

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/1089
----------------------------	-------------

Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 1 DP 951859, 1289 Pittwater Road NARRABEEN NSW 2101
Proposed Development:	Alterations and additions to a dwelling house to create a residential flat building comprising of three (3) units.
Zoning:	Warringah LEP2011 - Land zoned R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Applicant:	Rapid Plans Pty Ltd

Application Lodged:	14/08/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	22/08/2024 to 05/09/2024
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 940,500.00
---------------------------------	---------------

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for alterations to an existing building that is occupied by a mixed use development that contains a dwelling and professional consulting rooms to create a two storey residential flat building. The existing dwelling is located at the rear of the building, while the existing professional consulting rooms are located at the front of the building.

The works proposed under this application include:

- Retention of the existing building footprint including closing off external door and window openings and provision of new doors and windows on the ground floor.

- Internal alterations to the existing building to provide a two bedroom apartment within the location of the existing professional consulting rooms. This would result in two apartments on the ground floor, one being a two bedroom apartment (Unit 1) and one being a three bedroom apartment (Unit 2) (which is the existing dwelling).
- Construction of a first floor addition to provide a three bedroom apartment (Unit 3) (the study is considered a bedroom) that occupies the entire first floor. Unit 3 would be accessed by a separate access lobby on the ground floor, which explicitly provides access to Unit 3.
- Removal of an existing single-car carport and use the existing 4 car perpendicular car parking spaces (which were approved under Land Use Consent No. 89/461) as car parking for the residential flat building.
- Removal of redundant concrete hardstand along the northern side boundary and replacement with deep soil landscaping.
- The removal of one tree (identified as Tree 3 in the applicant's Arborist Report).
- New 1.65m front fence and vehicular gate comprising of rendered masonry construction with timber batten infills.
- Provision of external access to Unit 2 via the southern side of the building.
- A new un-covered bin storage area at the front of the site.

The existing vehicle crossing on Pittwater will be retained.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;

- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - Zone R3 Medium Density Residential
 Warringah Development Control Plan - A.5 Objectives
 Warringah Development Control Plan - B5 Side Boundary Setbacks
 Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - C9 Waste Management
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - D2 Private Open Space
 Warringah Development Control Plan - D6 Access to Sunlight
 Warringah Development Control Plan - D9 Building Bulk
 Warringah Development Control Plan - D10 Building Colours and Materials
 Warringah Development Control Plan - D12 Glare and Reflection
 Warringah Development Control Plan - D13 Front Fences and Front Walls
 Warringah Development Control Plan - D14 Site Facilities
 Warringah Development Control Plan - D19 Site Consolidation in the R3 and IN1 Zone

SITE DESCRIPTION

Property Description:	Lot 1 DP 951859 , 1289 Pittwater Road NARRABEEN NSW 2101
Detailed Site Description:	<p>The subject site consists of one allotment located on the western side of Pittwater Road within the Narrabeen locality.</p> <p>The site is trapezoidal in shape with a frontage of 12.19 metres (m) and respective depths of 39.26m and 42.68m along the northern and southern side boundaries. The site has a surveyed area of 478.9sqm.</p> <p>The site is located within the R3 Medium Density Residential zone pursuant to the Warringah Local Environmental Plan 2011 (WLEP) and currently accommodates a single storey mixed-use building that accommodates a dwelling at the rear half of the building and professional consulting rooms at the front half of the building. A hardstand car parking area is also located within the front setback area of the site.</p> <p>Landscaping on the site is limited and confined to two small lawn areas and garden beds at the front and rear of the site including three small trees ranging between 5m - 8m in height which are located adjacent to the front and rear boundaries and in front of the existing building.</p>

The site is generally flat and experiences a fall of approximately 0.3m that slopes from the rear boundary towards the front boundary.

The site is not burdened by any significant environmental constraints or restrictive covenants.

Surrounding development on the western side of Pittwater Road is also zoned R3 Medium Density Residential. The two properties to the north of the site contain dwelling houses, while the two properties to the south of the site contain three storey residential flat buildings. Located approximately 40m to the north of the site is the Narrabeen Lakes Public School.

