

3.1	22-26 Albert Street Freshwater - Demolition Works and Construction of a Mixed Use Development Comprising Commercial and Residential
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DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2012/1235
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Responsible Officer	Tony Collier
Land to be developed (Address):	Lot 1 DP 830423 , 22 - 26 Albert Street FRESHWATER NSW 2096
Proposed Development:	Demolition works and construction of a mixed use development comprising commercial and residential
Zoning:	B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Warringah Development Assessment Panel (WDAP)
Land and Environment Court Action:	No
Owner:	T & T Merillo Holdings Pty Ltd T & F Holdings Pty Ltd
Applicant:	QPS Developments Pty Ltd

Application lodged:	18/10/2012
Application Type	Integrated
State Reporting Category	Mixed
Notified:	02/11/2012 to 04/12/2012
Advertised	03/11/2012
Submissions	25

Estimated Cost of Works:	\$16,048,411
Recommendation:	Approval

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 all lands whether nearby, adjoining or at a distance;

- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council/Government/Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of Buildings;
Warringah Development Control Plan - D8 Privacy;
Warringah Development Control Plan - E1 Private Property Tree Management;
Warringah Development Control Plan - 9. Awnings;
Warringah Development Control Plan - 10. Front setback;
Warringah Development Control Plan - 11. Side and rear setbacks

LOCALITY PLAN



SITE DESCRIPTION

The subject site consists of one (1) allotment located on the western side of Albert Street and at the intersection of Lawrence Street. The site is legally known as Lot 1 in DP 830423, No. 22 - 26 Albert Street, Freshwater.

The site is irregular in shape with a frontage of 77.27m along Albert Street. The consistency of the front boundary is broken by the presence of the Bendigo Bank which is located at the south-western part of the site. The site has a surveyed area of 2,283m². The northern boundary is irregular due to the variable lot depths of neighbouring residential properties along Marmora Street.

The site accommodates the Harbord Growers Market, a bakery and associated open hard-stand car park which accommodates 29 parking spaces. The car park is accessed/egressed via two (2) driveways and crossovers at the northern and southern sides of Albert Street. Delivery to the market is via a separate 4.0m wide driveway and crossover off Albert Street (near the Lawrence Street intersection).

The site gradually slopes from the south-western corner to the north-eastern corner by approximately 3.37m.

The site accommodate low level landscaping along the northern boundary and, in part, within the front setback facing Albert Street.

The site is located within the B2 Local Centre zone which consists of an established commercial/mixed use area. The B2 Local Centre zone is surrounded by the larger R2 Low Density Residential zone which predominantly consists of low density residential uses interspersed with residential flat buildings. Consequently, the site is immediately surrounded by mixed use retail, commercial and restaurant uses to the east, south and west, and by low density residential uses to the north.

SITE AND DEVELOPMENT APPLICATION HISTORY

The site accommodates one (1) building which was constructed in the 1970's. The building has been used continuously for commercial purposes since its construction and generally remains unaltered.

DA2010/0697

Development Application DA2010/0697 was lodged on 10 May 2010 for demolition works and the construction of mixed-use retail and residential development comprising 3 to 5 storey shop top housing, 3 storey residential flat buildings and 2 storey townhouse style buildings with 2 levels of basement carparking, a gym and a swimming pool on land at No. 5 - 19 Lawrence Street, No. 22A Albert Street and No. 18 - 22 Marmora Street, Freshwater.

The applicant was advised in writing of fundamental deficiencies and requested to withdraw the application.

The application was subsequently withdrawn by the applicant on 6 August 2010.

DA2010/1446

Development Application DA2010/1446 was lodged on 9 September 2010 for the demolition of existing buildings and the construction of mixed-use retail and residential development comprising shop top housing buildings, a residential flat building and townhouse style buildings with 2 levels of basement car parking on land at Nos. 5, 5A, 9, 15 & 21 Lawrence Street, No. 22 - 26 Albert Street and No. 18 - 22 Marmora Street, Freshwater.

The application was initially referred to the Warringah Development Assessment Panel (WDAP) on 1 December 2010 where it was recommended to the Sydney East Joint Regional Planning Panel (JRPP) to defer determination pending clarification of matters pertaining to Category 3 components (as defined under WLEP 2000) in the development. The application was then referred to the JRPP on 9 December 2010 where it was subsequently refused.

A Class 1 appeal was filed with the Land and Environment Court on 15 December 2010 against the refusal of the Development Application by the JRPP. The appeal was dismissed at the hearing on 24 May 2011.

PROPOSED DEVELOPMENT

The applicant seeks consent to demolish the existing building and associated structures on the site and to construct a mixed use building which is consists of the following:



Basement Carpark Level 2 (RL 9.200)

- Car parking for 17 commercial customer vehicles.
- Separate car parking for 31 residential spaces (including 5 visitor spaces).
- Residential storage area (166.6m³).
- Services (including a mechanical fan room, pump room and grease room).
- Lift and fire stairwell access/egress.

Basement Carpark Level 1 (RL 12.100)

- Car parking for 40 commercial customer vehicles.
- Shopping trolley storage areas.
- Pedestrian travelator to the Retail Market above.
- Services (including plant room).
- Lift and fire stairwell access/egress.

Ground Floor (RL 16.300 to RL 16.900)

- Vehicle crossover (8.6m wide) and driveway (7.9m wide) onto Albert Street.
- One (1) x Retail Market tenancy.
- Three (3) x Retail tenancies.
- Lift and stairwell access/egress.
- Central pedestrian mall with separate residential lobby.
- Enclosed loading dock with turntable to service the Retail Market.
- Driveway entrance to the basement carpark levels.
- Amenities.
- Waste disposal area.
- Services.
- Temporary bin storage area.

Level 1 (RL 20.375 to RL 21.275)

- Six (6) x one bedroom apartments with balconies.
- Five (5) x two bedroom apartments with balconies.
- One (1) x three bedroom apartment with balcony.
- Variable width landscaped areas along the northern boundary of the site.
- Pedestrian ramp adjacent to the western boundary from the Albert Street/Lawrence Street intersection which also provides for parking for 16 bicycles.
- Communal waste disposal room.
- Lift and stairwell access/egress.

Level 2 (RL 23.425 to RL 34.09)

- Six (6) x one bedroom apartments with balconies.
- Four (4) x two bedroom apartments with balconies.
- One (1) x three bedroom apartment with balcony.
- Communal waste disposal room.
- Lift and stairwell access/egress.

AMENDED/ADDITIONAL PLANS AND DOCUMENTATION

In addition, amendments made to the plans to include the residential waste storage room were notified to the landowners and occupiers of No. 28 Albert Street 5 December 2012. No submission was received in response.



ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan (WDCP) applies to this proposal.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	The EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter may be addressed via a condition of consent. <u>Clause 92</u> of the EPA Regulations 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter may be addressed via a condition of consent. <u>Clause 50(1A)</u> of the EPA Regulations 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted. <u>Clause 143A</u> of the EPA Regulations 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a CC. This matter may be addressed via a condition of consent.
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report. (ii) The proposed development will not have a detrimental social impact in the locality considering the mixed use character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the mixed use nature of the proposed land use.
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	The various controls contained within WLEP 2011 and the WDCP provide the community with a level of certainty as to the scale and intensity of future development and the form and character of development that is in keeping with the future character envisaged for the zone. While the development does not achieve compliance with the relevant Height of Buildings Development Standard, the variations were considered to be minor and are supported under Clause 4.6 of WLEP 2011. The development has been found to be consistent with the key Controls contained within the WDCP. This assessment has found the development to be consistent with the scale and intensity of development that the community can reasonably expect to be provided on this site and within the respective zones and is therefore considered, in its current form, to be in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan to 649 land owners and occupiers between 2 November 2012 to 4 December 2012 and advertised in the Manly Daily on 3 November 2012.

As a result of the public exhibition process Council is in receipt of 25 individual submissions from:

Name:	Address:
J George	2 Murray Road, Freshwater
S Layton	1 Koolora Road, Freshwater
D Tsang	6 Hill Street, Queenscliff
P Curry	5 Marmora Street, Freshwater
L Richardson	No address provided
D & S Ferris	16 Oliver Street, Freshwater
Friends of Freshwater	PO Box 663, Freshwater
B Smythe	79 Wyadra Avenue, Freshwater
P Zak	7 MacDonald Street, Freshwater
C Firth	31 Albert Street, Freshwater
C & K Bowra	14 Marmora Street, Freshwater
B Harte	25 Wyuna Avenue, Freshwater
P Warr	44 Crown Road, Queenscliff
S Rout	2 Carlton Street, Freshwater
P Kowal	34 Charles Street, Freshwater
B Dunphy	33 Foam Street, Freshwater
V Buls	49 Coles Road, Freshwater
C Jander	PO Box 318, Freshwater
Name Withheld	Address Withheld
D Phillips	No address provided
R, K, T and K Vickery	43 Waine Street, Freshwater
R & J Reynolds	22 The Drive, Freshwater
M Jander	20 Marmora Street, Freshwater
A Sharp	77 Brighton Street, Curl Curl
Northern Beaches Health Promotion	Manly Hospital, PO Box 465, Manly

The matters raised within the submissions are addressed as follows:

Street activation and public amenity

A submission recommended that the development provide convenient and plentiful public seating, public toilets and parent rooms with baby-change and breastfeeding facilities.

Comment:

This matter is addressed in detail elsewhere in this report (refer to Clause 3 - 'Street Activation' under the Special Area Controls in the Warringah Development Control Plan).



In summary, it was found that the development achieved consistency with the requirements of the control. Notwithstanding the proposed provision of public seating in and around the site, the suggested provision of more public seating, public toilets and parent rooms with baby-change and breastfeeding facilities beyond what is already proposed is beyond the scope of the DCP.

This matter does not warrant the refusal of the application.

Active travel facilities and links

A submission recommended that the development provide sufficient under-cover bicycle parking adjacent to the street-level main entrance. Additionally, it was also recommended that the development allow for future direct pedestrian/cycle links from the site towards Oliver Street and Marmora Street.

Comment:

This matter is addressed in detail elsewhere in this report (refer to Clause 17 - 'Active Travel Links' under the Special Area Controls in the Warringah Development Control Plan).

In summary, it was found that the development achieved consistency with the requirements of the control. Notwithstanding the proposed provision of bicycle parking on the pedestrian ramp at the western side of the site, suggested provision of more under-cover bicycle parking adjacent to the street-level main entrance and the provision for future direct pedestrian/cycle links from the site towards Oliver Street and Marmora Street is beyond the scope of the DCP.

This matter does not warrant the refusal of the application.

Non-compliance to the side boundary setback

Concern was raised regarding the reduction to the required setback to the northern side boundary and it was suggested that similar concessions be permitted to adjoining land.

Comment:

This matter is addressed in detail elsewhere in this report (refer to Clause 11 - 'Side and Rear Setbacks' under the Special Area Controls in the Warringah Development Control Plan).

In summary, it was found that the development achieved consistency with the underlying objectives of the control and the zone and that the variation was supported.

This matter does not warrant the refusal of the application.

Non-compliance with the Building Height Development Standard

Concern is raised that the development does not comply with the maximum permitted height under the Height of Buildings Development Standard as stipulated under the Warringah Local Environmental Plan 2011 (WLEP 2011).

Comment:

This matter has been addressed in detail elsewhere in this report (refer to Clause 4.6 - 'Exceptions to Development Standards' under Warringah Local Environmental Plan 2011).

In summary, it was found that the development achieved consistency with the underlying objectives of the development standard and the zone and that the variation, which is minor, was supported.

This matter does not warrant the refusal of the application.



Loss of amenity

Concern is raised that the development will result in a loss of amenity to neighbouring properties.

Comment:

The impact upon the amenity of neighbouring properties has been addressed in detail elsewhere in this report (refer to Clauses D3 - 'Noise', D6 – 'Access to Sunlight', D7 – 'Views' and D8 - 'Privacy' under the Warringah Development Control Plan).

In summary, the following was found:

Visual Privacy

With regards to visual privacy, the development is designed to respond to the visual privacy of the neighbouring residential properties to the north by positioning and screening the balconies to the upper level units to avoid direct overlooking. Additionally, landscaped planter boxes at the rear of the site will have a minimum soil depth of 1.0m may further act to ensure reasonable level of privacy between the development and adjoining dwellings is maintained.

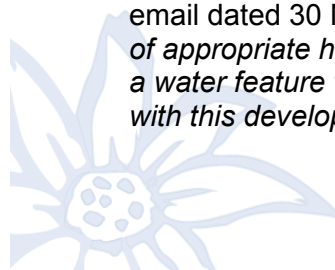
Notwithstanding, it is noted that the north-facing balcony of Unit 106 and the north-facing window to Unit 206 has the potential to overlook into the rear private open space of No. 22 Marmora Street and, should be treated accordingly. In this respect, a condition is included in the Recommendation of this report which requires that a privacy screen is installed along the north-western edge of the balcony to Unit 106 and that the sill height of the north-western window to Unit 206 be increased to 1.65m above the finished floor level.

Acoustic Privacy

With regards to noise generated from plant services, the Acoustic Report dated 12 December 2012 as prepared by Renzo Tonin & Associates acknowledges that details of mechanical plant have not been finalised but provides in-principal recommendations which address any future mechanical services installed in and on the building. These recommendations are included as a condition in the Recommendation of this report requiring the development to be designed in accordance with AS 1055, AS 1668 (Parts 1 and 2) and the EPA Guidelines for Acoustic Privacy.

With regards to noise generated from the driveway and loading dock, the Acoustic Report notes that noise generated by loading dock activities may contribute towards overall noise level emissions from the site and identifies potential noise sources as vehicle doors closing, vehicle engines starting, vehicles accelerating, vehicles moving and beeping reverse signals. Notwithstanding, the report recommends appropriate noise management measures to be imposed as conditions which are supplemented by an additional condition imposed by Council requiring that the door to the loading dock be closed during loading and unloading operations to further minimise noise transference. Additionally, conditions are also included in the Recommendation of this report which restrict the entry of delivery and service vehicles into the dock between 7.00pm to 6.00am Monday to Saturday and 7.00pm to 7.00am Sundays and Public Holidays. Further, a condition is also included which requires that commercial waste and recyclable material, generated by the retail premises, must not be collected between the hours of 10.00pm and 6.00am Monday to Saturday and between 7.00pm and 7.00am Sundays and Public Holidays.

Further, as noted under Clause 11 - 'Side and Rear Setbacks in this report, a site inspection of the property from No. 20 Marmora Street was conducted which revealed that, in order to preserve amenity, the landowners requested that the wall on the boundary remain either in its current form or similar and that it achieve a similar or higher height. The landowners also advised that the neighbouring property owner at No. 22 Marmora Street, although absent, has requested in an email dated 30 November 2012 and forwarded to Council as a submission, that *"a sandstone wall of appropriate height be considered to provide sufficient privacy and reduction of noise - in addition a water feature would go a long way to diluting some of the increased noise that will be associated with this development so directly affecting my premise"*. At that inspection it was considered



appropriate, to provide a 1.0m high acoustic screen along the length of the balcony/ terrace to Units 101, 102, 103 and 105. Additionally, it was also considered appropriate to provide a privacy screen to the north-west facing balcony of Unit 106 and to increase the sill height to the north-western rear window to the Family Room of Unit 206 to 1.65 above the finished floor level. These matters have been addressed as conditions in the Recommendation of this report.

Sunlight Access

The development, being situated on the southern side of the neighbouring residential zone, will not have any adverse impact upon access to direct sunlight for the residential properties along Marmora Street.

Pollution from car park

An examination of the plans (refer to Plan No. DA 04(D) indicates that the exhaust vent which services the basement car park is located on the roof and setback 13.6m from the northern boundary abutting the neighbouring residential area. In this respect, any impact from the vent in terms of fumes or noise would be minimal.

This matter does not warrant the refusal of the application.

Impact upon view sharing

Concern is raised that the development will have an adverse impact on the availability of views, as obtained from Oliver Street.

Comment:

This matter is addressed elsewhere in this report (refer to Clause D7 - 'Views' under Warringah Development Control Plan).

In summary, it was found that the development achieved consistency with the four (4) planning principles outlined within the Land and Environment Court Case of 'Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC 140 and that the extent of qualitative impact upon view sharing is considered to be negligible.

This matter does not warrant the refusal of the application.

Reduction in retail floor space

Concern is raised that the development will result in an overall reduction in retail floor space thereby potentially depriving the community of current retail services (particularly the fruit market and the bakery).

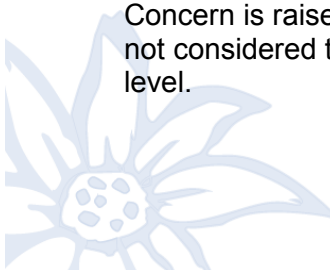
Comment:

Currently the site accommodates 1,085m² gross floor area (GFA) of retail uses. The development proposes to increase the retail floor area to 1,195m² GFA which represents an overall increase of approximately 10% above the current provision. Additionally, the development has separated the retail use into four (4) separate tenancies which can accommodate a greater mix of retail services (including a fruit market and bakery which are included within the Commercial Premises hierarchy and permitted under WLEP 2011) to the community than is currently offered.

This matter does not warrant the refusal of the Development Application.

Reliance on mechanical means of pedestrian access

Concern is raised that the development relies on mechanical means of pedestrian access which is not considered to be as convenient as the current arrangement which is at grade to the ground level.



Comment:

The installation of lifts and a travelator to gain access to the various levels within the development is necessary to achieve compliance with the requirements of the Building Code of Australia, relevant Australian Standards and to satisfy the anti-discrimination provisions of the Disability Discrimination Act (DDA) to provide access for people (or their associates) with a disability in a range of areas including transport, employment, accommodation and premises used by the public.

This matter does not warrant the refusal of the application.

Road and pedestrian safety

Concern is raised regarding the potential for pedestrian vehicle conflict at the intersection of the crossover and Albert Street footpath.

Comment:

An examination of the plans indicates that the development will replace the three (3) existing crossovers into the growers market car park and loading dock with one (1) crossover located at the north-eastern corner of the site which services both the proposed basement car park and new loading dock. This reduction in the number of vehicle crossovers will facilitate pedestrian flow along Albert Street into Lawrence Street and reduce the potential for vehicle/pedestrian conflict.

Notwithstanding, a condition is included in the Recommendation of this report which requires that appropriate sign(s) are provided and maintained within the site at the point of vehicular egress to compel all vehicles to come to a complete stop before proceeding onto the public way. Additionally, a condition is also included which requires the installation of a Type 2 speed hump as prescribed under AS 2890.1: 2004 - 'Parking Facilities' to be located 3.0m within the egress side of the driveway to encourage vehicles to slow on approach to the crossover.

This matter does not warrant the refusal of the application.

Traffic generation and congestion

Concern is raised regarding the traffic congestion and demand on kerb parking as a result of the increased development and vehicular traffic.

Comment:

Using the projected PM peak period traffic generation data (ie; the worse case scenario) provided in the Traffic and Parking Assessment Report it is estimated that the following traffic movements are likely to occur on Albert Street:

Period	Existing Generation (p/h)	Projected Generation (p/h)	Difference +/-	Movements/sec
Friday PM	157	164	+7 (1.55%)	1 vehicle/23 seconds
Thursday PM	157	164	+7 (1.55%)	1 vehicle/23 seconds

The applicant has provided traffic counts at this location that show a weekday pm peak from 4.15pm – 5.15 pm. Counts conducted on a Thursday in July showed 559 vehicle movements adjacent to the site. Counts conducted on a Friday in October show a pm peak movement of 447 vehicles.

Based on the rates of traffic generation stipulated in the Roads and Maritime Services 'Guide to Traffic Generating Development' this site will generate 163.9 (164) traffic movements during the afternoon peak. This site has an existing traffic generation rate of 157 movements. Overall this will increase the traffic on Albert Street by 7 vehicle movements during peak periods which represents an increase in traffic of 1.55% for the Thursday and Friday PM peak periods.

Council's Traffic Engineer confirms that the additional traffic volume at normal PM peak time is considered to be within the environmental capacity of Albert Street, and that the additional traffic generated by this development will have a negligible impact on the surrounding road network. This matter does not warrant the refusal of the application.

Inadequate access for Council's waste management and medium rigid delivery vehicles

Concern is raised that the development does not provide sufficient space to enable access for Council's waste management vehicles and privately owned medium rigid delivery vehicles.

Comment:

The Austroads 2006 'Design Vehicles and Turning Path Templates' defines a medium rigid vehicle as having a maximum length of 8.8m. An examination of the plans reveals that the turntable within the loading dock area has a total diameter of 8.8m which satisfies the Austroads requirement. This is reinforced through a condition included in the Recommendation of this report which requires that the internal space and the vehicle turntable within the loading dock off Dowling Street is to be designed to accommodate a Medium Rigid Vehicle (MRV). Council's Waste Management vehicles do not correspond to Austroads defined vehicle types and extend beyond the length of what is defined as a medium rigid vehicle by 1.4m.

Notwithstanding, Council's Policy No. PL 850 'Waste', requires that the collection point for Council residential waste pick-up will be kerbside of the nearest trafficable road for residential developments where the number of dwellings is 29 or less (this development proposes 23 dwellings). As such, Council's Waste Management Officer has reviewed the application and recommended that a separate bin storage room be provided near the frontage of the site adjacent to Albert Street to facilitate access to Council's waste management staff. The bin storage area is to accommodate residential bins on pick-up only days and is included on revised plans (see Plan Nos. DA 03(F), DA 04(D) and DA 13(C)).

This matter does not warrant the refusal of the application.

Inadequate provision of car parking

Concern is raised that the development is deficient in its provision of car parking.

Comment:

This matter is addressed elsewhere in this report (refer to Clause C3 - 'Parking Facilities' and Appendix 1 - 'Car Parking Requirements' under Warringah Development Control Plan). In summary, the car parking provision for the development has been found to comply with the requirements of Appendix 1 with exception to a technical variation to the rate applied to the fruit market (which would normally be described as a shop use with a parking rate of 6.1 spaces per 100m² GLFA). In this regard, Council's Traffic Engineer was of the opinion that the alternative rate of 4.2 spaces per 100m² of GLFA, as suggested by the applicant's traffic engineer and as applied by the Roads and Maritime Services (RMS) 'Guide to Traffic Generating Developments', is appropriate where markets are incorporated into larger developments such as this proposal.

Additionally, it was also noted in the assessment that the interpretation of Gross Leasable Floor Area (as applied under the car parking requirements for a typical shop use) by the applicant's traffic engineer was incorrect and overstated the car parking requirement. An assessment of the proposal applying the correct interpretation and the above-mentioned car parking rate for the fruit market, revealed that the development provided a surplus in on-site car parking by one (1) car space.

This matter does not warrant the refusal of the application.



Inconsistency with the requirements and objectives of the Warringah Development Control Plan (WDCP)

Concern is raised that the development does not satisfy the core requirements of the WDCP.

Comment:

The matter of compliance and consistency of the relevant controls contained in the WDCP is addressed in detail elsewhere in this report (refer to the section 'Warringah Development Control Plan' in this report).

In summary, it was found that the development achieved compliance with all numerical controls with exception to the requirements of Clause 9 - 'Awnings'; Clause 10 - 'Front Setback' and Clause 11 - 'Side and Rear Setbacks'. However, the numerical variations to these controls were considered to be minor and that, given their consistency with the objectives of the respective control and that the variations did not cause unreasonable impact to neighbouring properties, were supported.

Further, it was also found that the development achieved consistency with the requirements and objectives of the remaining relevant non-numerical controls as contained in the WDCP.

This matter does not warrant the refusal of the Development Application.

Insufficient provision for sustainable energy, recycling, landscaping and communal open space

Concern is raised that the development does not provide for alternative means of sustainable energy (solar panelling), water retention or recycling and does not provide sufficient landscaping and communal open space.

