

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1508
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Responsible Officer:	Adam Susko
Land to be developed (Address):	Lot B DP 389449, 882 A Pittwater Road DEE WHY NSW 2099
Proposed Development:	Demolition works and construction of a mixed-use development, including a boarding house development, food and drink premises and office premises
Zoning:	Warringah LEP2011 - Land zoned B4 Mixed Use
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Australian Building & Development Pty Ltd
Applicant:	Hamptons Property Services Pty Ltd

Application Lodged:	15/09/2021
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Mixed
Notified:	24/09/2021 to 08/10/2021
Advertised:	24/09/2021
Submissions Received:	29
Clause 4.6 Variation:	SEPP ARH Clause 30(1) (h)
Recommendation:	Approval

Estimated Cost of Works:	\$ 4,324,512.00
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EXECUTIVE SUMMARY

The Development Application (DA) subject of this report relates to the construction of a mixed-use development comprising of a retail shop, three commercial tenancies and a boarding house comprising 19 boarding rooms.

The DA is reported to the Northern Beaches Local Planning Panel as:

- There is a breach of a development standard by more than 10%; and
- The application has attracted more than 10 submissions.

During the public exhibition of the DA, 29 submissions objecting to the proposal were received. The submissions raise concerns over construction impacts and the general constructability of the proposal, the lack of car parking, amenity impacts and they objected to the use of a part of the site for the purpose of a boarding house.

The location of the site on a Classified Road and adjacent to the B-Line bus stop, combined with the unusual proportions of the lot, will inherently result in a difficult construction methodology and plan, however that difficulty does not warrant the refusal of the DA, rather a detailed analysis of the logistics and difficulties associated with demolition and construction. General impacts of construction can be appropriately mitigated through conditions and good site management.

The site is not physically capable of providing vehicular access from Pittwater Road and is unable to connect to any existing adjoining basements to provide such access. The site has been isolated by all of the developments around it, which is prejudicial to its ability to be developed in a conventional manner (i.e. with basement car parking). On the basis that the site is heavily and unduly constrained, and noting the provision of cycle parking and excellent public transport connectivity, a car-free development is supported in this instance.

Concerns have been raised regarding overlooking, overshadowing, view loss and an intrusion of acoustic privacy. These matters are addressed in detail in this report and the assessment has found the proposal to have an acceptable impact, considering the context which is that of a dense town centre environment, subject to conditions to address amenity issues, and thus do not warrant the refusal of the application.

The use of the building as a boarding house is permitted with consent under the WLEP 2011 and it would be ultra vires for Council to refuse the DA on the basis of the land use alone.

The development breaches one development standard pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009 in that the site provides no motorcycle parking (for the reasons explained above).

The variation to the motorcycle parking space is substantiated by the lack of vehicular access to the site and is therefore supported.

The variations to the development standard and the matters raised in public submissions do not warrant the refusal of the application.

The proposal has been reviewed at pre-lodgement stage and during the course of this application by Council's Design and Sustainability Advisory Panel who support the development application. Recommendations were made by that Panel which have been, in part, addressed by receipt of revised plans which form the basis for this assessment.

On that basis, this report concludes with a recommendation that the NBLPP as the consent authority grant conditional **APPROVAL** to the application.

PROPOSED DEVELOPMENT IN DETAIL

Development Consent is sought for demolition works and the construction of a nine (9) storey mixed-use development comprising of a boarding house, retail and commercial suites with ancillary facilities.

The application includes the following:

- One ground floor retail suite.
- Three commercial suites at ground, first and second floor.
- 19 boarding rooms, including three accessible rooms.
- One managers room/office.
- One communal roof and terrace.

The proposal has a stepped design reflective of adjacent buildings and is finished in glazing, coloured pre-cast concrete panels and a green roof.

AMENDED PLANS

Amended plans were received during the course of this application which deleted one boarding room, added a green roof to the building, modified the stormwater design and made revisions to the internal layout of the development. Additional revised plans were received after a further assessment which modified the internal layout of room 5.01.

These changes are consistent with recommendations made by Council staff during the assessment. The magnitude of changes made are considered to be of a lesser environmental impact than that of the original scheme and were therefore not renotified to neighbours.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - C2 Traffic, Access and Safety

Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - C8 Demolition and Construction

Warringah Development Control Plan - D11 Roofs

Warringah Development Control Plan - 3 Desired Character for the Dee Why Town Centre

Warringah Development Control Plan - 4 Streetscape and Public Domain

Warringah Development Control Plan - 5 Design and Architectural Diversity

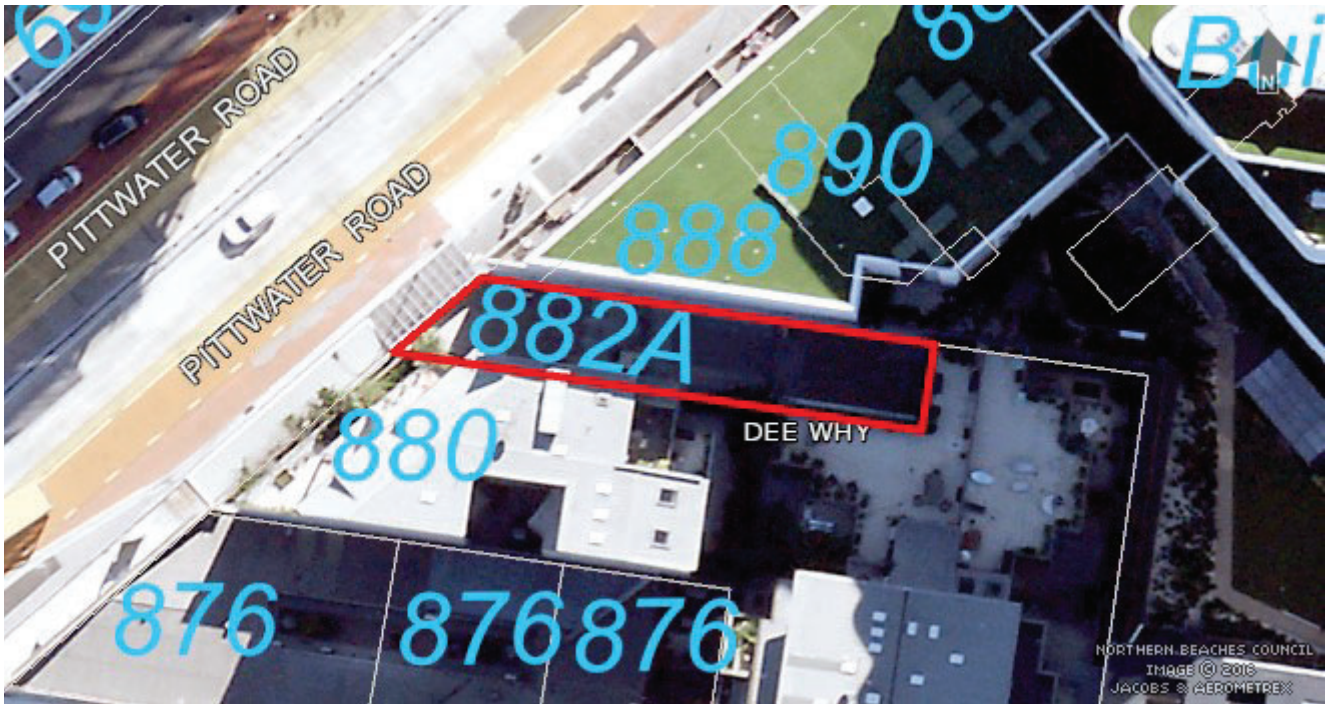
Warringah Development Control Plan - 6 Site amalgamation

Warringah Development Control Plan - 8 Car Share

SITE DESCRIPTION

Property Description:	Lot B DP 389449 , 882 A Pittwater Road DEE WHY NSW 2099
Detailed Site Description:	<p>The subject site is legally described as Lot B in Deposited Plan 389449 and is known as 882A Pittwater Road, Dee Why.</p> <p>The site is zoned B4 Mixed Use and falls within the Dee Why Town Centre pursuant to the Warringah Local Environmental Plan 2011.</p> <p>The site is an anomaly within the Pittwater Road streetscape both by virtue of the size of the land and by the buildings proportions commensurate to the adjoining properties.</p> <p>The site has one frontage to the southeastern side of Pittwater Road measuring 8.44m in width and a rear boundary of 6.4m resulting in site depths of 33.765m and 39.27m. Overall the site has a surveyed area of 233.7m².</p> <p>Presently the site accommodates a single storey brick building which takes up the entirety of the site and presently operates as a display suite for a nearby construction site.</p> <p>The site has no landscaping and is completely flat with natural ground levels being incalculable given the extent of surrounding development.</p> <p>To the north of the site is the Meriton Lighthouse development comprising of two towers and wrap-around podium buildings. Adjoining the northern boundary of the subject site is a nine-storey mixed-use podium with a parapet height of Reduced Level (RL) 46.97 - for reference, the footpath to the front of these properties is approximately at RL18.4.</p> <p>South of the site is seven storey mixed-use building that progressively steps back from the street from RL25.7 to RL34.8 to a ridge of RL41.17.</p> <p>The wider Dee Why Town Centre is midway through a transitional period whereby older and under-utilised developments are gradually being replaced with larger more contemporary buildings.</p> <p>The site sits immediately behind the B-Line bus stop.</p>

Map:



SITE HISTORY

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

- **Prelodgement Meeting: PLM2020/0271**

A meeting was held between the applicant and Council on 14 January 2021 to discuss a proposal for the construction of a nine storey mixed-use development accommodating a boarding house and commercial premises. Specifically, the proposal included 20 boarding rooms, three commercial premises, one retail premises (coffee shop) and ancillary spaces.

The notes of that meeting conclude with the proposal of a boarding house on this site having merit as, given the inability to provide car parking, is preferable over general market housing.

