

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2018/1210
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<b>Responsible Officer:</b>	Claire Ryan
<b>Land to be developed (Address):</b>	Lot 187 DP 16719, 1 Gondola Road NORTH NARRABEEN NSW 2101
<b>Proposed Development:</b>	Construction of a shop top housing development
<b>Zoning:</b>	B2 Local Centre
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	Yes
<b>Owner:</b>	Hicudo Pty Ltd Green Knight & Partners Pty Ltd
<b>Applicant:</b>	MacKenzie Architects International

<b>Application lodged:</b>	13/07/2018
<b>Integrated Development:</b>	Yes
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Mixed
<b>Notified:</b>	25/07/2018 to 28/08/2018
<b>Advertised:</b>	28/07/2018
<b>Submissions Received:</b>	1
<b>Recommendation:</b>	Refusal

<b>Estimated Cost of Works:</b>	\$ 4,057,150.00
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### ASSESSMENT INTRODUCTION

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

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

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

## SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Zone B2 Local Centre  
 Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings  
 Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards  
 Pittwater 21 Development Control Plan - A4.11 North Narrabeen Locality  
 Pittwater 21 Development Control Plan - B2.6 Dwelling Density and Subdivision - Shop Top Housing  
 Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements  
 Pittwater 21 Development Control Plan - B8.2 Construction and Demolition - Erosion and Sediment Management  
 Pittwater 21 Development Control Plan - B8.6 Construction and Demolition - Traffic Management Plan  
 Pittwater 21 Development Control Plan - C1.1 Landscaping  
 Pittwater 21 Development Control Plan - C1.4 Solar Access  
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy  
 Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy  
 Pittwater 21 Development Control Plan - C1.12 Waste and Recycling Facilities  
 Pittwater 21 Development Control Plan - C1.18 Car/Vehicle/Boat Wash Bays  
 Pittwater 21 Development Control Plan - C1.25 Plant, Equipment Boxes and Lift Over-Run  
 Pittwater 21 Development Control Plan - D11.1 Character as viewed from a public place  
 Pittwater 21 Development Control Plan - D11.2 Scenic protection - General  
 Pittwater 21 Development Control Plan - D11.6 Front building line

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 187 DP 16719 , 1 Gondola Road NORTH NARRABEEN NSW 2101
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) corner allotment located on the southern side of Gondola Road, North Narrabeen and Minarto Lane, North Narrabeen</p> <p>The site is irregular in shape with a frontage of 18.3m along Gondola Road and 39.05m along Minarto Lane. The site has a surveyed area of 650.6m<sup>2</sup>.</p> <p>The site is located within the B2 Local Centre zone and is undeveloped.</p> <p>The site is generally level, and contains several mature trees.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by</p>

one- and two- commercial and residential developments.

Map:



## SITE HISTORY

The land has been undeveloped for an extended period of time. A search of Council's records has revealed the following relevant history:

- N0420/17 for Construction of a shop-top housing development comprising one (1) commercial unit, ten (10) residential units and parking facilities for twenty-four (24) cars was withdrawn by the applicant on 08 March 2018.

## PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for construction of a shop top housing development, comprising:

- Two levels of basement parking (19 residential spaces, including 2 accessible spaces);
- At-grade residential visitor parking (4 spaces);
- Ground floor retail premises; and
- Two levels of residential apartments, comprising:
  - 10 units (4 x 1-bedroom, 6 x 2-bedroom).

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

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

Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the Environmental Planning and Assessment Act 1979.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Evan Lurie	1497 Pittwater Road NARRABEEN NSW 2101

The following issues were raised in the submissions and each have been addressed below:

- The nearby property at 1501-1505 Pittwater Road operates 24 hours a day. Sound attenuation measures should be included. Complaints regarding noise from any future residential neighbours are unreasonable.

The matters raised within the submissions are addressed as follows:

- Noise Impacts  
Comment:  
The proposed development is proposed to incorporate suitable sound attenuation measures for internal spaces.

## MEDIATION

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

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The proposal does not demonstrate sufficient information to enable certainty that the building can or will be able to comply with the requirements of the Building Code of Australia. Specifically:</p> <ol style="list-style-type: none"> <li>As currently proposed the design for the rooftop Communal Area will require a second exit to comply. No second exit and stairway has been provided.</li> <li>A Hydrant Booster or Hydrant Pump Room would normally be a requirement for this type of structure. In the absence of sufficient detail as to whether an Alternate Solution is possible for this</li> </ol>

Internal Referral Body	Comments
	<p>proposal, there appears to be no area set aside for such equipment or room to be installed.</p> <p>3. Means of Egress does not comply with Part D1.4 and 1.7 of the BCA.</p> <p>In the absence of sufficient detail as to whether an Alternate Solution is possible for this proposal, a modification to any Consent issued would be required to address these issues.</p>
Environmental Health (Acid Sulphate)	<p><b>General Comments</b></p> <p>On review of the Geotechnical Investigation Report prepared by Aargus Pty Ltd, it suggests that there are potential acid sulphate soils on the site therefore an Acid Sulphate soil management plan is required prior to the commencement of works.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>
Environmental Health (Contaminated Lands)	<p><b>General Comments</b></p> <p>The proposal has been reviewed by the Environmental Health &amp; Protection Team and the in this instance will support the application subject to the following conditions as Council records show this site was once contaminated with friable asbestos.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>
Landscape Officer	<p>The landscape proposal is acceptable subject to completion of landscaping.</p> <p>Council's Landscape section have assessed the proposal against Pittwater DCP 21 and SEPP No. 65.</p>
NECC (Development Engineering)	<p>I have reviewed all relevant Development Engineering control of Council's DCP. The proposed new access is acceptable. A stormwater management is acceptable. Since the subject site in Flood Risk zone no OSD will be required.</p> <p>No Development Engineering objection subject to conditions.</p>
NECC (Riparian Lands and Creeks)	<p>The application is recommended for approval. The proposal does not impact a riparian zone.</p> <p>The application has not addressed water quality. The applicant must submit details of how they will meet Pittwater 21 DCP B5.9 prior to issue of the construction certificate.</p>

Internal Referral Body	Comments
	<p>Sediment and erosion controls must be installed prior to commencement of any work and maintained for the duration of work. Dewatering (including of groundwater) must comply with DPI Water conditions, noting Council's requirements as to allowable levels of TSS, Oil and Grease and pH.</p>
<p>NECC (Stormwater and Floodplain Engineering – Flood risk)</p>	<p>The property and environs are subject to high hazard flooding and flood life hazard category H5. The proposed development is required to provide appropriate refuge for sheltering in place during a flood event. The refuge area on the roof is to provide shelter from wind as well as from rain. The walls are permitted to be retractable, but they also need to be strong enough to withstand the type of high wind that could be experienced during a PMF event. Thin, plastic sheeting is not considered to be strong enough.</p> <p>The proposal generally complies with the flood-related development controls of the LEP and DCP. Recommended for approval subject to conditions.</p>
<p>Strategic and Place Planning (Urban Design)</p>	<p>Please find below assessment of the aforementioned project;</p> <p><b>1. Built Form Controls</b></p> <p><b><i>Pittwater 21 LEP 2014 (PLEP) - Part 4 Principal Development Standards</i></b></p> <p><i>(1) The objectives of this clause are as follows:</i></p> <p><i>(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,</i></p> <p><i>(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,</i></p> <p><i>(c) to minimise any overshadowing of neighbouring properties,</i></p> <p><i>(d) to allow for the reasonable sharing of views,</i></p> <p><i>(e) to encourage buildings that are designed to respond sensitively to the natural topography,</i></p> <p><i>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</i></p> <p>RESPONSE The proposed development exceeds the Pittwater LEP Height control as noted in the SEE.</p> <p><b>2. Pittwater 21 Development Control Plan - 2014</b></p> <p><b><i>A4.2.1 North Narrabeen Locality</i></b></p> <p><i>Desired Future Character</i></p> <p><i>a. . . . Future development will maintain a building height limit below the tree canopy and minimise bulk and scale. . .</i></p> <p>RESPONSE</p>

Internal Referral Body	Comments
	<p>The proposed height of the building on aspects/ views from Minarto Lane to the north, north/west toward the ridge line will exacerbated by the height exceedance and is not in keeping with the desired future character.</p> <p>The development does not meet the desired future character of two storey development character integrated into the landscape.</p> <p>By virtue of the flood capacity requirements imposed by FPL, floor levels exacerbate the height exceedance with the development perceived as 4-5 storey from the commercial frontage on Gondola Street.</p> <p>Further views from the western neighbourhood toward the east will view a decidedly blank wall with no articulation, creating a distinct barrier to views from the west looking toward the eastern vista.</p> <p>Further articulation and variation is required through relief and expression to address the monotonous expression of the cladding on this elevation.</p> <p><b>C1.4 Solar Access</b> <b>Outcomes</b> <i>Residential development is sited and designed to maximise solar access during mid-winter. (En)</i> <i>A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development. (En)</i> <i>Reduce usage and/dependence for artificial lighting. (En)</i></p> <p><b>Variations</b> <b>General</b></p> <p><i>Where the following constraints apply to a site, reasonable solar access to the main private open space and to windows to the principal living area will be assessed on a merit basis:</i></p> <ul style="list-style-type: none"> <li><i>• where the orientation or shape of a lot precludes northerly orientation (20o west to 30o east of north),</i></li> <li><i>• where there is adverse slope or topography,</i></li> <li><i>• where there is existing vegetation, obstruction, development or fences that overshadow, or</i></li> <li><i>• where other controls have priority, e.g. heritage and landscaping considerations.</i></li> </ul> <p><i>Subject to a merit assessment, consent may be granted where a proposal does not comply with the standard, provided the resulting development is consistent with the general principles of the development control, the desired future character of the locality and any relevant State Environmental Planning Policy.</i></p> <p><b>Shop top housing</b></p> <p><i>Council may consider a variation for shop top housing on sites constrained by orientation, existing or proposed development, etc provided that:</i></p> <ul style="list-style-type: none"> <li><i>• the outcomes of this clause are achieved</i></li> <li><i>• the principal living area and private open space for at least 70% of</i></li> </ul>