Comment:

Sustainable energy has been addressed elsewhere in this report (refer to Clause 15 - 'Building Sustainability' under the Special Area Controls in the Warringah Development Control Plan). In summary, it was found that the development satisfied the requirements of the BASIX ('Building Sustainability Index') rating tool.

With regards to recycling, the development includes the provision of a 'recycle zone' within the garbage chute room of the two residential levels of to satisfy Section 1 - 'On-Going Waste Management' of Council's Waste Management Plan.(refer to Plan Nos. DA 03(F) and DA 04D)).

With regards to the provision of landscaping, the WDCP does not impose a requirement to include any landscaped open space given the commercial nature of the site and the Village. Notwithstanding, the development includes 83m² of deep soil landscape area which, together with numerous planter boxes located in highly visible positions around the perimeter of the site, result in a softening of the development.

With regards to the provision of communal open space, the Residential Flat Design Code (RFDC) recommends an area of between 25% and 30% of the site area, if the site is not located within a dense urban area. Unlike the surrounding R2 Low Density Residential zone, the Village is zoned as a B2 Local Centre zone which does not have density requirements and is therefore classified as a dense urban area. In this respect, the RFDC stipulates that "*where developments are unable to achieve the recommended communal open space, such as those in dense urban areas, they must demonstrate that residential amenity is provided in the form of increased private open space and/or in a contribution to public open space*".



An assessment of the provision of private open space (refer to Clause D2 - 'Private Open Space' under the Warringah Development Control Plan in this report) found that the development provided increased balcony/terrace areas to each apartment and exceeded the requirement as stipulated.

This matter does not warrant the refusal of the Development Application.

Re-use of documentation from previous Development Application

Concern is raised that certain documentation submitted with the current Development Application was re-used from a previous Development Application and is therefore not relevant.

Comment:

The documentation submitted with the Development Application was reviewed and found to include material which had been re-used from the previous Development Application (DA2010/1446) which was for a larger development covering a greater area.

Of the submitted documentation, the Construction Management Plan (CMP) required updating as it directly referred to the construction methodology and the placement of cranes and work zones in areas which were no longer applicable. The CMP was re-submitted as Version 3 dated December 2012. The updated CMP was made available for public viewing on Council's E-Services website from 6 December 2012.

The Geotechnical Investigation dated 8 October 2012 as prepared by JK Geotechnics and the Preliminary Environmental Site Assessment dated 5 October 2012 as prepared by Environmental Investigation Services were re-used as they include features within the subject site which remain highly relevant to this Development Application. Both reports include a statement prepared by each respective consultancy to this effect.

This matter does not warrant the refusal of the Development Application.

Incompatibility with the village atmosphere of the area

Concern is raised that the development is not in keeping with village atmosphere (ie: the character) of the area.

Comment:

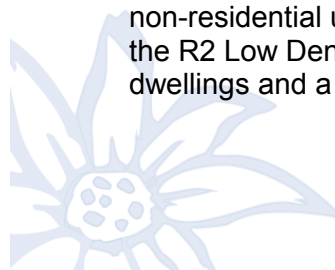
The matter of assessing the character compatibility of development has been examined by the Land and Environment Court in GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003) NSWLEC 268 and Project Venture Developments v Pittwater Council (2005) NSWLEC 191 where Senior Commissioner Roseth set out Planning Principles to better evaluate how a development should respond to the character of its environment. The following provides an assessment against the Planning Principles established in those two cases.

In the case of 'GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003) NSWLEC 268' Senior Commissioner Roseth developed the following Planning Principles:

- *The first principle is that buildings in a development do not have to be single-storey to be compatible with the streetscape even where most existing buildings are single storey. The principle does not apply to conservation areas where single storey dwellings are likely to be the major reason for conservation.*

Comment:

An inspection of site reveals that Freshwater Village consists of an eclectic mix of residential and non-residential uses of varying age, scale and intensity. Marmora Street, to the north and within the R2 Low Density Residential zone, consists of a mix of single and double storey detached dwellings and a dual occupancy.



The most notable buildings in the Village area are the 3 storey 'The Caville' building located to the south at the corner of Lawrence Street and Albert Street and the 3 storey 'Freshwater Village Plaza' located to the east at No. 1-3 Moore Street.

The development consists a three storey building which accommodates a mix of residential and non-residential uses. The proposed building is highly articulated and stepped up the site towards Lawrence Street to respond to the gradual slope in topography and to correspond to the scale and current formation of buildings within the Village area.

The scale of the development is also considered to be consistent with the findings of the recent case, Freshwater Village Developments Pty Ltd v Warringah Council [2011] NSWLEC 1127, for a proposed mixed-use development on the same site. In that judgement, the question of what constitutes low-rise shop top housing was considered and it was determined that buildings not exceeding 3 storeys or 11.0m in height and, with the third storey setback a minimum of 5.0m, can reasonably be described as low-rise shop top housing. Clause 78 in the judgement points to the 'Caville' building at No. 8 Lawrence Street as an appropriate form of development in terms of height and storeys. This development achieves consistency with the built form of the 'Caville' building in terms of height and the number of storeys above ground level.

As discussed under Clause 4.6 – 'Exceptions to Development Standards' in this report, the development exhibits minor numerical departures from the overall building height. Notwithstanding these departures, the development has been found to achieve consistency with the objectives of the Height of Buildings Development Standard and the zone and therefore, is considered to constitute low-rise shop-top housing in accordance with the judgement.

In this regard, it is considered that the scale of the development is compatible with the streetscape and consistent with the first principle.

- *The second principle is that where the size of a development is much greater than the other buildings in the street, it should be visually broken up so that it does not appear as one building. Sections of a building, or separate buildings should be separated by generous breaks and landscaping.*

Comment:

As the site is located within the commercial centre of Freshwater Village, Lawrence Street (and the remainder of the Village centre to the south, east and west) consists of a mix of building forms including a contemporary three storey mixed-use building, an ageing three storey shopping centre and a mix of single and double storey buildings of varying age, architectural style and use.

Development beyond the immediate Village area consists of low to medium density development in the form of detached dwellings and residential flat buildings of varying age, scale and design.

The development has been articulated to visually respond to the topography of the land, to the scale of buildings within the Village area and to provide an appropriate transition from the commercial area of the Village to the neighbouring residential zone to the north. The resulting design is considered to achieve a commensurate scale with the surrounding residential and non-residential development.

In this regard, the development is considered to be compatible with the scale of surrounding development and consistent with the second principle.

- *The third principle is that where a site has existing characteristics that assist in reducing the visual dominance of development, these characteristics should be preserved. Topography that makes development appear smaller should not be modified. It is preferable to preserve existing vegetation around a site's edges to destroying it and planting new vegetation.*



Comment:

The site does not contain any topographical features which may be used to reduce the visual dominance of the building any further than is proposed.

The site currently accommodates low scale landscaping along the north-eastern half of the property boundary and sporadically within the front setback facing Albert Street. The remainder of the site is given up to the existing building and associated hardstand car parking area. The development includes 83m² of deep soil landscape area which, together with numerous planter boxes located in highly visible positions around the perimeter of the site, result in a softening of the development.

In this regard, it is considered that effective methods have been employed in the design of the development to reduce its visual dominance and is consistent with the third principle.

- *The fourth principle is that a development should aim to reflect the materials and building forms of other buildings in the street. This is not to say that new materials and forms can never be introduced only that their introduction should be done with care and sensitivity.*

Comment:

The development includes a Schedule of Colours and Finishes which indicates that the proposed colour scheme is neutral and will reflect the colours of the neighbouring buildings and the predominant colour theme for development in the coastal setting of the Freshwater Village. In this regard, the development is considered to be consistent with the fourth principle.

The above Principals were further developed in Project Venture Developments v Pittwater Council (2005) NSWLEC 191 to include the following:

- *Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*

Comment:

The physical impacts of the development on surrounding properties have been discussed throughout this report and are summarised as follows:

Constraints on the development potential of surrounding sites

The development is sited on one (1) irregularly shaped allotment. The remainder of Albert Street, Lawrence Street and Marmora Street consists of regular shaped allotments which respectively accommodates commercial and residential development. In this regard, the development does not place any constraints on the development potential of surrounding sites.

Privacy

As noted within this section of the report (refer to 'Loss of amenity') and under Clause D8 - 'Privacy', the development is considered to provide an appropriate level of visual and acoustic privacy to neighbouring residential properties to the north, subject to addressing conditions which are included in the Recommendation of this report.

Overshadowing

The shadow diagrams provided by the applicant (see Plan Nos. DA 05(A) (9.00am), DA 06(A) (Noon), and DA 07(A) (3.00pm)) indicate that the development will not result in any overshadowing over the neighbouring residential properties to the north and is consistent with the requirements of Clause D6 - 'Access to Sunlight' under the WDCP.



Conclusion of Character Assessment

The above character assessment has found that, in the context of the Land and Environment Court Planning Principles, the proposal is compatible with the character of the local area and surrounding wider locality.

This matter does not warrant the refusal of the Development Application.

Construction management

Concern is raised that the construction phase of the development will have an adverse impact on adjoining land in terms of noise, dust and privacy. Additionally, a query is raised regarding the disposal of asbestos, if found to be evident.

Comment:

Construction and excavation is proposed for the site. As such, appropriate conditions are included within the Recommendation of this report to assist the timely progress of development work and ensure timings and phases of construction are conducted in an orderly manner with minimal disruption to neighbours and road users. Additionally, appropriate conditions are also included to maintain the amenity of neighbouring properties with regard to construction site access, sediment and erosion control, tree protection, noise and hours of construction.

With regards to asbestos, the removal of asbestos is regulated by Workcover NSW, relevant Australian Standards and the Occupational Health and Safety Act 2000. Accordingly, appropriate conditions are included in the recommendation of this report to manage the removal of asbestos and any lead based paint, if present.

This matter does not warrant the refusal of the Development Application.

Impact upon pets

Concern is raised that the demolition and construction phase will traumatize pets through dust and noise.

Comment:

Beyond the above-mentioned controls which regulate construction management and impacts upon surrounding land, there is no particular legislative requirement to consider the effects of development upon pets.

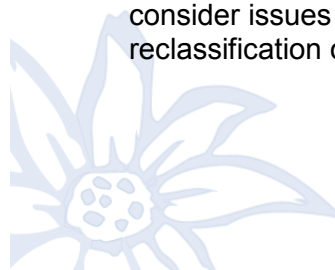
This matter does not warrant the refusal of the Development Application.

Inconsistency with urban design considerations prepared for the draft Freshwater Development Control Plan

Concern is raised that the development negates much of the recommendations contained in the draft Freshwater Development Control Plan as prepared by GMU Urban Design & Architecture in conjunction with the Freshwater Village Working Party, and that the development prevents a village-wide application of good urban planning.

Comment:

The draft Freshwater Development Control Plan was prepared by GMU Urban Design & Architecture and the Freshwater Village Working Party in response to a Council resolution to consider issues relating to village-wide planning for the Freshwater town centre and the proposed reclassification of the Oliver Street car park.



The brief for the preparation of the draft DCP included the requirement that the plan must 'fit' within the parameters established by the controls under the Warringah Local Environmental Plan (WLEP). In other words there was to be no additional building height, land acquisition or zoning changes to the WLEP arising from this work. However, in an effort to deliver the village-wide vision of the Working Party, the consultants' work was found to go beyond the requirement to 'fit' within the parameters of the WLEP and that separate projects would be required to be undertaken to achieve the envisioned outcomes. Subsequently, the draft DCP, as prepared by the urban design consultants, was revised by Council staff to achieve the following:

- to remove conflict with WLEP 2011;
- to ensure no duplication or conflict with State Environmental Planning Policies;
- to ensure sections of the comprehensive Warringah Development Control Plan are not repeated for Freshwater;
- to reduce focus on works in the public domain;
- to ensure that the document's focus is on controls needed for the assessment of Development Applications; and
- to provide a document format that is consistent with Council's e-planning and internet delivery platform.

Following the exhibition period which occurred between 25 February 2012 and 2 April 2012, the revised draft DCP was referred to Council on 24 April 2012 and subsequently approved. The DCP came into force as the current DCP on 7 May 2012 and forms the operational document to which this Development Application is assessed against.

This matter does not warrant the refusal of the Development Application.

Loss of property value

Concern is raised that the development could result in a loss to the property value of residential development in the area.

Comment:

The valuation/devaluation of property is not a valid planning consideration under Section 79C of the Environmental Planning and Assessment Act, 1979.

This matter does not warrant the refusal of the Development Application.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Building Assessment	Council's Building Surveyor does not raise an objection to the development subject to conditions. The conditions are included in the recommendation of this report.
Development Engineers	Council's Development Engineer does not raise an objection to the development subject to conditions. The conditions are included in the recommendation of this report.
Environmental Health & Protection	Council's Environmental Health Officer does not raise an objection to the development subject to conditions. The conditions are included in the recommendation of this report.
Landscape Officer	Council's Landscape Adviser do not raise an objection to the development subject to conditions. The conditions are included in the recommendation of this report.

Internal Referral Body	Comments
Urban Design	Council's Urban Designer does not raise an objection to the development. No conditions were imposed.
Traffic Engineer	Council's Traffic Engineer does not raise an objection to the development subject to conditions. The conditions are included in the recommendation of this report.
Waste Officer	Council's Waste Management Officer does not raise an objection to the development subject to conditions. The conditions are included in the recommendation of this report.

External Referral Body	Comments
Ausgrid	The application was referred to Ausgrid for comment. However, no response has been received within the required 21 day time period and it is assumed that Ausgrid do not raise any objection and do not wish to impose any conditions.
Roads and Maritime Services	The Roads and Maritime Service (RMS) do not raise any objection to the proposal subject to comments which Council have taken into consideration and which are included as conditions in the Recommendation of this report.
State Transit	The application was referred to State Transit Authority (STA) for comment. However, no response has been received within the required 21 day time period and it is assumed that the STA do not raise any objection and, due to the development not impacting directly upon any STA bus stops, do not wish to impose any conditions.
NSW Police	The application was referred to the NSW Police for consideration against the principles of Crime Prevention through Environmental Design (CPTED). The NSW Police have advised that they are not required to assess the application. Notwithstanding, an assessment against the principles of CPTED has been undertaken in this report where it was found to be consistent.
Office of Water	The application was referred to NSW Office of Water for consideration under the relevant provisions of the Water Management Act 2000 with respect to de-watering. The NSW Office of Water have advised by letter dated 22 November 2012 that a controlled activity approval is not required and that no further assessment is necessary as the development does not occur on waterfront land. Notwithstanding, the NSW Office of Water advise that temporary de-watering of an amount above 3 ML may require a water licence to be obtained before construction commences. This has been included as a condition in Recommendation of this report.

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 is provided as follows:

State Environmental Planning Policy No. 55 - Remediation of Land

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

The application is accompanied by a letter from Environmental Investigation Services (EIS) dated 5 October 2012 which confirms that it is appropriate to re-issue the Preliminary Environmental Assessment dated 5 March 2010 (originally issued for DA2012/1446) due to the investigation work

already carried out on the site to determine any existence of contaminants. In support of this rationale, the letter notes that a review of the plans indicates that:

- *"The proposed land-use remains unchanged;*
- *The depth of excavation [two basement levels] remains unchanged; and*
- *There have been no major changes to the NSW EPA guideline documents referenced within the EIS 2010 report since 2010.*

Therefore, the letter advises that *"the conclusions, recommendations and limitations outlined in the EIS 2010 report remain unchanged"*.

In brief, the following potential contamination sources were investigated:

Soil Contamination

The Environmental Assessment notes in the Summary of Soil Laboratory Results (Page 36) that the soil samples from Bore Hole (BH) 207 indicated an elevated concentration of lead. While BH207 is no longer located on the subject site the broader area identified as being potentially affected does encroach within the north-western corner of the site. In this respect, the Environmental Assessment recommends that the *"natural material excavated in this area to a depth of approximately 1.0m should be disposed of as General Solid Waste"*. The Environmental Assessment then recommends that, *"upon completion of the 1.0m depth excavation and disposal of the natural material, additional soil samples should be obtained from the base of the excavation in order to demonstrate that the underlying material is virgin excavated natural material"*.

With respect to the remainder of the site, the Environmental Assessment notes that the natural silty clay/sand and underlying shale/sandstone bedrock are considered to be virgin excavated natural material (VENM) which is considered to be suitable for re-use on the site.

Groundwater Contamination

The Environmental Assessment notes that groundwater samples encountered elevated concentrations of copper and zinc. The samples taken at other boreholes were considered to be below the site assessment criteria. However, the Environmental Assessment also notes that the groundwater results indicates that the groundwater is *"very strongly acidic and has the potential to be severely aggressive towards concrete and still piles/foundations"*.

Therefore, based upon the above findings, the Environmental Assessment recommends that dewatering during basement excavation will be required. In this regard, the NSW Office of Water (NoW) have advised that a temporary dewatering an amount above 3 ML may require a water licence to be obtained prior to the commencement of excavation works. Additionally, Council's Environmental Health Officer has included a condition to address the dewatering of the site. The comments provided by NoW and the condition imposed by Council's Environmental Health Officer are respectively included as conditions within the Recommendation of this report.

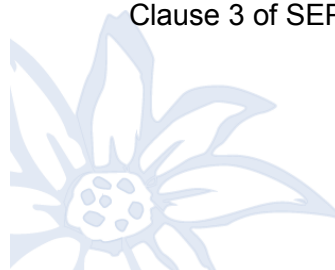
Presence of Asbestos

The Environmental Assessment notes that *"asbestos was not detected, above the reporting limit, in any of the samples analysed for the investigation"*.

The above matters do not justify the refusal of the application and are appropriately addressed as conditions within the Recommendation of this report.

State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development

Clause 3 of SEPP 65 defines a residential flat building as follows:



"Residential flat building" means a building that comprises or includes:

- (a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and
- (b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops), but does not include a Class 1a building or a Class 1b building under the Building Code of Australia."

As previously outlined the proposed development is for the erection of a three (3) storey mixed-use building plus basement car parking for the provision of accommodating 23 self-contained dwellings.

As per the definition of a 'Residential Flat Building' and 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.

The SEPP requires the assessment of any development application for residential flat development against 10 Design Quality Principles contained in Clauses 9 - 18 and Council is required to consider the matters contained in the associated "Residential Flat Design Code". As such, the following consideration has been given to the requirements of the SEPP and Design Code.

The 10 Design Quality Principles are outlined as follows:

Principle 1: Context

Clause 9 (Principle 1: Context) stipulates that:

"Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the Desired Future Character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area".

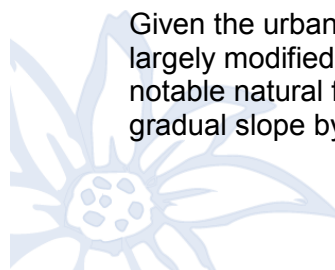
Comment:

Freshwater Village is identified in the NSW Government's Metropolitan Plan for Sydney 2036 (2010) as a 'Small Village' centre which includes a small strip of shops adjacent to a residential area within a 5 to 10 minute walk and which contains between 150 and 2,700 dwellings within a 400m catchment. Like any commercial centre, the context of Freshwater Village as a centre will be subject to change as it physically evolves. The development, as proposed, is considered to be consistent with this evolving context and will provide an appropriate transition between the character of surrounding localities/zones.

The site is located on the north-eastern periphery of Freshwater Village and forms a transitional zone between the high intensity mixed-use area of the village centre and the residential area to the north and east which is characterised by a mix of single dwellings and multi-storey residential flat buildings.

Because of the diverse range of development surrounding the site, the key built features of the area are varied and consist of one, two and three storey commercial and mixed-use buildings immediately to the east, south and west, and one to two storey residential dwellings to the north. Multi-storey residential flat buildings are a notable architectural feature of the area and are located further to the east and south.

Given the urbanised and commercial character of the area, the key natural features have been largely modified such that only the gradual downward slope to the east remains as the most notable natural feature. Notwithstanding, the development has been designed to respond to the gradual slope by stepping the building down along Albert Street, towards the northern boundary.



In this way, the development achieves a transitional scale commensurate to both the urban context of the B2 Local Centre zone and the neighbouring R2 Low Density Residential zone.

The design of the development is considered to respond to the key built and natural features of the area by incorporating appropriately articulation which includes the stepped form of the building and considered façade fenestration, materials and finishes.

The development satisfies this Principle.

Principle 2: Scale

Clause 10 (Principle 2: Scale) stipulates that:

"Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings."

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the Desired Future Character of the area".

Comment:

The overall building bulk and height of the development is considered, in the context to surrounding development, to achieve a scale commensurate to its role as a gateway building to the north-eastern periphery of the Freshwater Village commercial centre.

The articulated built form, which includes the progressive setting back of the upper floor levels, detailed façade fenestration to incorporate upper floor balconies, the use of subtle materials and finishes and the addition of the landscaped features along the rear of the site will ensure that the development maintains a human scale within a zone which is subject to transition.

The development satisfies this Principle.

Principle 3: Built Form

Clause 11 (Principle 3: Built Form) stipulates that:

"Good design achieves an appropriate Built Form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements."

Appropriate Built Form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook."

Comment:

The building alignments, proportions and types are considered to be appropriate in that the development will reinforce the transitional role of the site by introducing a built form which will be of a character, scale and intensity appropriately suited to the Freshwater Village commercial centre and to the neighbouring residential area.

The proposed building alignments along Albert Street and Lawrence Street define the public domain through the setting back of buildings to align with the street which, in turn, contributes towards the character of the streetscape within the commercial Village environment. Similarly, the building alignments, height, and separations together with the provision of landscaping along the northern boundary of the development provide a transition between the Village and the neighbouring residential area.

The development satisfies this Principle.



Principle 4: Density

Clause 12 (Principle 4: Density) stipulates that:

"Good design has a density appropriate for a site and its context; in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality."

Comment:

Although it should be noted that WLEP 2011 does not include a Density Development Standard for the B2 Local Centre zone, the development proposes the provision of 23 apartments which translates to a residential density of 1 dwelling per 99.2m².

Given the absence of a density Development Standard, density is gauged by how the development responds to the Design Quality Principles of SEPP 65, the relevant Development Standards of the WLEP 2011 and the relevant controls within the WDCP. This assessment has found that the development, as proposed achieves a satisfactory level of compliance and consistency with these Principles, Standards and controls.

As discussed previously in this report, Freshwater Village is subject to transition commensurate to its role as a Small Village of the north-east sub-region as defined in the Metropolitan Plan for Sydney 2036. In this regard, the proposed density is not considered to be contrary to the future regional context, the availability of infrastructure, public transport, community facilities and environmental quality.

The development satisfies this Principle.

Principle 5: Resource, Energy and Water Efficiency

Clause 13 (Principle 5: Resource, Energy and Water Efficiency) stipulates that:

"Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

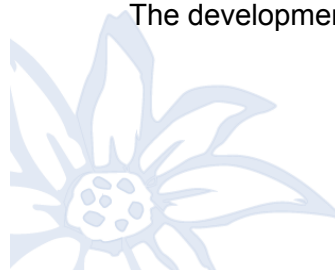
Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and Built Form, passive solar design principles, efficient appliances and mechanical and mechanical services, soil zones for vegetation and re-use of water".

Comment:

The site currently accommodates an existing and ageing commercial building which, on inspection, does not include materials which could reasonably be recycled for use in the construction of the development.

The residential elements of the development have been designed to achieve the commitment targets set by SEPP (BASIX) and satisfies the relevant environmental Primary Development Controls under the Residential Flat Design Code.

The development satisfies this Principle.



Principle 6: Landscape

Clause 14 (Principle 6: Landscape) stipulates that:

"Good design recognises that together Landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, microclimate, and tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character or Desired Future Character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity and provide for practical establishment and long-term management."

Comment:

The development includes approximately 83m² of deep soil landscaped open space along the northern boundary and within the triangular portion of land at the north-eastern corner of the site. This space has a variable width and, according to the landscape plan (see Plan No. L01 and L02 dated 25 September 2012 as prepared by Habitation), will accommodate a selection of native and exotic shrubs which will achieve a mature height of between 0.6m to 10m respectively. This landscaped feature will further soften the overall appearance of the development while providing a buffer between the higher intensity mixed-use area and the lower intensity residential area.

