in detail within the accompanying geotechnical report prepared by Martens and Associates Pty Limited.

4.0 STATUTORY PLANNING FRAMEWORK

4.1 Warringah Local Environmental Plan 2001

4.1.1 Zone and Zone Objectives

The Warringah Local Environmental Plan (LEP) 2011 applies to the subject site and this development proposal. The subject site is located within the B2 Local Centre zone. Boarding houses are permissible in the zone with consent. The stated objectives of the B2 zone are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area;*
- *To encourage employment opportunities in accessible locations;*
- *To provide an environment for pedestrians that is safe, comfortable and interesting;*
- *To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment;*
- *To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of any adjoining or nearby residential land uses.*

Commercial premises and boarding houses are permitted with consent in the B2 Local Centre zone.

The proposed development is consistent with the zone objectives in that it incorporates commercial tenancies that will facilitate uses that are able to serve the needs of people who live in, work in and/ or visit the local area.

The subject site is in an accessible location being located directly opposite the Collaroy Beach B-Line bus stop and provides an environment for pedestrians that is safe, comfortable and interesting. The urban form relates favourably in scale and in architectural and landscape treatments to that established on neighbouring properties.

The proposal, by virtue of its design and siting, will maintain reasonable residential amenity to the adjoining properties in particular the apartments located to the south and west of the site.

The height and scale of the development is responsive to context, compatible with that of adjoining development and will not result in unacceptable or jarring residential amenity, streetscape impacts. Council can be satisfied that the proposed development and associated land use are not antipathetic to the zone objectives as outlined.

Accordingly, there are no statutory zoning or zone objective impediment to the granting of approval to the proposed development.

4.1.2 Height of Buildings

Pursuant to the height of buildings map, the site has a maximum building height limit of 11 metres. The objectives of this control are as follows:

- a) *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*
- c) *to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,*
- d) *to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.*

Building height is defined as follows:

building height (or height of building) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like

It has been determined that the proposed development has a maximum building height along its eastern roof parapet of 12 metres with height increasing to a maximum of 13 metres where the site has a localised depression in its south western corner. This represents a building roof parapet non-compliance of between 1 and 2 metres or between 9 and 18%. The lift overrun has a maximum height of 13.2 metres above ground level representing a non-compliance of 2.2 metres or 20%. The extent of non-compliance is depicted in the following images.

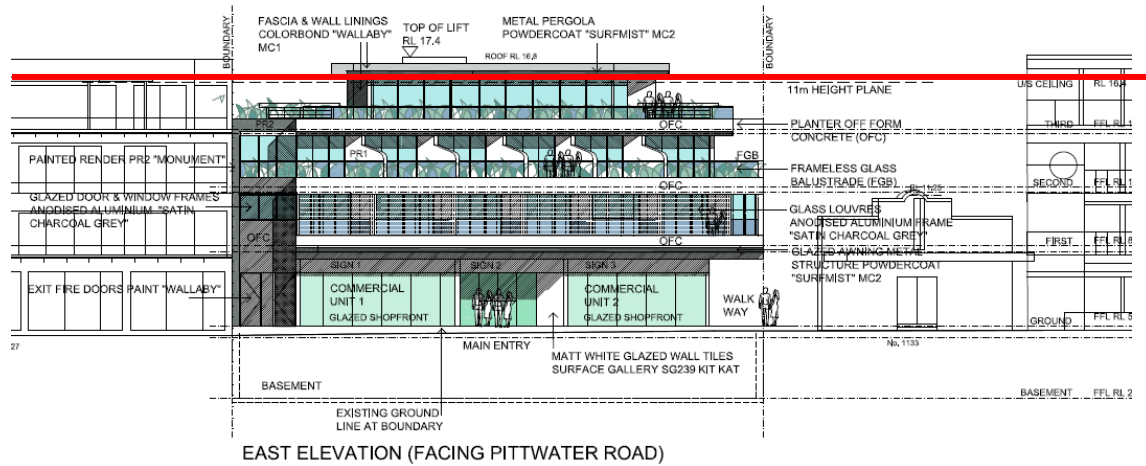


Figure 7 - Plan (east elevation) extract showing extent of 11 metre building height breach

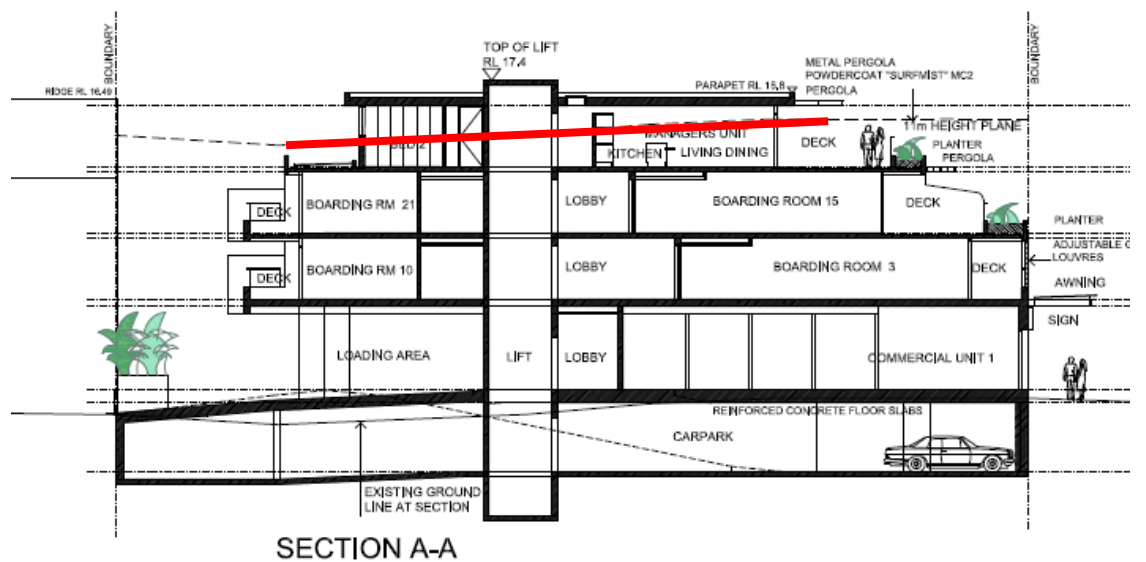


Figure 8 - Plan (section A-A) extract showing extent of 11 metre building height breach

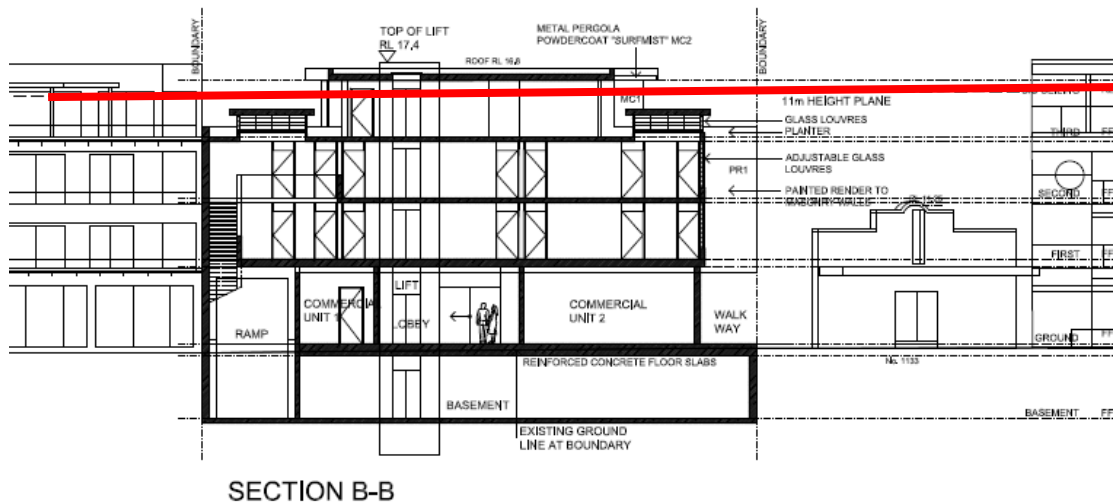


Figure 8 - Plan (section B-B) extract showing extent of 11 metre building height breach

Clause 4.6 of WLEP 2011 provides a mechanism by which a development standard can be varied. The objectives of this clause are:

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

Pursuant to clause 4.6(2) 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.

This Clause applies to the Clause 4.3 Height of Buildings Development Standard.

Clause 4.6(3) states that 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.*

Clause 4.6(4) states 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 Director-General has been obtained.*

Clause 4.6(5) states that in deciding whether to grant concurrence, the Director-General must consider:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*

A clause 4.6 variation request is attached and marked Attachment 1.