To the east of the site (i.e. eastern side of Pittwater Road) is land zoned R2 Low Density Residential, which accommodates a number of dwelling houses, the Narrabeen Fire Station, one commercial building and one tall residential flat building. To the west and south of the site is land zoned R3 Medium Density Residential, which generally accommodates two or three storey residential flat buildings.

Map:



SITE HISTORY

Council's records have revealed the following relevant history in relation to the site:

Land Use Consent No. 89/461

On 2 November 1989, the former Council of the Shire of Warringah granted consent for partial use of

the premises as professional consulting rooms.

Modification of Consent No. 89/461

On 27 August 1990, the former Council of the Shire of Warringah modified Land Use Consent No. 89/461. The modifications involved minor external alterations to the approved development.

CURRENT DEVELOPMENT APPLICATION HISTORY

On 17 September 2024, a site inspection was carried out at the subject site. This inspection included an examination of the surrounding built environment.

On 3 December 2024, following receipt of all internal referral advice and external agency advice, a request for further information (RFI) letter was sent to the applicant. The RFI raised the following concerns with the development:

- The excessive building bulk that occurs as a consequence of the 19.2m long two-storey, unarticulated northern and southern facades and lack of screen planting to soften the building, which is contrary to the requirements and objectives of Section D9 'Building Bulk' of the Warringah Development Control Plan 2011 (WDCP).
- Unit 1 had not been provided with any private open space that meets the requirements of Section D2 'Private Open Space' of the WDCP.
- The development had not demonstrated how disabled access would be afforded to the proposed apartments.
- The development had not provided a designated bin storage area that complies with Council's Waste Management Guidelines (WMG).
- The site is affected by an overland flow path along Pittwater Road and the application was not accompanied by a hydraulic engineering report demonstrating how stormwater overland flow is managed.

On 13 January 2025, the applicant amended the development application pursuant to Section 37 of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation) as follows:

- Amended architectural plans were submitted which set the first floor of the building in 200 millimetres (mm) from the side elevations of the ground floor, included an external pathway that provides access to Unit 2 along the northern boundary and provided an uncovered bin storage area at the front of the site.
- An Overland Flow Assessment (OVA) (prepared by Cane Consulting, dated 9 January 2025). The OVA concluded that the finished floor level of the ground floor of the residential flat building is 334mm above the 1% AEP storm event flood level and therefore, would not be inundated by water during a 1% AEP storm event.
- An Access Report (prepared by Northwest Professional Services, dated 7 January 2024), which provided recommendations to ensure that the ground floor apartments would comply with the disabled access provisions under the Building Code of Australia (BCA) and AS1428.1.

On 14 January 2025, the assessing officer wrote to the applicant advising that the amended plans had not resolved the following planning issues:

- The bulk concerns along the side elevations of the building, noting that stepping the building in 200mm from the side elevations of the lower floor is not sufficient to offset the bulk of the side elevations as there would not be a substantial change from the previous design. The assessing officer requested that both side elevations be either stepped in 600mm from the lower floors; or alternatively, the design include 600mm modulated indentations for a span of at least 3m on both side elevations to prevent the continuous wall plane and offset the bulk of the building. The assessing officer also noted that no screen planting was provided along the northern boundary (where there is sufficient space to do so) to soften the building and provide enhanced amenity for the future residents.
- The amended plans still did not provide any designated private open space that was fenced-off and directly accessible from the internal living rooms of Unit 1. The new pathway along the northern boundary also required the residents of Unit 2 to walk through the potential private open space area of Unit 1, which renders the area not suitable for private open space. The amended plans also included minor discrepancies in relation to the location of the new proposed pathway along the northern boundary.

The assessing officer also advised that the issues on the RFI pertaining to waste management and overland flow were not considered to be resolved until Council's Development Engineer and Waste Officer have reviewed the amended development application.