Internal Referral Body	Comments
	<p><i>dwellings proposed receive a minimum 3 hours of sunlight between 9am and 3pm on 21st June, and . . .</i></p> <p><b>RESPONSE</b> Solar access is constrained by adjacent bounding properties and site/lot orientation. The design has not optimised orientation opportunities of apartment layout on the site to achieve adequate solar gain and through/cross ventilation.</p> <p><b>3. Apartment Design Guide (ADG)</b></p> <p><i>2F Building Separation</i> <b>RESPONSE</b> There are no dimensioned offsets from the apartments of the proposed development to the two storey buildings across the road to evaluate if adequate building separation can be achieved by the constraints of the context and location directly facing onto Minarto laneway. Demonstration of ADG recommendations for building separation is required with any future submission</p> <p><i>3C Public Domain interface</i> <b>RESPONSE</b> The proposed development to Minarto Lane elevation does not demonstrate adequate access and egress as the main entry point for the residential development. No pedestrian pathways have been indicated on the landscape plan to demonstrate pedestrian access is possible on this elevation, noting the exit stair in this location. The location of waste bins in this area is also not supported. No attempt to conceal the waste bins from the passing pedestrian and vehicular traffic raises potential public interface safety and amenity issues in the narrow laneway. As mentioned above the monolithic nature of the western elevation does not demonstrate a particularly well articulated response to the western neighbouring properties.</p> <p><i>3F Visual Privacy</i> <b>RESPONSE</b> The apartments to the eastern elevation are adjacent existing two storey commercial developments. Screening devices for privacy and acoustic amenity need to be demonstrated on the proposed development.</p> <p><i>4A Solar and Daylight Access</i> <b>RESPONSE</b> Internal shadow diagrams to demonstrate adequate internal solar access is required to accompany any future development</p> <p><i>4B Natural Ventilation</i> <b>RESPONSE</b></p>



Internal Referral Body	Comments
	<p>Cross ventilation will be compromised in several of the apartments. Through block apartments demonstrating cross ventilation strategies as recommended in the ADG are required to be submitted with any future proposal including site analysis diagrams demonstrating the principles have been achieved.</p> <p><u>Assessing Officer's Comment:</u> The above comments are included as reasons for refusal.</p>
Traffic Engineer	<p><b>ORIGINAL TRAFFIC ENGINEER COMMENTS (23 JULY 2018):</b></p> <p>The application seeks consent for the construction of a multi storey shop top housing development incorporating a ground floor level retail (commercial) tenancy with 10 residential apartments over 2 levels and integrated ground and basement level car parking for a total of 23 vehicles on the existing vacant allotment.</p> <p><b>Traffic:</b> The site is anticipated to generate 11 vehicle trips in the peak hour between the residential and retail/commercial components combined. This equates to approximately 1 vehicle every 6 minutes and is considered negligible on the network. Traffic Team raise no objection.</p> <p><b>Parking:</b> The site is required to provide 27 parking spaces including one (1) space for the on-street parking space removed due to the additional driveway. The site proposed 25 parking spaces in total, stating that there is ample parking on-street within 150m of the site. The parking assessment identified a minimum of 5 and a maximum of 25 spaces available at any given time during business hours. Worth noting is that all residential and visitor parking spaces are accommodated onsite. The shortfall is based on the commercial parking requirements with 3 being provided instead of 4, and also the inability to replace the removed on-street space. The local parking amenity does appear to be adequate to accommodate the over spill. Traffic Team raise no objection subject to Development Engineer comments.</p> <p><b>Car Park layout:</b> The car park should be compliant with AS 2890.1:2004 Off-street Parking Facilities. The dual access is considered acceptable in order to separate the retail and residential components. Traffic Team raise no objection subject to conditions..</p> <p><b>Pedestrian:</b> Pedestrian access is deemed adequate within the basement levels. Access along the frontage will be made adequate as part of the Public Domain upgrades. Traffic Team raise no objection subject to conditions.</p> <p><b>Servicing:</b></p>

Internal Referral Body	Comments
	<p>The commercial component is to be serviced by external contractors. The residential component is to be serviced by Council. The applicant is to ensure safe waste servicing can occur on-street with any necessary signage being approved via the Local Traffic Committee. Traffic Team raise no objection subject to Waste comments and conditions.</p> <p><b>ADDITIONAL TRAFFIC ENGINEER COMMENTS (20 SEPTEMBER 2018):</b></p> <p><b>TRAFFIC</b> Agree that anticipated traffic generation from the development on the surrounding road network is insignificant.</p> <p><b>PARKING</b> Basement Car park The overall parking requirements for the residential component is 16 car spaces (including 2 accessible) for residents and 4 visitor spaces. The driveway off Gondola Road provides access to a car lift servicing 19 car park spaces across 2 basement levels. This parking seems to be restricted and therefore is only suitable for residential use and there would be a shortfall of 1 visitor space. The Applicant has indicated that no common spaces are provided for bicycle storage. Secure facilities should be provided for 4 bicycles within the residential storage area if there is no designated area available.</p> <p>The proportion of tandem parking spaces exceed the 10% of the total residential parking for 2 or more bedroom units. I am not sure if specific units are designed to be accessible, however tandem parking would only be acceptable if it is provided only for the 2 bedroom units. The 2 accessible parking spaces can therefore only be designated for the 1 bed units, otherwise there is a high likelihood of tenants from separate units being blocked in.</p> <p>I have genuine concerns regarding the ease of access to the car park spaces on the 2 basement levels. The swept paths provided only show the movements for a vehicle entering and exiting the car lift, and does not show the extreme difficulties required to access all car park spaces. The manoeuvres need to consider the worse case scenario that car park spaces are occupied which limits the available turning area. The majority of the spaces would be very difficult to access with multiple turns required. It is also recommended that vehicles enter and exit the lift in a forward direction to enable the same to be done when entering the public road, and this may not be possible due to the restricted area for manoeuvres on each basement level. Although it would result in the loss of 1 visitor parking space, a more user friendly parking layout would be to provide an accessible parking space on each basement level near the lift. The shared area should</p>

Internal Referral Body	Comments
	<p>be located in the car space numbered 7 on each floor, which would provide additional manoeuvring area to access the restricted parking spaces. The Applicant would still need to provide swept paths to demonstrate reasonable access to enter each car park space from the car lift. Swept paths are also required from the car park spaces to the car lift so that vehicles are positioned to exit the car park in a forward direction onto Gondola Road.</p> <p>The suggested parking layout would result in only 2 visitor parking being provided and a shortfall of 2 visitor spaces. Due to the limited spaces and difficulties accessing the spaces it is suggested that some type of LED display indicate the availability of visitor car park spaces which is visible from the street level, so that a visitor does not enter the building unless the designated visitor spaces are available.</p> <p><b>At-grade Car park</b>  With respect to the at-grade parking area accessed off Minarto Road, 4 car spaces (including 1 accessible space) is provided. It is assumed that this parking area is provided for the retail/visitors as access is unobstructed.</p> <p>The parking requirements for the retail component is 4 car spaces (including 1 accessible).</p> <p>Provision must be made for removalist vans for residents and deliveries for the retail, and the Applicant proposes that commercial deliveries would use one of the visitor spaces.</p> <p>The proposed driveway off Gondola Road will result in the loss of one on-street car park space. This will also remove all on-street parking for deliveries and removalists fronting the development due to the statutory No Stopping within 10m of the intersection with Minarto Lane. It is therefore recommended that a designated car park space be provided for deliveries (appropriately signed or marked), which is easily accessible and unobstructed.</p> <p>The accessible car park space should be located in the space numbered 3 near the bin platform with the shared area provided in the space numbered 4. If the bin platform was designed for wheel chair access it would provide safer (less conflict with vehicles in the car park) and more convenient access to the retail area, instead of exiting the car park driveway to travel along Minarto Lane to use the entrance in Gondola Road.</p> <p>A suitable location for deliveries may be provided in the at-grade parking area currently marked as the shared area for the accessible space. This will enable delivery vehicles to drive directly into the parking area from Minarto Lane and could cater for larger removalist vehicles if required by using part of the shared area provided for the accessible space. The bin platform should be designed large enough to enable removalists to use so they can get access to the nearby lift.</p> <p>I also note the issue of vehicles regularly stopped/parked on the eastern side of the laneway to service properties fronting Pittwater Road, obstructing vehicles turning out of the parking area onto Minarto Lane. The Lakeside Fish Market is located at No.1485 Pittwater Road and delivery vehicles often park in the laneway</p>

