

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0442
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Responsible Officer:	Lashta Haidari
Land to be developed (Address):	Lot B DP 316404, 231 Whale Beach Road WHALE BEACH NSW 2107
Proposed Development:	Demolition Works and construction of a Mixed Use Development comprising Shop Top Housing and retail premises, with associated carparking, landscaping and strata subdivision
Zoning:	B1 Neighbourhood Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Leslie Anthony Cassar Diana Nancy Cassar
Applicant:	Leslie Anthony Cassar Diana Nancy Cassar

Application Lodged:	06/05/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	22/05/2020 to 05/06/2020
Advertised:	22/05/2020
Submissions Received:	170
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 13,009,841.00
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Executive Summary

This report provides an assessment of a proposed mixed-use (shop top housing) development at No. 231 Whale Beach Road (the site). The site is located with dual frontage to both Whale Beach Road and Surf Road and is situated within the B1 Neighbourhood Centre under Pittwater LEP 2014 (PLEP 2014).

The proposal involves the demolition of existing buildings and construction of a 4- 5 storey development

containing retail premises (327m²), five (5) residential apartments and two levels of basement car.

The application is recommended for refusal because having regard to the design and character requirements embodied in the applicable planning controls including the requirements of SEPP 65 and considering the site's prominent beach site location, the proposal is not considered to be an appropriate or suitable response in its current form. Further, the assessment of the proposal against the provisions of P21 DCP, which establishes how successfully the development harmonises with the established and desired future character of the locality has identified that the development, as proposed, is not a successful built form in terms of how it relates to the desirable elements of the neighbourhood or how it transitions the increase in density with the low density residential locality.

The application was referred to internal departments and external authorities. In the responses, there are a number of referral issues raised in relation to the proposed development, which also form reasons for refusal in that the application is deficient in identifying the relevant impacts associated with the subject site.

The public exhibition of the DA resulted in a significant response from the community, including both concerned residents and a number of letters supporting the proposal. Those objecting to the proposal raised concerns primarily on the basis of the bulk and scale and consequent visual, scenic and view impacts of the development, and the amount of additional traffic that would be generated. Those supporting the development raised the benefits of the urban renewal of the site.

It is important to acknowledge that the redevelopment of the subject site would be a significant improvement in comparison to the existing situation and the proposed development contains many examples of good design in terms of its architecture, including the levels of articulation, design of balconies, and strongly defined architectural elements presenting to the Whale Beach frontage. However, while the architectural design of the building is a positive feature of the development, the bulk and scale of the structure has not been successfully resolved and is ultimately considered to be inconsistent with the character and context of the locality.

On balance, the proposal (as lodged) is not sufficiently consistent with the applicable controls and the development will result in a size, mass, bulk and scale of development that does not reflect the objectives and outcomes envisaged by the planning controls on a sloping site, adjacent Whale Beach and surrounding by detached dwelling houses. The design should be more stepped on the site, with greater levels of terracing of the upper levels to better relate to the hillside topography in the area and greater side setbacks to alleviate and ameliorate the sheer bulk and scale of the building.

Therefore, it is recommended that substantial amendments be carried out to the built form to address these concerns prior to any approval being given to the proposal.

Accordingly, the assessment concludes that proposal cannot be supported in its current form and is recommended for refusal.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks consent for demolition of the existing building and construction of five-storey shop-top housing development, including 5 residential apartments, 3 retail premises and 1 basement level of parking for 21 cars.

The proposed development also proposes associated site and landscape works and associated strata subdivision.

Figure 1 below is provided to assist in the identification of the proposed development within the site and adjoining development.

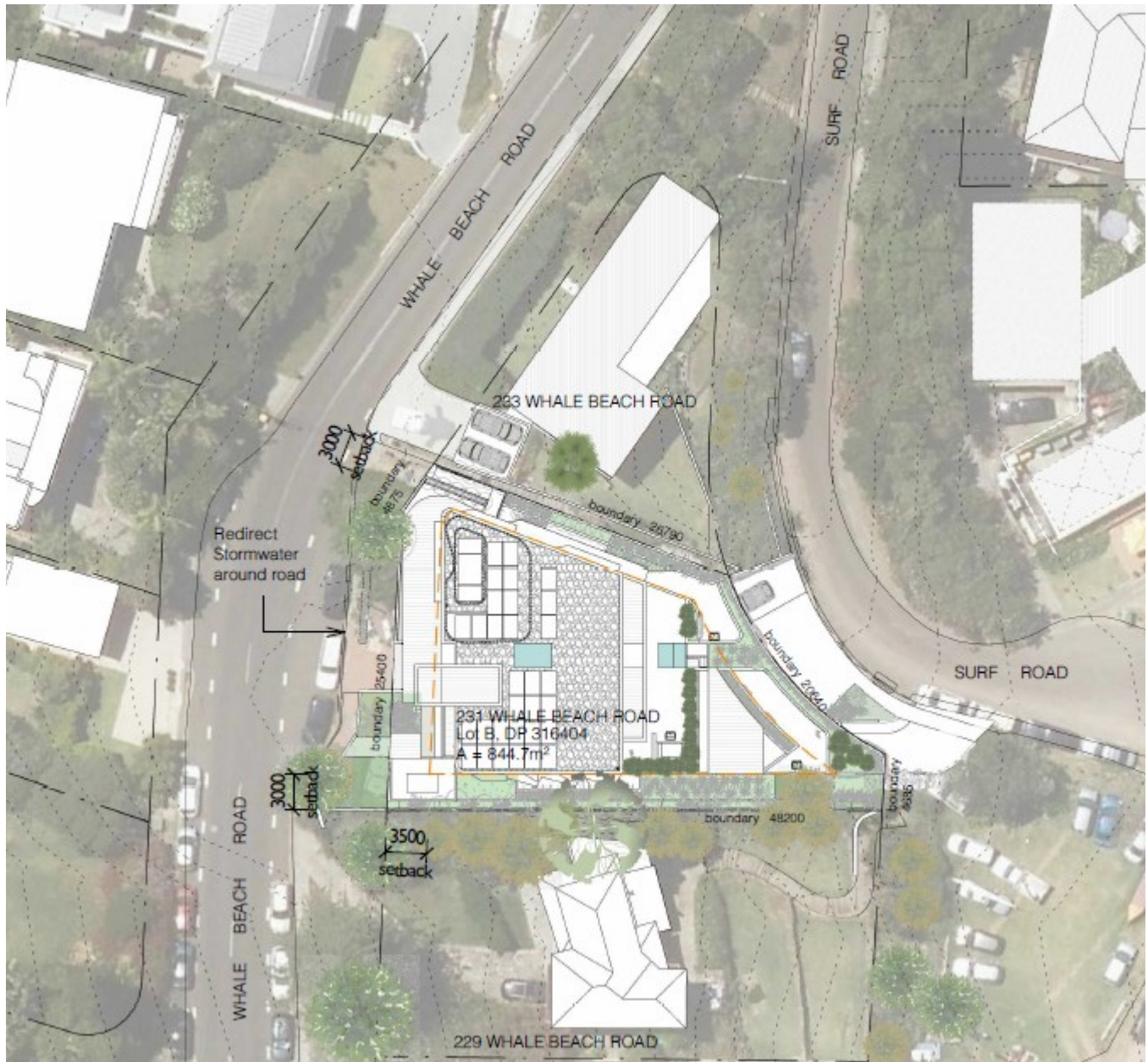


Figure 1 – Subject site and the proposed site layout (Source: Adapted by the author from DA01, dated April 2020 and prepared by Richard Cole Architects)

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;

- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater 21 Development Control Plan - A4.12 Palm Beach Locality

Pittwater 21 Development Control Plan - B4 Controls Relating to the Natural Environment

Pittwater 21 Development Control Plan - B6.1 Access driveways and Works on the Public Road Reserve

Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements

Pittwater 21 Development Control Plan - D12.1 Character as viewed from a public place

Pittwater 21 Development Control Plan - D12.5 Front building line

Pittwater 21 Development Control Plan - D12.6 Side and rear building line

SITE DESCRIPTION

Property Description:	Lot B DP 316404 , 231 Whale Beach Road WHALE BEACH NSW 2107
Detailed Site Description:	<p>The subject site consists of one (1) allotment which has dual frontage to Whale Beach Road and Surf Road.</p> <p>The site is irregular in shape with a dual frontage of 30m along western frontage to Whale Beach Road and a 30 m long eastern frontage to Surf Road. The site has a surveyed area of 844m².</p> <p>The site is located within the B1 Neighbourhood centre zone under Pittwater LEP 2014 and accommodates a café fronting Whale Beach Road and residential accommodation towards the Surf Road frontage.</p> <p>Topographically, the site is steep in nature with a fall from Whale Beach Road to Surf Road (Sloping West to East).</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is predominately residential, the subject site is located in between residential dwellings to the North and South. Further to the south adjoining the southern neighbour is a five-storey commercial/community building which houses Whale Beach Surf Lifesaving Club. To the east, is a grassed area for the Whale Beach Surf Club patrol members to park vehicles and</p>

across the road is Whale Beach. On the west of the site across Whale Beach Road are two-three storey residential dwellings.

Map:



SITE HISTORY

Pre-Lodgement Meeting (PLM)

A pre-lodgement meeting was held with the applicant on 7 February 2019 to discuss the proposal for redevelopment of the site.

DEVELOPMENT APPLICATION HISTORY

The current application was lodged with Council on 6 May 2020. The initial assessment of the proposal found that the application was deficient and unsupportable for a number of reasons as detailed within this report.

An opportunity was presented to the applicant to withdraw the application by letter dated 23 September 2020, with a view to addressing the specific concerns and preparing the required information and resubmitting a new DA. The applicant was advised that failure to withdraw the application would result in Council reporting the application based upon the information provided at lodgement.

The applicant advised Council that the application would not be withdrawn and they would be preparing amended plans to address the specific concerns raised. At the of writing this report, Council had received the amended plans, which have not been notified or assessed as part of this report, on the basis that Council did not have sufficient time to assess, notify and have the amended plans reviewed by the referral bodies.