With regards to co-ordinating water and soil management, the application was referred to Council's Development Engineer who did not raise any objection subject to conditions. These conditions have been included in the Recommendation of this report.

The development satisfies this Principle.

Principle 7: Amenity

Clause 15 (Principle 7: Amenity) stipulates that:

"Good design provides amenity through the physical, spatial and environmental quality of a development.

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

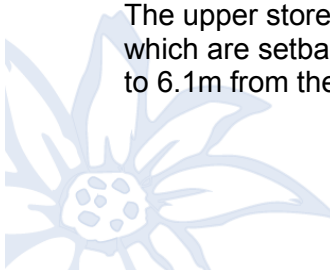
Comment:

The development has been assessed with regards to impacts upon the amenity of neighbouring residential properties to the north in terms of privacy, overshadowing, view sharing and noise.

Privacy

This matter has been addressed elsewhere in this report (refer to Clause D8 'Privacy' under WDCP).

The upper storeys of the development accommodate the residential elements of the development which are setback from the northern boundary by 2.0m from the ground floor terraces and by 4.5m to 6.1m from the upper floor balconies.



The development also includes areas of landscaped open space along the rear boundary which will provide an appropriate depth of planting to supplement the physical separation to ensure reasonable levels of privacy to neighbouring land.

Given the proposed setbacks and provision of the landscaped screening, It is considered that the development does not present unreasonable overlooking opportunities into the neighbouring residential properties along Marmora Street.

Overshadowing

This matter has been addressed elsewhere in this report (refer to Clause D6 'Access to Sunlight' under WDCP).

The shadow diagrams provided by the applicant (see Plan Nos. DA05(A) (9.00am), DA06(A) (Noon), and DA07(A) (3.00pm)) indicate that the development will not result in any overshadowing over the neighbouring residential properties to the north.

View Sharing

This matter has been addressed elsewhere in this report (refer to Clause D7 'Views' under WDCP).

In summary, the proposal has been designed to take in to account the available district and water views through the provision of appropriate building separations and maintaining a consistent building height across the width of the site. Overall, the proposal is considered appropriate for the site and acceptable in this instance.

Noise

This matter has been addressed elsewhere in this report (refer to Clause D3 'Noise' under WDCP).

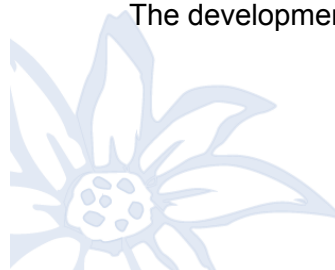
The top two levels of the development accommodate the residential use which is not considered to unreasonably impact upon neighbouring residential properties with regard to noise. The balconies at the rear of the development are sufficiently setback and screened from the rear yards of the residential properties to the south to minimise any normal residential noise transfer and any noise generated by the plant services located on the roof.

The development includes a driveway adjacent to the northern boundary which services the basement car park and the loading dock. It is noted that the loading dock is fully enclosed to minimise noise transference when in operation. This feature, along with the driveway, has been considered within the submitted Acoustic Assessment report as prepared by Renzo Tonin & Associates dated 12 December 2012.

In that report, it was concluded that, as the loading dock would be enclosed, the only noise which would contribute towards noise impact to neighbouring residences would be through associated truck movements. The report provides recommendations to minimise noise impact which include limiting the internal design of the loading dock to accommodate one vehicle at a time and to coordinate deliveries to occur within restricted hours. These recommendations are included as conditions, together with a standard condition which requires the development to be designed in accordance with AS 2107 and the EPA Guidelines for Acoustic Privacy and which limits noise at the property boundary to not exceed 5dB(A) within the Recommendation of this report.

Notwithstanding, conditions have been included in the recommendation of this report requiring the development to be designed in accordance with AS 2107 and the EPA Guidelines for Acoustic Privacy.

The development satisfies this Principle.



Principle 8: Safety and Security

Clause 16 (Principle 8: Safety and Security) stipulates that:

"Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces."

Comment:

This matter has been addressed elsewhere in this report (refer to Clause D20 'Safety and Security' under WDCP).

In summary, the units in the development which face towards the street provide optimum passive surveillance. Internal security is achieved by providing lockable entry doors at street level and a gated car park entrance.

In this regard, the proposal is considered to adequately achieve safety and security for future occupants of the development providing good casual visual surveillance of the public and private domains.

The development satisfies this Principle.

Principle 9: Social Dimensions

Clause 17 (Principle 9: Social Dimensions) stipulates that:

"Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New developments should optimise the provisions of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community".

Comment:

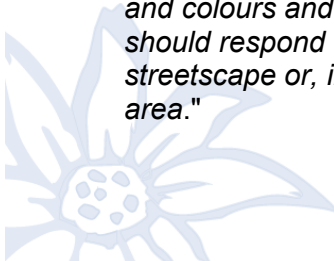
The development provides a mix of apartments which will vary in size and affordability (ie: 12 x 1 bedroom (52.2%); 9 x 2 bedroom (39.1%) and 2 x 3 bedroom 8.7%)). This mix is considered to provide for the social evolution of the community in an area which has close proximity to Freshwater Beach, direct accessibility to shopping and services, and the high frequency public transport route along Albert and Lawrence Street.

The development satisfies this Principle.

Principle 10: Aesthetics

Clause 18 (Principle 10: Aesthetics) stipulates that:

"Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the Desired Future Character of the area."



Comment:

The development provides a highly articulated built form, which includes the progressive setting back and separation of the upper floor levels, detailed façade fenestration to incorporate upper floor balconies, the use of subtle materials and finishes and the addition of the landscaped areas along the northern boundary of the site.

In this regard, the development is considered to incorporate an appropriate composition of building elements, textures, materials and colours to reflect the mixed-use nature, internal design and structure of the development and which achieves an appropriate urban form that is considered to relate favourably in both architectural scale and landscape treatment to neighbouring mixed-use and residential land uses. Notwithstanding, it is considered that the exterior wall finishes at ground level facing Albert Street could be enhanced by including a sandstone cladding to provide visual interest to the streetscape at street level. An appropriate condition is included in the Recommendation of this report to address this.

The development satisfies this Principle.

Residential Flat Design Code

The following table is a general consideration against the criteria of the 'Residential Flat Design Code' as required by SEPP 65.

as required by CE 17.00.

Primary Development Controls	Guideline	Consistent/Comments										
PART 01 LOCAL CONTEXT												
Floor space ratio	Where there is an existing floor space ratio (FSR), test height controls against it to ensure a good fit.	N/A Floor space ratios do not apply under WLEP 2011										
Building height	Test heights against the number of storeys and the minimum ceiling heights required for the desired building use.	Consistent Note: Despite the heights tested below, WLEP 2011 permits 11.0m/3storeys. This is discussed under WLEP 2000 in this report. Minimum heights: 1 x 3.3m floor to ceiling 2 x 2.7m floor-to-ceiling 3 x 0.3m concrete floor plates = 9.6m/3 x storeys Proposed: 5.4m to 11.4m/3 x storeys										
Building separation	Design and test building separation controls in plan and section. For buildings up to four storeys/12m: (a) 12m between habitable rooms/balconies; (b) 9.0m between habitable/balconies and non-habitable rooms; (c) 6.0m between non-habitable rooms. Note: The RFDC defines a habitable room as any room or area used for normal domestic activities, including living, dining, family, lounge, bedrooms, study, kitchen, sun room and play room	Consistent The tables below illustrate the areas of compliance with regards to building separation. The table below is used to show the separation between the proposed apartments and the existing dwellings on neighbouring residential properties to the north. Habitable rooms/balconies to habitable rooms <table> <tr> <td>Unit 101 to No. 18 Marmora St</td> <td>23m</td> </tr> <tr> <td>Unit 102 to No. 18 Marmora St</td> <td>23m</td> </tr> <tr> <td>Unit 102 to No. 20 Marmora St</td> <td>14m</td> </tr> <tr> <td>Unit 103 to No. 20 Marmora St</td> <td>13m</td> </tr> <tr> <td>Unit 104 to No. 20 Marmora St</td> <td>15m</td> </tr> </table>	Unit 101 to No. 18 Marmora St	23m	Unit 102 to No. 18 Marmora St	23m	Unit 102 to No. 20 Marmora St	14m	Unit 103 to No. 20 Marmora St	13m	Unit 104 to No. 20 Marmora St	15m
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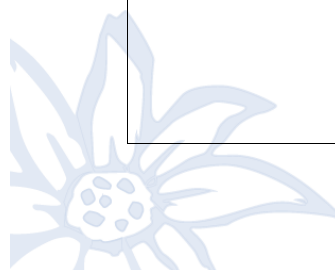
Primary Development Controls	Guideline	Consistent/Comments																				
		<table><tr><td>Unit 105 to No. 20 Marmora St</td><td>12m</td></tr><tr><td>Unit 106 to No. 22 Marmora St</td><td>17m</td></tr><tr><td>Unit 201 to No. 18 Marmora St (side view north)</td><td>26m</td></tr><tr><td>Unit 202 to No. 18 Marmora St (side view north)</td><td>26m</td></tr><tr><td>Unit 202 to No. 20 Marmora St (diagonal view north)</td><td>16m</td></tr><tr><td>Unit 203 to No. 20 Marmora St (side view north)</td><td>15m</td></tr><tr><td>Unit 204 to No. 22 Marmora St (facing north)</td><td>24m</td></tr><tr><td>Unit 205 to No. 22 Marmora St (facing north)</td><td>17m</td></tr><tr><td>Unit 205 to No. 28 Albert St (facing north)</td><td>22m</td></tr><tr><td>Unit 206 to No. 22 Marmora St (facing north-west)</td><td>19m</td></tr></table> <p>The development complies with the required maximum 12.0m separation between habitable rooms.</p>	Unit 105 to No. 20 Marmora St	12m	Unit 106 to No. 22 Marmora St	17m	Unit 201 to No. 18 Marmora St (side view north)	26m	Unit 202 to No. 18 Marmora St (side view north)	26m	Unit 202 to No. 20 Marmora St (diagonal view north)	16m	Unit 203 to No. 20 Marmora St (side view north)	15m	Unit 204 to No. 22 Marmora St (facing north)	24m	Unit 205 to No. 22 Marmora St (facing north)	17m	Unit 205 to No. 28 Albert St (facing north)	22m	Unit 206 to No. 22 Marmora St (facing north-west)	19m
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Street Setbacks	Identify the desired streetscape character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls.	Consistent Proposed setback – Nil to 5.0m Required setback – Nil to 5.0m																				
	Test street setbacks with building envelopes and street sections.	Consistent The third floor level is setback sufficiently from the primary and secondary street alignments to provide adequate vertical articulation. The layout of the development results in an vertical articulation which visually compliments the commercial character of the street section.																				
	Test controls for their impact on the scale, proportion and shape of building facades.	Consistent The development exhibits a reasonable level of articulation to all elevations which is in keeping with the relative scale, proportion and shape of the more contemporary building facades within the Freshwater Village (notably the 'Caville' building located at the corner of Lawrence Street and Albert Street and the recently approved development application DA2011/1361 for a mixed use building at Nos. 10 to 28 Lawrence Street). The development respects the existing topography of the site resulting in a gradual stepped-down development thereby permitting the maintenance of a three story scale at the street. The overall scale of the development is considered to be appropriate given the commercial character of the zone.																				
Side & Rear setbacks	Relate side setbacks to existing streetscape patterns.	Consistent The site is located within a commercial precinct which encourages zero setbacks. However, it is noted that the site abuts a residential area to the north of which the development provides a rear setback and treatments commensurate to the preservation of the amenity of neighbouring dwellings																				
Floor space ratio	Test the desired built form outcome against proposed floor space ratio to ensure consistency with building height-building footprint the three dimensional building envelope open space requirements.	N/A Floor space ratios do not apply under WLEP 2011																				

Primary Development Controls	Guideline	Consistent/Comments																																																
PART 02 SITE DESIGN																																																		
Deep soil zones	A minimum of 25% of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, Stormwater treatment measures must be integrated with the design of the residential flat building.	<p>Consistent</p> <p>The site is located within a heavily urbanised area where the site is built out the there is limited capacity for water infiltration.</p> <p>Notwithstanding, Council's Development Engineer has assessed the Development Application and does not raise any objection subject to conditions which are included in the Recommendation of this report.</p>																																																
Open Space	The area of communal open space required should generally be at least between 25% and 30% of the site area. Larger sites and brownfield sites may have potential for more than 30%.	<p>N/A</p> <p>The development does not include any communal open space due to the limitations of the site area and the mixed-use nature of the development.</p>																																																
	Where developments are unable to achieve the recommended communal open space, such as those in dense urban areas, they must demonstrate that residential amenity is provided in the form of increased private open space and/or in a contribution to public open space.	<p>Consistent</p> <p>The development provides the following areas of private open space.</p> <table><tr><th>Apartment</th><th>POS Area</th></tr><tr><td>101</td><td>43.4m²</td></tr><tr><td>102</td><td>43.4m²</td></tr><tr><td>103</td><td>43.4m²</td></tr><tr><td>104</td><td>18.3m²</td></tr><tr><td>105</td><td>34.2m²</td></tr><tr><td>106</td><td>33.4m²</td></tr><tr><td>107</td><td>21.1m²</td></tr><tr><td>108</td><td>16.3m²</td></tr><tr><td>109</td><td>18.3m²</td></tr><tr><td>110</td><td>25.1m²</td></tr><tr><td>111</td><td>40.8m²</td></tr><tr><td>112</td><td>19.1m²</td></tr><tr><td>201</td><td>10.2m²</td></tr><tr><td>202</td><td>10.2m²</td></tr><tr><td>203</td><td>10.2m²</td></tr><tr><td>204</td><td>10.0m²</td></tr><tr><td>205</td><td>10.0m²</td></tr><tr><td>206</td><td>46.0m²</td></tr><tr><td>207</td><td>54.6m²</td></tr><tr><td>208</td><td>44.6m²</td></tr><tr><td>209</td><td>42.0m²</td></tr><tr><td>210</td><td>11.4m²</td></tr><tr><td>211</td><td>11.4m²</td></tr></table> <p>All apartments comply or exceed the private open space requirements under D2 'Private open space' of the WDCP.</p>	Apartment	POS Area	101	43.4m ²	102	43.4m ²	103	43.4m ²	104	18.3m ²	105	34.2m ²	106	33.4m ²	107	21.1m ²	108	16.3m ²	109	18.3m ²	110	25.1m ²	111	40.8m ²	112	19.1m ²	201	10.2m ²	202	10.2m ²	203	10.2m ²	204	10.0m ²	205	10.0m ²	206	46.0m ²	207	54.6m ²	208	44.6m ²	209	42.0m ²	210	11.4m ²	211	11.4m ²
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	The minimum recommended area of private open space for each apartment at ground level or similar space on a	<p>N/A</p> <p>All apartments are located above ground.</p>																																																

Primary Development Controls	Guideline	Consistent/Comments
	structure, such as on a podium or car park, is 25m ² ; the minimum preferred dimension in one direction is 4.0m. (see 'Balconies' for other private open space requirements).	
Planting on structures	<p>In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity. The following are recommended as minimum standards for a range of plant sizes:</p> <ul style="list-style-type: none"> • Large trees such as figs (canopy diameter of up to 16m at maturity) - minimum soil volume 150m³ - minimum soil depth 1.3m - minimum soil area 10m x 10m area or equivalent. • Medium trees (8.0m canopy diameter at maturity) - minimum soil volume 35m³ - minimum soil depth 1.0m - approximate soil area 6.0m x 6.0m or equivalent. • Small trees (4.0m canopy diameter at maturity) - minimum soil volume 9.0m³ - minimum soil depth 800mm - approximate soil area 3.5m x 3.5m or equivalent. • Shrubs - minimum soil depths 500-600mm • Ground cover - minimum soil depths 300-450mm • Turf- minimum soil depths 100-300mm • any subsurface drainage requirements are in addition to the minimum soil depths quoted above. 	<p>Consistent</p> <p>The rear landscaped planter boxes will have a minimum soil depth of 1.0m which will permit the planting of ground cover and shrubs. The landscaped area located within the north-eastern corner of the site has an unrestricted depth which will permit the planting of ground cover, shrubs and a large tree.</p> <p>The landscape plan submitted with application (see Plan No. L01 dated 25 September 2012 as prepared by Habitation) confirms that planting will occur in accordance with this requirement.</p>
Safety	Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.	<p>Consistent</p> <p>Refer to Clause 7 - 'Safety and Security' under Warringah Development Control Plan in this report for a discussion of CPTED</p>
Visual amenity	Refer to Building Separation minimum standards.	<p>Consistent</p> <p>The development is vertically and horizontally articulated through its use of the site configuration and sloping topography to guide the built form.</p> <p>Additionally, in conjunction with the above articulation, the development exhibits an acceptable degree of separation between neighbouring residential buildings to the north.</p>
Pedestrian access	Identify the access requirements from the street or car parking area to the apartment entrance.	<p>Consistent</p> <p>The development provides level pedestrian access throughout the property from the lift lobby on Albert Street, and from the basement car parking area.</p>
	Follow the accessibility standard set out in AS 1428 (parts 1 and 2), as a minimum.	<p>Consistent</p> <p>Conditions will be imposed which require compliance with AS 1428.2 – 1992 'Design for Access and Mobility and the recommendations included within the Access Report</p>

Primary Development Controls	Guideline	Consistent/Comments																				
	Provide barrier free access to at least 20% of dwellings in the development.	Consistent 100% of apartments have barrier free access via a lift and bridges to all floors.																				
Vehicle access	Generally limit the width of driveways to a maximum of 6.0m.	Consistent The development provides a driveway with a width of 8.0m which is considered to be appropriate in providing safe vehicle access/egress for both customer and delivery vehicles and pedestrian sightlines.																				
	Locate vehicle entries away from main pedestrian entries and on secondary frontage	Consistent This matter has been discussed elsewhere in this report (refer to Public Exhibition). The development proposes to locate the primary vehicle entry/exit point on Albert Street which is at the eastern extreme of the main pedestrian thoroughfare of the Village commercial area. The location of the driveway is considered to be the only viable option due to the relative level of the access point to the basement car parking and loading dock levels, the available sightline lengths, the shallow slope of the roadway and the minimal impact upon the residential area to the north of the site.																				
PART 03 BUILDING DESIGN																						
Building depth	The back of a kitchen should be no more than 8.0m from a window for a single aspect apartment.	Inconsistent The development includes the following apartment depths to single aspect apartments only:																				
		<table><tr><th>Apartment</th><th>Depth</th></tr><tr><td>102</td><td>8.5m</td></tr><tr><td>104</td><td>4.2m</td></tr><tr><td>107</td><td>9.5m</td></tr><tr><td>108</td><td>9.0m</td></tr><tr><td>109</td><td>8.5m</td></tr><tr><td>112</td><td>7.5m</td></tr><tr><td>202</td><td>7.8m</td></tr><tr><td>204</td><td>4.2m</td></tr><tr><td>207</td><td>7.4m</td></tr><tr><td>211</td><td>7.5m</td></tr></table> The depths of Units 102, 107, 108, and 109 are variations which are not considered to have any unreasonable impact upon the amenity of the respective dwelling, given that they each provide sufficient access to sunlight and ventilation.	Apartment	Depth	102	8.5m	104	4.2m	107	9.5m	108	9.0m	109	8.5m	112	7.5m	202	7.8m	204	4.2m	207	7.4m
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202	7.8m																					
204	4.2m																					
207	7.4m																					
211	7.5m																					
Balconies	Provide primary balconies for all apartments with a minimum depth of 2.0m. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions.	Consistent The development includes the following balcony provision:																				
		<table><tr><th>Apartment</th><th>Balcony Depth</th></tr><tr><td>101</td><td>3.4m - 5.4m</td></tr><tr><td>012</td><td>3.4m - 5.4m</td></tr><tr><td>103</td><td>3.4m - 5.4m</td></tr></table>	Apartment	Balcony Depth	101	3.4m - 5.4m	012	3.4m - 5.4m	103	3.4m - 5.4m												
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Primary Development Controls	Guideline	Consistent/Comments																																									
	Provide scale plans of balcony with furniture layout to confirm adequate, useable space when an alternate balcony depth is proposed.	<table><tr><td>104</td><td>1.8m - 4.9m</td></tr><tr><td>105</td><td>3.0m - 5.3m</td></tr><tr><td>106</td><td>2.0m - 3.6m</td></tr><tr><td>107</td><td>3.4m</td></tr><tr><td>108</td><td>3.4m</td></tr><tr><td>109</td><td>3.4m</td></tr><tr><td>110</td><td>2.8m - 3.5m</td></tr><tr><td>111</td><td>3.8m</td></tr><tr><td>112</td><td>3.8m</td></tr><tr><td>201</td><td>2.5m - 3.4m</td></tr><tr><td>202</td><td>2.5m - 3.4m</td></tr><tr><td>203</td><td>2.5m - 3.4m</td></tr><tr><td>204</td><td>1.6m - 2.8m</td></tr><tr><td>205</td><td>1.6m - 2.8m</td></tr><tr><td>206</td><td>5.1m</td></tr><tr><td>207</td><td>4.3m - 4.6m</td></tr><tr><td>208</td><td>4.1m</td></tr><tr><td>209</td><td>4.1m</td></tr><tr><td>210</td><td>3.0m</td></tr><tr><td>211</td><td>3.0m</td></tr></table>	104	1.8m - 4.9m	105	3.0m - 5.3m	106	2.0m - 3.6m	107	3.4m	108	3.4m	109	3.4m	110	2.8m - 3.5m	111	3.8m	112	3.8m	201	2.5m - 3.4m	202	2.5m - 3.4m	203	2.5m - 3.4m	204	1.6m - 2.8m	205	1.6m - 2.8m	206	5.1m	207	4.3m - 4.6m	208	4.1m	209	4.1m	210	3.0m	211	3.0m	<p>The depths of the balconies to Units 104, 204 and 205 are variations which are not considered to have any unreasonable impact upon the amenity of the respective apartment, given that they achieve an average depth of 2.2m (Units 204 and 205) and 3.3m (Unit 104) and enable sufficient access to sunlight and ventilation.</p>
104	1.8m - 4.9m																																										
105	3.0m - 5.3m																																										
106	2.0m - 3.6m																																										
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Ceiling heights	<p>The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL). These are minimums only and do not preclude higher ceilings, if desired.</p> <ul style="list-style-type: none">• in mixed use buildings: 3.3m minimum for ground floor retail or commercial and for first floor residential, retail or commercial to promote future flexibility of use• in residential flat buildings in mixed use areas: 3.3m minimum for ground floor to promote future flexibility of use in residential flat buildings or other residential floors in mixed use buildings• in general, 2.7m minimum for all habitable rooms on all floors, 2.4m is the preferred minimum for all non-habitable rooms, however 2.25m is permitted.• for two storey units, 2.4m minimum for second storey if 50 percent or more of the minimum wall height at edge	<p>Consistent</p> <p>The development consists of mixed uses with retail uses on the below ground floor and ground floor levels. These retail spaces have floor-to-ceiling heights of 3.7m.</p> <p>All apartments achieve floor-to-ceiling heights of between 2.7m and 2.8m.</p>																																									



Primary Development Controls	Guideline	Consistent/Comments
	<ul style="list-style-type: none"> for two-storey units with a two storey void space, 2.4m minimum ceiling heights attic spaces, 1.5 metre minimum wall height at edge of room with a 30 degree minimum - ceiling slope. 	
Ground Floor Apartments	Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.	N/A No apartments are located on the ground floor
	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	N/A No apartments are located on the ground floor
Storage	<p>In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <ul style="list-style-type: none"> studio apartments 6.0m³ one-bedroom apartments 6.0m³ two-bedroom apartments 8.0m³ three plus bedroom apartments 10m³ 	<p>Consistent</p> <p>1 bedroom – 12 x 6.0m³ = 72m³ 2 bedroom – 9 x 8.0m³ = 72m³ 3 bedroom – 2 x 10m³ = 20m³ Total storage required = 164m³ Total storage provided = 166.6m³ Note: All storage is located within the basement car parking areas.</p>
Building Amenity		
Daylight Access	Living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9am and 3pm in mid-winter. In dense urban areas a minimum of two hours may be acceptable.	Consistent The site is located within a dense urban area and approximately 19 (82.6%) apartments achieve a minimum of 2 hours direct sunlight between 9am and 3pm in mid-winter.
	<p>Limit the number of single-aspect apartments with a southerly aspect (SWSE) to a maximum of 10% of the total units proposed.</p> <p>Note: The RFDC does not define single-aspect apartments but does define dual aspect apartments as having at least two major external walls facing in different directions, including corner, cross over and cross through apartments.</p>	Consistent The development provides 2 (8.6%) apartments (ie: Unit Nos. 108 and 109) which are single aspect with a southerly outlook.
Natural Ventilation	Building depths, which support natural ventilation typically range from 10m to 18m.	Consistent All apartments achieve a depth of between 7.1m to 15.9m.
	Sixty percent (60%) of residential units should be naturally cross ventilated.	Consistent The development provides 19 (82.6%) flow-through apartments which facilitate natural cross ventilation.
Building Performance		
Waste management	Supply waste management plans as part of the development application submission as per the NSW Waste Board.	<p>Consistent</p> <p>A Waste Management Plan has been provided as part of the application.</p> <p>Notwithstanding, appropriate conditions have been included in the Recommendation of this report which requires the development to comply with Council's Policy No. PL 850-Waste.</p>

Primary Development Controls	Guideline	Consistent/Comments
Water conservation	Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos- cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	Consistent Subject to condition. The development provides for normal guttering. No lead or bitumen-based paints will be permitted.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 442333M dated 9 October 2012). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 1004184402 dated 5 October 2012).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	42
Thermal Comfort	Pass	Target Pass
Energy	35	35

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

State Environmental Planning Policy (Infrastructure) 2007

Ausgrid

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

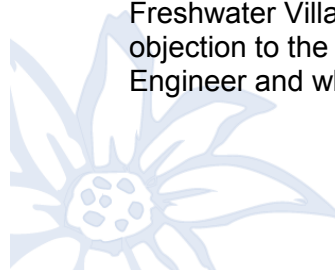
- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists),
- immediately adjacent to an electricity substation,
- within 5m of an overhead power line,
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line.