Internal Referral Body	Comments
	<p>opposite the driveway. I don't think we can condition the delivery space to allow general access for external users however this could address the access problem if the delivery vehicles for the Fish Market could also utilise the parking space. It is also worth mentioning that the Masterplan also proposed that Minarto Lane will still provide service access to properties that require access from Minarto Lane, although Council should consider time restricting this access to before and after peak periods so as conflict with pedestrians and cyclists is reduced during the day.</p> <p><b>PEDESTRIAN</b> The plans show landscaping along the northern and eastern frontage to the development. The developer should be required to provide a footpath which enables access to the wheelchair-platform located at the entrance from Gondola Road.</p> <p><b>SERVICING</b> Agree that the applicant is required to ensure that safe waste servicing can be carried out on-street, subject to comments from Waste Services.</p> <p>It is possible to amend the proposal to provide parking for 16 residential spaces (including 2 accessible) for residents and 2 visitor spaces in the basement car park and 3 retail spaces (including 1 accessible) and a recommended car space designated for deliveries. This will provide a shortfall of 2 visitor spaces for residents, 1 retail space and the loss of 1 off street parking space due to the proposed driveway on Gondola Road. The overall shortfall in parking may be acceptable due to local parking in the vicinity to accommodate any overflow.</p> <p>Changes may also be made to address bicycle storage, delivery vehicles and pedestrian facilities. To avoid future Court proceedings, It may be possible to support a proposal if all of the recommendations can be accommodated and the Applicant can provide the necessary swept paths to demonstrate reasonable access to enter each car park space.</p> <p><u>Assessing Officer's Comment:</u> The above comments are included as reasons for refusal.</p>
Waste Officer	<p>Waste Services Referral</p> <p>The applicant needs to comply with the Northern Beaches Council Waste Management Guidelines. The applicant has proposed a bin room that is unacceptable and does not comply with Council's guidelines. The bin room is to be located within 6500mm of the property boundary and accessible by Council to provide a wheel out / in service.</p> <p>The applicant will also need to provide 4 cubic meters of practical space for the storage of bulk household waste such as fridge, lounge and mattress. The preference is for this dedicated and clearly marked</p>

Internal Referral Body	Comments
	<p>space to be located adjacent to the bin room.</p> <p>The issues cannot be addressed with conditions as it requires a redesign of the proposal.</p> <p><u>Assessing Officer's Comment:</u> The above comments are included as reasons for refusal.</p>

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

### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\*

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

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

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

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

#### SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been vacant for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential and commercial land uses.

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

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

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

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

(i) the erection of a new building,

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

- (b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and
- (c) the building concerned contains at least 4 or more dwellings.

As previously outlined the proposed development is for the erection of a three-storey residential flat 'housing' development plus basement car parking for the provisions of 10 self-contained dwellings.

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

As previously outlined within this report Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a Design Verification Certificate from the building designer at lodgement of the development application. This documentation has been submitted.

Clause 28 of SEPP 65 requires:

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

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

## **DESIGN REVIEW PANEL**

Northern Beaches Council does not have an appointed Design Review Panel.

## **DESIGN QUALITY PRINCIPLES**

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

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

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

Comment: Not acceptable, as detailed throughout this report.

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

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

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

Comment: Not acceptable, as detailed below in relation to the Apartment Design Guide assessment.

### **Principle 3: Density**

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

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

Comment: Not acceptable, as detailed below in relation to the Apartment Design Guide assessment.

### **Principle 4: Sustainability**

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

Comment: Acceptable, as detailed below in relation to the Apartment Design Guide assessment.

### **Principle 5: Landscape**

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

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

Comment: Not acceptable, as detailed below in relation to the Apartment Design Guide assessment.

### **Principle 6: Amenity**

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

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

Comment: Not acceptable, as detailed below in relation to the Apartment Design Guide assessment.

**Principle 7: Safety**

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

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

Comment: Acceptable, as detailed below in relation to the Apartment Design Guide assessment.

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

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

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

Comment: Acceptable, as detailed below in relation to the Apartment Design Guide assessment.

**Principle 9: Aesthetics**

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

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

Comment: Not acceptable, as detailed below in relation to the Apartment Design Guide assessment.

**APARTMENT DESIGN GUIDE**

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

Development Control	Criteria / Guideline	Comments
<b>Part 3 Siting the Development</b>		
<b>Site Analysis</b>	Does the development relate well to its context and is it sited appropriately?	The proposal is not satisfactory in relation to this clause. The proposed shop top housing use is suitable in the context of the site, being land zoned B2 Local Centre, located in close proximity to a



		main road. However, the proposal presents excessive development for the subject site area, and would be suited to a larger lot.
<b>Orientation</b>	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	The proposal is not satisfactory in relation to this clause. The proposal adequately addresses the street frontages. However, the proposal removes compliant solar access to at least Unit 3 of the recently approved shop top housing development at Nos. 2-8 Rickard Road.
<b>Public Domain Interface</b>	Does the development transition well between the private and public domain without compromising safety and security?  Is the amenity of the public domain retained and enhanced?	The proposal is not satisfactory in relation to this clause. No footpaths have been indicated to demonstrate pedestrian access along the eastern and northern boundaries of the site. The bin collection area on the Minarto Lane frontage is also not supported, as no attempt has been made to screen the bins from passing pedestrian and vehicular traffic, raising potential public interface safety and amenity issues. Further, the monolithic nature of the western elevation does not demonstrate a well-articulated response to the western neighbouring properties.
<b>Communal and Public Open Space</b>	Appropriate communal open space is to be provided as follows:  1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter)	The proposal is compliant with this clause. The proposal includes 243sqm of rooftop communal open space, equating to 37.3% of the site area. The communal open space achieves compliant solar access.
<b>Deep Soil Zones</b>	Deep soil zones are to meet the following minimum	The proposal is compliant



	<p>requirements:</p> <table border="1" data-bbox="427 338 1074 882"> <thead> <tr> <th>Site area</th> <th>Minimum dimensions</th> <th>Deep soil zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>Less than 650m<sup>2</sup></td> <td>-</td> <td>7%</td> </tr> <tr> <td>650m<sup>2</sup> – 1,500m<sup>2</sup></td> <td>3m</td> <td></td> </tr> <tr> <td>Greater than 1,500m<sup>2</sup></td> <td>6m</td> <td></td> </tr> <tr> <td>Greater than 1,500m<sup>2</sup> with significant existing tree cover</td> <td>6m</td> <td></td> </tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m <sup>2</sup>	-	7%	650m <sup>2</sup> – 1,500m <sup>2</sup>	3m		Greater than 1,500m <sup>2</sup>	6m		Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m		<p>with this clause. The proposal includes 48.55sqm of deep soil, equating to 7.4% of the site.</p>
Site area	Minimum dimensions	Deep soil zone (% of site area)															
Less than 650m <sup>2</sup>	-	7%															
650m <sup>2</sup> – 1,500m <sup>2</sup>	3m																
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Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m																
<p><b>Visual Privacy</b></p>	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="427 1066 1074 1424"> <thead> <tr> <th>Building height</th> <th>Habitable rooms and balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table> <p><b>Note:</b> Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>The proposal is not satisfactory in relation to this clause. The proposed development provides 7.5m between the habitable rooms and balconies of the subject site and the nearby residential units to the east across Minarto Lane (including 0-1.5m eastern front setback on the site itself). Additionally, the proposal includes windows to habitable rooms within 2m of the southern boundary. As such, the proposal results in unreasonable visual privacy impacts.</p>			
Building height	Habitable rooms and balconies	Non-habitable rooms															
Up to 12m (4 storeys)	6m	3m															
Up to 25m (5-8 storeys)	9m	4.5m															
Over 25m (9+ storeys)	12m	6m															
<p><b>Pedestrian Access and entries</b></p>	<p>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>	<p>The proposal is compliant with this clause. The proposal includes reasonably easy to identify pedestrian access to the Gondola Road frontage via a set of stairs. The proposal also includes a lift for accessible entry.</p>															
<p><b>Vehicle Access</b></p>	<p>Are the vehicle access points designed and located</p>	<p>The proposal is compliant</p>															

	to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?	with this clause. The proposal includes clear vehicular entry at both street frontages, separate to pedestrian entry.
<b>Bicycle and Car Parking</b>	<p>For development in the following locations:</p> <ul style="list-style-type: none"> <li>On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or</li> <li>On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</li> </ul> <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>	<p>Not applicable. The subject site is not located within 80m of a railway station or light rail stop in the Sydney Metropolitan Area and is not on land zoned, or within 400m of land zoned, B3 Commercial Core or B4 Mixed Use. Detailed assessment of parking is provided in the section of this report relating to Clause B6.3 Off-Street Vehicle Parking Requirements of the P21 DCP 2013.</p>
<b>Part 4 Designing the Building</b>		
<b>Amenity</b>		
<b>Solar and Daylight Access</b>	<p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> <li>Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter.</li> <li>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter</li> </ul>	<p>The proposal is compliant with this clause. 70% of units achieve required solar access (Units 3, 4, 5 do not achieve required solar access). No units receive no direct sunlight.</p>
<b>Natural Ventilation</b>	<p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:</p> <ul style="list-style-type: none"> <li>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at</li> </ul>	<p>The proposal is compliant with this clause. All units demonstrate natural cross ventilation.</p>



- these levels allows adequate natural ventilation and cannot be fully enclosed.
- Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.