The proposal, as submitted under this development application, is reflective of the PLM2020/0271 proposal and corresponding comments.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation

Section 4.15 Matters for Consideration'	Comments
environmental planning instrument	on the draft policy was completed on 13 April 2018. The subject site has been used for commercial purposes for an extended period of time. The proposed development retains a commercial use of the site and adds a residential component, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information.</p> <p>In response to Council's preliminary assessment and the DSAP comments found elsewhere in this report, Council requested that the proposal be revised to provide better internal amenity, better sustainability credentials and a better and more landscaped street presence. The applicant responded to this request with amended plans which form the basis of this report.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact</p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. In summary the site currently has no landscaping and the natural ground levels are indeterminable given the extent of development in the immediate area. The proposal introduces landscaped areas throughout the building and at different levels which pose a greater environmental benefit commensurate to the existing building. Of particular note is the fact that the building as a whole is topped with an inaccessible green sedum roof. The presence of a green roof within the Dee Why Town Centre is unprecedented, and will be valuable in its contribution to local wildlife habitat and pollination.</p>

Section 4.15 Matters for Consideration'	Comments
	<p>The proposal is therefore deemed to have a positive environmental impact.</p> <p>(ii) Social Impact Historically boarding house development applications have generated a significant volume of community opposition, generally (but not always) misaligning the proposed use to a more traditional form of social or community housing. That is not what is proposed. The boarding house is privately owned and operated and the potential tenants can be anyone. Increasingly in NSW housing is becoming more and more unaffordable and the prospective tenure is widening, with the fastest growing demographic in need of affordable or diverse forms of housing being older single women. A boarding house does not provide 'affordable' housing by regulation (such as community housing) but rather it is anticipated that a smaller room size generally corresponds to a lower rent than a traditional market apartment, thus making it an affordable option. There are already over 44,000 approved applicants waiting for affordable housing, with wait times expected to exceed 10 years (Department of Community and Justice 2022) and the provision of affordable housing is therefore a social justice issue.</p> <p>In the absence of any unreasonable amenity impacts caused to neighbours (as demonstrated elsewhere in this report), the overall quality of the architecture and its contribution to the town centre, and the demonstrable need for affordable and diverse housing in Australia but Sydney in particular, this report concludes that the proposal is of a positive social impact.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	<p>The site is an isolated and severely constrained allotment within the centre of the busiest town centre on the Northern Beaches and fronting the main arterial road through the LGA. The site has no capacity for vehicular access and, consequent of its small size and narrow width, is not considered appropriate for traditional market apartments.</p> <p>In this proposal the applicant has included a range of town-centre appropriate land uses including a small coffee shop at the primary bus stop, three small office tenancies and 19 managed boarding rooms. The diversity of land uses and the quality of the design are suitable for the location.</p> <p>The project architect has preliminary described how the building could be built with minimal impacts to the amenity of neighbouring properties. Whilst such detailed is normally reserved for Construction Certificate, the assessment of this proposal found it warranted to ensure what was being proposed could actually be built. Whilst those details do not form a part of this report or any subsequent consent, it has been satisfactorily detailed that, with the appropriate approvals from the transport authority, the building could be constructed.</p> <p>On that basis the proposed land use and proportionality of the building are</p>

Section 4.15 Matters for Consideration'	Comments
	suitable for the site.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	The public notification of this development application has attracted a number of submissions objecting to the proposal for a vast range of matters, with the most recurring theme being the proposed use of a part of the site as a Boarding House. Historically on the Northern Beaches (other elsewhere) boarding house development applications attract public interest and scrutiny generally pertaining to the potential clientele of the building. Notwithstanding these concerns, the land use is permissible on the site. This is discussed in greater detail elsewhere in this report. No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 24/09/2021 to 08/10/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 29 submission/s from:

Name:	Address:
Mr Biao Han	7A Knox Place NORMANHURST NSW 2076
Miss Kathryn Renee Young	8 / 10 Oaks Avenue DEE WHY NSW 2099
Mr Benjamin Michael Furness	29 / 880 Pittwater Road DEE WHY NSW 2099
Mohamed El Beshlawi	453 / 28 Oaks Avenue DEE WHY NSW 2099
Liam Stephen Garratt	27 / 10 Oaks Avenue DEE WHY NSW 2099
Miss Hayley Anne Gordon	18 / 880 Pittwater Road DEE WHY NSW 2099
Michael Roulston Brown	9 / 880 Pittwater Road DEE WHY NSW 2099
Michael Grouse Milston	Po Box 1392 ORANGE NSW 2800
Dr Annette Patricia Sammut	33 Burne Avenue DEE WHY NSW 2099
George Carl Crowley Mrs Carole Ann Crowley	51 Parkland Road MONA VALE NSW 2103
Mrs Anna Zofia Roustoby	601 / 890 Pittwater Road DEE WHY NSW 2099

Name:	Address:
Ms Dana Boudaghian	38 / 880 Pittwater Road DEE WHY NSW 2099
Ms Kerrie Maria Allen	10 Amourin Street NORTH MANLY NSW 2100
Mrs Robin Margaret Louisa Maryska	26 Redman Road DEE WHY NSW 2099
Mrs Dubravka Lakic	25 / 10 Oaks Avenue DEE WHY NSW 2099
Gengxi Xu	21 / 10 Oaks Avenue DEE WHY NSW 2099
Wyndham Fitzgerald Cramer	257 / 28 Oaks Avenue DEE WHY NSW 2099
Mr Yago Lopez Sanchez	12 A Burne Avenue DEE WHY NSW 2099
Ms Rachel Emma Boschen	76 A Elanora Road ELANORA HEIGHTS NSW 2101
Dr Devasha Gwenfrewi Scott	30 Ramsay Street COLLAROY NSW 2097
Alexander George Skotnicki	76 A Elanora Road ELANORA HEIGHTS NSW 2101
Ms Shirley Hedy Taylor	259 / 28 Oaks Avenue DEE WHY NSW 2099
Miss Elinor Grace Cobbin	13 / 10 Oaks Avenue DEE WHY NSW 2099
Mr Alexander Patrik Aeberli	10 / 880 Pittwater Road DEE WHY NSW 2099
Lisa Shaw	27 Betty Hendry Parade NORTH RYDE NSW 2113
Mr Greg Barrell	39 Redman Road DEE WHY NSW 2099
Zeynep Turesin Soylu	563 / 28 Oaks Avenue DEE WHY NSW 2099
Mrs Helga Helm	14 / 10 Oaks Avenue DEE WHY NSW 2099
Mr Paul Apostolou	31 / 10 Oaks Avenue DEE WHY NSW 2099

During the public exhibition of the development application, a number of unique and pro-forma submissions were received, all objecting to the proposal. The submissions raised a number of issues with the proposal that are (where relevant) discussed in greater detail later in this report. The issues are broadly categorised as follows:

- Development of the site
- Use of the site as a boarding house
- Constructability of the proposal
- Cumulative impacts of numerous construction projects
- Amenity impacts arising from the proposal
- Traffic and parking

The above issues are addressed as follows:

- **Development of the site**

The submissions raised concerns that the development of the site, in any capacity, would be tantamount to an overdevelopment of Dee Why.

Comment

The subject site is entitled to be developed to a capacity as envisioned by the prevailing planning controls. The fact that this is the last site on the street block to be developed does not form a planning reason to prevent the site from being developed.

- **Use of the site as a boarding house**

The submissions raised concern with the partial use of the building as a boarding house, including amenity concerns (detailed below) but also concerns about potential occupants of the boarding house.

Comment

A boarding house is a permitted land use within the B4 Mixed Use zone.

There is no epistemological foundation to assertions that the use of the site for the purpose of a boarding house would result in an increase in crime in the locality and therefore these concerns hold no weight in the determination of the application. The provision of a boarding house in a town centre location provides an alternative form of accommodation (commensurate to traditional market apartments) which ensures that a broader segment of the community can continue to live in Dee Why.

It should be noted that the proposed boarding house requires a live-in-manager to be present on the site who will be (in part) responsible for enforcing the operational management plan. This plan provides a basis to limit noise, number of occupants and the general operation of a boarding house. Conversely, a standard market apartment is not subject to an operational management plan and therefore the density and noise generated from an apartment could likely be greater than that of a managed facility.

- **Constructability of the proposal**

The submissions raised concerns that the construction of the building would necessitate impacts on the footpath, bus stops and flow of Pittwater Road.

Comment

The constructability of a proposal is not primarily a matter necessitating resolution at the development application stage, as this usually occurs prior to the issue of any construction certificate. However, in this instance it is acknowledged that given the nature of the site, construction is and will be the defining factor as to whether the building ever gets constructed.

The applicant has reached agreement in principle with both Transport for NSW and the bus operating company that future negotiations can occur to address potential works zones or road closures. These factors are not pertinent to the determination of the DA and will be resolved post consent if issued.

- **Cumulative impacts of numerous construction projects**

The submissions raised concerns that nearby residents have been subjected to the on-going impacts of construction over an extended period of time, including noise, dust and construction traffic. Submissions request a delay in the construction starting to provide them with a period of respite.

Comment

The request is ultra vires to the legislative powers of Council. It is acknowledged that the transition of the area has generated a large volume of construction and associated impacts, however such is the nature of living centrally within the main town centre of an area. Conditions

are recommended to be imposed regarding hours of construction, noise and dust minimisation and traffic management plans which will all contribute to ameliorating the severity of any impacts.

- **Amenity impacts arising from the proposal**

The submissions raised concerns that the development may give rise to impacts including: solar access, visual and acoustic privacy, wind and view corridors.

Comment

These amenity concerns are all addressed within their respective clauses of this assessment report. In summary the proposal is not found to result in any unreasonable solar or privacy impacts through the architecture of the design.

Concerns were raised that the development of this site would essentially infill the street block and therefore obstruct existing view corridors. Views across the site are considered to be extremely limited given its width and the scale/orientation of adjoining developments. Concerns relating to view loss are not found to necessitate the refusal of the application.

- **Traffic and parking**

The submissions raised concerns that the development has no car parking and will therefore increase the demand for on-street car parking and general traffic congestion.

Comment

The subject site is physically not capable of providing an access driveway or car/motorcycle parking. All land uses require car parking and therefore if no dispensation to this requirement was considered the site would be prejudiced by past planning decisions and adjoining developments, resulting in it being stagnated of development potential. Fundamentally on this basis a car-free development is accepted.

The land-uses of the development proposed are considered less-likely to require car parking than traditional market apartments.