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
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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 environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan 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>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</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>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. 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> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This matter may be addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the	<p>(i) Environmental Impact</p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. In summary, the</p>

Section 4.15 Matters for Consideration'	Comments
<p>natural and built environment and social and economic impacts in the locality</p>	<p>proposed development is capable of being constructed so as to not result in any adverse environmental impacts on the natural environment. However, the proposed development in its current form will have an adverse impact on the visual and scenic quality of the site and locality, the streetscape by virtue of its excessive size, bulk and scale. Therefore, the impacts of the proposal are unsatisfactory in its current form.</p> <p>(ii) Social Impact</p> <p>The proposed development will not have a detrimental social impact in the locality considering the mixed use character of the proposal.</p> <p>(iii) Economic Impact</p> <p>The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is suitable for the proposed development as the site is zoned for that purpose and the development will replace the existing development which does not provide a positive contribution to the character of the locality.</p> <p>The fact that the site is bordered by public roads, is elevated with ample opportunities for views and sunlight access, leads itself to a development of this type and configuration. However, the two street frontages and the configuration of the available land being located in between low density housing presents significant design challenges. Subject to the resolution of these design and character issues, the site is considered to be suitable for the proposed mixed use development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>The Desired Character statement for the Palm Beach Locality as contained within Pittwater 21 DCP provides the community with a level of certainty as to the scale and intensity of future development and the form and character of development that is in keeping with the zoning of the site.</p> <p>It is acknowledged, and as evident by the number of support letters received from the community, that the development of the site could provide a much needed boost to the immediate and surrounding locality and streetscapes, certainly in comparison to the current situation. However, the benefits of new and modern uses on the site do not outweigh the fact that the proposal, in its current form, represents a scale of development that is excessive for the site and locality.</p>

Section 4.15 Matters for Consideration'	Comments
	<p>This assessment has found the development to be inconsistent with the scale and intensity of development that the community can reasonably expect to be provided on this site and should be reduced to better reflect a sympathetic and sensitive scale of development in what is an environmentally sensitive area.</p> <p>On balance, this assessment finds that the public benefits do not outweigh the need for the proposal to appropriately respond to the planning controls and the context and character of the locality.</p>

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 22/05/2020 to 05/06/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 170 submission/s from:

Name:	Address:
Design Collaborative Pty Ltd	3/225 Clarence Street SYDNEY NSW 2000
Mr Robyn Lee Jarvis	233 Whale Beach Road WHALE BEACH NSW 2107
Mr Denis George Pierce	10 Etival Street PALM BEACH NSW 2108
Anna Ortado	22 Norma Road PALM BEACH NSW 2108
Kirsten Morley	Address Unknown
Mr Wallace Macarthur King	41 The Point ROAD WOOLWICH NSW 2110
Maxmilian Wagner	7 Loblay Crescent BILGOLA PLATEAU NSW 2107
Mrs Michelle Margaret Porter	12 Burrawong Road AVALON BEACH NSW 2107
Ms Samantha Kylie Livingston	37 A Park Avenue AVALON BEACH NSW 2107
Mrs Leena Wood	49 Dress Circle Road AVALON BEACH NSW 2107
Rachael Rofe	20 George Street AVALON BEACH NSW 2107
Mr Samuel David Watson	2 / 33 Elaine Avenue AVALON BEACH NSW 2107
Ms Simone Louise Keogh	915 Barrenjoey Road PALM BEACH NSW 2108
Mrs Melanie Helen Mary Axford	1 Alexander Road AVALON BEACH NSW 2107
Mrs Rebekah Chandler	18 Park Avenue AVALON BEACH NSW 2107
Grace Quiney	91 Bynya Road PALM BEACH NSW 2108

Name:	Address:
Simon Gates	Address Unknown
Mr Trevor John Harrison	6 Surf Road WHALE BEACH NSW 2107
Mr Christopher John Power	55 Riviera Avenue AVALON BEACH NSW 2107
Mr Derek Leigh Butterworth	181 Barrenjoey Road NEWPORT NSW 2106
Angelica Hill	Address Unknown
Mrs Kalinda Anne Hawson	60 Whale Beach Road AVALON BEACH NSW 2107
Brita Benjamin	169 Whale Beach Road WHALE BEACH NSW 2107
Susan Thomson	Address Unknown
Zane Westwood	53 Marine Parade AVALON BEACH NSW 2107
Mr Christopher John Hill	36 Bareena Road AVALON BEACH NSW 2107
Harrison West	22 Coonanga Road AVALON BEACH NSW 2107
Ms Catherine Alexandra Young	905 Barrenjoey Road PALM BEACH NSW 2108
Mr Sebastian Hartog	4 / 46 Marine Parade AVALON BEACH NSW 2107
Mr Paul Gregory Stanton	25 Patrick Street AVALON BEACH NSW 2107
Mrs Karen Elizabeth Chapman	14 A Pacific Road PALM BEACH NSW 2108
Mr Andrew Robert Owens	23 Park Avenue AVALON BEACH NSW 2107
Mr Peter John Moore	7 / 13 Surfview Road MONA VALE NSW 2103
Mrs Pauline Marie Allan	8 Coral Close AVALON BEACH NSW 2107
John Gouldthorpe	Address Unknown
Baden Cram	7 A Catalina Crescent AVALON BEACH NSW 2107
Ms Anna Elizabeth Kiernan	7 / 30 Elaine Avenue AVALON BEACH NSW 2107
Gail Margaret Broady	41 Patrick Street AVALON BEACH NSW 2107
Ebony Tales	Address Unknown
Mrs Jennifer Junette Beashel	13 Capua Place AVALON BEACH NSW 2107
Ms Julie Irene Malcolm	6 Careel Head Road AVALON BEACH NSW 2107
Tim Dedman	118 Central Road AVALON BEACH NSW 2107
Mr Mitchell Stuart Geddes	13 / 50 Palm Beach Road PALM BEACH NSW 2108
August Eldridge	51 Elaine Avenue AVALON BEACH NSW 2107
Mr Shannon Patrick Nolan	24 Dolphin Crescent AVALON BEACH NSW 2107
Mrs Paula Madaline Lowe	75 Riviera Avenue AVALON BEACH NSW 2107
Oscar Regan	51 Kanimbla Crescent BILGOLA PLATEAU NSW 2107
Mr Bodhi Kawulia	60 Hilltop Road AVALON BEACH NSW 2107
Mr Dale Mark Butler	843 Barrenjoey Road PALM BEACH NSW 2108
Kate Brennan	4 Harley Road AVALON BEACH NSW 2107
Paris Excell	2 / 32 Cavill Street FRESHWATER NSW 2096
Ms Katherine Futschek	116 Central Road AVALON BEACH NSW 2107
Mrs Nichole Kathleen Fox	37 Whale Beach Road AVALON BEACH NSW 2107
Mr Barry Garth Brown	4 Welch Street NORTH MANLY NSW 2100
Mr Vien Van Luong	200 Whale Beach Road WHALE BEACH NSW 2107

Name:	Address:
Ms Uyen Doan Le	
Mr Daniel Franklin Hofbauer	22 Gilliver Avenue VAUCLUSE NSW 2030
Ms Judith Nan Rogley	196 Whale Beach Road WHALE BEACH NSW 2107
Ms Anna Maria Monticelli	11 Ebor Road PALM BEACH NSW 2108
Mrs Anna Geraldine Little	37 Palmgrove Road AVALON BEACH NSW 2107
Mrs Julie Anne Westcott	31 Rayner Road WHALE BEACH NSW 2107
Sam Kiernan	42 Nullaburra Road NEWPORT NSW 2106
Hugh Morris	Address Unknown
Mrs Jane Therese Anglicas	8 Rock Bath Road PALM BEACH NSW 2108
Mrs Jennifer Anne Reddan	22 Kevin Avenue AVALON BEACH NSW 2107
Mrs Chelsey Baker	24 Old Barrenjoey Road AVALON BEACH NSW 2107
Mr Jacqueline Susan Rees	1 Boanbong Road PALM BEACH NSW 2108
Dylan Rees-Ewen	1 Boanbong Road PALM BEACH NSW 2108
Mr Karl Ronald Attkins	PO Box 293 AVALON BEACH NSW 2107
Tim Storer	Address Unknown
Ms Jillian Marie Eglinton	PO Box 231 AVALON BEACH NSW 2107
Paul Westcott	31 Rayner Road WHALE BEACH NSW 2107
Mrs Glenda Gaye Shirbin	Po Box 1226 MONA VALE NSW 1660
Mr John Martin Shirbin	176 Whale Beach Road WHALE BEACH NSW 2107
Ian Ashley Richards	40 Plateau Road BILGOLA PLATEAU NSW 2107
Mr John Warburton	106 Whale Beach Road AVALON BEACH NSW 2107
Mr Owen Leo Coughlan	868 Barrenjoey Road PALM BEACH NSW 2108
Olivia Rees-Ewen	1 Boanbong Road PALM BEACH NSW 2108
Mr Gregory Michael Doyle	1 / 74 - 76 Avalon Parade AVALON BEACH NSW 2107
Mr Robert Owen Wall	33 George Street AVALON BEACH NSW 2107
Igor Hodoba	165 Prince Alfred Parade NEWPORT NSW 2106
Sheldon Barry Pozniak	2803/184 Forbes Street DARLINGHURST NSW 2010
Ms Judith Lydia Mercure	83 Dolphin Crescent AVALON BEACH NSW 2107
Ms Deborah Ellen Taylor	12 Currawong Avenue PALM BEACH NSW 2108
Louise Margaret Samuels	163 Whale Beach Road WHALE BEACH NSW 2107
Mr Jonathon Pratten	4 Malo Road WHALE BEACH NSW 2107
Ms Annette May Baggie	166 Whale Beach Road WHALE BEACH NSW 2107
Mrs Pamela Margarette Rowlinson	122 Central Road AVALON BEACH NSW 2107
Georgette Nolan	666 Barrenjoey Road AVALON BEACH NSW 2107
Ms Rebecca Lorrae Kniess	13 / 29 Gladstone Street NEWPORT NSW 2106
Mr Anthony Francis Morrow	9 / 55 Darley Street East MONA VALE NSW 2103
Mrs Barbara Geraldine Osborne	PO Box 407 NEUTRAL BAY NSW 2089
Mrs Alicia Jacqueline Campbell	34 Kanimbla Crescent BILGOLA PLATEAU NSW 2107