**Ceiling Heights**

Measured from finished floor level to finished ceiling level, minimum ceiling heights are:

Minimum ceiling height	
Habitable rooms	2.7m
Non-habitable	2.4m
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area
Attic spaces	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area
If located in mixed used areas	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area

The proposal is compliant with this clause. The proposal includes a floor to ceiling height of 2.8m.

**Apartment Size and Layout**

Apartments are required to have the following minimum internal areas:

Apartment type	Minimum internal area
Studio	35m <sup>2</sup>
1 bedroom	50m <sup>2</sup>
2 bedroom	70m <sup>2</sup>
3 bedroom	90m <sup>2</sup>

The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.

A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.

Every habitable room must have a window in an external wall with a total minimum glass area of not

The proposal is compliant with this clause. The proposal demonstrates that all required internal floor and glazing areas and dimensions are compliant.



	<p>less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms. Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p> <p>Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space).</p> <p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> <li>• 3.6m for studio and 1 bedroom apartments</li> <li>• 4m for 2 and 3 bedroom apartments</li> </ul> <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>																
<p><b>Private Open Space and Balconies</b></p>	<p>All apartments are required to have primary balconies as follows:</p> <table border="1" data-bbox="427 1160 1075 1422"> <thead> <tr> <th>Dwelling Type</th> <th>Minimum Area</th> <th>Minimum Depth</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m<sup>2</sup></td> <td>-</td> </tr> <tr> <td>1 bedroom apartments</td> <td>8m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>2 bedroom apartments</td> <td>10m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>12m<sup>2</sup></td> <td>2.4m</td> </tr> </tbody> </table> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3m.</p>	Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m <sup>2</sup>	-	1 bedroom apartments	8m <sup>2</sup>	2m	2 bedroom apartments	10m <sup>2</sup>	2m	3+ bedroom apartments	12m <sup>2</sup>	2.4m	<p>The proposal is compliant with this clause.</p>
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2 bedroom apartments	10m <sup>2</sup>	2m															
3+ bedroom apartments	12m <sup>2</sup>	2.4m															
<p><b>Common Circulation and Spaces</b></p>	<p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	<p>The proposal is compliant with this clause. The proposal includes 10 units over two levels, equating to five units at each level access off one circulation core.</p>															
<p><b>Storage</b></p>	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1" data-bbox="427 1966 1075 2139"> <thead> <tr> <th>Dwelling Type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m<sup>2</sup></td> </tr> <tr> <td>1 bedroom apartments</td> <td>6m<sup>2</sup></td> </tr> </tbody> </table>	Dwelling Type	Storage size volume	Studio apartments	4m <sup>2</sup>	1 bedroom apartments	6m <sup>2</sup>	<p>The proposal is compliant with this clause.</p>									
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2 bedroom apartments	8m <sup>2</sup>					
3+ bedroom apartments	10m <sup>2</sup>					
	At least 50% of the required storage is to be located within the apartment.					
<b>Acoustic Privacy</b>	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	<p>The proposal is not satisfactory in relation to this clause. Noise sources are located adjacent to bedrooms.</p> <ul style="list-style-type: none"> <li>• The balcony of Unit 3 is adjacent to Bed 2 of Unit 2.</li> <li>• The balcony of Unit 8 is adjacent to Bed 2 of Unit 7.</li> <li>• The bathroom of Unit 2 is adjacent to Bed 1 of Unit 3.</li> <li>• The bathroom of Unit 7 is adjacent to Bed 1 of Unit 8.</li> <li>• The kitchen/dining room of Unit 3 is adjacent to Bed 1 of Unit 4.</li> <li>• The kitchen/dining room of Unit 8 is adjacent to Bed 1 of Unit 7.</li> </ul> <p>Additionally, The proposed development includes balconies and windows to habitable rooms to 8 of the 10 units orientated to the east, towards the existing residential units across Minarto Lane.</p>				
<b>Noise and Pollution</b>	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	The proposal is compliant with this clause.				
<b>Configuration</b>						
<b>Apartment Mix</b>	Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.	The proposal provides an acceptable mix of apartment types and sizes, comprising of:				

		<ul style="list-style-type: none"> <li>• 2 x 2-bed/2-bath units at 78.06sqm;</li> <li>• 2 x 2-bed/2-bath units at 92.83sqm;</li> <li>• 2 x 1-bed/1-study/1-bath units at 59.23sqm;</li> <li>• 2 x 1-bed/1-study/1-bath units at 56.93sqm; and</li> <li>• 2 x 2-bed/2-bath units at 84.60sqm.</li> </ul>																				
<b>Facades</b>	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	The proposal is not satisfactory in relation to this clause. The western and southern elevations does not demonstrate adequate visual interest and articulation.																				
<b>Roof Design</b>	Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Test whether the roof space can be maximised for residential accommodation and open space.	The proposal is compliant with this clause.																				
<b>Landscape Design</b>	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	The proposal is not satisfactory in relation to this clause. The proposal does not include adequate vegetation in order to soften the visual impact of the proposed built form.																				
<b>Planting on Structures</b>	When planting on structures the following are recommended as minimum standards for a range of plant sizes: <table border="1" data-bbox="411 1534 1093 2139"> <thead> <tr> <th>Plant type</th> <th>Definition</th> <th>Soil Volume</th> <th>Soil Depth</th> <th>Soil Area</th> </tr> </thead> <tbody> <tr> <td>Large Trees</td> <td>12-18m high, up to 16m crown spread at maturity</td> <td>150m<sup>3</sup></td> <td>1,200mm</td> <td>10m x 10m or equivalent</td> </tr> <tr> <td>Medium Trees</td> <td>8-12m high, up to 8m crown spread at maturity</td> <td>35m<sup>3</sup></td> <td>1,000mm</td> <td>6m x 6m or equivalent</td> </tr> <tr> <td>Small trees</td> <td>6-8m high, up to 4m crown spread at</td> <td>9m<sup>3</sup></td> <td>800mm</td> <td>3.5m x 3.5m or equivalent</td> </tr> </tbody> </table>	Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Large Trees	12-18m high, up to 16m crown spread at maturity	150m <sup>3</sup>	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m <sup>3</sup>	1,000mm	6m x 6m or equivalent	Small trees	6-8m high, up to 4m crown spread at	9m <sup>3</sup>	800mm	3.5m x 3.5m or equivalent	The proposal is compliant with this clause.
Plant type	Definition	Soil Volume	Soil Depth	Soil Area																		
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	maturity																					
Shrubs			500-600mm																			
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Turf			200mm																			
<b>Universal Design</b>	Developments are to achieve a benchmark of 20% of the total apartments incorporating the Livable Housing Guideline's silver level universal design features.	The proposal is compliant with this clause. The proposal includes Units 3 and 4 as adaptable units, equating to 20% of the number of units.																				
<b>Adaptive Reuse</b>	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.	Not applicable. The proposal does not include adaptive reuse.																				
<b>Mixed Use</b>	<p>Can the development be accessed through public transport and does it positively contribute to the public domain?</p> <p>Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.</p>	The proposal is compliant with this clause. The proposed development is within walking distance of a main road, public transport, and a walking/cycling path. The commercial tenancy is proposed at the ground floor.																				
<b>Awnings and Signage</b>	<p>Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development.</p> <p>Signage must respond to the existing streetscape character and context.</p>	The proposal is compliant with this clause. The proposal includes awnings over the two street frontages. No signage is proposed.																				
<b>Performance</b>																						
<b>Energy Efficiency</b>	Have the requirements in the BASIX certificate been shown in the submitted plans?	The proposal is compliant with this clause.																				
<b>Water Management and Conservation</b>	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	The proposal is compliant with this clause.																				
<b>Waste Management</b>	Supply waste management plans as part of the development application demonstrating safe and convenient collection and storage of waste and recycling.	The proposal is compliant with this clause.																				
<b>Building Maintenance</b>	Incorporates a design and material selection that ensures the longevity and sustainability of the building.	The proposal is compliant with this clause.																				

## STANDARDS THAT CANNOT BE USED TO REFUSE DEVELOPMENT CONSENT



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

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

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

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

Comment: The above parking rate does not apply in this case, as the site is not within 800 metres of a railway station or light rail stop and is not zoned or within 400 metres of land zoned B3 Commercial Core, B4 Mixed Use. The internal area for each apartment is greater than the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide. The ceiling heights for the building are greater than the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

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

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

(3) To remove doubt:

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

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

Comment: The proposal is supported by a Design Verification Statement. However, the proposal does not demonstrate that adequate regard has been given to the design quality principles, and the objectives specified in the Apartment Design Guide for the relevant design criteria.

## **SEPP (Infrastructure) 2007**

### Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an

application for modification of consent) for any development carried out:

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

Comment:

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

**Pittwater Local Environmental Plan 2014**

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	No
zone objectives of the LEP?	No

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8m above 4.3m AHD FPL (12.3m)	Lift Shaft: 12.95m above FPL (17.25m)	61.87%	No
		Rooftop Pergola: 11.675m above FPL (15.975m)	45.9%	No
			25%	No
		Communal Open Space: 10m above FPL (14.3m)		

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.6 Exceptions to development standards	No
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.10 Essential services	Yes

Detailed Assessment

**Zone B2 Local Centre**

The proposal is not consistent with the B2 Local Centre objectives. The proposal presents a significant non-compliance to the commercial floor space required by Clause B2.6 Dwelling Density and Subdivision - Shop Top Housing of the P21 DCP (14% of the gross floor area on site, where 25% is required). As such, the proposal:

- Does not demonstrate that it adequately contributes to servicing the needs of the people who live in, work in, and visit the local area;
- Does not demonstrate that it contributes to a vibrant local centre;
- Does not demonstrate that it strengthens the role of centres as places of employment; and
- Does not demonstrate that it provides an active day and evening economy.