Further discussion on this matter occurs later in this report, however in summary the absence of car and motorcycle parking is supported.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p>The application was first presented to the Design and Sustainability Advisory Panel (DSAP) during the pre-lodgement process and then again on 07 October 2021 post the lodgement of the DA.</p> <p>The DSAP concluded:</p> <p><i>The Panel believes the majority of the comments from the first presentation to the panel have been addressed and the proposal is substantially improved. The use is appropriate to the location and restrictions of the site.</i></p>

Internal Referral Body	Comments
	<i>The Panel supports the development.</i>
Building Assessment - Fire and Disability upgrades	<p>Supported, with conditions</p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Environmental Health (Industrial)	<p>Supported, with conditions</p> <p>Environmental Health have no objections to the proposal based on the information provided. With regard to amenity, we have considered noise as the predominant source of potential impacts. An acoustic report has provided recommendations to mitigate noise impacts of mechanical exhaust and operations, those recommendations will form the foundation for conditions of consent.</p>
Environmental Health (Food Premises, Skin Pen.)	<p>Supported, with conditions</p> <p>The proposal includes retail spaces on the lower floor/s to be used as commercial kitchens. Based on the limited details of kitchen fit-out and mechanical exhaust system in the plans, Environmental Health is satisfied with the location of the mechanical exhaust output, standard conditions recommended regarding plans and certification.</p>
Landscape Officer	<p>Supported, with conditions</p> <p>The development application is for demolition of existing buildings and structures and the erection of a nine storey building which will contain one ground floor retail premise; three commercial offices; and twenty affordable rental dwellings, and an on-site manager's office/residence. Ancillary elements include on-site storage and bicycle parking facilities, as well as communal open space areas.</p> <p>Council's Landscape Referral section have assessed the application against the following:</p> <ul style="list-style-type: none"> • State Environmental Planning Policy (Affordable Rental Housing) 2009, Division 3 Boarding Houses, including clause 29 - Standards that cannot be used to refuse consent (2) (b) landscaped area, and clause 30A - Character of local area. • Warringah LEP and DCP. <p>It is noted that SEPP ARH clause 29 (b) requires landscape treatment of the front setback area to compatible with the streetscape in which</p>

Internal Referral Body	Comments			
	<p>the building is located and to this effect there is no landscape treatment to the Pittwater Road streetscape apart from public domain elements.</p> <p>Landscape Plans are submitted indicating landscape treatment to the ground floor, level 6, and level 8 communal area. Existing public domain works upon the road reserve are to be protected.</p> <p>Landscape Referral raise no concerns with the landscape proposal.</p>			
NECC (Development Engineering)	<p>Supported, with conditions</p> <p>Updated Comments: Amended drainage plans have been received and the applicant has addressed the previous council concerns , no objections to the development subject to conditions.</p> <p>Superseded Comments: The stormwater plans detailing the provision of OSD were reviewed and the following further information is required: 1) The DRAINS model with design assumptions is to be submitted to Council for review. 2) A longsection through the footpath area in Pittwater Road to to be provided detailing service location clearances relative to the stormwater outlet line. 3) A Hydraulic grade line analysis of the stormwater outlet pipe is to be provided to demonstrate the OSD outlet is not submerged.</p>			
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>Supported, with conditions</p> <p>No loss of storage is proposed. The floor level of the retail areas and entry staircases will be located above the FPL. Shelter in place is proposed. 1% AEP mainstream flood levels along Pittwater Road is RL 18.35m AHD. The ground floor is 18.90m AHD (550mm freeboard above the 1% AEP level). All habitable floor levels are located above the FPL and PMF. Some access ramps are located below the FPL however are constructed as watertight up to the FPL. Water tight bundings and landings above the required level are proposed before the ramp descends. No carpark or driveway is proposed.</p>			
NECC (Water Management)	<p>Supported, with conditions</p> <p>The application meets the requirements of the relevant Environmental Planning Instruments and policies.</p>			
Road Reserve	<p>Supported, without Conditions</p> <p>There is limited impact on existing road infrastructure assets.</p> <p>The development shall maintain an awning over the public footway area.</p>			
Strategic and Place Planning (Heritage Officer)	<table border="1"> <thead> <tr> <th data-bbox="520 1879 1441 1912">HERITAGE COMMENTS</th> </tr> </thead> <tbody> <tr> <td data-bbox="520 1912 1441 1951">Discussion of reason for referral</td> </tr> <tr> <td data-bbox="520 1951 1441 2128">This application has been referred as it is within the vicinity of Item 148 - Commonwealth Bank, 691 Pittwater Road, Dee Why. The subject site is located on the other side of a main road, being Pittwater Road and at least 50 metres away.</td> </tr> </tbody> </table>	HERITAGE COMMENTS	Discussion of reason for referral	This application has been referred as it is within the vicinity of Item 148 - Commonwealth Bank, 691 Pittwater Road, Dee Why . The subject site is located on the other side of a main road, being Pittwater Road and at least 50 metres away.
HERITAGE COMMENTS				
Discussion of reason for referral				
This application has been referred as it is within the vicinity of Item 148 - Commonwealth Bank, 691 Pittwater Road, Dee Why . The subject site is located on the other side of a main road, being Pittwater Road and at least 50 metres away.				

Internal Referral Body	Comments																		
	<p>Details of heritage items affected</p> <p>Details of the heritage item in the vicinity, as contained within the Warringah Heritage Inventory, are: <u>Statement of Significance</u> A representative example of a suburban bank in the inter-war art deco style. Historically provides evidence of the development of business infrastructure during this period to serve growth of the area. Displays good integrity, retaining much original fabric.</p> <p>Other relevant heritage listings</p> <table border="1" data-bbox="520 674 1430 1216"> <tr> <td data-bbox="520 674 839 813">Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td> <td data-bbox="839 674 930 813">No</td> <td data-bbox="930 674 1430 813">Comment if applicable</td> </tr> <tr> <td data-bbox="520 813 839 887">Australian Heritage Register</td> <td data-bbox="839 813 930 887">No</td> <td data-bbox="930 813 1430 887"></td> </tr> <tr> <td data-bbox="520 887 839 960">NSW State Heritage Register</td> <td data-bbox="839 887 930 960">No</td> <td data-bbox="930 887 1430 960"></td> </tr> <tr> <td data-bbox="520 960 839 1034">National Trust of Aust (NSW) Register</td> <td data-bbox="839 960 930 1034">No</td> <td data-bbox="930 960 1430 1034"></td> </tr> <tr> <td data-bbox="520 1034 839 1140">RAIA Register of 20th Century Buildings of Significance</td> <td data-bbox="839 1034 930 1140">No</td> <td data-bbox="930 1034 1430 1140"></td> </tr> <tr> <td data-bbox="520 1140 839 1216">Other</td> <td data-bbox="839 1140 930 1216">No</td> <td data-bbox="930 1140 1430 1216"></td> </tr> </table> <p>Consideration of Application</p> <p>This application is for the demolition of the existing building and the construction of a new 9 storey mixed use development with retail/commercial uses and boarding house accommodation. The proposal is wedged between two existing developments.</p> <p>As the heritage item in the vicinity is across the 6 lane wide Pittwater Road and 50 metres away, there will be no impact upon the heritage significance of the heritage item at 691 Pittwater Road.</p> <p>Therefore no objections are raised to this application on heritage grounds, and no conditions required.</p> <p>Consider against the provisions of CL5.10 of WLEP 2011 Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? N/A Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? N/A</p> <p>Further Comments</p> <p>COMPLETED BY: Janine Formica, Heritage Planner DATE: 16 September 2021</p>	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	Comment if applicable	Australian Heritage Register	No		NSW State Heritage Register	No		National Trust of Aust (NSW) Register	No		RAIA Register of 20th Century Buildings of Significance	No		Other	No	
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RAIA Register of 20th Century Buildings of Significance	No																		
Other	No																		
Strategic and Place Planning (Development Contributions)	<p>Supported, with conditions</p> <p>The application proposes demolition works and the construction of a nine storey mixed-use building consisting of:</p>																		

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • 19sqm of retail floorspace; • 166.5sqm of commercial floorspace; • 20-bed boarding house (19 beds plus 1-bed manager's room) <p>The Dee Why Town Centre Contributions Plan 2019 applies to this development.</p> <p>The Contributions Plan identifies that the contribution amount is attributable to the net increase in infrastructure demand. Clause 4.3 of the Contributions Plan identifies that there must be an allowance for existing development. The assessment officer has advised that the existing development comprises 233.7sqm of non-residential floorspace. Proposed non-residential floorspace totals 185.5sqm. There is no net increase in non-residential floorspace therefore no contribution has been imposed for non-residential development. Clause 4.3 of the Contributions Plan does not permit the balance, 48.2sqm of non-residential floorspace to be applied as a credit against the proposed residential accommodation or vice versa.</p> <p>The development involves the construction of new residential accommodation in the form of a boarding house comprising a total of 20 rooms/beds (19 boarding house rooms and 1-bed permanent manager's room). The manager's room is considered a form of residential accommodation that is levied by the Contributions Plan. This development will increase the demand for local infrastructure levied under the Contributions Plan. A contribution rate of \$6,716.09 per bed has been applied to the 20 rooms/beds resulting in a total monetary contribution of \$134,321.86.</p> <p>Clause 6.3.1 of the Contributions Plan stipulates that the contribution rates in the plan will be adjusted to reflect quarterly movements in the Consumer Price Index (CPI) as published by the Australian Bureau of Statistics. The next CPI adjustment will be published on 27 July 2022. If the development application is not determined before this date, the contribution calculation will need to be updated to reflect the amended contribution rates.</p> <p>Accordingly, If determined before 27/07/2022 (date of the next CPI adjustment), the following condition should be applied to the development:</p> <p>A monetary contribution of \$134,321.86 (subject to (a) below) is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.11 of the Environmental Planning & Assessment Act 1979 and the Dee Why Town Centre Contributions Plan 2019.</p> <p>The monetary contribution is based on:</p> <ul style="list-style-type: none"> • the residential contribution rate of \$6,716.09 per bed (applicable to a boarding house) and • the approved 20 beds only (inclusive of the permanent 1-bed manager's room).