Such variation request demonstrates that the proposal is consistent with the zone objectives and consistent with the objectives of the height of building standard and as such strict compliance with the numerical standard is both unreasonable and unnecessary under the circumstances. Further, there are sufficient environmental planning grounds to justify the variation sought and as such the clause 4.6 variation request is well founded.

4.1.3 Heritage Conservation – Heritage Impact Assessment

Pursuant to clause 5.10(4) of WLEP the consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.

Further, pursuant to clause 5.10(5) the consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or
- (b) on land that is within a heritage conservation area, or
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

The subject property is not heritage listed or located within a heritage conservation area however is located within the vicinity of a number of heritage items namely:

Former Arlington Amusement Hall	1056–1066 Pittwater Road	Lots 20–25, DP 218990	Local I20
--	--------------------------------	--------------------------	-----------

Collaroy Cinema (facades and interiors)	1097 Pittwater Road	Lot 4, DP 6984; Lot B, DP 379308	Local I22
--	---------------------------	--	-----------

Former Westpac Bank	1121 Pittwater Road	Lot 1, DP 528546	Local I23
---------------------------	---------------------------	---------------------	-----------

This Heritage Impact Statement has been prepared in accordance with the standard guidelines of the NSW Heritage Office.

Heritage Considerations

The following aspects of the proposal respect or enhance the heritage significance of the adjacent buildings for the following reasons:

- The proposed development will have no physical impact on the items within vicinity of the site given the significant spatial separation maintained and to that extent will have a neutral impact on their significance.
- The proposed building will contribute positively to the streetscape character and design quality of development located within the sites visual catchment.

The following aspects of the proposal could detrimentally impact on heritage significance.

- Nil

The following sympathetic solutions have been considered and discounted for the following reasons:

- Nil

Having given consideration to the impact of the proposed works on the significance of the adjacent heritage items I have formed the considered opinion that:

- The proposed development will have no physical impact on the items within vicinity of the site given the significant spatial separation maintained and to that extent will have a neutral impact on their significance.
- The proposed building will contribute positively to the streetscape character and design quality of development located within the sites visual catchment.
- Accordingly, the proposed development will have a neutral impact on the significance of the heritage items within the vicinity of the site.

Accordingly, there is no statutory impediment to the granting of consent to the proposed works in this instance.

4.1.4 Acid Sulfate Soils

The application is accompanied by a Preliminary Acid Sulphate Soils Assessment, dated March 2020, prepared by Martens Consulting Engineers. The report contains the following commentary and conclusions:

The Warringah LEP (2011) ASS planning map indicates that the site is Class 4 land. ASSMAC (1998) indicates that development on Class 4 land has the potential to pose an environmental risk, if works extend more than 2 metres below the natural ground surface and / or where development is likely to lower the water table by 2 m below the natural ground surface.

Therefore, a preliminary geomorphic ASS assessment was undertaken.

.....

Laboratory sPOCAS analytical results indicate that none of the tested soil samples exceed the action criteria for the acid trail and sulfur trail. Therefore, the fill and marine deposits are not considered ASS and preparation of an ASSMP is not required.

Should materials be identified during construction works which do not resemble materials identified in this report, Martens and Associates should be contacted to inspect the material and assess the need for further testing / advice.

No objection is raised to the imposition of appropriate conditions in this regard.

4.1.4 Earthworks

In accordance with the clause 6.2 WLEP 2011 considerations the application is accompanied by a Preliminary Geotechnical Assessment, dated March 2020, prepared by Martens Consulting Engineers which assesses the acceptability of the earthworks proposed. Such report contains a number of recommendations which are to be complied with through the construction process and no objection is raised to an appropriately worded condition in this regard.

4.1.5 Flood Planning

The clause 6.3 WLEP flood planning considerations apply to land at or below the flood planning level. In this regard, the application is accompanied by a Flood Assessment and Flood Emergency Response Plan (FERP), dated March 2020, prepared by Martens Consulting Engineers which assesses the impact of flooding on the subject development and contains a detailed assessment in relation to flooding constraints. Such report contains the following conclusions:

A detailed hydrologic and hydraulic model has been developed to assess local flood characteristics, this modelling is consistent with the TUFLOW model used in preparation of Council's accepted Cardno Narrabeen flood study.

The models were used to determine the existing and proposed flood conditions in the 1% AEP and PMF events. Modelling concluded that:

- 1. Proposed flood characteristics are largely consistent with existing conditions, and differences due to the proposed development are negligible.*
- 2. The proposed development would have acceptable offsite flood impacts.*
- 3. Compliance with Council flood planning level requirements for building and car park levels are achieved.*

Whilst the proposed development is affected by flood hazards during the PMF event, the site specific PFERP and PFRAP have been prepared to ensure that the site can operate safely in the floodplain environment. In summary:

- 1. Subscription to a number of warning systems will significantly reduce the likelihood of persons on site during a major flood event.*
- 2. In the scenario that persons are on site during an unanticipated major flood event, risk to persons is managed through the shelter-in-place*

strategy, with all communal and residential areas having floor levels above the FPL.

3. *With the implementation of the FERP procedures the risk to life is reduced to acceptable levels.*
4. *The proposed commercial and residential floors are to maintain finished floor levels at 5.2 mAHD.*
5. *The proposed basement carpark is to maintain a crest above the PMF level of 5.20 mAHD.*
6. *Structures are to be designed by a suitably qualified engineer to withstand the forces of floodwater, debris and buoyancy.*
7. *Areas below the site FPL of 5.12 mAHD are to be constructed using flood compatible materials in accordance with Council requirements.*

The proposed development has been designed to ensure compatibility with the existing floodplain environment. As the proposed development has been designed to achieve Council requirements, no further recommendations are considered necessary.

Subject to the imposition of appropriate conditions, Council can be satisfied that the applicable flood planning considerations have been addressed.

4.1.6 Development on Sloping Land

Pursuant to clause 6.4 of the WLEP the site is located as being Landslip Area A, as detailed on the Landslip Risk Map.

Given that the proposal requires a degree of excavation the application is accompanied by a Preliminary Geotechnical Assessment, dated March 2020, prepared by Martens Consulting Engineers which assesses the acceptability of the earthworks proposed. Such report contains a number of recommendations which are to be complied with through the construction process and no objection is raised to an appropriately worded condition in this regard.

4.2 Warringah Development Control Plan 2011

4.2.1 Compliance Table

Control	Requirement	Proposed	Compliance
<p>Number of Storeys</p> <p>DCP Control B2</p>	<p>Mapped as 3 storeys.</p> <p>To ensure development does not visually dominate its surrounds.</p> <p>To minimise the visual impact of development when viewed from adjoining properties, streets, waterways, and land zoned for public recreation purposes.</p> <p>To provide equitable sharing of views to and from public and private properties.</p> <p>To ensure a reasonable level of amenity is provided and maintained to adjoining and nearby properties.</p> <p>To provide sufficient scope for innovative roof pitch and variation in roof design.</p> <p>To complement the height of buildings control in the LEP with a number of storeys control.</p>	<p>The proposed building is 4 storeys at any one point.</p> <p>The building will appear as 4 storeys to Pittwater Road which is non-compliance with the number of storeys control.</p> <p>The height will not give rise to unacceptable residential amenity or streetscape impacts on adjoining properties and is complimentary and compatible with that established by development along this section of Pittwater Road.</p> <p>A 4.6 variation to the WLEP building height standard has been detailed previously in this statement.</p>	<p>No</p> <p>Refer to clause 4.6 variation request.</p>
<p>Front Setback</p> <p>DCP Control B7</p>	<p>Mapped as Area L.</p> <p>Ground & First Floor align with street front.</p>	<p>The ground and first floor are compliant with the control and are aligned with the front boundary</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
	Second floor and up – 5m	<p>Second floor has a 5 metre setback in strict accordance with the control with an 8 metre setback to the upper most level. to street with upper floors compliant</p> <p>It is considered the architectural response is appropriate for the site. The front setbacks are compatible in a streetscape context and generally align with the shop top housing development to the south.</p>	Yes
<p>Merit Assessment of Side and Rear Boundary Setbacks</p> <p>DCP Controls B6, B8, B10</p>	<p>Setbacks will be determined on a merit basis and will have regard to:</p> <ul style="list-style-type: none"> • streetscape; • amenity of surrounding properties; and • setbacks of neighbouring development 	<p>The development proposes a nil setback at ground Level 1 and Level 2 to the southern boundary consistent with that established by the adjoining development. The uppermost level maintains a minimum setback to the southern boundary of over 5 metres to afford appropriate privacy and solar access to the adjacent apartments.</p> <p>The development maintains a 2.385 metre setback at ground level to the northern boundary reflecting the alignment of the existing right of footway with a nil setback proposed at Level 1 and a variable setback of between nil and 2.175 metres at Level 2. The uppermost level maintains minimum setback of 4.8 metres to the northern boundary.</p> <p>A rear setback to the building facade of 7.3 metres is proposed with the played and bladed balcony elements projecting within this setback to a variable degree.</p>	<p>Yes</p> <p>Acceptable on merit</p>