Name:	Address:
Ms Skye St John Patterson	41 Riviera Avenue AVALON BEACH NSW 2107
Erin Broady	16 Catalina Crescent AVALON BEACH NSW 2107
Mr Martin David Armstrong	Po Box 3095 BELLEVUE HILL NSW 2023
Kasey Tocchini	25 Whale Beach Road AVALON BEACH NSW 2107
Marlon Newling	29 Dress Circle Road AVALON BEACH NSW 2107
Jedd Wheeler	Address Unknown
Ms Kimberley Ann Saddington	18 Patrick Street AVALON BEACH NSW 2107
Johnathan Shields	23 Ruskin Rowe AVALON BEACH NSW 2107
Darcy Crump	Address Unknown
India Turner	6 Joseph Street AVALON BEACH NSW 2107
Mr Paul Nicholas Chadwick	Po Box 213 MOSMAN NSW 2088
Mr Aaron Paul Hendrikson	50 Sydney Road WARRIEWOOD NSW 2102
Ms Katrina Amy Chandler	22 Rayner Road WHALE BEACH NSW 2107
Annette Donald	21 Whale Beach Road AVALON BEACH NSW 2107
Mrs Marian Gale Purvis	13 Surf Road WHALE BEACH NSW 2107
Clare Julia Crawford	8 Gunjulla Place AVALON BEACH NSW 2107
Mr Michael John Beckwith	90 Whale Beach Road WHALE BEACH NSW 2107
Mrs Virginia Lizelle Stack	5 Beatty Street BALGOWLAH HEIGHTS NSW 2093
Mrs Janne Dennehy	260 Whale Beach Road WHALE BEACH NSW 2107
Ms Janet Gladys Nash	10 Waruda Street KIRRIBILLI NSW 2061
Catherine Treweeke Lawyer	11A Avenue Road MOSMAN NSW 2088
Mr Robert Donald Mackinnon	16 Norma Road PALM BEACH NSW 2108
Mrs Christine Heather Mackinnon	16 Norma Road PALM BEACH NSW 2108
Gemma Cook	39 Morella Road WHALE BEACH NSW 2107
Mrs Valda Jean Ewen	2 Iluka Road PALM BEACH NSW 2108
Vanessa Iskander	12 Cabarita Road AVALON BEACH NSW 2107
Kurtis Green	Address Unknown
Keyo Rhodes	43 Plateau Road AVALON BEACH NSW 2107
Mr Gordon Frederick Selig	PO Box 790 PENNANT HILLS NSW 1715
Mr Roger Dominic Byrne	5 Robert Street FRESHWATER NSW 2096
Leigh Brian Clapham	2 The Circle BILGOLA PLATEAU NSW 2107
Mr Catherine Naito	229 Whale Beach Road WHALE BEACH NSW 2107
Mr John Charles Gorman	17 Prince Edward Parade HUNTERS HILL NSW 2110
Mr Mark Graham Pearsall	10 Beauty Drive WHALE BEACH NSW 2107
Mr David Henry Allen Mrs Rae Marie Allen	8 Beauty Drive WHALE BEACH NSW 2107
John Webster	Address Unknown
Ms Diana Julie Crewes	18 Kananook Avenue BAYVIEW NSW 2104
Mr Andrew Francis Goldsmith	18 Norma Road PALM BEACH NSW 2108

Name:	Address:
Mr Anthony Justin Hamer	47 Woodland Street BALGOWLAH HEIGHTS NSW 2093
Mrs Elizabeth Gole	172 Whale Beach Road WHALE BEACH NSW 2107
Ms Esther Kaye Strain	4 Norma Road PALM BEACH NSW 2108
Ms Lilian Keldoulis	234 Whale Beach Road WHALE BEACH NSW 2107
Mark Craig Switzer	60 Bynya Road PALM BEACH NSW 2108
Mr Christopher John Hendrikson	1036 Barrenjoey Road PALM BEACH NSW 2108
Pamela Kay Paton	6 Cynthea Road PALM BEACH NSW 2108
Mrs Michaela Jane Browne	6 Maroa Crescent ALLAMBIE HEIGHTS NSW 2100
Mr Jonathon Stanton Browne	24 Collaroy Street COLLAROY NSW 2097
Karen Esmore	7 Norma Road PALM BEACH NSW 2108
Mr Richard Hugh West	87 Florida Road PALM BEACH NSW 2108
Tracy Naphthali	10 Beauty Drive WHALE BEACH NSW 2107
Mr Bryan Christie Webster	194 Whale Beach Road WHALE BEACH NSW 2107
Fairlie Kingston	Address Unknown
Ms Tania Diane Wehbe Carla Barbara Wehbe	PO Box 495 PARRAMATTA NSW 2124
Think Planners	PO Box 121 WAHROONGA NSW 2076
Mr John Leslie Nicholson	13 Morella Road WHALE BEACH NSW 2107
Ms Jane Templeton Durham	9 Careel Bay Crescent AVALON BEACH NSW 2107
Ms Eve Maria Heaton Molyneux	26 The Strand WHALE BEACH NSW 2107
Ian Oliver Cook	180 Whale Beach Road WHALE BEACH NSW 2107
Ms Virginia Anne Pursell	47 Ferry Road GLEBE NSW 2037
Ms Janette Ailsa Davie	887 Barrenjoey Road PALM BEACH NSW 2108
Komosion Pty Ltd	Suite 111, 30-40 Harcourt Parade ROSEBERY NSW 2018
Kerry Dibbs	132 Whale Beach Road WHALE BEACH NSW 2107
Mrs Jill Elizabeth Karhan	6 Bowden Street WOOLLAHRA NSW 2025
Mrs Carla Michelin Williams	116 Whale Beach Road WHALE BEACH NSW 2107
Ms Michelle Jessica Cox	10 Etival Street PALM BEACH NSW 2108
Mr Frank James Geddes	19 Cannes Drive AVALON BEACH NSW 2107
Mr Robbi Luscombe Newman	12 Perentie Road BELROSE NSW 2085
Ms Susan Nugan	45 Medusa Street MOSMAN NSW 2088
Mrs Helen Clarke Lapin	11 Tasman Road AVALON BEACH NSW 2107
Mr Harold Charles Wolfe Scruby	PO Box 500 NEUTRAL BAY NSW 2089
Ms Anne Templeton Grace Durham	12 Old Pacific Highway NEWRYBAR NSW 2479
Avalon Preservation Trust Incorporated as Avalon Preservation Association	24 Catalina Crescent AVALON BEACH NSW 2107
Mr Frank Whittaker Edgell	19 Thyra Road PALM BEACH NSW 2108

Name:	Address:
Bush	
Bruce Hamer	16 Prince Alfred Parade NEWPORT NSW 2106
Mr Hayden William Kerr	35 Mariposa Road BILGOLA PLATEAU NSW 2107
Hon. Sandra Christine Nori	19 Raymond Road BILGOLA PLATEAU NSW 2107
Mr Nicholas Harry Wright	28 The Strand WHALE BEACH NSW 2107
Mr Dennis Leslie Wright	12 Park Avenue AVALON BEACH NSW 2107

A total of 153 submissions were received by Council (not including multiple submissions from the same people). Out of the 153 submissions, 24 submissions were in support of the proposal and 129 objected to the proposal.

Assessment of Residents Issues

The matters raised within the submissions have been considered and are addressed as follows:

- **The character of the development is not in keeping with the locality and the bulk and scale are not appropriate for the site.**

A large number of submissions received have raised concern that the development is out of character for the Palm Beach Locality and the bulk and scale of the development is not appropriate for the site. Concerns have also been raised due to the large scale of the development that is close to the side boundaries, the development will create unacceptable visual privacy concerns.

Comment:

This issue has been discussed in detail throughout this report. In summary, the assessment has found that the design of the proposed development is not consistent with the character of the area and the development in its current form is excessive in terms of bulk and scale.

The concerns raised in this regards are concurred with and are included as reasons for refusal.

- **The Height is Excessive**

Concerns have been raised that the development does not comply with the 8.5m height limit.

Comment:

The development has been designed to achieve full compliance with the height control applying to the site.

Therefore, this issue should not be given determining weight.

- **The development has insufficient parking and will cause excessive traffic**

A number of submissions raised concerns regarding the additional traffic generated by the proposed development given insufficient parking provided by the development, and the impact of two driveways

in close proximity of each other. Concern was also raised that the location of the two driveways will jeopardise pedestrian safety.

Comment:

Council's Traffic Engineer has reviewed the proposed development and has raised concerns in relation to number of issues relating to traffic impacts. Based on Council's Traffic Engineer's assessment, the concerns raised in this regard are concurred with and are included as reasons for refusal.

- **The development causes unacceptable impacts on existing views.**

The concern raised with the regards to loss of views is from the adjoining property owners at:

- 11 Morella Rd, Whale Beach
- 196 Whale Beach Rd, Whale Beach
- 198 Whale Beach Rd, Whale Beach
- 200 Whale Beach Rd, Whale Beach
- 229 Whale Beach Rd, Whale Beach

Comment:

The applicant has provided view impacts studies showing the view impacts associated with the existing building and proposed building on the site. In addition, height poles were also erected to determine view impacts of the proposed development.

The impacts on the above properties have been assessed in accordance with the principles of Tenacity Consulting v Warringah Council 2004. It is agreed that in terms of overall building height, the view impact on the adjoining properties is minor as more than 50% of the roof of the proposed development is at least 1.0 metre below the maximum allowable building height, and the eastern edge of Level 4 is 2.3 metres below the height of the existing building.