Internal Referral Body	Comments
	<p>a) Written evidence (receipt/s) from Council for the payment of the monetary contribution is to be provided to the Certifying Authority prior to the issue of the construction certificate. If the monetary contribution (total or in part) remains unpaid after the financial quarter in which the development consent is issued, the amount unpaid (whether it be the full monetary contribution or part thereof) will increase on a quarterly basis in accordance with the applicable Consumer Price Index.</p> <p>b) The Applicant may negotiate with Council for the direct provision of other facilities and services, and/or the dedication of land in lieu of the cash contribution above (or any portion of that cash contribution) or the deferral of payments through a Material Public Benefits Agreement between Council and the Applicant in accordance with the Contribution Plan. The Material Public Benefits Agreement between the Applicant and Northern Beaches Council must be finalised, formally signed and in place prior to the payment of the monetary contribution.</p> <p>The Dee Why Town Centre Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.</p> <p>Reason: To provide for contributions in accordance with the Contribution Plan that enables the provision of public infrastructure and services commensurate with the increased demand resulting from development in the Dee Why Town Centre.</p>
Traffic Engineer	<p>Supported, with conditions Updated Comments - 7/4/2022</p> <p>Further liaison with TfNSW and the bus service provider Keolis Downer has revealed that a Works Zone applying during off-peak periods may be permissible within part of the B-Line bus stop on the sites property frontage. Details will need to be confirmed in a revised construction traffic management plan prior to the issue of a construction certificate</p> <p>Further investigation of parking provisions in adjacent buildings has also confirmed that it is infeasible to construct below ground parking to serve this development site. Given the inability to feasibly construct any parking on such a narrow site and noting the site's excellent access to high frequency public transport to a range of destinations, close proximity to shops and services and close proximity to Go Get car share pods located within Council's Library carpark, the approval of the development without parking is acceptable.</p> <p>A revised Green Travel Plan is also considered necessary to outline measures to promote incentivise and/or encourage travel by active transport, public transport and car share.</p> <p>Subject to conditions there are now no traffic engineering issues</p>

Internal Referral Body	Comments
	<p>preventing approval of the development</p> <p>Superseded Comments - 6/12/2021</p> <p>The development proposal is for demolition of existing structures on the site and construction of a nine storey mixed use development comprises of 20 boarding rooms, 3 x commercial premises (total 167sqm GFA) and a retail premises (coffee shop) of 23sqm in size. The site is a remnant site with a street frontage to Pittwater Road of only 8.4m in width. The Dee Why B-Line Bus Stop is located immediately in front of the site.</p> <p>Parking:</p> <p>The Warringah DCP does not set a rate for boarding house development instead requiring that parking rates be determined by comparison with similar developments. The parking rate for the commercial component is 1 space per 40sqm (office or business premises) while in the Dee Why Town Centre retail uses are required to provide 1 space per 23.8 sqm.</p> <p>Most boarding house developments provide parking in accordance with SEPP (Affordable Housing) requirements i.e 0.5 spaces per bed and 1 space for an on site manager. In addition the SEPP also has a mandatory provision that both bicycle and motorcycle parking be provided at a rate of 1 space for each five boarding rooms.</p> <p>Utilising the above rates the development would be require 16 spaces (5 for commercial/retail, 10 resident spaces and 1 managers spaces). 4 bicycle spaces and 4 motorcycle parking are also required.</p> <p>The developer proposes no offstreet car or motor cycle parking but does propose to provide space for 17 wall mounted bicycles. The bicycle parking requirement is exceeded however the lack of any motorcycle parking which, under the SEPP is a mandatory requirement has not been satisfactorily addressed.</p> <p>The narrow frontage of the site and the lack of alternate rear lane or side access makes it impractical to construct a vehicle crossing to the site. In addition the fact that it fronts a State Road with the frontage being sited within the B-Line Bus Zone, makes it unlikely that Transport for NSW would approve a new driveway in this location. Finally, the proximity of the site to services and shops in the Dee Why Town Centre and to the B-Line Bus stop make this location appropriate for a reduced level of parking provision below SEPP and DCP requirements.</p> <p>At the PLM meeting the applicant was requested to explore options for basement parking to be accessed via the basements serving the adjacent sites and to provide evidence that reasonable attempts to explore this option had been made. No documentation to establish</p>

Internal Referral Body	Comments
	<p>that such liaison has taken place and confirming that such an option is unable to be achieved has been provided.</p> <p>The applicant was also requested to provide a green travel plan which has been provided and is discussed further below</p> <p>Traffic Generation</p> <p>Boarding houses generally generate low levels of traffic as will the small retail and commercial development proposed for this site which will be served primarily by traffic on foot. The absence of parking on the site and proximity to high frequency public will also tend to result in lower levels of traffic generation. The proposed development is not opposed in terms of its traffic generation impacts.</p> <p>Green Travel Plan</p> <p>The green travel plan provides information on available public transport, bicycle route and car share facilities within the area but other than encouraging participation in Walk to Work and Ride to Work Days and providing secure bicycle parking, there are no incentives to encourage travel by these means. Options such as reduced tenancy fees for tenants owning a bicycle, provision of a pool of E-Bikes, corporate Go-Get membership available to tenants and commercial clients, Opal cards for tenant use etc would all encourage greater use of these transport modes and genuinely offset the absence of any car or motorcycle parking on the site.</p> <p>Loading/Deliveries</p> <p>There is no provision for Loading or Deliveries to the development to be accommodated offstreet and no ability for deliveries or loading to be accommodated on-street in front of the site given the presence of the highly utilised B-Line bus stop and No Stopping restrictions covering all nearby kerb space within close proximity to the site.</p> <p>It is however impractical to provide on-site loading facilities given the constrained nature of the site however it is unclear if any attempt has been made to explore alternate loading/delivery options via the basement parking in adjoining developments.</p> <p>Disabled Parking</p> <p>The development provides no disabled parking and no disabled parking options are available on-street within close proximity to the site. The nearest publicly accessible disabled parking is located in Council's Library carpark approx. 135m away and requiring the</p>

Internal Referral Body	Comments
	<p>crossing of two roads under traffic signal control. Given the above the site is not well served in terms of its access for persons with mobility issues or a disability.</p> <p>Constructability</p> <p>The referral comments from TfNSW advise that a construction zone (Works Zone) will not be permitted on Pittwater Road.</p> <p>The construction traffic management plan (CTMP) which accompanies the DA outlines that a Works Zone will be required on the Pittwater Road frontage of the site. This is contrary to the TfNSW advice. The developer needs to resolve this matter with TfNSW and provide written confirmation from TfNSW that they will permit a Works Zone and/or Standing of construction vehicles on the sites Pittwater Road frontage. If this is not possible it is unclear how the development can be completed and revision of the CTMP to outline alternatives would be required.</p> <p>Summary</p> <p>There is insufficient information providing addressing a number of areas of concern relating to shortfall in parking, lack of provision for loading/servicing. Lack of provision for disabled parking, and absence of motorcycle parking. The adequacy of the green travel plan which outlines little incentive to utilise sustainable transport alternatives is also queried. There is also conflicting information between TfNSW and CTMP advice regarding the potential for standing of construction vehicles on the sites Pittwater Road frontage. Additional information addressing these matters is required prior to further consideration of this DA</p>
Waste Officer	<p>Supported, with conditions</p> <p>Due to the constrained nature of this site (physical size, limited access) Waste Management has deemed the application to be "acceptable" despite several inconsistencies with the Waste Management Design Guidelines.</p> <p>Special ongoing conditions of consent have been applied with respect to these inconsistencies to ensure appropriate ongoing management of waste within the building.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>Supported, with conditions</p> <p>The proposal was referred to Ausgrid who raised no objections to the proposed development, subject to conditions as recommended.</p>
Concurrence – NSW Roads	<p>Supported, with Conditions</p>

External Referral Body	Comments
and Maritime Services - SEPP Infrastructure (cl 100 Development on proposed classified road)	<i>TfNSW has reviewed the submission and provides concurrence to the proposed civil works on Pittwater Road under section 138 of the Roads Act 1993, subject to conditions.</i>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

Division 3: Boarding Houses

Clause 25: Definition

For the purposes of this Division, the Standard Instrument defines a 'boarding house' as a building that:

*"(a) is wholly or partly let in lodgings, and
(b) provides lodgers with a principal place of residence for 3 months or more, and
(c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
(d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,*

but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment".

In this Division 'communal living room' means "a room within a boarding house or on site that is available to all lodgers for recreational purposes, such as a lounge room, dining room, recreation room or games room".

Clause 26: Land to which this Division Applies

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone B1 Neighbourhood Centre, or (f) Zone B2 Local Centre, or (g) Zone B4 Mixed Use.	Consistent The site is located within the B4 Mixed Use zone and, as such, the proposed use is permissible with consent under WLEP 2011.

Clause 27: Development to which this Division Applies

(1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.

Requirement	Comment
(2) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area. Note: Accessible area means land that is within: (c) 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.	Consistent The site is located within the B4 Mixed Use zone and is situated not more than 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.
(3) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.	Not applicable. The site is located within the Sydney region.

Clause 28: Development may be Carried out with Consent

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Requirement	Comment
Development to which this Division applies may be carried out with consent.	The development constitutes the construction of a boarding house, as defined by the Standard Instrument. Therefore, the development may be considered under this Division of the SEPP as development which may be carried out with consent.

