

**SYDNEY NORTH PLANNING PANEL
COUNCIL ASSESSMENT REPORT**

Panel Reference	PPSSNH-80
Application Number	DA2020/0393
LGA	Northern Beaches
Proposed Development	Demolition of existing structures and construction of a mixed-use development comprising retail uses, gymnasium, commercial car wash, shop-top housing containing 51 dwellings, basement car parking for 193 vehicles spaces, landscaping and a central public square.
Land to be developed (Address)	Lot 1 in DP 1199795, No. 28 Lockwood Avenue, Belrose
Owner	Platinum Property Advisors No 1 Trust
Applicant	Willana Urban
Date of Application	24 April 2020
Number of Submissions	134
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional	Development with a Capital Investment Value (CIV) of more than \$30 million
List of all relevant s4.15(1) (a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • Environmental Planning and Assessment Regulations 2000 • State Environmental Planning Policy No. 55 – Remediation of Land and draft SEPP • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development • State Environmental Planning Policy (Infrastructure) 2007 • Warringah Local Environmental Plan 2011 • Warringah Development Control Plan 2011
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural Plans • Clause 4.6 submission
Report prepared by	External consultant – Geoff Goodyer, Symons Goodyer Pty Ltd
Report date	23 September 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clause requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarized in the Executive Summary of the assessment report? **Yes**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions Conditions (s94EF)?

Note: Certain Das in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

**Not
Applicable**

Conditions

Have draft conditions been provided to the applicant for comment?

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Yes

EXECUTIVE SUMMARY

The proposal is to demolish the existing buildings and to construct a mixed-use development containing retail space, gymnasium, commercial car wash, shop-top housing containing 51 dwellings, basement car parking for 193 vehicles spaces, landscaping and a central public square.

The site is zoned B2 Local Centre. It was previously used for the Belrose Library which has been relocated nearby.

The proposal has a maximum building height of 12.48m, which exceeds the maximum building height of 8.5m permitted on the land under clause 4.3(2) of Warringah Local Environmental Plan 2011. A request to vary the control under clause 4.6 of WLEP 2011 has been submitted and is discussed in detail below. It is considered that the written request does not satisfy the requirements of clause 4.6 of WLEP 2011 and that the variation sought to the building height control should not be approved.

The proposal has been assessed against the Design Quality Principles in SEPP 65. It is considered that the development fails to satisfy the principles relating to: Context and neighbourhood character; Built form and scale; Density; Sustainability; Landscape; and Amenity.

The proposal has been assessed under the Design Objectives and Criteria in the Apartment Design Guide. This assessment concludes that the proposal will not provide a suitable level of amenity for the future residents of the building as it fails to satisfy objectives and criteria relating to: Visual privacy; Vehicle access; Bicycle and car parking; Solar and daylight access; Natural ventilation; Ceiling heights; Apartment size and layout; Private open space; Storage; Landscape design; and Energy efficiency.

The proposal has been assessed under the provisions of Warringah Development Control Plan 2011. This assessment concludes that the proposal is inappropriate as it fails to satisfy planning provisions relating to: Traffic, access and safety; Parking facilities; Bicycle parking and end of trip facilities; Stormwater; Excavation and landfill; Waste management; Building bulk; Preservation of trees and bushland vegetation; and Local and neighbourhood centres.

The proposal was notified and advertised, and Council received 134 submissions in response, of which 114 objected to the proposal. A wide variety of issues were raised, some of which have been given determining weight in the assessment of the proposal.

The proposal has a capital investment value (CIV) of \$40,215,584. Because the CIV is greater than \$30 million, the proposal is regionally significant development pursuant to clause 20 and Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011 and the Sydney North Planning Panel is the consent authority pursuant to section 4.5(b) of the Environmental Planning and Assessment Act 1979.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development comprises:

- Demolition of existing structures;
- Excavation to a depth of up to approximately 14.2m.
- Construction of a mixed-use building containing:

Basement 4 (RL144.80):

- 50 residential car parking spaces, including 2 disabled;
- 80 retail car parking spaces, including 2 disabled;

- Bicycle parking (42 spaces);
- Plant/pump room (119m²); and
- Residential storage cages (40).

Basement 3 (RL147.90):

- Gymnasium (993m²);
- Commercial car wash office (91m²);
- 27 residential car parking spaces (5 tandem), including 2 disabled;
- 10 retail car parking spaces, including 1 disabled;
- 23 gymnasium car parking spaces (3 tandem);
- Bicycle parking (48 spaces);
- Residential storage cages (45);
- Two storage rooms (total 261m²); and
- Communications and services rooms.

Basement 2 (RL152.50):

- Retail (2,433m²);
- Retail lobby;
- Central courtyard;
- Pedestrian access to Glenrose Place;
- Pedestrian link/stairs to Glen Street;
- Loading dock;
- Bin room (residential);
- Bin room (retail); and
- Communications and services rooms.

Lower ground (RL155.60):

- Retail (819m²);
- 8 x 3-bedroom units;
- 10 x 2-bedroom units; and
- 1 x 1-bedroom unit.

Ground (RL158.70):

- Retail (594m²);
- Retail lobby;
- 6 x 3-bedroom units;
- 9 x 2-bedroom units; and
- 1 x 1-bedroom units.

Level 1 (RL161.80):

- 3 x 3-bedroom units;
- 7 x 2-bedroom units;
- 1 x 1-bedroom unit; and
- Communal open space.

Level 2 (RL164.90):

- 4 x 3-bedroom units;
- 1 x 2-bedroom unit; and
- Communal open space.

The levels of the building are connected by stairwells and five lifts.

Vehicular access is from Glenrose Place. The proposal includes the construction of a roundabout in Glenrose Place.

Finished surface materials comprise face brick (light natural, aged natural, white), painted concrete (grey, dark grey), metal (black) and glass (clear, grey and dark grey).

Landscaping is proposed around the building. Two areas of landscaped open space are proposed, one on the western side of the site and another connecting the proposed central square with Glen Street on the eastern side of the site.

ASSESSMENT INTRODUCTION

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

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

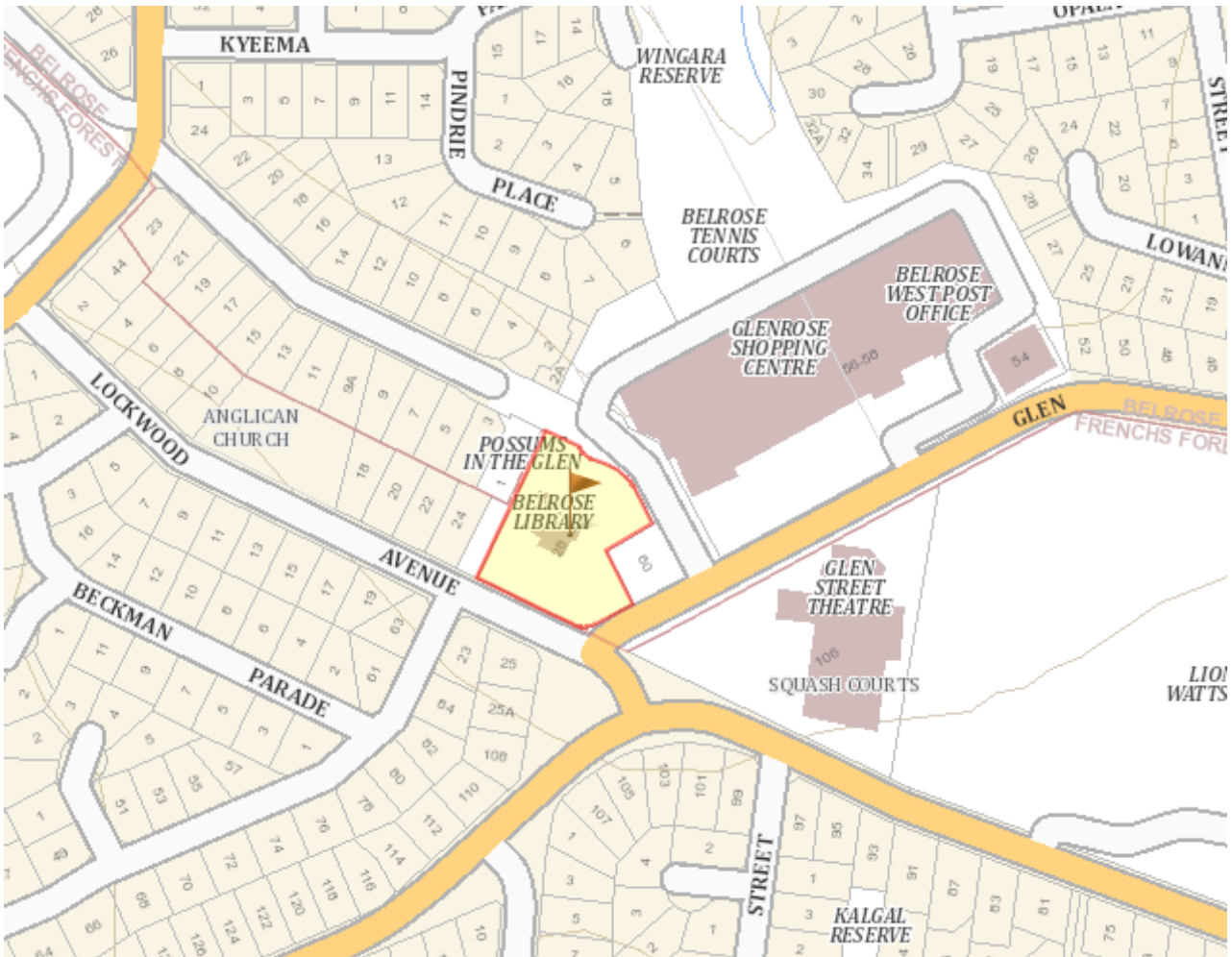
SUMMARY OF ASSESSMENT ISSUES

- Warringah Local Environmental Plan 2011 – Clause 4.3 Height of buildings.
- Warringah Local Environmental Plan 2011 – Clause 4.6 Exceptions to development standards.
- Warringah Development Control Plan 2011 – C2 Traffic, access and safety.
- Warringah Development Control Plan 2011 – C3 Parking facilities.
- Warringah Development Control Plan 2011 – C3(A) bicycle parking and end of trip facilities.
- Warringah Development Control Plan 2011 – C4 Stormwater.
- Warringah Development Control Plan 2011 – C7 Excavation and landfill.
- Warringah Development Control Plan 2011 – C9 Waste management.
- Warringah Development Control Plan 2011 – D9 Building bulk.
- Warringah Development Control Plan 2011 – E1 Preservation of trees and bushland vegetation.
- Warringah Development Control Plan 2011 – F1 Local and neighbourhood centres.
- SEPP 65 - Design Quality of Residential Apartment Development – Part 4 Application of Design Quality Principles.
- Apartment Design Guide – 3F Visual privacy.
- Apartment Design Guide – 3H Vehicle access.
- Apartment Design Guide – 3J Bicycle and car parking.
- Apartment Design Guide – 4A Solar and daylight access.
- Apartment Design Guide – 4B Natural ventilation.

- Apartment Design Guide – 4C Ceiling heights.
- Apartment Design Guide – 4D Apartment size and layout.
- Apartment Design Guide – 4E Private open space.
- Apartment Design Guide – 4F Storage.
- Apartment Design Guide – 4O Landscape design.
- Apartment Design Guide – 4U Energy efficiency.

SITE DESCRIPTION

Property Description:	Lot 1, DP 1199795, 28 Lockwood Avenue, BELROSE NSW 2085
Detailed Site Description:	<p>The site is an irregularly shaped allotment. It has a frontage of 61.785m to Lockwood Avenue to the south, 27.945m to Glen Street to the south-east and 75.7m to Glenrose Place to the north and north-east. The site area is 5,322m² (by Title).</p> <p>The site slopes gently from its southern boundary (Lockwood Avenue) down to its northern boundary (Glenrose Place). The total fall is approximately 6.1m, representing an average gradient of 1 in 9.3 (7.2% or 4.1°).</p> <p>The site was previously used for many years as the Belrose Library. The building remains on site but is currently vacant. The building is centrally located on the site and occupies approximately 13% of the site area. The remainder of the site contains lawns and trees, driveways and footpaths, and an area previously used as a children’s play area. There are 80 trees on site.</p> <p>Adjoining the site to the south-east is a service station. Adjoining the site to the west is an area of public open space and a public pathway. On the opposite side of the public pathway is a dwelling house and child care centre.</p> <p>To the south, west and north-west of the site, the area has been developed primarily for residential development with the predominant form being single dwelling houses in landscaped settings.</p> <p>To the north-east of the site, on the opposite side of Glenrose Place, is the Glenrose Shopping Centre, particularly the loading areas and vehicular access from Glenrose Place.</p> <p>To the east of the site, on the opposite side of Glen Street, is the Glen Street Community Hub including library, theatre and gymnasium.</p>



Map 1: Location Map (source: <https://maps.six.nsw.gov.au/>)



Map 2: Location Aerial Photograph (source: <https://maps.six.nsw.gov.au/>)



Photograph 1: Subject site, viewed from Glenrose Place



Photograph 2: Subject site, viewed from Lockwood Avenue

SITE HISTORY

The Belrose Library building on the subject site was constructed in 1979. It ceased to operate and the site was sold in 2015. The Belrose Library subsequently reopened in a new building on the opposite side of Glen Street in 2017.