However, concern is raised with overall bulk of the building as it relates to the side setbacks of the development, which should be increased to improve view corridors.

In this regard, the issue raised in concurred with and included as reason for refusal.

- **The development will set a precedent for other similar development**

Concern has been raised that allowing this development will open the door for similar development in this area.

Comment:

The site is zoned B1 Neighbourhood Centre and is the only lot in Whale Beach to have this zoning. Therefore, there is no ability of the proposed development setting a precedent for other similar developments in the area.

Therefore, this issue should not be given determining weight.

- **The extent of excavation is excessive**

Concern has been raised that the extent of excavation is excessive.

Comment:

This issue is addressed in detail within the Pittwater 21 DCP section of the report. In summary, the assessment has concluded that the design of the proposed development is found to be inconsistent with the requirements of the control relating to sloping sites, in that the development does not incorporate sufficient stepping down of the built form to reduce the overall bulk and scale of the development, such that it integrates with the landform and landscape and minimises site disturbance.

In this regard, the issue raised in concurred with and included as reason for refusal.

- **The development will generate unacceptable noise**

Concerns have been raised that the development will generate unacceptable noise. In particular, a submission received from the owner of No.233 Whale Beach, which is prepared by an acoustic consultant, raises concerns with the garbage collection for the proposed development. The submission provides a number of recommendations, which if adopted, will address the specific concerns raised by the owner of No.233 Whale Beach Road.

Comment:

The proposal is accompanied by an Acoustic Impact Assessment Report (prepared by JHA). The report has been reviewed by Council's Environmental Health (Acoustic) Officer who has raised no objections to the proposal subject to conditions.

The report recommends a number of measures be undertaken to mitigate the potential acoustic impacts of the development. Should the application be approved, it is advised that the the recommendations contained in the submitters acoustic report be incorporated into the conditions of consent to mitigate the potential acoustic impacts.

Accordingly, the concern raised is noted and can be addressed by condition of consent should the application be worthy of approval.

- **The development has insufficient landscaping and relies on screen planting to 233 Whale Beach Road.**

Concern has been raised that the development provides insufficient landscaping and relies on screen planting to 233 Whale Beach Road to screen the development.

Comment:

This issue is addressed in detail within the landscape referral comments in this report. In summary, the proposal lacks sufficient landscaping to soften the built form and to mitigate the visual impacts when viewed from adjoining properties and adjoining public spaces.

In this regard, the issue raised in concurred with and included as reason for refusal.

Submissions in Support

- The existing building is old and out of character and the re-development should be supported.
- The design and appearance of the building is a vast and much needed improvement to the existing building on site.
- The Palm Beach Whale Beach Association (PBWBA) made the following statement:

"The PBWBA is aware of this application. We have been briefed on the project. Our Honorary Architect has reviewed the plans. The PBWBA believes that the site should be redeveloped in order for the Community to maintain access to retail facilities. The committee passed a motion

last year, that:- "The PBWBA has no objection to this application provided that it complies with all the required Council development controls and that it includes the provision for disabled access."

Comment:

The redevelopment of the site in the manner proposed is generally supported. The existing building, particularly when viewed from Surf Road currently is out of character and does not make a positive contribution to the unique character of the Whale Beach locality.

The redevelopment of the site along the lines proposed provides the opportunity to improve the visual and scenic quality of the locality by providing urban renewal, improved aesthetics and a high standard of architecture. Whilst the redevelopment of the site is supported, it is required to be designed having regard to the local character of the area and to minimise the impact on the streetscape, views, vistas and outlooks in the area. This must be done by providing a built form that is sympathetic and sensitive to the site and the area in terms of its bulk and scale, setbacks and how it nestles into this hillside site.

It is recognised and acknowledged that there are significant benefits of the site being redeveloped in this manner, but unfortunately the excessive size and scale of the development as presented in this application, does not go far enough in reducing the bulk and scale of the development such that it can be considered to be consistent with the sensitive local character of the area. Therefore the development cannot be supported in its current form.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported (subject to conditions) 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>
Environmental Health (Industrial)	<p>Supported (subject to conditions) DA2020/0442 relates to development of an apartment complex including food premises on the top and lower levels and retail. Conditions have been provided in the internal reference for food business. In addition to those conditions, there is a need for control of noise, odour and vibrations from equipment within plant rooms and ventilation systems connected with the building to ensure noise and vibration from this equipment does not impact on the health and well being of persons living within the complex and other surrounding premises.</p>
Environmental Health (Food Premises, Skin Pen.)	<p>Supported (subject to conditions) The Current Development Consent includes the addition of two food premises, Council has no objections as long as conditions are complied with to ensure control of odour, smoke, noise and the set up of the business comply with AS4784-2004 and Food Safety Standards 3.2.3 and Food Safety Standards 3.2.2.</p>
Landscape Officer	<p>Refusal</p>

Internal Referral Body	Comments
	<p>The development application is for the demolition of existing structures and construction of a five-storey shop-top housing development, comprising five (5) residential apartments, three (3) retail premises, basement car parking, associated site and landscaping works and strata subdivision.</p> <p>Council's Landscape Referral is assessed against State Environmental Planning Policy No. 65 Design Quality for Residential Apartment Development, Pittwater LEP Zone B1 Neighbourhood Centre, and the following Pittwater 21 DCP Controls: B4.22 Preservation of Trees and Bushland Vegetation; C2.1 Landscaping; C2.20 Public Road Reserve - Landscaping and Infrastructure; and D12 Palm Beach Locality, including D12.1 Character as viewed from a public place.</p> <p>The SEPP 65 Design quality principles included in Schedule 1 that are relevant to the landscape outcomes of the proposal include: Principle 1: Context and neighbourhood character; Principle 4: Sustainability; and Principle 5: Landscape.</p> <p>In addition, under SEPP 65, the following provisions are to be considered: 3E: Deep Soil Zones; 3D: Communal Open Space; and 3F: Visual Privacy.</p> <p>Landscape Plans and a Arboricultural Impact Assessment accompany the application, and both are submitted in accordance with Northern Beaches Council's DA Lodgement Requirements. The proposal for full width road verge as public domain pavement is a sensible proposal commensurate with the retail premises at ground level that may support cafes or restaurants or the like that benefit the community, as this meets the Zone B1 Neighbourhood Centre objectives to provide small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood, with the expectation that the proposal has potential for outdoor seating as part of the proposed retail premises. However, no garden bed planting is permitted within the road reserve and only street tree planting will be supported.</p> <p>The Arboricultural Impact Assessment assesses existing trees within the road reserve and within adjoining properties. No existing trees exist within the development site. The proposal to remove existing trees within the Whale Beach Road road verge is not supported, and shall be retained as these are not impacted by development works and are an established streetscape amenity element. Any proposal for works within the road reserve shall incorporate the existing trees, and the proposal is subject to a Roads Act Application for Civil Works under Sections 138 and 139, inclusive of Public Domain Plans for approval, with sufficient information such as: alignment levels showing existing and proposed levels for altered driveway crossovers, and kerbs and gutters; existing and proposed pavement levels, with proposed gradients no more than a 2.5% fall from building openings to top of kerb, and to match existing levels along adjoining properties;</p>

Internal Referral Body	Comments
	<p>details of any utility alignment and level changes; and details of the proposed concrete pavement finish from building to kerb.</p> <p>All other adjoining property trees are proposed for retention. Concern is raised that Tree 4 within No. 229 Whale Beach Road is encroached upon by the development and the report indicates possible decline in health, and concludes that a compensatory tree protection zone equal to a 4.5 metre setback along the southern boundary is required, contrary to the proposed 1.0 metres basement setback as proposed. Council does not permit any impact to existing trees within adjoining properties, regardless of species or horticultural value, unless adjoining owner's consent is obtained for consideration by Council.</p> <p>Concern is raised that the development does not integrate with the landscape character of the locality, and that the proposal is unable to support landscape planting of a size that is capable of softening the built form. The deep soil areas referred to in Principle 1: Context and neighbourhood character, and 3E Deep Soil Zones, located along the western boundary and part northern boundary, are occupied by pavements, stairs, a kiosk, with small garden beds areas of planting along the western boundary, and courtyards and planters along part of the northern boundary, that is unable to soften the built form. The 3 metre side setbacks are interrupted by basement, courtyards and planters that effectively reduce the capability of planting to achieve softening of the built form. Along the southern boundary, the deep soil area is contained to an uninterrupted 1.0 metre wide zone for the length of the boundary, and 1.2 meters uninterrupted along the northern boundary, reducing the potential growth height of proposed planting.</p> <p>At this stage, the landscape proposal is not supported in terms of achieving design integration by landscape provisions, as well as non support for the proposed removal of trees within the road reserve of Whale Beach Road, and the impact upon tree 4 within the neighbouring property.</p>
NECC (Development Engineering)	<p>Refusal</p> <p>The proposed development is located within a Geotechnical Hazard H1 area. In accordance with Clause B3.1 Landslip Hazard of Pittwater DCP 201, a risk assessment is to be undertaken (Geotechnical Risk Management Policy for Pittwater) for the site and submitted to Council. In this regards the submitted geotechnical report has not provided forms 1 and 1(a) in accordance with Geotechnical Risk Management Policy for Pittwater.</p> <p>The proposed southern driveway/vehicular crossing to the development shows an encroachment within Council adjoining property (Park). Property Commercial & Tourist Assets team for comments/approval prior to full assessment of the application.</p> <p>The proposed northern driveway/vehicular crossing to the development encroaches over the frontage to neighbours property at 233 Whale Beach</p>