Clause 29: Standards that Cannot be used to Refuse Consent

Standard	Requirement	Proposed	Compliant/Comment
<p>(1) Density and scale A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:</p>	<p>(a) <i>the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or</i></p>	The site is subject to an FSR control of 4.0:1.	Not Compliant
	<p>(b) <i>if the development is on land within a zone in which no residential accommodation is permitted - the existing maximum floor space ratio for any form of development permitted on the land, or</i></p>	N/A Residential accommodation is permitted in the B4 Mixed Use zone.	Not Applicable.
	<p>(c) <i>if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register - the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:</i></p> <p><i>(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or</i></p> <p><i>(ii) 20% of the existing maximum floor space ratio, if the existing</i></p>	<p>Residential flat buildings are permitted within the B4 Mixed Use zone and the site does not contain a heritage item nor is it subject to an Interim Heritage Order.</p> <p>The existing maximum FSR is 4.0:1 and is therefore greater than 2.5:1 and thus qualifies for the additional 20% uplift pursuant to to cl.29 (1)(c)(ii).</p> <p>The proposal includes an FSR of 4.51:1 (1,054.7m²) which is less than the permitted maximum of 4.8:1 (1,123m²) and therefore complies with the prevailing FSR requirements.</p>	Compliant

	<i>maximum floor space ratio is greater than 2.5:1.</i>		
(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:			
(a) building height	<i>if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,</i>	The maximum permitted building height is 27m under the WLEP 2011. The development complies with this standard.	Compliant
(b) landscaped area	<i>if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,</i>	The front setback of the subject and adjoining sites to Pittwater Road is nil. The proposal includes street-facing landscaping at Level 5, Level 6 and on the roof. This is generally consistent and compatible with front setback landscaping along Pittwater Road within the B4 zone.	Compliant
(c) solar access	<i>where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,</i>	The communal room and roof terrace on Level 8 of the development does not receive the required 3 hours of direct sunlight between 9am and 3pm in mid-winter. The proportions and positioning of other adjacent buildings make achieving compliance, whilst staying under the building height and protecting the solar access of adjoining properties, near impossible. For that reason, and given the central location of the site close to services and the	Not Compliant - acceptable on merit.

		beach, a variation to this 'do not refuse' provision is allowed.	
(d) private open space	<p><i>if at least the following private open space areas are provided (other than the front setback area):</i></p> <p><i>(i) one area of at least 20m² with a minimum dimension of 3.0m is provided for the use of the lodgers,</i></p> <p><i>(ii) if accommodation is provided on site for a boarding house manager—one area of at least 8.0m² with a minimum dimension of 2.5m is provided adjacent to that accommodation,</i></p>	<p>Level 8 of the development provides communal open space to the rear of the building measuring approximately 21m² internally and 30m² externally, with minimum dimensions of 3m.</p> <p>The Manager's Room includes a private 9.5m² balcony at the front of the building (not within the front setback area as no front setback control applies).</p>	Compliant
(e) parking	<p>if:</p> <p><i>(i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and</i></p> <p><i>(ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</i></p> <p><i>(iia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are</i></p>	<p>The development provides no car parking and therefore pursuant to this clause, the development could be refused on this basis. However, in the circumstance of the application providing car parking on the site is found to be inappropriate and therefore nil car parking is accepted.</p> <p>This matter is discussed elsewhere in this report.</p>	Not Compliant - acceptable on merit.

	<p>provided for each boarding room, and</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</p>		
(f) accommodation size	<p>if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</p> <p>(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or</p> <p>(ii) 16 square metres in any other case.</p>	All boarding rooms provide private kitchen and bathroom facilities and exceed the prescribed areas.	Compliant
	<p>(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.</p>	All boarding rooms provide private kitchen and bathroom facilities.	Compliant

Clause 30: Standards for Boarding Houses

Standard requirement	Proposed	Compliant/Comment
<i>(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:</i>		
<i>(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,</i>	The proposal has more than five boarding rooms and provides one communal room and one communal outdoor area.	Compliant
<i>(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25m²,</i>	At the request of Council the applicant deleted Room L5.02 as it was too small, and merged that with Room L5.01. Through a series of revised plans an acceptable solution was found	Compliant

	which provided compliant room sizes for all boarding rooms.	
<i>(c) no boarding room will be occupied by more than 2 adult lodgers,</i>	No boarding rooms will be occupied by more than two adult lodgers.	Compliant
<i>(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,</i>	Each boarding room has private bathroom and kitchen facilities.	Compliant
<i>(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,</i>	The boarding room has the capacity to accommodate more than 20 lodgers and therefore an on-site 'dwelling' is provided for the boarding house manager.	Compliant
<i>(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,</i>	The site is zoned B4 Mixed Use and does not have any residential floor space on the ground floor.	Compliant
<i>(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.</i>	No motorcycle parking is provided on site. 17 bicycle parking spaces are provided. Discussed under Clause 4.6 of this report.	Non Compliant - acceptable on merit
<i>(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.</i>	N/A	N/A

Clause 30AA: Boarding Houses in Zone R2 Low Density Residential

A consent authority must not grant development consent to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone unless it is satisfied that the boarding house has no more than 12 boarding rooms.

Comment

Not applicable. The subject site is zoned B4 Mixed Use.

Clause 30A: Character of the Local Area

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

The development site is located on the main arterial road of the Northern Beaches in the central town centre area. The site is bound by existing development on all sides, including the tallest building in the Northern Beaches to the north. The development, by virtue of the site proportions, is significantly lesser in scale than neighbouring developments. The proposal is compliant with building height and the general architectural typology along Pittwater Road.

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

Consequent of the width of the land commensurate to that of surrounding sites, the size of the proposed development is limited and thus its visual bulk and presentation to the street is lesser than that of neighbouring buildings. Notwithstanding that, the building is broken up by a step and an interesting palette of materials with facade landscaping.

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

It is not considered that there are any noteworthy features of the existing site, nor any elements that could be retained to assist in reducing the visual bulk or dominance of any new structure.

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 is sought to be constructed in materials of an appropriate durability for the location, and in style and sympathy with the architecture of neighbouring buildings. The design incorporates elements of colour which are considered to be appropriate for the town centre location, particularly the large pane of yellow cladding which is to be reflective of the yellow double decker B-Line buses which stop at the front of the building.

In this regard, the development is considered to be consistent with the fourth principle.

The above principles 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 are assessed as consisting of constraints on the development potential of surrounding sites, privacy, overshadowing and noise. The impact of the proposal on adjoining sites are considered to be acceptable.

Constraints on the Development Potential of Surrounding Sites

Quite opposite to the intent of this control, the subject sites development potential is severely constrained by the existing development of neighbouring land which has left this site in isolation. The development of this small site does not further prejudice the development potential of any land.

Privacy

The eastern portion of the building incorporates both private balconies and a communal roof terrace which, in the submissions received, have been noted as potentially causing a privacy issue. Conversely, the existing balconies of neighbouring properties overlook this subject site already.

The design of the building incorporates blade walls on the flank facades to minimise overlooking and provides a setback of 4.5m to 6m from the rear boundary.

On balance it is acknowledged that the proposal does create some overlooking of neighbouring properties. This balance takes into consideration the inherent knowledge that one must have when buying into a town centre area that the expectation of complete privacy is unrealistic and unreasonable. On balance of all factors, the provision of visual privacy provided is acceptable.

Overshadowing

As detailed on the shadow diagrams provided by the project architect, the proposal will not contribute to any significant additional extent of overshadowing on adjoining land or windows commensurate to the existing situation.

Noise

The proposal is not anticipated to generate any unreasonable levels of noise that could harm the amenity of adjacent land. A boarding house is subject to a strict management plan and includes an on-site manager to deal with any noise complaints - this is the polar opposite to a standard residential market dwelling which has no restrictions on it. Therefore, despite being denser than a traditional apartment building, the noise is better managed.

Conclusion to 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 warrants the approval of the Development Application.

Conclusion

On balance of all factors the development is found to succeed when measured against the controls and underlying principles of the SEPP ARH, notwithstanding several numerical variations as discussed. On this basis the proposal is supported.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1174985M dated 13 July 2021). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 0006236475 dated 13 July 2021).

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

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	25	30

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

Transport for NSW

Clause 101 - Development with frontage to classified road states:

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

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

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

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

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

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

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

Comment

The proposal was referred to TfNSW who raised no objections, subject to conditions which have been included in the recommendation of this report.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	27m	27m	Yes
Floor Space Ratio:	4.0:1	4.51:1 (1,054.7m ²)	No - relevant provision is under SEPP ARH cl.29(1)(c)(ii)

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.6 Exceptions to development standards	Yes
5.21 Flood planning	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Clause	Compliance with Requirements
7.3 Objectives for development within Dee Why Town Centre	Yes
7.4 Development must be consistent with objectives for development and design excellence	Yes
7.5 Design excellence within Dee Why Town Centre	Yes
7.6 Height of buildings	N/A
7.10 Allowance for external ancillary plant and roof access	Yes
7.12 Provisions promoting retail activity	Yes
7.13 Mobility, traffic management and parking	Yes

Detailed Assessment

4.6 Exceptions to development standards

Clause 4.6 Variation: SEPP (ARH) Clause 30(1)(h) - *At least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.*

Description of Non-compliance

Development Standard:	Motorcycle parking
Requirement:	One motorcycle parking space per five boarding rooms
Proposed:	Nil
Percentage Variation to Requirement:	-

Clause 30(1)(h) of the SEPP ARH reads:

30 Standards for boarding houses

(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following—

(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.

The proposal includes 19 boarding rooms and should therefore provide four motorcycle and bicycle parking spaces.

In the absence of vehicular access to the site for the reasons explained by Council's Traffic Engineer earlier in this report, a variation to the motorcycle parking standards is required. The proposal provide a compliant provision of bicycle parking (four spaces required, 17 provided).

Assessment of request to vary a development standard

The following assessment of the variation to Clause 30(1)(h) Motorcycle Parking development standard, has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards

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

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

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

Comment

Clause 30(1)(h) Motorcycle Parking development standard is not expressly excluded from the operation of this clause.

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

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

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

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) assessment:

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

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

Comment

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

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

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

Comment

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

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

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

Applicants Written Request

The applicants written request argues, in part:

- The proposal satisfies the objectives of the B4 zone.
- The shortage of motor cycle spaces is significantly offset by the provision of bicycle spaces (17), which well exceeds the requirements set out in the SEPP (being 4 spaces).
- The physical constraints of the site make it impossible to provide parking below ground level, which is a desired outcome under the DCP controls. The limited width of the site precludes this arrangement on a standalone basis.
- The nature of transport methods encouraged as a result of non-provision of motor cycle parking

is entirely consistent with the controls contained in the LEP and DCP which seek to encourage the use of public transport, walking and cycling.

- The reduction of private transport usage will result in a lesser degree of environmental impact, particularly as it relates to air pollution.
- The site's proximity to public transport, in conjunction with its immediate access to facilities and services, results in a lesser dependency for reliance on private transport due to the availability of these elements in such close proximity to the site.

The applicant's justification is concurred with for the principal reason that vehicular access to the site is impossible from Pittwater Road (as confirmed by TfNSW) and from neighbouring sites.

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

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

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

Clause 4.6 (4)(a)(ii) (Public Interest) Assessment:

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

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

Comment

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Motorcycle Parking development standard and the objectives of the B4 Mixed Use zone. An assessment against these objectives is provided below.

Objectives of Development Standard

There are no underlying objectives of the development standard in this instance.

Zone Objectives

The underlying objectives of the B4 Mixed Use zone are:

- *To provide a mixture of compatible land uses.*

Comment

The development provides a range of compatible uses on the site itself, and those uses are widely compatible with the town centre as a whole.

- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

Comment

The development provides business/office, residential and retail in an accessible location directly adjoining the B-Line bus stop. The site is in an accessible location and thus encourages walking, cycling and public transport patronage.

- *To reinforce the role of Dee Why as the major centre in the sub-region by the treatment of public spaces, the scale and intensity of development, the focus of civic activity and the arrangement of land uses.*

Comment

The proposed land uses reinforces Dee Why as the major town centre of the area.

- *To promote building design that creates active building fronts, contributes to the life of streets and public spaces and creates environments that are appropriate to human scale as well as being comfortable, interesting and safe.*

Comment

The development provides an active street frontage and offers a retail opportunity at a major bus stop which doesn't currently exist (i.e., coffee shop) which would contribute to the liveliness of the street, amenity of pedestrians and increase the desirability of public transport usage.

- *To promote a land use pattern that is characterised by shops, restaurants and business premises on the ground floor and housing and offices on the upper floors of buildings.*

Comment

Achieved through design.

- *To encourage site amalgamations to facilitate new development and to facilitate the provision of car parking below ground.*

Comment

Not possible given existing adjoining developments.

Conclusion

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the B4 Mixed Use zone.

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

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

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning &

Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Motorcycle Parking Development Standard is assumed by the Local Planning Panel.

Warringah Development Control Plan

Built Form Controls

The Built Form Controls pursuant to Part B of the WDCP 2011 do not apply to the Dee Why Town Centre.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
D23 Signs	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes
3 Desired Character for the Dee Why Town Centre	Yes	Yes
4 Streetscape and Public Domain	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
5 Design and Architectural Diversity	No	Yes
6 Site amalgamation	Yes	Yes
7 Traffic and Parking	Yes	Yes
8 Car Share	N/A	Yes
9 Sustainability	N/A	N/A
10 Water Sensitive Urban Design (WSUD)	Yes	Yes
11 Landscaping	Yes	Yes

Detailed Assessment

C2 Traffic, Access and Safety

As demonstrated elsewhere in this report the development has no opportunities to provide vehicular access to the site or car parking, and therefore in the absence of those features is deemed achieve the objectives of Clause C2.

C3 Parking Facilities

The parking requirements under the SEPP ARH prevail over those stipulated in Appendix 1 of the WDCP and on that basis the site should provide 16 car parking spaces (10 for the boarding house, five commercial/retail spaces and one manager space). The proposal does not provide any car parking.

As the site is not physically capable of obtaining vehicular access, nor would car parking fit on the land, a variation to the car parking requirement is supported.

C8 Demolition and Construction

Given the sites location on a main road and proximity to a major bus stop it is likely that the construction of the development will cause a level of disruption. Whilst these matters are generally to be resolved at Construction Certificate phase, it is recommended that a condition be imposed requiring a comprehensive Construction Traffic Management Plan to be created and approved prior to the issuance of any such certificate.

D11 Roofs

During the course of the application revised plans were received which converted the proposed concrete roof to a green sedum rooftop garden (inaccessible to occupants). No planting schedules or details of this substantial roof garden were provided, and it is therefore recommended that a condition of consent be imposed which requires details to be submitted back to Council for approval prior to the issuance of a Construction Certificate.

The modification to the roof is supported, as the addition of a green roof within the dense town centre area will provide visual privacy, thermal insulation for occupants, and an alternate form of habitat for local biodiversity.

3 Desired Character for the Dee Why Town Centre

The vision for Dee Why Town Centre identified in the 2013 Masterplan is as follows:

“Dee Why will be home to a thriving cosmopolitan community who cherish their past, celebrate its unique and engaging vibe and embrace its bold commitment to urban sustainability. It will be a place of both energy and refuge, a city at the beach, with a distinctive modern urban identity.”

The North District Plan 2018 identifies Dee Why Town Centre as a mixed-use area that offers a vibrant local night-time economy. It outlines actions that are interpreted as objectives within this section of the DCP.

The provision of a boarding house development centrally located within the Town Centre will provide increased housing opportunities for a more diverse segment of the community which, in turn, contributes to a wider sense of community.

The architecture of the proposal is simple but effective given the narrow width of the site and the juxtaposition of neighbouring built forms. Rather than repeating the façade typology of its neighbours, the creation of a new and colourful façade on the street is deemed to be visually interesting and characterful for the Centre and is therefore supported.

On balance the proposal is considered to be consistent and compatible with the Masterplan.

The proposal was also assessed by Council's Design and Sustainability Advisory Panel (DSAP) with regards to the architecture of the building and its compatibility with the town centre. In their review of the application the Panel concluded with the following comments:

The Panel supports the development provided the applicant can address a few more minor amendments to the layout of the building:

- 1. Reduce the number of bins to redesign the ground floor*
- 2. Reconfigure the cycle storage area.*
- 3. Introduce low cost, low maintenance planting to the façade*
- 4. Resolve acoustic privacy to the bedrooms which open to the lightwell*
- 5. Reconsider the layout of apartment 5.01*
- 6. Address sustainability issues – electrification of the building, increased PV array*

The applicant sought to address these issues as follows.

1. The number of bins is a requirement and Council did not support the reduction of this recommendation, therefore no changes were made.
2. The cycle storage area has been reconfigured to be open to the ground floor void below, to increase the amenity from both the room, but from the lobby and cafe as well.
3. Plantings introduced at various levels on the front facade, including the addition of a green roof.
4. Detailing of window vents provided on plans to minimise acoustic intrusion between rooms.
5. Apartment 5.01 redesigned entirely.
6. Increase PV array provided to the roof, above the green roof which enhances the efficiency of the cells.

4 Streetscape and Public Domain

The clause seeks to achieve the following streetscape and public domain improvements:

- Prioritise pedestrian, cycling and public transport users.
- Improve access for people of all ages and abilities.
- Ensure high levels of amenity addressing landscape and street tree planting, weather protection, circulation and seating.
- Provide spaces for people to meet, walk and feel safe.
- Integrate the management of stormwater and floodwater.
- Maximise opportunities for landscaping.
- Encourage public art.
- Activate the public domain and create lively, attractive public spaces.
- Create a system of new and improved connected public spaces.

A number of these objectives are not relevant to this application as no vehicular access is provided.

The proposal provides residential accommodation in an accessible location which resultantly provides improved access for people of all ages and abilities.

The street frontage of the development is welcoming and human scale whilst working as a retail space and a functional entrance for occupants and employees of the office spaces. The site is in a practical meeting location adjacent to the primary B-Line bus stop.

The developments provides landscaping at various street-facing levels which, in conjunction with the built form, will work to mitigate the proportions of the building. The development is proposed to be coloured (in part) in bright yellow concrete - this is itself is considered to contribute to public art, as it is reflective of the yellow B-Line buses.

Within the constraints of what the site can contribute to the public domain given its minimal size and street presence, it is considered that the proposal is appropriate, visually interesting and complementary to the broader Dee Why Town Centre.

5 Design and Architectural Diversity

This Clause requires that development should maintain a minimum *tower* setback from the kerb of 9m.

Whilst the proposal doesn't strictly conform with the 'podium and tower' design style, the upper floors are increasingly stepped back from the street edge and achieve setbacks of 6m to 8.97m.

The intent of this requirement is as follows:

- To achieve architectural diversity and interest in the architectural character of the neighbourhood.
- To ensure that each building contributes to the design quality of Dee Why Town Centre through innovative architecture and landscaping.
- To provide solar access to the ground level and reduce the appearance of building bulk from the public domain.
- To provide a mix of dwellings to cater for the needs of the resident population and to encourage a diverse population.
- To allow dwelling adaptation that that meets the changing needs of people.

For the reasons described throughout this report, the development achieves these objectives and is therefore acceptable. It is further noted that the setbacks of the upper building levels are generally consistent with the adjacent Meriton building.

6 Site amalgamation

The primary objective of this clause is:

- *To avoid the isolation of small sites which may result in poor built form outcomes and inability for such sites to be developed to their potential.*

The site is isolated and bound by existing contemporary developments on all sides. The site has no ability to amalgamate with these existing developments.

Notwithstanding that, the development does demonstrate that a high quality built form outcome can still be achieved on this challenging site that will contribute to the quality and livelihood of the Town Centre in longevity.

8 Car Share

The development does not provide car parking and is not of a scale that necessitates a contribution towards car sharing facilities. Notwithstanding that, the site is proximate to a number of publicly available car sharing spaces (such as those within the Dee Why Library carpark) which are located 135m walking distance from the front door of the development. The provision of publicly available car sharing facilities ensure that occupants can have access to a vehicle from time-to-time when required.

9 Sustainability

Clause 9 of the Dee Why Town Centre controls only applies to developments with a cost of works equal to or greater than \$5 million. The proposed cost of works \$4.32m does not trigger the application of this clause.

Notwithstanding that, the architect has demonstrated the following sustainability credentials relevant to the design:

- No basement excavation - reduced environmental and construction impacts.
- No car parking - promotes public and alternative transport.
- Excellent access to public transport.
- Insulated roof - sedum layer beneath solar panels. Solar panels operate more efficiently when elevated above a green (sedum) roof.
- Smaller footprints of boarding rooms require less heating and cooling than traditional apartments.
- Minimal length facades exposed to heat.
- Longer length (flank) facades substantially insulated by adjacent buildings.
- Ventilation slot provided for full height of building.
- 5-star energy efficient fittings, fitments and appliances.
- Double glazing.

11 Landscaping

Clause 11 of the Dee Why Town Centre controls require that:

- 1. Where possible, existing trees should be retained, particularly where they are adjacent to the public domain.*
- 2. A minimum of 20% of the site area is to be provided as landscaped area, which may be located on balconies, ground, podium and roof top levels or green walls of buildings.*
- 3. Facades at the street level may incorporate planting on structures to enhance views from the public domain.*
- 4. Where green walls are provided, they must be via a cladding structure with growing medium to facilitate extensive plant growth.*

The development is not removing any vegetation from the site as the site is wholly covered by existing buildings.

The development is providing a small rear garden to act as a buffer between buildings. Overall this rear garden area and planting on balconies is equivalent to 18.39% of the total site area. In the revised plans received throughout the course of this application a green (sedum) roof was added to the development which increase this ratio to be 48.65% thereby exceeding the control requirements.