PEX2017/0007

On 2 August 2017 a Planning Proposal (PEX2017/0007) was lodged to amend WLEP 2011 as it applied to the site. The proposal sought to increase the maximum height of buildings permitted on the site from 8.5m to part 9.0m and part 15.0m and to allow “multi-dwelling housing” and “residential flat buildings” as additional permitted uses. Council acted on progressing an amended Planning Proposal that would permit additional land uses of “multi-dwelling housing” and “residential flat buildings” on that part of the land fronting Lockwood Avenue only and prohibiting the granting of development consent for a residential flat building or multi-dwelling housing on the land unless a 0.5:1 floor space ratio is provided on the site for commercial premises.

The Planning Proposal was not supported by Council and an amended Planning Proposal was subsequently prepared by Council staff (not including height amendments) and adopted by Council for submission to the Department. However, the Department of Planning and Environment advised on 11 December 2018 that the Planning Proposal could not be supported as it did not demonstrate how the proposed amendments to the LEP would result in an improved outcome for the site, or the community, beyond that which could be achieved under the current LEP controls for the site. Subsequently, the Department requested that Council withdraw the proposal and submit a revised proposal.

At its Ordinary Meeting on 26 March 2019, Council considered this matter and resolved (079/19) as follows:

THAT

- A. *Council advises the Department of Planning and Environment that it wishes to withdraw the Planning Proposal for 28 Lockwood Avenue, Belrose and that it will not be submitting a revised Planning Proposal for the reasons outlined in this report.*
- B. *Council advises the Proponent of its decision.*

The Planning Proposal was subsequently withdrawn.

DA2019/1427

On 12 December 2019 a development application DA2019/1427 was lodged for a mixed use development in substantially the same form as the application that is the subject of this assessment report. The development application was rejected by Council on 13 January 2020 due to insufficient information.

DA2020/0393

The current development application DA2020/0393 was lodged on 24 April 2020. Following a preliminary assessment of the application Council wrote to the applicant on 4 August 2020 requesting amended plans and additional information to address a number of issues relating to:

- SEPP 65 – Design Quality of Residential Apartment Development
 - Design Quality Principle 1: Context and neighbourhood character
 - Design Quality Principle 2: Built form and scale
 - Design Quality Principle 4: Sustainability
 - Design Quality Principle 6: Amenity
- Apartment Design Guide
 - Clause 3F-1(1) – Visual privacy
 - Clause 4A-1(1) – Solar and daylight access
 - Clause 4B-3(1) – Natural ventilation
 - Clause 4C-3 – Ceiling heights
 - Clauses 4D-2(2) and 4D-3(3) – Apartment size and layout

- Clause 4E-1(1) – Private open space and balconies
- Clauses 4G-1(1) and 4G-1(2) – Storage
- Warringah Local Environmental Plan 2011
 - Clause 4.3 – Height of buildings
 - Clause 4.6 – Exceptions to development standards
- Warringah Development Control Plan 2011
 - Part F1 – Local and neighbourhood centres
- Insufficient information
 - Geotechnical Report
 - Tree Impact Assessment Report
 - Retail uses subject to future approval
 - Use of units as a single dwelling
 - Unit G.05 access to balcony
- Development Engineering
 - Stormwater drainage
 - Kerbside disabled car parking
- Waste Management
 - Waste collection and storage
 - Residential bin room

On 11 August 2020 Council wrote to the applicant requesting further additional information:

- Traffic Engineering
 - Parking facilities (number of spaces)
 - Bicycle parking
 - Vehicular access
 - Loading/unloading area
 - Traffic assessment
 - Car park design
- Urban Design
 - Various design improvements

On 3 September 2020 the applicant advised Council by email that they would not be amending the proposal or providing additional information, nor would they be withdrawing the application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Northern Beaches Community Participation Plan.

As a result of the public exhibition process Council is in receipt of 134 submissions from:

Name:	Address:
Mrs Penelope Barnes	96 Ashworth Ave BELROSE NSW 2085
Mr Ken Bradfield	5 Loroy Cres FRENCHS FOREST NSW 2086
Mrs Katherine Bradfield	5 Loroy Cres FRENCHS FOREST NSW 2086
Mrs Joanna Carruthers	14 Peacock Pde FRENCHS FOREST NSW 2086
Mrs Michelle Clarke	11 Trentbridge Rd BELROSE NSW 2085
Ms Monique Darcy	18 Woolrych Cres DAVIDSON NSW 2085

Name:	Address:
Mrs Rebecca De Castro	58 Haigh Ave BELROSE NSW 2085
Mr Robert Dearlove	14 Pindrie PI BELROSE NSW 2085
Mrs Elaine Dempsey	5 Greendale Ave FRENCHS FOREST NSW 2086
Mr Philip Dunne	15 Merrilee Cres FRENCHS FOREST NSW 2086
Mrs Adele Falkingham	22 Hakea Ave BELROSE NSW 2085
Mr Jonathan Fenech	5 Kalgal St FRENCHS FOREST NSW 2086
Mrs Shanti Graham	1a Ashworth Ave BELROSE NSW 2085
Ms Fiona Gray	6 Castle Cres BELROSE NSW 2085
Mr Jack Hall	28 Peacock Pde FRENCHS FOREST NSW 2085
Mrs Fiona Hayes	2 Brierwood PI FRENCHS FOREST NSW 2085
Mr David Hosking	26 Ashworth Ave BELROSE NSW 2085
Mrs Michelle Hrnjak	6 Beckman Pde FRENCHS FOREST 2085
Mr Jean Pierre Izaaks	69 Ashworth Ave BELROSE 2085
Mrs Claire Leach	3 Richter Cres DAVIDSON NSW 2085
Mr David Loomes	6 Marina PI BELROSE 2085
Mrs Chloe Meyer	4 Ambrym St FRENCHS FOREST 2086
Mr Craig Morrow	84 Peacock Pde FRENCHS FOREST 2086
Mrs Sheila Odhavjee	5/54 Glen St BELROSE NSW 2085
Mrs Maria Perez	61 Peacock Pde FRENCHS FOREST NSW 2086
Mrs Maria Peterson	8 Ashworth Ave BELROSE NSW 2085
Mr Cesar Puertolas	9 Blackbutts Rd FRENCHS FOREST NSW 2086
Mr Norris Smith	11 Hyndes PI DAVIDSON NSW 2085
Mrs Kathleen Snape	3 Nurragi PI BELROSE NSW 2085
Mrs Simone Turkovic	13 Stone Pde DAVIDSON NSW 2085
Mr Robert Whiley	4/2-6 Yindela St DAVIDSON NSW 2085
Mrs Alice Zagorski	5 Beckman St FRENCHS FOREST NSW 2086
Mrs Lyn Brailey	19 Ashworth Ave BELROSE NSW 2085
Kim Collett	(no address supplied)
Ken and Narelle Jarrett	1 Beckman Pde FRENCHS FOREST NSW 2086
Mr John Watt	4 Beckman Pde FRENCHS FOREST NSW 2086
Mrs Kim Dawkins	20 Peacock Pde FRENCHS FOREST NSW 2086
Mr Michael Courias	82 Pringle Ave BELROSE NSW 2085
Mrs Jill Cordery	138 Blackbutts Rd FRENCHS FOREST NSW 2086
Mr Chris Connell	3 Beckman Pde FRENCHS FOREST NSW 2085
Mrs Suzanne Collett	12 Ashworth Ave BELROSE NSW 2085
Mr Graeme Coates	30 Peacock Pde FRENCHS FOREST NSW 2086
Mrs Sosi Chalabian	32 Glen St BELROSE NSW 2085
Mr Peter Carnell	2 Jarrah PI FRENCHS FOREST NSW 2086
Mr Jeff Cameron	10 Mulawa PI FRENCHS FOREST NSW 2086
Mr Dennis Brutnell	111 McIntosh Rd NARRAWEENA NSW 2099
Mrs Jill Brutnell	111 McIntosh Rd NARRAWEENA NSW 2099
Mr Neville Bradbury	16 Beckman Pde FRENCHS FOREST NSW 2086
Mrs Rebecca Bowman	24 Lockwood Ave FRENCHS FOREST NSW 2086
Mr Chris Bowman	24 Lockwood Ave FRENCHS FOREST NSW 2086
Mr Kevin Blume	19 Yarrabin St BELROSE NSW 2085
Mr Kevin Biggs	15 Pound Ave FRENCHS FOREST 2086
Mr Keith Bennett	DAVIDSON keithb@exetel.com.au

Name:	Address:
Mrs Rebecca Bellamy	10 Elphinstone PI DAVIDSON NSW 2085
Mr Leslie Bassett	7 Wingara Grove BELROSE NSW 2085
Mr Armen Baghdasaryan	56 Pringle Ave BELROSE NSW 2085
Mr Vrej Avedissian	10 Flitton Valley CI FRENCHS FOREST NSW 2086
GH and FM Andrew	5 Lockwood Ave FRENCHS FOREST NSW 2086
Mr Lindsay Ames	9 Mulawa PI FRENCHS FOREST NSW 2085
Mr Zaven Akmakjian	3 Grimes PI DAVIDSON NSW 2085
Mr Greg Foord	82 Peacock Rd FRENCHS FOREST NSW 2086
Mr Stephen Finn	3Northam St BELROSE NSW 2085
Mr Alan Facer	8 Jarrah PI FRENCHS FOREST NSW 2086
Mrs Rosie Evanian	9 Haigh Ave BELROSE NSW 2085
Mr Vigen Evanian	9 Haigh Ave BELROSE NSW 2085
Mr Adam Emerton	11 Blackbutts Rd FRENCHS FOREST NSW 2086
Mr Patrick Ell	12 Yanco CI FRENCHS FOREST NSW 2086
Mr Peter Eliot	18 Kapyong St BELROSE NSW 2085
Mr Leigh Dulvey	1 Yindela St DAVIDSON NSW 2085
Mr Martin Derby	18 Jarrah PI FRENCHS FOREST NSW 2086
Mr Trent Freeman	23 Lockwood Ave FRENCHS FOREST NSW 2086
Mr Donald Fussell	120 Prahans Ave DAVIDSON NSW 2085
Mr Timothy Gane	78 Pringle Ave BELROSE NSW 2085
Mr Nick Graham	39 Pringle Ave BELROSE NSW 2085
Mr T & Mrs J Haerland	8 Lockwood Ave FRENCHS FOREST NSW 2086
Mr Ashley Hamilton	84e Haigh Ave BELROSE NSW 2085
Mr Peter Hamilton	11 Wanniti Rd BELROSE NSW 2085
Ms Deidre Hatton	29 Aranda Dr DAVIDSON NSW 2087
Ms Janice Haviland	18 Jarrah PI FRENCHS FOREST NSW 2086
Mr John Heffernan	28 Peacock Pde FRENCHS FOREST NSW 2086
Mr Colin Horne	1 Ashworth Ave BELROSE NSW 2085
Mr Robert Ishkhanian	5 Loxon PI FORESTVILLE NSW 2086
Mr Rob James	2 Oxford CI BELROSE NSW 2085
Mrs Carolyn James	2 Oxford CI BELROSE NSW 2085
Mr Kenneth Jarrett	1 Beckman Pde FRENCHS FOREST NSW 2086
Mr Zohrab Keverian	41 Killarney Dr KILLARNEY HTS NSW 2086
Mr Benjamin King	nospam@bmsking.net
Mr Richard Marden	7 Pindrie PI BELROSE NSW 2085
Mrs Lisa Markley	20 Lowanna St BELROSE NSW 2085
Mr Darko Markovic	36 Peacock Pde FRENCHS FOREST NSW 2086
Mrs Alison McClellan	mccllellan@iinet.net.au
Mr Francis Michel	52 Stone Pde DAVIDSON NSW 2085
Mr Patrick Neary	3 Ashworth Ave BELROSE NSW 2085
Mr Arthur Moreland	27 Lowanna St BELROSE NSW 2085
Mr Harry Minassian	24 Altona Ave FORESTVILLE NSW 2087
Mr Paul Minassian	18 Karina Cres BELROSE NSW 2086
Mr John Millward	2A Ashworth Ave BELROSE NSW 2085
Ms Jane Miller	10 Ashworth Ave BELROSE NSW 2085
Mr Douglas Neilsen	5 Wanniti Rd BELROSE NSW 2085
Mrs Paula Noble	38 Peacock Pde FRENCHS FOREST NSW 2086

Name:	Address:
Mr Berj Ohanessian	36 Blamey Ave KILLARNEY HEIGHTS NSW 2087
Mr Raffi Pailagian	61 Calool Cres BELROSE NSW 2085
Mr Rowan Parmiter	10 Everton St BELROSE NSW 2085
Ms Gail Perry	88 Pringle Ave BELROSE NSW 2085
Mr B & Mrs J Phipps	4 Yarrabin St BELROSE NSW 2085
Mr D & Mrs M Pitt	20 Lockwood Ave FRENCHS FOREST NSW 2086
Mrs Karen Power	34 Aranda Dr DAVIDSON NSW 2087
Mr Kenneth Rae	10 Hawea PI BELROSE NSW 2085
Mr Michael Rainbird	70 Peacock Pde FRENCHS FOREST NSW 2086
Mrs Rita Rawlins	8 Pusan PI BELROSE NSW 2085
Mr Matthew Redward	4 Jarrah PI FRENCHS FOREST NSW 2086
Mr Michael Reilly	4 Wingara Gr BELROSE NSW 2085
Mrs Caroline Reilly	4 Wingara Gr BELROSE NSW 2085
Mrs Katrina Sganzerla	91 Blackbutts Rd FRENCHS FOREST NSW 2086
Mr John Shears	8 Beckman Pde FRENCHS FOREST NSW 2086
Mrs Claudia Silvester	44 Peacock Pde FRENCHS FOREST NSW 2086
Mrs Carmel Smith	5 Pusan PI BELROSE NSW 2085
Mr Avedis Soghomonian	25 Douglas Rd KILLARNEY HTS NSW 2087
Mrs Jessica Soto	21 Yanco CI FRENCHS FOREST NSW 2086
Mr Garry Tanner	9 Nianbilla PI FRENCHS FOREST NSW 2086
Mr K & Mrs E Tanner	14 Arandra Dr FRENCHS FOREST NSW 2086
Mrs Pamela Vink	1 Jarrah PI FRENCHS FOREST NSW 2086
Mr Barry Yeldham	8 Pusan PI BELROSE NSW 2085
Mr David Youman	61 Peacock Pde FRENCHS FOREST NSW 2086
Mrs Sandra Young	29 Arandra Dr DAVIDSON NSW 2085
Mr Geoffrey Young	29 Arandra Dr DAVIDSON NSW 2085
Ms Anna Efstathiou	aefstathiou0102@gmail.com
Mr Tony & Mrs Carol Jones	22 Peacock Pde FRENCHS FOREST NSW 2086
Ms Maureen Lysaght	18 Peacock Pde FRENCHS FOREST NSW 2086
Mr Stewart Marler	No address
Mrs Heather & Mr Malcolm Mclean	45 Peacock Pde FRENCHS FOREST NSW 2086
Mr Andrew Rose	40 Forest Glen Cres BELROSE 2085
Mr Michael Tanner	10 Beckman Pde FRENCHS FOREST NSW 2086
GVSC Pty Ltd	Suite B4, 459 Toorak Rd TOORAK VIC 3142

Twenty (20) of the submissions are in support of the proposal. The remaining submission raised the following issues:

Excessive height, bulk and scale

Comment

The proposal exceeds the 8.5m building height control in WLEP 2011 and, as discussed below, the request to vary the control is not well founded. The proposed building height results in a building that has excessive bulk and scale.