Internal Referral Body	Comments
	<p>Rd. Road Asset has provided comments to advise that this does not comply with Clause B6.1 Pittwater 21 Development Control Plan. Applicant is required to discuss with the adjoining owner and provide documentary evidence on the outcome.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>Supported (subject to conditions) The proposed DA generally complies with the the flood controls in the DCP and LEP.</p>
Road Reserve	<p>Refusal There is limited impact on existing road assets. The blade wall on the driveway entry and driveway entry extending across the frontage of the neighboring property does not comply.</p> <p>Further details of proposed landscaping and works on both street frontages will require further consideration by Development Engineering in relation to requiring a Road Act application for infrastructure works (paving, retaining, driveways, and other improvements within the roadway.)</p>
Strategic and Place Planning (Urban Design)	<p>Refusal The concept design and articulation of the built form generally is supportable however further refinements to the design, including bulk and scale and softening of the material palette, particularly is it reads from both Whale Beach Road and Surf Road, will be discussed.</p> <p>4.3 Height of Buildings It is acknowledged that the building does not breach the height of buildings plane and the applicant has responded to the request to provide comparative building height planes across the site.</p> <p>4.12 Palm Beach Locality Whilst it is noted the front setback to Whale Beach Road has pulled the front building line back further to allow for greater circulation zones and considered placemaking response, the upper level 'breeze block treatment surrounding the PV array and rooftop plant is not supportable. The understated nature of the street elevation to this frontage would have a greater fit with the locality and context by limiting the expression to the horizontal datum which demonstrates a simplicity in line, form, bulk and scale. The addition of the rooftop solar PV panel array and the mechanical plant required with the screening provided in the form of a breeze block screen and the flyover copper roof that provides protection to the stair access way has the perceived effect of increased height to the whole structure at this street elevation. Recommendations that look to delete or reduce in size the upper level apartment 5, and retaining the form and elevational treatment to provide screening to the mechanical plant and PV array is recommended. This would assist to reduce the impact of the additional elements of screening and flyover canopy roof above the horizontal datum line of the top of the building as read from the street. Additionally, deletion or reduction of Apartment 5 and the associated private outdoor balcony will have the associated effect of reducing the bulk and scale of the development as viewed from Surf Road.</p>

Internal Referral Body	Comments
	<p>Materials The general palette can be supported. However the extents of off-form concrete to the Surf Road elevation that forms the verandah parapet arc of the commercial zone could be softened or broken down further so as to reduce the overall impacts of the bulk and scale of the development as it reads from Surf Road.</p> <p>Side Setbacks It is noted the dimensioned setback of 3 metres on the documentation shows a minimal 800 mm of green space with the remaining 2200mm hard surface and other material. This space does not allow for sufficient green planting to provided a buffer to the neighbouring properties. The applicant should refer to the Landscape Referral Officer comments for details. In consideration of the bulk and scale of the proposed development and in accordance with the Locality statement for Palm Beach, there is a requirement to incorporate and enhance the built form through significant planting to mitigate the impacts of the building bulk and scale.</p> <p><i>'A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors.'</i></p> <p>SUMMARY Overall the development has merit, however there are elements that, with further refinement including a reduction in bulk and scale, particularly from the Surf Road aspect, could be supported. Further design development to address the key criteria of Desired Future Character, Locality Statement and generally bulk and scale of the proposal is recommended.</p>
Traffic Engineer	<p>Refusal Issues and Comments in accordance with the Pittwater 21 Development Control Plan (DCP)</p> <p>Access Driveway:</p> <p>The Applicant proposes to retain the existing driveway on Surf Road (southern end of the site) for access to the basement level car park, and a new driveway at the northern end for access to the ground level car park. The Applicant has indicated that the two access driveways are required as the site constraints do not allow for only one driveway to service the proposed development, and vehicular access from Whale Beach Road was not feasible due to the gradient</p>

Internal Referral Body	Comments
	<p>of the slope of the site.</p> <p>The site frontage is approximately 15m and only one access driveway is permitted under the DCP where the frontage to a local public road is less than 30m.</p> <p>Off-Street Parking:</p> <p>Required parking spaces for residential dwellings, visitors, accessible (included as part of retail), motorcycle and bicycle storage have been provided.</p> <p>Swept paths are provided to demonstrate access to parking spaces, however the proposed layout makes circulation within the car park and manoeuvring into designated parking spaces difficult or requiring multiple reversing manoeuvres. This is further complicated when vehicles are entering and exiting at the same time which requires one vehicle to backup to areas within the car park where two vehicles can pass.</p> <p>There is a shortfall of 2 spaces for retail and no designated provisions for garbage collection, removalists/deliveries. The Traffic and Parking report concludes that ample parking opportunities exist in the surrounding streets to cater for the additional parking demand. Surveys were conducted on two separate Saturdays in September 2019 with at least 70 spaces vacant throughout the day (to a maximum of 120) within 150 m walking distance from the site.</p> <p>The Traffic and Parking report specifies that no loading docks are proposed with loading/unloading occurring on Whale Beach Road, and the 2.2m height clearance to the car park would not enable access for a Small Rigid Vehicle.</p> <p>The Statement of Environmental Effects further indicates that 'Loading and unloading and retail waste collection will occur from Whale Beach Road, and that the 'Ground level retail and all residential waste will be collected by a small rigid vehicle adjacent to the entrance into the car parking facilities from Surf Road.' Deliveries off Whale Beach Road impacts the availability of the existing 1 hour timed parking restrictions provided, and can lead to double parking and congestion and safety issues on Whale Beach Road when these spaces are occupied. These concerns were also raised in a DA submission from residents. Loading/unloading can also be problematic as the frontage access to Level 3 is below the street level where stairs lead to the main entrance, however a ramp access is provided at the northern end of the site.</p> <p>On-site parking should be provided for service vehicles and access driveways should be separated from access used by the general public for access to public parking areas.</p>

Internal Referral Body	Comments
	<p>Traffic Impacts:</p> <p>The Traffic and Parking report concluded that the additional traffic from the proposed development will be minor and have no noticeable impact on the street network operation nor on safety risks.</p> <p>The traffic generation was reported as 18 trips (7 in / 7 out) during the morning peak and 18 trips (11 in / 7 out) during the afternoon peak hour, with additional trip generation being 9 trips (4 in / 5 out) during the morning peak and 9 trips (5 in / 4 out) during the afternoon peak hour.</p> <p>This calculation should be slightly higher as the projected future generation was based on the retail rate (4.6 trips per 100m² for the total GFA) for all three retail areas, when it is indicated in the SOEE that commercial uses include a café and plans and photo montages show seating for a café for Retail 1, where a rate of 5 trips per 100m² should be applied for restaurants/cafes.</p> <p>The actual traffic impacts would be much greater since off-street parking for visitors and retail is on-site and traffic generation is now localised at the access driveways off Surf Road.</p> <p>As the current site does not provide on-site parking for the existing café, the difference in traffic generation at the new access driveways could be up to an additional 17 trips during the morning and peak periods.</p> <p>The proposal cannot be supported in its current form due to overall number of issues and non-compliances considered together with the site constraints and location. However, the impacts of the non-compliances can be minimised and an acceptable proposal could be supported on merit if these issues are addressed by providing the following modifications and provision of infrastructure in Public Road Reserve:</p> <ul style="list-style-type: none"> ● Widening of access driveway to car parks <p>The proposed access driveway for the basement level is only 3.6m wide, and the curved alignment provides insufficient visibility between entering and exiting vehicles. This can not be improved by a convex mirror and traffic signals are not practical. A minimum combined entry/exit width of 5.5m should be provided from the public road to parking area to allow two way vehicle access.</p> <p>Movements in the ground level are park are restricted, and similarly the access driveway widening to 5.5m should also be considered. The garbage storage area could be relocated if approved by Waste Services. As a minimum requirement the Applicant needs to demonstrate that the car park layout enables vehicles to pass and any required waiting areas are clearly marked so that vehicles entering the</p>

Internal Referral Body	Comments
	<p>ground level car park are not forced to reverse back onto Surf Road. Speed humps should also be installed on the private property approaching the entry/exit to ensure that vehicles slow down prior to crossing Council's Public Road Reserve.</p> <ul style="list-style-type: none"> ● Provision of Indented service/delivery bay in Surf Road <p>A 2.5m wide indented bay is required for waste and service vehicle access and designed to enable forward in and forward out access for a waste collection vehicle 9.7m in length, as a minimum requirement. The indented bay can be provided in the Council Public Road Reserve between the two access driveways to the basement and ground level car parks. The facility would remove the need for loading/unloading to occur on Whale Beach Road and impacting the existing timed parking spaces.</p> <ul style="list-style-type: none"> ● Realignment of kerb between the access driveway to the basement car park and The Strand <p>The section of Surf Road between Whale Beach Road and The Strand is narrow and the road width varies from 5.5 from the northern end to 7m. Parking is restricted on both sides of the road except for the section located immediately east of the existing driveway where parallel parking is permitted for approximately 3 vehicles. The access driveway to the basement car park is located on the bend in Surf Road and existing parking narrows the road and obstructs sightlines for vehicles exiting the site. The kerb realignment should retain parking for 3 parallel vehicles and provide a 6m road width for two-way traffic.</p> <ul style="list-style-type: none"> ● Provision of footpath <p>A minimum 1.5m wide footpath is required along the entire Surf Road frontage and extended to the intersection with The Strand. The existing footpath on the opposite side of the road should also be extended to The Strand with the addition of a handrail where required. This is to provide pedestrian facilities and safety where there is high pedestrian activity between Whale Beach Road, access to the proposed café and Whale Beach.</p>
Waste Officer	<p>Refusal</p> <p>Access to the bin storage facilities does not meet Council requirements. Specifically:</p> <ul style="list-style-type: none"> ● Access to both the residential and commercial bin storage bays is via a vehicular driveway. ● The doors of both bin storage bays swing out over the vehicular driveway.

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • <i>Unacceptable - a path that is separate from the vehicle driveway must be provided for servicing waste bins.</i> • <i>open doors obstruct vehicle movement and obscure waste collection staff from the view of vehicle drivers.</i> <p><u>Waste Management Plan (WMP)</u> The WMP must be amended. It is not acceptable to refer to another document - in this case the Construction Management Plan (CMP). The CMP does not provide sufficient information regarding waste generation and disposal from the proposed works. When referring to estimated types and volumes of waste from demolition and construction it merely states "TBA". Incorrect number of residential dwellings is described in the WMP.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

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 residential and cafe 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 mixed use development land use.