POLICY CONTROLS

Dee Why Town Centre Contributions Plan 2019

The Dee Why Town Centre Contributions Plan 2019 applies to this development.

The Contributions Plan identifies that the contribution amount is attributable to the net increase in infrastructure demand. Clause 4.3 of the Contributions Plan identifies that there must be an allowance for existing development. The assessment officer has advised that the existing development comprises 233.7sqm of non-residential floorspace. Proposed non-residential floorspace totals 185.5sqm. There is no net increase in non-residential floorspace therefore no contribution has been imposed for non-residential development. Clause 4.3 of the Contributions Plan does not permit the balance, 48.2sqm of non-residential floorspace to be applied as a credit against the proposed residential accommodation or vice versa.

The development involves the construction of new residential accommodation in the form of a boarding house comprising a total of 20 rooms/beds (19 boarding house rooms and 1-bed permanent manager's room). The manager's room is considered a form of residential accommodation that is levied by the Contributions Plan. This development will increase the demand for local infrastructure levied under the Contributions Plan. A contribution rate of \$6,716.09 per bed has been applied to the 20 rooms/beds resulting in a total monetary contribution of \$134,321.86.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

CONCLUSION

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

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

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

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

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of SEPP ARH Clause 30(1) (h) has adequately addressed and demonstrated that:

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

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

This assessment demonstrates that the development of the site for a mixed use building including a boarding house is a suitable and appropriate outcome for the site and the town centre.

Notwithstanding the fact that the proposal seeks to vary one development standard and that a large number of submissions against the application have been received, the proposal represents a generally compliant built form with an amenity outcome consistent with what could generally be expected from a highly constrained site in the middle of the Dee Why Town Centre and with a unique set of historical, size and access limited circumstances.

This report acknowledges the extreme physical constraints on the site and based on its highly favourable public transport accessibility, supports the development of the site notwithstanding the zero provision of parking, both car and motorcycle.

The overall quality of design and built form is appropriate for the context and is supported by Council's Design and Sustainability Advisory Panel.

On the balance of all factors, the proposal is considered worthy of conditional support, and it is therefore recommended that the NBLPP **APPROVE** the application.

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2021/1508 for Demolition works and construction of a mixed-use development, including a boarding house development, food and drink premises and office premises on land at Lot B DP 389449, 882 A Pittwater Road, DEE WHY, 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
A010 Issue C - Demolition Plan	06 July 2021	Crawford Architects
A100 Issue R - Ground Floor	06 July 2021	Crawford Architects
A101 Issue S - Level 1 Floor Plan	25 January 2022	Crawford Architects
A102 Issue S - Level 2 Floor Plan	25 January 2022	Crawford Architects
A103 Issue S - Level 3 Floor Plan	25 January 2022	Crawford Architects
A104 Issue S - Level 4 Floor Plan	25 January 2022	Crawford Architects
A105 Issue U - Level 5 Floor Plan	20 April 2022	Crawford Architects
A106 Issue T - Level 6 Floor Plan	25 January 2022	Crawford Architects
A107 Issue S - Level 7 Floor Plan	25 January 2022	Crawford Architects
A108 Issue P - Level 8 Floor Plan	25 January 2022	Crawford Architects
A109 Issue P - Roof Plan	25 January 2022	Crawford Architects
A300 Issue T - Elevations Sheet 01	25 January 2022	Crawford Architects
A302 Issue G - Elevations Sheet 03	06 July 2021	Crawford Architects
A303 Issue C - Elevations Sheet 04	06 July 2021	Crawford Architects
A350 Issue R - Section AA	06 July 2021	Crawford Architects
A351 Issue S - Section BB	06 July 2021	Crawford Architects
A352 Issue K - Section CC & DD	06 July 2021	Crawford Architects
A450 Issue G - Elevation Materials and Finishes	06 July 2021	Crawford Architects

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
Access Report (ref:21/0084)	28 July 2021	East Coast Accessibility Pty Ltd
Acoustic Report - DA Stage	23 July 2021	Koikas Acoustics Pty Ltd

BASIX Certificate No. 1174985M	13 July 2021	Damian O'Toole Town Planning Pty Ltd
BCA Assessment Amendment 1	08 July 2021	East Coast Approvals Group Pty Ltd
Flood Risk Management Report	09 June 2021	Demlakian
Preliminary Geotechnical Assessment (ref:6325-G1)	23 December 2020	Asset Geotechnical Engineering Pty Ltd
NatHERS Certificate No. 0006236475-01	13 July 2021	Damian O'Toole Town Planning Pty Ltd
Traffic and Parking Impact Assessment (ref:20317) Issue D	July 2021	Transport and Traffic Planning Associates

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
000 Issue C - Landscape Coversheet	10 March 2021	Site Image Landscape Architects
102 Issue C - Landscape Plans	10 March 2021	Site Image Landscape Architects
101 Issue C - Landscape Plans	10 March 2021	Site Image Landscape Architects
501 Issue B - Landscape Details	09 February 2021	Site Image Landscape Architects

Waste Management Plan		
Report Title	Dated	Prepared By
Waste Management Plan Issue 01	Undated	Crawford Architects

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

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

2. **Compliance with Other Department, Authority or Service Requirements**

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	Undated
Transport for NSW	TfNSW Referral Response (SYD21/01251)	01 November 2021

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

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

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 (Industry and Employment) 2021). 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.

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.

5. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety

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

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

FEES / CHARGES / CONTRIBUTIONS

6. **Security Bond**

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

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

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

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

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

7. **Dee Why 7.11 contributions (COW less than \$10 million)**

Before the issue of a construction certificate, the applicant must pay a monetary contribution to Council of \$134,321.86. This contribution is calculated at the date of this consent, in accordance with the Dee Why Town Centre Contributions Plan 2019 and comprises:

- a residential contribution of \$134,321.86 based on the approved 20 beds (inclusive of the permanent 1-bed manager's room)

The total amount payable may be adjusted at the time of payment in accordance with the provisions of the Dee Why Town Centre Contributions Plan 2019.

The Applicant may negotiate with Council for the direct provision of other facilities and services, and/or the dedication of land in lieu of the monetary contribution above (or any portion of that monetary contribution) or the deferral of payments through a Material Public Benefit Agreement between Council and the Applicant in accordance with the Dee Why Town Centre Contributions Plan (as amended). The agreement for Material Public Benefit between the Applicant and Council must be finalised, formally signed and in place prior to the payment of the monetary contribution.

A copy of the development contributions plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website.

Reason: To provide for contributions in accordance with the Contribution Plan that enables the provision of local infrastructure and services commensurate with the increased demand resulting from development in the Dee Why Town Centre.

8. **Construction, Excavation and Associated Works (Security Bond)**

A bond of \$20,000 as security against damage to Council's footpath area fronting the site caused by the transport and disposal of materials and equipment to and from the site.

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

Reason: Protection of Council's infrastructure.

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

9. **On Slab Landscape Works**

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided.

Landscape treatment details shall also be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The following soil depths are required to support landscaping as proposed: 600mm minimum soil depth.

Design certification shall be submitted to the Certifying Authority by a qualified Structural Engineer that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

10. **Flooding**

In order to protect property and occupants from flood risk the following is required:

Flood Effects Caused by Development – A2

There is to be no filling of the land or any other reduction of the available flood storage which results in a net loss of storage below the 1% AEP flood level of 18.35m AHD.

Building Components and Structural Soundness – B1

All new development below the Flood Planning Level of shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – B2

All new development must be designed to ensure structural integrity up to the FPL or Probable Maximum Flood (whichever is higher), taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion.

Building Components and Structural Soundness – B3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed to cut electricity supply during flood events.

Floor Levels – C1

New floor levels within the development shall be set at or above the Flood Planning Level of 18.90m AHD or be protected up to the FPL.

Storage of Goods – G1

Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level unless adequately protected from floodwaters in accordance with industry standards.

Recommendations

The development must comply with the recommendations outlined in the Flood Risk Management Report prepared by Demlakian Consulting Engineers dated 9 June 2021.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

11. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any

- stormwater pits on the site and how they are going to be protected.
- North point and scale.

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

Reason: Protection of the receiving environment.

12. **Construction Traffic Management Plan**

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

Due to heavy traffic congestion throughout the Dee Why town centre, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm. Truck movements must be agreed with Council's Traffic and Development Engineer prior to submission of the CTMP.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council and/or Transport for NSW prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Confirm that Transport for NSW has agreed to the provision of a Works Zone on the sites Pittwater Road frontage and that adjustments to adjacent Bus Zones to facilitate introduction of the Works Zone have been finalised
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of

the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site

- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

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

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

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

13. **Demolition Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) shall be prepared by an suitably accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to commencing any demolition work.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council’s Traffic Engineers.
- Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the

combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.

- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

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

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

Reason: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

14. **On-Street Work Zone**

The applicant shall lodge an application for a work zone for the frontage of the site to Council for consideration and approval. The provision of a work zone will first require approval from the Transport for NSW Transport Management Centre (TMC) and their consent must be obtained by way of a Road Occupancy Licence prior to submission of the Works Zone application to Council. Application forms for work zones are available on Council’s website or at the Customer Service section at Council’s administration building. Applications shall be lodged at least 4 weeks prior to work commencing.

An application must be lodged with Council for consideration and approval for a work zone for the frontage of the site.

Reason: To ensure works vehicles do not impact on parking, traffic flows and pedestrian thoroughfares.

15. **Green Roof**

Prior to the issuance of any Construction Certificate additional details on the approved sedum roof are required including (but not limited to):

- Soil depths
- Maintenance regime
- Landscape Plan and Planting Schedule

Details are to be submitted for written approval to Council's Manager Development Assessment.

Reason: To ensure appropriate plantings are installed.

16. **Building Code of Australia Audit Report**

The Building Code of Australia works and fire safety measures as detailed and recommended in the Building Code of Australia Audit Report prepared by East Coast Approvals Group Pty Ltd, dated 8/7/2021, Job No. 21/0084 are to be considered as part of the assessment of the Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

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

17. **Access and Facilities for Disabled**

Access and facilities to and within the building are to be provided for Persons with a Disability and are to comply with the Building Code of Australia and AS 1428.1. In this regard consideration is to be given to the Access Report prepared by East Coast Accessibility Pty Ltd, Ref. 21/0084, Rev. 3, dated 28/7/2021. Details are to be taken into consideration as part of the assessment of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

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

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management Policy for Development, and generally in accordance with the concept drainage plans prepared by Demlakian Consulting Engineers, drawing number 220218 SW01 P3 , SW02 P2, dated Feb 2021. Detailed drainage plans are to be prepared by a practicing Civil Engineer, who is registered with the professional engineer registration scheme as administered by the Department of Trading .