On 17 January 2025, the applicant amended the development application for a second time as follows:

- The external pathway on the northern side of the property was re-located to the southern side of the property, with access to Unit 2 provided via the southern elevation of the building.
- A 1.8m high fence was provided between the party walls of Unit 1 and 2.
- A revised Access Report was submitted to reflect the changes in access to Unit 2.

With this second amendment, the applicant advised via email correspondence that they did not agree with the assessing officer's recommendations to offset the bulk of the building and stated that stepping the building 200mm in from the lower floors, coupled with changes in external colours, was sufficient. It is noted that the amended plans do not include any specific colours of materials for the development, but rather state that they would be confirmed by the owner.

The assessing officer does not concur with the applicant and advised that the application would be assessed on the basis of the information they have currently provided.

It is also noted that the private open space for Unit 1 has not been fenced off from common areas of the site and therefore, does not constitute private open space.

An amended Waste Management referral response was also received, advising that the proposed bin storage area did not comply with the WMG.

Due to the residual issues with the application pertaining to building bulk, private open space, landscape treatment and waste management, the application is recommended for refusal.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters could be addressed via a condition of consent.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to amended architectural plans, an access report and an overland flow flooding assessment. This information was subsequently received; however, the amended architectural plans have not resolved Council's concerns in relation to the bulk and scale of the building, the landscaped setting and the internal amenity impacts to the ground floor apartments.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has could be addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter could be addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Environmental Planning Instruments and Warringah Development Control Plan 2011 sections in this report.</p> <p>(ii) Social Impact</p>

Section 4.15 Matters for Consideration	Comments
	<p>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	As a result of the various issues pertaining to the excessive building bulk, inadequate side setbacks, poor landscaped setting and unsatisfactory internal amenity identified throughout the assessment, it has been concluded that the site is not suitable to accommodate a residential flat building of this size.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	<p>This assessment has found the proposal to be contrary to the requirements and objectives of the Warringah Development Control Plan 2011 that relate to Section A.5 'Objectives', Section B5 'Side Boundary Setbacks', Section B7 'Front Boundary Setbacks', Section C9 'Waste Management', Section D1 'Landscaped Open Space', Section D2 'Private Open Space', Section D9 'Building Bulk', Section D10 'Building Colours and Materials', Section D12 'Glare and Reflection' and Section D14 'Site Facilities', and contrary to the objectives of the R3 Medium Density Residential zone and the requirements of State Environmental Planning Policy (Transport and Infrastructure) 2021.</p> <p>Consequently, the development would create an undesirable precedent that would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development is not considered to be in the public interest.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 22/08/2024 to 05/09/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mrs Joan Lynn Sheekey	1291 Pittwater Road NARRABEEN NSW 2101

One (1) submission by way of objection was received during the public exhibition period. The submission was prepared by the owners of the northern adjoining property (1291 Pittwater Road).

The following issues were raised in the submission:

- **Privacy Impacts**

The submission raised concerns that the north-facing first floor windows and the first floor balcony will result in adverse visual privacy impacts to the adjoining property as a consequence of overlooking.

Comment:

The adjoining building to the north is a single storey dwelling house and therefore, the north-facing windows on the first floor of the development do not provide any direct views into windows on the adjoining property, but rather would result in overlooking into the roof of this building. The windows are also placed such that they would not provide direct views into the rear yard (i.e. private open space) at 1291 Pittwater Road.

Furthermore, the proposed balcony to Unit 3 is orientated towards the street and due to the elevated nature of the balcony, coupled with the fact that the building at 1291 Pittwater Road is single storey, the balcony will not provide for any direct overlooking into habitable rooms on the adjoining site.

For these reasons, it is concluded that the development will not result in adverse privacy impacts to surrounding properties.

- **Inadequate Information**

The submission raised concerns that the applicant's Statement of Environmental Effects (SEE) does not include sufficient information to enable the surrounding residents to properly consider the impacts of the development.

Comment:

The SEE contains sufficient information to enable an assessment of the application. The SEE also meets the requirements of Section 24 of the Environmental Planning and Assessment Regulation 2021.