The application was referred to Ausgrid for comment. However, no response has been received within the required 21 day time period and it is assumed that Ausgrid do not raise any objection and do not wish to impose any conditions.

Roads and Maritime Service (RMS)

With regards to requirements of Clause 104(2)(b) of the SEPP, the development does not have direct access to a classified road nor does the development connect to a road that is within 90m of a classified road. In this regard, the SEPP does not apply and does not require referral to the RMS.

Notwithstanding, it was considered appropriate to refer the application to the RMS for their consideration and comment given the nature of the development and its location within the Freshwater Village. The RMS, in their written response dated 27 November 2012, do not raise any objection to the proposal subject to recommendations which are concurred with by Council's Traffic Engineer and which have been included as conditions within the Recommendation of this report.



WARRINGAH LOCAL ENVIRONMENT PLAN 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size:	N/A	N/A	N/A	N/A
Height of Buildings:	11.0m	10.4m to 12.3m	11.8%	No
Rural Subdivision:	N/A	N/A	N/A	N/A
No. Strata Plan or Community Title Subdivisions in certain rural and environmental zones:	N/A	N/A	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements
Part 2 Permitted or prohibited development	
2.7 Demolition requires consent	Yes
Land Use Table	Yes
Part 4 Principal development standards	
4.3 Height of buildings	No (see Clause 4.6 below)
4.6 Exceptions to development standards	Yes
Part 6 Additional Local Provisions	
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone B2 Local Centre

Proposed Use (refer to note below table)	Permitted or Prohibited
Commercial Premises <u>Retail Premises</u> <ul style="list-style-type: none"> • Shop • Food and Drink Premises <ul style="list-style-type: none"> Restaurant/Café Take Away Food and Drink Premises Business Premises Office Premises	Permitted with consent
Residential Accommodation <ul style="list-style-type: none"> • Shop Top Housing 	Permitted with consent

Note: For the purposes of clarification, the Dictionary of WLEP 2011 defines the above uses as follows:

Commercial Premises

Shop means “premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop, but does not include food and drink premises or restricted premises.”

Food and Drink Premises means “premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) *a restaurant or café means “a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, takeaway meals and drinks or entertainment are also provided”.*
- (b) *a take away food and drink premises means “premises that are predominantly used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises”.*
- (c) *a pub means “licensed premises under the Liquor Act 2007 the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises”.*

Business Premises’ means a “building or place at or on which:

- (a) *an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or*
- (b) *a service is provided directly to members of the public on a regular basis,*

and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.”

Office Premises means “a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used”.

Residential Accommodation

Shop Top Housing means “one or more dwellings located above ground floor retail premises or business premises”.

4.6 Exceptions to development standards

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard and is assessed taking into consideration the questions established in 'Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46'.

Requirement:	11.0m
Proposed:	10.4m to 12.3m
Is the planning control in question a development standard?	Yes
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	11.8%

The proposal must satisfy the objectives of Clause 4.3 – Height of Buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the WLEP 2011. The assessment is detailed as follows:

Is the planning control in question a development standard?

The prescribed Height of buildings limitation pursuant to Clause 4.3 of the WLEP 2011 is a development standard.

What are the underlying objectives of the development standard?

The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of Buildings’ of the WLEP 2011 are:

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

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

Comment:

The development achieves visual consistency with the heights of the commercial buildings to the south and east (most notably the mixed-use buildings at No. 8 Lawrence Street (the 'Caville' building), No. 1 - 3 Moore Road ('Freshwater Village Plaza') and with the recently approved mixed-use development at No. 10 - 28 Lawrence Street). Furthermore, it is noted that the non-compliant building height occurs only at the four (4) recessed skylights and not at the overall roof-line.

In this respect, the development achieves overall compliance with the Development Standard and provides, together with the significant building separation along the northern side, an appropriate transition between the B2 Local Centre zone and the neighbouring residential zone.

It is considered that the development satisfies this objective.

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

Comment:

Visual impact

The development has been designed to present as a mixed use commercial/residential building from Albert Street, which is consistent with the objectives of the B2 Local Centre zone.

By stepping the building to the topography, the inclusion of balconies, the progressive setting back of the upper-most residential storey and the incorporation of a muted schedule of colours and finishes, it is considered that the development achieves an appropriate level of horizontal and vertical articulation which contributes towards minimising its visual impact on the streetscape of Albert Street.

Similarly, and as noted above under 1(a), the development has been designed to provide an appropriate transition between the Village and the neighbouring residential zone.

Privacy

The balconies of the residential elements of the development are setback from the northern boundary by 4.8m to 7.2m and by 12m to 26m from the proposed balconies to the rear wall of the dwellings along Marmora Street.

The terrace areas to the north-facing units on Level 1 include landscaped planter boxes located adjacent to the northern boundary line while the balconies to the units on Level 2 are off-set to the northern boundary line and include privacy screens to minimise overlooking.

Given the proposed setbacks and provision of the landscaped buffer and screening, It is considered that the development does not present unreasonable overlooking opportunities into the neighbouring residential properties along Marmora Street.

Solar Access

The shadow diagrams provided by the applicant indicate that the development will not result in any overshadowing across the neighbouring residential properties to the north.

It is considered that the development satisfies this objective.



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

Comment:

The site is not located within visual proximity to a coastal or bush environment such that it would have an adverse impact.

It is considered that the development satisfies this objective.

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

Comment:

Although not readily visible from any parks and reserves, the development is visible from the public domains of Albert Street, Moore Road and from the paved pedestrian area opposite the site on Albert Street (the 'Freshwater Village Plaza').

Through the incorporation of effective architectural articulation and the sensitive application of muted colours and finishes, the development has been designed to visually relate to its surrounding urban environment. Notwithstanding, it is considered that the ground floor facade treatment along Albert Street could be further improved by the inclusion of stone finishing to all street facing wall surfaces. This is included as a condition within the Recommendation of this report.

It is considered that the development satisfies this objective.

What are the underlying objectives of the zone?

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the B2 Local Centre zone.

- *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 development includes a range of premise sizes available for retail use which, because of the centralised and accessible location within the Freshwater Village, will serve the needs of people who live in, work in and visit the local area.

It is considered that the development satisfies this objective.

- *To encourage employment opportunities in accessible locations.*

Comment:

Currently the site accommodates 1,085m² of retail uses which comprise of the following:

Use	Existing Floor Area (GFA)	Proposed Floor Area (GFA)	Difference (+/-)
Shop (Growers Market & Bakery)	1,085m ²	1,195m ²	+110m ²

As can be seen in the above table, the development will provide approximately 1,195m² of retail floor space which represents an overall increase of approximately 10% above the current provision.



Given the increase in retail floor space and the accessibility of the location, which is serviced by regular public transport, it is considered that the development will encourage additional employment opportunities within the B2 Local Centre zone than what is currently available. It is considered that the development satisfies this objective.

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

Comment:

Freshwater Village is limited in available public and private non-residential car parking which could serve to encourage patrons of the Village to use alternative means of transport, including walking and cycling.

The site is located in close proximity to bus stops which service high frequency Sydney Bus routes running through the Village via the main thoroughfares of Lawrence Street and Albert Street. Whilst the development will improve upon the afore-mentioned deficiency of public and private non-residential car parking by providing an additional 28 non-residential car parking spaces (ie: 88 spaces minus 31 residential & visitor spaces minus the 29 spaces currently available on the site) it will also increase the residential and non-residential population of the Village area which could, in turn, increase public transport patronage, particularly commuters to the Sydney CBD, and walking/cycling to the nearby beaches of Freshwater and nearby Queenscliff.

It is considered that the development satisfies this objective.

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

Comment:

With regards to pedestrian safety, the development proposes to remove an existing crossover and introduce a new crossover over a main pedestrian thoroughfare onto Albert Street which will provide vehicular access/egress to the development.

The development is to be conditioned to include the following features which are intended to maintain a safe environment for pedestrians using this part of Albert Street:

- The provision of a speed hump situated within the driveway prior to the crossover; and
- The provision of sightline splays with low level landscaping at the intersection of the driveway and footpath in accordance with AS 2890.1-2004 'Parking Facilities – Off Street Car Parking' to ensure that good sight distance is maintained.

With regards to pedestrian comfort and interest, the development provides an appropriate level of articulation and activation at street level through the provision of a pedestrian mall.

It is considered that the development satisfies this objective.

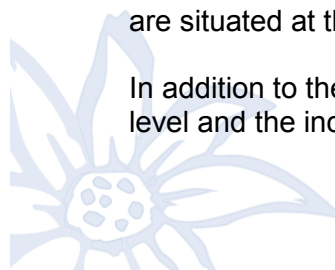
- *To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.*

Comment:

The development has been designed to respond to the topography of the site which slopes downwards in a diagonal direction from the south-western corner to the north-eastern corner by stepping down Albert Street.

The proposed building heights are generally compliant with the Height of Buildings Development Standard under WLEP 2011, with exception to minor encroachments in the overall height which are situated at the roof mounted skylights.

In addition to the above, the development includes a setting back of the upper-most residential level and the incorporation of a muted schedule of colours and finishes.



The combination of the above features results in a development which achieves an appropriate urban form that is considered to relate favourably in both architectural scale and landscape treatment to neighbouring mixed-use and residential land uses.

It is considered that the development satisfies this objective.

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

Comment:

Impact on the neighbouring residential zone to the north has already been discussed above and, in summary, it is considered that the development will not have any significant adverse visual privacy or overshadowing impact.

It is considered that the development satisfies this objective.

Given the above considerations, the proposal is considered to be consistent with the objectives of both Clause 4.3 - Height of Buildings and the B2 Local Centre zone of Warringah Local Environmental Plan 2011.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the WLEP 2011?

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.*

In this regard, sub-clause 4.6(4) requires that 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*

Comment:

The applicant has provided commentary within the Statement of Environmental Effects which adequately addresses the proposed variation to the Building Height under Clause 4.6 of WLEP 2011.

- (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:

It has been found that the development is in the public interest as it achieves consistency with the Objectives of the B2 Local Centre zone and the Objectives of the Height of Buildings Development Standard.

- (b) *the concurrence of the Director-General has been obtained*

Comment:

Planning Circular PS 08-003 dated 9 May 2008, as issued by the NSW Department of Planning, advises that the concurrence of the Director-General 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 Director-General for the variation to the Height of buildings Development Standard is assumed.



WARRINGAH DEVELOPMENT CONTROL PLAN

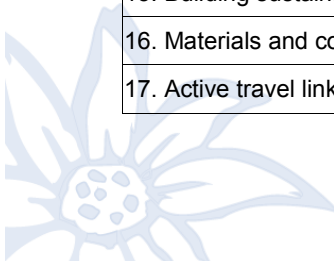
Built Form Controls

Numerical Special Area Controls (as applicable under G5 - Freshwater Village)	Requirement	Proposed	% Variation	Complies
1. Built Form in Freshwater R4 - Separation of Retail Entries (Maximum) R4 - Retail Floor to Ceiling Height (Minimum) R5 - Residential Floor to Ceiling (Minimum)	10.0m 3.3m 2.7m	Nil to 5.2m 3.7m 2.7m	N/A N/A N/A	Yes Yes Yes
2. Number of storeys	3	3	N/A	Yes
4. Street Facades and Shopfront Design R2 - Length of shopfronts (Maximum unless broken into smaller vertical elements)	5.0m to 10.0m	6.0m to 6.8m	N/A	Yes
9. Awnings R3 - Height to the Underside of Awnings above Footpath (Minimum) R8 - Setback of Awnings from Kerb (Generally)	3.2m 0.6m	3.6m to 4.4m Nil to 3.2m	N/A Part 100%	Yes No
10. Front Setback R1 - Ground Floor R1 - Level 1 (Second Storey) R2 - Level 2 (Third Storey) (Minimum)	Nil Nil 5.0m	Nil Nil 3.7m to 5.0m	N/A N/A N/A	Yes Yes No
11. Side and Rear Setbacks R1 - <i>To Residential (North)</i> - Basement (Basement Levels 1 and 2) (Minimum) - Ground Floor (Minimum) - Level 1 (Minimum) - Level 2 (Minimum)	2.0m 2.0m 2.0m 2.0m	Nil Nil to 6.0m 5.4m to 7.2m 4.8m to 6.0m	100% Part 100% N/A N/A	No No Yes Yes
12. Other Side and Rear Setbacks R1 - <i>To Commercial (West)</i> - Basement (Basement levels 1 and 2) - Ground Floor - Level 1 - Level 2 <i>To Commercial (South - Bendigo Bank)</i> - Basement (Basement Levels 1 and 2) - Ground Floor - Level 1 - Level 2	Merit Merit Merit Merit Merit Merit Merit Merit	Nil Nil 3.2m to 6.0m 3.2m to 6.0m Nil Nil Nil to 3.0m Nil to 3.0m	N/A N/A N/A N/A N/A N/A N/A N/A	Yes Yes Yes Yes Yes Yes Yes Yes
14. Building Massing R2 - Length of Buildings without Separate Cores and Entry Points (Maximum)	20.0m	N/A	N/A	N/A

Compliance Assessment

Clause (as relevant)	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
Part B Built Form Controls	N/A	N/A
Part C Siting Factors		
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes

Clause (as relevant)	Compliance with Requirements	Consistency Aims/Objectives
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Mixed Use Premises (Residential/Non-Residential)	Yes	Yes
Part D Design		
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D23 Signs	N/A	N/A
Part E The Natural Environment		
E1 Private Property Tree Management	Yes	Yes
E10 Landslip Risk	Yes	Yes
Part F Zones and Sensitive Areas		
F1 Local and Neighbourhood Retail Centres	Yes	Yes
G5 Freshwater Village		
1. Built form in Freshwater	Yes	Yes
2. Number of storeys	Yes	Yes
3. Street activation	Yes	Yes
4. Street facades and shopfront design	Yes	Yes
5. Access and loading	Yes	Yes
6. Lighting	Yes	Yes
7. Safety and security	Yes	Yes
8. Signage	N/A	N/A
9. Awnings	No	Yes
10. Front setback	No	Yes
11. Side and rear setbacks	No	Yes
12. Other side and rear setbacks	Yes	Yes
13. Roofs and building form	Yes	Yes
14. Building massing	Yes	Yes
15. Building sustainability	Yes	Yes
16. Materials and colours	Yes	Yes
17. Active travel links	Yes	Yes



Clause (as relevant)	Compliance with Requirements	Consistency Aims/Objectives
Part H Appendices		
Appendix 1: Car Parking Requirements	Yes	Yes

Detailed Assessment

Part B Built Form Controls

The Built Form Controls under Part B of WDCP do not apply as the site is located within the G5 Freshwater Village and is covered by the Controls contained under the Freshwater Village Development Control Plan. Refer to the section addressing 'G5 - Freshwater Village' in this report.

The following provides an assessment of the consistency of various key clauses against the relevant Requirements of the WDCP which are considered to warrant further discussion.

Part C Siting Factors

C3 Parking Facilities

The objectives of Clause C3 - 'Parking Facilities' seeks to have development:

- *provide adequate off street carparking;*
- *site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place; and*
- *ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

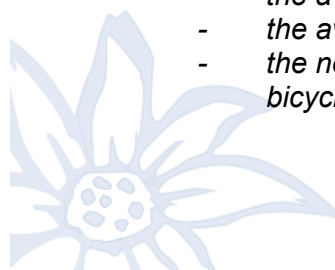
Consistency with the requirements of the Clause are assessed as follows:

- *The following design principles shall be met:*
 - *Garage doors and carports are to be integrated into the house design and to not dominate the façade. Parking is to be located within buildings or on site.;*
 - *Laneways are to be used to provide rear access to carparking areas where possible;*
 - *Carparking is to be provided partly or fully underground for apartment buildings and other large scale developments;*
 - *Parking is to be located so that views of the street from front windows are not obscured; and*
 - *Where garages and carports face the street, ensure that the garage or carport opening does not exceed 6 metres or 50% of the building width, whichever is the lesser.*

Comment:

The car parking for the development is entirely located below ground. Access to the car park is gained via a 8.0m wide driveway located at the north-eastern corner of the site.

- *Off street parking is to be provided within the property demonstrating that the following matters have been taken into account:*
 - *the land use;*
 - *the hours of operation;*
 - *the availability of public transport;*
 - *the availability of alternative car parking; and*
 - *the need for parking facilities for courier vehicles, delivery / service vehicles and bicycles.*



Comment:

The provision of off-street car parking has been found to be commensurate with the car parking requirements of Appendix 1 under the DCP for the various land uses within the development. and results in a surplus of +1 parking space.

Given the mixed-use nature of the development, the car parking will operate for 24 hours to service the residential component. However, commercial car parking will only operate during the approved operating hours of the various retail premises. Given that the car parking provision of the development complies with the requirement under Appendix 1 of the DCP, there will be no requirement for a reciprocal car parking arrangement.

The site, being located within the commercial centre of Freshwater Village, is serviced by a frequent public transport route which runs along Lawrence Street in both an eastern and western direction.

With regards to the availability of alternative car parking, Freshwater Village is well serviced by both public and private customer car parking. Two public car parking areas are located within the locality and provide a total of 56 spaces. This together with available timed on-street car parking equates to approximately 90 spaces. Private customer parking is currently provided at the subject site (29 spaces), at the Freshwater Village Plaza (87 spaces) and at No. 10 Lawrence Street (18 spaces).

Parking for courier vehicles and delivery/service vehicles is located within the loading dock located at the rear of the development.

- *Carparking, other than for individual dwellings, shall :*
 - *Avoid the use of mechanical car stacking spaces;*
 - *Not be readily apparent from public spaces;*
 - *Provide safe and convenient pedestrian and traffic movement;*
 - *Include adequate provision for manoeuvring and convenient access to individual spaces;*
 - *Enable vehicles to enter and leave the site in a forward direction;*
 - *Incorporate unobstructed access to visitor parking spaces;*
 - *Be landscaped to shade parked vehicles, screen them from public view, assist in micro-climate management and create attractive and pleasant places;*
 - *Provide on site detention of stormwater, where appropriate; and*
 - *Minimum car parking dimensions are to be in accordance with AS/NZS 2890.1.*

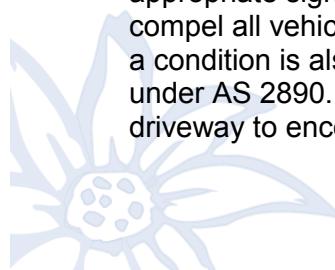
Comment:

The commercial car park does not include mechanical car stacking spaces. However, it is noted that four (4) commercial car parking spaces located within the north-eastern corner of Basement level 1 (adjacent to the entrance) are arranged in a tandem situation. This arrangement is considered to be suitable for tenant/staff parking only and a condition is included in the Recommendation of this report to this effect.

As noted above, the car park is located below ground and is therefore not visible from the public domain.

With regards to safe and convenient pedestrian and traffic movement, an examination of the plans indicates that the development will replace the three (3) existing crossovers into the growers market car park and loading dock with one (1) crossover located at the north-eastern corner of the site which services both the proposed basement car park and new loading dock. This reduction in the number of vehicle crossovers will facilitate pedestrian flow along Albert Street into Lawrence Street and reduce the potential for vehicle/pedestrian conflict.

Notwithstanding, a condition is included in the Recommendation of this report which requires that appropriate sign(s) are provided and maintained within the site at the point of vehicular egress to compel all vehicles to come to a complete stop before proceeding onto the public way. Additionally, a condition is also included which requires the installation of a Type 2 speed hump as prescribed under AS 2890.1: 2004 - 'Parking Facilities' to be located 3.0m within the egress side of the driveway to encourage vehicles to slow on approach to the crossover



- *Carparking is to be provided in accordance with Appendix 1 which details the rate of car parking for various land uses. Where the carparking rate is not specified in Appendix 1 or the WLEP, carparking must be adequate for the development having regard to the objectives and requirements of this clause. The rates specified in the Roads and Traffic Authority's Guide to Traffic Generating Development should be used as a guide where relevant.*

Comment:

This matter is discussed in detail under Appendix 1 - 'Car Parking Requirements' in this Report. In summary, the car parking provision for the development has been found to comply with the requirements of Appendix 1 with exception to a technical variation to the rate applied to the fruit market (which would normally be described as a shop use with a parking rate of 6.1 spaces per 100m² GLFA). In this regard, Council's Traffic Engineer was of the opinion that the alternative rate of 4.2 spaces per 100m² of GLFA, as suggested by the applicant's traffic engineer and as applied by the Roads and Maritime Services (RMS) 'Guide to Traffic Generating Developments', is appropriate where markets are incorporated into larger developments such as this proposal. Additionally, it was also noted in the assessment that the interpretation of Gross Leasable Floor Area (as applied under the car parking requirements for a typical shop use) by the applicant's traffic engineer was incorrect and overstated the car parking requirement. An assessment of the proposal applying the correct interpretation and the above-mentioned car parking rate for the fruit market, revealed that the development provided a surplus in on-site car parking.

- *Adequate provision for staff, customer and courier parking, and parking and turning of vehicles with trailers must be provided if appropriate to the land use.*

Comment:

As noted above and under Appendix 1 in this report, the on-site car park provision has been found to comply with the requirements of the DCP. Of the required car parking, the development has been found to provide adequate provision for staff, customer and courier parking (in the loading dock), and parking and turning of vehicles in accordance with the aisle width requirements under AS 2890.1 'Parking Facilities Part 1: Off-Street Car Parking'. Unlike bulky goods premises, the normal retail uses within the development are small scale and do not require the use of trailers.