Additionally, the proposal presents excessive bulk on the subject site, and does not adequately demonstrate that the residential component of the development is compatible with the characteristics and uses of the site and its surroundings.

**4.3 Height of buildings**

See detailed comment in the section of this report relating to Clause 4.6 Exceptions to Development Standards.

**4.6 Exceptions to development standards**

Description of non-compliance:

Requirement:	8m above 4.3m AHD FPL (12.3m)
Proposed:	12.95m above 4.3m AHD FPL (17.25m)
Is the planning control in question a development standard?	YES
If numerical enter a % variation to requirement	61.87%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 Height of Buildings development standard has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* and an assessment of the request to vary the development standard in accordance with the requirements of Clause 4.6 is provided below:

Clause 4.6 Exceptions to development standards:

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

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

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly*

*excluded from the operation of this clause.*

Comment:

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

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

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

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

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

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

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

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

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

**Cl 4.6 (4)(a)(i) (Justification) Assessment:**

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

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

Comment:

The Applicant's written request (attached to this report as an Appendix) has not adequately demonstrated that the objectives of the development standard are achieved. As such, the Applicant's written request has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

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

Comment:

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

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

including the objects in s 1.3 of the EPA Act.’

S 1.3 of the EPA Act reads as follows:

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

*The objects of this Act are as follows:*

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

Comment:

The Applicant’s written request has not demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard. The Applicant’s written request submits that the height of building breach can be directly attributed “to the desire and need for roof top communal open space” and the provision of shelter-in-place on the flood-affected allotment. The Applicant’s written request also submits that that strict compliance with the height of building standard would limit development on the site to two storeys and would sterilise all the B2 Local Centre zoned land within the flood-affected precinct. This is not agreed, as a suitable, safe, and feasible development could be achieved with a reduction in height, bulk and scale, particularly if the subject site were to consolidate with the adjacent lot or lots to the west. Therefore, Council is satisfied that the applicant’s written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

**Cl 4.6 (4)(a)(ii) (Public Interest) Assessment:**

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

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

Comment:

In considering whether or not the proposed development will be in the public interest consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the B2 Local Centre zone. An assessment against these objectives is provided below.

**Objectives of development standard**

The underlying objectives of Cl 4.3 Height of Buildings development standard are as follows:

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

Comment:

The proposal is not consistent with the desired character of the locality as the proposal does not maintain a suitable building height, does not minimise bulk and scale, does not incorporate adequate vegetation, and does not utilise adequate facade modulation.

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

Comment:

The proposal is not compatible with the height and scale of surrounding and nearby development in that it proposes a height up to 5m above existing and recently approved developments in the locality, particularly in consideration of Minarto Lane and nearby residential dwellings.

*(c) to minimise any overshadowing of neighbouring properties,*

Comment:

The proposal results in the unreasonable loss of compliant solar access to at least Unit 3 of the approved development to the south at 2-8 Rickard Road.

*(d) to allow for the reasonable sharing of views,*

Comment:

The proposal does not result in any unreasonable view loss.

*(e) to encourage buildings that are designed to respond sensitively to the natural topography,*

Comment:

The proposed development does not adequately respond to the natural topography, as it presents unreasonable building height on a generally level site.

*(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items,*

Comment:

The subject site is not heritage-listed, nor within a heritage conservation area, and is not within the immediate vicinity of a heritage item or heritage conservation area. The proposal does not minimise the visual impact of development on the natural environment in that inadequate vegetation is proposed at the ground level.

Conclusion:

The proposed development does not satisfy the underlying objectives of the Height of Buildings development standard.

## **Zone objectives**

The underlying objectives of the B2 Local Centre 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.*

Comment:

The proposed development includes one retail tenancy, in order to contribute to serving the needs of people who live in, work in, and visit the local area. However, the proposal presents a significant non-compliance to the commercial floor space required by Clause B2.6 Dwelling Density and Subdivision - Shop Top Housing of the P21 DCP (14% of the gross floor area on site, where 25% is required).

- *To encourage employment opportunities in accessible locations.*

Comment:

The proposed shop top housing development provides an employment opportunity (albeit of insufficient area) within walking distance of a main road, public transport, shared cycling and walking path, shops, and public recreation areas, and is therefore accessible.

- *To maximise public transport patronage and encourage walking and cycling.*

Comment:

As above, the subject site is within walking distance of a main road, public transport, and shared cycling and walking path. As such, the proposal encourages public transport patronage, walking and cycling.

- *To provide healthy, attractive, vibrant and safe local centres.*

Comment:

The proposal presents a significant non-compliance to the commercial floor space required by Clause B2.6 Dwelling Density and Subdivision - Shop Top Housing of the P21 DCP (14% of the gross floor area on site, where 25% is required). As such, the proposal does not demonstrate that it contributes to a vibrant local centre.

- *To strengthen the role of centres as places of employment,*

Comment:

The proposal does not demonstrate that it strengthens the role of centres as places of employment, with a significant non-compliance to the commercial floor space required by Clause B2.6 Dwelling Density and Subdivision - Shop Top Housing of the P21 DCP (14% of the gross floor area on site, where 25% is required).

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

Comment:

The proposal presents a significant non-compliance to the commercial floor space required by Clause B2.6 Dwelling Density and Subdivision - Shop Top Housing of the P21 DCP (14% of the gross floor area on site, where 25% is required), and does not demonstrate that it will contribute to an active day and evening economy.

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

Comment:

The proposal presents excessive bulk on the subject site, and does not adequately demonstrate that the residential component of the development is compatible with the characteristics and uses of the site and its surroundings.

Conclusion:

For the reasons detailed above, the proposal is inconsistent with the objectives of the B2 Local Centre zone.

**CI 4.6 (4)(b) (Concurrence of the Secretary) Assessment:**

CI. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted. Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is

assumed by the Local Planning Panel.

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	3.5m*	Gondola Road: 3.5m	N/A	Yes
		Minarto Lane: 0-1.5m	57.14 - 100%	No
Side building line	0m	West: 0m	N/A	Yes
		South: 0m	N/A	Yes

#### \*Note:

As the site is located on a corner lot, the site is considered to have a primary street frontage (Gondola Road), a secondary street frontage (Minarto Lane), and two side boundaries, being to the west and south adjoining 3 Gondola Road and 2 Rickard Road, respectively.

Clause D11.6 Front Building Line of the P21 DCP provides that, where the outcomes of this control are achieved, Council may accept a minimum building setback to a secondary street of half the front building line. The proposal is not considered to achieve the outcomes of the clause for the purpose of the Minarto Lane street frontage, as follows:

- The proposal does not achieve the desired future character of the North Narrabeen locality, as the proposal does not maintain a suitable building height, does not minimise bulk and scale, does not incorporate adequate vegetation, and does not utilise adequate facade modulation.
- The proposal does not incorporate adequate vegetation in order to visually reduce the built form.
- The proposal does not enhance the existing streetscapes, as it is not of a scale and density that is in keeping with the height of the natural environment.
- The proposal does not encourage attractive street frontages or improve pedestrian amenity along Minarto Lane (no provision for footpath).
- The proposal does not respond to, reinforce, or relate to the spatial characteristics of the existing urban environment.

As such, the variation for a secondary street frontage setback of half the front building line is not applicable.

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	No	No
A4.11 North Narrabeen Locality	No	No
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B2.6 Dwelling Density and Subdivision - Shop Top Housing	No	No
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	No
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	No	No
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	No	No
C1.1 Landscaping	No	No
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	No	No
C1.5 Visual Privacy	No	No
C1.6 Acoustic Privacy	No	No
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	No	No
C1.13 Pollution Control	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.18 Car/Vehicle/Boat Wash Bays	No	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	No	No
C2.2 Safety and Security	Yes	Yes
C2.3 Awnings	Yes	Yes
C2.10 Pollution Control	Yes	Yes
C2.16 Undergrounding of Utility Services	Yes	Yes
D11.1 Character as viewed from a public place	No	No
D11.2 Scenic protection - General	No	No
D11.3 Building colours and materials	Yes	Yes
D11.6 Front building line	No	No
D11.7 Side and rear building line	Yes	Yes

#### Detailed Assessment

#### **A4.11 North Narrabeen Locality**

The proposal does not achieve the desired future character of the North Narrabeen locality, as the proposal does not maintain a suitable building height, does not minimise bulk and scale, does not incorporate adequate vegetation, and does not utilise adequate facade modulation.

## **B2.6 Dwelling Density and Subdivision - Shop Top Housing**

The proposed development includes 144.48sqm of commercial floor space, equating to 14% of the gross floor area on the site, where 25% of the gross floor area is to be provided as commercial floor space. An assessment of the proposal against the relevant outcomes of this clause is as follows:

*Achieve the desired future character of the Locality. (S)*

The proposal does not achieve the desired future character of the North Narrabeen locality, as the proposal does not maintain a suitable building height, does not minimise bulk and scale, does not incorporate adequate vegetation, and does not utilise adequate facade modulation.