SEPP 65 - Design Quality of Residential Apartment Development

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

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

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

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

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

(c) the building concerned contains at least 4 or more dwellings.

As previously outlined, the proposed development is for the erection of a shop top housing development plus basement car parking for the provisions of five (5) self-contained dwellings and retail premises.

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

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

Clause 28 of SEPP 65 requires:

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

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

DESIGN REVIEW PANEL

Northern Beaches Council did not have an appointed Design Review Panel at the time when the application was lodged.

DESIGN QUALITY PRINCIPLES

Principle 1: Context and Neighbourhood Character

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

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

Comment:

The subject site is surrounded by an E4 - Environmental Living zone which is comprised of low density residential development in the form of multi-level detached dwellings on sloping sites, which generally step down with the topography. The specific controls (particularly the Desired Character statement) clearly indicates that development within the subject site should be similar in scale and appearance to that envisaged in the Locality, which is largely buildings that step down the topography the land.

In this context, the proposed development (as lodged) is not consistent with the locality in that the scale of the development does not sufficiently step down with the slope of the land and for this reasons it is not sufficiently integrated with the natural landform.

Accordingly, the proposed development is found to inconsistent with this principle.

Principle 2: Built Form and Scale

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

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.

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

Comment:

The proposed development has been conceived on the basis that the subject site is a unique site, being a single parcel of land zoned B1 that interfaces with low density residential development on all sides.

This site should be developed to some extent in a special manner with strong definition to the public roads and a built form that emphasizes its unique status, but this should be carried out in a manner which is sympathetic and sensitive to the low density environs and sensitive coastal location of the site.

The height of the proposed development is 8.5m which is considered, in terms of metres, to be consistent with the height of surrounding development and compliant with the overall Building Height. However, the horizontal built form (massing) of the development consists of a continual 3 storey street wall structure along the side elevations, which offers very little building separation to adjoining development. This aspect of the design is a significant departure from the requirement to provide adequate transitions to adjoining dwelling houses, particularly when viewed from the various vantage points.

In this regard, the development is not regarded as being a sufficiently considered and sensitive response to the scale of existing development, particularly when viewed from the public domains or the adjoining developments.

For these reasons, the development does not meet the objectives of Design Quality Principle 2. This

issue has been included as a reason for refusal.

Principle 3: Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Comment:

The housing density for the site is stipulated within Clause 4.5A of Pittwater LEP 2014, which requires a maximum of 1 dwelling per 150m² of the site area for shop-top housing in a B1 Neighbourhood Centre.

The proposal complies with Clause 4.5A with a site area of 866.30m² with five (5) apartments.

Accordingly, it is considered that the proposal satisfies this principle.

Principle 4: Sustainability

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

Comment:

The proposed works include part demolition and excavation works to accommodate the new development.

In this regard, a condition of consent could be imposed requiring the submission of a Construction Management Plan (CMP) detailing disposal and recycling of demolition and excavation materials, should the application be approved.

In addition, a BASIX certificate for development has been submitted with the application. The certificate confirms that the development is capable of achieving the water and energy targets and has obtained a pass for thermal comfort.

Accordingly, it is considered that the proposal satisfies this principle.

Principle 5: Landscape

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

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape

design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.

Comment:

The landscape plans submitted with the application provide details of the proposed landscaping for the site, which has been reviewed by Council's Landscape Officer, who has raised concern that the development does not integrate with the landscape character of the locality, and that the proposal is unable to support landscape planting of a size that is capable of softening the built form.

For these reasons, the development does not meet the objectives of Design Quality Principle 5. This issue has been included as a reason for refusal.

Principle 6: Amenity

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

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

Comment:

The development has been assessed against the various amenity requirements of the Apartment Design Guideline (ADG), where it has been found that the development is capable of complying with the relevant controls.

Accordingly, it is considered that the proposal satisfies this principle.

Principle 7: Safety

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

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

Comment:

The application is not accompanied by a formal Crime Risk Assessment as required by the ADG.

Generally, the development provides secure access, which is separated from all vehicular access points. All apartments provide balconies and windows which provides passive surveillance over the village and public road.

Accordingly, it is considered that the proposal satisfies this principle.

Principle 8: Housing Diversity and Social Interaction

Good design achieves a mix of apartment sizes, providing housing choice for different demographics,

living needs and household budgets.

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

Comment:

This principle essentially requires design to respond to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities and optimising the provision of housing to suit the social mix and provide for the desired future community.

The development proposes to construct a shop-top housing development, which will accommodate 5 apartments, which is considered to be a positive outcome in terms of providing a diversity type of housing within the locality.

Accordingly, it is considered that the proposal satisfies this principle

Principle 9: Aesthetics

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

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

Comment:

The proposed development is considered to be appropriate in terms of the composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the resultant building. The development responds aesthetically to the environment and context, contributing in an appropriate manner to the character of the area, despite the concerns in relation to size, mass, bulk and scale.

Accordingly, it is considered that the proposal satisfies this principle.

APARTMENT DESIGN GUIDE

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

Development Control	Criteria / Guideline	Comments
Part 3 Siting the Development		
Site Analysis	Does the development relate well to its context and is it sited appropriately?	<p>Not Consistent A context plan is provided to accompany the application.</p> <p>The building form does not reflect the current character as anticipated by</p>

		the P21 DCP for the site.															
Orientation	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	Not Consistent The appears of the development as viewed from the street and adjoining development is found to be unsatisfactory.															
Public Domain Interface	Does the development transition well between the private and public domain without compromising safety and security? Is the amenity of the public domain retained and enhanced?	Consistent The development has been found to be consistent with requirement of this Clause in the it provides an improved public domain interface.															
Communal and Public Open Space	Appropriate communal open space is to be provided as follows: 1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter)	Not Consistent (but satisfactory) The proposed development does not provide any communal open space for the residents of the development. However, given the site is located in close proximity to Whale Beach and the associated park land and public open space. The development also provides provides larger balconies for each unit, so therefore the requirement of communal space is not considered essential.															
Deep Soil Zones	Deep soil zones are to meet the following minimum requirements: <table border="1" data-bbox="438 1653 1061 2136"> <thead> <tr> <th>Site area</th> <th>Minimum dimensions</th> <th>Deep soil zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>Less than 650m²</td> <td>-</td> <td>7%</td> </tr> <tr> <td>650m² – 1,500m²</td> <td>3m</td> <td></td> </tr> <tr> <td>Greater than 1,500m²</td> <td>6m</td> <td></td> </tr> <tr> <td>Greater than 1,500m² with significant</td> <td>6m</td> <td></td> </tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m ²	-	7%	650m ² – 1,500m ²	3m		Greater than 1,500m ²	6m		Greater than 1,500m ² with significant	6m		Consistent Deep soil areas provided with a minimum dimension of 3m. The total deep soil areas equate to 72.1m ² which is 8.5% of the site area.
Site area	Minimum dimensions	Deep soil zone (% of site area)															
Less than 650m ²	-	7%															
650m ² – 1,500m ²	3m																
Greater than 1,500m ²	6m																
Greater than 1,500m ² with significant	6m																

	existing tree cover													
Visual Privacy	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1"> <thead> <tr> <th>Building height</th> <th>Habitable rooms and balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table> <p><i>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</i></p> <p><i>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</i></p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>Not Consistent</p> <p>The control requires a 6m setback for habitable rooms and a 3m setback for non-habitable rooms up to four storeys.</p> <p>The development proposes a 3m setback to both north and south side boundary.</p> <p>The proposed development provides inadequate setbacks to the adjoining E4 Environmental Living zoned properties. Specifically, the proposal provides inadequate physical separation between the building footprint and adjoining properties and insufficient deep soil landscape setbacks to allow landscape plantings to offset the height, bulk and scale of the development.</p> <p>The issue of noncompliance with the building separation requirements in relation to the northern and southern boundaries has been included as a reason for refusal.</p>
Building height	Habitable rooms and balconies	Non-habitable rooms												
Up to 12m (4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												
Pedestrian Access and entries	<p>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>	<p>Consistent</p> <p>The development provides level pedestrian access to all floor levels from the basement car parking area.</p>												
Vehicle Access	<p>Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?</p>	<p>Not Consistent</p> <p>The proposed vehicular access has been assessed by Council's Traffic Engineer who</p>												

		has raised concerns to the proposal in terms of the location of the two vehicular access in close proximity of each other.
Bicycle and Car Parking	<p>For development in the following locations:</p> <ul style="list-style-type: none"> On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>	<p>Consistent</p> <p>An assessment of car parking provision, having regard to WDCP 2011 and location of the site, has been undertaken.</p> <p>In summary, the amount of car parking is sufficient for the development, as addressed elsewhere in this report.</p>
Part 4 Designing the Building		
Amenity		
Solar and Daylight Access	<p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter. 	<p>Consistent</p> <p>All of the units (100%) will receive a minimum of 2 hours of direct sunlight between 9.00am and 3.00pm in mid-winter.</p>
	<ul style="list-style-type: none"> A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter. 	Not applicable
Natural Ventilation	<p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:</p> <ul style="list-style-type: none"> At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or 	<p>Consistent</p> <p>All of the units (100%) are naturally cross ventilated.</p>