- *For bulky goods premises adequate on-site parking spaces for service/delivery vehicles at a convenient location, separated from customer parking must be provided.*

Comment:

The development does not include a bulky goods premises.

- *Where appropriate, car parking which meets the needs of people with physical disabilities must be provided in accordance with the relevant Australian Standard.*

Comment:

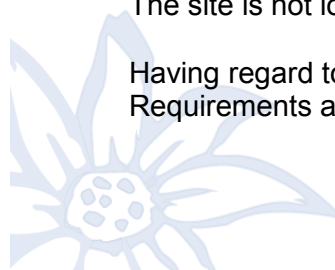
The Access Report submitted with the Development Application notes that the three (3) accessible retail car spaces represents 5.2% of the total retail car parking provision and satisfies the minimum 2% required by the Building Code of Australia (ie: 1 space for every 50 car parking spaces or part thereof) for a Class 6 building. The Report also confirms that the parking spaces are compliant with the requirements of AS 2890.6 'Parking Facilities – Part 6: Off-Street Parking for People with Disabilities'. The recommendations made in the Access Report are included as a condition within the Recommendation of this report.

- *For Forest Way Village car parking at ground level is to be provided for individual units.*

Comment:

The site is not located within or near to Forest Way Village.

Having regard to the above assessment, it is concluded that the development is consistent with the Requirements and Objectives of this Clause.



Part D Design

D2 Private Open Space

The objectives of Clause D2 - 'Private Open Space' seeks to:

- *ensure that all residential development is provided with functional, well located areas of private open space;*
- *ensure that private open space is integrated with, and directly accessible from, the living area of dwellings;*
- *minimise any adverse impact of private open space on adjoining buildings and their associated private open spaces; and*
- *ensure that private open space receives sufficient solar access and privacy.*

Consistency with the requirements of the Clause are assessed as follows:

- *Residential development is to include private open space for each dwelling.*

Comment:

The minimum area and dimensions of private open space are as follows:

Dwelling Type	Area and Minimum Dimensions per Dwelling
Dwelling houses (including dual occupancy) and attached dwellings with 1 or 2 bedrooms	A total of 35m ² with minimum dimensions of 3 metres
Dwelling houses (including dual occupancy) and attached dwellings with 3 or more bedrooms	A total of 60m ² with minimum dimensions of 5 metres
Multi dwelling housing (not located at ground level); residential flat buildings and shop top housing	A total of 10m ² with minimum dimensions of 2.5 metres

Comment:

The development has been found to comply with the minimum area and dimension requirements for multi-dwelling housing with exception to a minor variation to the minimum dimension to the balconies of Units 104, 204 and 205 which, because of the shape of the balconies, achieves a minimum dimension of 1.8m. However, it is noted that this minimum dimension occurs within a relatively small area with each balcony achieving an average depth of 2.2m (Units 204 and 205) and 3.3m (Unit 104) and enable sufficient access to sunlight and ventilation.

- *Private open space is to be directly accessible from a living area of a dwelling and be capable of serving as an extension of the dwelling for relaxation, dining, entertainment, recreation and children's play.*

Comment:

The private open space areas to all apartments are directly accessed off the living or dining areas of the apartments. The living and dining areas of the apartments are considered to be areas of high usage. The proximity of these rooms to the private open space areas allows for them to be used as an extension of each apartment for relaxation, dining, entertainment and recreation.

- *Private open space is to be located and designed to ensure privacy of the occupants of adjacent buildings and occupants of the proposed development.*

Comment:

Adequate physical separation, in excess of 9 metres is achieved between apartments on the northern elevation and the adjoining allotments zoned R2 Low Density Residential on Marmora Street. Landscaped planter boxes at the rear of the site will have a minimum soil depth of 1.0m may further act to ensure reasonable level of privacy between the development and adjoining dwellings is maintained.

The balconies to apartments located on the first floor north western elevation include privacy screening for the outermost northern edge of the balconies which in addition to the physical separation between buildings will further act to ensure a reasonable level of privacy is maintained. Apartments addressing Albert Street are setback from the front boundary Nil for the first floor and from 3.7m to 5.0m for the third floor. These apartments overlook the adjoining road reserve and provide adequate physical separation to those buildings south and south west of the development. Notwithstanding, it is noted that the north-facing balcony of Unit 106 and the north-facing window to Unit 206 has the potential to overlook into the rear private open space of No. 22 Marmora Street and, should be treated accordingly. In this respect, a condition is included in the Recommendation of this report which requires that a privacy screen is installed along the north-western edge of the balcony to Unit 106 and that the sill height of the north-western window to Unit 206 be increased to 1.65m above the finished floor level.

- *Private open space shall not be located in the primary front building setback.*

Comment:

Areas of private open space for each apartment are not located within the primary front building setback area.

- *Private open space is to be located to maximise solar access.*

Comment:

Balconies are located to address all aspects of the building each of the building elevations with exception to the north western elevation. As a result 19 (82.6%) of the apartments achieve a minimum of 2 hours direct sunlight between 9am and 3pm in mid winter.

Having regard to the above assessment, it is concluded that the development is consistent with the Requirements and Objectives of this Clause.

D3 Noise

The objectives of Clause D3 - 'Noise' seeks to:

- *encourage innovative design solutions to improve the urban environment; and*
- *ensure that noise emission does not unreasonably diminish the amenity of the area or result in noise intrusion which would be unreasonable for occupants, users or visitors.*

The application includes an Acoustic Report (the 'Report') dated 12 December 2012 as prepared by Renzo Tonin & Associates. The Report examines internal and external noise emissions, including traffic noise, generated by the development.

Consistency with the requirements of the Clause are assessed as follows:

- *Noise from combined operation of all mechanical plant and equipment must not generate noise levels that exceed the ambient background noise by more than 5dB(A) when measured in accordance with the NSW Industrial Noise Policy at the receiving boundary of residential and other noise sensitive land uses.*

Comment:

The Report acknowledges that details of mechanical plant have not been finalised but provides in-principal recommendations which address any future mechanical services installed in and on the building. These recommendations are included as a condition in the Recommendation of this report.



The application proposes the construction of a basement car park, which will require mechanical ventilation (BCA). In addition, the lift shafts have the potential to cause noise. Accordingly, conditions are included in the Recommendation of this report requiring the development to be designed in accordance with AS 2107 and the EPA Guidelines for Acoustic Privacy.

- *Development near existing noise generating activities, such as industry and roads, is to be designed to mitigate the effect of that noise.*

Comment:

The Report notes that *"the residential component of the development will have no impact on the overall traffic noise levels generated by the site and traffic noise generated by the site will not increase as a result of the proposed development"* due to the similarity of current vehicle movements and the basement location of the car park which would acoustically shield nearby residential properties (most notably No. 28 Albert Street).

- *Waste collection and delivery vehicles are not to operate in the vicinity of residential uses between 10pm and 6am.*

Comment:

The Report notes that *"noise generated by loading dock activities which may contribute to the overall LAeq noise level emission from the site includes vehicle doors closing, vehicle engines starting, vehicles accelerating, vehicles moving and beeping reverse signals"*.

However, The Report also points out that *"the loading dock is to be contained within the building of the development, only noise from vehicle movements along the driveway would contribute to noise impacts to the neighbouring residences as a result of the activities associated with the loading dock"*.

In this regard, the Report recommends that appropriate noise management measures be imposed as conditions to address the following:

- *"Limit the use of the loading dock to accommodate a maximum of one (1) large truck and one (1) light vehicle at any one time;*
- *Prevention of delivery vehicles queuing on Albert street through the scheduling of delivery times; and*
- *Restriction of delivery times to between 7.00am to 6.00pm Monday to Saturdays and 8.00am to 6.00pm on Sundays"*.

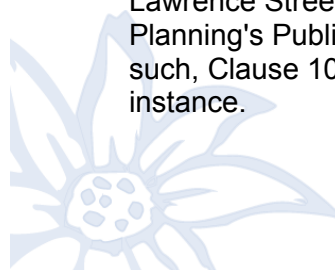
In addition to the above, it is also considered to be appropriate to impose a condition requiring that the door to the loading dock be closed during loading and unloading operations to further minimise noise transference.

- *Where possible, locate noise sensitive rooms such as bedrooms and private open space away from noise sources. For example, locate kitchens or service areas closer to busy road frontages and bedrooms away from road frontages.*

Comment:

The development includes apartments which have bedrooms located adjacent to potential noise sources. The Acoustic Report submitted with the application identifies these apartments and recommends the installation of glazing with an appropriate Rw (Weighted Reduction) rating to minimise noise impact.

The author of the Acoustic Report has also provided a letter dated 12 December 2012 clarifying that Lawrence Street and Albert Street do not constitute a busy road (as defined by the Department of Planning's Publication 'Development near Rail Corridors and Busy Roads – Interim Guideline') and, as such, Clause 102 of State Environmental Planning Policy (Infrastructure) 2007 does not apply in this instance.



Notwithstanding, the above recommended treatments are included as conditions in the Recommendation of this report.

- *Where possible, locate noise sources away from the bedroom areas of adjoining dwellings/properties to minimise impact.*

Comment:

It is acknowledged that the development is for a mixed retail/residential use, which is not considered to significantly impact upon neighbouring properties with regards to noise, given the physical separation of the proposed non-residential and residential uses to the neighbouring residential properties to the north subject to the installation of a 1.0m high acoustic screen along the outer edge of the top of the northern wall.

Having regard to the above assessment, it is concluded that the development is consistent with the Requirements and Objectives of this Clause.

D7 Views

The objectives of Clause D7 - 'Views' seeks to have development:

- *allow for the reasonable sharing of views;*
- *encourage innovative design solutions to improve the urban environment; and*
- *ensure existing canopy trees have priority over views.*

Comment:

In determining the impact upon view sharing, the four (4) planning principles outlined within the Land and Environment Court Case of 'Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC 140', are applied to the proposal.

Note: One submission was received from No. 16 Oliver Street, Freshwater ('the affected property') with regards to view loss. Subsequently, a site inspection was undertaken on 5 December 2012. The following view assessment has been prepared having regard to a combination of survey information and the inspection from the affected property.

1. Nature of the views affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment:

Due to its elevated position on the eastern side of Oliver Street, the affected property currently enjoys partial water glimpses and district views to the east and partial district views diagonally to the south-east.

The afore-mentioned water and district views to the east are considered to be 'partial' due to the visual obstruction caused by a dense stand mature trees located on the property on the opposite side of Oliver Street accommodating the Harbord Early Childhood Health Centre and a combination of street and privately owned trees immediately opposite the frontage of the affected dwelling.



2. What part of the affected property are the views obtained

"The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic".

Comment:

The eastern and south-eastern views are obtained from the front of the upper floor level which accommodates the main living room and associated balcony. The views are available at a standing position only from inside the living room and from both a standing and sitting position from the balcony, although it is noted that the quality of the views significantly deteriorates from a sitting position.

3. Extent of impact

"The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating".

Comment:

The inspection of the affected property revealed that the views are obtained from a main living area which is located at the front on the upper level (directly above the double garage), facing the street and with direct access to a private open space area (the balcony).

An examination of the proposed roof levels and the balcony level of the affected property reveal that there is a height difference of 2.9m to the proposed main roof line and 1.3m to the peak of the proposed raised skylights. This is increased to 4.4m and 2.8m respectively when the average height of a person (ie: 1.65m) standing on the balcony of the affected property is included. This level difference, in conjunction with the off-setting of the development from the direct line of sight from the balcony, means that the extent of qualitative impact upon view sharing is considered to be negligible.

4. Reasonableness of the proposal that is causing the impact

"The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."

Comment:

Notwithstanding, the minor non-compliance with the Building Height Development Standard found at the peak of the proposed skylights, the development maintains compliance with the overall building height of 11.0m. The proposal has been designed to appropriately respond to the available views through the provision of appropriate view corridors and maintaining a consistent building height across the width of the site. Overall, the proposal is considered appropriate for the site and acceptable in this instance.

Having regard to the above assessment, it is therefore concluded that the proposed development satisfies the requirements and objectives of the Clause.

D8 Privacy

The objectives of Clause D8 - 'Privacy' seeks to have development:

- *ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours;*
- *encourage innovative design solutions to improve the urban environment; and*
- *provide personal and property security for occupants and visitors.*

Consistency with the requirements of the Clause are assessed as follows:

- *Building layout should be designed to optimise privacy for occupants of the development and occupants of adjoining properties.*

Comment:

The development is designed to respond to the visual privacy of the neighbouring residential properties to the north (and within the development itself) by positioning and screening the balconies to the upper level units to avoid direct overlooking. Additionally, landscaped planter boxes at the rear of the site will have a minimum soil depth of 1.0m may further act to ensure reasonable level of privacy between the development and adjoining dwellings is maintained.

With regards to acoustic privacy, as noted under Clause D3 - 'Noise' in this report, the development exhibits areas where external the amenity of proposed units could be adversely affected. However, as recommended by the Acoustic Report provided with the Development Application, the installation of appropriate glazing will mitigate much of the noise to the more sensitive habitable rooms such as bedrooms.

As noted under Clause 1 - 'Built Form in Freshwater' in this report, an inspection of the neighbouring property at No. 20 Marmora Street was conducted in response to a submission which raised concerns regard, amongst other matters, acoustic privacy. At that inspection it was considered appropriate, to provide a 1.0m high acoustic screen along the length of the balcony/terrace to Units 105 and 106. Additionally, it was also considered appropriate to increase the sill height to the north-western rear window to the Family Room of Unit 206 to 1.65 above the finished floor level.

In addition to the above, it is also considered to be appropriate to impose a condition requiring that the door to the loading dock be closed during loading and unloading operations to further minimise noise transference.

- *Orientate living areas, habitable rooms and windows to private open space areas or to the street to limit overlooking.*

Comment:

Because of the shape of the site, the development includes 12 apartments which face the private open space areas of neighbouring residential properties. However, the potential for overlooking has been effectively minimised through the orientation of balconies and the incorporation of privacy screens.

Notwithstanding, it is noted that the north-facing balcony and Unit 106 and the north-facing window to Units 206 has the potential to overlook into the rear private open space of No. 22 Marmora Street and, given that these features are secondary frontages only, should be treated accordingly. In this respect, a condition is included in the Recommendation of this report which requires that a privacy screen is installed along the north-western edge of the balcony to Unit 106 and that the sill height of the north-western window to Unit 206 be increased to 1.65m above the finished floor level.



- *The effective location of doors, windows and balconies to avoid overlooking is preferred to the use of screening devices, high sills or obscured glass.*

Comment:

As discussed above, the development is considered to present minimal opportunity for direct overlooking into neighbouring principal private open spaces or windows of residential properties. Where opportunity does exist, appropriate conditions are recommended to further minimise overlooking.

- *The windows of one dwelling are to be located so they do not provide direct or close views (ie from less than 9 metres away) into the windows of other dwellings.*

Comment:

As noted in the 'Building Separation' section of the Residential Flat Design Code assessment in this report, the development provides appropriate setbacks between the proposed residential apartments and the existing neighbouring residential properties to the north along Marmora Street. In this regard, the assessment found that the buildings separation between habitable rooms/balconies to habitable rooms was between 12.0m and 26.0m.

The development includes appropriate setbacks to the northern residential properties.

- *Planter boxes, louvre screens, pergolas, balcony design and the like are to be used to screen a minimum of 50% of the principal private open space of a lower apartment from overlooking from an upper apartment.*

Comment:

The development includes privacy screens and/or planter boxes which screen a minimum over 50% of the principal private open space of a lower apartment from overlooking from an upper apartment.

Having regard to the above assessment, it is concluded that the development is consistent with the Requirements and Objectives of this Clause.

Part E The Natural Environment

E1 Private Property Tree Management

Concern was initially raised by Council's Landscape Adviser that the construction of the wall along the northern boundary may have a detrimental impact upon the three (3) trees located immediately adjacent to the wall and within the neighbouring property at Nos. 18 and 20 Marmora Street. In the referral response dated 29 November 2012, Council's Landscape Adviser recommends that "*an Arborist Report be provided which assess the extent of the current root zone, impacts on the trees and design modifications such as localised wall setbacks from roots and stabilising of trees during construction*".

An Arborist Report was subsequently provided by the applicant (refer to Tree Report dated 3 December 2012 as prepared by Evergreen Tree Services) which identified the three (3) trees as an Umbrella Tree located at No. 18 Marmora Street and a Eucalypt and Jacaranda both located at No. 20 Marmora Street. The Report notes and advises the following:

"Tree A – Umbrella

This tree is an undesirable species & is often listed in some local council's listing as an undesirable species preference.

The proposed development will impact on the structural roots of this tree, I recommend at least a 50% pruning prior to any excavation works commencing. As this species is able to accommodate radical pruning & lopping, regrowth & formal structure will return within 2-3 years.



Removal is an option to pruning, with another native planting recommended.

Tree B – Eucalypt

This specimen is in a debilitated condition with poor structure & blooming. Prior to any works commencing, I recommend the following processes be introduced at least 14 days prior to any environmental impact is undertaken.

- i. Comprehensive pruning of dead tissue, branches & limbs to return the tree to a balanced & formal structure.*
- ii. Organic & trace element fertilisation program to promote vigour & regrowth prospects.*
- iii. Insect tissue damage to be repaired & sealed.*
- iv. Removal/pruning of branches affecting neighbouring roof line & gutters.*

Tree C – Jacaranda

This tree demonstrates a robust condition, with good formal structure & prospects of longevity. To facilitate the prospects of this tree I recommend the following processes be introduced at least 14 days prior to local works commencing.

- i. Selective pruning and thinning of cross over branches*
- ii. Selective general thinning of laterally affected limbs to retain balance & framework of the tree in general.*
- iii. Removal of selected branches affecting the bordering roof line & gutters.*
- iv. Organic & trace element fertilisation to promote vigour & blooming."*

Upon reviewing the Arborist Report, Council's Landscape Adviser provided an updated referral response dated 6 December 2012 which states "*Submission of an Arborist's Report addressing the trees on the adjoining properties is noted.*

The report indicates that the works can be undertaken subject to specific recommendations for remedial work to be undertaken prior to any environmental impact being undertaken. Tree protection conditions reflecting the recommendations of the report are included in the recommended conditions below. The issues of access to undertake the works will however be a matter between the relevant parties.

Conditions have also been recommended in relation to landscaping to the northern boundary adjoining the residential zoning.

Subject to the recommended conditions, no objections are raised."

The conditions imposed by Council's Landscape Adviser and the recommendations contained in the Arborist Report dated 3 December 2012 are included as conditions in the Recommendation of this report.

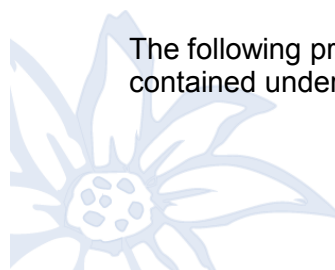
Part G Special Area Controls

G5 Freshwater Village

This part of the DCP covers development control in Freshwater Village. Part B - 'Built Form Controls' do not apply to Freshwater Village. All other parts of the DCP apply to Freshwater Village.

In the event of any conflict between this part and other parts of the DCP, the provisions of this part shall prevail in relation to development in the Freshwater Village area.

The following provides an assessment of the specific Controls which apply to this development, as contained under Part G5 of the WDCP for Freshwater Village.



1. Built form in Freshwater

The objectives of Clause 1 - 'Built Form in Freshwater' seek to have development:

- *reinforce and enhance the role of Freshwater Village as a centre for the local community;*
- *achieve high quality built form that enhances the streetscapes and coastal character of Freshwater Village;*
- *maintain and enhance Freshwater as an attractive destination among Sydney's coastal centres;*
- *ensure development responds to the low scale, narrow lot pattern of Freshwater; and*
- *achieve comfortable, functional and attractive buildings for residents, workers and visitors.*

As noted in the Built Form Control Table earlier in this report, the development has been found to comply with the numerical requirements of the Control.

Consistency with the requirements of the Clause are assessed as follows:

- *Development is to evoke the coastal setting of the area through architectural expression and public art (eg: murals or other external treatment of buildings).*

Comment:

Unlike areas immediately adjacent to the coastline, the site is located within the commercial centre of Freshwater Village (situated approximately 460m from Freshwater Beach) and, as such, the 'coastal setting' of the area may be interpreted as consisting of an eclectic mix of low scale building forms which contribute towards the visually open commercial streetscape and generally relaxed pedestrian lifestyle of a local shopping precinct.

The Village centre to the east, west and south consists of a mix of building forms including a contemporary three storey mixed-use building, a three storey shopping centre and a mix of single and double storey buildings of varying age, architectural style and use. Development immediately to the north consists of low to medium density development in the form of detached dwellings and residential flat buildings of varying age, scale and design.

The development has been articulated to visually respond to the sloping topography of the land and to the formation of buildings along Albert Street and Lawrence Street. The resulting design achieves a commensurate scale with the surrounding development.

The application is accompanied by a Schedule of Colours and Finishes (refer to 'Finishes Board') which indicates that the exterior facade will be finished in natural to neutral tones, predominantly consisting of stone coloured render, which will favourably respond to the 'coastal setting' of the Village specifically, and Freshwater generally. Notwithstanding, it is considered that the exterior wall finishes at ground level facing Albert Street could be improved by including a sandstone cladding to provide visual interest to the streetscape. An appropriate condition is included in the Recommendation of this report to address this.

- *Buildings, including balconies and carpark entry points, fronting any public place must not contain any utility service pipe or conduit that is visible from the public place.*

Comment:

The plans do not indicate any utility service pipes or conduits on the Albert Street facade. Notwithstanding, a condition is included in the Recommendation of this report which requires that all service pipes and conduits are concealed at all building facades to prevent any adverse impact upon the architectural integrity of the built form and visual clutter when viewed from neighbouring public and private domains.



- *Utility services including service structures, plant and equipment are to be located below ground or be designed to be an integral part of the development and suitably screened from public places including streets.*

Comment:

The development incorporates all plant equipment (ie: condensers and car park exhaust) on the roof which is concealed from view from both the public and private domains by an architecturally complimentary screen wall.

- *Locate residential uses so that noise, odour and any other adverse impacts are minimised from loading bays, garbage disposal and other service areas.*

Comment:

The development includes four (4) units which directly abut the loading dock at the rear of the site. With the exception of Unit 205, which is buffered by a sufficient height difference of 4.5m, the remainder of the units may be treated to minimise impact in the following manner:

- Unit 105 - Installation of a 1.0m high acoustic/privacy screen along the length of the north-eastern edge of the balcony/terrace.
- Unit 106 - Installation of a 1.0m high acoustic/privacy screen along the length of the north-western edge of the rear secondary balcony.
- Unit 206 - Increase the sill height of the north-western rear window to the Family Room to 1.65 above the finished floor level.

The above treatments are included as a condition in the Recommendation of this report.

- *Retail entries are to be no more than 10m apart.
A minimum floor to ceiling height of 3.3m for ground floor uses.
A minimum floor to ceiling height of 2.7m for uses above the ground floor.*

Comment:

The plans accompanying the application do not indicate the actual entry points for each retail use but, an examination of the frontage length reveals that the maximum 10m separation between retail uses may be satisfactorily achieved.

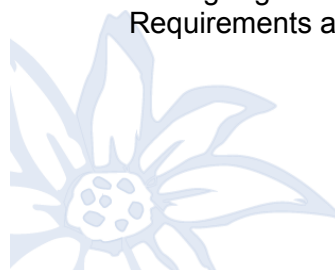
The floor-to-ceiling height for ground floor uses is 3.7m which complies with the requirement. The floor-to-ceiling height for uses above the ground floor (ie: residential uses) is 2.7m which complies with the requirement.