This matter has been given determining weight and is a reason for refusal of the application.

Inadequate building setbacks

Comment

WDCP 2011 provides that building setbacks will be assessed on their merits and does not set minimum setbacks for development of the site. The proposal provides retail development to all street frontages and it is considered that the proposed setbacks for these retail spaces (generally 500mm) is appropriate to activate the street frontages. The side setbacks to the east (adjoining the existing service station) and to the west (adjoining public open space and a pedestrian pathway) provide for landscaping and open space and are considered to be appropriate.

This matter has not been given determining weight.

Out of character with the area

Comment

The land is zoned B2 Local Centre and it is anticipated that development of the land will not be the same as residential development to the south and west of the site. However, the height, bulk and scale of the proposal is greater than that which is anticipated by the planning controls and results in a building that is out of character with the area.

This matter has been given determining weight and is a reason for refusal of the application.

Excessive density

Comment

There are no numerical density standards set for the development of the site such as floor space ratio or minimum site area per dwelling. However, the proposed density of development gives rise to related impacts in terms of the height, bulk and scale of the building and inadequate car parking and these issues have been given determining weight and are reasons for refusal of the development application.

Traffic impacts

Comment

The application includes a Traffic and Parking Study that details the traffic impacts that are likely to arise from the development. The report has been reviewed and assessed by Council's Traffic Engineer and the Roads and Maritime Services, and their comments (below) conclude that the existing local and regional road systems are capable of accommodating the increase in traffic likely to be generated.

Lack of car parking

Comment

The proposal provides car parking for the shop top housing in accordance with the requirements of WDCP 2011. However, the proposal is deficient by 101 car spaces when assessed under WDCP 2011 with regards to the retail and gymnasium uses. Council's Traffic Engineer has assessed the proposal (see comments below) raising concerns with regards to this deficiency.

This matter has been given determining weight and is a reason for refusal of the application.

Pedestrian safety

Comment

Council's Traffic Engineer has raised a number of concerns regarding pedestrian safety (see comments below) and made recommendations regarding the provision of additional safety measures to address these concerns.

Loss of trees

Comment

The proposal removes all trees on site. Council's Landscape Officer has raised concerns regarding the loss of trees from the site. The locality is characterised by its tree canopy and the loss of trees

from the site has negative impacts with regards to local amenity, sustainability, aesthetics and the character of the area.

This matter has been given determining weight and is a reason for refusal of the application.

Construction impacts, including noise

Comment

Construction of a major development on the site will undoubtedly lead to impacts during the period of construction. However, the construction can be managed to mitigate such impacts through a range of measures including restrictions on the hours of construction and the preparation and implementation of Construction and Traffic Management Plans. Such matters can be addressed by conditions of consent.

The proposal involves excavation to a depth of approximately 14.2 metres to accommodate four subterranean levels adjacent to Lockwood Avenue (2 retail levels, gymnasium and car parking). No geotechnical information has been submitted regarding the potential impacts arising from this excavation.

This matter has been given determining weight and is a reason for refusal of the application.

Overshadowing

Comment

Shadow diagrams have been submitted demonstrating that the proposal retains sufficient sunlight to existing neighbouring and nearby residential properties and public open space. The orientation of the site is such that the majority of shadows cast fall over the neighbouring service station and Lockwood Avenue.

Unnecessary shops

Comment

The land is zoned B2 Local Business. The objectives of the zone include the provision of a range of retail and business uses and the proposal is considered appropriate in terms of achieving this objective.

Precedent

Comment

Precedent is a matter for consideration in relation to development applications if the proposal has negative impacts and it is likely that other similar proposals will occur in the future. The subject site is considered to be unique in being a large undeveloped allotment zoned for local business purposes in the Belrose area and it is unlikely that there will be other similar proposals in the future.

Consequently, this objection has not been given determining weight.

Flooding

Comment

The proposal has been reviewed by Council's Development Engineer who has raised concerns that the information that has been submitted is insufficient to demonstrate that the proposal can adequately dispose of stormwater from the site.

This matter has been given determining weight and is a reason for refusal of the application.

Economic impacts

Comment

Section 4.15(b) of the EPA Act 1979 includes a requirement that, when determining a development application, the consent authority take into consideration “*the likely impacts of that development, including... economic impacts in the locality*”.

The way in which the economic impact of a development is to be considered when assessing a development application was discussed in the decision of Roseth SC in *Jetset Properties v Eurobodalla Shire Council* [2007] NSWLEC 198:

44 Numerous judgments have dealt with the correct application of the words *social and economic impacts in the locality*. The parties referred me to *Kentucky Fried Chicken v Gantidis* (1979) 140 CLR 675; *Fabcot v Hawkesbury City Council* (1979) 93 LGERA 373; *Cartier Holdings v Newcastle City Council* (2001) 115 LGERA 407; *Randell v Willoughby City Council* (2005) 144 LGERA 119; and, most recently, *Milne v Minister for Planning [No 2]* [2007] NSWLEC 66.

45 The most apposite passage in the above judgments seems to me to be in *Gantidis* at 687:

If the shopping facilities presently enjoyed by a community or planned for it in the future are put in jeopardy due to physical or financial causes, and if the resultant community detriment will not be made good by the proposed development itself, that appears to me to be a consideration proper to be taken into account as a matter of town planning. It does not cease to be so because the profitability of individual existing businesses are at one and the same time also threatened by the new competition afforded by that new development. However, the mere threat of competition to existing business, if not accompanied by a prospect of a resultant overall adverse effect upon the extent and adequacy of facilities available to the local community if the development be proceeded with, will not be a relevant town planning consideration.

46 The main principles that arise out of the above judgments that should guide me in determining these proceedings are:

- The mere threat of competition between commercial interests is not a planning consideration.
- The threat to the shopping facilities presently enjoyed by a community is a relevant planning consideration.
- The relevant “*locality*” must be determined in each case.

The current development application proposes 3,846m² of retail and commercial floor space and a 993m² gymnasium. This will result in competition with existing retail and gymnasium uses, particularly those in the immediate vicinity of the site at the existing Glenrose shopping centre.

However, this competition is not a planning consideration, as noted above in the decision of the Court in *Jetset*. Furthermore, the proposal will not result in a loss of shopping facilities available to the community. If anything, the additional retail floor area will result in an increase in shopping facilities available to the local community.

It is also noted that the “*locality*” in this case is not an isolated community but is part of a suburban area so the impact of retail competition will not result in the loss of access from some identifiable geographic part of the community or locality to retail facilities (as would be the case in, for example, an isolated coastal town). Those facilities will be available to the community within the locality, although their precise location may shift over time as a result of competition.

In summary, it is considered that the economic impacts of the proposal are not determinative of this development application.

REFERRALS

Internal Referral Body	Comments
Building Assessment	<i>Approval subject to conditions</i>

Internal Referral Body	Comments
	<p><i>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.</i></p> <p><i>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</i></p>
Development Engineering	<p>Refusal</p> <p><i>The stormwater drainage plans have been reviewed and are not supported for the following reasons:</i></p> <ol style="list-style-type: none"> <i>1. The DRAINS model needs to be submitted for Council review.</i> <i>2. In reference to the DRAINS model parameters in accordance with the former Warringah Council "On Site Stormwater Detention Technical Specification" the Pre-developed condition is to be state of nature ie 100% pervious. The DRAINS model is to be amended accordingly.</i> <p><i>In addition to the stormwater drainage comments, the combined resident/commercial vehicle entry/exit point will result in the loss of 2 kerb side disabled car spaces. The Traffic report does not address the loss of the 2 spaces.</i></p>
Environmental Health – contaminated lands	<p>Approval subject to conditions</p> <p><i>Original comments (12/5/2020):</i></p> <p><i>This is a review of the contamination report E10132-1 prepared by Atlas Geotechnical Services.</i></p> <p><i>Results of sampling are less than the NSW EPA triggers for further investigation of land contamination.</i></p> <p><i>Environmental Health do not object to the application subject to conditions.</i></p> <p><i>Additional comments (7/9/2020):</i></p> <p><i>Review of contamination reports following inquiries from the Regional Planning Panel, to specifically address concerns regarding leaking of contaminated material from the adjacent service station.</i></p> <p><i>We found that the reports in combination with documentation on the service station sufficiently demonstrate that contamination is unlikely to be found.</i></p>
Landscape	<p>Refusal</p> <p><i>Review of the plans and reports provided raise areas of concern with regard to landscape issues:</i></p> <ol style="list-style-type: none"> <i>1. The extension of the basement level to the boundaries of Lockwood Ave and Glenrose Place results in no opportunity for tree planting along the street frontage of the site within the site boundaries.</i> <p><i>No trees are proposed along the Lockwood Ave or Glen Street frontage, other than the 7.5m wide section between the site and the existing service station.</i></p> <p><i>The only external amenity on Glenrose Place proposed is five (5) small street trees.</i></p> <p><i>The proposal to build to the boundaries provides for a poor transition between the development and the residential and open space reserve</i></p>

Internal Referral Body	Comments
	<p><i>along Lockwood Ave and a poor integration with the Glenrose local centre in general.</i></p> <p><i>In order to achieve a better integration with the scale and landscape treatment to neighbouring land uses and the natural environment, which is a key element of the Glenrose local centre character, the building should provide setbacks to enable canopy tree planting along the frontages of the site to replace the lost canopy and integrate the development into the streetscape and Glenrose local centre.</i></p> <p>2. <i>The Arborist's report provided with the application indicates 80 trees within the site. The report indicates all 80 trees are to be removed to accommodate the proposal.</i></p> <p><i>The Landscape Plans indicate that 11 trees are to be retained, with 69 trees to be removed.</i></p> <p><i>There is no correlation between the recommendation of the Arborist's report and the trees indicated to be retained on the Landscape Plans.</i></p> <p><i>The Arborist's report is required to be updated to indicate whether the 11 trees indicated to be retained can actually be retained.</i></p> <p><i>Notwithstanding the above, concerns raised regarding the loss of trees and lack of canopy replacement accommodated by the proposal.</i></p> <p><i>As indicated on the plans, 69 trees are to be removed and 29 trees are to be replaced within the site, the majority of which are in planters.</i></p> <p><i>With regard to Landscape Issues, the proposal is not considered to adequately address the Objectives of the Zone B2 Local Centre of WLEP2011. The proposal is therefore not supported with regard to landscape issues.</i></p>
Parks and Reserves	<p>Approval subject to conditions</p> <p><i>The plans indicate no works are proposed on the public reserve adjoining the site.</i></p> <p><i>No objections are raised to approval subject to conditions generally relating to protection of Council assets and public safety.</i></p>
Property and Commercial Development	<p>Approval subject to conditions</p> <p><i>Property have no objections to the proposal as submitted, noting that any outdoor dining proposed to be located on Council's footpath shall be the subject of a separate Outdoor Dining Application to Council.</i></p>
Traffic Engineer	<p>Refusal</p> <p><u>Car parking</u></p> <p><i>The site layout includes a basement car park with a total of 208 car parking spaces with the breakdown as follows:</i></p> <ul style="list-style-type: none"> <i>• 77 residential spaces for the total 51 apartments (including 5 disabled and 10 visitor).</i> <i>• 116 retail/gymnasium spaces (including 4 disabled)</i> <i>• 15 carwash spaces in shopping centres operating as dual use spaces for uses within the development.</i> <p><i>The residential parking spaces are provided in compliance with the DCP. The non-residential parking provision has been calculated applying the shopping centre parking rate in accordance with the RMS requirements for the retail</i></p>

