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Town Planners

STATEMENT OF ENVIRONMENTAL EFFECTS

Proposed Shop Top Housing Development

55 Kalang Road
ELANORA HEIGHTS

Statement of Environmental Effects

PROPOSED SHOP TOP HOUSING DEVELOPMENT

55 KALANG ROAD, ELANORA HEIGHTS

prepared under instructions from

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1.0 INTRODUCTION/ BACKGROUND

On 2nd February 2019 development application DA2018/0142 was submitted to Council the demolition of existing site structures and the construction of a 3/ 4 storey mixed use development incorporating ground level retail/ business tenancies with 6 residential apartments above and basement style parking. The application also proposed the implementation of an enhanced site landscape regime and drainage via a new easement at the rear of the property.

The application was subsequently notified to surrounding property owners with a number of issues raised including traffic, building height, constriction impacts and stormwater disposal. A number of issues were also raised by Council staff including driveway access, building height, upper floor setbacks, parking, spatial separation, privacy, solar access, waste management and stormwater management.

Development application DA2018/0142 was subsequently withdrawn to enable a considered review of the issues raised with the development, the subject of this report, representing a highly considered and resolved response to the issues raised. A detailed response from the project Architect to the matters raised in Council's issues letter of 11th May 2018 is at ANNEXURE 1.

This revised proposal involves the demolition of existing site structures and the construction of a 3/ 4 storey mixed use development incorporating a ground level retail tenancy with 6 residential apartments above and basement/ under croft style parking. The application also proposes the implementation of an enhanced site landscape regime and drainage via a new easement at the rear of the property.

The proposal has again been developed through detailed site and context analysis and the feedback obtained from the initial formal pre-DA discussions with Council and prior to the withdrawal of the previous scheme. The final detailing of the application representing a highly considered response to the issues raised. The architect has responded to the client brief to provide for a mixed use development of exceptional design quality which provides for an appropriate contextual fit whilst maintaining acceptable levels of amenity to adjoining and nearby residential properties. Careful consideration has also been given to ensuring that the development responds appropriately to its immediate built form context in terms of setbacks, design and streetscape presentation.

Having regard to the issues previously raised by adjoining property owners and Council staff in relation to DA2018/0142 we have formed the considered opinion that the current development, the subject of this report, achieves the following outcomes:

- Although all proposed works are located on the portion of the ROW located wholly on the subject property consent has been obtained in writing from Strata Plan No. 78488 for the works proposed within the ROW (ANNEXURE 2);

- The works located over the top of the access driveway maintain sufficient clearances to ensure no impact on the utility of the ROW;

- Building heights and setbacks have been refined in response to the applicable DCP provisions and to provide a contextually appropriate built form outcome. An appropriate residential zone boundary interface is achieved at the rear of the site;

- The front and rear facades have been designed to be responsive to the articulation zone provisions of the DCP whilst achieving well resolved, appropriately articulated and visually stimulating façade presentations;

- Compliant off-street parking has been provided noting that the historical evidence at ANNEXURE 3 confirms that the land benefits from a credit of 4 on-street parking spaces which were provided by Council in exchange for the dedication of a strip of land at the front of the property;

- The materials, finishes and façade detailing have been revised;

- The living room and balconies of all apartments have been orientated to the front and rear of the site to maintain appropriate visual and acoustic privacy between adjoining development;

- The waste storage room is located in strict accordance with the Council control enabling bins to be collected by Council waste contractors from Kalang Road; and

- All ceiling heights comply with the ADG.

In preparation of this document, consideration has been given to the following:

- Environmental Planning and Assessment Act, 1979;

- Pittwater Local Environmental Plan 2014;

- Pittwater 21 Development Control Plan 2014;

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

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

Architectural drawings including floor plans, elevations and sections have been prepared in relation to the development proposed. The application is also accompanied by a survey plan, shadow diagrams, traffic and parking impact assessment report, accessibility report, schedule of finishes, geotechnical report, concept drainage plans and a BASIX certificate.

The proposal is permissible and generally in conformity with the General, Development Type and Locality Specific Controls contained within Pittwater 21 Development Control Plan (P21DCP). The topography of the land coupled with the shop top housing definitional restrictions make strict compliance with the 8.5 m height control difficult whilst achieving the orderly and economic use and development of land. In this regard, the application relies on a clause 4.6 variation request building height with sufficient environmental planning grounds to justify the variation sought. The clause 4.6 variation request is well founded.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 79C of the Environmental Planning and Assessment Act, 1979 as amended. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent.

2.0 SITE DESCRIPTION, LOCALITY AND CONTEXT

The subject site is known as lot 92 DP 564686, 55 Kalang Road, Elanora Heights.

The site is a rectangular shaped block of 579.5m². It has a width of 14.465m and length of 39.625m. The topography of the site slopes down in an easterly direction towards the rear of the site.

The site is currently occupied by a 2 storey building with open parking area at the rear, accessed from Kalang Road. An aerial context image is included below.

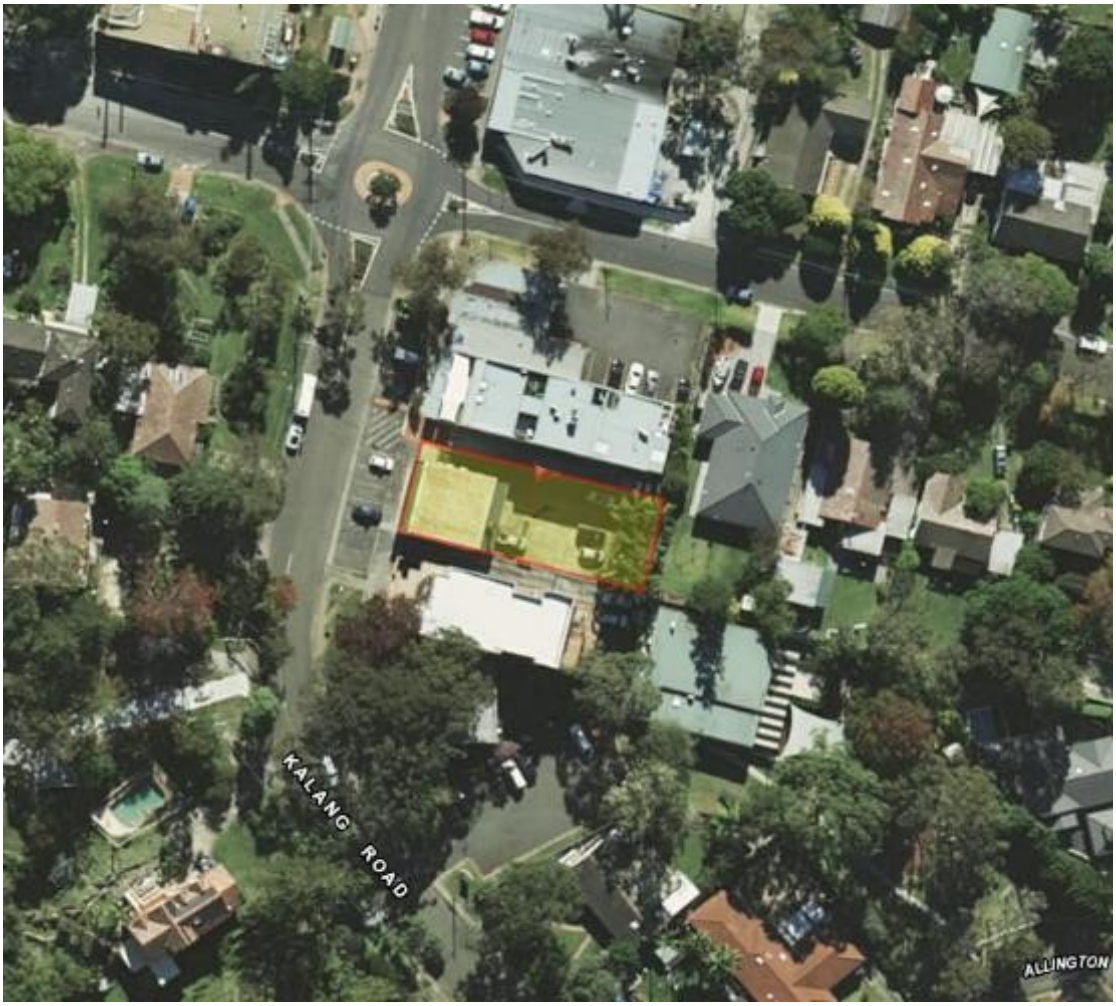


Figure 1 - aerial context (source sixmaps)

The property is located within the Kalang Road Neighbourhood Centre which is characterised by 1, 2 and 3 storey mixed use development with frontage to Kalang Road. The Elanora Locality is described as follows:

> *The subdivision of the Elanora Heights Estate in 1929, which included the Elanora Country Club, initiated development in the locality. Residential development increased from the 1950s with improved access to the area.*

Since this time, the locality has developed into a predominantly low-density residential area, with dwellings built along plateau and slopes. The locality is characterised mainly by one and two-storey dwelling houses on 700-950 square metre allotments (some smaller blocks may exist). To the west, rural residential dwellings occupy 2 hectare allotments. The residential areas are of a diverse style and architecture, a common thread being the landscaped, treed frontages and subdued external finishes.

The locality is serviced by neighbourhood retail centres at Kalang Road and the intersection of Elanora and Anana Roads. The locality also contains the Elanora Heights Primary School, community/youth centres, and recreational facilities including the Elanora Golf Course, squash courts, and several reserves.

The locality is characterised by a plateau, spur to the east, and steep slopes. Due to the topography, significant views can be obtained to the east (over Warriewood and the Narrabeen Lakes inlet), west (over Deep Creek and bushland beyond), and south (over Narrabeen Lakes). Conversely, the slopes and ridge tops of the locality are visually prominent.

Much of the natural vegetation has been removed and replaced with non-indigenous species, and significant amount of natural vegetation has been removed in areas adjoining open space to reduce the risks associated with bushfires. Much of the tree canopy around the escarpment has been retained.

The natural features of the locality result in a high risk of bushfire and landslip.

The major roads within the locality are Powderworks Road, Anana Road, Elanora Road and Kalang Road. Powderworks Road is a common through-route from the beaches to land further west. Several pedestrian links and pathways exist within the locality.

Both immediately adjoining properties are occupied by substantial 2/ 3 storey mixed use buildings with basement/ under croft style parking with no real prospect of achieving a consolidated outcome given the extent of development existing on these sites. Development within the balance of the centre includes a mixture of 1, 2 and 3 storey development as depicted in the following photographs.

Figure 2 – Subject property in centre of photo and the 2 immediately adjoining mixed use buildings

Figure 3 – 3 storey commercial and shop top housing development No's 50 – 54 Kalang Road

Figure 4 – 2/ 3 storey shop to housing development located on corner of Kalang Road and Powderworks Road.

Figure 5 – View looking south down Kalang Road from Powderworks Road intersection

3.0 DEVELOPMENT PROPOSAL

The proposals involve the construction of a new 3/ 4 storey shop top housing development comprising the following:

- Demolition of the existing building on the site;
- Basement level car parking and storage. The carparking is accessed via a new driveway down the northern boundary of the property;
- Level 1 contains a 196.8 square metre retail tenancy, an accessible WC and a waste storage area directly accessible from the Kalang Road frontage. A balcony with integrated privacy attenuation measures is located at the rear of the tenancy. A residential entry lobby is accessed from Kalang Road.
- Level 2 and 3 each contains 1 x 1 bedroom and 2 x 2 bedroom apartments with apartments 3 and 6 accessible. Each apartment has either a front or rear facing balcony accessed directly from the principal living area.

The proposal is depicted on architectural plans DA01 to DA12 prepared by RF Architects.

The modulated façade treatments and varied design elements provide a contemporary building with a high degree of visual interest whilst the proposed landscape treatments to the front and rear of the property as detailed on the accompanying plans prepared by Stone Rose Landscapes will soften and screen the development when viewed from the street and adjoining residential property.

The development is proposed to be drained in accordance with the accompanying plans prepared by ITM Design and Architectural plan DA12(A) with a small easement to be obtained over an adjoining property to facilitate access to a new easement over the Council owned land to enable the site to be drained to the existing Council stormwater pit and piped system located within the adjacent reserve. The creation of such easements is appropriately dealt with by way of a deferred commencement condition.