Control	Requirement	Proposed	Compliance
		<p>We note that fixed privacy blades are provided to maintain appropriate privacy between adjoining development. Such setbacks do not compromise the development potential of the adjoining sites.</p> <p>The setbacks proposed are consistent with other mixed-use buildings along This section of Pittwater Road and within the B2 zone and will not give rise to any unacceptable amenity impacts to neighbouring properties.</p>	
<p>Traffic, Access and Safety</p> <p>DCP Controls C2</p>	<p>To minimise:</p> <p>a) traffic hazards;</p> <p>b) vehicles queuing on public roads</p> <p>c) the number of vehicle crossings in a street;</p> <p>d) traffic, pedestrian and cyclist conflict;</p> <p>e) interference with public transport facilities; and</p> <p>f) the loss of “on street” kerbside parking.</p>	<p>Urbis have prepared a Traffic Impact Assessment.</p> <p>The traffic report concludes that the proposed parking complies with the SEPP (Affordable Rental Housing) 2009 as it relates to parking and that no unacceptable traffic or safety related consequences will arise as a result of the proposed development.</p>	<p>Yes</p>
<p>Parking Facilities</p> <p>DCP Control C3</p>	<p>Comparisons must be drawn with developments for a similar purpose.</p>	<p>Refer to Traffic and Parking Assessment Report.</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
Bicycle Parking DCP Control C3A	<p>Objectives</p> <ul style="list-style-type: none"> • To help meet the transport needs of the Warringah community • To encourage healthy active lifestyles and help reduce reliance on private motor vehicles • To provide convenience and safety for bicycle users 	<p>5 Motorcycle and 6 bicycle spaces provided.</p>	<p>Yes</p>
Stormwater DCP Control C4	<p>To ensure the appropriate management of stormwater.</p> <p>To minimise the quantity of stormwater run-off.</p> <p>To incorporate Water Sensitive Urban Design techniques and On-Site Stormwater Detention (OSD) Technical Specification into all new developments.</p> <p>To ensure the peak discharge rate of stormwater flow from new development is no greater than the Permitted Site Discharge (PSD).</p>	<p>The application is accompanied by Stormwater Management Plan prepared by Martens Consulting Engineers which details the proposed stormwater drainage regime in accordance with Council's DCP provisions.</p>	<p>Yes</p>
Erosion and Sedimentation DCP Control C5	<ul style="list-style-type: none"> •To reduce the potential for soil erosion and adverse sedimentation impacts upon the environment. •To prevent the migration of sediment off the site onto any waterway, 	<p>Please refer to the stormwater and sediment control plan by Martens Consulting Engineers.</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
	<p>drainage systems, public reserves, road reserve, bushland or adjoining private lands.</p> <p>•To prevent any reduction in water quality downstream of the development site.</p>		
<p>Excavation and Landfill</p> <p>DCP Control C7</p>	<p>Excavation and landfill works must not result in any adverse impact on adjoining land.</p>	<p>The application is accompanied by a Preliminary Geotechnical Assessment, dated March 2020, prepared by Martens Consulting Engineers which assesses the acceptability of the earthworks proposed. Such report contains a number of recommendations which are to be complied with through the construction process and no objection is raised to an appropriately worded condition in this regard.</p>	<p>Yes</p>
<p>Demolition & Construction</p> <p>DCP Control C8</p>	<p>A demolition and waste management plan must be satisfactorily completed and submitted.</p>	<p>The application is accompanied a waste management plan detailing the management of both demolition and construction waste.</p>	<p>Yes</p>
<p>Waste Management</p> <p>DCP Control C9</p>	<p>Each development must include, or have access to Waste/Recycling Storage Rooms and Areas.</p> <p>a) where the number of dwellings/units is 29 or less, the Waste/Recycling Storage Rooms or Areas must be located at the front of the development within 6.5 metres walking distance to the front</p>	<p>The application is accompanied a waste management plan detailing the ongoing management of waste associated with the proposed use. The waste storage room is appropriately located and sized to cater for the anticipated operational waste generation.</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
	<p>boundary adjacent to the roadway. If a Waste/Recycling Storage Room or Area is to be provided at another suitable location within the building, a complementary Waste/Recycling Storage Room or Area must be provided within 6.5 metres walking distance to the front boundary adjacent to the roadway; or</p> <p>b) where the number of dwellings/units is 30 or more, the Waste/Recycling Storage Rooms or Areas must be located within 6.5 metres walking distance of the service area.</p>		
<p>Private Open Space</p> <p>DCP Control</p> <p>D2</p>	<p>Multi dwelling housing (not located at ground level) residential flat buildings and shop top housing, to provide 10sqm of private open space with a minimum dimension of 2.5 metres.</p> <p>Private open space is to be directly accessible from a living area of a dwelling and be capable of serving as an extension of the dwelling for relaxation, dining, entertainment, recreation and children's play.</p> <p>Private open space is to be located and designed to ensure privacy of the occupants of adjacent</p>	<p>We note that SEPP ARH does not require the provision of any private open space areas to individual boarding rooms with the exception of the Manager's room. That said, all boarding rooms have been provided with small private balconies to enhance the amenity of these boarding rooms with appropriate integrated privacy screen treatments ensuring the maintenance of appropriate visual privacy to the adjoining property.</p>	<p>Yes</p> <p>Complies with SEPP ARH</p>

Control	Requirement	Proposed	Compliance
	<p>buildings and occupants of the proposed development.</p> <p>Private open space shall not be located in the primary front building setback.</p> <p>Private open space is to be located to maximise solar access.</p>		
<p>Noise</p> <p>DCP Control D3</p>	<p>To encourage innovative design solutions to improve the urban environment.</p> <p>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.</p>	<p>This application includes an acoustic report by Rodney Stevens Acoustics.</p> <p>The report makes a number of recommendations in relation to acoustic treatments and in this regard no objection is raised to the imposition of an appropriately worded condition requiring compliance with the recommendations contained within this report.</p>	<p>Yes</p>
<p>Access to Sunlight</p> <p>DCP Control D6</p>	<p>Pursuant to these provisions development is not to unreasonably reduce sunlight to surrounding properties. In the case of housing:</p> <ul style="list-style-type: none"> • Development should avoid unreasonable overshadowing any public open space. • At least 50% of the required area of private open 	<p>Refer to the shadow diagrams which demonstrate that the proposed development does not result in any unreasonable overshadowing to surrounding properties.</p> <p>Complaint levels of solar access will be maintained to all surrounding residential properties/ land uses having regard to the applicable ADG provisions .</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
	<p>space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.</p>		
<p>Views DCP Control D7</p>	<p>Development is to allow for the reasonable sharing of views, encourage innovative design solutions and ensure existing canopy trees have priority over views.</p>	<p>The majority of existing views available from north and east facing apartments within the adjoining southern and western mixed use buildings will be maintained with view impact limited to those apartments which currently obtain views due to the underdeveloped nature of the site. In this regard, the impact is created by the fully compliant components of the development in particular those located below the 11 metre height standard.</p> <p>Such views are also available directly across the side boundary and through the centre of the subject site such that there can be no realistic expectation associated with their retention.</p> <p>Accordingly, we have formed the considered opinion that a view sharing scenario is maintained in accordance with the principles established by the Land and Environment Court in the matter of Tenacity Consulting v Warringah [2004] NSWLEC 140.</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
<p>Privacy</p> <p>DCP Control D8</p>	<p>Ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.</p>	<p>The development has been designed through detailed site analysis to ensure that appropriate privacy is maintained between adjoining development through building design and orientation, the appropriate use and placement of fenestration and the inclusion of fixed privacy screen treatments where necessary. In this regard, appropriate privacy and security will be maintained between adjoining development.</p>	<p>Yes</p>
<p>Building Bulk</p> <p>DCP Control D9</p>	<p>Encourage good design and innovative architecture to improve the urban environment.</p> <p>Minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.</p>	<p>The development has been designed through detailed site context analysis to provide through a contextually responsive building form maintaining appropriate amenity to adjoining properties and a high level of amenity to future occupants.</p> <p>The development has regard to the scale, proportion and line of visible facades with the highly articulated and modulated building form providing appropriate facade treatment and visual interest to the streetscape.</p> <p>The scale and footprint of the development are entirely in keeping with the established built form character along Pittwater Road.</p>	<p>Yes</p>
<p>Building Colours and Materials</p>	<p>Ensure the colours and materials of new or altered buildings and structures are sympathetic to the</p>	<p>The proposed materials and finishes are indicated on the accompanying plans.</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
DCP Control D10	surrounding natural and built environment.	The materials and finishes are considered to be sympathetic to the existing dwelling and in the style of the surrounding development and complementary to natural environment.	
Roofs DCP Policy D11	Roofs are to be designed to complement the local skyline.	The development incorporates flat metal deck roofing consistent with those established by surrounding development.	Yes
Glare and Reflection DCP Policy D12	Ensure that development will not result in overspill or glare from artificial illumination or sun reflection.	The proposed window glazing and roof finishes will not give rise to any unacceptable glare or reflection.	Yes
Accessibility DCP Policy D18	To ensure convenient, comfortable and safe access for all people including older people, people with prams and strollers and people with a disability.	The proposed development has been designed to ensure a convenient, comfortable and safe access for all people including wheelchair and pram accessibility as detailed in the access compliance assessment report prepared by Ergon Consulting.	Yes
Safety and Security	Buildings are to overlook streets as well as public and communal places to allow casual surveillance. 2. Service areas and access ways are to be either secured or designed to allow casual surveillance.	The design of the development enables casual observation (from inside the street facing boarding rooms and communal open space balconies) of the street frontage. The lobby is well located so that it is easily identifiable.	Yes