Internal Referral Body	Comments
	<p>use and applying the Warringah DCP parking rate for the Gymnasium use, resulting in the total requirements of 143 parking spaces for non-residential component.</p> <p>The proposal includes the provision of the total of 131 parking spaces (including the car wash spaces). The applicant, in accordance with Council's DCP, has provided a shortfall of approximately 100 parking spaces. The gym component is expected to rely on 45 spaces; however, Council accepts the comment that the gym peak use will occur outside the retail operating hours.</p> <p>Therefore, the spaces can be discounted against the total. Therefore, the shortfall equates to 55 spaces. Council cannot accept this significant shortfall. The applicant has identified that the RMS rates would suggest that there is only a shortfall of 27 spaces. However, the rates adopted by RMS are only general in nature; the rates adopted by Council are specific to the area. Therefore, some reduction can be accepted, however not the 75 spaces that the applicant is proposing.</p> <p>It should be noted that any future proposal for change of use will be subject to submission of a modification to the existing use and taking into consideration the proposed shared use of parking spaces within the non-residential component.</p> <p><u>Bicycle parking</u></p> <p>The proposal includes the provision of 90 bicycle spaces provided within the car park. The bicycle spaces are not in compliance with Warringah DCP with regards to the security level and the design of the spaces, therefore are not considered satisfactory.</p> <p><u>Vehicular access</u></p> <p>Vehicular access to the car park is proposed via separated one-way driveways from Glenrose Place. This would be considered acceptable subject to the provision of detail design of the roundabout proposed at the cul-de-sac as well as the provision of separated vehicular access for service vehicles as explained later in the assessment comments.</p> <p><u>Loading/unloading area</u></p> <p>The proposal includes the provision of a loading area which can facilitate up to a 12.5m length Heavy Rigid Vehicle under a forward entry / forward out manoeuvre. The loading facility driveway is proposed to be shared with the passenger vehicle exit driveway, and to be operated under traffic signal control. The loading facility is proposed to be managed amongst the tenancies under a Loading Dock Management Plan with the proposal for the loading times to be prohibited after 3pm on weekdays, after 10am on Saturdays and all day on Sundays. A turntable has been proposed within the site to enable the service vehicles to enter and exit in forward direction.</p> <p>Given the size of the mixed development including over 200 parking spaces and a considerable level of traffic generation, the size of the retail use being approx. 4000 m² and the presence of an ample site frontage allowing for provision of separate loading vehicular access, the proposed shared exit driveway and service vehicle access is not considered acceptable. This also raises concerns regarding restricted pedestrian sight line for vehicle exiting the driveway when a service vehicle is waiting in the designated waiting area, as well as the conflict between the truck turning into the waiting area and the vehicle exiting the driveway.</p> <p>The proposal has not addressed the provision of service vehicle area for the residential use. The commercial loading area could be used by the residential area service vehicles such removalists subject to the provision of access to</p>

Internal Referral Body	Comments
	<p><i>the residential area from the proposed loading area and inclusion in the Loading Dock Management Plan.</i></p> <p><u>Traffic Assessment</u></p> <p><i>The peak traffic generation of the proposed development has been estimated to be 132 (62 in; 70 out) trips during the AM peak period, 214 (111 in; 103 out) trips in the PM peak period and 291 (145 in, 146 out) in the Saturday midday period. The traffic assessment undertaken in the traffic report indicates that the additional traffic generation will not have no noticeable impact on the surrounding network in terms of level of service or delays.</i></p> <p><i>Whilst the traffic implication of the proposed development on the road network would be considered acceptable in regards with the delays, the proposed traffic intensification is considered a significant increase to the existing traffic volume resulting in adverse impact on the pedestrian safety. This is due to the absence of safe pedestrian crossing facilities within the surrounding area and pedestrians having to negotiate with an increased level of traffic volume to cross the road. It should be noted the traffic engineer's observation indicates a higher level of pedestrian activities within the area in compare to the pedestrian survey (dated 25/07/2019) provided in the traffic report.</i></p> <p><i>The following should be implemented to improve the pedestrian safety around the site:</i></p> <ul style="list-style-type: none"> • <i>Provision of Pedestrian Refuge Island on Glenrose Pl at its intersection with Glen St.</i> <p><i>Note: The existing zebra crossing location on Glenrose Pl is away from the intersection and not within the pedestrian desire line.</i></p> <ul style="list-style-type: none"> • <i>Construction of formal footpath, kerb and guttering between Glenrose Pl and the adjoining driveway to reduce the crossing distance.</i> • <i>Provision of a Pedestrian Refuge Island on Glen St at its intersection with Lockwood Ave.</i> • <i>Replacement of the existing zebra crossing located on Lockwood Ave outside the subject site with a raised pedestrian crossing lit in compliance with Australian Standards.</i> <p><u>Car park design</u></p> <p><i>The car parking area and driveways are to be designed in compliance with Australian Standards AS2890. In this regard, there are a number of substandard aisle widths within the car park to be amended. The disable parking spaces within the non-residential car parking area are to be located in a location that enables the people with disabilities to conveniently access the lifts. At the entry point, sufficient queuing area is to be provided between the vehicular control pint and the property boundary in compliance with Australian Standards.</i></p> <p><u>Conclusion</u></p> <p><i>In view of the above the proposal cannot be supported on traffic grounds.</i></p>
Urban Design	<p>Refusal</p> <p><i>Generally, the proposed design has improved and responded well to some of the Pre-Lodgement Meeting comments given previously. However further improvements can be made and the proposal should address the following issues:</i></p>

Internal Referral Body	Comments
	<ol style="list-style-type: none"> 1. <i>The proposal exceeds the 8.5m building height control with the highest point being 12.42m. Some exceedance (10% maximum) can be considered if they are located away/hidden from the main street view. The recommended floor to ceiling height for the retail area should be 3.3m as per the Apartment Design Guide (ADG).</i> 2. <i>The design of the central plaza has improved in terms of pedestrian usability and retail activation. All retail shopfronts proposed should be at the same level of the public footpath for better street access and activation.</i> 3. <i>The sunlight access to the plaza could be further improved with the reduction in the building height breach mentioned in point one.</i> 4. <i>Cross ventilation to 60% of apartments has not been achieved with some of single aspect apartments counted as cross-ventilated.</i> 5. <i>Some retention of significant mature trees and parkland at the corner of Lockwood Avenue and Glen Street has been proposed to maintain the verdant street character of the area. More existing mature trees could be preserved though to soften the initial new building impact until the new soft landscape mature in the future.</i> 6. <i>The shop awning should provide some street amenity/ shelter. They should form a unified element within the streetscape, respond to streetscape conditions and complement the architectural style of the host building. They should be uncomplicated, regular forms and constructed from high quality materials with simple detailing to reduce visual clutter in the streetscape and to provide visual continuity to the pedestrian realm. New awnings are to be setback minimum 1000mm from the face of the kerb to accommodate utility poles and traffic /parking in the kerbside lane. Where street trees are required, the minimum awning to setback is 1500mm.</i> 7. <i>Loading dock and garbage collection service areas details and location has been provided. Refer to traffic officer's comments.</i>
Waste	<p>Refusal</p> <ol style="list-style-type: none"> 1. <i>Council does not support the use of turntables for the provision of "forward in / forward out" manoeuvring of waste collection vehicles.</i> <i>Council waste collection services in the Belrose area are provided from the kerbside via the use of heavy rigid side arm waste collection vehicles.</i> <i>A reconfiguration of the residential bin room, bulky goods room, commercial bin and retail units' layout would allow for the collection of waste from the kerbside on either Glenrose Place or Lockwood Avenue.</i> 2. <i>There are twelve small bin rooms spread out through the four levels of residential units. These twelve rooms would require the provision of an additional 36 x 240 litre bins to ensure bin capacity is always available to the residents to dispose of their waste (as proposed in the Ongoing Waste Management Plan).</i> <i>The standard number of bins delivered to 51 units is 39 x 240 litre bins. The proposed arrangement would require Council to supply almost double the amount of bins to this development. Council cannot support this proposal.</i> <i>A single bin room on the ground floor level accessible to the occupants of the residential units and the waste collection contractor would be the preferred outcome. All other multi-unit dwellings of a comparable size on the Northern Beaches use this arrangement to manage their waste.</i>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>Approval subject to conditions</p> <p><i>Ausgrid has no objection to this development application, however the design submission must comply with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.</i></p> <p><i>The “as constructed” minimum clearances to Ausgrid’s infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances on site.</i></p>
NSW Police	At the time of finalising this report, no comments had been received from NSW Police.
Transport for NSW	<p>Approval</p> <p><i>TFNSW has reviewed the submitted application and raises no objection to the proposed development, as it is unlikely to have a significant impact on the classified road network.</i></p>

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act)

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft 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 proposal has been reviewed by Council’s Environmental Health Officer – Contaminated Lands and no concerns have been raised.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	See discussion on “Warringah Development Control Plan 2011” in this report.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters may be addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 provide that Council may request additional information and consider the number of days taken in this assessment of the development application. Additional information was requested on 4 August 2020 and 11 August 2020. No additional information has been provided.</p>

Section 4.15 'Matters for Consideration'	Comments
	<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 may be addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter may be 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 may be addressed via a condition of consent.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the “Environmental Planning Instruments” and “Warringah Development Control Plan 2011” sections in this report.</p> <p>In summary, it is considered that the development will have significant negative and detrimental impacts on the environment and is therefore recommended for refusal.</p> <p>(ii) Social Impact The proposed development will have beneficial social impacts through the provision of a range of retail and commercial services and the provision of open space and a public square.</p> <p>It is not anticipated that the development will have any adverse social impacts.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> <p>This matter is considered in detail above in relation to submissions received in response to the public notification of the proposal.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The development is not considered to be suitable for the site and is consequently recommend for refusal for reasons detailed in this assessment report.</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 development is not considered to be suitable for the site for the reasons detailed in this assessment report and, consequently, approval of the proposal is not considered to be in the public interest.</p>

IS THE PROPOSAL “INTEGRATED DEVELOPMENT”?

Section 4.46 of the EPA Act 1979 designates certain types of development as “integrated development”. Relevantly to this development proposal, development that requires an approval under s. 138 of the Roads Act 1993 is “integrated development”. The proposal requires such an approval for the carrying out of works on a public road, being driveway crossings on Glenrose Place.

However, s. 4.46(3) of the EPA Act 1979 provides that development is not integrated development if it requires the consent of a Council and the approval under s. 138 of the Roads Act 1993 of the same Council. The proposed works on Glenrose Place require the approval of Council under s. 138 of the Roads Act 1993 so the proposal is not integrated development.

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 are not specifically discussed in the following assessment.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPS) AND STATE REGIONAL ENVIRONMENTAL PLANS (SREPS)

State Environmental Planning Policy No. 55 – Remediation of Land

The development application includes two Materials Classification Reports dated 24.10.2019 and 20.04.2020 by Atlas Geotechnical Services Pty Ltd. The reports concluded that analytical result for all samples collected from the site were less than the relevant criteria in the NSW EPA Excavated Natural Material Order 2014 and the NSW EPA Waste Classification Guidelines. The reports were based on material from 15 boreholes drilled on the site.

The reports have been reviewed by Council's Environmental Health Officer – Contaminated Lands whose comments are detailed above. Further comments were sought in response to concerns raised by SNPP regarding potential contamination from the neighbouring service station. The comments provided by Council's technical officers conclude that the site is not contaminated. On this basis it can be concluded that the site is suitable for the proposed development in its current state and that it satisfies the requirements of clause 7 of SEPP 55.

State Environmental Planning Policy (Infrastructure) 2007

The proposal includes shops with a gross floor area in excess of 2,000m². Consequently, it is a traffic generating development that requires referral to the Roads and Maritime Services under clause 104(3) and Schedule 3 of SEPP (Infrastructure) 2007.

Roads and Maritime Services (Transport for NSW) responded by letter dated 20 July 2020 as follows:

“Transport for NSW has reviewed the submitted information and raises no objections to the proposed development, as it is unlikely to have a significant impact on the classified road network”.

There are no other provisions of SEPP (Infrastructure) 2007 that are relevant to the proposal.

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

The application seeks consent for a new building containing shop top housing of 3 or more storeys with 51 dwellings. As such, the provisions of SEPP 65 apply to this development.

Clause 28 of SEPP 65 requires a consent authority to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration) the design quality of the development when evaluated in accordance with the design quality principles identified in Schedule 1 of SEPP 65, and the Apartment Design Guide (“ADG”).

As such, it is considered that the density of development that is proposed is not appropriate to the site and its context.

The proposed density of development can be sustained by existing infrastructure and the site has adequate access to public transport, jobs and community facilities.

In summary, the proposed development has a density that is not considered to satisfy this Design Quality Principle.

4. Sustainability

Comment

The proposed development is supported by BASIX and NatHERS Certificates, which include recommendations to ensure that the building satisfies the State Government's energy and water saving targets.

For the reasons discussed below with regards to the provisions of the Apartment Design Guide, the proposal does not provide for a satisfactory level of amenity for each apartment with regards to solar access and natural ventilation.

As discussed in the comments from Council's Waste Officer above, the proposal makes inadequate provision for waste recycling facilities.

In summary, the proposed development does not satisfy this Design Quality Principle.

5. Landscape

Comment

Council's Landscape Officer has raised numerous concerns with the proposal, both in terms of the extent to which existing trees are to be removed and the landscape design that is proposed. The removal of all trees on the site results in a development that fails to satisfy this Principle which seeks to retain positive natural features. The proposed landscaping is not of a scale commensurate with the building and does not integrate the development into the local area.