The concerns raised within the submission have been addressed above. The concerns do not warrant refusal of the application. The application is being recommended for refusal due to other matters identified during the assessment.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported - no recommended conditions</p> <p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no concerns with the application.</p> <p><i>Note: The proposed development may not comply with some requirements of the Issues such as these however may be determined at Construction Certificate stage.</i></p>
Landscape Officer	<p>Supported - subject to recommended conditions</p> <p>Recommended for further consideration by Planning Officer.</p> <p>The application seeks consent for: Alterations and additions to a dwelling house to create residential flat building comprising of three (3) units.</p> <p>The plans indicate that existing landscaped areas are retained with additional landscaped area provided along the northern boundary.</p> <p>The landscape plan indicates new landscape areas are to comprise turf.</p> <p>It is noted that the DCP requirement for front setback is 6.5m. The DCP indicates that the requirements of the front setback as follows:</p> <p>Requirements</p> <ol style="list-style-type: none"> 1. Development is to maintain a minimum setback to road frontages. 2. The front boundary setback area is to be landscaped and generally free of any structures, basements, carparking or site facilities other than driveways, letter boxes, garbage storage areas and fences. 3. Where primary and secondary setbacks are specified, buildings and structures (such as carpark) are not to occupy more than 50% of the area between the primary and secondary setbacks. The area between the primary setback and the road boundary be used for landscaping and driveways. 4. For land zoned E3 and not having frontage to Kamber Road or Kimbriki Road the minimum front building setback area is to be densely landscaped using locally occurring species of canopy trees and shrubs and free of any structures, carparking or other than driveways, letterboxes and fences. <p>The proposal relies on existing parking areas in the front setback, which extend into the 6.5m required front setback area.</p> <p>The merit of this is left to planning consideration, however the site would benefit from increased soft landscape provision in the front setback to provide for greater infiltration, reduction of reflected heat and improved streetscape presentation. Additional planting can be accommodated along the northern boundary for screening and improved amenity if required.</p> <p>An amended Landscape Plan prepared by a qualified landscape architect or landscape designer would be required if the above issues are required to be addressed.</p> <p>If the proposal is to be approved as submitted, recommended conditions have been included.</p>
NECC (Coast and	<p>Supported - no recommended conditions</p>

Internal Referral Body	Comments
Catchments)	<p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Resilience & Hazards) 2021 and has also been assessed against requirements of the Warringah LEP 2011 and Warringah DCP 2011.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</p> <p>State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021. Hence, Clauses 2.10, 2.11 and 2.12 apply for this DA.</p> <p>On internal assessment the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&H. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p>Warringah LEP 2011 and Warringah DCP 2011 No other coastal related issues identified.</p>
NECC (Development Engineering)	<p><i>Supported - subject to recommended conditions</i></p> <p><u>Original Comments</u></p> <p>The subject site may be affected by overland flows along Pittwater Road in the 1% AEP storm event, which may enter the property via the driveway. In this regard, the applicant Engineer is to provide an overland flow report for all storms in excess of the 5% AEP, up to and including the 1% AEP storm event to determine if the subject site is affected by any overland flows. The report is to include measures to protect the site from flooding in accordance with the requirements of the Flood Prone Land clause of the DCP.</p> <p>As the proposal is an intensification of use, it is considered that the application will need to be referred to Transport for NSW (TfNSW) and Council's Traffic Team to assess the proposed parking, maneuvering and driveway crossing requirements. The proposal also shows the connection of stormwater to the an existing pit in Pittwater Road which would require the concurrence of TfNSW.</p> <p>Development Engineering cannot support the proposal due to insufficient information to address stormwater management in accordance with the DCP.</p> <p><u>Amended Plans and Additional Information Submitted 17/01/2025</u></p> <p>The submitted Overland Flow Assessment has been reviewed and is acceptable. The free board levels of the development have sufficient free board. Comments from TfNSW have been provided for the application.</p> <p>Development Engineering support the proposal, subject to conditions as recommended</p>