- *For any development with 10 or more shops or 500m² or more retail floor space, accessible and well signposted toilet facilities complying with AS 1428 shall be provided. These facilities shall have the same minimum opening and closing hours as the proposed development. Residential entries are to be separate and clearly distinguished from business entries.*

Comment:

The development includes 1,195.5m² GLFA of retail floor space. The plans indicate that toilet facilities for male, female and the disabled is provided at ground level which are accessed from the public arcade. The application is accompanied by an access report (refer to Access Report dated 8 October 2012 as prepared by Accessibility Solutions (NSW) Pty Ltd) which notes on page 8 that the design of the sanitary facilities generally complies with AS 1428.1 and Part 2.4 of the Building Code of Australia (BCA).

Having regard to the above assessment, it is concluded that the development is consistent with the Requirements and Objectives of this Clause.



2. Number of storeys

The objectives of Clause 2 - 'Number of Storeys' seek to have development:

- *ensure a reasonable level of amenity and solar access is provided and maintained to adjoining and nearby properties;*
- *complement the height of buildings control in the LEP with a number of storeys control; and*
- *provide sufficient scope for innovative roof pitch and variation in roof design.*

As noted in the Built Form Control Table earlier in this report, the development has been found to comply with the numerical requirements of the Control. Notwithstanding, consistency with the requirement of the Clause are assessed as follows:

- *Buildings on land shown coloured on the DCP Map Number of Storeys must comply with the maximum height measured in storeys identified on the map.*

Comment:

The development includes three (3) storeys which complies with the maximum permitted height as identified on the DCP Map 'Number of Storeys'.

Having regard to the above assessment, it is concluded that the development is consistent with the Requirements and Objectives of this Clause.

3. Street activation

The objectives of Clause 3 - 'Street Activation' seek to have development:

- *reinforce and enhance the main street character of Lawrence Street;*
- *ensure that all new development provides activation to the public domain including streets, lanes and public open space; and*
- *achieve attractive, interesting and welcoming street frontages.*

Consistency with the requirements of the Clause are assessed as follows:

- *Ground floor uses are to provide active uses to streets, shareways, lanes, public areas and arcades.*

Comment:

The ground floor of the development includes retail uses which directly face onto Albert Street. Additionally, the development also includes a pedestrian arcade which provides access from Albert Street to the market, other smaller retail uses, the basement car park and the residential apartments above. The plans (refer to Plan No. DA03(F) dated 30 November 2012) indicate that the windows facing Albert street are fixed to provide shop fronts. While this does not represent an 'active use' (in the same sense as a cafe) it does continue the retail theme of the Village and provides visual interest to passing pedestrian traffic.

The layout and orientation of the ground floor retail premises extends the active main street character, which is already established in Lawrence Street, into Albert Street thereby reinforcing and enhancing the commercial and mixed-use nature of Freshwater Village.

The development satisfies this requirement.



- *Ground floor uses are to have direct and convenient entries from streets, shareways, lanes, arcades or public areas.*

Comment:

The ground floor retail premises each have direct access from the street or the pedestrian arcade.

- *The glazed area of street frontage windows at ground floor level is to be maximised.*

Comment:

The development provides 117.8m² of street frontage windows which represents 63.5% of the actual shop frontage facing Albert Street. This is considered to be adequate given the overall facade design in which the vertical wall elements form a direct visual relationship with the upper floor wall elements.

- *Street frontage windows are to be wrapped around corners into side streets, shareways, lanes, and public areas to increase the area of active frontage.*

Comment:

The two retail premises located at the entry of the pedestrian arcade provide windows to both the arcade and street frontages.

- *Shopfronts at any arcade entry are required to wrap around the corner into the arcade, maximising the glazed area of windows, to a minimum distance of 6 metres from the front building line.*

Comment:

The two retail premises located at the entry of the pedestrian arcade provide windows to both the arcade and street frontages.

- *Buildings are designed to overlook the street.*

Comment:

The ground floor retail premises and nine (39%) of the 23 apartments located on the upper levels, directly overlook Albert Street.

- *Minimise the extent and visual impact of vehicle entrances and other building entries not associated with active uses.*

Comment:

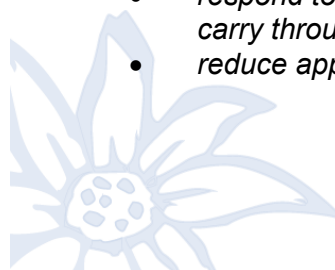
The development includes a 11.0m wide driveway and fire egress stairs (combined) at the north-eastern corner of the site which represents 21.7% of the active uses at ground level. The location and width of the driveway (8.0m) is considered to be necessary to afford safe access and egress from the site. It is noted that landscaping is included along the northern edge of the driveway to soften the visual impact from the street.

Having regard to the above assessment, it is concluded that the development is consistent with the Requirements and Objectives of this Clause.

4. Street facades and shopfront design

The objectives of Clause 4 - 'Street Facades and Shopfront Design' seeks to have development:

- *respond to the narrow lot pattern and smaller retail frontages with vertical proportions that carry through into the façade above;*
- *reduce apparent bulk and scale;*



- *ensure that the articulation and fenestration of the proposed development reflects the character of Freshwater and its local beachside culture; and*
- *provide visual connection between the public domain and private development.*

As noted in the Built Form Control Table earlier in this report, the development has been found to comply with the numerical requirements of the Control. Notwithstanding, consistency with the requirements of the Clause are assessed as follows:

- *The design and proportions of the façade elements are to continue and respect the narrow lot frontages.*

Comment:

The site is considered to be a corner site and not a narrow lot. Notwithstanding, the design of the facade includes strong vertical wall elements which define the retail premises at the street level and the residential apartments on the upper levels. It is noted that the glazed spacing between the vertical wall elements at ground level averages 6.4m which is consistent with the typical width of narrow lot frontages for commercial premises in the Village, particularly the more traditional shop fronts located along the northern side of Lawrence Street.

- *The maximum length of a shopfront is to be between 5 – 10m. Frontages greater than 10m must be broken into smaller vertical sections.*

Comment:

Given the incorporation of vertical wall elements at ground level which visually break up the length of the facade, shop fronts achieve an average of 6.4m in length (the maximum continuous length being 6.8m).

- *Facades are to have a predominantly vertical emphasis.*

Comment:

The facade includes strong vertical elements which visually break the overall length of the building into five (5) distinct retail and residential components when viewed from Albert Street.

- *No blank walls are to be presented to any public domain area.*

Comment:

The development does not incorporate any blank walls facing the public domain.

- *Building fronts and entries are to be clearly visible from the street.*

Comment:

The development is designed to present its main frontage to Albert Street. The top-most level is recessed to achieve the required front setback of 5.0m and serves to provide visual articulation and architectural interest while concealing roof forms and roof mounted plant and equipment. All entry points (excluding the secure entry lobby to the residential uses above) are clearly visible from Albert Street.

- *Air conditioning units, exhaust vents, aerials, clothes lines, water heaters etc are not to be visible from streets or public areas.*

Comment:

All utility services including service structures, plant and equipment are concealed from view from the public and private domains which surround the site.



- *Glazed shopfronts that allow visual connection between the activities inside the development and the public domain are to be provided.*

Comment:

The development includes a total shop front glazed area of 117.8m² facing Albert Street which allows for a strong visual connection between the activities inside the development and the public domain.

Having regard to the above assessment, it is concluded that the development is consistent with the Requirements and Objectives of this Clause.

5. Access and loading

The objectives of Clause 5 - 'Access and Loading' seek to have development:

- *improve amenity and safety for pedestrians;*
- *minimise the impact of service vehicles and loading; and*
- *relocate loading and servicing away from Lawrence and Albert Streets.*

Consistency with the requirements of the Clause are assessed as follows:

- *Service and loading areas should improve the amenity of the streetscape and reduce any potential for vehicle / pedestrian conflict.*

Comment:

As noted below, the development will replace the three (3) existing crossovers into the growers market car park and loading dock with one (1) crossover located at the north-eastern corner of the site which services both the proposed basement car park and new loading dock.

This reduction in the number of crossovers, in conjunction with the additional safety treatments which include the installation of a speed hump and signage and landscaping, will improve pedestrian safety and the amenity of the street.

- *Locate all underground car park entries, service and loading as well as garbage collection areas away from the primary street frontage.*

Comment:

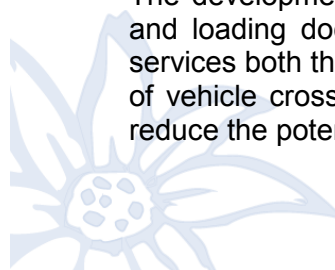
The car parking for the development and the loading dock are located behind the building and, therefore, not visible from Albert Street.

The development includes a separate garbage collection room which is located within the triangular landscaped area at the north-eastern corner of the site (refer to Plan Nos. DA03(F) dated 30 November 2012 and DA13(C) dated 3 December 2012). This room has been designed to minimise visual impact from the street by sinking the room to the lowest access point on the driveway (ie: 0.61m below the footpath level), locating it behind the existing Ausgrid transformer, finishing it in a manner which is complimentary to the development and surrounding it in landscaping.

- *No additional vehicle or loading access is to be provided from Lawrence or Albert Streets.*

Comment:

The development will replace the three (3) existing crossovers into the growers market car park and loading dock with one (1) crossover located at the north-eastern corner of the site which services both the proposed basement car park and new loading dock. This reduction in the number of vehicle crossovers will facilitate pedestrian flow along Albert Street into Lawrence Street and reduce the potential for vehicle/pedestrian conflict.



- *Rear or underground loading, garbage collection and access for vehicles is to be provided as part of any new development for lots fronting Lawrence and Albert Streets wherever possible via new connected laneways or through negotiation with Council for access via existing surface carparking areas.*

Comment:

The development does not propose access to any new connected laneways or via existing surface Council owned car parking areas (ie: the nearest being 45m to 59m the west and which would require access over three (3) to four (4) privately owned properties).

Having regard to the above assessment, it is concluded that the development is consistent with the Requirements and Objectives of this Clause.

6. Lighting

The objectives of Clause 6 - 'Lighting' seeks to have development:

- *limit adverse impact on residents;*
- *provide lit access; and*
- *supplement existing street lighting and 'spill' lighting from shop fronts.*

Consistency with the requirements of the Clause are assessed as follows:

- *Lighting is to be designed to not cause glare or unacceptable light spill to adjacent residential uses.*

Comment:

A lighting plan has not been submitted with the application however standard conditions will be included in this recommendation to control the obtrusive effects of outdoor lighting that may be associated with the development.

- *Lighting is to be located on the underside of awnings or below awnings as wall lights to light the footpath.*

Comment:

The proposal includes a continuous awning over the Albert Street foot path and proposed shop windows. The submitted plans do not show any lighting shown within or attached to the awning or on the external ground floor facade addressing Albert Street. A condition will be included in the recommendation of this report to provide effective outdoor lighting for lit access for the public on the underside of awnings or below awnings as well as wall lights to light the footpath.

- *The use of exposed fluorescent batten lighting is not permitted.*

Comment:

This matter has been addressed by a condition of consent included in the recommendation of this report.

- *Special effects lighting may be used to highlight key landscape design elements, major trees and significant buildings subject to compliance with other requirements of this control.*

Comment:

No special effects lighting to highlight key landscape design element, major trees or significant buildings.

Having regard to the above assessment, it is concluded that the development is consistent with the Requirements and Objectives of this Clause.



7. Safety and security

The objectives of Clause 7 - 'Safety and Security' seeks to have development:

- *reduce opportunities for crime; and*
- *discourage antisocial behaviour.*

Consistency with the requirements of the Clause are assessed as follows:

- *Proposed development must incorporate the principles of Crime Prevention Through Environmental Design (CPTED).*

Comment:

Crime Prevention through Environmental Design (CPTED) is a crime prevention strategy that focuses on the planning, design and structure of cities and neighbourhoods. Before a decision can be made on a development application, a consent authority must consider the application under section 79C of the Environmental Planning and Assessment Act 1979. Included in section 79C are subsections requiring the consent authority to consider:

- The likely impacts of that development, including the environmental impacts on the natural and built environments, and social and economic impacts on the locality;
- The public interest. Crime prevention falls under these subsections of 79C. Councils have an obligation to ensure that a development provides safety and security to users and the community.

In accordance with Part B of the Department of Planning & Infrastructure's guideline 'Crime Prevention and the Assessment of Development Applications' (as published by NSW Department of Urban Affairs and Planning in 2001) the following key CPTED principles, are considered:

Surveillance

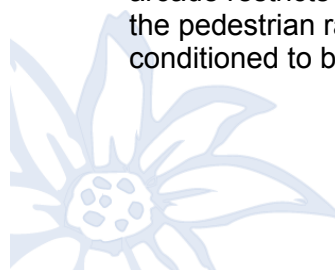
"The attractiveness of crime targets can be reduced by providing opportunities for effective surveillance, both natural and technical."

The development offers a high level of natural (passive) surveillance through the provision of apartments which overlook both the public and private domains within and around the site. Clear sightlines and the provision of low level landscaping limits opportunities for offender concealment. Details pertaining to the provision of technical surveillance (CCTV cameras, lighting etc) is not provided on the plans or within the supporting documentation but the street facade of the development will be sufficiently illuminated by street lighting which is provided on the opposite side of Albert Street and lighting from the proposed shop fronts. A condition is included in the Recommendation of this report that downlighting is provided to the underside of the proposed awnings and within the pedestrian arcade and that uplighting is provided along the proposed pedestrian walkway located at the south-western corner of the site and along the driveway located at the north-eastern side of the site.

Access Control

"Physical and symbolic barriers can be used to attract, channel or restrict the movement of people. They minimise opportunities for crime and increase the effort required to commit crime."

The development includes physical barriers which are used to attract, channel or restrict the movement of people. The secure lobby situated within the basement carpark and ground floor arcade restricts pedestrian movement to the residential apartments on the upper levels. Similarly, the pedestrian ramp located at the south-western side of the site is secured by a gate which is conditioned to be lockable.



Pedestrian movement within the basement carparking areas is controlled through the physical separation of retail customers and residential occupants via the provision of separate lifts, stairs and parking areas.

Territorial Reinforcement

"Community ownership of public space sends positive signals. People often feel comfortable in, and are more likely to visit, places which feel owned and cared for. Well used places also reduce opportunities for crime and increase risk to criminals."

The mixed-use nature of the development lends itself to places which will be used more frequently than a non mixed-use development due to the commercial components at the ground floor, in particular the retail market. This higher frequency of use will generally reduce opportunities for crime by increasing exposure to potential offenders.

Space Management

"Popular public space is often attractive, well maintained and well used space. Linked to the principle of territorial reinforcement, space management ensures that space is appropriately utilised and well cared for."

In addition to the above-mentioned commercial space, the development also includes a common landscaped pedestrian walkway located at the south-western side of the site. Notwithstanding, maintenance of the common spaces within such developments is usually managed by the Body Corporate.

- *Development is to maximise casual observation of open space areas, access ways, car parks, entries, driveways and the like.*

Comment:

This requirement is discussed above under 'Surveillance'.

- *Provide lighting in areas intended for night use and/or areas accessed by pedestrians after dark.*

Comment:

This requirement is discussed above under 'Surveillance'.

Having regard to the above assessment, it is concluded that the development is consistent with the Requirements and Objectives of this Clause.

8. Signage

The objectives of Clause 8 - 'Signage' aims to ensure that signage is compatible with the low scale, coastal village character of Freshwater, with the scale, proportion and other characteristics of the development, to provide identification or information on the business being carried out and to minimise advertising and signage clutter.

Consistency with the requirements of the Clause are assessed as follows:

- *Signage is to be appropriately located with no obscuring of architectural features.*
- *Signage is to relate to the business being carried out in the building; third party signage is not permitted.*
- *No signage is to be located above awning level.*

Comment:

This Development Application does not propose any signage. Signage for the retail premises will be appropriately addressed through a separate Development Application which may be lodged at a later date.



Having regard to the above assessment, it is concluded that the proposed development could achieve consistency with the requirements and objectives of the Clause subject to the approval of a separate Development Application.

9. Awnings

Description of Non-compliance

Clause 9 of the G5 Freshwater Village Special Area Controls - 'Awnings' requires the following:

- *Provide continuous awnings along:*
 - *Lawrence Street*
 - *Albert Street*
 - *Moore Road*
 - *Any new or upgraded pedestrian access within Freshwater*
- *To control sun access/protection, canvas blinds along the street edge may be permitted.*
- *The underside of awnings should not be less than 3.2m above the footpath.*
- *Awnings are to be provided over the public area of the footpath generally up to 600mm from the kerb.*
- *The design of awnings is to be integrated with the design of the building.*
- *Where the built form steps down the street, awnings are also to step with the building form to reveal the topography.*
- *Where a building is sited on a street corner, awnings are to be wrapped or continued around the corner for a minimum 6 metres.*
- *Awnings are to be setback generally 600mm from the kerb.*
- *The design and location of awnings is not to interfere with any existing or proposed street trees or other urban design features in the public domain.*

The development includes an awning to the Albert Street elevation which is located Nil to 3.2m from the Albert Street kerb. The non-compliant element.

Merit consideration:

Notwithstanding the above requirements, with regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *Provide awnings which provide weather protection for buildings and people.*

Comment:

The development provides a continuous 3.0m wide awning for the entire length of the Albert Street elevation. The awning is over a footpath and will provide adequate weather protection for the building and foot traffic.

- *Provide a safe and comfortable environment for pedestrians.*

Comment:

The awning provides a continuous covered area for pedestrians to be protected from the elements. A condition is included in the Recommendation of this report that downlighting is provided to the underside of the proposed awnings and within the pedestrian arcade and that uplighting is provided along the proposed pedestrian walkway located at the south-western corner of the site and along the driveway located at the north-eastern side of the site which will further provide a safe and comfortable environments for pedestrians.



- *Ensure awnings are compatible with the development and its context.*

Comment:

The ground floor of the development comprises of one (1) x Retail Market tenancy and three (3) x Retail tenancies. The awning acts to provide protection for the building and pedestrians utilising the footpath and accessing the shops located on the ground floor. As such, the awning is considered to be compatible with the development and its context.

- *Ensure that there is no conflict with vehicles or urban design features.*

Comment:

There is no conflict between the location of the awning with respect of vehicles or urban design features. The awning steps down with the building form to reveal the topography ensuring no conflict with urban design features of the development. The awning finishes at the vehicle entry point to the development off Albert Street, the underside of the awning is in excess of 3.2m above the footpath and generally maintains a 600mm setback from the Albert Street kerb to ensure no conflict between vehicles or obstruction of sight lines entering or exiting the development.

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

10. Front setback

Description of Non-compliance

Clause 10 of the G5 Freshwater Village Special Area Controls - 'Front Setback' requires the following:

Ground Level and Second Storey

- *New buildings may be built to the boundary or may be set back a maximum of 3.0m, for outdoor seating, display of goods, etc.*

Third Storey

- *The third storey is to be set back a minimum of 5.0m from the property boundary; and*
- *Landscaping or gardens within the 5.0m setback area of buildings are encouraged.*

The development includes supporting blade walls to the east facing eaves of the clerestory roofs which encroach within the front setback area by up to 1.2m thereby partially reducing the front setback to 3.8m. The non-compliant elements occupy up to 23% of the required front setback area.

Merit consideration:

Notwithstanding the above requirements, with regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *Improve pedestrian and customer amenity.*

Comment:

The non-compliance occurs at the third storey (ie: level 2 on the plan) and will not impact upon pedestrian and customer amenity in terms of movement of visual appearance.

- *Expand publicly accessible areas at ground level.*

Comment:

The non-compliance occurs at the third storey and will not impact upon accessible areas at ground level.



- *Help enliven street frontages.*

Comment:

The non-compliant elements will be visible at an oblique angle from Moore Road and the pedestrian area located across the road adjacent to No. 1-3 Moore Road (the 'Freshwater Village Plaza') but the design indicates that the encroachments will compliment the overall design of the building and provide a functional element in the form of eaves.

In this regard, it is considered the encroachments provide a finishing detail to the development and provide an architectural interest when viewed from the street.

- *Maintain uninterrupted pedestrian circulation and flow.*

Comment:

The non-compliance occurs at the third storey and will not impact upon pedestrian circulation and flow.

- *Create a sense of openness.*

Comment:

The non-compliant elements are located at the third storey and are sufficiently recessed from the front boundary to facilitate a sense of openness.

- *Protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

As discussed above, while the non-compliant elements will only be visible at an oblique angle from Moore Road and the pedestrian area located on the opposite side of Albert Street, the overhanging features will compliment the overall design of the building and provide a functional element in the form of eaves. The encroachments provide a finishing detail to the development and provide an architectural interest thereby enhancing the visual quality of the streetscape.

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

11. Side and rear setbacks

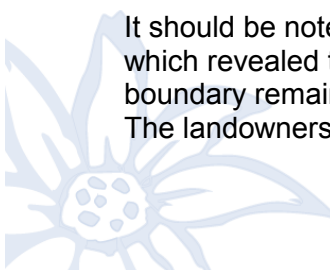
Description of Non-compliance

Clause 11 of the G5 Freshwater Village Special Area Controls - 'Side and Rear Setbacks' requires the following:

- *Where a side or rear boundary of the proposed development site adjoins land zoned for residential purposes, excluding roads, a minimum setback of 2.0m is required; and*
- *This setback area is to be landscaped and densely planted.*

The development includes walls to the basement and ground floor levels which are located on the northern and western boundaries. The heights of the walls are variable due to the topography and achieves a maximum above-ground height of 5.0m along the northern boundary which abuts the neighbouring residential zone.

It should be noted that a site inspection of the property from No. 20 Marmora Street was conducted which revealed that, in order to preserve amenity, the landowners requested that the wall on the boundary remain either in its current form or similar and that it achieve a similar or higher height. The landowners also advised that the neighbouring property owner at No. 22 Marmora Street,



although absent, has requested in an email dated 30 November 2012 and forwarded to Council as a submission, that *"a sandstone wall of appropriate height be considered to provide sufficient privacy and reduction of noise - in addition a water feature would go a long way to diluting some of the increased noise that will be associated with this development so directly affecting my premise"*.

Merit consideration:

Notwithstanding the above requirements, with regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To provide a transition to any adjacent residential zones.*

Comment:

The proposed wall along the northern boundary continues the existing transition between the commercial and residential zone. This transitional feature has been found to be an important element in providing an effective buffer between land uses and maintaining the environmental status quo. The wall also provides a step to the upper storey levels of the development which are setback between 4.5m and 5.3m from the boundary and thereby, provides an effective transition between the scale of the development and the scale of existing residential development along Marmora Street.

- *To provide landscaped screening of the built form.*

Comment:

Because of the proposed setback on the boundary, no landscaping is provided between the wall and the boundary. Rather, the development includes a 2.0m wide landscaped edge along the northern wall. The landscaping is contained within planter boxes and provides a reasonable screen to the upper levels of the built form of the development, particularly when viewed from the ground levels of the neighbouring residential properties.

- *To help protect the character, amenity and outlook of residential areas surrounding Freshwater Village.*

Comment:

As noted above, the inspection of the neighbouring property to the north at No. 20 Marmora Street found that the retention of the 6.5m high wall (or the construction of a new wall of a similar setbacks and height) was favoured in order to preserve amenity. This view was also expressed by the landowner of the neighbouring residential property at No. 22 Marmora Street.

In this respect, the plans (refer to Plan No. DA11(B) - Section AA) indicate that the proposed wall will have a finished height of 5.0m to the top of the planter box. The neighbour at No. 20 Marmora Street expressed concern that this lower height may have an impact in terms of acoustic privacy and it was considered appropriate to recommend the installation of a 1.0m high acoustic screen along the top of the length of the proposed wall. This is included as a condition in the Recommendation of this report. The installation of a water feature, as requested by the neighbour at No. 22 Marmora Street was not considered to be appropriate as this would create more noise and energy consumption than necessary.

- *To help reduce any adverse impact from the business nature of the development on residential amenity.*

Comment:

As discussed above, the construction of the proposed wall along the northern boundary is considered to protect the neighbouring residential properties along Marmora Street from any adverse impact from the retail component of the development in a similar manner that is currently afforded.