Control	Requirement	Proposed	Compliance
	<p>3. There is to be adequate lighting of entrances and pedestrian areas.</p> <p>4. After hours land use activities are to be given priority along primary pedestrian routes to increase safety.</p> <p>5. Entrances to buildings are to be from public streets wherever possible.</p> <p>6. For larger developments, a site management plan and formal risk assessment, including the consideration of the 'Crime Prevention through Environmental Design' principles may be required. This is relevant where, in Council's opinion, the proposed development would present a crime, safety or security risk. See Crime Prevention and Assessment of Development Applications – Guidelines under Section 79C of the Environmental Planning and Assessment Act 1979 prepared by the Department of Urban Affairs and Planning (now Department of Planning).</p>	<p>The car parking area, forecourt and common circulation spaces will be appropriately lit at night with no objection raised to the imposition of a condition in this regard.</p> <p>The proposed development has been design in accordance with Crime Prevention Through Environmental Design (CPTED) Principles.</p> <p>The proposed development will significantly increase natural surveillance of the area outside of normal business hours through the introduction of a boarding house use. In this regard, it is noted that:</p> <ul style="list-style-type: none"> • There are no large visual obstructions within parking areas and that the parking areas will be appropriately lit; • Clear pedestrian paths towards entrances of the building are provided and pedestrian routes will be clearly designated with signage and lighting; • Corridors and other potential entrapment spots have been minimised and will be well lit; • Security access will be provided to the building and to within individual boarding rooms; 	

Control	Requirement	Proposed	Compliance
		<ul style="list-style-type: none"> Communal open space areas will be subject to high levels of surveillance and will be adequately lit at night so as to avoid any dark entrapment spots and provide a sufficient level of security without impacting on the amenity of residents. 	
Waterways and Riparian Lands E8	<p>1. The applicant shall submit a Waterway Impact Statement.</p> <p>2. Development in Waterways and on the Riparian Land of Group A and Group B creeks (see DCP Map for Catchment Groupings) (Creek Management Study 2004) is required to have impervious surfaces offset by stormwater management controls so there is no net change in peak loads or pollutant loads in accordance with Councils On Site Stormwater Detention Technical Specification, Councils Water Sensitive Urban Design Policy STR-PL820 and Landcom's Managing Urban Stormwater (MUS): Soils and Construction (commonly referred to as the Blue Book).</p> <p>3. Infrastructure such as roads, drainage, stormwater structures, services, etc. should be</p>	N/A	-

Control	Requirement	Proposed	Compliance
	<p>located outside land identified as Waterways and Riparian Land.</p> <p>4. The Asset Protection Zone must not extend into land identified as Waterways and Riparian Land. Refer to NSW Rural Fire Service for site assessment methodology.</p>		
<p>Landslip Risk DCP Policy E10</p>	<p>The site is identified as falling within Landslip Risk Area A.</p> <p>The applicant must demonstrate that:</p> <ul style="list-style-type: none"> • The proposed development is justified in terms of geotechnical stability; and • The proposed development will be carried out in accordance with good engineering practice. 	<p>A Geotechnical Report prepared by Martens Consulting Engineers accompanies the DA and demonstrates that the proposed works are suitable for the site and no geotechnical hazards will be created by the completion of the proposed development provided it is carried out in accordance with the recommendations within the geotechnical report.</p>	<p>Yes</p>
<p>Local and Neighbourhood Centres DCP Policy F1</p>	<p>See Discussion in 4.2.2 below</p>	<p>See Discussion in 4.2.2 below</p>	<p>Yes *See discussion in 4.2.2 below</p>

4.2.2 Local and Neighbourhood Centres

The requirements of Policy F1 of the DCP are as follows:

- 1) *Buildings are to define the streets and public spaces and create environments that are appropriate to the human scale as well as being interesting, safe and comfortable.*
- 2) *The minimum floor to ceiling height for buildings is to be 3.0 metres for ground floor levels and 2.7 metres for upper storeys.*
- 3) *The design and arrangement of buildings are to recognise and preserve existing significant public views.*
- 4) *Development that adjoins residential land is not to reduce amenity enjoyed by adjoining residents.*
- 5) *The built form of development in the local or neighbourhood retail centre is to provide a transition to adjacent residential development, including reasonable setbacks from side and rear boundaries, particularly above ground floor level.*
- 6) *Buildings greater than 2 storeys are to be designed so that the massing is substantially reduced on the top floors and stepped back from the street front to reduce bulk and ensure that new development does not dominate existing buildings and public spaces.*
- 7) *Applicants are to demonstrate how the following significant considerations meet the objectives of this control:*
 - *Scale and proportion of the façade;*
 - *Pattern of openings;*
 - *Ratio of solid walls to voids and windows;*
 - *Parapet and/or building heights and alignments;*
 - *Height of individual floors in relation to adjoining buildings;*
 - *Materials, textures and colours; and*
 - *Architectural style and façade detailing including window and balcony details*
- 8) *Footpath awnings should be designed to allow for street tree planting.*
- 9) *Awnings should be consistent in design, materials, scale and overhang with adjacent retail developments.*
- 10) *Awnings should have an adequate clearance from the kerb.*

With respects to the above requirements the development is considered to be appropriate for the following reasons:

- The building is appropriately articulated and modulated in both the vertical and horizontal planes so that the apparent bulk and scale of the development is reduced. The building will appear as 4 storeys to Pittwater Road with increasingly recessive upper storeys. The building displays a modern contemporary design that minimises bulk and scale and ensures visual interest.
- The scale of the building in terms of its three-dimensional size will not be perceived as jarring or antipathetic in a streetscape and urban design context. In this regard, the scale of the development is considered to be appropriate and complimentary and compatible with other 4 storey development within this particular street block.
- Floor space is appropriately distributed across the site to maintain appropriate solar access and privacy and a sympathetic relationship to surrounding apartment development to the south and rear of the site.
- The proposed built form has been designed through detailed site analysis to provide a complimentary and compatible streetscape presentation whilst maintaining appropriate amenity between adjoining residential and commercial development.
- Whilst an appropriate contextual building “fit” has resulted in variations to the building height control such outcome does not result in any unacceptable impacts on the amenity of the adjoining residential apartments or the streetscape character of this section of Pittwater Road.
- The appropriate distribution of floor space across the site in response to context and the built form and spatial characteristics of adjoining development will ensure that the visual massing of the development is minimised when viewed from adjoining properties and the public domain generally.
- The built form responds to the site context and appropriately mitigates amenity impacts to adjoining properties as detailed throughout this report.
- The floor to ceiling heights proposed provide appropriate amenity given the nature of the use and good levels of solar access and natural ventilation achieved.

The proposed development is considered to meet the requirements of this Clause and represents a considered and contextually appropriate design response.

4.3 State Environmental Planning Policy (Affordable Rental Housing) 2009

State and Environmental Planning Policy (Affordable Rental Housing) 2009 came into effect on 30 July 2009. The proposed boarding house development is made pursuant to the provisions of the ARH SEPP.

This section of the Statement provides an assessment of the development when assessed against the applicable provisions of the ARH SEPP.

4.3.1 Land to which Division applies

This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones:

- (a) Zone R1 General Residential,
- (b) Zone R2 Low Density Residential,
- (c) Zone R3 Medium Density Residential,
- (d) Zone R4 High Density Residential,
- (e) Zone B1 Neighbourhood Centre,
- (f) Zone B2 Local Centre,
- (g) Zone B4 Mixed Use.