In summary, the proposed development does not satisfy this Design Quality Principle.

6. Amenity

Comment

As detailed in the assessment against the ADG and WDCP 2011, the proposed development does not provide reasonable amenity for the future residents of each apartment and has an unreasonable impact on the amenity of neighbouring and nearby residents. The proposal fails to provide adequate solar access, cross ventilation and privacy. Apartment layout is inappropriate in some cases and there are insufficient details of internal storage.

In summary, the proposed development does not satisfy this Design Quality Principle.

7. Safety

Comment

The proposal is considered to be an appropriate design with regards to public and private safety. There is a clear definition of public spaces and private spaces. The proposed apartments provide casual surveillance of the public spaces.

NSW Police had not provided comments on the proposal when this assessment report was prepared.

In summary, the proposed development satisfies this Design Quality Principle.

8. Housing Diversity and Social Interaction

Comment

The proposed development comprises a mix of one-, two- and three-bedroom apartments, inclusive of 10% adaptable units and 20% “Liveable” apartments interspersed throughout the development. The development provides an appropriate balance of different housing options for a variety of living needs and household budgets.

In summary, the proposed development satisfies this Design Quality Principle.

9. Aesthetics

Comment

The proposed development incorporates varied colours and materials, and the composition of the buildings is considered to be balanced. The visual appearance of the building (without reference to its bulk and scale) is considered to be satisfactory.

In summary, the proposed development satisfies this Design Quality Principle.

The following table is an assessment against the ADG as required by SEPP 65:

- DC – Is the development consistent with the Design Criteria?
- DG – Is the development consistent with the Design Guidance?
- O - Is the development consistent with the Objective?

ADG Clause	Subclause	Design Criteria	DC	DG	O
Part 3 Siting the Development					
3A Site analysis	3A-1	Design decisions based on site analysis.	-	Y	Y
3B Orientation	3B-1	Layouts respond to the streetscape and optimise solar access.	-	Y	Y
	3B-2	Overshadowing of neighbouring properties is minimised during mid winter.	-	Y	Y
3C Public domain interface	3C-1	Transition between private and public places is achieved without compromising safety and security.	-	Y	Y
	3C-2	Amenity of the public domain is retained and enhanced.	-	Y	Y
3D Communal and public open space	3D-1	Communal open space has a minimum area equal to 25% of the site.	Y	Y	Y
		Development must achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (midwinter).	Y	Y	Y
	3D-2	Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.	-	Y	Y
	3D-3	Communal open space is designed to maximise safety.	-	Y	Y
	3D-4	Public open space is responsive to the existing pattern and uses of the neighbourhood.	-	Y	Y
3E Deep soil zones	3E-1	At least 7% of the site are shall comprise deep soil zones.	Y	Y	Y
3F Visual privacy	3F-1	For development up to 4 storeys in height, a minimum setback of 6m is to be provided between habitable rooms and balconies and side or rear setbacks, and a minimum setback of 3m is to be provided between non- habitable rooms and side and rear setbacks. For development between 5-8 storeys in height, a minimum setback of 9m is to be provided between habitable rooms and balconies and side or rear setbacks, and a minimum setback of 4.5mm is to be provided between non- habitable rooms and side and rear setbacks.	N	Y	Y

ADG Clause	Subclause	Design Criteria	DC	DG	O
	3F-2	Building design elements increase privacy without compromising access to light and air and balance outlook from habitable rooms and private open space.	-	Y	Y
3G Pedestrian access and entries	3G-1	Entries and pedestrian access connect to and addresses the public domain.	-	Y	Y
	3G-2	Access, entries and pathways are accessible and easy to identify.	-	Y	Y
	3G-3	Large sites provide pedestrian links for access to streets and connection to destinations.	-	Y	Y
3H Vehicle access	3H-1	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	-	N	N
3J Bicycle and car parking	3J-1	Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.	-	N	N
	3J-2	Parking and facilities are provided for other modes of transport.	-	Y	Y
	3J-3	Car park design and access is safe and secure.	-	N	N
	3J-4	Visual and environmental impacts of underground car parking are minimised.	-	Y	Y
	3J-5	Visual and environmental impacts of on-grade parking are minimised.	-	-	-
	3J-6	Visual and environmental impacts of above ground enclosed car parking are minimised.	-	-	-
Part 4 Designing the building					
Amenity					
4A Solar and daylight access	4A-1	Living rooms and private open space of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at midwinter.	N	N	N
		A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Y	Y	Y
	4A-2	Daylight access is maximised where sunlight is limited.	-	Y	Y
	4A-3	Design incorporates shading and glare control, particularly for warmer months.	-	Y	Y
4B Natural ventilation	4B-1	All habitable rooms are naturally ventilated.	-	N	N
	4B-2	The layout and design of single aspect apartments maximises natural ventilation.	-	Y	Y
	4B-3	At least 60% of all apartments are naturally cross ventilated.	N	N	N
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.		Y	Y	Y	
4C Ceiling heights	4C-1	As measured from the finished floor level, the minimum ceiling height for a habitable room is 2.7m, and 2.4m for a non-habitable room.	Y	Y	Y
	4C-2	Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms.	-	Y	Y
	4C-3	Ceiling heights contribute to the flexibility of building use over the life of the building.	N	N	N

ADG Clause	Subclause	Design Criteria	DC	DG	O														
4D Apartment size and layout	4D-1	Apartments are required to have the following minimum internal areas:																	
		<table border="1"> <thead> <tr> <th>Apartment Type</th> <th>Min. 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>	Apartment Type	Min. internal area	Studio	35m ²	1 Bedroom	50m ²	2 Bedroom	70m ²	3 Bedroom	90m ²	Y	Y	Y				
	Apartment Type	Min. internal area																	
	Studio	35m ²																	
	1 Bedroom	50m ²																	
	2 Bedroom	70m ²																	
	3 Bedroom	90m ²																	
		The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each.																	
		Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	Y	Y	Y														
	4D-2	Habitable room depths are limited to a maximum of 2.5 x ceiling height.	Y	Y	Y														
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.		N	N	N															
4D-3	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobes).	Y	Y	Y															
	Bedrooms have a minimum dimension of 3m (excluding wardrobes).	Y	Y	Y															
	Living rooms or combined living/dining rooms have a minimum width of 3.6m for 1-bedroom apartments and 4m for 2-bedroom apartments.	N	N	N															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	Y	Y	Y															
4E Private open space and balconies	4E-1	All apartments are required to have primary balconies as follows:																	
		<table border="1"> <thead> <tr> <th>Apartment Type</th> <th>Min. area</th> <th>Min. depth</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m²</td> <td>-</td> </tr> <tr> <td>1 Bedroom</td> <td>8m²</td> <td>2m</td> </tr> <tr> <td>2 Bedroom</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>3 Bedroom</td> <td>12m²</td> <td>2.4m</td> </tr> </tbody> </table>	Apartment Type	Min. area	Min. depth	Studio	4m ²	-	1 Bedroom	8m ²	2m	2 Bedroom	10m ²	2m	3 Bedroom	12m ²	2.4m	N	N
	Apartment Type	Min. area	Min. depth																
	Studio	4m ²	-																
	1 Bedroom	8m ²	2m																
	2 Bedroom	10m ²	2m																
	3 Bedroom	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 ² .	Y	Y	Y															
4E-2	Primary private open space and balconies are appropriately located to enhance liveability for residents.	-	Y	Y															
4E-3	Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.	-	Y	Y															
4E-4	Private open space and balcony design maximises safety.	-	Y	Y															
4F Common circulation and spaces	4F-1	The maximum number of apartments off each circulation core on a single level is eight.	Y	Y	Y														
	4F-2	Common circulation spaces promote safety and provide for social interactions between residents.	-	Y	Y														

ADG Clause	Subclause	Design Criteria	DC	DG	O										
4G Storage	4G-1	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided: <table border="1"> <thead> <tr> <th>Apartment Type</th> <th>Min. area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m³</td> </tr> <tr> <td>1 Bedroom</td> <td>6m³</td> </tr> <tr> <td>2 Bedroom</td> <td>8m³</td> </tr> <tr> <td>3 Bedroom</td> <td>10m³</td> </tr> </tbody> </table> At least 50% is to be located within the apartment.	Apartment Type	Min. area	Studio	4m ³	1 Bedroom	6m ³	2 Bedroom	8m ³	3 Bedroom	10m ³	N	N	N
	Apartment Type	Min. area													
Studio	4m ³														
1 Bedroom	6m ³														
2 Bedroom	8m ³														
3 Bedroom	10m ³														
4G-2	Additional storage is conveniently located, accessible and nominated for individual apartments.	-	N	N											
4H Acoustic privacy	4H-1	Noise transfer is minimised through the siting of buildings and building layout.	-	Y	Y										
	4H-2	Noise impacts are mitigated within apartments through layout and acoustic treatments.	-	Y	Y										
4J Noise and pollution	4J-1	In noisy or hostile environments, the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.	-	-	-										
	4J-2	Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.	-	Y	Y										
Configuration															
4K Apartment Mix	4K-1	A range of apartment types and sizes is provided to cater for different household types now and into the future.	-	Y	Y										
	4K-2	The apartment mix is distributed to suitable locations within the building.	-	Y	Y										
4L Ground floor apartments	4L-1	Street frontage activity is maximised where ground floor apartments are located.	-	Y	Y										
	4L-2	Design of ground floor apartments delivers amenity and safety for residents.	-	Y	Y										
4M Facades	4M-1	Building facades provides visual interest along the street while respecting the character of the local area.	-	Y	Y										
	4M-2	Building functions are expressed by the facade.	-	Y	Y										
4N Roof design	4N-1	Roof treatments are integrated into the building design and positively respond to the street.	-	Y	Y										
	4N-2	Opportunities to use roof space for residential accommodation and open space are maximised.	-	Y	Y										
	4N-3	Roof design incorporates sustainability features.	-	Y	Y										
4O Landscape design	4O-1	Landscape design is viable and sustainable.	-	N	N										
	4O-2	Landscape design contributes to the streetscape and amenity.	-	N	N										
4P Planting on structures	4P-1	Appropriate soil profiles are provided.	-	Y	Y										
	4P-2	Plant growth is optimised with appropriate selection and maintenance.	-	Y	Y										
	4P-3	Planting on structures contributes to the quality and amenity of communal and public open spaces.	-	Y	Y										
4Q Universal design	4Q-1	Universal design features are included in apartment design to promote flexible housing for all community members.	-	Y	Y										
	4Q-2	A variety of apartments with adaptable designs are provided.	-	Y	Y										
	4Q-3	Apartment layouts are flexible and accommodate a range of lifestyle needs.	-	Y	Y										

ADG Clause	Subclause	Design Criteria	DC	DG	O
4R Adaptive reuse	4R-1	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.	-	-	-
	4R-2	Adapted buildings provide residential amenity while not precluding future adaptive reuse.	-	-	-
4S Mixed Use	4S-1	Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement.	-	Y	Y
	4S-2	Residential levels of the building are integrated within the development, and safety and amenity are maximised for residents.	-	Y	Y
4T Awnings and signage	4T-1	Awnings are well located and complement and integrate with the building design.	-	Y	Y
	4T-2	Signage responds to the context and desired street character.	-	-	-
Performance					
4U Energy efficiency	4U-1	Development incorporates passive environmental design.	-	Y	Y
	4U-2	Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer.	-	Y	Y
	4U-3	Adequate natural ventilation minimises the need for mechanical cooling.	-	N	N
4V Water management and conservation	4V-1	Potable water use is minimised.	-	Y	Y
	4V-2	Urban stormwater is treated on site before being discharged to receiving waters.	-	Y	Y
	4V-3	Flood management systems are integrated into site design.	-	Y	Y
ADG reference	Subclause	Design Criteria	DC	DG	O
4W Waste management	4W-1	Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.	-	Y	Y
	4W-2	Domestic waste is minimised by providing safe and convenient source separation and recycling.	-	Y	Y
4X Building maintenance	4X-1	Building design detail provides protection from weathering.	-	Y	Y
	4X-2	Systems and access enable ease of maintenance.	-	Y	Y
	4X-3	Material selection reduces ongoing maintenance costs.	-	Y	Y

Detailed Assessment

- **3C Public domain interface & 3D Communal and Public Open Space**

The proposal includes a number of public spaces:

- Central square.
- Pedestrian link to Glenrose Place.
- Pedestrian and landscape link to Glen Street.
- Public open space adjacent to pedestrian link connecting Glenrose Place to Lockwood Avenue.

The proposed spaces are considered to contribute positively to the development, and are consistent with Objectives 3C-1 and 3D-3 of the ADG. Communal open spaces are provided on the rooftop where greater privacy is achieved. Council's Urban Design Officer has made a number of suggestions in his comments that could be incorporated into the proposal to improve its design, including the consistent presentation of retail shopfronts at the same level as the public footpath to improve pedestrian usability and retail activation and improved solar access to the central square.

- **3F Visual privacy**

The proposal has generally been designed to maintain visual privacy between dwellings.

The rooftop common open spaces are provided with perimeter planter boxes to screen and limit sightlines into neighbouring properties. Private balconies and courtyards are designed to provide reasonable levels of privacy and prevent overlooking.

The exception is the design of Units LG.04 and LG.05, where windows are oriented directly towards each other with a separation distance of approximately 7.0 metres. This minor concern could be addressed with privacy treatments if the development were otherwise considered suitable for approval.

Overall, other than the concern expressed above, the proposal is considered to provide adequate spatial separation between dwellings and reasonable levels of internal visual privacy are achieved, consistent with the objective of this criteria.