4.0 STATUTORY PLANNING FRAMEWORK

4.1 Pittwater Local Environmental Plan 2014

The subject property is zoned B2 Local Centre pursuant to the provisions of Pittwater Local Environmental Plan 2014 (PLEP 2014). The objectives of the zone are:

- *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;*
- *To encourage employment opportunities in accessible locations;*
- *To maximise public transport patronage and encourage walking and cycling;*
- *To provide healthy, attractive, vibrant and safe local centres;*
- *To strengthen the role of centres as places of employment;*
- *To provide an active day and evening economy;*
- *To provide for residential uses above street level, where they are compatible with the characteristics and uses of the site and its surroundings.*

Shop top housing is permitted with consent within the B2 zone. Such use is defined as follows:

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

The interpretation of this definition was dealt with in the matter of Hrsto v Canterbury City Council (No. 20 [2014] NSWLEWC 121 where Justice Sheahan adopted Council's submissions at paragraphs 33 – 36 of the judgement namely;

> *33. ..... a dwelling must be in the same building as the ground floor retail premises or business premises and on a floor of that building that is at a level higher than the top most part of the ground floor retail premises or business premises in order to be characterised as "shop top housing" as defined.*
>
> *34. Residential development that has a floor level that is lower than the top most part of ground floor retail premises or business premises could not be properly characterised as "shop top housing".*

> *35. The Respondent accepts that dwellings do not need to be directly or immediately above ground floor retail premises or business premises in order to be characterised as "shop top housing". If it was intended that "shop top housing" be limited to dwellings that are directly or immediately above ground floor retail premises or business premises it is expected that those words would have been included in the definition of the term 'shop top housing'.*
>
> *36. The Respondent contends that dwellings must be in the same building as the ground floor retail premises or business premises for the purposes of the term "shop top housing". However, the Respondent accepts that a broad interpretation of the word "above" in the definition should be given which would suggest that the dwellings need only be at a floor level that is higher than the top of the ground floor retail or business premises and do not need to be contained in an envelope on the higher floor level that would be intersected by a line drawn vertically from within the envelope of the ground floor retail or business premises.*

In this regard, all residential apartments are located entirely above the level of the permissible ground floor retail floor space below. As such we have formed the considered opinion that the proposed development is appropriately defined as shop top housing and permissible with consent.

Further, the proposal is consistent with the zone objectives as outlined as it will:

- *Provides a retail tenancy of a size and dimension capable of supporting a use that will serve the needs of people who live in, work in and visit the local area;*
- *Provides a retail tenancy of a size and dimension which will encourage employment opportunities in an accessible location;*
- *Contributes towards a healthy, attractive, vibrant and safe local centre;*
- *Contributes towards strengthening the role of centre as places of employment;*
- *Contributes towards providing an active day and evening economy;*
- *Provides for residential uses above street level which are compatible with the characteristics and uses of the site and its surroundings.*

As such there is no statutory impediment to the granting of consent.

4.1.1 Height of buildings

Pursuant to clause 4.3 of the PLEP the maximum height of building for this site is 11m. The development proposed a building height which breaches the 11m development standard towards the rear of the building as the site slopes down to the east.

Clause 4.6 of PLEP provides a mechanism by which a development standard can be varied. The objectives of this clause are:

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

Pursuant to clause 4.6(2) consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

This Clause applies to the Clause 4.3 Height of Buildings Development Standard.

Clause 4.6(3) states that consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

Clause 4.6(4) states consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

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

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

Clause 4.6(5) states that in deciding whether to grant concurrence, the Director-General must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
(b) the public benefit of maintaining the development standard, and
(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

Zone and Zone Objectives

The subject property is zoned B2 Local Centre and the stated objectives of the zone are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To provide healthy, attractive, vibrant and safe local centres.*
- *To strengthen the role of centres as places of employment.*
- *To provide an active day and evening economy.*
- *To provide for residential uses above street level where they are compatible with the characteristics and uses of the site and its surroundings.*

The proposal is consistent with the zone objectives as outlined as it will:

- *Provides a retail tenancy of a size and dimension capable of supporting a use that will serve the needs of people who live in, work in and visit the local area;*

- *Provides a retail tenancy of a size and dimension which will encourage employment opportunities in an accessible location;*

- *Contributes towards a healthy, attractive, vibrant and safe local centre;*

- *Contributes towards strengthening the role of centre as places of employment;*

- *Contributes towards providing an active day and evening economy;*
- *Provides for residential uses above street level which are compatible with the characteristics and uses of the site and its surroundings.*

Building Height Objectives

Having regard to the developments performance when assessed against the height of buildings objectives strict compliance has been found to be both unreasonable and unnecessary as follows:

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

Response: The height of the development with its 3 storey shop top housing presentation to Kalang Road and generous rear setback is consistent with the desired future character of locality as applied to this form of development.

The resultant building height is entirely consistent with that of adjoining development and mixed-use development generally within the Kalang Road neighbourhood precinct noting that compatibility can be achieved without having to replicate building height and form (Project Venture Developments v Pittwater Council (2005) NSW LEC 191)

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

Response: The resultant building height is entirely consistent with that of adjoining development and mixed-use development generally within the Kalang Road neighbourhood precinct noting that compatibility can be achieved without having to replicate building height and form (Project Venture Developments v Pittwater Council (2005) NSW LEC 191).

The building presentation to the street is compliant with the 11 metre height standard and entirely commensurate with the Court approved shop top housing development at No. 52 – 54 Kalang Road.

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191 we have formed the considered opinion that most observers would not find the proposed development, by virtue of its height offensive, jarring or unsympathetic having regard to the built form characteristics of development within the sites visual catchment.

(c) to minimise any overshadowing of neighbouring properties,

Response: It has been determined that the non-complaint portion of the building will not give rise to any unacceptable residential amenity impacts in terms of overshadowing, privacy or visual bulk.

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

Response: having inspected the site and its surrounds and identified potential view corridors across the site I have formed the considered opinion that the non-compliant portion of the building will not give rise to public or private view affectation.

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

Response: The building appropriately responds to topography with a stepped rear building presentation and no excessive levels of excavation. The non-compliance can be directly attributed to site topography and the difficulty given the definition of shop top housing to step the floor plates at the rear of the site.

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

Response: The area of non-compliance will not give rise to any natural environment or heritage consequences.

The development is consistent with these objectives and accordingly strict compliance with the development standard is both unreasonable and unnecessary in this instance for the following reasons:

Pursuant to Clause 4.6(3)(b) there is considered to be sufficient environmental planning grounds to justify contravening the building height standard namely the site topography and shop top housing definitional requirements which collectively make strict compliance difficult on this particular site whilst realising the orderly and economic use and development of the land.

Further, the proposal is consistent with the objectives of the Act given that it is of good design and provides for the orderly and economic use and development of the land.

Conclusions

Having regard to the clause 4.6 variation provisions of the PLEP, we have formed the opinion:

a) That the contextually responsive development is consistent with the zone objectives, and

b) that the contextually responsive development is consistent with the objectives of the height of buildings standard, and

c) that there are sufficient environmental planning grounds to justify contravening the development standard, and

d) that having regard to (a), (b) and (c) above that compliance with the building height development standard is unreasonable or unnecessary in the circumstances of the case, and

e) that given the developments compliance with the zone and building height standard objectives that approval would not be antipathetic to the public interest, and

f) that contravention of the development standard does not raise any matter of significance for State or regional environmental planning.
As such we have formed the highly considered opinion that there is no statutory or environmental planning impediment to the granting of a floor space ratio variation in this instance.

As such we have formed the highly considered opinion that there is no statutory or environmental planning impediment to the granting of a building height variation in this instance.

4.1.2 Essential Services

Pursuant to clause 6.12 of PLEP 2014 development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

(a) the supply of water,
(b) the supply of electricity,
(c) the disposal and management of sewage,
(d) stormwater drainage or on-site conservation,

(e) suitable vehicular access.

We confirm that essential services and access are available to the proposed development without the need for augmentation.

4.3 Pittwater 21 Development Control Plan

This policy document contains development controls for the design and construction of buildings and the development of land in Pittwater. The proposed development has been assessed against the relevant provisions of P21 DCP as outlined in the following sections of this report.

4.3.1 Elanora Heights Locality

The property is located within the Elanora Heights Locality. The desired future character of the locality described as:

> *The Elanora Heights locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancies will be located only on the plateau on land that has less tree canopy coverage, species and habitat diversity and fewer other constraints to development. Land in the vicinity of Caladenia Close and Dendrobium Crescent to the west will remain a low-density rural residential area due to the constraints and characteristics of the land, including steepness of slope, species and habitat diversity, and lack of infrastructure. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, community, and recreational facilities will serve the community.*
>
> *Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.*
>
> *Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with the development. Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development on non-urban zoned land shall maintain generous spatial separation of the built form and low site coverage on large lots. Development will be designed to be safe from hazards including landslip and bushfire.*
>
> *A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, and to enhance wildlife corridors.*

Heritage items and conservation areas indicative of the Guringai Aboriginal people and of early settlement in the locality will be conserved.

Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities.

As previously indicated the architect has responded to the client brief to provide for a shop top housing development of exceptional design quality which appropriately addresses the desired future character of the Elanora Heights Village Centre whilst maintaining the amenity to the surrounding residential properties. The development will not only provide a quality built form outcome on the site and greater housing choice in this particular locality but also enhance the commercial and retail viability of this local centre.

The design, scale and treatment of the proposed development is compatible with the area and with the vison outlined in the masterplan for the Elanora Heights Village Centre.

4.3.2 General Controls

Dwelling Density and Subdivision – Shop Top Housing

Pursuant to section B2.6 of P21DCP a minimum 25% of the Gross Floor Area (GFA) of the building shall be set aside for commercial/retail purposes. The commercial/retail component is to be calculated on the Gross Lettable Area (GLA). Shop top housing development may be strata subdivided.

The development proposes 196.8m² of retail/commercial space which equates to 29.2% of the total gross floor area being 672m². Such quantum is compliant with this control.

Contaminated Land and Potentially Contaminated Land

Pursuant to clause B3.6 Council shall not consent to the carrying out of any development on land unless it has considered the provisions of SEPP No. 55 – Remediation of Land (SEPP 55). In this regard, the likelihood of encountering contaminated soils on the subject site is extremely low given the following:

- The subject site and surrounding properties have not been previously used by any potentially contaminating land uses involving activities that may have posed the threat of contamination, i.e. the properties have not been used for the purposes listed under Table 1 of the contaminated land planning guidelines of SEPP 55.

- The subject site and surrounding land were not previously zoned to allow for any uses or activities listed in Table 1 of the contaminated land planning guidelines of SEPP 55.

- The subject site and surrounding land are not currently zoned to allow for any uses or activities listed in Table 1 of the contaminated land planning guidelines of SEPP 55.

- The subject site does not constitute land declared to be an investigation area by a declaration of force under Division 2 of Part 3 of the Contaminated Land Management Act 1997.

Given the above factors no further investigation of land contamination is warranted. The site is suitable in its present state for the proposed shop top housing development. Therefore, pursuant to the provisions of SEPP 55, Council can consent to the carrying out of development on the land.

Stormwater Management – Stormwater Drainage Easements (Public Stormwater Drainage System

The development is proposed to be drained in accordance with the accompanying plans prepared by ITM Design and Architectural plan DA12(A) with a small easement to be obtained over an adjoining property to facilitate access to a new easement over the Council owned land to enable the site to be drained to the existing Council stormwater pit and piped system located within the adjacent reserve. The creation of such easements is appropriately dealt with by way of a deferred commencement condition.

Off-street Vehicular Parking Requirements

Carparking is to be provided in accordance with the provisions of clause B6.6.

The application is accompanied by a Traffic and Parking Assessment Report prepared by Varga Traffic Planning which confirms:

Off-Street Parking Provisions

The off-street parking requirements applicable to the development proposal are specified in Council's *Pittwater 21 Development Control Plan 2011, Section B6 – Access and Parking* document in the following terms:

Multi-Unit Housing/Residential Flat Buildings/Shop Top Housing	
1 bedroom dwellings:	1 space per dwelling
2 bedroom dwellings:	2 spaces per dwelling
Visitors:	1 space per 3 dwellings

Application of the above parking requirements to the various components of the development proposal yields an off-street parking requirement of 19 parking spaces as set out below:

Residential (6 Apartments):	10 spaces
Visitors:	2 spaces
Retail Premises (197m²):	7 spaces
TOTAL:	**19 spaces**

The proposed development makes provision for a total of 19 car parking spaces, comprising 10 residential parking spaces (including 2 disabled spaces), 2 visitor parking spaces and 7 commercial spaces (including a disabled space), thereby satisfying Council's *DCP* requirements for the various components of the development proposal.

It is noted that 4 of the 7 commercial parking spaces are located in front of the building in the angle parking bay in Kalang Road. These spaces were allocated to the subject site as part of a 1972 land dedication.

The residential car parking spaces include the use of a *pit-style* car stacker which allows each car to be parked/retrieved independently without the need to move the other car. Specifications of the proposed car stacker are provided at Appendix A.

The geometric design layout of the proposed car parking facilities has been designed to comply with the relevant requirements specified in the Standards Australia publication *Parking Facilities Part 1 - Off-Street Car Parking AS2890.1* in respect of parking bay dimensions, overhead clearances, visibility splays and aisle widths.

A series of *swept turning path* diagrams of a B85 design vehicle entering/exiting all parking spaces have been prepared which are reproduced in the following pages, demonstrating that all vehicles will be able to enter and exit the site whilst travelling in a forward direction and maintaining sufficient clearances at all times.

In this regard, compliant off-street parking has been provided noting that the historical evidence at ANNEXURE 3 confirms that the land benefits from a credit of 4 on-street parking spaces which were provided by Council in exchange for the dedication of a strip of land at the front of the property.

Site Works Management

In accordance with Part B8 appropriate measures are to be undertaken to address the issues of construction and demolition impacts, erosion and sedimentation management, waste minimisation, site fencing and security, works in the public domain and traffic management where required.