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

12. Other side and rear setbacks

The objectives of Clause 12 - 'Other Side and Rear Setbacks' seeks to have development abutting non-residential zones to:

- *ensure that the scale and bulk of buildings is minimised;*
- *provide adequate separation between buildings to ensure a reasonable level of amenity and solar access is maintained;*
- *provide reasonable sharing of views to and from public and private properties; and*
- *provide ample opportunities for deep soil landscape areas.*

As noted in the Built Form Control Table earlier in this report, the development has been found to comply with the numerical requirements of the Control. Notwithstanding, consistency with the requirements of the Clause are assessed as follows:

- *Where a side or rear boundary of the proposed development site does not adjoin residential zoned land other than roads, the side and rear boundary setbacks will be determined on a merit basis and will have regard to:*
 - *streetscape.*
 - *amenity of surrounding properties.*
 - *setbacks of neighbouring development.*

Comment:

The western side of the development abuts land which is also located within the B2 Local Centre zone (ie: Nos. 5 & 5A Lawrence Street) which accommodates a 2 storey mixed-use retail and residential building (ie: shop-top housing) fronting Lawrence Street, a double garage and a 2 storey dwelling at the rear. A concrete driveway runs along the entire length of the property boundary abutting the subject site.

With regards to the impact of the development upon the streetscape, the proposal represents a significant improvement over the existing situation by replacing the driveway to the loading dock of the Fruit Market. The pedestrian ramp which provides access/egress to the proposed apartments at the 'rear' of the development includes landscaping which will provide a green corridor to soften the appearance of the development from the street. Additionally, as noted under Clause 5 in this report, the development will replace the three (3) existing crossovers (of which the subject existing crossover is one) into the growers market car park and loading dock with one (1) crossover thereby improving the pedestrian safety of the street.

As noted above, the neighbouring property accommodates a mix of uses with the 2 storey residential dwelling being located approximately 16.0m to the north-west of the northern edge of the subject site. It is also noted that the mixed-use building facing Lawrence Street is setback approximately 5.0m from the property boundary and situated approximately 18.0m south-west of the proposed building line (ie: associated with Unit Nos. 111 & 210). The area of land located directly opposite the part of the building which accommodates Unit Nos. 111, 112, 201 and 211 consists of the afore-mentioned concrete driveway and well established landscaping which is separated by the proposed building line by approximately 8.0m. In this regard, impact upon the amenity of the neighbouring land to the west is considered to be minimal.



- *The setback area is to be landscaped, densely planted and free of any above or below ground structures, car parking or site facilities other than driveways and fences.*

Comment:

As pointed out above, the setback area of the development consists of a landscaped pedestrian ramp to the western entry lobby of the residential component. Apart from the provision of bicycle parking, the ramp does not contain any above ground structures, car parking or site facilities. It is noted that a travelator is located beneath the ramp to provide pedestrian access/egress between the Retail Market and the basement car park but it is also noted that this feature is not visible from the street and does not add to any unreasonable building bulk when viewed from the street. Having regard to the above assessment, it is concluded that the proposed development is consistent with the requirements and objectives of the Clause and, accordingly, finds that the proposal is supported, in this particular circumstance.

13. Roofs and building form

The objectives of Clause 13 - 'Roofs and Building Form' seeks to have development:

- *retain and enhance the low scale built form of Freshwater;*
- *respond to the topography and the coastal context of Freshwater;*
- *maintain and enhance the aesthetic visual qualities of Freshwater; and*
- *to better reflect heat.*

Consistency with the requirements of the Clause are assessed as follows:

- *Roof forms are to be an integral response to the building design.*

Comment:

The development includes four (4) elements which include skillion roof structures. These roof forms, the top-most edges of which are the subject of this non-compliance, are an integral response to the building design and compliment the architectural articulation when viewed from the opposite side of Albert Street and from the higher vantage points along Oliver Street to the west.

- *Step building and roof forms with the topography.*

Comment:

The development has been designed to respond to the sloping topography of the site along Albert Street through the effective introduction of distinct vertical and horizontal elements across the facade which define individual units. This translates to the roof form and the above-mentioned skillion roofs which accentuate this articulation.

- *Services, plant rooms and lift overruns are to be integrated into the design of the roof form and screened from the public domain.*

Comment:

All services, plant rooms and lift overruns are integrated into the design of the roof form through architectural screening.

- *Lighter roof colours are preferred.*

Comment:

The development proposes a dark colour scheme for the roof which is consistent with the requirements of Clause D12 - 'Glare and reflection' which requires that materials for roofing, wall claddings and glazing that have less reflection eg medium to dark roof tones. This is considered to be appropriate due to the low-lying position of the development relative to the higher positioning of development along Oliver Street on the ridgeline to the west.



Having regard to the above assessment, it is concluded that the development is consistent with the Requirements and Objectives of this Clause.

14. Building massing

The objective of Clause 14 - 'Building Massing' seeks to have *development respond to the original smaller lot subdivision, low scale coastal village character of Freshwater.*

Consistency with the requirements of the Clause are assessed as follows:

- *Ensure that the scale, massing and proportions respond to the narrow lot pattern of Freshwater.*

Comment:

The site is considered to be a corner site and not a narrow lot. Notwithstanding, the design of the development includes strong vertical wall elements which visually regulate the scale, massing and proportion of the development to achieve consistency with the typical width of narrow lot frontages for commercial premises in the Village.

- *Buildings are not to exceed a maximum building length of 20m without the provision of separate cores and entry points.*

Comment:

The development includes multiple entry points at ground level due to the retail premises aligning the street frontage and the centrally located pedestrian arcade which also provides access to the lift core servicing the basement car park and the residential apartments above.

Having regard to the above assessment, it is concluded that the development is consistent with the Requirements and Objectives of this Clause.

15. Building sustainability

The objectives of Clause 15 - 'Building Sustainability' seek to have development:

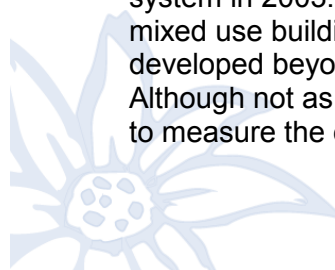
- *maximise opportunities to achieve resource efficiency, reuse, recycling and reduced consumption;*
- *achieve improved sustainability in the built environment, eg lower greenhouse gas emissions, reduced energy and water consumption, less waste, healthier working environments for workers, residents and visitors;*
- *facilitate rainwater collection and reuse;*
- *optimise the use of passive technologies in building design, construction, materials and operation; and*
- *reduce energy bills and the whole-of-life cost of energy services.*

Consistency with the requirements of the Clause are assessed as follows:

- *For development greater than 2,000 square metres the proposed development is to achieve a minimum 4 star rating under the Green Star rating system under the Green Building Council of Australia or equivalent.*

Comment:

The Green Building Council of Australia (GBCA) launched the Green Star environmental rating system in 2003. The 'Green Star - Mixed Use' rating tool was launched as a pilot in 2008 to enable mixed use building projects and/or major refurbishments to be rated. However, the tool was not developed beyond a pilot and was absorbed into the voluntary 'Green Star - Custom Tool'. Although not as comprehensive as Green Star, an alternative which is more commonly used tools to measure the environmental sustainability of new dwellings and to assess the thermal



performance of a building are, respectively, the mandatory BASIX ('Building Sustainability Index') and the NatHERS ('Nationwide House Energy Rating Scheme') rating tools. In this regard, the Development Application includes a BASIX Certificate (see Certificate No. 442333M dated 9 October 2012) which indicates that the multi-unit dwelling component of the development will achieve the required targets for water, thermal comfort and energy efficiency.

Additionally, the Development Application includes a NatHERS Building Energy Efficiency Certificate (see Certificate No. 1004184402 dated 5 October 2012) which measures the thermal performance of the envelope of the building. The Certificate indicates that the development achieves an overall rating of 6.3 stars which means that, for the Sydney East Climate Region, the housing component of the development will have an above average, and therefore acceptable, level of thermal comfort.

- *The principles and properties of thermal mass, glazing, insulation and solar energy are to be incorporated into the design of the development.*

Comment:

As discussed above, the design of the development, in so far as the residential components are concerned, satisfies the requirements of BASIX and NatHERS which rates the environmental sustainability of new dwellings and the thermal performance of buildings.

- *Reduce reliance on artificial lighting, heating and cooling and minimise the areas of the building where such lighting, heating/cooling is required through the application of energy efficient passive design principles.*

Comment:

As noted in the assessment of the proposal against the Residential Flat Design Code (RFDC) earlier in this report, the development provides for 82.6% of dwellings which have access to sunlight and cross ventilation. This is considered to constitute a high level of access to natural light and ventilation sources which will encourage a reduced dependence upon artificial light, heating and cooling.

With regards to the commercial uses it is acknowledged that the retail premises facing Albert Street and the pedestrian arcade are required to remain illuminated after hours to provide safety in accordance with Clause 7 of the G5 Freshwater Village DCP. However, the Retail Market and the loading dock are not visible from the street and do not contribute towards the pedestrian safety of the development or surrounding public domain. In this regard, it is considered appropriate to include a condition in the Recommendation of this report that timers are installed to regulate the lights to the Retail Market and the loading dock.

Having regard to the above assessment, it is concluded that the development is consistent with the Requirements and Objectives of this Clause.

16. Materials and colours

The objectives of Clause 16 - 'Materials and Colours' seeks to:

- *encourage the use of materials and colours that are evocative of Freshwater and its coastal setting;*
- *create visual interest and variation; and*
- *help express architectural elements and detail.*

Consistency with the requirements of the Clause are assessed as follows:



- *Use textures, tones and different natural materials.*

Comments:

The Schedule of Colours and Finishes accompanied with the application (refer to "Finishes Board") indicates a mix of colours and materials that the external facade will be finished in. Natural to neutral tones are indicated for the external facade walls, predominantly stone coloured render. Timber cladding is also included in the finish of the external facades.

- *Materials and colours should relate to the context of the proposed development.*

Comment:

The Schedule of Colours and Finishes accompanied with the application (refer to "Finishes Board") is consistent with the control's colour palette. The finishes and materials will create visual interest within the Village and favourably respond to the coastal setting.

- *Heavier materials such as stone should be mainly located at the base of buildings.*

Comment:

The Schedule of Colours and Finishes accompanied with the application indicates a mix of colours and materials which respond to the coastal setting of the Village and Freshwater. No heavy materials are indicated to be used. Notwithstanding, it is considered that the exterior wall finishes at ground level facing Albert Street could be improved by including a sandstone cladding to provide visual interest to the streetscape. An appropriate condition is included in the Recommendation of this report to address this.

- *Painted surfaces must be mid-tone or darker.*

Comment:

The Schedule of Colours and Finishes indicates the majority of the development is to be finished in a stone coloured render and paint. Top walls and the parapet of the development which are setback from the boundary are to be finished in a white coloured render and paint. These areas are not readily view-able from the street and as such the development is considered to be consistent with this requirement.

- *Colours selected should fall into the spectrum of the preferred colour palette.*

Comment:

The Schedule of Colours and Finishes indicates a mix of colours that fall into the spectrum of the preferred colour palette.

- *Other colours may be used in small amounts as feature elements.*

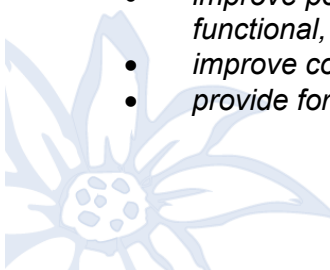
Comment:

No other colours are indicated to be used as feature elements of the development. Having regard to the above assessment, it is concluded that the development is consistent with the Requirements and Objectives of this Clause.

17. Active travel links

The objectives of Clause 17 - 'Active Travel Links' seeks to have development:

- *improve pedestrian accessibility, safety and amenity through the maintenance or creation of functional, accessible, attractive links;*
- *improve connectivity and contributes to an active and vibrant Freshwater Village; and*
- *provide for permeability between buildings, community facilities and public transport.*



Consistency with the requirements of the Clause are assessed as follows:

- *Where appropriate, sites adjoining lanes or parking areas are to maintain existing or incorporate new through-site links for residents, customers, workers and visitors travelling on foot or by bicycle.*

Comment:

The site does not adjoin a laneway of parking area, the nearest being 45m to 59m the west and which would require access over three (3) to four (4) privately owned properties).

- *Provide legible laneways, arcades and pedestrian / cyclist ways where appropriate.*

Comment:

The development provides for a pedestrian arcade off Albert Street and an access ramp off Lawrence Street (the ramp includes parking for 16 bicycles).

Having regard to the above assessment, it is concluded that the development is consistent with the Requirements and Objectives of this Clause.

Part H Appendices

Appendix 1 Car Parking Requirements

Council's Traffic Engineer has assessed the traffic report provided with the application and has notes that *"the rate of parking generation for the fruit market component of this development has been based on a rate of 4.2/100m². This rate has been established by survey and is specified in the Roads and Maritime Services guide to traffic generation as an appropriate rate for parking generation, where fruit markets are incorporated into larger developments. In this instance the fruit market is the major occupant of the site, however additional uses are present.*

I support the parking rate for the fruit market component of this development being assessed at a rate of 4.2spaces/100m².

The traffic generation of this development will be slightly less than the current site based on calculations of the floorspace of the current and proposed uses. When the parking generation rate for fruit markets is applied to the fruit market component of his development it provides sufficient parking to accommodate all parking generated by this development within the site. This proposal will lead to an increase in the parking supply in Freshwater, without an increase in traffic generation."

Therefore, the following tables include the parking rate of 4.2spaces/100m² for the market use.

Note: Table 1 indicates the parking provision with Gross Leasable Floor Area (GLFA) as interpreted by the applicant. However, Table 2 is included to provide an assessment of the car parking provision to reflect the parking rate when the WDCP definition of GLFA is correctly applied (which means *"the sum of the area of each floor of a building where the area of each floor is taken to be the area within the internal faces of the walls, excluding stairs, amenities, lifts, corridors and other public areas but including stock storage area"*).

Use	Calculation	Required	Provided	Difference (+/-)
Residential:				
1 Bedroom x 12	1 space/Unit	12 spaces	12 spaces	Yes
2 Bedroom x 9	1.2 spaces/Unit	11 spaces	11 spaces	Yes
3 Bedroom x 2	1.5 spaces/Unit	3 spaces	3 spaces	Yes
Market (925m²)	4.2 spaces/100m ² GLFA	38.9 spaces	38.9 spaces	Yes
Speciality Shops (333m²)	6.1 spaces/100m ² GLFA	20.3 spaces	18.1 spaces	No
Visitors (Residential)	1 space/5 Units	4.6 spaces	5 spaces	Yes
Total		89.8 (90) spaces	88 spaces	No (-2 spaces)

Table 1 - Parking rate applied to applicant's interpretation of GLFA.

Use	Calculation	Required	Provided	Difference (+/-)
Residential:				
1 Bedroom x 12	1 space/Unit	12 spaces	12 spaces	Yes
2 Bedroom x 9	1.2 spaces/Unit	11 spaces	11 spaces	Yes
3 Bedroom x 2	1.5 Spaces/Unit	3 spaces	3 spaces	Yes
Market (900.9m²)	4.2 spaces/100m ² GLFA	37.8 spaces	38.9 spaces	Yes
Speciality Shops (294.6m²)	6.1 spaces/100m ² GLFA	17.9 spaces	18.1 spaces	Yes
Visitors (Residential)	1 space/5 Units	4.6 spaces	5 spaces	Yes
Total		86.3 (87) spaces	88 spaces	Yes (+1 space)

Table 2 - Parking rate applied to the WDCP meaning of GLFA.

Therefore, as can be seen in Table 2 above, the development achieves compliance with the car parking requirements of WDCP and provides a surplus of one (1) car parking space.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan. The following monetary contributions are applicable:

Warringah Section 94A Development Contributions Plan (Contribution based on a total development cost of \$ 16,048,411)		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$152,460
Section 94A Planning and Administration	0.05%	\$ 8,024
Total	1%	\$160,484

CONCLUSION

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

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

The proposal has been assessed against the relevant matters for consideration under Section 79C of the EP&A Act 1979. This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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



- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects specified in S.5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2012/1235 for demolition works and construction of a mixed use (Commercial/Residential) development on land at Lot 1, DP 830423, Nos. 22 - 26 Albert Street, FRESHWATER, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA02(B) Basement 2 & Basement 1 Plan	31 October 2012	Jack Taylor Architects Pty Ltd
DA03(F) G/Floor & Level 1 Plan	30 November 2012	Jack Taylor Architects Pty Ltd
DA04(D) Level 2 & Roof Plan	30 November 2012	Jack Taylor Architects Pty Ltd
DA13(C) Urban Elevations	3 December 2012	Jack Taylor Architects Pty Ltd
DA14(A) Sections	31 October 2012	Jack Taylor Architects Pty Ltd
DA15(A) Elevations 1	31 October 2012	Jack Taylor Architects Pty Ltd
DA16(A) Elevations 2	31 October 2012	Jack Taylor Architects Pty Ltd
Finishes Board	Undated	Jack Taylor Architects Pty Ltd

Engineering Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
M-DA-00(A) - Cover Sheet, Legend and Details	5 October 2012	ITM Design Pty Ltd
M-DA-02(A) - GF/Site Stormwater Drainage	5 October 2012	ITM Design Pty Ltd
M-DA-03(A) - Catchment Area Calculations	5 October 2012	ITM Design Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report	Dated	Prepared By
Preliminary Environmental Site Assessment (Re-Issue)	March 2010 (re-issued 5 October 2012)	Environmental Investigation Services
Geotechnical Investigation	8 October 2012	JK Geotechnics
Access Report	8 October 2012	Accessibility Solutions (NSW) Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Construction Management Plan (Version 3.0)	December 2012	SX Projects Pty Ltd
Acoustic Assessment (Rev 2)	12 December 2012	Renzo Toning & Associates (NSW) Pty Ltd
Tree Report	3 December 2012	Evergreen Tree Services

- b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.
- c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.
- d) No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with the following:

Other Department, Authority or Service	eServices Reference	Dated
Roads and Maritime Services	Referral Response - Roads and Maritime Services	27 November 2012
NSW Office of Water	Referral Response - NSW Office of Water	22 November 2012

(**Note:** For a copy of the above referenced document/s, please see Council's 'E-Services' system at www.warringah.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's. (DACPLB02)

3. No Approval for any Signage

No approval is granted under this Development Consent for signs (as defined under Warringah Local Environment Plan 2011 and State Environmental Planning Policy No. 64). A separate Development Application for any signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

Reason: Control of signage. (DACPLB06)

4. Prescribed Conditions

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



Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

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

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

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

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

Reason: Legislative Requirement (DACPLB09)

5. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

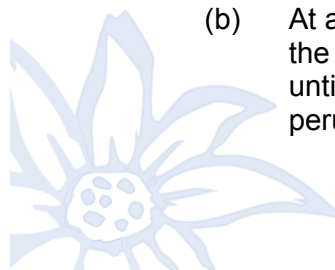
- o 7.00 am to 5.00 pm inclusive Monday to Friday,
- o 8.00 am to 1.00 pm inclusive on Saturday,
- o No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- o 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.



- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (g) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)
- (h) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (i) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

6. Unit Numbering for Multi Tenancy Commercial or Industrial and Multi Dwelling Residential Developments

A request for unit/tenancy numbering is required to be completed and returned to Council. The request can be found at www.warringah.nsw.gov.au and is to provide an address for all lots contained in the plan.

Reason: Correct address information for emergency services.



FEES / CHARGES / CONTRIBUTIONS

7. Policy Controls

Warringah Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Warringah Section 94 Development Contributions Plan		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 152,460
Section 94A Planning and Administration	0.05%	\$ 8,024
Total	1%	\$ 160,484

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

Reason: To provide for contributions in accordance with the Warringah Section 94A Development Contributions Plan 2012.

8. Bonds

(a) Security Bond

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

(b) Construction, Excavation and Associated Works Bond (Crossing/Kerb)

A Bond of \$10,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter and any footpath works required as part of this consent.

(c) Construction, Excavation and Associated Works Bond (Pollution)

A Bond of \$10,000 as security to ensure that there is no transmission of material, soil etc off the site and onto the public road and/or drainage systems.

(d) Construction, Excavation and Associated Works Bond (Failure to Remove Waste)

A bond of \$40,000 as security against damage to Council's road(s) fronting the site caused by the transport and disposal of materials and equipment to and from the site.

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

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

Reason: To ensure adequate protection of Council's infrastructure. (DACENZ01)



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

9. Bicycle parking

Inverted U-Rail bicycle parking facilities shall be provided for 16 bicycles at the western edge of the development within the pedestrian ramp. The bicycle parking shall comply with AS 2890.3-1993 Parking Facilities – Bicycle parking facilities.

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

Reason: To encourage an alternative mode of transport and enhance amenity.(DACBCCPCC1)

10. On-site Stormwater Detention Compliance Certification

An On-site Stormwater Detention (OSD) system must be designed and constructed in accordance with Council's current On-site Stormwater Detention Technical Specification, and generally in accordance with the concept drainage plans prepared by itm design, drawing number 11/ 249 H-DA-00, 01, 02, 03, revision A dated 5 October 2012.

Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- (a) OSD tank is to be structurally waterproofed such as to protect the habitable areas above the OSD tank from dampness and other water related damages. False void chamber(s) with adequate ventilation between the OSD tank and the habitable areas must be provided.
- (b) Unobstructed external access to the onsite stormwater detention tank must be provided at all times.

Detailed drainage plans, including engineering certification confirming the above requirements have been satisfied and complying with Council's current On-site Stormwater Detention Technical Specification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development. (DACENC03)

11. Pump-Out System Design for Stormwater Disposal

The design of the pump-out system for stormwater disposal will be permitted for drainage of basement areas only, and must be designed in accordance with AS/NZS 3500.3:2003 - Plumbing and Stormwater drainage . Engineering details demonstrating compliance with this requirement and certified by an appropriately qualified and practising hydraulic engineer.

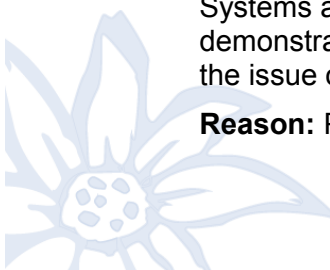
Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for the discharge of stormwater from the excavated parts of the site. (DACENC04)

12. Structures Located Adjacent to Council Pipeline or Council Easement

All structures are to be located clear of any Warringah Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Policy Building Over or Adjacent to Constructed Council Drainage Systems and Easements. Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure. (DACENC09)



13. Vehicle Crossings Application Formwork Inspection

An application for street levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid.

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

Reason: To facilitate suitable vehicular access to private property. (DACENC12)

14. Waterproofing/Tanking of Basement Level - Design

The basement area is to be permanently tanked or waterproofed in accordance with the Sydney Coastal Councils Group : Groundwater Management Handbook, A Guide for Local Government, First Edition, dated September 2006. Details of the waterproofing/ tanking and certification certifying that the basement level is permanently tanked or waterproofed to prevent the ingress of sub-surface flows / groundwater into the basement area are to be prepared by a suitably qualified Engineer.

Where dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Government Office of Water. The bore license must be obtained prior to commencement of dewatering works. All requirements of the NSW Government Office of Water are to be complied with and a copy of the approval must be submitted to the Certifying Authority.

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

Reason: To prevent ingress of sub-surface flows into the basement area and to comply with State Government Requirements. (DACENC14)

15. Utilities Services

Prior to the issue of the Construction Certificate, evidence is to be submitted to the Certifying Authority that:

- (a) A letter from the telecommunications service provider confirming that satisfactory arrangements have been made for the provision of underground telecommunications for the approved development have been made; and
- (b) Evidence that notification has been received from an Electricity Service Provider of electricity supply requirements for the development can be provided.