- **3H Vehicle access**

The location and design of the basement carpark entrance is generally consistent with the guidance contained within the ADG, with the access provided on the lower side of the site and from a location that is adjacent to less sensitive land uses in Glenrose Place.

Council's Traffic Engineer has raised concerns regarding the operation of the vehicular access points and potential vehicle/pedestrian conflicts, and these are discussed below with regards to the provisions of WDCP 2011.

- **3J Bicycle and car parking**

Car parking for 194 vehicles is provided over two basement levels of the proposed building. The provision of car parking in the basement minimises its visual impact and satisfied Object 3J-4. The car parking for residents is separated from the car parking for retail uses and security is provided, satisfying Objective 3J-3.

The number of car parking spaces for residential uses is considered to be satisfactory, but there is a significant deficiency in car parking for the retail and gymnasium uses, which is discussed below with regards to WDCP 2011. In this regard the proposal fails to satisfy Objective 3J-1.

Bicycle parking for 90 bicycles is provided, which satisfies Objective 3J-2. However, the bicycle parking is not provided in an appropriate manner and this issue is discussed below with regards to WDCP 2011.

- **4A Solar and daylight access**

The proposed development achieves 2 hours of direct sunlight between 9am and 3pm in midwinter to living rooms and areas of private open space in 62.7% (32/51) of the units proposed, which is less than the 70% design criteria in 4A-1 of the ADG. With 13.7% (7/51) of the units proposed receiving no solar access during this time, the proposal is consistent with the 15% maximum prescribed.

The site provides an opportunity to exceed the criteria in Part 4A-1 of the ADG with regards to solar access because it slopes down to its southern boundary, opening up exposure of the buildings to the north. However, the design of the proposal has not taken advantage of this opportunity and is considered to be inconsistent with Objective 4A-1 of the ADG.

- **4B Natural ventilation**

The proposed development provides cross ventilation to 51.0% (26/51) of the units proposed, which is less than the 60% design criteria in 4B-3 of the ADG. The site does not present constraints that would restrict the provision of natural cross ventilation to units within the building.

- **4C Ceiling heights**

The proposed development provides ceiling heights for the retail uses that are less than those included in the Design Criteria of 3.3m for mixed use development and 4m for cafes/restaurants. In some places the ceiling heights shown are substantially less, as low as 2.3m.

WDCP 2011 prescribes a minimum ceiling height for retail development of 3.0m, and thus there is an inconsistency between the provisions of the ADG and WDCP 2011. However, the proposal fails to satisfy either criteria and the proposed ceiling heights are considered to be unsuitable for the intended future use of the building.

- **4D Apartment size and layout**

The proposed units are all of a suitable size to satisfy the criteria for minimum internal areas. However, the depth of the living areas of 9 of the 51 units is greater than the relevant Design Criteria, and fails to satisfy Objective 4D-2. Unit LG.13 also fails to satisfy the Design Criteria with regards to the minimum width of the living area and fails to satisfy Objective 4D-3.

Furthermore, three units (LG.07, LG.08 and LG.09) have access from corridors on multiple levels of the building, enabling separate occupation resulting in poor amenity.

- **4E Private open space and balconies**

Four apartments (LG.14, G.11, G.12, 1.06) have been designed with balconies that are less than the minimum area/dimensions prescribed by the design criteria of Objective 4E-1 of the ADG.

- **4G Storage**

The proposal does not identify storage areas within each unit. Some of the units would appear to have suitable areas for internal storage whilst others do not. Areas are provided within the basement for storage but it is not identified which storage areas are intended for which units, so their suitability in terms of access and security is difficult to assess. The proposal is considered to be inconsistent with the design criteria and guidance of Objective 4G-1 of the ADG.

In summary, the consent authority cannot be satisfied that the proposal is generally consistent with the Design Principles of SEPP 65, the objectives of the ADG, and that the proposal fails to satisfy the requirements of Clause 28 of SEPP 65.

WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011

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

Principal Development Standards

Standard	Requirement	Proposed	Variation	Complies
4.3 Height of Buildings:	8.5m	12.48m	3.98m (max) (46.8%)	No

Compliance Assessment

Clause	Compliance with Requirements
6.2 Earthworks	No

Clause	Compliance with Requirements
6.4 Development on sloping land	No

Detailed Assessment

Aims of the LEP

For the reasons discussed throughout this assessment report, the proposal is considered to be inconsistent with the following aims of the LEP as specified in clause 1.2:

- (d) *in relation to residential development, to -*
 - (i) *protect and enhance the residential use and amenity of existing residential environments, and*
 - (ii) *promote development that is compatible with neighbouring development in terms of bulk, scale and appearance, and*
 - (iii) *increase the availability and variety of dwellings to enable population growth without having adverse effects on the character and amenity of Warringah,*
- (e) *in relation to non-residential development, to -*
 - (i) *ensure that non-residential development does not have an adverse effect on the amenity of residential properties and public places*
- (f) *in relation to environmental quality, to -*
 - (ii) *encourage development that demonstrates efficient and sustainable use of energy and resources,*

Zone B2 Local Centre

The proposed development is a “mixed use development”:

Mixed use development means a building or place comprising 2 or more different land uses.

The proposed mixed use development is permissible within the zone as it falls within the definition of “business premises”, “recreation facility (indoor)”, “retail premises” and “shop top housing”. The relevant definitions in WLEP 2011 are as follows:

Business premises means a building or place at or on which:

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

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

Recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

Retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following

- (a) *(Repealed)*

- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (la) specialised retail premises,
- (m) timber yards,
- (n) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

Shop top housing means one or more dwellings located above ground floor retail premises or business premises.

Objectives of the zone

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

Comment

The proposal is consistent with this objective.

- To encourage employment opportunities in accessible locations.

Comment

The proposal is consistent with this objective.

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

Comment

The proposal is consistent with this objective.

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

Comment

Concerns have been raised by Council's Traffic Engineer regarding the potential for vehicular and pedestrian conflicts and safety hazards that could arise. The proposal is not consistent with this objective.

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

Comment

For the reasons discussed in this assessment report the proposal is considered to have a bulk and scape that is greater than that which is anticipated by the planning controls and does not relate favourably to neighbouring residential land uses. The proposal is not consistent with this objective.

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

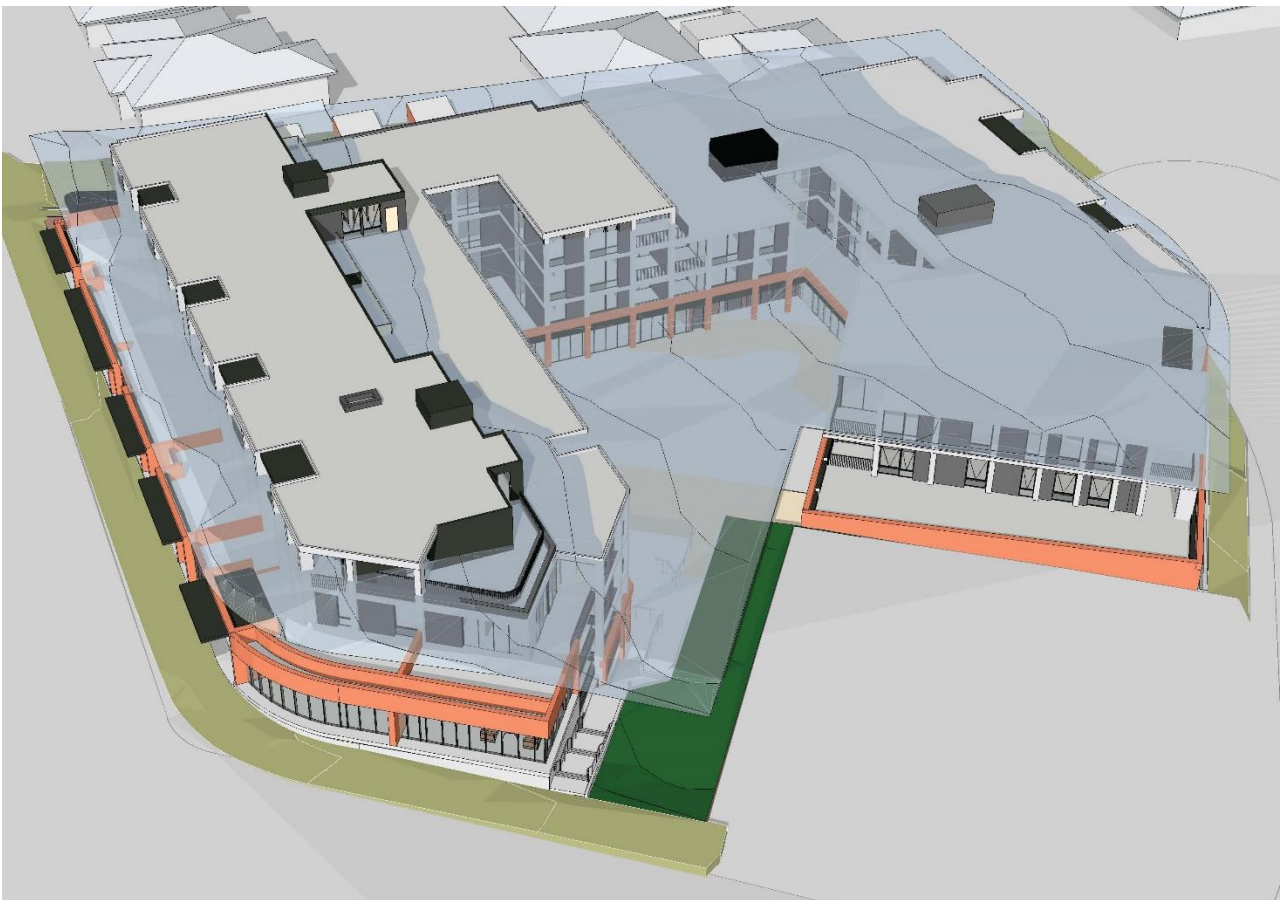
Comment

For the reasons discussed in this assessment report the proposed land uses give rise to impacts that have a negative impact on adjoining and nearby residential land uses. The proposal is not consistent with this objective.

Clause 4.3 - Height of buildings

Clause 4.3(2) of WLEP 2011 limits the height of buildings on the subject site to a maximum of 8.5 metres, measured from existing ground level to the top of the building. The proposed development has a maximum building height of 12.48 metres, measured from existing ground level (RL156.77) to the top of the south-eastern lift overrun (RL169.25).

The following 3D height plane diagrams have been submitted by the applicant. Note that these diagrams do not show roof top structures such as balustrades, planter boxes and pergolas:





As can be seen in the above diagrams, the proposed top level on the Lockwood Avenue frontage exceeds the building height control almost entirely. In addition, the majority of the building as it faces Glenrose Place exceeds the building height control by up to 915mm. The west-facing building on the southern portion of the site exceeds the building height control by up to 2.2m (to the top of the planter boxes). The internal facades of the building facing the public square exceed the building height control by up to 2.7m to the top of the balustrade (western side) and 2.0m to the top of the balustrade (northern side). All of the lift overruns exceed the building height control. Three rooftop pergolas exceed the building height control by 3.7m (south-western pergola), 1.7m (north-western pergola) and 2.2m (south-eastern pergola).

Clause 4.6 - Exceptions to development standards

The applicant has submitted a written request to vary the building height control under Clause 4.6 of WLEP 2011. The following matters are relevant under Clause 4.6 of WLEP 2011:

Clause 4.6(3)(a): Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Applicant's reasons:

- *Although the underlying objectives for the Height of Buildings standard are a valid and relevant matter for consideration, the variation would still result in a scale and character that is compatible with the surrounding locality and Local Centre context. A development compliant with the building height provisions contained in the WLEP 2011 would not necessarily achieve a perceivably different or better planning outcome. The proposed design and associated landscaping provide an appropriate and enhanced setting for the development.*

Comment

It is considered that the proposal does not result in a scale and character that is compatible with the surrounding locality. It is compatible with the existing Glenrose Shopping Centre to the north of

the site. It is clearly incompatible with the 1-storey and 2-storey character of the residential development to the south and west of the site and, to a lesser extent, the more open development of the Belrose Community Hub to the east of the site. It is considered that a compliant development would achieve a greater degree of compatibility.

- *The underlying objective or purpose of the Height of Buildings development standard seeks to ensure compatibility with character of the area. The emerging character in surrounding streets, in part, is of three storey dwellings. A reasonable built form, at the local centre, must be maintained so as not to thwart the objectives of the height control.*

Comment

The residential area to the south and west of the site does not display an emerging character of 3-storey development. Recent development is more commonly 2 storeys in height and older development is 1-storey and 2-storeys in height. A reasonable built form can be achieved for the development without “thwarting” the objectives of the building height control.

- *The variation submission does not seek to rely on the argument that the height standard has been abandoned. Surrounding development exhibits a range of scales including examples of built form within the local centre of comparable building height.*

Comment

Noted.

- *The proposal is consistent with the relevant environmental and planning objectives pertaining to the Height of Buildings development standard and the B2 Local Centre zone:*
 - *Objective: To ensure that buildings are compatible with the height and scale of surrounding and nearby development.*

The Lockwood Avenue building mass presents as single storey retail shopfronts with the upper levels significantly setback to align with the residential houses and provide an appropriate transition. Conversely, the Glenrose Place building mass presents as human scale three storey form that integrates successfully into the local centre streetscape. The emerging character in surrounding residential streets, in part, is of three storey dwellings and significant two storey dwellings with pitched roofs. A reasonable built form, at the local centre, is therefore maintained and provides a success transition from the residential areas to the Local Centre identity. The design accommodates generous pedestrian links through the Site and considered landscaping, which result in enhanced amenity and permeability.