The subject site is zoned B2 Local Centre pursuant to WLEP 2011. Therefore, the provisions of the ARH SEPP apply to the proposed development. The proposed development is appropriately defined as containing a boarding house as it is:

- Wholly let in lodgings,
- Provides lodgers with a principle place of residence for 3 months or more, and
- Has shared communal open space and common living area, and
- Has rooms that accommodate 1 or more lodgers.

To that extent, the SEPP applies to the subject development.

4.3.2 Clause 29 – Standards that cannot be used to refuse consent

Pursuant to Clause 29 the consent authority cannot refuse a development application on the following grounds.

(i) Clause 29(1) - Density and Scale expressed as a floor space ratio

The Affordable Rental Housing SEPP states that a consent authority must not refuse consent to a development on the grounds of density or scale if the density and scale of the building when expressed as a floor space ratio are not more than:

- (a) *the existing maximum floor space ratio of any form of residential accommodation permitted on the land, or*
- (b) *if the development is on land within a zone in which no residential accommodation is permitted – the existing maximum floor space ratio for any form of development on the land, or*
- (c) *if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on a State Heritage Register - the existing floor space ratio for any form of residential accommodation permitted on the land plus:*
 - (i) *0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or*
 - (ii) *20% of the existing maximum floor space ratio, if the existing floor space ratio is greater than 2.5:1.*

Under the interpretation provisions in Clause 4 of the SEPP the existing floor space ratio is defined as:

“the maximum floor space ratio permitted on the land under an Environmental Planning instrument or development control plan applying to the relevant land, other than this policy or State Environmental Planning Policy No. 1 – Development Standards.”

There is no FSR provision pursuant to WLEP 2011 and accordingly these provisions have no work to do.

(ii) Clause 29(2)(a) – Building Height

The SEPP states that the consent authority must not refuse consent to a development on the grounds of height:

“if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land.”

A maximum building height of 11m applies to the site pursuant to WLEP 2011. As previously discussed the proposed height of the development will not be perceived as inappropriate or jarring in its context. We rely on the clause 4.6 variation prepared in support of the application.

(iii) Clause 29(2)(b) – Landscaped Area

The SEPP states that the consent authority must not refuse consent to a development on the grounds of landscaping:

“if the landscape treatment of the front setback areas is compatible with the streetscape in which the building is located”.

The DCP anticipates a nil front setback to Pittwater Road and accordingly no street level plantings are proposed. Landscaping is provided along the eastern edge of the Pittwater road facing balconies to provide a complimentary and compatible landscape treatment within the front setback to these levels consistent with the outcome anticipated by the zoning of the land.

(iv) Clause 29(2)(c) – Solar Access

The affordable rental housing SEPP states that the consent authority must not refuse consent to a development on the grounds of solar access:

“where the development provides for 1 or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter”.

Communal living rooms are provided on both first and second floor level with the second floor communal living room receiving in excess of 3 hours of direct sunlight between 9am and 3pm on 21st June.

(v) Clause 29(2)(d) – Private Open Space

The SEPP states that the consent authority must not refuse consent to a development on the grounds of private open space:

“if at least the following private open space areas are provided (other than the front setbacks area):

- i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers,*
- ii) if accommodation is provided on site for a boarding house manager – one area of at least 8 square metres with a minimum dimension of 2.5 m is provided adjacent to that accommodation”.*

The proposed development includes a 7.2 square metre communal private open space area at Level 1 and a 20.1 square metre communal private open space area on Level 2. Whilst the Level 2 area has some dimensions less than 3 metres, such shortfall is offset by the fact that each boarding room has its own access to small private open space balconies being break out areas that significantly enhance the amenity of the individual boarding rooms and provide absolute private open space.

We also note that both communal private open space areas receive exceptional levels of solar access and benefit from ocean views and north easterly sea breezes. The quantum and quality of the private open space areas succeed on merit.

(vi) Clause 29(2)(e) – Parking

The ARH SEPP states that the consent authority must not refuse consent to a development on the grounds of parking:

- (i) in the case of development in an accessible area-at least 0.2 parking spaces are provided for each boarding room,*
- (ii)*
- (iii) in the case of any development – not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site.*

An accessible area is defined as follows:

Accessible area means land that is within:

- (a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or*
- (b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or*
- (c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.*

The proposed development is considered to be located within an accessible area as defined by SEPP ARH 2009. The site is located directly opposite the Collaroy Beach B-Line bus stop.

Urbis have prepared a Traffic Impact Assessment which concludes that the proposed parking complies with the SEPP (Affordable Rental Housing) 2009 for motorcycles and exceeds the standard for bicycles.

The report confirms that 14 car spaces are proposed for the boarding house and caretaker's apartment which exceeds the 13 required by the SEPP.

Clause 29(2)(f) – Accommodation Size

The SEPP states that the consent authority must not refuse consent to a development on the grounds of accommodation size:

“if each boarding room has a gross floor area (excluding any area used for the purpose of private kitchen or bathroom facilities) of at least:

- (i) 12 square metres in the case of the boarding room intended to be used by a single lodger, or*
- (ii) 16 square metres in any other case.”*

We note that based on room sizes not more than one (1) person shall occupy boarding rooms 1 and 6 – 23 which are to contain no more than one (1) bed with no more than two (2) persons occupying the balance of the bedrooms which are to contain no more than two (2) beds.

We also note that rooms 7, 14 and 18 have areas slightly below the 12 square metre minimum for single occupancy rooms with such shortfall more than adequately compensated for through the provision of break out private open space balconies. Indicative furniture layouts have been provided to demonstrate that the room geometry is capable of accommodating the necessary furniture whilst maintaining appropriate circulation spaces.

Finally, we note that separate storage for each boarding room is accommodated within the basement area such that the room sizes are acceptable on merit.

4.3.3 Clause 30 – Standards for Boarding Houses

Clause 30(1) of the ARH SEPP contains a number of development standards that the consent authority is required to take into consideration when assessing boarding house applications. Departures from development standards are required to be justified by way of a SEPP 1 objection. The development standards are as follows:

- a) if a boarding house has 5 or more boarding rooms, at least 1 communal living room will be provided.*

Comment: The proposal includes 2 communal lounge rooms of a sufficient size to cater for the lodgers of the 23 boarding rooms.

- b) No boarding room will have a gross floor area (excluding living room areas for the purposes of private kitchen or bathroom facilities) or more than 25 square metres.*

Comment: No boarding rooms within the development have a gross floor area exceeding 25m² in strict accordance with this development standard.

- c) No boarding room will be occupied by more than 2 adult lodgers.*

Comment: No boarding room will not be occupied by more than 2 lodgers.

- d) *Adequate bathroom and kitchen facilities will be available within the boarding house for the use of those lodgers.*

Comment: All boarding rooms contain kitchenette and bathroom facilities.

- e) *If the boarding house has a capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager.*

Comment: The development will have capacity to accommodate a maximum of 27 lodgers and to that extent a boarding house manager apartment is provided.

- g) *If the boarding house is on land zoned primarily for commercial purposes, no part of the ground of the boarding house that fronts the street will be used for residential purposes, unless another environmental planning instrument permits such a use.*

Comment: No part of the ground floor level fronting the street will be used for residential purposes.

- h) *At least one parking space will be provided for a bicycle, and one will be provided for a motor cycle, for every 5 boarding rooms.*

Comment: The development has 23 boarding rooms generating a requirement for 5 motorcycles and 5 bicycle spaces. The development incorporates 6 bicycle spaces and 5 motorcycle spaces (noting that 3 motorcycle spaces are nominated on the basement plan and 2 motorcycles can occupy the 1 x excess boarding room parking space) with such quantum complying with the standard.

No objection is raised to a condition being imposed in this regard.

4.3.4 Character of Local Area

Pursuant to clause 30A of the ARH SEPP a consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

Development within the sites visual catchment, and within the 11 metre height precinct, is eclectic in nature and in transition with a number of older one and two storey commercial and mixed use buildings being replaced with more contemporary 4 storey shop top housing building forms.

The height of development also varies significantly with 1, 2, 3 and 4 storey commercial and shop top housing development defining the visual character of the area and site context. Figures 4, 6 and 7 in this report depict such context it being noted that the examples of 4 storey shop top housing development are located within the 11 metre height area and are grouped in such a manner as to establish a clear street wall height and existing/ desired future character and along this section of Pittwater Road.

We note that Level 3 and 4 building facade maintains an appropriate setback to Pittwater Road such that they will be more recessive than the levels below in a streetscape context consistent with that of recently approved and constructed shop top housing development along Pittwater Road. The floor levels proposed are nearly identical to those established by 4 storey development to the north and south of the site as depicted in Figure 7. The 4 storey stepped building form will be complimentary and compatible with development within the site's visual catchment.

In this regard, we have formed the considered opinion that the height, bulk and scale of the development including its 4 storey stepped form are entirely consistent with the height and scale of surrounding and nearby development as viewed from the street and neighbouring properties. As indicated in the matter of *Project Venture Developments v Pittwater Council (2005) NSW LEC 191* development does not have to be the same height to be considered compatible.