The site being of adequate area and dimension does not impose any unusual construction or on-site material storage difficulties. The site works will be managed in accordance with the Protection of The Environment Operations Act 1997 with appropriate erosion and sedimentation control, construction fencing and air pollution controls being implemented. Appropriate traffic management procedures will be implemented where necessary.

4.3.4 Locality Specific Development Controls

The subject site is located in the Elanora Heights Locality. The developments performance against the relevant locality specific controls is discussed below.

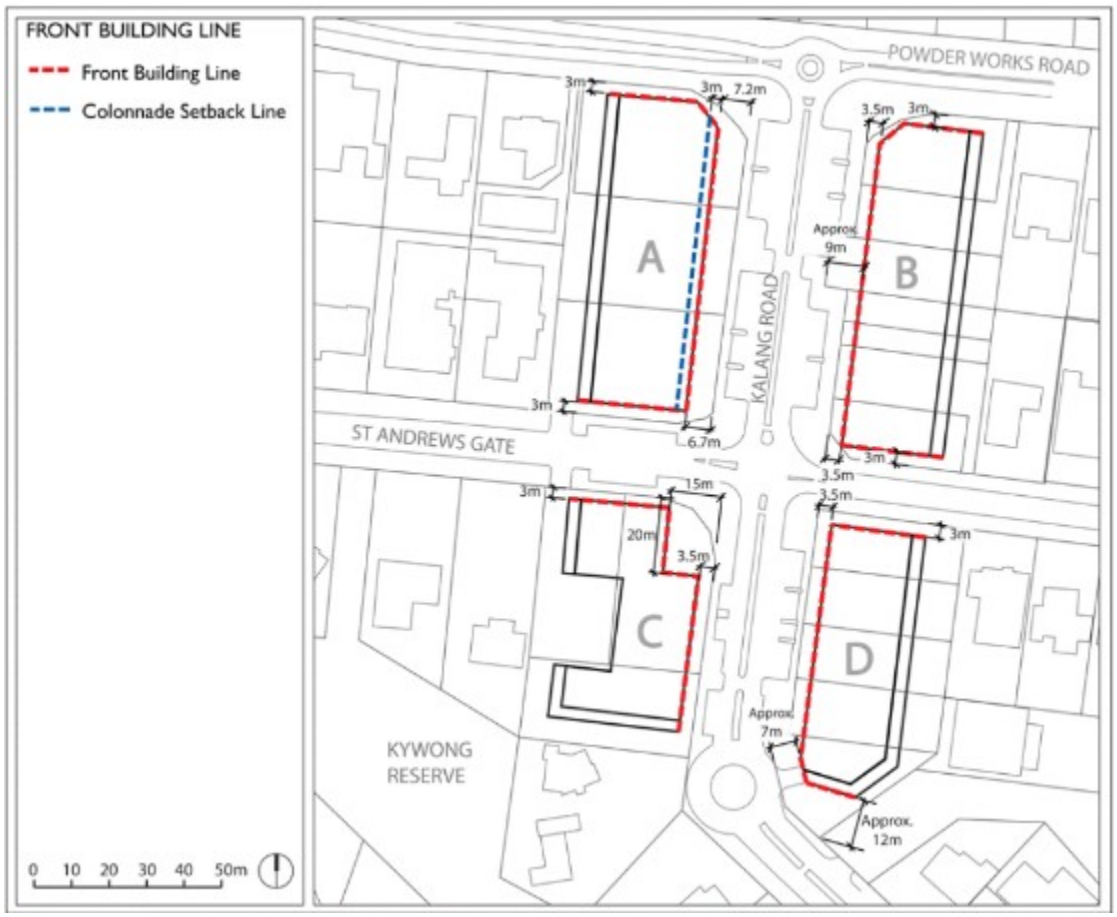
Amalgamation – Elanora Heights Village Centre

Pursuant to clause D5.15 the subject site is to be amalgamated with adjoining site where possible.

In this regard, given the form, scale, age and strata nature of the immediately adjoining properties there is no realistic prospect of amalgamation with either of the adjoining sites. The application documentation clearly indicates that this particular site is able to be developed as a stand-alone development site.

Front Building Line

Pursuant to clause D5.17 the minimum front building line shall be in accordance with the Front Building Line diagram, shown below.



The subject site is located in block D and has a control of 3.5m

The front building line proposed is 3.5m which is compliant with the control.

Side and Rear Setbacks

Pursuant to clause D5.18 the minimum rear setbacks to buildings and balconies to all blocks is to be 8 metres and nil to the side setbacks.

The development proposed a rear setback of 8m and nil setbacks to both side boundaries, compliant with the control.

Setbacks to Upper Levels

A minimum setback of 3 metres is to be provided to the third floor of any development on Block D.

The upper level of both façades is appropriately articulated with the use of a variety of materials creating a visually interesting built form that will complement the streetscape. Please refer to the additional commentary form the project Architect at ANNEXURE 1.

Separation

A minimum of 50% of the required distance are to be provided within the boundary of any development site. This requirement is based on the reasonable expectation that the remaining 50% will be provided on the adjoining property.

The required separation distances between buildings are:

- 12 metres between windows of habitable rooms/balconies;
- 9 metres between windows of habitable/balconies and non-habitable rooms; and
- 6 metres between windows of non-habitable rooms or blank walls.

The proposed development is adequately distanced from the adjoining buildings with driveway's adjacent to both side boundaries providing adequate separation. ADG compliant setbacks are maintained to the rear boundary.

Building Depth

The maximum depth of a residential apartment building within the Elanora Heights Village Centre is to be 18 metres excluding balconies.

The proposed development exceeds the 18m control but is considered appropriate given the 39.625m length of the site and its conformity with the building setbacks. Apartment depths satisfy the aims/ objectives of the ADG provisions. Please refer to the additional commentary form the project Architect at ANNEXURE 1.

Ceiling Height

The following floor to ceiling dimensions measured from finished floor level to the internal ceiling are required for new developments in Elanora Heights Village Centre:

- 3.3 metres minimum for ground floor to provide for retail/commercial use;
- 2.7 metres minimum for habitable rooms levels first floor and above;
- 2.4 metres minimum for non-habitable rooms; and
- In two storey units, minimum of 2.4 metres for upper floor if containing bedrooms and wet areas.

The development proposes 2.7m ceiling heights for the habitable rooms in the apartments and a 3.3 metre ceiling height to the retail tenancy in strict accordance with the control.

Design Excellence

Development consent must not be granted unless the consent authority is of the opinion that the proposed development exhibits design excellence.

In considering whether design excellence has been achieved, the consent authority must have regard to whether:

- A high standard of architectural design, materials and detailing appropriate to the building type, the Village Centre character and site location has been achieved;
- The form and external appearance of the development will improve the visual amenity of the Village; and
- The bulk, massing, footprint, positioning and modulation of the built form, enhance the village centre character and does not result in adverse impacts to the village or neighbouring residential properties.

The proposed development is of an exceptional architectural design and utilises materials of appropriate quality as detailed on the schedule of colours and materials provided in the architectural drawings. The proposed façade is modulated and visual interesting with carparking provided at basement level to be hidden from street view. The proposed built form will revitalise the existing local centre and give the area a modern and contemporary character. As previously stated in this report, the development will not give rise to any significant impacts to the amenity on the village or to neighbouring residences.

Façade Articulation

Facade design along Kalang Road is to enhance the village character with the use of compatible elements to the existing height, scale, frontage width, configuration of openings as well as colours and materials used.

The proposed façade will be articulated and use a variety of materials to create a visually interesting built form that will complement the streetscape. Please refer to the additional commentary form the project Architect at ANNEXURE 1.

Roof Forms

Preferred roof forms include skillion, low pitched, folded curved or 'floating' roof forms. Steeply pitched and flat roofs (other than green roofs) are not permitted along Kalang Road and St Andrews Gate.

A low pitched roof form is proposed.

Materials and colours

Pursuant to clause D5.26 and 5.27 materials and colours compliment and add to the contemporary village centre character. The use of textures, colours and different materials create visual interest and variation.

A schedule or materials and colours is provided in the architectural plans and they will complement the contemporary village centre

Active Frontages

Pursuant to clause D5.28 active and vibrant streetscapes contribute to a lively ground level for the village centre.

The street facing ground floor retail tenancy will provide an active street frontage to the village. Carparking will be provided on-street and at the rear basement level.

Entries

Pursuant to clause D5.29 where retail/commercial uses and residential dwellings are provided in the same development, separate entries are to be provided for the different uses. All entries to retail, commercial or residential uses are to be from Kalang Road.

Separate entries are proposed for the residential and commercial areas and are accessed from Kalang Road.

Awning

An awning is proposed at the front of the building to the ground level retail/commercial space. Please refer to the additional commentary form the project Architect at ANNEXURE 1.

Ecologically Sustainable Development Responsive Design

A BASIX report accompanies this application.

Landscaping

No planters are allowed at the front building facade (between the front boundary and any built structures) for shop top housing developments facing Kalang Road. Screening to adjacent residential uses shall be provided in the form of a minimum 1m wide planting strip along the edges of the rear laneway/driveways.

There are no planters proposed at the front building façade. Screen planting is provided adjacent to the rear setback.

Solar Access

The primary private open space for 70% of dwellings in any development is to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st. Windows to the principal living areas of 70% of units in any development are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st. Windows to the principal living area in adjoining dwelling also should receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.

The shadow diagrams provided with this application show that the each dwelling will receive compliant levels of solar access on June 21st. The rear neighbouring property will receive compliant levels of solar access to principal living and open space areas.

Visual Privacy

New development is to be designed to avoid the direct overlooking of adjoining residential private open space or living rooms. Balconies/terraces should incorporate privacy screens where necessary and should be located at the front or rear of the building. Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.

The proposed development will not adversely impact on the visual privacy of future occupants or surrounding development. The rear balcony areas will include privacy screens to minimise the risk of overlooking into the rear neighbours property. Screen planting is also provided adjacent to the rear setback to provide added protections to visual privacy. The building complies with all setback controls and as such there is adequate separation between surrounding properties. There is no risk to overlooking into private open space areas of apartments within the proposed development.

View Sharing

All new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.

It is considered that there will not be any significant impact to the existing view sharing regime give the topography of the land. The subject site is located on the low side of Kalang Road and slopes further down to the east.

Acoustic Privacy

Noise-sensitive rooms, such as bedrooms, should be located away from noise sources, including Kalang and Powder Works Roads, parking areas, living areas and retail tenancies where possible.

The majority of bedrooms are located away from noise sources.

Private Open Space

Dwellings are to be designed so that private open space is directly accessible from living areas enabling it to function as an extension of internal living areas. The dimension of private open space should be sufficient so that the area can be usable for recreational purposes with minimum area of 10 square metres and a minimum width of 2.4 metres.

The balconies provided are accessed directly from living areas. All the proposed balconies area greater than 10m² and 2.4m in length.

Natural Ventilation

Buildings are to maximise natural ventilation by providing dual aspect apartments and by positioning openings (windows and doors) to prevailing winds to encourage cross ventilation.

All apartments are dual aspect apartments.

Storage

All apartments will have compliant levels of storage as depicted on the plans.

Vehicle Access

The number of access driveways is to be minimised from Kalang Road except where indicated on the Vehicular Access diagram, shown over page.

The subject site is located in the middle of block D and, as is show on the map, access is allowed from Kalang Road for this site.

Laneway access and character

Due to the built form characteristics of both immediately adjoining properties there is no reasonable prospect of laneway access being provided along the eastern boundaries of these properties.

Off-street Parking Requirements

Car parking is to be located within the basement of any new development. The line of the basement car park shall fit generally within the building footprint with considerations given to optimising consolidated areas of deep soil. Security enclosed bicycle storage facilities must be provided within the building for Residential Development at the rate of 1 bicycle rack per 3 dwellings and as per Australian Standards *AS 2890.3: Bicycle Parking Facilities*. Residential parking areas need to be segregated from the commercial/retail parking areas to ensure safety of residents.

As mentioned in section 4.3.2 of this report, the proposed development has compliant levels of parking for both residents and commercial spaces. The basement level will also include the required number of bicycle racks as detailed with the accompanying report prepare by Varga Traffic Planning. The residential and commercial car spaces are segregated to ensure safety.

4.3.5 Pittwater 21 Development Control Plan - Compliance Table

Area 855.8m²	Control	Proposed	Compliance
General Controls			
Housing Density	Min 25% retail/commercial	29.2%	Yes
Carparking	10 residential 2 Visitor 7 commercial	10 residential 2 Visitor 7 commercial	Yes
Development Type Controls			
Solar Access	Min 3 hours	Compliant levels	Yes
Private Open Space	Min 10m²	All balcony areas < than 10m²	Yes
Accessibility	25% of units adaptable	Both 1 bedroom apartments are adaptable	Yes
Energy/ Water Conservation	BASIX Certificate	BASIX Certificate obtained	Yes
Storage	Min 8 cubic metres per unit	Exceeded for all units	Yes
Locality Specific Development Controls			
Front Building Line	3.5 metres	3.5 metre setback provided	Yes
Side and rear Boundary Setbacks	Nil setback to side boundary 8m to rear boundary	Nil setbacks proposed 8m rear setback	Yes Yes

4.4 State Environmental Planning Policy No. 55 - Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land.

Clause 7 of SEPP 55 requires Council to consider whether land is contaminated prior to granting consent to carrying out of any development on that land. In this regard, the likelihood of encountering contaminated soils on the subject site is extremely low given the following:

- The subject site and surrounding properties have not been previously used by any potentially contaminating land uses involving activities that may have posed the threat of contamination, i.e. the properties have not been used for the purposes listed under Table 1 of the contaminated land planning guidelines of SEPP 55.