Comment

With regards to the Lockwood Avenue presentation, the retail ground floor building is on a 500mm setback, which is considered appropriate for land zoned for business purposes. The shopfronts activate the street (and, if this application is to be approved, a condition of consent is recommended requiring street activation).

The building face of the upper two levels are set back 6.0m from the street front, with the first level having terraces and planter boxes extending to the street front and the top level having projections and balconies extending 800mm in front of the building face. These upper levels, and particularly the top level which breaches the building height control, are clearly visible from the street. The scale and setback of the Lockwood Avenue presentation is considered to be incompatible with existing development in that street, which provides for an open streetscape and a lower scale of built form, as shown in the following photographs:



Existing built form in Lockwood Avenue opposite the subject site.



Existing built form in Lockwood Avenue, looking west from the subject site.

In summary, the proposed breach of the building height control results in a development that does not satisfy this objective of the control.

- *Objective: To minimise visual impact, disruption of views, loss of privacy and loss of solar access.*

The proposed development is compliant with the requirements of the ADG in terms of visual privacy and solar access measures. The topography of the Site is significantly sloped and the proposed development does not disrupt any significant view lines.

Comment

The proposal does not disrupt views and does not result in significant overshadowing of neighbouring properties. However, it does fail to satisfy the requirements of the ADG with regards to solar access in circumstances where the slope of the site facilitates the provision of sunlight into residential development on the land. The breach of the building height control does not, however, contribute to the inadequate access to sunlight for the proposed development; for instance, the units fronting Lockwood Avenue that breach the building height control all have excellent solar access.

In summary, the breach of the building height control does not result in an inconsistency with this objective of the control.

- *Objective: To minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments.*

The Site is located within the Local Centre and appropriately adopts a mix of commercial and residential uses. Current vegetation on the Site is addressed within the submitted Arborist Report and considered to be a poor selection of species that are inappropriately located, given the residential and commercial context of the locality. The proposal retains a compliant proportion of deep soil and Landscaped Open space, with landscaping thoughtfully located to soften interfaces with adjoining properties and the streetscape. The proposed design does not unreasonably, adversely impact on the scenic quality of coastal or bush environments.

Comment

The proposal is to remove all existing vegetation on site, as identified in the submitted arborist's report. However, the impact on this vegetation is not a result of the breach of the building height control. Indeed, the converse could be argued, i.e. that a breach of the building height control would enable a similar scale of development whilst enabling a reduction in the site coverage and the retention of a greater amount of existing vegetation. The proposal does neither – it breaches the building height control whilst removing all vegetation.

Notwithstanding this, it is considered that the breach of the building height control does not have a significant impact on the scenic quality of Warringah's coastal and bush environments as the site is not in close proximity to those environments and development of the site does not have scenic impacts (as distinct from visual impacts related to bulk and scale and impacts on streetscape and character of the area).

- *Objective: To manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.*

The development is innovatively designed to manage the visual impact of the development when viewed from the surrounding locality. It presents a compliant single-storey height at the street frontage to Lockwood Avenue, with upper levels significantly recessed. Landscaped private open space areas are provided above this Ground Level element to further soften the built form and allow a level of community interaction and passive surveillance.

The proposal adopts a perimeter courtyard building to resolve a significant change in level. This creates a publicly accessible, enclosed central plaza that is 'not visible' from adjoining properties / streets and therefore minimises visual impact from the public

domain. The design accommodates generous pedestrian links through the Site and considered landscaping, which result in enhanced amenity and permeability.

Comment

With regards to the Lockwood Avenue presentation, it is considered that the presentation is clearly not compliant. The entire top level exceeds the building height control, is clearly visible from the street, and contributes to the jarring appearance when compared to the existing streetscape.

The other elements of the building that exceed the building height control also result in a negative impact when viewed from neighbouring streets and the public open space adjoining the site to the west.

The change in level of the site (average 7.2% or 4.1°) does not present a significant constraint to the development of a compliant building. It is a gentle slope that can be used to provide a higher level of amenity for the shop top housing component by stepping dwellings up the slope of the land to obtain solar access, outlook and natural ventilation.

In summary, the proposed breach of the building height control results in a development that is inconsistent with this objective of the control.

Clause 4.6(3)(b): Are there sufficient environmental planning grounds to justify contravening the development standard?

Applicant's reasons:

- *The public interest is better served by supporting the variation.*

Comment

See discussion below.

- *The proposal satisfies the objectives of the B2 Local Centre zone and the objectives of the Height of Buildings development standard, having regard to the particular nature of the development and the particular circumstances of the Site. Impacts on adjoining properties, as a result of the variation, would not warrant the refusal of consent.*

Comment

As discussed above, the proposal is not considered to be consistent with some of the objectives of the B2 Local Centre zone or the objectives of the building height control. It is agreed that direct impacts on neighbouring amenity in terms of views, privacy and overshadowing are not reasons to refuse the development application.

- *The non-compliance with the standard will nevertheless result in a scale of development that is compatible with both the existing and future character of the locality.*

Comment

As discussed above, it is considered that the scale of the development is, as a direct result of the breach of the building height control, not compatible with the existing and future character of the locality.

- *The variation to the building height standard will not have unreasonable visual impact from the public domain, given the topography, existing built form, landscaping and the proposed location of upper levels being adequately setback from the lower levels, particularly to Lockwood Avenue.*

Comment

As discussed above, it is considered that the breach of the building height standard will result in an unreasonable visual impact when viewed from the public domain.

- *Despite the non-compliance, the proposed development is an appropriate development for the Site. In this instance, the development as proposed is consistent with the provision of orderly and economic development, as required by the EP&A Act and facilitates a positive environmental planning outcome for the Site.*

Comment

Firstly, this general statement is not concurred with. Secondly, due to the very general nature of the statement, it does not provide sufficient environmental planning grounds to justify the variation to the control that is being requested.

- *The non-compliance with the Height of Buildings standard does not contribute to adverse amenity impacts in terms of visual privacy or view loss.*

Comment

It is agreed that the proposed breach of the building height control does not result in view loss or a loss of visual privacy. However, this on its own is not considered to be sufficient environmental planning grounds to justify a variation to the control.

Clause 4.6(4)(a)(ii): Is the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

Applicant's reasons:

- *Approval of the variation to the building height in this proposal is in the wider public interest as the underlying objectives are met. The variation supports the achievement of the redevelopment of the site to achieve the optimal development capacity without adverse amenity impacts. The proposal provides a satisfactory response to the land use zoning objectives and improving site aesthetics through a more appropriate, urban design responsive, built form outcome.*

Comment

This statement is not concurred with. As discussed above, the underlying objectives of the standard are not met, nor the objectives of the B2 Local Centre zone. The breach of the building height control has a direct negative impact in terms of bulk and scale, streetscape and character of the area.

- *The proposal remains consistent with the relevant zone objectives outlined in Clause 2.3 and the Land Use Table of the WLEP 2011, despite the non-compliance, as demonstrated below:*
 - *Objective: To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

The proposal satisfies this objective as the proposal provides a range of new retail and business tenancies to serve the needs of people who live, work and visit the area.

Comment

The proposed development achieves this objective.

- *Objective: To encourage employment opportunities in accessible locations.*

The proposed variety of commercial uses encourage employment in an accessible location.

Comment

The proposed development achieves this objective.

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

The provides additional housing and commercial opportunities in close proximity to public transport options and provides landscaped pedestrian links and bicycle parking.

Currently, no residential dwellings exist within the Local Centre Zone boundary, of approximately 15ha. The proposal will result in a residential density of approximately 3.4 dwellings per hectare. Given the minimum required residential density for a centre to shift from car-centric to people-centric is at least 28dw/ha, the proposal's increase in residential density at this scale is very positive. This fact is heightened by the reality there are currently limited opportunities to introduce residential uses on other sites within the local centre.

Comment

The proposed development achieves this objective.

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

The proposal provides landscape pedestrian links through the site that are safe, comfortable and interesting.

Comment

Council's Traffic Engineer has raised concerns with regards to pedestrian/vehicle conflicts resulting in a hazardous pedestrian environment. Other than this, the proposal does provide pedestrian environments within the site that are safe, comfortable and interesting.

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

The proposal adopts a compatible built form to the numerous street frontages and varying surrounding contexts. Buildings are scaled down and set back at more residential interfaces while providing a mix of commercial and residential opportunities as part of the Belrose Local Centre.

Comment

For the reasons discussed above, the proposal fails to achieve this objective. The breach of the building height control has a direct impact in terms of the resultant building being out of scale with the neighbouring residential land uses.

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

The proposal incorporates appropriate and permissible land uses and adopts a high-quality design that adheres to the principles and controls of the Apartment Design Guide.

Comment

For the reasons discussed above, the proposal fails to achieve this objective. The breach of the building height control contributes to the intensity of development which has a negative impact on the neighbouring residential land uses and the amenity of those areas and public spaces.

Clause 4.6(5): In deciding whether to grant concurrence, the Planning Secretary (or the consent authority under delegation) must consider:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning.*

Comment: It is considered that the contravention of the building height development standard does not raise any issues of significance for State or regional environmental planning.

(b) the public benefit of maintaining the development standard.

Comment

Whilst there is a general public benefit in maintaining development standards, such standards may also be varied in appropriate circumstances. However, in this case it is considered that the breach of the building height standard will have a negative impact and that there is a public benefit in maintaining it on this occasion.

(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

Comment

There are no other matters required to be taken into consideration.

Conclusion of Clause 4.6 variation request.

It is considered that the written request to vary the building height standard has not demonstrated that compliance is unreasonable or unnecessary in the circumstances of the case. Nor does it demonstrate sufficient environmental planning grounds to justify a variation to the control. Furthermore, the proposal does not satisfy all of the objectives of the control and the zone.

In summary, the proposal fails to satisfy the relevant matters in Clause 4.6 of WLEP 2011 and it is recommended that this issue be given determining weight and the development application not be approved.

Clause 6.2 - Earthworks

Under Clause 6.2(3) of WLEP 2011, before granting development consent for earthworks, the consent authority must consider the following matters:

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

Comment

The applicant has submitted concept stormwater plans that have been reviewed by Council's Development Engineer who has recommended that the proposal not be approved. Consequently, the proposal does not satisfy item (a) above.

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

Comment

The proposed earthworks facilitate the proposed development, satisfying item (b) above.

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

Comment

A Materials Classification report has been submitted that identifies that the site contains clean soil, satisfying item (c) above.

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

Comment

The proposal involves excavation to a depth of approximately 14.2 metres. The applicant has not submitted a geotechnical report that addresses the impacts arising from this excavation. Consequently, this excavation may affect the likely amenity of adjoining properties and the proposal fails to satisfy item (d) above.

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

Comment

A Materials Classification report has been submitted that identifies that the site contains clean soil, satisfying item (e) above.

(f) *the likelihood of disturbing relics,*

Comment

Given the historical use of the land it is unlikely to contain relics.

(g) *the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

Comment

Subject to appropriate soil erosion and sedimentation control during works the proposal is unlikely to result in adverse impacts identified in item (g) above.

In summary, the proposal fails to satisfy the requirements of Clause 6.2(a) and (d).

Clause 6.4 - Development on sloping land

The site is located within Area A on the Landslip Risk Map. Under Clause 6.4 of WLEP 2011 the consent authority must be satisfied that:

- (a) *the application for development has been assessed for the risk associated with landslides in relation to both property and life, and*
- (b) *the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and*
- (c) *the development will not impact on or affect the existing subsurface flow conditions.*

With regards to the risk of landslides, the proposal results in excavation to a depth of approximately 14.2 metres. The applicant has not submitted a geotechnical report with regards to the risk associated with this level of excavation. Consequently, the consent authority cannot be satisfied with regards to item (a) above.

The applicant has submitted concept stormwater plans that have been reviewed by Council's Development Engineer who has recommended that the proposal not be approved. Consequently, the consent authority cannot be satisfied with regards to items (b) and (c) above.

In summary, the proposal does not satisfy the requirements of Clause 6.4 of WLEP 2011.