*The density and scale of development reflects the infrastructure capability of the area. (En, S)*

The proposal indicates excessive density and scale of development for the area of the subject site and would be better suited to a larger lot.

*Design opportunities and site layout efficiencies are improved through amalgamation of allotments. (En, S)*

No demonstration of attempts to amalgamate with the adjacent sites has been provided. Amalgamation would assist in reducing the impacts and non-compliances of the proposed development.

*The development does not adversely impact upon adjoining residential development. (En, S)*

The proposal presents an unreasonable impact on the acoustic and visual privacy of residential developments to the south and east, as detailed in the section of this report relating to State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development and the Apartment Design Guide.

*An appropriate mix of residential and commercial development is provided, ensuring the functionality of commercial centres. (S, Ec)*

The proposal does not provide an adequate mix of residential and commercial development. The proposal includes an unreasonable and inadequately justified 44% shortfall in commercial floor space.

*Meet the economic and employment needs of Pittwater Community (Ec.S).*

The proposal does not adequately demonstrate that the proposed commercial floor space will adequately contribute to the economic and employment needs of the Pittwater community.

## **B6.3 Off-Street Vehicle Parking Requirements**

Clause B6.3 Off-Street Vehicle Parking Requirements of the P21 DCP requires parking to be provided for shop top housing at the following rates:

- 1 space per dwelling with one bedroom;
- 2 spaces per dwelling with two or more bedrooms;
- 1 space per adaptable dwelling, in accordance with AS 4299- 1995: Adaptable Housing;
- 3% of required parking spaces as accessible spaces, excluding that relied upon for adaptable housing;
- 1 visitor space per three dwellings;
- Provision for garbage collection, removalist vans, and emergency vehicles;
- A vehicle wash bay for developments with 10 or more dwellings;
- 1 bicycle space per three dwellings; and

- 1 parking space per 30sqm of gross leasable area.

The proposed development includes 117.6sqm of gross leasable commercial area, and 10 dwellings, comprised of four 1-bedroom units and six 2-bedroom units. This requires parking as follows:

- 16 residential spaces;
- 4 residential visitor parking spaces (including 1 accessible space);
- Provision for garbage collection, removalist vans, and emergency vehicles;
- 1 vehicle wash bay;
- 4 bicycle racks; and
- 4 retail visitor parking spaced (including 1 accessible space)

No accessible parking required for Silver Level adaptable units.

The proposed development provides the following:

- 19 residential spaces (including two accessible spaces); and
- Four residential visitor spaces (including one accessible space).

The proposed development does not provide:

- Provision for garbage collection, removalist vans, and emergency vehicles;
- Vehicle wash bay;
- Bicycle racks; or
- Retail visitor parking spaces.

The shortfall of retail visitor parking is assessed as acceptable by Council's Traffic Engineer. However, inadequate justification is provided for the remaining shortfalls. Additionally, concern was raised by Council's Traffic Engineer in relation to accessing the proposed parking spaces. An assessment of the proposal against the relevant outcomes of this clause is as follows:

*An adequate number of parking and service spaces that meets the demands generated by the development.*

The proposal is acceptable in relation to the numerical requirements of this clause.

*Functional parking that minimises rainwater runoff and adverse visual or environmental impacts while maximising pedestrian and vehicle safety.*

*Safe and convenient parking.*

The proposed development does not adequately demonstrate that the parking provided can be easily accessed. The submitted Traffic and Parking Report demonstrates swept paths only for the movements of a vehicle entering and exiting the car lift, and do not demonstrate access to all spaces, and do not consider the 'worst case scenario' of when all spaces are occupied, thereby further limiting available turning area. It is considered that the proposed spaces would be very difficult to access with multiple turns required. The proposal also does not demonstrate that vehicles can enter and exit the lift in a forward direction.

## **B8.2 Construction and Demolition - Erosion and Sediment Management**

The proposal does not provide an erosion and sediment management plan.

## **B8.6 Construction and Demolition - Traffic Management Plan**

The proposed development relies on 2,199.76 cubic metres of excavation, though does not include a Construction Traffic Management Plan indicating truck movements and truck routes.

### **C1.1 Landscaping**

The proposed development includes landscaping to the front of of the development, and a sizable planter box at the rooftop level, totalling 132sqm of landscaped area (20.2% of the site). However, the proposal does not include gardens at each level, and the landscaping provided does not adequately soften the built form of the proposed development. An assessment of the proposal against the relevant outcomes of this clause is as follows:

*A built form softened and complemented by landscaping. (En)*

The proposed landscaping at the ground level is predominantly located at the primary Gondola Road street frontage. This is due to a breach of the secondary street frontage along Minarto Lane, which includes built structures to within 1.5m of the boundary, where 3.5m is required. Additionally, no landscaping for the southern half of the Minarto Lane frontage. Given this, and the lack of landscaping at the first and second floors, the proposal does not adequately demonstrate that landscaping has been included to soften the built form. The proposal does not demonstrate adequate design and consideration to the Minarto Lane frontage.

*Landscaping reflects the scale and form of development. (En)*

As above, the proposed development does not include adequate landscaping in relation to its scale and form.

*Retention of canopy trees by encouraging the use of pier and beam footings. (En)*

The proposed development requires the removal of all vegetation on site and does not incorporate pier and beam construction.

*Development results in retention of existing native vegetation. (En)*

The proposed development requires the removal of all vegetation on site. However, the proposal includes planting of several native species in its landscape plan.

*Landscaping results in the long-term retention of Pittwater's locally native tree canopy. (En)*

The proposed development includes the planting of several native species, including two Eumundi Quandong trees, which reach a mature height of 11m, providing some tree canopy. However, as above, as the landscaping at ground level is predominantly at the primary street frontage only, the landscaping does not adequately soften the built form via inclusion of canopy trees.

*Landscaping retains and enhances Pittwater's biodiversity by using locally native plant species (En)*

The proposal includes planting of several native species in its landscape plan.

*Landscaping enhances habitat and amenity value. (En, S)*

The proposed development includes a number of native species that would assist in supporting habitats. However, given the proposed development does not incorporate adequate landscaping to soften the built form, and in turn does not provide adequate amenity for the subject site or adjacent sites.

*Landscaping results in reduced risk of landslip. (En, Ec)*

The subject site is not classified as being in a geotechnical hazard area.

*Landscaping results in low watering requirement. (En)*

The proposal does not demonstrate that the proposed planting scheme achieves a low watering requirement.

#### **C1.4 Solar Access**

The proposed development is compliant with the requirements of the Apartment Design Guide and the P21 DCP in relation to solar access to the units on the subject site. However, the proposal results in the loss of compliant solar access to at least Unit 3 of the approved development to the south at 2-8 Rickard Road. An assessment of the proposal against the relevant outcomes of this clause is as follows:

*Residential development is sited and designed to maximise solar access during mid-winter. (En)*

The proposed development is built to both the southern and western boundaries, and includes a nominal and non-compliant secondary street frontage of 0-1.5m to the secondary Minarto Lane frontage. The proposal is also not compliant with the maximum height of building control within the Pittwater LEP 2014. In this way, the proposal results in significant bulk on the site, due to non-compliances. The proposal also results in unreasonable overshadowing, given the loss of compliant solar access to at least Unit 3 of the approved development to the south at 2-8 Rickard Road. This demonstrates that the proposal is not adequately sited or designed to maximise solar access to the property to the south.

*A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development. (En)*

As above, the proposed development does not maintain a reasonable level of solar access to at least Unit 3 of the approved development to the south.

*Reduce usage and/dependence for artificial lighting. (En)*

The proposed development would increase the dependence of at least Unit 3 of the approved development to the south, due to the removal of compliant solar access.

#### **C1.5 Visual Privacy**

The proposed development includes non-compliances in relation to Clause 3F Visual Privacy of the Apartment Design Guide, as detailed in the relevant section of this report. In relation to Clause C1.5 Visual Privacy of the P21 DCP, the proposal includes balconies and windows to habitable rooms within 1.5m of the eastern boundary (allowing viewing to the existing residential units to the east), and windows to habitable rooms within 2m of the southern boundary, adjoining an approved shop top housing development. An assessment of the proposal against the relevant outcomes of this clause is as follows:

*Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design. (S)*

The proposed development provides 7.5m between the habitable rooms and balconies of the subject site and the nearby residential units to the east across Minarto Lane due to the non-compliant setback of 0-1.5m. Additionally, the proposal includes windows to habitable rooms within 2m of the southern boundary. The proposal does not incorporate any measures to reduce direct viewing between the subject site and adjacent sites. As such, the proposal does not demonstrate optimised visual privacy through good design.

*A sense of territory and safety is provided for residents. (S)*

Given the above, the proposed development does not achieve an appropriate sense of territory or safety is provided to nearby residents.

#### **C1.6 Acoustic Privacy**

The intention of this clause is to locate and/or orientate noise-generating room uses away from noise-sensitive room uses. The proposed development includes balconies and windows to habitable rooms to 8 of the 10 units orientated to the east, towards the existing residential units across Minarto Lane. An assessment of the proposal against the relevant outcomes of this clause is as follows:

*Noise is substantially contained within each dwelling and noise from any communal or private open space areas are limited. (S)*

The proposed development includes balconies and windows to habitable rooms to 8 of the 10 units orientated to the east, towards the existing residential units across Minarto Lane, resulting in non-compliance Clauses 2F Building Separation and 4H Acoustic Privacy of the Apartment Design Guide. These balconies are access via the living room of each unit (and in some cases, also from the main bedroom of the unit). The proposal does not adequately demonstrate that noise generated within these eight units will be substantially contained, or that noise from the private open space areas will be limited.