- The subject site and surrounding land were not previously zoned to allow for any uses or activities listed in Table 1 of the contaminated land planning guidelines of SEPP 55.

- The subject site and surrounding land are not currently zoned to allow for any uses or activities listed in Table 1 of the contaminated land planning guidelines of SEPP 55.

- The subject site does not constitute land declared to be an investigation area by a declaration of force under Division 2 of Part 3 of the Contaminated Land Management Act 1997.

Given the above factors no further investigation of land contamination is warranted. The site is suitable in its present state for the proposed shop top housing development. Therefore, pursuant to the provisions of SEPP 55, Council can consent to the carrying out of development on the land.

Therefore, pursuant to the provisions of SEPP 55, Council can consent to the carrying out of development on the land.

4.5 State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) aims to improve the design quality of residential flat developments to provide sustainable housing in social and environmental terms that is a long-term asset to the community and presents a better built form within the streetscape.

It also aims to better provide for a range of residents, provide safety, amenity and satisfy ecologically sustainable development principles. In order to satisfy these aims the plan sets design principles in relation to context, scale, built form, density, resources, energy and water efficiency, landscaping, amenity, safety and security, social dimensions and aesthetics to improve the design quality of residential flat building in the State.

SEPP 65 applies to new residential flat buildings, the substantial redevelopment/refurbishment of existing residential flat buildings and conversion of an existing building to a residential flat building. Clause 4(1) of SEPP 65 This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

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

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

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

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

The proposed development is for the construction of a 3/4 storey mixed use development comprising 6 apartments and accordingly the provisions of SEPP 65 are applicable to the proposed development.

SEPP 65 requires any development application for residential apartment development to be assessed against the 9 Design Quality Principles contained within Schedule 1 of the SEPP. The proposal's acceptability when assessed against the design quality principles is detailed below.

Pursuant to clause 28(2)(c) of SEPP 65 in determining a development application for consent to carry out residential apartment development the consent authority is required to take into consideration the Apartment Design Guide (ADG). The required Architect Design Verification is at ANNEXURE 4 with an assessment of the development's performance when assessed against the ADG is at **ANNEXURE 5**.

Design Quality Principles

The proposed development satisfies the design principles as follows:

(i) Context and neighbour character

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

Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.

Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

The development is considered contextually appropriate for the following reasons:

- The final design outcome reflects a highly considered response to the constraints and opportunities identified through details site and contextual analysis and provides for a built form outcome compatible with development anticipated along this section of Kalang Road and the low density residential zoning to the rear. In this regard, development will be able to co-exist in harmony.

- The height of the development as it presents to Kalang Road is compliant with the building height standard with the non-compliance towards the rear of the site a direct consequence of the site topography.

- The building heights proposed will not result in any adverse impacts on the amenity of the adjoining residential area in terms of view loss, privacy loss or overshadowing.

- Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191 I have formed the considered opinion that most observers would not find the proposed development offensive, jarring or unsympathetic in a streetscape context.

Accordingly, it can be reasonably concluded that the proposal is compatible with its surroundings.

For the reasons given above the proposed development is considered to provide appropriate response to its context.

(ii) Built form and scale

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

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

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

The appropriateness of the building's height has been considered in detail previously in this statement. It is considered that the building's scale is appropriate to that of the street and the surrounding properties for the following reasons:

- The building is highly articulated and modulated in both the vertical and horizontal planes so that the apparent bulk and scale of the development is reduced.

- The scale of the building in terms of its three dimensional size will not be perceived as jarring or antipathetic in a streetscape and urban design context. In this regard, the scale of the development is considered appropriate.

- The scale of the development will not give rise to any adverse residential amenity impacts in terms of views, privacy or solar access.

(iii) Density

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

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

The density of the proposed development is considered reasonable for the following reasons:

- The density of the development acknowledges the sites highly desirable location relative to available public transport.

- The density does not give rise to any unacceptable impacts on the adjoining properties in terms of overshadowing, loss of privacy or visual impact.

- The proposal provides a compliant number of off-street car parking.

- A high level of amenity is provided for future occupants of the development.

- The proposal is consistent with the objectives of all relevant planning provisions which apply to the site.

- The proposal is consistent with the Department of Planning's Sydney's Metropolitan Strategy 'City of Cities' and the draft Subregional Strategy as it relates to the appropriate concentration of residential density.

(iv) Sustainability

Good design combines positive environmental, social and economic outcomes.

Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use

of sustainable materials and deep soil zones for groundwater recharge and vegetation.

The design provides for sustainable development, utilising passive solar design principles, thermal massing and achieves cross ventilation to a complying number of dwellings within the development. A BASIX Certificate accompanies this application which confirms that the residential component of the development will meet the NSW Government's requirements for sustainability.

(v) Landscaping

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

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

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

The application is accompanied by a landscape plan prepared in accordance with the DCP provisions which incorporates the provision of deep soil landscaping along the rear boundary to provide a vegetative buffer at the zone boundary interface.

The landscaping proposed will appropriately soften the building edges particularly as they present to the adjacent low density residential environment.

(vi) Amenity

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

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

A high level of amenity is provided for occupants of the development with the development providing generous apartment sizes and appropriate room dimensions and shapes, storage space, indoor and outdoor space and access for all age groups and degrees of mobility. The number of units with access to natural light and ventilation has also been maximised.

The spatial separation provided to the eastern boundary, and the design and location of open space balcony areas, ensure that reasonable levels of privacy are maintained to the adjacent residential properties.

(vii) Safety

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

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

The safety and security of the public domain is enhanced by increased street level activity and surveillance. The windows and balconies of units on each residential level will provide the opportunity for the causal surveillance of the adjacent public domain.

The proposed development has been design in accordance with Crime Prevention Through Environmental Design (CPTED) Principles.

The proposed development will significantly increase natural surveillance of the area outside of normal business hours through the introduction of residential dwellings on the site. The activation of the street frontages will also increase the sense of safety and security in the area. In this regard it is noted that:

- There are no large visual obstructions within parking areas and that the parking areas will be appropriately lit;
- There is a clear definition of territory and ownership between the public and private domains;
- Service corridors and other potential entrapment spots have been minimised and will be well lit; and
- The residential entry is provided directly off the street and are prominent to ensure legibility and good visibility.

(viii) Housing diversity and social interaction

The proposal provides the following unit mix:

2 x 1 bedroom with study apartments	(33.4%)
4 x 2 bedroom apartments	(66.6%)

The development also incorporates 2 adaptable units representing 33.3% of all apartments.

The unit mix and layout proposed will provide flexibility in terms of housing choice in this location. The apartments proposed provide an alternative to detached style housing within the locality. The location of the site and unit mix/design is considered to be appropriate for a broad cross section of the community as the subject site is within a strategic centre and is in close proximity to public transport and recreational opportunities.

For these reasons, it is considered that the development improves housing choice within the locality and therefore responds positively to the housing needs of the local community.

(xi) Aesthetics

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

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

Having regard to the design quality and aesthetics of the development we make the following comments:

- The development appropriately addresses the street frontage;
- The building facades are highly articulated containing recessed balcony elements and projecting roof elements ensuring that the building is visually stimulating and one which contributes positively to its immediate built form context;
- The development will afford superior levels of amenity to future occupants whilst maintaining appropriate and compliant levels of amenity to the immediately adjoining properties; and
- The development complies with the provisions of SEPP 65 – Design Quality of Residential Apartment Buildings and the design requirements of the Apartment Design Guide.

Accordingly, it can be demonstrated the development is of appropriate design quality and satisfies the controls and objectives of the architectural and design quality provisions of the DCP and the SEPP 65 Design Principles.

We also confirm that the development complies with the clause 30(a), (b) and (c) standards pertaining to car parking, internal area and ceiling heights and to that extent these matters cannot be used as grounds for refusal.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the residential component of the development and aims to encourage sustainable residential development.

A BASIX certificate accompanies the development application and demonstrates that the proposal achieves compliance with the BASIX water, energy and thermal efficiency targets.

4.7 Matters for Consideration Pursuant to Section 4.15(1) of the Environmental Planning and Assessment Act 1979 as amended

The following matters are to be taken into consideration when assessing an application pursuant to section 4.15(1) of the Environmental Planning and Assessment Act 1979 (as amended):

4.7.1 The provision of any planning instrument, draft environmental planning instrument, development control plan or regulations.

The proposal is permissible and generally in conformity with the General, Development Type and Locality Specific Controls contained within Pittwater 21 Development Control Plan. The proposal fully complies with the design principles contained within State Environmental Planning Policy No. 65 and the applicable provisions of the Apartment Design Code.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15(1) of the Environmental Planning and Assessment Act, 1979. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent.

4.7.2 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

Context and Setting

i) What is the relationship to the region and local context on terms of:

- *the scenic qualities and features of the landscape?*
- *the character and amenity of the locality and streetscape?*
- *the scale, bulk, height, mass, form, character, density and design of development in the locality?*
- *the previous and existing land uses and activities in the locality?*

The architect has responded to the client brief to provide for a shop top housing development of exceptional design quality. The development will not only provide a quality built form outcome on the site and provide greater housing choice in this particular locality but also ensure that the commercial and retail viability of this local centre is maintained.

ii) What are the potential impacts on adjacent properties in terms of:

- *relationship and compatibility of adjacent land uses?*
- *sunlight access (overshadowing)?*
- *visual and acoustic privacy?*
- *views and vistas?*
- *edge conditions such as boundary treatments and fencing?*

The proposed development incorporates appropriate design elements to ameliorate potential amenity impacts to adjoining properties. These issues have been discussed in detail in the body of this report.

Access, transport and traffic

Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:

- *travel demand?*
- *dependency on motor vehicles?*
- *traffic generation and the capacity of the local and arterial road network?*
- *public transport availability and use (including freight rail where relevant)?*
- *conflicts within and between transport modes?*
- *traffic management schemes?*
- *vehicular parking spaces?*

The proposed development provides appropriately for commercial, resident and visitor car parking and has good access to public transport.

Public domain

The landscape quality and accessibility within the public domain will be retained as a consequence of the works proposed. The proposed development will contribute positively to the public domain.

Utilities

Existing utility services will adequately service the development.

Flora and fauna

The application is accompanied by a landscape plan which details the proposed landscape regime for the entire site.

Waste

Normal domestic and commercial waste collection applies to this development.

Natural hazards

The site is not affected by any known hazards.

Economic impact in the locality

The proposed development will provide temporary employment through the construction phases and employment opportunities in the future ground floor commercial space.

Site design and internal design

i) Is the development design sensitive to environmental conditions and site attributes including:

- *size, shape and design of allotments?*
- *the proportion of site covered by buildings?*
- *the position of buildings?*
- *the size (bulk, height, mass), form, appearance and design of buildings?*
- *the amount, location, design, use and management of private and communal open space?*
- *landscaping?*

The impact of the proposal with respect to design and site planning is positive. The scheme is in accordance with the thrust of the planning regime and will result in a shop top housing development of exceptional design quality.

ii) How would the development affect the health and safety of the occupants in terms of:

- *lighting, ventilation and insulation?*
- *building fire risk – prevention and suppression/*
- *building materials and finishes?*
- *a common wall structure and design?*
- *access and facilities for the disabled?*
- *likely compliance with the Building Code of Australia?*

The proposed development will comply with the provisions of the Building Code of Australia as required by Clause 98 of the Environmental Planning and Assessment Regulation 2000. There will be no detrimental effects on the occupants through the building design which will achieve the relevant standards pertaining to health and safety.

Construction

i) What would be the impacts of construction activities in terms of:

- *the environmental planning issues listed above?*
- *site safety?*

The development will be carried out in accordance with the provisions of the Protection of the Environment Operations Act 1997. Normal site safety measures and procedures will ensure that no site safety or environmental impacts will arise during construction.

4.7.3 The suitability of the site for the development.

Does the proposal fit in the locality?

- *are the constraints posed by adjacent developments prohibitive?*
- *would development lead to unmanageable transport demands and are there adequate transport facilities in the area?*
- *are utilities and services available to the site adequate for the development?*

The adjacent development does not impose any insurmountable development constraints. The site is well located with regards to utility services and public transport. The will be no excessive levels of transport demand created.

Are the site attributes conducive to development?

The site has no special physical or engineering constraints and is suitable for the proposed development.

4.7.4 Any submissions received in accordance with this Act or the regulations.

It is envisaged that any submissions made in relation to the proposed development will be appropriately assessed by Council.

4.7.5 The public interest.

The architect has responded to the client brief to provide for a mixed use development of exceptional design quality which provides for an appropriate contextual fit whilst maintaining acceptable levels of amenity to adjoining and nearby residential properties. Careful consideration has also been given to ensuring that the development responds appropriately to its immediate built form context in terms of setbacks, design and streetscape presentation.