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of *Project Venture Developments v Pittwater Council (2005) NSW LEC 191* we have formed the considered opinion that most observers would not find the proposed development by virtue of its height offensive, jarring or unsympathetic in a streetscape and urban context. In this regard, it can be reasonably concluded that the development is compatible with surrounding and nearby development.

Accordingly, it can be reasonably concluded that the proposal is compatible with its surroundings when viewed from the public domain and surrounding properties and that there is no statutory impediment to the granting of consent.

4.4 State Environmental Planning Policy (Infrastructure) 2007

Clause 102 of the policy applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RTA) and that the consent authority considers it likely to be adversely affected by road noise or vibration:

- (a) a building for residential use,
- (b) place of public worship,
- (c) a hospital,
- (d) an educational establishment or child care centre.

If the development is for the purposes of a building for residential use, 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 building — 35 dBA at any time between 10 pm and 7 am,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) — 40 dBA at any time.

In this regard, an acoustic report addressing road traffic noise, mechanical plant noise and construction noise and vibration has been prepared by Rodney Stevens Acoustics has been conducted to satisfy the applicable noise considerations with such report containing the following conclusion:

Acoustical investigation of the noise emission from the proposed boarding house to be built at 1129 – 1131 Pittwater Road, Collaroy was carried out to assess the impact on the nearby residences in Section 4 of this report.

Provided the recommended noise controls in Section 5 of this report are implemented, noise emission from the development will comply with the noise limits required by Council and the NSW Environmental Protection Authority (EPA) noise guidelines, detailed in Section 3.3 of this report.

Road traffic noise affecting the proposed boarding house has been assessed in Sections 2.3, 3.5 and 3.6 of this report. Provided the noise control recommendations in Section 5 of this report are implemented, road traffic noise inside the habitable rooms will be reduced to comply with the noise criteria in Clause 102 of the State Environment Planning Policy (Infrastructure) 2007.

No objection is raised to the recommendations contained within this document forming conditions of development consent. To that extent, Council can be satisfied that the development complies with the provisions of the SEPP as outlined.

4.5 State Environmental Planning Policy No. 55 – Remediation of Land

Council shall not consent to the carrying out of any development on land unless it has considered the provisions of SEPP No. 55 – Remediation of Land (“SEPP 55”). In this regard, the application is accompanied by a Preliminary Site Investigation report, dated March 2020, prepared by Martens Consulting Engineers contains the following conclusion:

The review of the site history indicated that the site was vacant until a residential dwelling was constructed between 1943 and 1951. The dwelling was demolished between 1951 and 1961. Sheds were constructed in the west portion between 1951 and 1961 and were demolished between 1975 and 2004. The existing buildings were constructed between 1951 and 1967.

Potential contamination sources are summarised as:

- *Building construction and maintenance have the potential to have introduced contaminants in the form of asbestos (including fibrous cement sheeting as a construction material), pesticides (pest control) and heavy metals (paints, pest control, use of galvanised materials).*
- *Previous shed storage may have introduced hydrocarbons, heavy metals and asbestos.*
- *PACM impacted fill of unknown origins in the central portion of the site contains PACM, and may contain HM, OCC / OPP, TRH and BTEXN.*
- *A dry cleaner is located adjacent to the site in the building to the west. This may have potential to have led to chlorinated hydrocarbon soil or groundwater contamination. The dry cleaning shop is relatively new (building constructed between 1994 and 2004) and whilst it is low risk, groundwater screening for COPC should be undertaken.*

The proposed development plan (Barry Rush & Associates, 2019) indicates that the site will be excavated to minimum depth of RL 2.0 m to all boundaries for a basement, with material to be disposed offsite. As the AEC and associated COPC are expected to be in fill/soil material that is to be excavated and disposed offsite, it is concluded that any potentially contaminated material will be removed from site through construction works. Therefore, Council can be satisfied that the site will be rendered fit for the intended use by the proposed development. Any material to be removed from site will need to be assessed through appropriate waste classification and disposed to a suitable licenced facility.

Accordingly, Council can be satisfied that the land is suitable for the proposed boarding house land use as outlined.

4.6 Matters for Consideration Pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 as amended

The following matters are to be taken into consideration when assessing a development pursuant to section 4.15 of the Environmental Planning and Assessment Act 1979(as amended) with such considerations being of particular relevance to the portion of the development benefiting from existing use rights.

The provision of any planning instrument, draft environmental planning instrument, development control plan or regulations.

This report clearly and comprehensively addresses the statutory regime applicable to the application and demonstrates that the proposed development is permissible and in accordance with the relevant provisions of SEPP ARH, WLEP 2011 and WDCP 2011. Further, the proposal satisfies the Clause 5(a)(viii) objective of the Act through the provisions of affordable housing in a location identified as being suitable for this form of housing.

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

Context and Setting

- i) *What is the relationship to the region and local context on terms of:*
- *the scenic qualities and features of the landscape?*
 - *the character and amenity of the locality and streetscape?*
 - *the scale, bulk, height, mass, form, character, density and design of development in the locality?*
 - *the previous and existing land uses and activities in the locality?*

These matters have been discussed in detail in this report.

We are of the opinion that the development response to its context and setting and is appropriate having regard to the unique site circumstances and the acceptability of the built form outcome achieved.

- ii) *What are the potential impacts on adjacent properties in terms of:*
- *relationship and compatibility of adjacent land uses?*

- *sunlight access (overshadowing)?*
- *visual and acoustic privacy?*
- *views and vistas?*
- *edge conditions such as boundary treatments and fencing?*

The proposed development has been designed through detailed site analysis to ensure that the built form outcome achieved will not give rise to any unreasonable or unmanageable amenity impacts on adjoining properties.

These matters have been discussed in detail in the body of this report.

Access, transport and traffic

Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:

- *travel demand?*
- *dependency on motor vehicles?*
- *traffic generation and the capacity of the local and arterial road network?*
- *public transport availability and use (including freight rail where relevant)?*
- *conflicts within and between transport modes?*
- *traffic management schemes?*
- *vehicular parking spaces?*

Having regard to the traffic and parking aspects of the development we conclude that:

- The development will not present any unsatisfactory traffic implications;
- The proposed parking provision will be suitable and appropriate for the needs of the development;
- The proposed parking and servicing arrangements will be satisfactory; and
- The proposed vehicular access arrangement will be appropriate and suitable.

It is anticipated that the proposed development will not result in an unmanageable increase in traffic generation having regard to the availability of a regular bus services.

Public domain

There will be no public domain impacts.

Utilities

Existing utility services will adequately service the development.

Flora and fauna

There will be no flora or fauna impacts.

Waste

The development will be serviced by normal waste collection.

Natural hazards

The issue of flooding has previously been addressed in detail within this report.

Economic impact in the locality

The proposed development will make a positive contribution to economic factors in the area through the generation of local employment opportunities associated with construction.

Further, the development will provide for short term affordable housing to meet a clear demand for such accommodation within this particular locality.

Site design and internal design

- i) *Is the development design sensitive to environmental conditions and site attributes including:*
- *the proportion of site covered by buildings?*
 - *the position of buildings?*
 - *the size (bulk, height, mass), form, appearance and design of buildings?*
 - *the amount, location, design, use and management of private and communal open space?*
 - *landscaping?*

These matters have been addressed in detail in the body of the report. The proposal provides for a significantly enhanced built form circumstance that acknowledges the sites unique built form context as well as the broader heritage attributes of the locality.

ii) *How would the development affect the health and safety of the occupants in terms of:*

- *lighting, ventilation and insulation?*
- *building fire risk – prevention and suppression/*
- *building materials and finishes?*
- *a common wall structure and design?*
- *access and facilities for the disabled?*
- *likely compliance with the Building Code of Australia?*

The proposed development will be able to comply with the provisions of the Building Code of Australia as detailed within the accompanying report prepared by Private Building Certifiers.

Construction

i) *What would be the impacts of construction activities in terms of:*

- *the environmental planning issues listed above?*
- *site safety?*

Normal site safety measures and procedures will ensure that no site safety or environmental impacts will arise during construction.

The suitability of the site for the development.

Does the proposal fit in the locality?

- *are the constraints posed by adjacent developments prohibitive?*
- *would development lead to unmanageable transport demands and are there adequate transport facilities in the area?*
- *are utilities and services available to the site adequate for the development?*

The adjacent development does not impose any insurmountable development constraints.

The site is well located with regards to utility services and public transport. There will be no excessive levels of transport demand created.

Are the site attributes conducive to development?

The site has no special physical or engineering constraints is suitable for the proposed development.

Any submissions received in accordance with this Act or the regulations.

It is envisaged that any submissions made in relation to the proposed development will be appropriately considered by Council.