*Noise is not to be offensive as defined by the Protection of the Environment Operations Act 1997, including noise from plant, equipment and communal or private open space areas (S)*

The proposal does not demonstrate that the proposed balconies orientated to the existing residential units to the east will not result in offensive noise.

### **C1.12 Waste and Recycling Facilities**

The proposed development does not comply with all requirements of the Waste Management Guidelines, in that the proposed bin room is not within 6.5m of the property boundary and is not accessible by Council via a wheel-in/wheel-out service. Further, the proposal does not provide a space for bulky household waste. An assessment of the proposal against the relevant outcomes of this clause is as follows:

*To facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development.*

The proposed development does not adequately demonstrate sustainable waste management collection in accordance with the principles of Ecologically Sustainable Development in that it relies on additional third party handling and therefore increases associated risks, reduces amenity in Minarto Lane, and may encourage illegal dumping.

*To encourage environmentally protective waste management practices on construction and demolition sites which include:*

- *sorting of waste into appropriate receptors (source separation, reuse and recycling) and ensure appropriate storage and collection of waste and to promote quality design of waste facilities;*
- *adoption of design standards that complement waste collection and management services offered by Council and private service providers;*
- *building designs and demolition and construction management techniques which maximises avoidance, reuse and recycling of building materials and which will minimise disposal of waste to landfill; and*
- *appropriately designed waste and recycling receptors are located so as to avoid impact upon surrounding and adjoining neighbours and enclosed in a screened off area.*

The proposed development provides an adequate number of bins to allow for waste sorting for the ten proposed units. The proposed development does not complement Council waste collection and management, in that it does not provide a bin room within 6.5m of the property boundary in accordance with Council's wheel-in/wheel-out service. The submitted ongoing waste management plan details that a caretaker will wheel the bins to the identified bin collection area prior to the scheduled waste

collection service, and will place them back in the bin room afterwards. However, this arrangement is not supported, as it relies on a third party other than Council in order for the service to function. Further, the proposed collection area is not supported, as it poses an imposition on amenity, is not screened and may encourage illegal dumping. The demolition/construction waste management plan otherwise demonstrates suitable techniques have been employed to ensure the reuse and recycling of waste, in order to minimise disposal of waste to landfill.

*To encourage the ongoing minimisation and management of waste handling in the future use of premises.*

The proposal includes the unacceptable reliance on the caretaker to move the bins between the bin room and the bin collection area and the risks associated with this reliance. The waste management plan otherwise demonstrates suitable techniques for minimisation and management of waste.

*To ensure waste storage and collection facilities complement waste collection and management services, offered by Council and the private service providers and support on-going control for such standards and services.*

As above, the proposed bin room does not complement Council's waste collection and management service.

*To minimise risks to health and safety associated with handling and disposal of waste and recycled material, and ensure optimum hygiene.*

The proposal relies on the caretaker to move the bins between the bin room to the bin collection area along Minarto Lane. Given the additional person handling waste, the proposal increases the risk to health and safety than a development with a compliant bin room that requires handling by Council officers only. Additionally, the proposed bin collection area along Minarto Lane does not demonstrate optimum hygiene and may encourage illegal dumping of waste.

*To minimise any adverse environmental impacts associated with the storage and collection of waste.*

The proposed bin collection area presents an unreasonable environmental impact, as it reduces amenity in Minarto Lane, particularly considering the close proximity of residential units, and may encourage illegal dumping.

*To discourage illegal dumping.*

The proposed waste collection area in Minarto Lane relies on the caretaker to ensure the area is kept clean and tidy. The location, being without landscaping or screening, in a lane, and adjacent to a parking area, does not discourage illegal dumping of rubbish.

### **C1.18 Car/Vehicle/Boat Wash Bays**

Clause C1.18 Car/Vehicle/Boat Wash Bays of the P21 DCP requires a car wash bay for developments with "more than ten" units. Clause B6.3 Off-Street Vehicle Parking Requirements of the P21 DCP requires a car wash bay for developments with "10 or more dwellings". The proposed development includes 10 units, and does not include a car wash bay. The application is recommended for refusal. However, should the application be approved, a condition should be applied requiring the provision of a car wash bay in one of the four at-grade residential visitor parking spaces, in order to achieve the intention of Clauses C1.18 and B6.3.

### **C1.25 Plant, Equipment Boxes and Lift Over-Run**

Clause C1.25 provides that lift over-runs are to be integrated internally into the design fabric of the built form of the building. The proposed development does not demonstrate this integration, as it relies on a 61.87% variation to Clause 4.3 Height of Buildings of the Pittwater LEP 2014, due to the lift shaft and its overrun (as well as the stairwell) to access the rooftop communal open space. An assessment of the proposal against

the relevant outcomes of this clause is as follows:

*To achieve the desired future character of the Locality.*

The proposed development is not consistent with the desired future character of the locality for the reasons detailed in the section of this report relating to Clause A4.11 North Narrabeen Locality of the P21 DCP.

*The bulk and scale of the built form is minimised. (En, S)*

The proposed development does not minimise bulk and scale, in that it relies on a significant non-compliance to the maximum height of building and the secondary street front setback, does not provide adequate articulation, and results in unreasonable impacts to visual and acoustic privacy and overshadowing, directly attributable to the proposed bulk.

*Equitable preservation of views and vistas to and/or from public/private places. (S)*

The proposed development does not result in any unreasonable view loss to, from or between public or private places.

*To achieve reduction in visual clutter. (En, S)*

The proposed lift shaft location does not result in visual clutter, its excessive height is not acceptable for the reasons detailed throughout this report.

*The appropriate location and design of noise generating equipment.*

The proposed location of the lift shaft is acceptable in relation to noise generation.

#### **D11.1 Character as viewed from a public place**

The proposed development does not demonstrate suitable bulk and scale, and does not include adequate landscaping integrated into the design to screen the visual impact of the built form. The proposed development is not secondary to or adequately softened by landscaping and vegetation. An assessment of the proposal against the relevant outcomes of this clause is as follows:

*To achieve the desired future character of the Locality.*

The proposed development is not consistent with the desired future character of the locality for the reasons detailed in the section of this report relating to Clause A4.11 North Narrabeen Locality of the P21 DCP.

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

The proposal does not respond to, reinforce, or relate to the spatial characteristics of the existing built and natural environment in that it proposes far greater bulk and scale than existing and approved development generally visible from the site, and is not adequately softened by vegetation.

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

The proposal does not enhance the existing streetscapes, as it is not of a scale and density that is in keeping with the height of the natural environment. The proposal relies on a significant height of building non-compliance and is not adequately softened by vegetation, particularly along the Minarto Lane frontage, which includes minimal landscaped area.

*The visual impact of the built form is secondary to landscaping and vegetation, or in commercial areas and the like, is softened by landscaping and vegetation. (En, S, Ec)*

The proposed development, being of excessive bulk and scale for the site, does not demonstrate that the built form is secondary to, or softened by, landscaping and vegetation. The proposal relies on



significant non-compliances, directly attributable to bulk and scale, and presents disproportionate built form. Additionally, as demonstrated in the section of this report relating to Clause C1.1 Landscaping of the P21 DCP, the proposed development includes inadequate landscaping to screen and soften the built form.

*High quality buildings designed and built for the natural context and any natural hazards. (En, S)*  
The proposed development adequately responds to the relevant hazard on site, being flood-prone land.

*Buildings do not dominate the streetscape and are at human scale. Within residential areas, buildings give the appearance of being two-storey maximum. (S)*

The proposed development, particularly from Minarto Lane, dominates the streetscape and is not at human scale. The proposed development includes a three-storey presentation to both street frontages, with insufficient articulation to provide adequate visual relief. Along Minarto Lane, which currently includes development to a maximum of two-storeys, the proposed development presents overbearing bulk on the street and may lead to a sense of enclosure.

*To preserve and enhance district and local views which reinforce and protect Pittwater's natural context.*  
The proposed development does not unreasonably impact upon district or local views.

*To enhance the bushland vista of Pittwater as the predominant feature of the landscape with built form, including parking structures being a secondary component.*

As above, the proposed development does not demonstrate that the bushland setting of the area is the predominant feature of the site. The proposed development includes two points of vehicular access, including the residential visitor parking area along Minarto Lane, which accounts for approximately one third of the secondary street frontage.

*To ensure that development adjacent to public domain elements such as waterways, streets, parks, bushland reserves and other public open spaces, compliments the landscape character, public use and enjoyment of that land. (En, S)*

The proposed development presents excessive bulk along both street frontages, particularly along Minarto Lane. The proposal reduces amenity along each street frontage, thereby impacting upon enjoyment of that land.

## **D11.2 Scenic protection - General**

As demonstrated throughout this report, the proposed development does not minimise its visual impact when viewed from each of its street frontages. An assessment of the proposal against the relevant outcomes of this clause is as follows:

*Achieve the desired future character of the Locality.*

The proposed development is not consistent with the desired future character of the locality for the reasons detailed in the section of this report relating to Clause A4.11 North Narrabeen Locality of the P21 DCP.