It is considered that the public interest is best served in providing certainty in the planning process through encouraging development of good design that satisfies the outcomes and controls contained within the adopted legislative framework. Accordingly, approval of the development would be in the public interest.

5.0 CONCLUSION

The proposal is permissible and generally in conformity with the General, Development Type and Locality Specific Controls contained within Pittwater 21 Development Control Plan (P21DCP). The topography of the land coupled with the shop top housing definitional restrictions makes strict compliance with the 8.5 m height control difficult whilst achieving the orderly and economic use and development of land. In this regard, the application relies on a clause 4.6 variation request building height with sufficient environmental planning grounds to justify the variation sought. The clause 4.6 variation request is well founded.

The following conclusions are made in relation to the development proposal:

- The development is consistent with the desired future character of the Elanora Heights Locality in the form of the shop top housing;
- The proposed development will not result in any unreasonable impacts on the amenity of surrounding development;
- The proposed development will not result in any environmental impacts.

It is considered that the public interest is best served in providing certainty in the planning process through encouraging development of good design that satisfies the outcomes and controls contained within the adopted legislative framework.

Having given due consideration to the relevant considerations pursuant to 4.15(1) of the Environmental Planning & Assessment Act 1979 (as amended) it has been demonstrated that the proposed development is appropriate for approval.

BOSTON BLYTH FLEMING TOWN PLANNERS

Greg Boston

ANNEXURE 1

Project Architect response to issues raise in relation to DA2018/0142

55 Kalang Rd Elanora Heights – Shop Top Housing Development

Response to Northern Beaches Council Reasons for Refusal of Previous DA and Steps Taken to Address this issues in the Revised DA

28th February 2019

1. AMALGAMATION, DRIVEWAY ACCESS AND ROW's	
a) The Elanora Heights Village Centre Masterplan identifies a preferred amalgamation pattern which would see the subject site developed in conjunction with either the two sites to the north or the two sites to the south.	It is clear that the Master Plan will not be able to be implemented in full in the foreseeable future (the existing buildings on either side of the site are relatively new and not likely to be re developed any time in the foreseeable future). We do not believe it is realistic for Council to require that the neighbouring sites be amalgamated as both neighbouring building are relatively new and are subject to Strata Title with numerous owners making consensus on re development virtually impossible
b) The current proposal is unable to achieve the outcomes of the aims of the Masterplan whilst it is reliant upon the existing duplicated driveway access to Kalang Road.	We do not believe it is a viable proposition to extinguish the existing ROW's and for a new ROW / laneway be constructed along the rear of all the existing properties.as it would require site amalgamation and the demolition or partial demolition of existing neighbouring building along that portion of Kalang Road to form a new laneway at the rear.(see also 1(a) above) In order to achieve the laneway at the rear as proposed in the Master Plan the whole block from St Andrews Gate to the cul-de-sac to the south including No's 53, 55, 57, and 59 Kalang Road would need to be developed in unison. In any case the revised DA makes provision for the future laneway at the rear.(see also 5(b) below) should re development of the whole block eventually occur.
c) The site is reliant upon a ROW and shared access arrangement on the driveway of the site to the north at 57 Kalang Road. However, whilst legally benefitting from a ROW on the subject site, 57 Kalang Road does not appear to actually rely upon the ROW and driveway on the subject site, as the driveway and ROW at 57 Kalang Road is of sufficient width to provide suitable and safe access on its own. With this in mind, there appears to be an option to seek to relinquish the ROW that burdens the subject site, or at least reduce it to the area where it may actually be necessary, to avoid excessive driveway access onto Kalang Road.	Council's comments about the neighbour's driveway 'being usable in isolation' is not necessarily correct. It is our belief that the number of traffic movements generated by both developments would benefit by a 2 way driveway with a minimum of 6.5m wide. Each driveway in isolation would not comply with the Australian Standard for a two way driveway– both ROW together (6.7m) does comply with the requirements for a two way driveway
e) With the ROW retained for the full length of the site, the design is unable to be supported noting that the clearance height of the works above the driveway, outward opening doorways, canopy trees and the bollard associated with shared zone adjacent to the parking space for people with disabilities will unreasonably restrict access along the ROW and driveway.	• The ROW arrangement has not changed from the previous DA submission. The Delivery Bay is located at the end of the ROW which is clear of the manoeuvring areas of other vehicles exiting and entering the carparks of No57 or No55 • It is noted that the clearance above the driveway is 3m which is adequate for small delivery vans there are no outward opening doors onto the ROW, no bollards associated with the disabled parking spaces nor does the ROW conflict with the 'tree canopy' of trees proposed in the 2m wide landscaped strip at the rear of the site.
f) Sufficient evidence needs to be provided to confirm that either of the preferred amalgamation patterns prescribed by the Masterplan cannot be achieved.	See Item 1(a) above
2. HEIGHT AND REAR UPPER FLOOR SETBACK	
a) Portions of the proposed development exceed the 11m building height development standard, in an area where the proposal also fails to comply with the upper level setbacks. .	We do not believe that the Master Plan has taken into account the typography of the sites along the eastern side of Kalang Road. It is clear that the site falls away steeply from Kalang Road While the 11m height plane is adequate for a building of 3 stories on a flat site a problem occurs when the site slopes away steeply from the front street boundary as is the case with the subject site. Because of the precedent set by the LEC case (HRSTO v Canterbury Council) the building cannot be stepped back down the site to follow the topography. It follows that the roof along the rear of the site will breach the height control plan.

	A clause 4.6 submission has been provided in reference to the maximum height of the proposed development. NOTE; the roof height at the front (Kalang Road elevation is 1.1m UNDER the 11m height control and the Roof height at the rear is 1.1m OVER the height control I the roof is height is averaged it is 11m
b) As proposed, the development does not provide an appropriate transition at the rear of the building	The rear of the building now fully complies with **Pittwater 21 DCP D5.19 SETBACKS TO UPPER LEVELS – ELANORA HEIGHTS VILLAGE CENTRE**
3. FRONT UPPER FLOOR SETBACK	
a) Non-compliance with the upper level front articulation zone.	**Pittwater DCP21 (definitions 1.9) ARTICULATED ZONE** states that; *The partially buildable area that extends in front of the front façade of a building to allow for modulation and articulation to occur on the front elevation (and, in the case of corner allotments, the side elevation). This may include an entry portico, projecting balconies/roof elements or other architectural features to provide visual interest to the building. No habitable floor space is permitted within the articulation zone. The articulation zone should not be more than 25% of the total length of the front elevation so that it does not visually dominate the vertical plane of the front façade of the building. Any stepping of the front wall in relation to the front boundary must occur at or behind the minimum front building line and not within the articulation zone.* The revised DA has dealt with the Articulation Zone in accordance with the definition contained in the DCP; • The articulated zone proposed is 25% of the total length of the front elevation • No habitable floor space is located within the Articulated Zone • The stepping of the front wall occurs behind the setback (3.5m building line) but not in the portion identified as the Articulated Zone
b) Non-compliance the 18m maximum building depth.	• The distance between the front Articulation Zone and the rear Articulation Zone (which is effectively the depth of the residential portion of the building as depicted **in (Section B:B through Elanora Heights Village Centre PW21DCP)** is 19m • The depth of the residential portion of the building is a function if the depth of the site and the setbacks as stipulated in the DCP. • The **ADG (2E Building Depth)** *Building depth is defined as the overall cross section dimension of a building envelope.* • The max 'cross sectional dimension' of the building is 14.63m and the depth as per the DCP sectional diagram is 19m. The 14.63m width (cross sectional dimension) is compliant and the proposed 19m length is not excessive.
c) Individual units are not cross-ventilated.	All units in the revised DA can be considered cross ventilated.
d) Units have depths that exceed the design criteria of the ADG.	• The **ADG (4B Natural Ventilation)** stipulates that the overall depth of a cross- through apartment measured glass line to glass line does not exceed 18m No unit in the revised DA exceeds this requirement • The **ADG (4D Apartment Size and Layout)** stipulates that combined living, dining and kitchens should not exceed 8m from a window All units in the revised DA comply with this requirement.
4. ONE BEDROOM APARTMENTS (APT 3 AND APT 6)	
a) Council does not support the classification of apartments 3 and 6 as 1 bedroom apartments.	Units 3 and 6 have been reconfigured so that the study could no longer be classed as a potential bedroom
b) Reliance upon the narrow courtyard/light-well as the primary source of light and ventilation is inconsistent with the ADG.	The court yard in the original DA proposal has been deleted. All habitable rooms in the revised DA have windows of an area not less than 10% of the floor space of the room.

5. PARKING	
a) Reliance upon the existing four on-street parking is not supported.	The Owner has provided documental evidence that in 1972 -1973 a process took place between the then owner Mr SC Papandrea and Warringah Shire Council where a 20 foot (6.02m) deep strip of land the full width of the site (14.63m) was dedicated to Council free of charge for parking in exchange for a BA approval which took into account 4 car parking spaces in that dedicated land. (See separate statement of evidence) It is proposed that the development has a valid claim to use the 4 car spaces on Kalang Road in the car parking calculations consistent with the original agreement with Council
b) The four retail parking spaces will be eliminated if the rear laneway is achieved.	If in the unlikely event the laneway is achieved 1 car plus the delivery bay will be lost The parking can be rearranged to accommodate the lost space by utilising the redundant ROW The Delivery Bay can be moved to the top of the driveway off Kalang Road
c) Identifying apartments 3 and 6 as 2 bedroom unit's results in the proposal demonstrating a shortfall of 2 residential parking spaces.	The car parking provided in the revised DA is as follows; • 2 x 1 bed units @ 1 space / unit = 2 spaces • 4 x 2 bed units @ 2 spaces / unit = 8 spaces • 1 visitor spaces / 3 units = 2 spaces • 209m2 retail space @ 1 car space / 30m2 = 7 spaces • TOTAL space required = 19 -- Space Provided = 19 • 3 x disabled spaces have been provided (1 retail and 1 each for accessible units 3 and 6 • The car parking is now fully compliant (see also Traffic Engineers Report)
d) The shared zones adjacent to adaptable spaces and the space for people with a disability do not comply with AS2890.6.	• The comment is no longer applicable • The car parking layout has been re designed
e) A column unreasonably restricts the driveway aisle and access to Retail 1.	• The comment is no longer applicable • The car parking layout has been re designed
f) The proposal fails to make provision for garbage collection, removalist vans, emergency vehicles, and delivery vehicles.	• The waste room for both retail and residential has been relocated to the ground floor within 6.5m of the front boundary so garbage collection vehicles no longer need to access the basement level • It is not realistic to be required to allow for a removal van in a development of this size as they are up to 4.2m high—a small van is 2.3m high and can be accommodated in the courier bay. • Emergency vehicles would not normally enter the basement of a building. Fire engines would park on the street as would ambulances. • A Delivery / Courier Bay has been located at the bottom of the ROW at the rear of the site which is adequate for small delivery vehicles • Entry and exit from the Delevery Bay is demonstrated by the Swept Path Analysis drawings
g) Reliance upon car stackers is not supported in such a confined and congested parking area and without a designated waiting bay.	• The basement car parking level has been re-arranged. The proposed changes allow for better manoeuvrability within the isles. A turning bay has been provided at the end of the aisle at the western end. • The car stackers proposed are of the 'pit' type stacker which allow either car to be accessed without the need to move the other car, (see attached example) • Car stackers of the type proposed are an accepted way of providing residential parking • No waiting bay is required for the car stackers because each pair of vertical stackers are allocated to a single unit – waiting times for stacker to be available is negligible.
h) The design of the parking arrangement is reliant upon four point turns to exit certain spaces.	• The comment is no longer applicable • The car parking layout has been re designed • Swept Path analysis drawings have been provided.
6. SPATIAL SEPARATION	