The public interest.

In our opinion, the development satisfies the planning regime applicable to development on this particular site having regards to the considerations arising from its context. Further, the development responds appropriately to the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 pursuant to which the application is made.

The proposal is acceptable when assessed against the heads of consideration pursuant to Section 4.15 of the Environmental Planning and Assessment Act, 1979, as amended, provides for boarding house accommodation to meet a clear demand for such accommodation within this particular locality, is appropriate for the granting of consent and accordingly is in the public interest.

6.0 CONCLUSION

This report clearly and comprehensively addresses the statutory regime applicable to the application and demonstrates that the proposed development is permissible and in accordance with the relevant provisions of SEPP ARH, WLEP 2011 and WDCP 2011. Further, the proposal satisfies the Clause 5(a)(viii) objective of the Act through the provisions of affordable housing in a location identified as being suitable for this form of housing.

The architect has responded to the client brief to design a purpose-built boarding house which acknowledges the constraints and opportunities associated with the subject site whilst maintaining appropriate levels of amenity to adjoining and nearby residential properties. The client is particularly motivated by the identified housing affordability crisis on the Northern Beaches as detailed in the Northern Beaches Affordable Housing Needs Analysis December 2016.

The Northern Beaches is one of the least affordable local government areas in NSW both for rental and purchase. The proposed development will increase the stock of affordable housing within the Northern Beaches LGA and thereby provide an important social benefit. The development will also provide an alternative to detached, multi dwelling and residential apartment style housing in a location which has excellent access to public transport and access to a range of shops, services and outdoor recreational areas. The development improves housing choice and therefore responds positively to the housing needs of the local community.

The built form outcome has been developed through detailed site, context, flood risk and shadow analysis to ensure an appropriate contextual and streetscape fit, a development safe from hazards and a development which maintains appropriate levels of residential amenity to adjoining properties in particular privacy, views and solar access. The final design and documentation also represents a considered response to the issues arising from formal pre-DA discussions with Council.

Whilst the proposal requires the consent authority to give favourable consideration to a building height variation, strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case. The design quality and amenity of the building and the sites built form context ensures the building will not be perceived as inappropriate or jarring in a streetscape context. Sufficient environmental planning grounds existing to support the variation proposed with the accompanying clause 4.6 variation requests well founded.

The identified non-compliances with WDCP 2011 in relation to storeys has been acknowledged and appropriately justified having regard to the associated objectives. Such variations succeed pursuant to section 4.15 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 Act. It is our considered opinion that the application should be granted development consent subject to conditions.

Yours sincerely
Boston Blyth Fleming



Greg Boston
B Urb & Reg Plan (UNE) MPIA
B Env Hlth (UWS)
Director

Clause 4.6 variation request – Height of buildings
Proposed mixed use development
1129 – 1131 Pittwater Road Collaroy

Pursuant to the height of buildings map, the site has a maximum building height limit of 11 metres.

The objectives of this control are as follows:

- (a) *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*
- (c) *to minimise any adverse impact of development on the scenic quality of Warringah’s coastal and bush environments,*
- (d) *to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.*

Building height is defined as follows:

building height (or height of building) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like

It has been determined that the proposed development has a maximum building height along its eastern roof parapet of 12 metres with height increasing to a maximum of 13 metres where the site has a localised depression in its south western corner. This represents a building roof parapet non-compliance of between 1 and 2 metres or between 9 and 18%. The lift overrun has a maximum height of 13.2 metres above ground level representing a non-compliance of 2.2 metres or 20%. The extent of non-compliance is depicted in the following images.

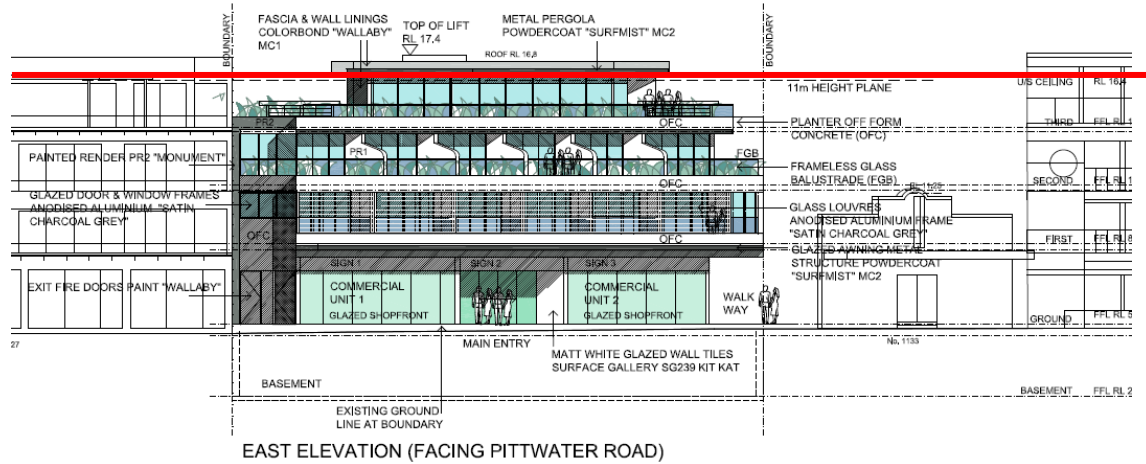


Figure 1 - Plan (east elevation) extract showing extent of 11 metre building height breach

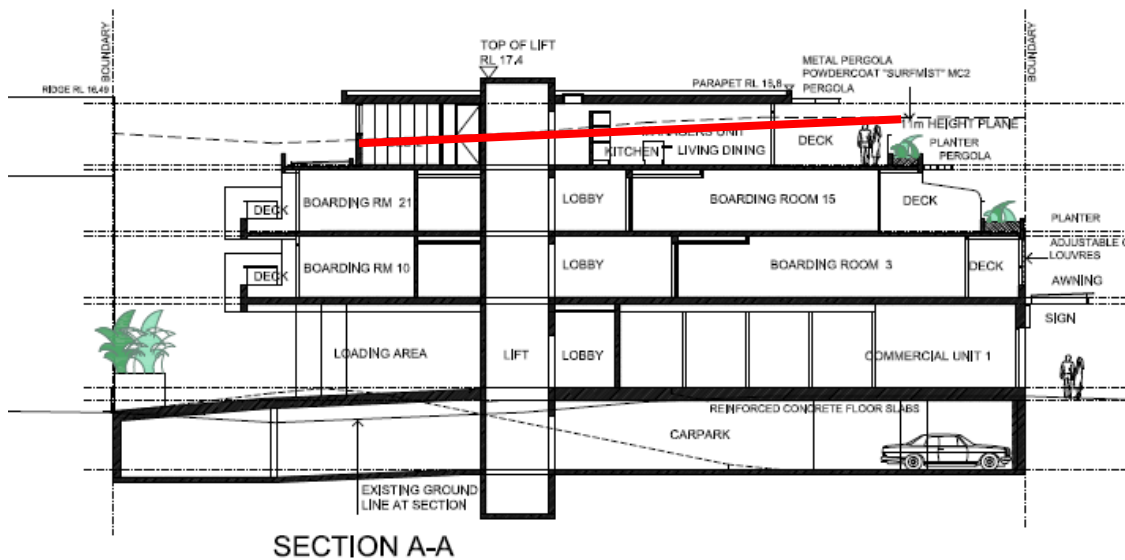


Figure 2 - Plan (section A-A) extract showing extent of 11 metre building height breach

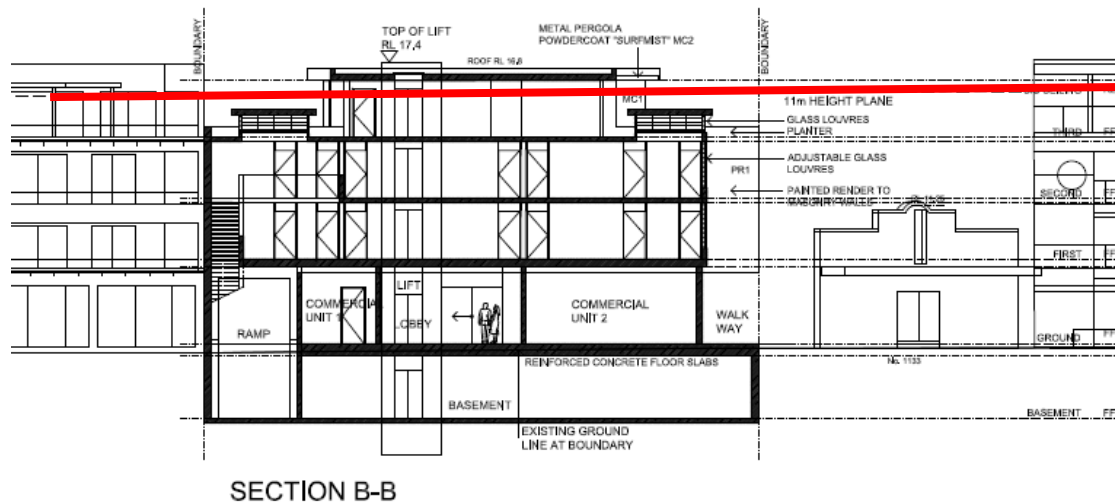


Figure 3 - Plan (section B-B) extract showing extent of 11 metre building height breach

Clause 4.6 of WLEP 2011 provides a mechanism by which a development standard can be varied. The objectives of this clause are:

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

Pursuant to clause 4.6(2) 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.