	<p>greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p> <ul style="list-style-type: none"> Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line. 													
		Consistent No apartments exceed the 18.0m requirement.												
Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1"> <thead> <tr> <th colspan="2">Minimum ceiling height</th> </tr> </thead> <tbody> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td>For 2 storey apartments</td> <td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td> </tr> <tr> <td>Attic spaces</td> <td>1.8m at edge of room with a 30 degree minimum ceiling slope</td> </tr> <tr> <td>If located in mixed used areas</td> <td>3.3m for ground and first floor to promote future flexibility of use areas</td> </tr> </tbody> </table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use areas	Consistent The floor to ceiling heights of the apartments within the development meet the minimum 2.7m as required by the ADG.
Minimum ceiling height														
Habitable rooms	2.7m													
Non-habitable	2.4m													
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area													
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If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use areas													
Apartment Size and Layout	<p>Apartments are required to have the following minimum internal areas:</p> <table border="1"> <thead> <tr> <th>Apartment type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m²</td> </tr> <tr> <td>1 bedroom</td> <td>50m²</td> </tr> <tr> <td>2 bedroom</td> <td>70m²</td> </tr> <tr> <td>3 bedroom</td> <td>90m²</td> </tr> </tbody> </table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	Consistent All apartments within the development comply with the minimum area.		
Apartment type	Minimum internal area													
Studio	35m ²													
1 bedroom	50m ²													
2 bedroom	70m ²													
3 bedroom	90m ²													
Private Open Space and Balconies	<p>All apartments are required to have primary balconies as follows:</p> <table border="1"> <thead> <tr> <th>Dwelling Type</th> <th>Minimum Area</th> <th>Minimum Depth</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m²</td> <td>-</td> </tr> </tbody> </table>	Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m ²	-	Consistent All apartments within the development comply with the minimum balcony area and depth.						
Dwelling Type	Minimum Area	Minimum Depth												
Studio apartments	4m ²	-												

	<table border="1"> <tr> <td>1 bedroom apartments</td> <td>8m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom apartments</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>12m²</td> <td>2.4m</td> </tr> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	
1 bedroom apartments	8m ²	2m									
2 bedroom apartments	10m ²	2m									
3+ bedroom apartments	12m ²	2.4m									
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.	Not Applicable There are no ground floor apartments									
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	Consistent The maximum number of apartments off a circulation core on a single level is 2. The proposed development includes access to all floors via a lift.									
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Not Applicable									
Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:	Consistent (subject to condition) The proposed building includes resident storage areas for all units within the building and as well as within the basement levels. A condition of consent could be imposed if the application is to be approved to ensure the proposed storage areas are allocated in accordance with the size requirements of the ADG for the respective units.									
	<table border="1"> <thead> <tr> <th>Dwelling Type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m²</td> </tr> <tr> <td>1 bedroom apartments</td> <td>6m²</td> </tr> <tr> <td>2 bedroom apartments</td> <td>8m²</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>10m²</td> </tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment.</p>		Dwelling Type	Storage size volume	Studio apartments	4m ²	1 bedroom apartments	6m ²	2 bedroom apartments	8m ²	3+ bedroom apartments
Dwelling Type	Storage size volume										
Studio apartments	4m ²										
1 bedroom apartments	6m ²										
2 bedroom apartments	8m ²										
3+ bedroom apartments	10m ²										
Acoustic Privacy	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	Consistent (subject to condition) An acoustic assessment which considers both internal and external noise sources including surrounding traffic noise, noise emissions associated with traffic									

		generated by activities on site was submitted. The acoustic assessment found that noise generated by the development will comply with all relevant standards.
Noise and Pollution	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	<p>Consistent</p> <p>(i) Noise The development has been designed in a manner to minimise impacts of external noise and to mitigate noise transmission, as discussed elsewhere in this report.</p> <p>(ii) Pollution The completed development is unlikely to impact adversely on air quality or alter the microclimate of the area. No details regarding dust control relating to the construction have been provided. These details will be required to be submitted as a condition of consent, should the application be worthy of approval.</p>
Configuration		
Apartment Mix	Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.	Consistent The development proposes a two, and three bedroom apartments.
Ground Floor Apartments	Do the ground floor apartments deliver amenity and safety for their residents?	Not Applicable The development does not have ground level apartments .
Facades	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	Consistent The facade treatment is appropriate for the site.
Roof Design	Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the	Consistent The roof space is not readily accessible and cannot be used to serve the residential accommodation.

	use of the roof top.																																				
Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	Not Consistent Landscape plans have been submitted with the application, providing detailed plans for the landscape treatment. The Landscape Design has been detailed by Council's Landscape officer and the referral comments and found to be unsatisfactory.																																			
Planting on Structures	<p>When planting on structures the following are recommended as minimum standards for a range of plant sizes:</p> <table border="1"> <thead> <tr> <th>Plant type</th> <th>Definition</th> <th>Soil Volume</th> <th>Soil Depth</th> <th>Soil Area</th> </tr> </thead> <tbody> <tr> <td>Large Trees</td> <td>12-18m high, up to 16m crown spread at maturity</td> <td>150m³</td> <td>1,200mm</td> <td>10m x 10m or equivalent</td> </tr> <tr> <td>Medium Trees</td> <td>8-12m high, up to 8m crown spread at maturity</td> <td>35m³</td> <td>1,000mm</td> <td>6m x 6m or equivalent</td> </tr> <tr> <td>Small trees</td> <td>6-8m high, up to 4m crown spread at maturity</td> <td>9m³</td> <td>800mm</td> <td>3.5m x 3.5m or equivalent</td> </tr> <tr> <td>Shrubs</td> <td></td> <td></td> <td>500-600mm</td> <td></td> </tr> <tr> <td>Ground Cover</td> <td></td> <td></td> <td>300-450mm</td> <td></td> </tr> <tr> <td>Turf</td> <td></td> <td></td> <td>200mm</td> <td></td> </tr> </tbody> </table>	Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Large Trees	12-18m high, up to 16m crown spread at maturity	150m ³	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m ³	1,000mm	6m x 6m or equivalent	Small trees	6-8m high, up to 4m crown spread at maturity	9m ³	800mm	3.5m x 3.5m or equivalent	Shrubs			500-600mm		Ground Cover			300-450mm		Turf			200mm		Not Consistent Refer to Principle 5 above and Landscape referral comments
Plant type	Definition	Soil Volume	Soil Depth	Soil Area																																	
Large Trees	12-18m high, up to 16m crown spread at maturity	150m ³	1,200mm	10m x 10m or equivalent																																	
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Shrubs			500-600mm																																		
Ground Cover			300-450mm																																		
Turf			200mm																																		
Mixed Use	<p>Can the development be accessed through public transport and does it positively contribute to the public domain?</p> <p>Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.</p>	Consistent The apartment mix is satisfactory.																																			
Awnings and	Locate awnings along streets with high pedestrian	Not Applicable																																			

Signage	activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development. Signage must respond to the existing streetscape character and context.	The DA does not propose any awning or signage and as such, this clause is not considered in the assessment of this application.
Performance		
Energy Efficiency	Have the requirements in the BASIX certificate been shown in the submitted plans?	Consistent A BASIX certificate report has been prepared for the development. The BASIX certificate confirms that required targets for water, thermal comfort and energy efficiency will be met.
Water Management and Conservation	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	Consistent Water management and conservation through the means of retention of stormwater for reuse has been assessed as compliant and further, compliance with the supplied BASIX Certificate can be conditioned, if the application was recommended for approval.
Waste Management	Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?	Consistent Subject to condition
Building Maintenance	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	Consistent The application includes a Schedule of Materials and Finishes which ensures the longevity and sustainability of the building.

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 provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

SEPP (Coastal Management) 2018

The site is located within both the Coastal Use Area and Coastal Environment Area as identified by State Environmental Planning Policy (Coastal Management) 2018 ("**CM SEPP**"), and the provisions of this policy are applicable in relation to the proposal. Following detailed assessment of the proposal, the consent authority can be satisfied of the following:

- the proposal is not likely to cause an adverse impact upon the matters listed in clause 13(1) of the CM SEPP,
- the proposal has been designed, sited and will be managed to avoid adverse impacts on the matters listed in clause 13(1) of the CM SEPP,
- the proposal is not likely to cause an adverse impact upon the matters listed in clause 14(1) of the CM SEPP,
- the proposal has been designed, sited and will be managed to avoid adverse impacts on the matters listed in clause 14(1) of the CM SEPP,
- the proposal is not likely to cause increased risk of coastal hazards on the site or other land.

As such, the proposal is considered to be consistent with the provisions of the CM SEPP, including the matters prescribed by clauses 13, 14 and 15 of this policy.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.5m	N/A	Yes
Density controls for certain residential accommodation	1 dwelling per 150m ²	1 dwelling per 168.94m ²	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Part 2 Permitted or prohibited development	Yes
2.7 Demolition requires development consent	Yes
Part 4 Principal development standards	Yes
4.3 Height of buildings	Yes
4.5A Density controls for certain residential accommodation	Yes
4.6 Exceptions to development standards	N/A
Part 5 Miscellaneous provisions	Yes
Part 7 Additional local provisions	Yes
7.2 Earthworks	Yes
7.7 Geotechnical hazards	No
7.10 Essential services	Yes

Detailed Assessment

7.2 Earthworks

The objective of Clause 6.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition can be included if the application was to be approved requiring any fill to be of a suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions can be included if the application was worthy of approval to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition can be included in the requiring any fill to be of an suitable quality.