WARRINGAH DEVELOPMENT CONTROL PLAN 2011

Built Form Controls

Built Form Control	Requirement	Proposed	Variation	Complies
Front building line	Merit assessment	<ul style="list-style-type: none"> • Lockwood Avenue <ul style="list-style-type: none"> – Ground: 500mm – Level 1 (planter boxes): 0.0m – Level 1 (building): 6.0m – Level 2: 5.2m • Glenrose Place: <ul style="list-style-type: none"> – Basement 2: 0.0m – 4.0m – Lower ground: 0m – 4.0m – Ground: 0.0m – 4.0m • Glen Street: <ul style="list-style-type: none"> – Ground: 500mm – Level 1 (planter boxes): 0.0m – Level 1 (building): 6.0m – Level 2: 6.0m 	-	Yes
Side building line	Merit assessment	<ul style="list-style-type: none"> • East: <ul style="list-style-type: none"> – Basement 2: 0.0m – Lower ground: 6.5m – Ground: 6.5m • West: <ul style="list-style-type: none"> – Ground: 1.1m – 5.6m – Level 1 (balconies): 3.3m – Level 1 (building): 5.9m – Level 2: 5.9m 	-	Yes
Rear setback line	Merit assessment	No rear boundary	-	Yes
Side boundary envelope	No requirement		-	N/A
Wall height	No requirement		-	N/A
Landscaped Open Space	No requirement		-	N/A
Building envelope	No requirement		-	N/A

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
C2 Traffic, access and safety	No	No
C3 Parking facilities	No	No
C3(A) Bicycle parking and end of trip facilities	No	No
C4 Stormwater	No	No
C5 Erosion and sedimentation	Yes	Yes
C7 Excavation and landfill	No	No
C8 Demolition and construction	Yes	Yes
C9 Waste management	No	No
D3 Noise	Yes	Yes
D5 Orientation and energy efficiency	Yes	Yes
D6 Access to sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building bulk	No	No
D10 Building colours and materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and reflection	Yes	Yes
D14 Site facilities	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C18 Accessibility	Yes	Yes
D20 Safety and security	Yes	Yes
D21 Provision and location of utility services	Yes	Yes
D22 Conservation or energy and water	Yes	Yes
D23 Signs	Yes	Yes
E1 Preservation or trees or bushland vegetation	No	No
E2 Prescribed vegetation	Yes	Yes
E3 Threatened species, populations, ecological communities	Yes	Yes
E4 Wildlife corridors	Yes	Yes
E5 Native Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E8 Waterways and riparian lands	Yes	Yes
E9 Coastline hazard	Yes	Yes
E10 Landslip risk	Yes	Yes
E11 Flood prone land	Yes	Yes
F1 Local and neighbourhood centres	No	No

Detailed Assessment

Clause B6 - Merit assessment of side boundary setbacks

The proposal provides side setbacks that are considered to be appropriate on merit.

On the western side, a 5.6m setback is proposed for the north-western corner of the site to provide for a substantial deep soil landscaped area which complements the pedestrian link between Glenrose Place and Lockwood Avenue and provides a buffer between the development and the dwelling house and child care centre on the land adjoining the pedestrian link.

The setbacks on the eastern side provide a buffer between the proposed shop top housing and the adjacent service station. The setback also enables the provision of a pedestrian link between the proposed central plaza and Glen Street, with room for a deep soil landscaped area between the pedestrian link and the service station that improves the amenity of this public area.

Clause B8 - Merit assessment of front boundary setbacks

The proposal provides a variety of front boundary setbacks.

On the Lockwood Avenue frontage, the 500mm setback of the retail areas is considered appropriate because the land is zoned for business purposes and the setback activates the street frontage with retail uses. The excessive bulk of the building on the Lockwood Avenue frontage, and its inconsistency with the 1-storey and 2-storey residential character of the area, is more a function of the excessive building height than inadequate setbacks.

Shopfronts are also provided on the street level to Glen Street and Glenrose Place, and the setbacks proposed are considered appropriate to enable the activation of these frontages.

Clause C2 - Traffic, access and safety

The proposal will generate additional traffic as a result of the proposed land uses. However, no concerns have been raised by Council's Traffic Engineer with regards to the impact that this will have on the local or regional traffic system.

Council's Traffic Engineer has raised a number of concerns regarding access and safety, as detailed in the referral comments above. These concerns have been given determining weight.

Clause C3 - Parking Facilities

The proposal provides sufficient car parking spaces to satisfy the requirements of WDCP 2011 with regards to the residential component of the development (although Council's Traffic Engineer has raised concerns regarding the layout of parking spaces and access and non-compliances with AS2890.1:2004).

For the proposed retail and gymnasium elements of the development the proposal is substantially deficient in the number of car parking spaces. WDCP 2011 requires 217 car spaces to be provided for these uses and the proposal provides 116 spaces, a deficiency of 101 spaces (or 46.5%).

The submitted Traffic and Parking Report seeks to justify this deficiency in a number of ways;

1. The peak usage of the gymnasium retail uses will occur at different times of the day and week. will operate outside of the hours of the retail uses, with the gymnasium having peak hours before 8am and after 6pm. Consequently, the 45 spaces required for the gymnasium use can be accommodated within the car parking allocated for the retail uses.
2. The RMS Guide has a lower requirement for retail car parking than WDCP 2011. In this regard, the RMS Guide has a requirement for 99 spaces whilst the WDCP 2011 requires 172 spaces.
3. The 15 spaces required for the car wash can operate as dual use spaces, eg: some portion of retail/gym patrons will utilise the car wash service facility and associated car parking space and have their car washed while they patronise the retail or gym uses.

Whilst acknowledging these mitigating circumstances, Council's Traffic Engineer is of the opinion that they will not be sufficient to offset the proposed deficiency in car parking that is proposed. Furthermore, WDCP 2011 provides rates for retail car parking that are higher than those in the RMS Guide because of local circumstances, with higher car usage in the Warringah area.

It is also noted that the car parking assessment of the proposal has made no allowance for the future use of part of the retail space for restaurants and cafes, which is likely given the nature of the use. Restaurants and cafes generate a requirement for a higher rate of car parking than retail uses.

The comments of Council's Traffic Engineer are concurred with and this issue has been given determining weight as a reason for refusal of the development application.

Clause C3(A) - Bicycle parking and end of trip facilities

WDCP 2011 requires 88 bicycle parking spaces. The proposal provides 90 spaces. However, Council's Traffic Engineer has raised a concern that the extent to which the spaces are provided as secure spaces and the design of those spaces is not in accordance with the requirements of WDCP 2011.

Clause C4 - Stormwater

Council's Development Engineer has raised concerned detailed above with regards to the proposed arrangements for stormwater disposal from the site. These concerns have been given determining weight as a reason for refusal of the development application.

Clause C7 - Excavation and landfill

The proposal involves excavation to a depth of approximately 14.2m on the Lockwood Avenue frontage of the site to accommodate the four levels of development (2 x retail, gymnasium and car

parking) that are proposed below ground level on that frontage. The Applicant has not submitted a geotechnical report that investigates the nature of the underlying soil conditions to determine if the proposal can be safely undertaken as proposed and what mitigating measures should be incorporated. In this regard, the Materials Classification reports submitted by the applicant have been prepared by geotechnical engineers but are only concerned with the nature of the material near the surface of the site and do not examine excavation impacts.

Clause C7 of WDCP 2011 requires that “*excavation... shall be constructed to ensure the geological stability of the work*”. The proposal fails to demonstrate that it can comply with this requirement and this issue has been given determining weight as a reason for refusal of the development application.

Clause C9 - Waste management

Council’s Waste Officer has raised a number of concerns detailed above with regards to arrangements made for the storage and collection of waste from the site. These concerns are concurred with and this issue has been given determining weight as a reason for refusal of the development application.

Clause D9 - Building bulk

As discussed above with regards to the building height control in WLEP 2011, the proposed building height results in a bulk and scale of development that is considered to be excessive, having a negative impact on streetscapes and the character of the area. It is considered that the proposal does not satisfy the requirement of Clause D9 of WDCP 2011 that “*building height and scale needs to relate to topography and site conditions*” and this issue has been given determining weight as a reason for refusal of the development application.

Clause E1 - Preservation of trees or bushland vegetation

The proposal involves the removal of all trees from the site (although it is noted that there is an inconsistency between the Arborist’s Report, which says that all 80 existing trees will be removed, and the Landscape Plans, which indicate that 11 trees will be retained). The trees are mature trees that contribute significantly to the landscape quality of the area. The development should be designed in recognition of the quality of these trees and retain as many trees as possible.

Council’s Landscape Officer has provided comments on the proposal, detailed above, which raise concerns with the proposed removal of trees from the site. These concerns are concurred with and this issue has been given determining weight as a reason for refusal of the development application.

Clause F1 - Local and neighbourhood centres

Clause F1 of WDCP 2011 requires that the minimum floor to ceiling height for buildings is to be 3.0 metres for ground floor levels. The proposal generally provides floor to ceiling heights for retail uses of 2.8m and as low as 2.3m as shown on the submitted sections. This is considered to be inadequate to provide flexibility for the future uses of the building and is also contrary to the Design Criteria in the ADG, which requires a floor ceiling height of 3.3m for these areas.

This issue has also been raised as a concern by Council’s Urban Design Advisor in the comments detailed above. These concerns are concurred with and this issue has been given determining weight as a reason for refusal of the development application.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The site has not been identified as comprising a wildlife corridor or being the habitat to any threatened species, populations or ecological communities.

POLICY CONTROLS

Northern Beaches Section 7.12 Contribution Plan 2019

A contribution of 1% of the estimated cost of works of the development is payable under the Northern Beaches Section 7.12 Contributions Plan 2019. The proposal has an estimated cost of works of \$44,237,142, so a contribution of \$442,371.42 is payable. A suitable condition is included in the attached draft conditions of consent should this application be approved.

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;
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development;
- Apartment Design Guide
- Warringah Local Environment Plan 2011;
- Warringah Development Control Plan 2011; and
- Codes and Policies of Council.

The proposal has been assessed against the relevant matters for consideration under Sections 4.15 of the EP&A Act 1979. This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions.

The proposed development involves a substantial breach of the building height control in clause 4.3 of WLEP 2011. At its maximum, the breach is 3.98 metres (46.8%). The breach of the building height control occurs over a large portion of the development. The applicant has submitted a written request to vary the control under clause 4.6 of WLEP 2011. It is considered that the proposal fails to satisfy the requirements of clause 4.6 of WLEP 2011 because compliance with the control is not unreasonable or unnecessary and because there are not sufficient environmental planning grounds to justify the variation that is sought.

The proposal fails to satisfy a number of the Design Quality Principles in SEPP 65. The failure to meet Design Criteria in the ADG relating to solar access, cross ventilation, apartment layout, and storage are indicative of poor amenity of the proposed apartments.

The public notification resulted in 134 submissions, 20 of which supported the proposal. The objections raised a variety of issues, some of which have been given determining weight. These include the impacts of the proposal on the character of the area, the height, bulk and scale of the development, the removal of existing vegetation and the lack of adequate car parking.

The breach of the controls and the impacts arising from those breaches are indicative of a proposal that is an overdevelopment of the site.

Accordingly, the application is recommended for refusal.

RECOMMENDATION

That the Sydney North Planning Panel as the consent authority REFUSE Development Consent to Development Application No. DA2020/0393 for the demolition of existing structures and construction of a mixed-use development comprising retail uses, gymnasium, commercial car wash, shop-top housing containing 51 dwellings, basement car parking for 193 vehicles spaces, landscaping and a central public square at Lot 1 in DP 1199795, No. 28 Lockwood Avenue, Belrose for the following reasons:

1. Pursuant to Sections 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to satisfy the requirements of clauses 28(2)(a) and 30(2)(a) and Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, the proposed shop top housing fails to demonstrate design quality with regards to the following Design Quality Principles:
 - Context and neighbourhood character.
 - Built form and scale.
 - Density.
 - Sustainability.
 - Landscape.
 - Amenity.

2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to satisfy the requirements of clauses 28(2)(b) and 30(2)(b) and Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, the proposed shop top housing fails to demonstrate design quality with regards to the following provisions of the Apartment Design Guide:
 - 3F Visual privacy.
 - 3H Vehicle access.
 - 3J Bicycle and car parking.
 - 4A Solar and daylight access.
 - 4B Natural ventilation.
 - 4C Ceiling heights.
 - 4D Apartment size and layout.
 - 4E Private open space.
 - 4F Storage.
 - 4O Landscape design.
 - 4U Energy efficiency.

3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be inconsistent with the objectives of the B2 Local Centre zone of the Warringah Local Environmental Plan 2011.

4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to satisfy the building height control in clause 4.3(2) of Warringah Local Environmental Plan 2011.

5. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the written request to vary the building height control pursuant to clause 4.6 of Warringah Local Environmental Plan 2011 is not well founded.

6. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to satisfy the requirements of clauses 6.2 and 6.4 of Warringah Local Environmental Plan 2011 with regards to the proposed excavation.

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 C2 Traffic, Access and Safety of the Warringah Development Control Plan 2011 in that the proposed vehicular access is inadequate and two kerb side disabled car spaces will be lost.

8. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause C3 Parking Facilities of the Warringah Development Control Plan 2011 in that insufficient car parking has been provided for the retail and gymnasium uses of the development, there are a number of substantial aisle widths that fail to comply with AS2890.1:2004, and the disabled car spaces are not appropriately located.

9. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause C3(A) Bicycle Parking and End of Trip Facilities of the Warringah Development Control Plan 2011 in that the proposed bicycle parking facilities are not of an appropriate design.
10. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause C4 Stormwater of the Warringah Development Control Plan 2011 in that the proposal does not make adequate provision for the disposal of stormwater.
11. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause C7 Excavation and Landfill of the Warringah Development Control Plan 2011 in that insufficient geotechnical information has been provided with regards to the proposed excavation.
12. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause C9 Waste Management of the Warringah Development Control Plan 2011 in that the proposal fails to provide sufficient and appropriate facilities for the storage and collection of waste from the site.
13. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause D9 Building Bulk of the Warringah Development Control Plan 2011 in that it has an excessive bulk and scale.
14. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause E1 Preservation of Trees and Bushland Vegetation of the Warringah Development Control Plan 2011 as a result of the removal of existing trees from the site.
15. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause F1 Local and Neighbourhood Centres of the Warringah Development Control Plan 2011 in that the proposed floor to ceiling heights of the retail areas are inadequate, the design of the central plaza provides inadequate pedestrian usability and retail integration, there is inadequate sunlight access to the central plaza, additional mature trees should be preserved, and shop awnings are not appropriately designed.
16. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is considered to be unsuitable for the development that is proposed.
17. Pursuant to Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979, the proposal is considered to be inappropriate for reasons raised in submissions made in accordance with the Northern Beaches Community Participation Plan.
18. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.