This Clause applies to the Clause 4.3 Height of Buildings Development Standard.

Clause 4.6(3) states that 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.*

Clause 4.6(4) states 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 Director-General has been obtained.*

Clause 4.6(5) states that in deciding whether to grant concurrence, the Director-General must consider:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*

Clause 4.6 Claim for Variation

This clause 4.6 variation has been prepared having regard to the Land and Environment Court judgements in the matters of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe*) at [42] – [48], *Four2Five Pty Ltd v Ashfield Council* [\[2015\] NSWCA 248](#) and *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

Zone and Zone Objectives

The Warringah Local Environmental Plan (LEP) 2011 applies to the subject site and this development proposal. The subject site is located within the B2 Local Centre zone. Shop top housing is permissible in the zone with consent. The stated objectives of the B2 zone are as follows:

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

Response: The proposed development achieves this objectives in that it incorporates commercial tenancies that will facilitate uses that are able to serve the needs of people who live in, work in and/ or visit the local area.

- *To encourage employment opportunities in accessible locations;*

Response: The subject property is ideally suited to increased residential densities given its immediate proximity to the Collaroy Beach B-Line bus stop. The proposal achieves this objective.

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

Response: The the building design and streetscape enhancement works providing an environment for pedestrians that is safe, comfortable and interesting. The proposal achieves this objective.

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

Response: The urban form relates favourably in scale and in architectural and landscape treatments to that established on neighbouring properties. The proposal achieves 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.*

Response: The proposal, by virtue of its design and siting, will maintain reasonable residential amenity to the adjoining properties in particular the apartments located to the south and west of the site. The proposal achieves this objective.

The consent authority can be satisfied that the proposal is consistent with the zone objectives as outlined. Accordingly, there are no statutory zoning or zone objective impediment to the granting of approval to the proposed development.

Building Height Objectives

Having regard to the objectives of the height standard as previously identified strict compliance has been found to be both unreasonable and unnecessary for the following reasons:

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

Comment: Development within the site’s visual catchment, and within the 11 metre height precinct, is eclectic in nature and currently in transition with a number of older one and two storey commercial and mixed use buildings being replaced with more contemporary 4 level stepped shop top housing building forms. A predominant 4 storey building presentation has been established by recently approved and constructed shop top housing development along Pittwater Road and within this particular street block.

We note that the 3rd and 4th Level building element maintains an appropriate setback to Pittwater Road such that they will be recessive in a streetscape context consistent with that of other recently approved and constructed 4 storey shop top housing development to the north and south of the site as depicted in Figures 4 and 5 below.

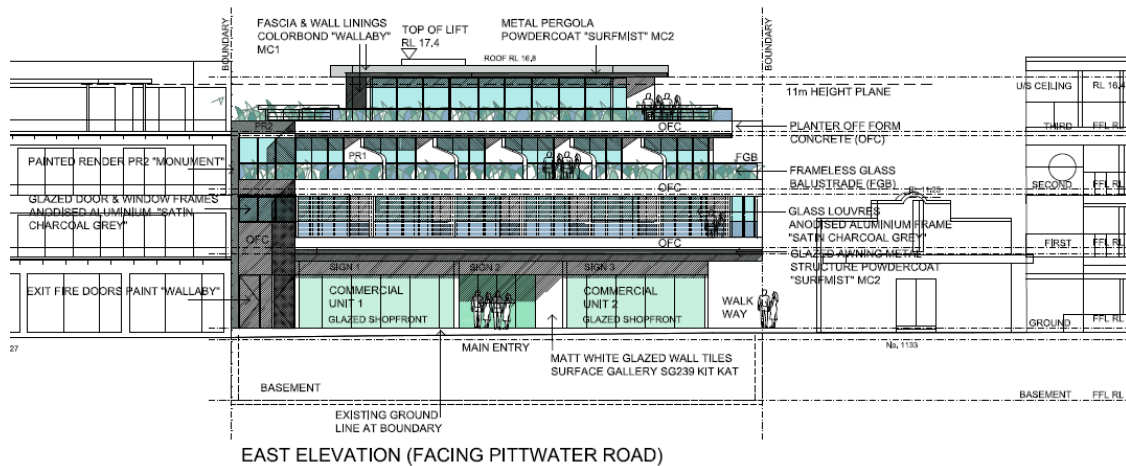


Figure 4 - Plan (east elevation) extract showing extent of 11 metre building height breach



Figure 5 – Photographic montage of proposed development and its immediate context.

In this regard, we have formed the considered opinion that the height, bulk and scale of the development including its 4 storey stepped form are entirely consistent with the height and scale of surrounding and nearby development.

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191 we have formed the considered opinion that most observers would not find the proposed development by virtue of its height offensive, jarring or unsympathetic in a streetscape and urban context. In this regard, it can be reasonably concluded that the development is compatible with surrounding and nearby development and accordingly the proposal achieves this objective.

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

Comment: Having undertaken a detailed site and context analysis and identified available view lines over the site we have formed the considered opinion that the height of the development, and in particular the non-compliant height components, will not give rise to any visual, view, privacy or solar access impacts with appropriate spatial separation maintained to adjoining properties.

The proposal achieves this objective.

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

Comment: The non-compliant building height elements will not be readily discernible as viewed from the street or coastal foreshore area. The proposal achieves this objective.

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

Comment: The non-compliant building height will not be visually prominent as viewed from the street or any public area as depicted in Figure 5. Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191 we have formed the considered opinion that most observers would not find the proposed development, in particular the non-compliant portions of the building, offensive, jarring or unsympathetic in a streetscape context.

We have also formed the considered opinion that the proposal will maintain appropriate amenity in terms of solar access and privacy and will not give rise to any adverse public or private view affectation. In this regard, the development satisfies the objectives of the height of buildings standard and accordingly, pursuant to the first test in *Whebe*, strict compliance is unreasonable and unnecessary under the circumstances. It can also be argued that the 11 metre height standard has been effectively abandoned along this particular section of Pittwater Road in favour of a consistent and cohesive streetscape and urban design outcome.

Environmental Planning Grounds

In my opinion, there are sufficient environmental planning grounds to justify the variation it being noted that the building heights proposed provide for the contextually appropriate and cohesive streetscape. A better urban design and streetscape outcome is achieved.

The additional height proposed will ensure that the development maintains a complimentary and compatible streetscape height and form consistent with the heights and form of recently approved and constructed shop top housing development along this section of Pittwater Road. We note that all floor levels are nearly identical to those established by the shop top housing developments to the north and south of the site. A localised depression towards the rear of the site appears to have been artificially created contributing to the building height breach in this location. It can also be argued that the 11 metre height standard has been effectively abandoned along this particular section of Pittwater Road in favour of a consistent and cohesive streetscape and urban design outcome.

The building is of exception design quality and represents the orderly and economic use and development of the land consistent with objectives 1.3(c) and (g) of the Act.

In accordance with Clause 4.6(5) the contravention of the development standard does not raise any matter of significance for State or Regional environmental planning with the public benefit maintained by Council's adoption of an application specific merit based assessment as it relates to building height within the 11 metre height precinct in which the site is located.

Conclusions

Having regard to the clause 4.6 variation provisions we have formed the considered opinion:

- a) that the site specific and contextually responsive development is consistent with the zone objectives, and

- b) that the site specific and contextually responsive development is consistent with the objectives of the building height standard, and
- c) that there are sufficient environmental planning grounds to justify contravening the development standard, and
- d) that having regard to (a), (b) and (c) above that compliance with the building height development standard is unreasonable or unnecessary in the circumstances of the case, and
- e) that given the design quality of the development, and the developments ability to comply with the zone and building height standard objectives that approval would not be antipathetic to the public interest, and
- f) that contravention of the development standard does not raise any matter of significance for State or regional environmental planning.

As such we have formed the highly considered opinion that there is no statutory or environmental planning impediment to the granting of a height of buildings variation in this instance.

Please not hesitate to contact me to discuss any aspect of this submission.

Yours sincerely

Boston Blyth Fleming



Greg Boston
B Urb & Reg Plan (UNE) MPIA
Director