a) With nil setbacks to walls and balconies on the side boundaries, the proposal fails to achieve necessary spatial separation between buildings.	• In regard to the side boundary's **PW 21 DCP D5.18** stipulates a nil side bundary setback to the site which is what is proposed, The **ADG 3F-1** deals with building separation and is silent on nil side boundary setbacks so does not apply.
b) The proposal contains large expanses of unarticulated walls that will be visible from both the public domain and adjoining properties, further refinement of the northern and southern facades is required	• The North Façade abutting the joint ROW with No 57 is extensively articulated with a portion of the upper floors cantilevered over the ROW • The base (retail floor) is delineated from the upper floors by being clad in a darker metal cladding • Windows facing the ROW and No 57 are screened with aluminium louvres • The South Façade is articulated with two deep recesses with windows and glass block walls • The base (retail floor) on the south elevation is delineated from the upper floors by being clad in a darker metal cladding matching the north facade • Both the north and south façade are modulated with a combination of materials, finish and physical articulation that provides visual interest when viewed from the public space (Kalang Road) and the neighbouring properties. • The elevational treatment of the north and south facades are designed so they can be built up against in the event that either neighbouring properties are re developed to nil setback in the future
7. VISUAL PRIVACY, SOLAR ACCESS AND NATURAL VENTILATION	
a) Concern is raised with regard to the nil side setbacks of the balconies of Apartments 2 and 4, and the visual privacy and amenity impacts upon existing apartments to the north.	Privacy to and from the balconies of units 2 and 5 by the use of vertical louvre screens that are angled to allow solar access but prohibit viewing from the balconies to No57 Kalang Road (see Elevations and perspective views)
b) Concern is also raised in regards to the limited amount of cross ventilated apartments, with only 2 of the 6 apartments designed to achieve natural cross ventilation.	All 6 units have cross ventilation in the revised DA
8. WASTE MANAGEMENT	
a) Both the residential and commercial waste rooms are required to be located within 6.5m from the front property boundary.	Residential and commercial waste rooms have been relocated to be within 6.5m of the front property boundary with access from Kalang Road
9. STORMWATER MANAGEMENT	
a) The application is reliant upon a drainage easement over adjoining downstream properties however no legal right to drain over these properties has been demonstrated.	Legal advice has been sought and is as follows; *In regard to the subject DA – if consent was to issue from Council the necessity for the drainage easement could be a Deferred Commencement condition of consent. I have had at least 3 development consents for clients through Northern Beaches Council (old Pittwater) where consent was granted with a deferred commencement condition that required the registration of the easement to drain water within 2 years in order for the consent to become operative. My matters have been Court appeals where the easement to drain water was then created by Court Order pursuant to section 40 of the Land & Environment Court Act. If the deferred commencement condition is attached to a Council granted consent then the easement can be created by negotiation with the downstream owner (compensation payable of course) or pursuant to section 88K of the Conveyancing Act NSW through the Supreme Court.*
10. OTHER MATTERS	
a) The stairway from the basement to the street is not supported within the front setback.	The stairway within the from building line from the basement to the street level has been deleted – the alternative exit from the basement is now via the entrance driveway which has an average gradient of 1:8
b) The plans do not provide adequate detail in relation to the location and division of storage areas, plant equipment and air-conditioning units.	• 6 storage cages (each 1 bed unit has allocated 6m3 and each 2 bed unit has allocated 8m3 storage cages in the basement. • A plant area has been located over the driveway on Level 1. The plant area will screened

	with aluminium louvres and treat with appropriate acoustic insulation.
c) The front awning is too low	The front awning has been raised to correspond to the ceiling height of the retail floor (3.3m)
d) Separate commercial/residential access is not provided.	• The retail area will primarily entered via the street frontage • The residential entry is via a security door and passage from the front of the ground floor • A secondary entry from the lift and stair lobby is via a dedicated internal lobby.
c) Parapet roofs and flat roofs are not preferred	The flat roof has been proposed in order to reduce the overall height of the building to the minimum. A small parapet has been proposed in order to provide a consistent roof line. Modulation to the roofline where it presents to Kalang Road is achieved by a frame over the balcony which is lower than the main parapet height
d) The ground floor ceiling height is too low.	The Drawings have been amended to raise the awning to 3.3m to correspond with the ceiling height in the retail area

ANNEXURE 2

Owners consent from Strata Plan No. 78488 for works within existing ROW

3 August 2018

To the owners
Owners Corporation Strata Plan No. 78488
57 Kalang Road
ELANORA HEIGHTS NSW 2101

Dear Sirs

RE: PROPOSED DEVELOPMENT AT
PROPERTY: 55 KALANG ROAD, ELANORA HEIGHTS

We write to you with respect to the shared Right Of Way (ROW) between our adjoining properties (see attached survey, proposed plans and sections).

You will note that we are proposing to construct part of an underground car park under our side of the ROW towards Kalang Road and partially build over our side of the ROW to the rear of the site.

The underground construction is consistent with your underground car park and ramp, which is located within your side of the ROW. We propose to maintain a minimum 2.3m minimum clearance over our side of the ROW which is consistent with the Australian Standards for car park clearance.

We stress that all construction will occur on our side of the boundary (55 Kalang Road).

On completion both driveways will be the same level and, as such, residents of your site (57 Kalang Road) will have reciprocal rights of use over our side of the ROW.

Your written agreement to the above would be very much appreciated.

Kind Regards
Aristides and Anna Cabrera
and
Anthony and Tania Papandrea

Agreed by:- Representatives of Strata 78488
with approval of Units 1-4.
Secretary of Strata:- 78488 John Favaloro - UNIT 4, 57 KALANG
Chairperson of Strata:- 78488 Pamela Watts
August 14, 2018 UNIT 1, 57 KALANG

ANNEXURE 3

Historical evidence in support of on-street parking

rf architects

55 Kalang Street Parking Supporting Evidence

The Owner has provided documental evidence that in 1972 -1973 a process took place between the then owner Mr SC Papandrea and Warringah Shire Council where a 20 foot (6.02m) deep strip of land the full width of the site (14.63m) was dedicated to Council free of charge for parking in exchange for a BA approval which took into account 4 car parking spaces in that dedicated land.

The letter and memo of the 8-3-73 and 12-3-73 (below and attached) clearly indicate that 4 car spaces calculated to be accommodated in the dedicated land on Kalang Road where to be included in the car parking calculations for the then Building Application the site.

The following documents are tendered as proof of the above claim;

A. 28-03-1972
Hand written internal Council note from Assist Town Planner to Health & Building dept to *"obtain a dedication of a 20 foot strip of land at front of property as a condition of the Building Approval at no cost to the council".*
"Approval to be held in pending awaiting dedication 07-04-1972"

B. 28-03-1972
Letter from Council to Mr Papandrea requiring the dedication with form 16 attached.

C. 28-07-1972
Copy of Form 16 signed by owners regarding the dedication for parking purposes.

D. **A797/72 Amended Plans & Elevations**
Drawing noting *"20 foot dedication strip for parking"* drawn on site plan. Faint but still visible

E. **8-3-73 Letter to Owner from Council**

Letter stating that the street parking that resulted from the 20 ft dedication to Council would be included in the parking being counted in the 10 cars parking spaces required to be provided

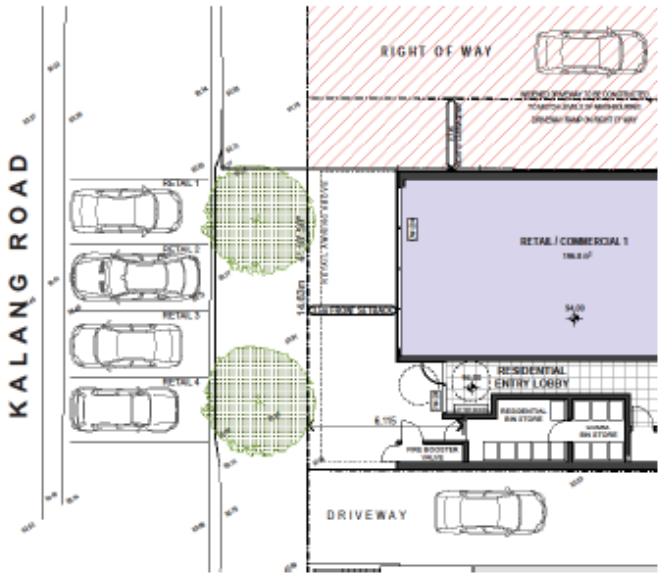
F. **12-3-73 TP Memo Internal**

TP Memo stating that 6 cars are to be provided on site (this including the 4 cars in the dedicated part of the site add up to the total 10 car parking spaces required

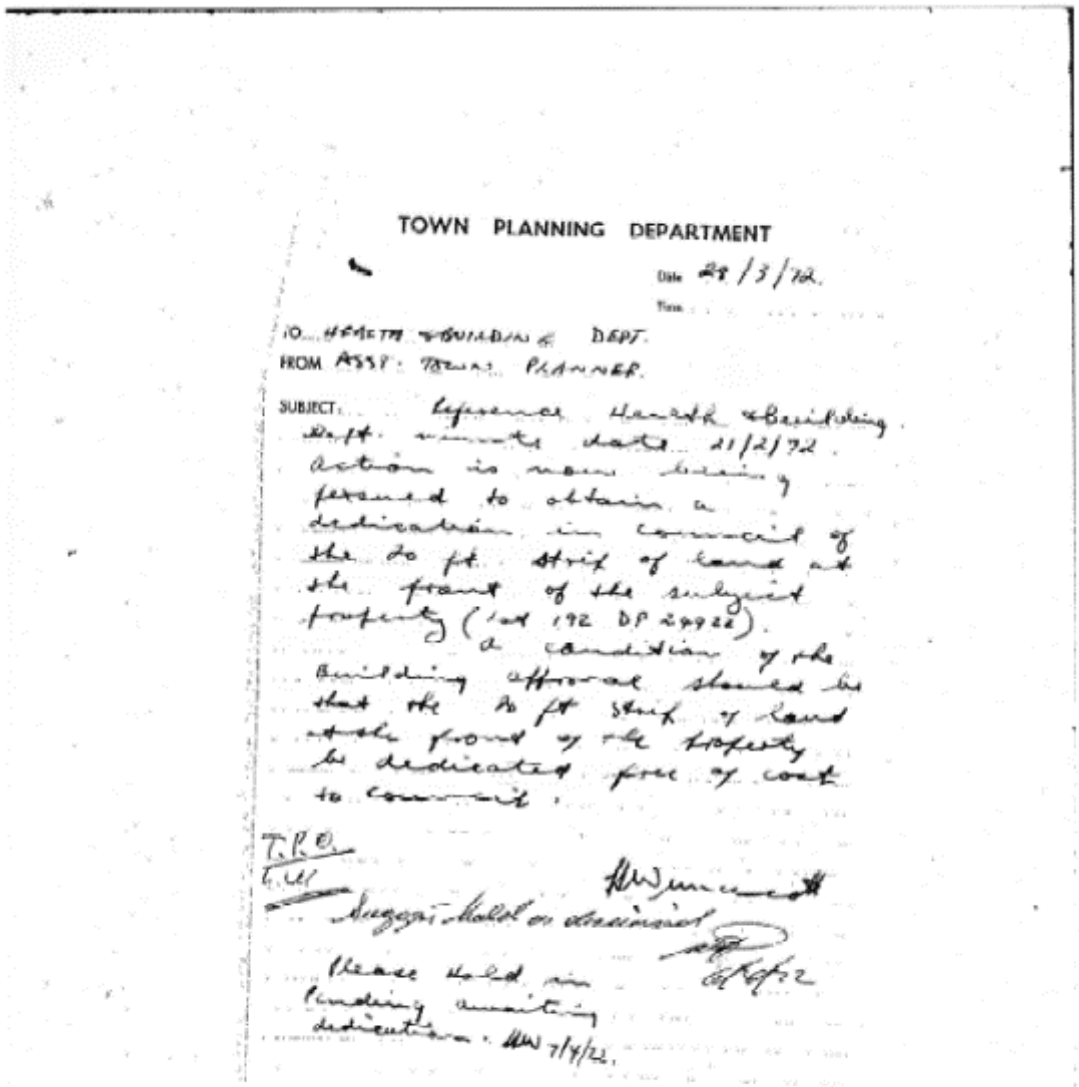
MEMBER THE ROYAL AUSTRALIAN INSTITUTE OF ARCHITECTS
RAY FITZ-GIBBON & ASSOCIATES PTY LTD STUDIO 26 90 MONA VALE ROAD MONA VALE NSW 2103 AUSTRALIA
PRINCIPAL (Nominated Architect) Ray Fitz-Gibbon Reg Architect 5718 ASSOCIATE David Morgan B Arc
ABN 49 837 275 979 PH 612 9979 7311 PH 612 9979 7344 FX 612 9979 7388 EMAIL ray@rfarch.com.au

G. 18-06-1973
Town Planning Dept memo
"As Dedication forms have now been returned to Council dedication please arrange for the Engineers Dept to be notified so that survey & dedication action may be commenced"

Proposed street front below showing 4 spaces & driveway access.



RAY FITZ-GIBBON
Chartered Architect 5718 RAIA



TOWN PLANNING DEPARTMENT

Date 29/3/72.

Time

TO HEALTH & BUILDING DEPT.

FROM ASST. TOWN PLANNER.