The drainage plans must address the following:

- i. The UPVC 150mm outlet pipe outlet pipe is to be replaced with a 200x100mm galvanised steel hollow section.
- ii. Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

19. **Plans of Kitchen Design, construction and fit out**

Prior to any Construction Certificate (CC) being issued, detailed plans that demonstrate compliance with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises', must be submitted to, and approved by, the Certifying Authority. These plans are to be prepared by a suitably qualified person.

The plans must detail adequate provision for storage including separate storage of food, equipment, chemicals and personal belongings.

Reason: To ensure that the food premises complies with the design construction and fit-out requirements.

20. **Mechanical Ventilation Plans**

Detailed plans of mechanical ventilation that demonstrate compliance with Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in

buildings”, must be submitted to and approved by the Certifying Authority. Any external exhaust discharge must also be above the roofline and discharged in a manner that is not likely to cause an amenity impact.

These plans are to be prepared by a suitably qualified person.

Reason: To ensure that the design, construction and installation requirement for mechanical ventilation complies with the Australian Standard 1668.2.

21. **Noise assessment**

Prior to the issue of a Construction Certificate, the design, specifications and location of noise generating mechanical plant are to be provided to the Principal Certifying Authority.

An acoustic assessment is to be undertaken by a suitably qualified professional such as an acoustic engineer to determine acoustic treatments to control noise in accordance with Sections 6, 7 and 8 within the Acoustic Report by Koikas Acoustics Pty Ltd dated 23 July 2021 (Reference 4617R20210319mfc882APittwaterRdDeeWhy_DAv2.docx).

Any design recommendations made by the consultant must be implemented into the plans prior to issuing the Construction Certificate in order to achieve compliance with noted conditions of this consent.

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

Reason: To maintain amenity of the surrounding area.

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.

23. **External Finishes to Roof**

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

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

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

24. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works

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

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

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

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

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

25. Waste and Recycling Requirements

Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, 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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

26. Work Zones and Permits

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

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane and a Roads and Maritime Road Occupancy Licence shall be obtained for work on State Roads.

Reason: To ensure Work zones and associated permits are monitored, installed and approved correctly.

27. Road Occupancy Licence

Prior to commencement of the associated works, the applicant shall obtain a Road Occupancy License from Transport Management Centre for any works that may impact on traffic flows.

Reason: Requirement of TMC for any works that impact on traffic flow.

28. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

29. **Road Reserve**

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

Reason: Public safety.

30. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

31. **Implementation of Demolition Traffic Management Plan**

All works and demolition activities are to be undertaken in accordance with the approved Demolition Traffic Management Plan (DTMP). All controls in the DTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the DTMP be impacted by surrounding major development not encompassed in the approved DTMP, the DTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved DTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: To ensure compliance and Council's ability to modify the approved Construction Traffic Management Plan where it is deemed unsuitable during the course of the project.

32. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

33. **Ongoing Management**

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

34. **Removing, Handling and Disposing of Asbestos**

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

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

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

35. **Geotechnical Requirements**

All recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent, that are required to occur during works must be done.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

36. **Survey Certificate**

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

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

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

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

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

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

37. **Waste Management During Development**

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

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

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

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

During demolition and/or construction the proposal/works shall be generally consistent with the

submitted Waste Management Plan titled dated [INSERT].

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

39. **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.

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

40. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Landscape Plans.

Prior to the issue of any Occupation Certificate details (from a landscape architect or landscape designer) shall be submitted to the Principal Certifying Authority certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

41. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a civil engineer who is registered by the NSW professional engineer registration scheme. 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 appropriate provision for the disposal of stormwater arising from the development.

42. **Footpath Construction**

The footpath, in accordance to Council's standard specifications, shall be reconstructed along the property frontage to Council's satisfaction. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To provide pedestrian access to and from the property.

43. **Boarding House Plan of Management**

An Boarding House Plan of Management (BHPM) is to be prepared detailing the operation of the development. The BHPM shall include, but not be limited to the following:

- Complaints management.
- Noise management.
- Contact details.
- Occupancy requirements/limitations.
- Responsibilities of on-site manager.
- Common area hours of access.
- Waste management and cleaning.

The BHPM shall be provided to the satisfaction of the Private Certifying Authority prior to the

issuance of any Occupation Certificate, and shall be provided to Council for record keeping purposes.

Reason: To maintain neighbourhood amenity.

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

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

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

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

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

45. **Registration of Food Business**

The food business must notify the Appropriate Regulatory Authority, prior to Occupation Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

46. **Kitchen Design, Construction and Fit-out of Food Premises Certification**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided to the Principal Certifying Authority by a suitably qualified person demonstrating that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

Reason: To ensure that the kitchen complies with Australian Standard design requirements.

47. **Mechanical Ventilation certification**

Mechanical ventilation must comply with Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings" prior to any Occupation Certificate (OC) being issued.

Certification is to be provided to the Principal Certifying Authority by a suitably qualified person that the mechanical ventilation complies with the above requirements.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2.

48. **Acoustic Report Certification**

Prior to any occupation certificate being issued, a further acoustic assessment is to be undertaken by a qualified and experienced person(s) to confirm compliance with Sections 6, 7 and 8 within the Acoustic Report by Koikas Acoustics Pty Ltd dated 23 July 2021 (Reference 4617R20210319mfc882APittwaterRdDeeWhy_DAv2.docx).

Any recommendations made by the consultant must be implemented prior to issuing the Occupation Certificate, in order to achieve compliance with noted conditions of this consent. The updated acoustic assessment is to be submitted to the PCA for certification.

Reason: To protect the acoustic amenity of neighbouring properties.

49. **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.

50. **Garbage and Recycling Facilities**

All internal walls of the waste rooms 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.

Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

51. **House / 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.

52. **Unit Numbering for Multi Unit Developments (Residential, Commercial and Industrial)**

The units within the development are to be numbered in accordance with NSW Address Policy and User Manual.

In this regard, the numbering is to be as per the Unit Numbering for Multi Unit Development Table available on Council's website Unit Numbering for Multi-Unit Developments Form

External directional signage is to be erected on site at driveway entry points and on buildings and is to reflect the numbering in the table provided. Unit numbering signage is also required on stairway access doors and lobby entry doors.

It is essential that all signage throughout the complex is clear to assist emergency service providers in locating a destination within the development with ease and speed, in the event of an emergency.

Details are to be submitted with any Interim/Final Occupation Certificate or Strata Subdivision Certificate certifying that the numbering has been implemented in accordance with this condition and the Unit Numbering for Multi Unit Development Table.

Reason: To ensure consistent numbering for emergency services access.

53. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

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

54. **Green Travel Plan**

Prior to the issuance of any Occupation Certificate, a revised Green Travel Plan shall be submitted to and approved in writing by Council's Manager Traffic Engineering outlining measures to encourage, incentivise and promote travel by walk, cycling, public transport, ride share and car share to and from the development.

Reason: To minimise reliance on travel by private motor vehicles.

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

The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

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.

56. **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.

57. **Positive Covenant for Council and Contractor Indemnity**

A positive covenant shall be created on the title of the land prior to the issue of an Interim/Final Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), at the applicant's expense and endorsed

by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities.

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

The original completed request form (NSW Land Registry Services 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.

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

59. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

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

For all new residential works with two or more dwellings and mixed use developments, a maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

60. **Compliance with the Boarding House Plan of Management and occupation rates**

The requirements of the Boarding House Plan of Management required by this consent is to be fully implemented in perpetuity from the issue of any interim / final occupation certificate. The Boarding House Plan of Management is to be reviewed annually and any proposed amendment is to be submitted to Council for its written agreement 28 days prior to being implemented.

Implementation of the revision is not to be postponed if Council do not reply within the 28 days.

The building is to contain a maximum of 19 rooms (excluding the Boarding House Manager unit), being no more than 1 persons per designated single bedroom or 2 persons per designated double bedroom. In order to maintain this occupancy rate, a sign is to be erected immediately adjacent to the doorway accessing the building detailing the maximum sleeping capacity of each room.

Reason: To ensure the premises a maintained in an appropriate manner in perpetuity.

61. **Proposed Outdoor Dining Condition**

No outdoor dining is approved in this consent. Any proposed outdoor dining must be consistent with SEPP Exempt and Complying. Any outdoor dining that is consistent with SEPP Exempt and Complying shall be the subject of a separate Outdoor Dining Application to Council's Property team.

Reason: To ensure that outdoor dining is assessed and approved under the appropriate regulatory framework and legislation.

62. **Residential Bin Storage Room Procedures for Boarding House Manager**

The Boarding House Manager must:

- ensure residents have unimpeded access to dispose of their waste by rotating full bins for empty bins where bins are stored double banked
- ensure that bins with the same coloured lid are grouped together for ease of servicing by collection staff.
- ensure that bulky goods remain within the caged area and do not spill out into the bin storage area.
- ensure that waste from the commercial units is not placed in the residential bins.
- ensure that access doors to the residential bin storage room remain unlocked and open on the scheduled day of collection between the times nominated by Council.

Reason: To ensure ongoing access to waste and recycling bins for residents and collection staff.

63. **Hours of Operation of Retail premises**

The hours of operation of the ground floor retail premises are to be restricted to:

- Monday to Friday - 6:00am - 8:00pm
- Saturday – 7:00am - 8:00pm
- Sunday and Public Holidays – 8:00am - 6:00pm

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.

64. **Commercial Waste and Recycling Storage**

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins as shown on the approved plans.

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

65. **No Approval for 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.

66. **Commercial Waste Collection**

Waste and recyclable material generated by the commercial premises on site must not be collected between the hours of 10pm and 6am on any day.

Reason: To protect the acoustic amenity of surrounding properties.

67. **Future use of Commercial Premises**

A separate Development Application for any future use for the commercial premises must be submitted to Council unless the use is permitted under the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Reason: To ensure compliance with legislation.