*Bushland landscape is the predominant feature of Pittwater with the built form being the secondary component of the visual catchment. (En, S)*

The proposed development, being of excessive bulk and scale for the site, does not demonstrate that the built form is the secondary component of the visual catchment. The proposal relies on significant non-compliances, directly attributable to bulk and scale, and presents disproportionate built form. Additionally, as demonstrated in the section of this report relating to Clause C1.1 Landscaping of the P21 DCP, the proposed development includes inadequate landscaping to screen and soften the built form.

## **D11.6 Front building line**

Clause D11.6 Front Building Line of the P21 DCP provides that where the outcomes of this control are achieved, Council may accept a minimum building setback to a secondary street of half the front building line. The proposal is not considered to achieve the outcomes of the clause for the purpose of the Minarto Lane street frontage. As such, the variation for a secondary street frontage setback of half the front building line is not applicable. An assessment of the proposal against the relevant outcomes of this clause is as follows:

*Achieve the desired future character of the Locality. (S)*

The proposed development is not consistent with the desired future character of the locality for the reasons detailed in the section of this report relating to Clause A4.11 North Narrabeen Locality of the P21 DCP.

*Equitable preservation of views and vistas to and/or from public/private places. (S)*

The proposed development does not result in any unreasonable view loss to, from or between public or private places.

*The amenity of residential development adjoining a main road is maintained. (S)*

Not applicable. The proposed development does not adjoin a main road.

*Vegetation is retained and enhanced to visually reduce the built form. (En)*

As detailed in the section of this report relating to Clause C1.1 Landscaping of the P21 DCP, the proposed development does not include adequate vegetation in order to screen, soften, or reduce the built form. This is particularly notable at the Minarto Lane frontage, which includes minimal landscaped area, and no significant tree plantings.

*Vehicle manoeuvring in a forward direction is facilitated. (S)*

As detailed in the section of this report relating to Clause B6.3 Off-Street Vehicle Parking Requirements of the P21 DCP, the proposal does not adequately demonstrate that vehicle manoeuvring for both entry and exit is facilitated in a forward direction.

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

The proposal does not enhance the existing streetscapes, as it is not of a scale and density that is in keeping with the height of the natural environment. The proposal relies on a significant height of building non-compliance and is not adequately softened by vegetation, particularly along the Minarto Lane frontage, which includes minimal landscaped area.

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

The proposal does not encourage attractive street frontages or improve pedestrian amenity along Minarto Lane, as minimal landscaping and no footpath (or space for a footpath) is provided for the development.

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

The proposal does not respond to, reinforce, or relate to the spatial characteristics of the existing urban environment in that it proposes far greater bulk and scale than existing and approved development generally visible from the site.

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

The proposal will not significantly effect threatened species, populations or ecological communities, or

their habitats.

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

### **PLANNING PRINCIPLE - Redevelopment**

In this case, the planning principle relating to redevelopment (*Karavellas v Sutherland Shire Council* [2004] NSWLEC 251) has been considered, as follows:

*Karavellas v Sutherland Shire Council* [2004] NSWLEC 251 at 17 states:

*17 The general questions to be answered when dealing with amalgamation of sites or when a site is to be isolated through redevelopment are:*

- *Firstly, is amalgamation of the sites feasible?*
- *Secondly, can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible?*

*Brown C* in *Melissa Grech v Auburn Council* [2004] NSWLEC 40 sets the principles to be applied in determining the answer to the first question, as follows:

*Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.*

*Secondly, and where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.*

*Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s 79C of the Environmental Planning and Assessment Act 1979.*

In the decision *Cornerstone Property Group Pty Ltd v Warringah Council* [2004] NSWLEC 189, Tuor C extended the principles of *Brown C* in relation to the second question, as follows:

*The key principle is whether both sites can achieve a development that is consistent with the planning controls. If variations to the planning controls would be required, such as non compliance with a minimum allotment size, will both sites be able to achieve a development of appropriate urban form and with acceptable level of amenity.*

*To assist in this assessment, an envelope for the isolated site may be prepared which indicates height, setbacks, resultant site coverage (both building and basement). This should be schematic but of sufficient detail to understand the relationship between the subject application and the isolated site and the likely impacts the developments will have on each other, particularly solar access and privacy impacts for residential development and the traffic impacts of separate driveways if the development is on a main road.*

*The subject application may need to be amended, such as by a further setback than the minimum in the planning controls, or the development potential of both sites reduced to enable reasonable development of the isolated site to occur while maintaining the amenity of both developments.*

Comment:

While the proposed development will not necessarily result in isolation of the adjacent site to the west (at No. 3 Gondola Road), consolidation with the site (and with the two further sites to the west, at Nos. 5 and 7 Gondola Road) would result in greater flexibility on site, and a far greater design outcome. No demonstration of any reasonable attempts to consolidate with the adjacent site(s) in accordance with the above planning principle has been provided.

## CONCLUSION

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

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

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

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- Pittwater Local Environment Plan 2014;
- Pittwater 21 Development Control Plan 2014; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal. In consideration of the proposal and the merit consideration of the development, the proposal is:

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

Above all, the proposed is not supported by an acceptable request to vary the development standard set by Clause 4.3 Height of Buildings of the Pittwater LEP 2014. The provided written request does not adequately demonstrate that compliance with the development standard is unreasonable or unnecessary, and does not demonstrate sufficient environmental planning grounds for the non-compliance. Further, the proposal is not in the public interest, as it is not consistent with the B2 Local Centre zone objectives of the Pittwater LEP 2014.

Further to the above, the proposal is unacceptable as follows:

- The proposal is inconsistent with the desired future character of the North Narrabeen locality, as it does not maintain a suitable building height, does not minimise bulk and scale, does not incorporate adequate vegetation, and does not utilise adequate facade modulation.
- The proposal presents unreasonable and excessive bulk and scale, reliant on and resulting in, several non-compliances. This bulk is not consistent with, nor complementary to, existing or approved development in the immediate vicinity.
- The proposal does not provide adequate commercial area to adequately serve the needs of the community, support a vibrant day and night economy, or provide an appropriate land use mix.
- The proposal results in unreasonable amenity impacts, particularly in relation to visual and acoustic privacy, and overshadowing. The proposal also results in poor internal acoustic impacts, with the inclusion of noise-generating room uses of one unit adjacent to a noise-sensitive room use of another unit.
- The proposal does not provide adequate landscaping and vegetation to visually screen or soften the proposed built form.
- The proposal includes inadequate waste management, as it relies on a non-compliant bin room and a third party to move bins from the bin room to the bin collection area along Minarto Lane. Further, the collection area results in amenity impacts, as it is not screened and may encourage illegal dumping.
- The proposal does not demonstrate safe vehicle movements within the two proposed basement levels, and does not demonstrate that vehicular movement in a forward direction for both entry and exit.
- The proposal does not adequately demonstrate how the traffic movements required for the significant excavation will be managed.
- The proposal does not include any demonstration of reasonable attempts made to consolidate with the adjacent lot or lots to the west.

For the reasons above, the proposed development is not suitable for the subject site. Such unsuitability means that the proposal does not result in a good or reasonable planning outcome, and it is not in the public interest to approve such a development in this location. Therefore, the application is recommended for refusal.

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## **RECOMMENDATION**

THAT Council, as the consent authority REFUSE Development Consent to Development Application

No DA2018/1210 for the Construction of a shop top housing development on land at Lot 187 DP 16719,1 Gondola Road, NORTH NARRABEEN, for the reasons outlined as follows:

1. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of State Environmental Planning Policy 65 - Design Quality of Residential Flat Development.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Pittwater Local Environmental Plan 2014.
3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause Zone B2 Local Centre of the Pittwater Local Environmental Plan 2014.
4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.3 Height of buildings of the Pittwater Local Environmental Plan 2014.
5. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.6 Exceptions to development standards of the Pittwater Local Environmental Plan 2014.
6. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the requirements of Clause A4.11 North Narrabeen Locality of the Pittwater 21 Development Control Plan.
7. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B2.6 Dwelling Density and Subdivision - Shop Top Housing of the Pittwater 21 Development Control Plan.
8. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B6.3 Off-Street Vehicle Parking Requirements of the Pittwater 21 Development Control Plan.
9. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B8.2 Construction and Demolition - Erosion and Sediment Management of the Pittwater 21 Development Control Plan.
10. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B8.6 Construction and Demolition - Traffic Management Plan of the Pittwater 21 Development Control Plan.
11. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1.1 Landscaping of the Pittwater 21 Development Control Plan.
12. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1.4 Solar Access of the Pittwater 21 Development Control Plan.
13. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1.5 Visual Privacy of the

Pittwater 21 Development Control Plan.

14. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1.6 Acoustic Privacy of the Pittwater 21 Development Control Plan.
15. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1.12 Waste and Recycling Facilities of the Pittwater 21 Development Control Plan.
16. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1.25 Plant, Equipment Boxes and Lift Over-Run of the Pittwater 21 Development Control Plan.
17. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D11.1 Character as viewed from a public place of the Pittwater 21 Development Control Plan.
18. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D11.2 Scenic protection - General of the Pittwater 21 Development Control Plan.
19. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D11.6 Front building line of the Pittwater 21 Development Control Plan.