Reason: To ensure that services have been provided as required by this consent. (DACENC15)

16. Structural Adequacy and Excavation Work

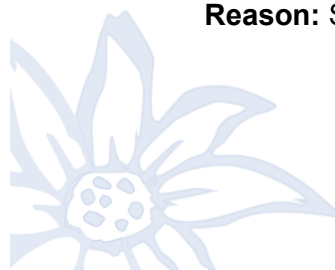
Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: Safety. (DACENC19)



17. Shoring of Adjoining Property

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings. Council approval is required if temporary rock anchors are to be used within Council land.

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

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land. (DACENCO5)

18. Installation of a speed hump

A Type 2 speed hump is to be installed within the exit side of the driveway. The device is to be installed 3.0m back from the intersection of the driveway and the footpath/crossover and is to satisfy AS 2890.1: 2004 - 'Parking Facilities'.

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

Reason: To ensure pedestrian safety. (DACHECPCC1)

19. Deletion of communal outdoor terrace

The communal outdoor terrace located between Units 103 and 104 on Level 1 is to be deleted from the plans and replaced with landscaping with a soil depth of no less than 1.0m. The landscaped area is to be made accessible only for maintenance purposes.

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

Reason: To protect privacy. (DACHECPCC2)

20. Trees and / or Landscaping

In order to protect and enhance onsite vegetation and trees the following applies to the development site:

(a) Construction Certificate Plans

Where applicable the Construction Certificate plans must include reference to:

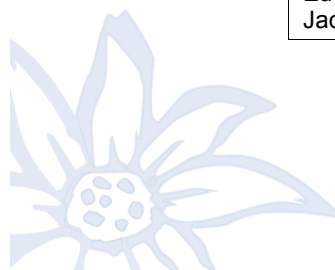
- (i) Trees to be removed coloured or shaded in the colour red
- (ii) Trees to be retained coloured or shaded in the colour green
- (iii) Trees to be pruned coloured or shaded in the colour blue
- (iv) Trees to be transplanted coloured or shaded in the colour yellow

(b) Trees which may be pruned

This consent includes approval under Council's Tree Preservation to prune the following trees:

All Recommendations Arborist Report		
Report Number	Dated	Prepared By
Trees A , B & C	3 December 2012	Evergreen Tree Services

Species	Location
Schefflera actinophylla (Tree A)	Rear of 18 Marmora Street Freshwater
Eucalyptus scoparia (Tree B)	Rear of 20 Marmora Street Freshwater
Jacaranda mimosifolia (Tree C)	Rear of 20 Marmora Street Freshwater



(c) Existing trees which must be retained

Approval is NOT granted for the removal of the following trees, which Council has determined to be significant landscape elements.

(i)

All Recommendations Arborist Report		
Trees	Dated	Prepared By
Trees A , B & C	3 December 2012	Evergreen Tree Services

(ii)

Species	Location
Schefflera actinophylla (Tree A)	Rear of 18 Marmora Street Freshwater
Eucalyptus scoparia (Tree B)	Rear of 20 Marmora Street Freshwater
Jacaranda mimosifolia (Tree C)	Rear of 20 Marmora Street Freshwater

- (iii) All tree protection is to be in accordance with the Recommendations of the Arborist's Report dated 3 December 2012 prepared by Evergreen Tree Services and AS4973-2009 'Protection of trees on development sites.'
- iv) No tree roots greater than 50mm diameter are to be cut unless authorised by a qualified Arborist on site.
- v) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.
- vi) Details of demonstrating compliance shall be provided to the Certifying Authority prior to the issue of a Construction Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAC01)

21. Amended Landscape Plans

Landscape Plan Nos. L01 and L02 dated 25 September 2012 as prepared by Habitation is to be amended to provide for the following:

- (a) The construction of the Level 1 planters located along the northern boundary to be a minimum of 2 metres in width and 1 metre in depth and planted with species capable of attaining a minimum height of 2 metres at maturity.
- (b) The provision of climbing plants on wire frame or similar to cover the retaining wall leading to the service bay along the boundary adjacent to the properties at No. 28 Albert St and No. 22 Marmora St.
- (c) The deletion of the communal outdoor terrace between Units 103 and 104 on Level 1 and replacement planting.

Reason: To maintain local environmental amenity.(DACLACPCC1)

22. Compliance with Standards

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

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

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



Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'**
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (j) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (k) AS 1428.1 - 2009* Design for access and mobility - General requirements for access - New building work**
- (l) AS 1428.2 - 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**
- (m) AS 1055 - Acoustics, Description and Measurement of Environmental Noise
- (n) AS 1668 (Parts 1 and 2) - The Use of Ventilation and Air Conditioning in Buildings

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website http://www.humanrights.gov.au/disability_rights/buildings/good.htm

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to. (DACPLC02)

23. External Colours and Materials

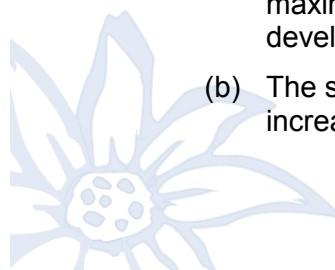
- (a) External Glazing - The reflectivity index of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20% (expressed as a percent of the reflected light falling upon any surface).
- (b) External Roofing - The external finish to the roof, including to roof of the waste storage room and the awning, shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.
- (c) Anti Graffiti Coating - The finishes of the walls adjoining Albert Street and the driveway, including the external wall of the waste storage room, must be finished in heavy duty long life, ultra violet resistant coating with a high resistance to solvents and chemicals as an anti-graffiti coating easily cleaned by solvent wipe.
- (d) The external facade of the ground floor walls facing Albert Street is to be finished in sandstone cladding.
- (e) The external facade of the north-facing boundary wall adjacent to Nos. 18, 20 and 22 Marmora Street is to be finished in stone render as indicated on the Finishes Board for MWR2.
- (f) The external facade of the walls to the waste storage room located behind the transformer is to be finished in stone render as indicated on the Finishes Board for MWR2.

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

Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development. (DACPLC04)

24. Privacy treatments

- (a) A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost edge of the balcony located off the Family Room of Unit 106. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement in design of the approved development.
- (b) The sill height of the north-east facing window to the Family Room of Unit 206 is to be increased to 1.65m above the finished floor level.



- (c) A 1.0m high fixed acoustic screen is to be installed along the length of the north-facing wall at the outer edge of the planter boxes to Units 101, 102, 103 and 105. The fixed acoustic screen is also to be installed along the north-eastern outer-edge of the terrace to Unit 105, above the loading dock.

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

Reason: To protect visual and acoustic privacy. (DACPLC06)

25. Provision of lighting to the awning

Down-lighting is to be installed at regular intervals for the entire length of the underside of the awning. Lighting is to satisfy AS4282:1997 'Control of the Obtrusive Effects of Outdoor Lighting'.

Reason: To provide security to the public domain.

26. Sewer / Water Quickcheck

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

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

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

27. Loading dock vehicle space

The internal space and the vehicle turntable within the loading dock off Dowling Street is to be designed to accommodate a Medium Rigid Vehicle (MRV) while the main sliding entry door is closed.

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

Reason: To ensure suitable vehicular access is provided and to protect neighbouring amenity (DACTRCPC1)

28. Driveway separation and direction arrow

Separation lines are to be provided within the middle of the proposed driveway for the length of the driveway to the property boundary.

A UA-2 (L+R) pavement direction arrow is to be positioned on the exit lane between the proposed speed hump and the site boundary.

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

Reason: To signify that the exit is a single lane with vehicles turning in either left or right onto Albert Street and to ensure pedestrian safety. (DACTRCPC2)

29. Waste/Recycling Requirements to comply with Policy

Details demonstrating compliance with Warringah Council's Policy Number PL 850 – Waste, including the required 'Waste Management Plan' are to be submitted to the Certifying Authority prior to the issue of any Construction Certificate.



Note: If the proposal, when compliant with Warringah Council's Policy Number PL 850 – Waste, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans a modification(s) to the development may be required.

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

30. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land. (DACEND01)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

31. Property Boundary Levels

The property boundary levels shall match the existing levels except where modified for the vehicular crossing. The applicant shall design and construct having regard for the existing levels. No approval is granted for any change to existing property alignment levels to accommodate the development. In this regard, the footpath levels along the front boundary must not be altered and any transitions for pedestrian access into the development must be located wholly within the property.

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

Reason: To maintain the existing profile of the nature strip/road reserve. (DACENE01)

32. Vehicle Crossings

The provision of one vehicle crossing 8.5 metres wide in accordance with Warringah Council Drawing No A4-3330/1 Normal and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve to match the existing pavement. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property. (DACENE05)

33. Layback Construction

A layback 8.5 metres wide (excluding the wings) is to be constructed in accordance with Warringah Council Drawing No A4-2276 and specifications.

Reason: To ensure suitable vehicular access to private property. (DACENE08)

34. Maintenance of Road Reserve

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

Reason: Public Safety. (DACENE09)



35. Traffic Control During Road Works

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with Council's Minor Works Policy and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works.

Reason: Public Safety. (DACENE11)

36. Waterproofing/Tanking of Basement Level - Certification

Certification certifying that the basement level is permanently tanked or waterproofed to prevent the ingress of sub-surface flows / groundwater into the basement area. Certification is to be provided by an Accredited Certifier suitably accredited with the Building Professionals Board in the relevant area of expertise.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to pouring of concrete for the ground floor level of the building.

Reason: To prevent the ingress of sub-surface flows / groundwater into the basement area. (DACENEDW1)

37. Requirement to Notify about New Contamination Evidence

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.

Reason: To protect human health and the environment. (DACHPE01)

38. Dewatering

Any water being discharged from the site to stormwater must not cause pollution and must comply with the ANZECC 2000 guidelines and meet the following requirements:

- (a) Suspended sediment must be less than 50mg/L
- (b) Turbidity must be less than 150 NTU
- (c) Oil & Grease must be less than 10mg/L
- (d) BOD 5 must be less than 30
- (e) pH must be between 6.5 -8.5

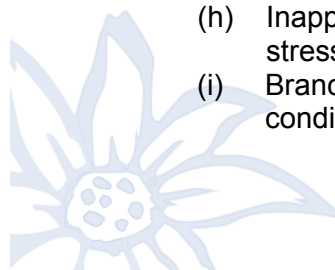
Any discharged water must be routinely analysed (at least once per fortnight) by an independent NATA accredited laboratory and records of water quality discharge must be kept on site. Water must be discharged in a manner that does not cause safety nuisances.

Reason: Environmental Protection. (DACHPEDW5)

39. Trees Condition

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.



Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees. (DACLA03)

40. Off-site Disposal of Contaminated Soil

All contaminated material removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with:

- *Protection of the Environment Operations Act 1997 (NSW); and*
- *Environment Protection Authority's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).*

Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

Reason: For protection of environment and human health and to ensure compliance with the legislation. (DACPHE03)

41. Installation and Maintenance of Sediment Control

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Warringah Council Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACPLE02)

42. Waste/Recycling Requirements (Waste Plan Submitted)

During demolition and/or construction the proposal/works shall be generally consistent with Sections 1 (On-Going Waste Management) and 2 (Demolition and Construction Waste) of Council's Draft Waste Management Plan as submitted to Council and dated 21 November 2012.

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

43. Installation of a net screen to scaffolding during demolition and construction works

A net screen, sufficient to suppress the transfer of dust and to prevent the overlooking into neighbouring residential properties, is to be installed along the entire length and height of the external side of the scaffolding for the duration of the demolition and construction phase.

Reason: To protect residential privacy and to prevent the transfer of dust.

44. Concealment of downpipes and services

All downpipes and services are to be concealed from view by installing them within the exterior fabric of the wall.

Reason: To minimise visual clutter.

45. Waste/Recycling Requirements (Materials)

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

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



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

46. Provision of Give-Way Line to Loading Dock

During demolition and/or construction the proposal/works shall be generally consistent with Sections 1 (On-Going Waste Management) and 2 (Demolition and Construction Waste) of Council's Draft Waste Management Plan as submitted to Council and dated 21 November 2012.

Reason: To minimise conflicts between vehicles on the site. (DACBCFPOC1)

47. Loading Dock Signal System

The applicant is to provide a signal system at the entry to the loading dock to indicate that the loading dock is in use.

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

Reason: To ensue that heavy vehicles are not required to reverse from the site.(DACBCFPOC2)

48. Authorisation of Legal Documentation Required for On-site Stormwater Detention

The original completed request forms (Department of Lands standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works.

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

Reason: To create encumbrances on the land. (DACENF01)

49. Registration of Encumbrances for On-site Stormwater Detention

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

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

Reason: To identify encumbrances on land. (DACENF02)

50. Reinstatement of Kerb

All redundant laybacks and vehicular crossings shall be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

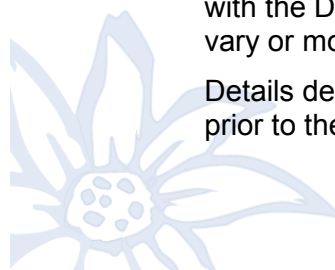
Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To facilitate the preservation of on street parking spaces. (DACENF03)

51. Restriction as to User for On-site Stormwater Detention

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such restriction.

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



Reason: To ensure modification to the on-site stormwater detention structure is not carried without Council's approval. (DACENF04)

52. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person.

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

Note: The following Standards and Codes applied at the time of determination:

- (a) Australian/New Zealand Standard AS/NZS 3500.3 - 2003 - Plumbing and drainage - Stormwater drainage
- (b) Australian/New Zealand Standard AS/NZS 3500.3 - 2003/Amdt 1 - 2006 - Plumbing and drainage - Stormwater drainage
- (c) National Plumbing and Drainage Code.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)

53. On-Site Stormwater Detention Compliance Certification

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

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

Reason: To ensure stormwater disposal is constructed to Council's satisfaction. (DACENF10)

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

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

Warringah Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Warringah Council's delegate shall sign these documents prior to the submission to the Land & Property Information Department.

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

Reason: To ensure adequate provision is made for the stormwater pump out system to be maintained to an appropriate operational standard. (DACENF11)

55. Positive Covenant for On-site Stormwater Detention

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Warringah Council's delegate prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such covenant.

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

Reason: To ensure ongoing maintenance of the on-site stormwater detention system. (DACENF12)



56. Creation of Positive Covenant and Restriction as a User

Where any conditions of this Consent require the creation of a positive covenant and/or restriction as a user, the original completed request forms, (Department of Lands standard forms 13PC and/or 13RPA), shall be submitted to Warringah Council for authorisation.

A certified copy of the documents shall be provided to Warringah Council after final approval and registration has been affected by the "Department of Lands".

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

Reason: To identify encumbrances on land. (DACENF14)

57. Waterproofing/Tanking of Basement Level - Certification

Certification stating that the basement level is permanently tanked or waterproofed to prevent the ingress of sub-surface flows/groundwater into the basement area. Certification is to be provided by an Accredited Certifier suitably accredited with the Building Professionals Board in the relevant area of expertise.

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

Reason: To ensure compliance with State Government Requirements. (DACENFPO1)

58. Allocation of Parking Spaces

Car parking spaces provided shall be provided, made accessible and maintained at all times. The spaces shall be allocated as follows:

- 26 – Residential
- 5 - Residential (Visitors)
- 57 – Commercial

Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space allocated to a particular unit / tenancy shall be line marked and numbered or signposted to indicate the unit / tenancy to which it is allocated.

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

Reason: To ensure that adequate parking facilities to service the development are provided on site. (DACHEFPOC1)

59. Sydney Water Approval

Prior to occupation certificate (Interim or Final), submit to the Principal Certifying Authority written evidence from Sydney Water regarding evidence of a trade waste agreement.

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

Reason: Statutory requirement of Sydney Water (DACHPF05)

60. Compliance with Contamination Report

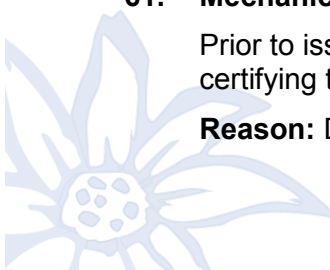
Prior to the issue of occupation certificate provide certification from a suitably qualified environmental consultant certifying that all the recommendations detailed in EIS Contamination report dated March 2010 (Ref E22337KBrpt3) have been complied with and the site is safe for its intended purpose.

Reason: To ensure environmental compliance and safety for occupants. (DACHPF06)

61. Mechanical Ventilation

Prior to issue of Occupation Certificate provide certification from a suitably qualified person certifying that the mechanical ventilation system complies with Australian Standard 1668.2.

Reason: Demonstrate compliance with applicable standards (DACHPFPOC1)



62. Food Premises

The Retail Market shall comply with the requirements of Australian Standards 4674 (Design, Construction and Fit Out of Food Premises).

Reason: To ensure compliance with the applicable food standards. (DACHPFPOC2)

63. Noise Control - Certification

Prior to occupation certificate provide certification from a suitably qualified acoustic consultant certifying that the recommendations in the Acoustic Assessment Report prepared by Renzo Tonin & Associates dated 7 October 2012 have been complied with and that all sound producing plant, equipment, machinery or fittings complies with the Industrial Noise Policy (NSW 2000).

Reason: To ensure that noise generated from the development does not result in offensive noise to any other party. DACHPFPOC6)

64. Required Planting

The tree/s listed in the following schedule shall be planted in accordance with the following schedule:

No. of Trees Required.	Species	Location	Min Pot Size
All trees	As indicated on Landscape Plans Dwg Nos L01 D and L02 C dated 25 September 2012 prepared by Habitation and;	As indicated on the Landscape Plan	As indicated on the Landscape Plan
3	<i>Elaeocarpus reticulatus</i>	Between the waste storage room and the boundary adjacent to the dwelling at No. 28 Albert St	100 litre

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

Reason: To maintain environmental amenity. (DACLAF01)

65. Removal of All Temporary Structures/Material and Construction Rubbish

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

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

Reason: To ensure bushland management. (DACPLF01)

66. Garbage and Recycling Facilities

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

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

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

67. Building Number

The building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings. (DACPLF04)



68. Intercom

An intercom system must be provided in a convenient location adjacent to the visitor parking entry to enable easier and safe access to visitor parking.

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

Reason: To ensure convenient access is available for visitors to the building. (DACPLF05)

69. Undergrounding of Telecommunications Services

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

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

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

70. Fire Safety Matters

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

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

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

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000. (DACPLF07)

71. Sydney Water

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

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

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

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

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLF08)

72. Vehicle Egress Signs

Appropriate sign(s) shall be provided and maintained within the site at the point(s) of vehicular egress to compel all vehicles to come to a complete stop before proceeding onto the public way.

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

Reason: To ensure pedestrian safety. (DACTRFPOC1)



73. Visitor Car parking

Visitor car parking must be permanently available, freely accessible and clearly marked / signposted. The visitor car parking spaces area not to be allocated to individual units / tenancies.

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

Reason: To ensure visitor carparking is available at all times and is clearly identified. (DACTRFPOC2)

74. Waste/Recycling Certificate of Compliance with Policy

The proposal shall be constructed in accordance with Warringah Council's Policy Number PL 850 – Waste.

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

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

75. Waste/Recycling Compliance Documentation

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

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

76. Positive Covenant for Waste Services

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

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

77. Authorisation of Legal Documentation Required for Waste Services

The original completed request form (Department of Lands standard form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

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

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

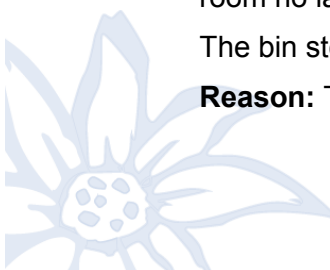
ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

78. Operation of Residential Bin Storage Room

The relocation of residential bins from the Refuse Area next to the Loading Dock to the bin storage room adjacent to Albert Street is to occur no later than 6.30pm on the night prior to Council waste pick-up. The bins are to be returned to the Refuse Area from the bin storage room no later than 6.30pm on the night of Council waste pick-up.

The bin storage room is to be locked everyday except on the day of Council waste pick-up.

Reason: To protect the amenity of neighbouring properties. (DACHEGOG1)



79. Garbage and Recycling Facilities

Physically separated commercial and residential waste storage rooms that are designed so they are easy to clean, suitably ventilated and managed to prevent pests shall be provided within the premises for the storage of all garbage bins and recycling containers and all other waste and recyclable material generated by this premises. All internal walls of the garbage storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning. The commercial and residential garbage rooms must be adequately labelled.

Reason: To prevent pollution of the environment and to protect the amenity of the area. (DACHPGOG1)

80. Use of Premises

- (a) This consent approves the use of the ground floor tenancies as Commercial Premises as defined under the Warringah Local Environmental Plan 2011 subject to any combination of uses complying with the on-site car parking provision of 57 spaces as required by Appendix 1- 'Car Parking Requirements' under the Warringah Development Control Plan.
- (b) Separate Development Consent is required for the use of any of the premises identified in (a) above if the proposed use is not a Commercial Premises.

Reason: To ensure compliance with legislative requirements. (DACLAGOG2)

81. Visitors Sign

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

Reason: To ensure that visitors are aware that parking is available on site and to identify those spaces to visitors. (DACPLG04)

82. Hours of Operation

The hours of operation for any Commercial Premises are to be restricted to (inclusive):

7.00am to 10.00pm Monday to Sunday.

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

Reason: Information to ensure that amenity of the surrounding locality is maintained. (DACPLG08)

83. Commercial Waste Collection

Waste and recyclable material, generated by the commercial premises, must not be collected between the hours of 10.00pm and 6.00am Monday to Saturday and between 7.00pm to 7.00am Sundays and Public Holidays.

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

84. Commercial Waste and Recycling Storage

- (a) Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins as shown on the approved plans.
- (b) No waste or recyclable material is to be stored, temporarily or permanently, within the driveway or outside the loading dock with exception to the residential waste temporarily stored in the approved residential waste collection room on waste pick-up days only.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed. (DACPLG19)



85. Loading dock operations

- (a) All loading and unloading operations shall be carried out wholly within the confines of the the approved loading areas, at all times.
- (b) All operations within the loading dock are to cease between 10.00pm and 6.00am Monday to Saturday and between 7.00pm to 7.00am Sundays and Public Holidays.
- (c) During all loading and unloading operations, the door to the loading dock is to be closed to minimise noise impact upon neighbouring residential properties.

Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian safety and amenity. (DACPLG20)

86. Delivery Hours

Delivery and service vehicles must not enter the loading dock between 7.00pm to 6.00am Monday to Saturday and 7.00pm to 7.00am Sundays and Public Holidays.

Reason: To protect ensure the acoustic amenity of surrounding properties. (DACPLG21)

87. Commercial Waste and Recycling Storage

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins.

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

88. Parking Enclosure

No parking spaces, or access thereto shall be constrained or enclosed by any form of structure such as fencing, cages, walls, storage space, or the like, without prior consent from Council.

Reason: To ensure that minimum dimensions for parking spaces are not reduced or that vehicle manoeuvring is compliant with relevant standards. (DACTRGOG1)

89. Planting adjacent to the driveway

The applicant must ensure that the planting chosen for any land immediately adjacent to the driveway must not exceed a height of 1,200mm.

Reason:To maintain sight distance for vehicles exiting the site.(DACTRGOG2)

90. Allocation of Parking Spaces

Car parking spaces provided shall be provided, made accessible and maintained at all times. The spaces shall be allocated as follows:

- 26 – Residential
- 5 - Residential (Visitors)
- 57 – Commercial

Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space allocated to a particular unit / tenancy shall be line marked and numbered or signposted to indicate the unit / tenancy to which it is allocated.

Reason: To ensure that adequate parking facilities to service the development are provided on site. (DACHEFPOC1)



Elevations Plans



PROJECT:		TITLE			
22-28 ALBERT STREET HARBORD NSW		LEVEL 2 & ROOF PLAN			
FOR:	JOB NO	DATE	SCALE	DWG NO.	ISSUE
QPS DEVELOPMENTS PTY LTD	11225	2012	1:200 @ A1	DA04	D

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Elevations Plans

Elevations Plans