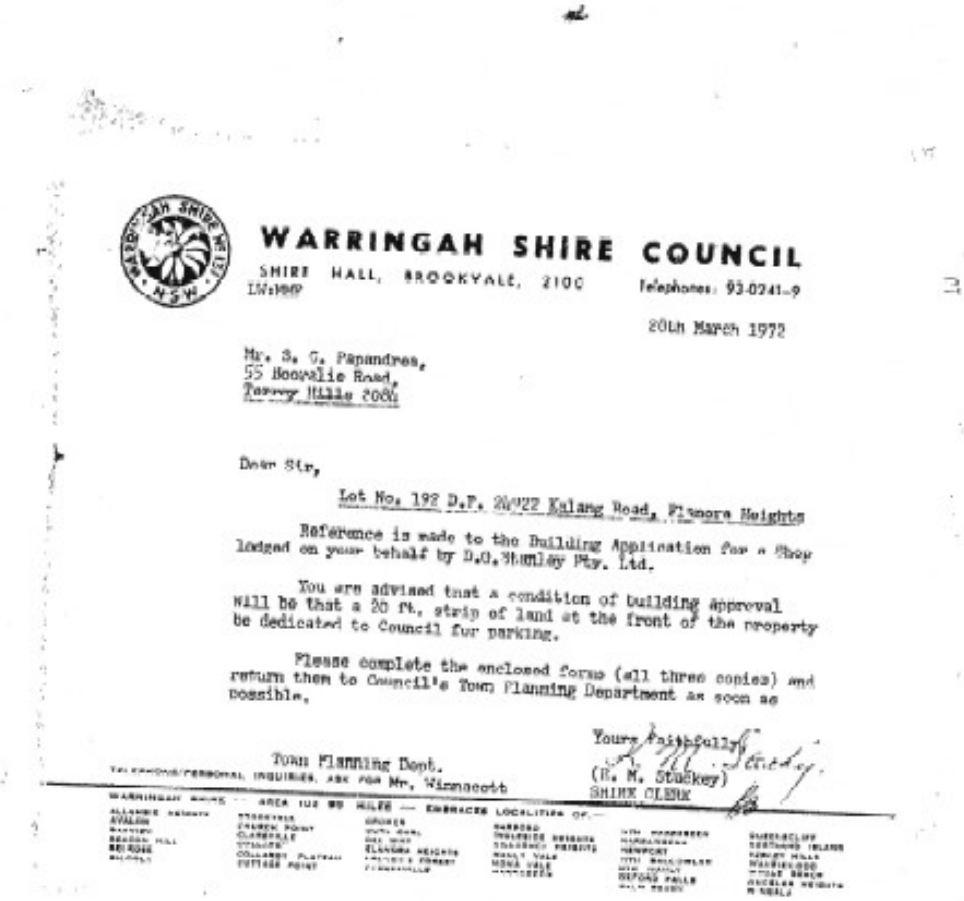
SUBJECT: Reference Health & Building Dept. minutes dated 21/2/72. Action is now being pursued to obtain a dedication in council of the 20 ft. strip of land at the front of the subject property (Lot 192 DP 249422). A condition of the Building approval should be that the 20 ft strip of land at the front of the property be dedicated free of cost to council.

T.P.O.

T.M.

Suggest hold on dedication

Please hold in pending awaiting dedication. MW 7/4/72.



WARRINGAH SHIRE COUNCIL

SHIRE HALL, BROOKVALE, 2100 Telephones: 93-0241-9

LW:MMP

20th March 1972

Mr. S. G. Papandreas,
55 Boowalie Road,
Terrey Hills 2084

Dear Sir,

Lot No. 192 D.P. 20922 Kalang Road, Elanora Heights

Reference is made to the Building Application for a Shop lodged on your behalf by D.G. Stanley Pty. Ltd.

You are advised that a condition of building Approval will be that a 20 ft. strip of land at the front of the property be dedicated to Council for parking.

Please complete the enclosed forms (all three copies) and return them to Council's Town Planning Department as soon as possible.

Yours faithfully,
(R. M. Stuckey)
SHIRE CLERK

Town Planning Dept.
TELEPHONE/PERSONAL INQUIRIES, ASK FOR Mr. Winnacott

WARRINGAH SHIRE — AREA 112 SQ MILES — EMBRACES LOCALITIES OF:—

UNDERTAKING FORM 16

THIS DEED made between me.....(full names) of the registered proprietor(s)(for myself and my executors administrators and assigns) of.....
.....(residential address) and THE COUNCIL OF THE SHIRE OF WARRINGAH whereby I UNDERTAKE to dedicate to the Council for...
ALL THAT piece of land being.....
.....
.....
(sufficient description to identify the land to be dedicated)
and at the request of the Council to comply with the following requirements:-

1. To sign the statement with regard to dedication endorsed on the plan of subdivision.
2. To arrange production of the relevant Certificate(s) of Title at the Registrar General's Office or to lodge same with the Council's Solicitor to permit the plan to be registered and the usual notification to be placed on the title.
3. To use my best endeavours to obtain the consent of the Mortgagee (if any) to the dedication.

AND I ACKNOWLEDGE that I am aware that the proposed dedication will result in the Council acquiring the title for.....

THIS UNDERTAKING IS SUBJECT TO THE FOLLOWING CONDITIONS:

(i) The plan of subdivision to be prepared by the Council at its own expense.

(ii) All legal expenses to be paid by the Council.

(iii) Such kerbing and guttering and/or paving as is already in existence to be re-constructed by the Council without expense to myself.

DATED this 10th day of M. C. [illegible], 197[illegible].

SIGNED SEALED AND DELIVERED in the presence of:

J. Palenberg

A Justice of the Peace.

NOTE: This Undertaking must be signed by each of the registered proprietors of the subject land (if more than one) and in the case of a Company it must be executed under Seal.

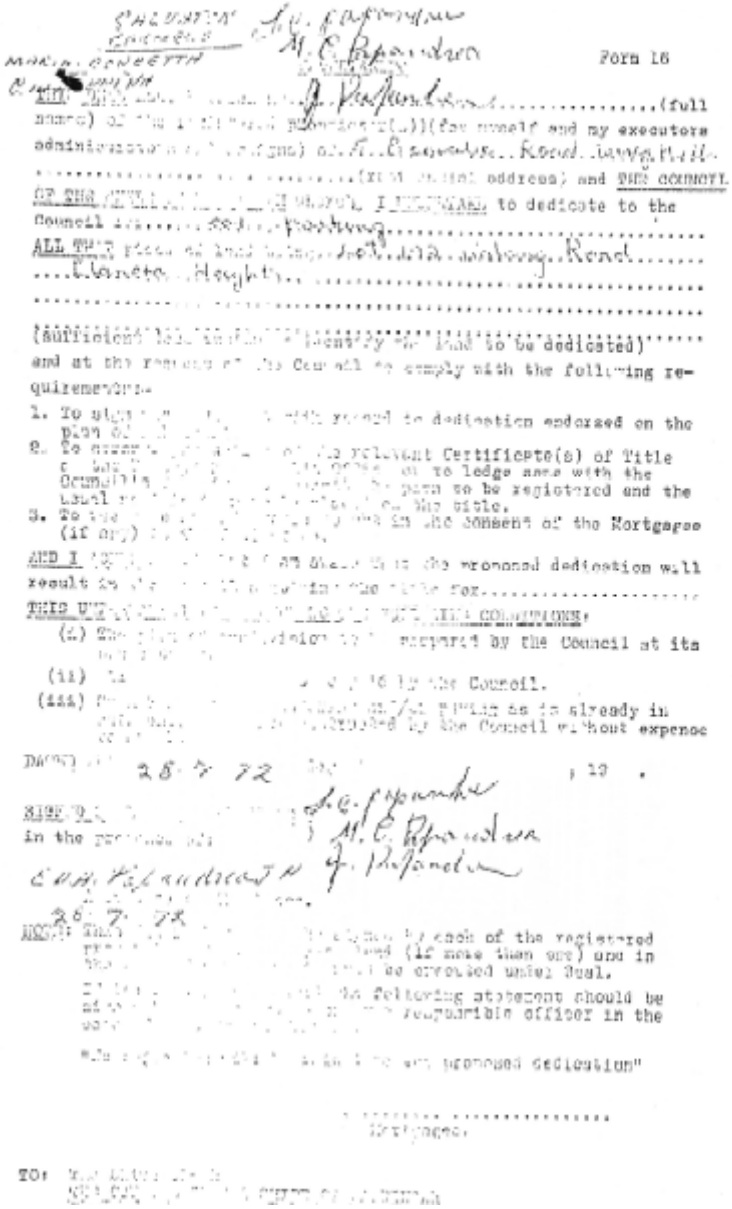
If the land is mortgaged the following statement should be signed by the Mortgagee or by a responsible officer in the case of a Mortgagee Company.

"No objection will be raised to the proposed dedication"

.....
Mortgagee.

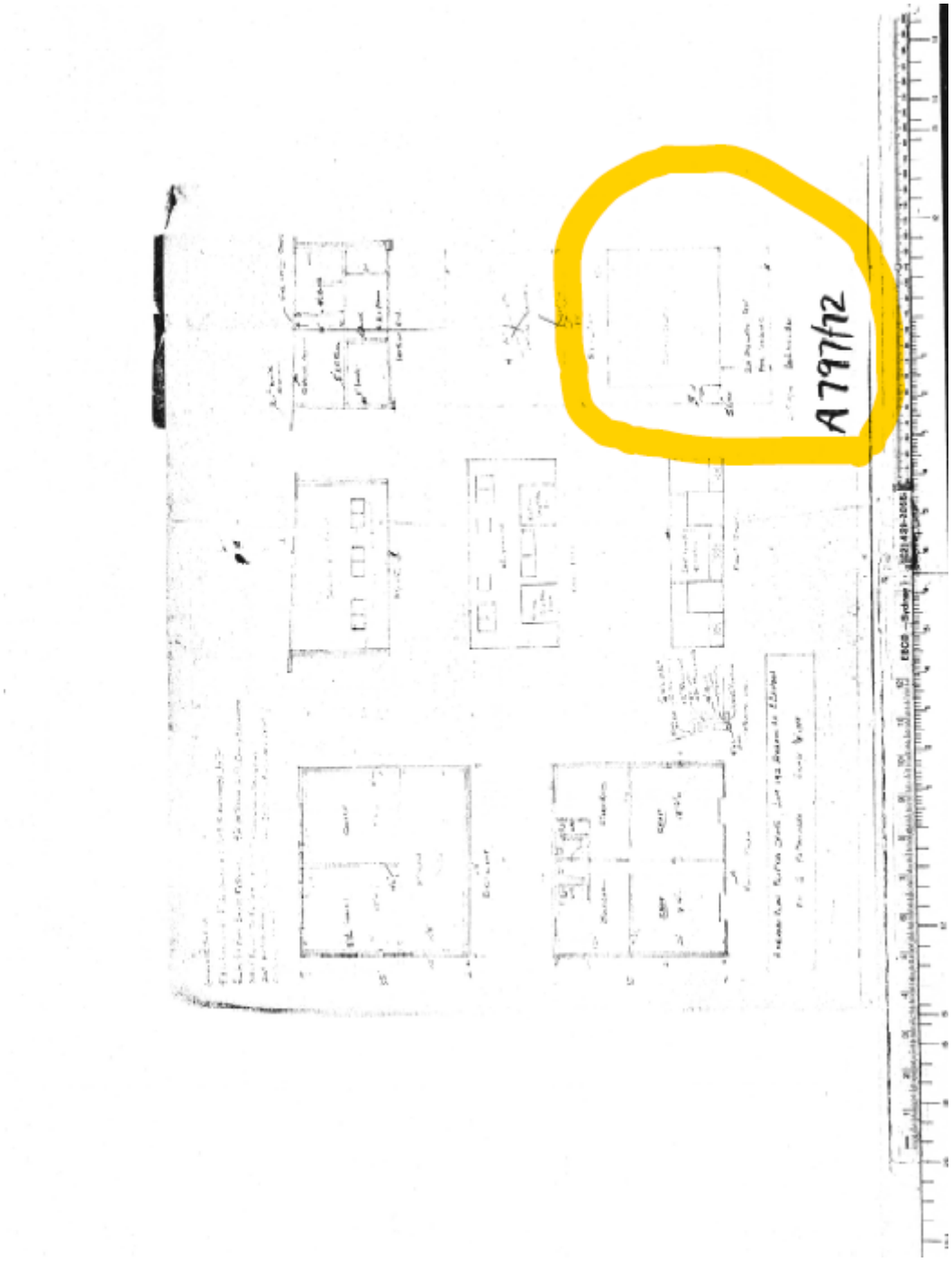
TO: The Shire Clerk
THE COUNCIL OF THE SHIRE OF WARRINGAH
Council Chambers,
BROOKVALE.

Original & duplicate [illegible]



Form 16

28.7.72


A 797/12

AC:SG

8th March, 1973

Mr. S. C. Papandrea.
55 Scoralie Road,
TARREY HILLS. N.S.W.....2084

Dear Sir,

Re: Office Additions at Lot 192 Kalang Road, Elanora.

In reference to your Building Application for the above you are advised that before the plans can be further processed you will be required to submit details of how the ten (10) car parking spaces the shop requires are to be accommodated.

You are reminded that spaces provided in the 20ft. dedication are included. Spaces must meet Council's minimum requirements and a payment of $1,000 per space can be made if the spaces cannot be provided on site.

Yours faithfully,

(R.M. Stuckey),
SHIRE CLERK.

TOWN PLANNING DEPARTMENT

Date ....

Time ....

TO .... File

FROM .... R.H.

SUBJECT: Re: Lot 192 Kalang [?] Road

Discussion with the builder Councillor F. Heckman [?]. re letter to owner 8.3.73.

The additional 6 car parking spaces required of above those provided in 20' dedication will be located at the rear along the southern boundary as shown on plan.

No T.P. Objections subject to
(1) the retention of 2 substantial trees on the property, and provision of additional 6 car parking spaces as shown

[signature]
12-3-73

TOWN PLANNING DEPARTMENT

Date 15·6·73

Time

TO V.H.

FROM L.S.W.

SUBJECT: As dedication forms have been returned to Council, please arrange for the Engineers Dept. to be notified so that survey & dedication action may be commenced.