(f) the likelihood of disturbing relics

Comment: The site is not mapped as being a potential location of Aboriginal or other relics.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Primary front building line (Whale Beach Road)	3.5m	Basement, Ground, Level 1, Level 2: 1.6m to 4.0m	Nil to 54.3%	No
		Level 3, Level 4: 3.0m to 6.4m	Nil to 14.3%	No
		Level 3 bin store: Nil	100%	No
Secondary front building line (Surf Road)	1.75m (subject to consistency with objectives)	Basement: Nil	100%	No
		Ground: Nil to 2.3m	Up to 100%	No
		Level 1: Nil	100%	No
		Level 2, Level 3: 3.5m	N/A	Yes
Side building line	North - 3.0m	Basement: Nil to 2.4m	31.4% to 100%	No
		Ground: Nil to 3.0m	Nil to 100%	No
		Level 1, Level 2: 1.0m (retaining wall) to 3.0m (building)	Nil to 66.7%	No
		Level 3: Nil (access ramp) to 3.0m (building)	Nil to 100%	No
	South - 3.0m	Level 4: 3.0m	N/A	Yes
		Basement, Ground: 0.9m to 3.0m	Nil to 70%	No
		Level 1, Level 2, Level 3: 0.8m (retaining wall) to 3.0m (building)	Nil to 73.3%	No
		Level 4: 3.0m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Section A Shaping Development in Pittwater	Yes	Yes
A1 Introduction	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4 Localities	No	No
A4.12 Palm Beach Locality	No	No
Section B General Controls	Yes	Yes
B1 Heritage Controls	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B2 Density Controls	Yes	Yes
B2.3 Subdivision - Business Zoned Land	Yes	Yes
B3 Hazard Controls	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B4 Controls Relating to the Natural Environment	No	No
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5 Water Management	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.3 Greywater Reuse	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.5 Rainwater Tanks - Business, Light Industrial and Other Development	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.9 Stormwater Management - Water Quality - Other than Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)	Yes	Yes
B6 Access and Parking	No	No
B6.1 Access driveways and Works on the Public Road Reserve	No	No
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.6 On-Street Parking Facilities	Yes	Yes
B8 Site Works Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Management		
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
Section C Development Type Controls	Yes	Yes
C1 Design Criteria for Residential Development	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	No	No
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.18 Car/Vehicle/Boat Wash Bays	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
Section D Locality Specific Development Controls	Yes	Yes
D12 Palm Beach Locality	No	No
D12.1 Character as viewed from a public place	No	No
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	No	Yes
D12.6 Side and rear building line	Yes	Yes
D12.11 Fences - General	Yes	Yes
D12.14 Scenic Protection Category One Areas	No	No

Detailed Assessment

A4.12 Palm Beach Locality

The desired character of the Palm Beach locality is prescribed, as follows:

The Palm Beach locality will remain primarily a low-density residential area with dwelling houses in maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape....

Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.

Future development will maintain a building height limit below the tree canopy and minimise bulk and scale whilst ensuring that future development respects the horizontal massing of the existing built form. Existing and new native vegetation, including canopy trees, will be integrated with the development. Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards...

A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors...

Comment:

The proposal development is found to be inconsistent with the requirements of the desired character statement for the following reasons:

- The proposal exceeds the two storeys requirements in any one place, the proposal presenting as a 3- 5 storey building when viewed from different vantage points.
- The design of the proposed development is found to be inconsistent with the requirement of the controls relating to sloping sites, in that the development does not incorporate sufficient "stepping down" of the built form to reduce the overall bulk and scale of the development, such that it integrates with the landform and landscape and minimises site disturbance.
- The development does not maintain the landforms and natural environment of the site, in that the proposal includes a substantial extent and depth of excavation to accommodate the proposed development.
- The proposal lacks sufficient landscaping to soften the built form and to mitigate the visual impacts when viewed from adjoining properties and adjoining public spaces as referenced in the Landscape Officer comments in the referral section of this report.

B4 Controls Relating to the Natural Environment

Council's Landscape officer has assessed the application with regards to the requirement of this Clause, who has raised concern that the the development does not integrate with the landscape character of the locality, and that the proposal is unable to support landscape planting of a size that is capable of softening the built form.

The landscape proposal is not supported in terms of achieving design integration by landscape provisions, as well as the removal of trees within the road reserve of Whale Beach Road, and the impact upon Tree No. 4 within the neighbouring property.

Accordingly, this issue is included as reason for refusal.

B6.1 Access driveways and Works on the Public Road Reserve

The development retains the existing driveway on Surf Road (southern end of the site) for access to the basement level car park, and proposes a new driveway at the northern end for access to the ground level car park. The Applicant has indicated that the two access driveways are required as the site constraints do not allow for only one driveway to service the proposed development, and vehicular access from Whale Beach Road was not feasible due to the gradient of the slope of the site.

The site frontage is approximately 15m and only one access driveway is permitted under the DCP where the frontage to a local public road is less than 30m. The issue of two driveway within close proximity of each is not supported by Council' Traffic Engineer.

In addition to the above, the proposed development does not provide loading and unloading facilities for the development. The Statement of Environmental Effects further indicates that 'Loading and unloading and retail waste collection will occur from Whale Beach Road, and that the 'Ground level retail and all residential waste will be collected by a small rigid vehicle adjacent to the entrance into the car parking facilities from Surf Road. Council' Traffic Engineer has raised concern with proposal in this regard, stating that this will impact the street parking.

This issue has included as reason for refusal.

B6.3 Off-Street Vehicle Parking Requirements

The parking requirements are as follows:

- 5 x 2 bedroom units (2 space per dwelling) = 10 spaces required
- 1.7 visitors spaces = 2 spaces
- Retail spaces (1 per 30 m² GFA and the total GFA is 313m²) = 10 spaces required

Total required = 22 spaces

The proposed development = 21 spaces

The proposed development results in a non-compliance of one parking space for retail component of the development. It is considered that the non-compliance of 1 space could be supported given the site is located in close proximity to Council's carparking area adjacent Whale Beach.

D12.1 Character as viewed from a public place

The proposed development in terms of visual bulk and scale is not a considered response to the predominant scale of the existing development within the Palm Beach Locality. the proposed development is not consistent with the locality in that the scale of the development does not sufficiently step down the slope of the land and is not integrated with the natural landform.

The scale of the development is uncharacteristic. The extent of site coverage and side setbacks are not compatible with the context of the character of the locality.

D12.5 Front building line

Minimum setback prescribed and minimum setback proposed is stipulated in the table below:

Built Form Control	Requirement	Proposed	Complies
Primary front building line	3.5m	Basement, Ground, Level	No

(Whale Beach Road)		1, Level 2: 1.6m to 4.0m	
		Level 3, Level 4: 3.0m to 6.4m	No
		Level 3 bin store: Nil	No
Secondary front building line (Surf Road)	1.75m (subject to consistency with objectives)	Basement: Nil	No
		Ground: Nil to 2.3m	No
		Level 1: Nil	No
		Level 2, Level 3: 3.5m	Yes
		Level 4: 3.5m to 10.5m	Yes

The proposed development is inconsistent with the 3.5m minimum setback prescribed by this development control to Whale Beach Road and to Surf Road. Whilst the non-compliance is carried across all three levels of the proposed development, the setback of the basement carparking level will not be visually obtrusive and the extent of non-compliance and excavation at the lower levels is entirely hidden from view. Despite the non-compliance with the numerical control, the siting of the proposal is considered to be appropriate, and will achieve consistency with the outcomes of the control as the development setback of the proposed building is consistent with the location of the existing building.

D12.6 Side and rear building line

Minimum setback prescribed and minimum setback proposed is stipulated in the table below:

Built Form Control	Requirement	Proposed	Complies
Side building line	North - 3.0m	Basement: Nil to 2.4m	No
		Ground: Nil to 3.0m	No
		Level 1, Level 2: 1.0m (retaining wall) to 3.0m (building)	No
		Level 3: Nil (access ramp) to 3.0m (building)	No
		Level 4: 3.0m	Yes
	South - 3.0m	Basement, Ground: 0.9m to 3.0m	No
		Level 1, Level 2, Level 3: 0.8m (retaining wall) to 3.0m (building)	No
		Level 4: 3.0m	Yes

The proposed development provides inadequate side setbacks to the adjoining E4 Environmental Living zoned residential properties. Specifically, the proposal provides inadequate physical separation between the building footprint and adjoining properties and insufficient deep soil landscape setbacks to allow landscape plantings to offset the height, bulk and scale of the development.

Overall, the proposal lacks sufficient landscaping to soften the built form and to mitigate the visual impacts when viewed from adjoining properties and adjoining public spaces as referenced in the Landscape Officer referral comments.

In this regard, the proposal is found to be inconsistent with the objectives of this control.

CONCLUSION

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

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

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

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

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

The proposed land uses are permissible with consent on the site pursuant to the provisions of PLEP 2014. As discussed throughout this report, there are no objections raised to proposed land uses on the site and redevelopment of the site will be highly beneficial to the site as well as the locality as a whole.

The proposed development has been assessed in terms of its built form and has found it not to be sufficiently sympathetic to this scenic and visually sensitive location and not sufficiently compatible as a form of development that will interface with the low density residential development surrounding the site.

However, the balance of development over preserving and maintaining the character of the locality has not been achieved. It is recommended that the buildings form should be broken down to a greater extent to better step the down with the topography of the site, to produce a form of development on the site which contextually fits within the established character of the locality to provide for a 'seaside-village' character.

There are a number of possible options for amendments to be made to this development to address the concerns raised in this report, such that it is designed in a manner that is consistent with the applicable planning controls and a development that is a more sympathetic development outcome for the site; one that is responsive to the topography of the land, the streetscape and the visual qualities of its prominent headland location. Discussions were held with the applicant in relation to design solutions, however, the process for dealing with an amended scheme is via a new Development Application, owing to the significant notification, assessment and referral requirements that are involved.

On balance, whilst there is significant architectural, streetscape and character benefits from the redevelopment of the site in the manner presented in this application, the excessive size, mass, bulk and scale of the building as lodged, unfortunately does not sufficiently satisfy the applicable controls. An amended scheme which addresses these issues should be explored and progressed, one which better achieves the visual and scenic quality outcomes embodied in the planning controls for sloping coastal sites in a low density residential setting and one that provides better protection of amenity and visual sensitivity to adjoining properties.

Accordingly, the proposal is recommended for refusal for the reasons provided below.

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council , as the consent authority REFUSE Development Consent to Development Application No DA2020/0442 for the Demolition Works and construction of a Mixed Use Development comprising Shop Top Housing and retail premises, with associated carparking, landscaping and strata subdivision on land at Lot B DP 316404,231 Whale Beach Road, WHALE BEACH, for the reasons outlined as follows:

1. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of State Environmental Planning Policy 65 - Design Quality of Residential Flat Development and its associated Apartment Design Guide.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 7.7 Geotechnical hazards of the Pittwater Local Environmental Plan 2014.
3. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development is not consistent with the Desired Future Character of the location and is an over-development of the site.
4. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1.3 View Sharing of the Pittwater 21 Development Control Plan.
5. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D12.1 Character as viewed from a public place of the Pittwater 21 Development Control Plan.
6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D12.6 Side and rear building line of the Pittwater 21 Development Control Plan.
7. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D12.14 Scenic Protection Category One Areas of the Pittwater 21 Development Control Plan.