[illegible]

H&B
Please attach to relevant building appln.
VH 11/7/73

FILE

A797/72
ATTACHED

ANNEXURE 4
SEPP 65 Architect Design Verification

rf architects

3rd April 2019

Re. 55 Kalang Road, Elanora Heights NSW

Development Application

Verification of Architectural Qualifications:

Ray Fitz-gibbon is the director of Ray Fitz-gibbon Architects Pty Ltd and has led the design of this project from inception. He holds current registration as an Architect in New South Wales – Reg no. 5718.

Statement of Design:

Ray Fitz-gibbon Architects Pty Ltd are responsible for the design of this project and have worked with highly qualified consultants to provide this development proposal. In developing the design the controls and requirements of Pittwater LEP 2014 and Pittwater 21 DCP 2014 have been taken into consideration.

The project has been designed to provide a development that is respectful of the local environment and neighbours and which complies with the design principles of SEPP 65 and the objectives of Parts 3 and 4 of the Apartment Design Guide.

Ray Fitz-gibbon Architects verify that the design quality principles set out in State Environmental Planning Policy No. 65 –Design quality of Residential Apartment Development are achieved for the proposed development as detailed in the following report.

Ray Fitz- Gibbon
Nominated Architect 5718
Ray Fitz-Gibbon & Associates PL

MEMBER THE ROYAL AUSTRALIAN INSTITUTE OF ARCHITECTS

RAY FITZ-GIBBON & ASSOCIATES PTY LTD STUDIO 26 90 MONA VALE ROAD MONA VALE NSW 2103 AUSTRALIA
PRINCIPAL (Nominated Architect) Ray Fitz-Gibbon Reg Architect 5718 ACCOCIATE David Morgan B Arch
ABN 49 837 275 979 PH 612 9979 7311 PH 612 9979 7344 EMAIL ray@rfarch.com.au WEB www.rfarch.com.au

ANNEXURE 5
Apartment Design Guide Compliance Table

APARTMENT DESIGN GUIDE COMPLIANCE TABLE				
	OBJECTIVE & DESIGN CRITERIA	**DESIGN CRITERIA**	**PROPOSED**	**COMMENT**
Part 3, Siting the Development				
Site Analysis	**Objective 3A-1** Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationships to the surrounding context		Complies	Refer to Site Analysis Plan. Orientation to maximize solar access and northern orientation.
Orientation	**Objective 3B-1** Building types and layouts respond to the streetscape and site while optimising solar access within the development		Complies	Building appropriately addresses street frontage.
	Objective 3B-2 Overshadowing of neighbouring properties is minimised during mid winter		Complies A minimum of 2 hours of solar access will be maintained to the principle living room windows and adjacent private open space areas of all adjoining properties between 9am and 3pm on 21st June.	Refer accompanying shadow diagrams.
Public Domain Interface	**Objective 3C-1** Transition between private and public domain is achieved without compromising safety and security		Complies	Building entrances clearly marked and public/ private domain interface appropriately defined.
	Objective 3C-2 Amenity of the public domain is retained and enhanced		Complies	Significant visual streetscape and landscaping improvements.
Communal and Public Open Space	**Objective 3D-1** An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping	**1.** Appropriate communal open space areas provided within the front setback area given the sites location directly opposite the Manly Beach Reserve and the substantial size of private open space areas. **2.** Development achieves 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	Complies Complies	Non provided. Considered appropriate given small scale of development.

	Objective 3D-2 Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting		Complies	-
	Objective 3D-3 Communal open space is designed to maximise safety		Complies	-
	Objective 3D-4 Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood		Complies	-
Deep Soil Zones	**Objective 3E-1** Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality	7% site area deep soil zone minimum dimension 3 metres.	Complies	2 metre deep soil zoned provided along rear boundary. This is considered appropriate given zoning of the land.
Privacy	**Objective 3F-1** Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal privacy.	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear are as follows: Up to 12m (4 storeys): Habitable Rooms and Balconies: 6m Non-habitable rooms: 3m	Complies. Nil setbacks in B1 zone anticipated. No however satisfy objective.	
	Objective 3F-2 Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.		Complies	-
Pedestrian Access and Entries	**Objective 3G-1** Building entries and pedestrian access connects to and addresses the public domain		Complies	The development provides a clearly identifiable entry and identity to the building.
	Objective 3G-2 Access, entries and pathways are accessible and easy to identify		Complies	Refer to Access Report and Landscape Plan
	Objective 3G-3 Large sites provide pedestrian links for access to streets and connection to destinations		n/a	-
Vehicle Access	**Objective 3H-1** Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.		Complies	New vehicular driveway from Kalang Road.
Bicycle and Car Parking	**Objective 3J-1** Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas	For development in the following locations:	Complies	Compliant resident and visitor parking provided as indicated in the accompanying traffic and parking report.

		• on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or • on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less The car parking needs for a development must be provided off street.		
	Objective 3J-2 Parking and facilities are provided for other modes of transport		Complies	The required quantum of bicycle parking is provided.
	Objective 3J-3 Car parking design and access is safe and secure		Complies	Refer to Traffic Impact Statement.
	Objective 3J-4 Visual and environmental impacts of underground car parking are minimised		Complies	Refer to Geotechnical Investigation Report for matters regarding environmental impacts
	Objective 3J-5 Visual and environmental impacts of on-grade car parking are minimised		Complies	N/A
	Objective 3J-6 Visual and environmental impacts of above ground enclosed car parking are minimized		Complies	-

Part 4, Designing the Building				
Solar and Daylight Access	**Objective 4A-1** To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space	**1.** Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas **2.** In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter **3.** A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter	Complies	6 of 6 (100%) apartments receive 2 hours of solar access between 9am and 3pm. Refer to solar access report.
	Objective 4A-2 Daylight access is maximised where sunlight is limited		Complies	-
	Objective 4A-3 Design incorporates shading and glare control, particularly for warmer months		Complies	-
Natural Ventilation	**Objective 4B-1** All habitable rooms are naturally ventilated		Complies	-
	Objective 4B-2 The layout and design of single aspect apartments maximises natural ventilation		n/a	-
	Objective 4B-3 The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents	**1.** At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed **2.** Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	Complies	6 of 6 (100%) of apartments are naturally cross ventilated.

Ceiling Heights	**Objective 4C-1** Ceiling height achieves sufficient natural ventilation and daylight access	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Habitable rooms: 2.7m Non-habitable: 2.4m For 2 storey apartments: 2.7m for main living area floor / 2.4m for second floor where its area does not exceed 50% of the apartment area	Complies	All ceiling heights min 2.7m
	Objective 4C-2 Ceiling height increases the sense of space in apartments and provides for well proportioned rooms		Complies	-
	Objective 4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building		Noted	
Apartment Size and Layout	**Objective 4D-1** The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity	**1.** Apartments are required to have the following minimum internal areas: Studio – 35m2 1 bedroom – 50m2 2 bedroom – 70m2 3 bedroom – 90m2 The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m2 each **2.** 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	Complies	-
	Objective 4D-1 Environmental performance of the apartment is maximised	**1.** Habitable room depths are limited to a maximum of 2.5 x the ceiling height **2.** In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Complies Complies	-
	Objective 4D-3 Apartment layouts are designed to accommodate a variety of household activities and needs	**1.** Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space)	Complies	Bedrooms dimensions are all at least 3m excluding wardrobes,

		2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space) **3.** . Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments **4.** The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Complies Complies n/a	living rooms are all over 4m wide.
Private Open Space and Balconies	**Objective 4E-1** Apartments provide appropriately sized private open space and balconies to enhance residential amenity	**1.** All apartments are required to have primary balconies as follows: Studio - min. area, 4m2 / depth - 1 Bed. - min. area, 8m2 / depth, 2m 2 Bed - min. area, 10m2 / depth, 2m 3 Bed - min. area, 12m2 / depth, 2.4m **2.** 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 15m2 and a minimum depth of 3m	Minor variation to depth of 3 bedroom apartments.	All balconies are of compliant size and dimension.
	Objective 4E-2 Primary private open space and balconies are appropriately located to enhance liveability for residents		Complies	All private open space is accessed directly from the principle habitable room.
	Objective 4E-3 Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building		Complies	Balconies and terraces contribute to the overall building design and form.
	Objective 4E-4 Private open space and balcony design maximises safety		Complies	-
Common Circulation Spaces	**Objective 4F-1** Common circulation spaces achieve good amenity and properly service the number of apartments	**1.** The maximum number of apartments off a circulation core on a single level is eight	Complies	-

		2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40		
	Objective 4F-2 Common circulation spaces promote safety and provide for social interaction between residents		Complies	-
Storage	**Objective 4G-1** Adequate, well designed storage is provided in each apartment	**1.** In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: Studio - 4m3 storage volume 1 Bed. - 6m3 storage volume 2 Bed - 8m3 storage volume 3+ Bed - 10m3 storage volume At least 50% of the required storage is to be located within the apartment	Complies Complies	Appropriate storage is available in each apartment and within the basement storage cages.
	Objective 4G-2 Additional storage is conveniently located, accessible and nominated for individual apartments		Complies	-
Acoustic Privacy	**Objective 4H-1** Noise transfer is minimised through the siting of buildings and building layout		Complies	-
	Objective 4H-2 Noise impacts are mitigated within apartments through layout and acoustic treatments		Complies	Subject to appropriate conditions
Noise and Pollution	**Objective 4J-1** In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings		Complies	Subject to appropriate conditions
	Objective 4J-2 Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission		Complies	Subject to appropriate conditions
Apartment Mix	**Objective 4K-1** A range of apartment types and sizes is provided to cater for different household types now and into the future		Complies	An appropriate mix is proposed.
	Objective 4K-2 The apartment mix is distributed to suitable locations within the building		Complies	-
	Objective 4L-1 Street frontage activity is maximised where ground floor apartments are located		N/A	

Ground Floor Apartments	**Objective 4L-2** Design of ground floor apartments delivers amenity and safety for residents		N/A	
Facades	**Objective 4M-1** Building facades provide visual interest along the street while respecting the character of the local area		Complies	
	Objective 4M-2 Building functions are expressed by the facade		Complies	
Roof Design	**Objective 4N-1** Roof treatments are integrated into the building design and positively respond to the street		Complies	The roof is integrated into the building design.
	Objective 4N-2 Opportunities to use roof space for residential accommodation and open space are maximised		N/A	
	Objective 4N-3 Roof design incorporates sustainability features		Complies	-
Landscape Design	**Objective 4O-1** Landscape design is viable and sustainable		Complies	Refer to Landscape Plan and BASIX submitted with the Application.
	Objective 4O-2 Landscape design contributes to the streetscape and amenity		Complies	Refer to photomontage and Landscape Plan submitted with the Application.
Planting on Structures	**Objective 4P-1** Appropriate soil profiles are provided		Complies	Refer to Landscape Plan submitted with the Application.
	Objective 4P-2 Plant growth is optimised with appropriate selection and maintenance		Complies	Refer to Landscape Plan submitted with the Application.
	Objective 4P-3 Planting on structures contributes to the quality and amenity of communal and public open spaces		Complies	-
Universal Design	**Objective 4Q-1** Universal design features are included in apartment design to promote flexible housing for all community members		Complies	Refer to Access Report submitted with the Application.
	Objective 4Q-2 A variety of apartments with adaptable designs are provided		Complies	Refer to Access Report submitted with the Application.
	Objective 4Q-3 Apartment layouts are flexible and accommodate a range of lifestyle needs		Complies	Refer to Access Report submitted with the Application.

Adaptive Reuse	**Objective 4R-1** New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place		n/a	-
	Objective 4R-2 Adapted buildings provide residential amenity while not precluding future adaptive reuse		n/a	-
Mixed Use	**Objective 4S-1** Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement		Complies	-
	Objective 4S-2 Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents		Complies	-
Awnings and Signage	**Objective 4T-1** Awnings are well located and complement and integrate with the building design		Complies	-
	Objective 4T-2 Signage responds to the context and desired streetscape character		n/a	-
Energy Efficiency	**Objective 4U-1** Development incorporates passive environmental design		Complies	All habitable rooms receive good natural light, highly efficient appliances are to be provided to all units, solid concrete floors and masonry wall construction provide thermal mass, overhanging roofs shade the units and sea breezes will minimise reliance on air conditioning.
	Objective 4U-2 Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer		Complies	Refer to BASIX Report submitted with the Application
	Objective 4U-3 Adequate natural ventilation minimises the need for mechanical ventilation		Complies	All apartments are naturally ventilated.
Water Management and Conservation	**Objective 4V-1** Potable water use is minimised		Complies	
	Objective 4V-2 Urban stormwater is treated on site before being discharged to receiving waters		Complies	

	Objective 4V-3 Flood management systems are integrated into site design		N/A	N/A
Waste Management	**Objective 4W-1** Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents		Complies	An easily accessible bin store is provided at ground level.
	Objective 4W-2 Domestic waste is minimised by providing safe and convenient source separation and recycling		Complies	As above.
Building Maintenance	**Objective 4X-1** Building design detail provides protection from weathering		Complies	-
	Objective 4X-2 Systems and access enable ease of maintenance		Complies	-
	Objective 4X-3 Material selection reduces ongoing maintenance costs		Complies	-