Internal Referral Body	Comments
Strategic and Place Planning (Heritage Officer)	Supported - no recommended conditions
	HERITAGE COMMENTS
	Discussion of reason for referral
	The proposal has been referred to Heritage as the subject site is in the vicinity of a number of heritage items:
	Item I94 - Narrabeen Fire Station - 9 Ocean Street (corner Pittwater Road), Narrabeen
	Item I98 - Memorial known as “SS Collaroy Memorial” - 1299 Pittwater Road, Narrabeen
	Item I99 - School administration building - 1299 Pittwater Road, Narrabeen
	Item I100 - Main school building - 1299 Pittwater Road, Narrabeen
	Item I101 - Sandstone memorial - 1299 Pittwater Road, Narrabeen
	Details of heritage items affected
Details of the heritage items as contained within the Northern Beaches Heritage Inventory are as follows:	
Item I94 - Narrabeen Fire Station	
<u>Statement of significance:</u>	
Aesthetically significant as a substantially intact & well balanced example of the Inter-war Free Classical style. Also associated with development of the Fire Brigade in Sydney & development of services to cater for the residential expansion of the area.	
<u>Physical description:</u>	
Two storey face brick building with rendered detail defining the floors. Steeply pitched hipped terra-cotta tile roof with 2 tall rendered chimneys. Symmetrical front elevation with elaborate triangular pediment with flagpole. Recessed porch located on 1st floor. Timber multi-paned windows, semi-circular on side ground level. Contains some similarities to Dee Why Fire Station.	
Item I98 - Memorial known as “SS Collaroy Memorial	
<u>Statement of significance:</u>	
A monument of social & historic significance to the community being a relic from the SS Collaroy after which it is claimed that the suburb was named. Social significance due to association with Narrabeen Primary School.	
Item I99 - School administration building	
<u>Statement of significance:</u>	
A rare surviving example of a headmaster's residence associated with one of the earliest schools in the area. It retains significant components of its original fabric & embodies strong associational significance with the provision of school facilities.	
Item I100 - Main school building	
<u>Statement of significance:</u>	

Internal Referral Body	Comments																					
	<p>A good representative example of an early 20th century timber classroom. Displays high integrity with much original fabric. Historically evidence of the early growth of education infrastructure & strong social significance with high community visibility.</p> <p>Item I101 - Sandstone memorial</p> <p><u>Statement of significance:</u></p> <p>A monument of social & historic significance to the community due to its association with Narrabeen Primary School & the Manly Warringah & Pittwater Historical Society.</p> <table border="1" data-bbox="331 683 1468 1467"> <thead> <tr> <th colspan="3" data-bbox="331 683 1468 719">Other relevant heritage listings</th> </tr> </thead> <tbody> <tr> <td data-bbox="331 719 719 851">SEPP (Biodiversity and Conservation) 2021</td> <td data-bbox="719 719 826 851">No</td> <td data-bbox="826 719 1468 851"></td> </tr> <tr> <td data-bbox="331 851 719 981">Australian Heritage Register</td> <td data-bbox="719 851 826 981">No</td> <td data-bbox="826 851 1468 981"></td> </tr> <tr> <td data-bbox="331 981 719 1111">NSW State Heritage Register</td> <td data-bbox="719 981 826 1111">No</td> <td data-bbox="826 981 1468 1111"></td> </tr> <tr> <td data-bbox="331 1111 719 1240">National Trust of Australia (NSW) Register</td> <td data-bbox="719 1111 826 1240">No</td> <td data-bbox="826 1111 1468 1240"></td> </tr> <tr> <td data-bbox="331 1240 719 1370">RAIA Register of 20th Century Buildings of Significance</td> <td data-bbox="719 1240 826 1370">No</td> <td data-bbox="826 1240 1468 1370"></td> </tr> <tr> <td data-bbox="331 1370 719 1467">Other</td> <td data-bbox="719 1370 826 1467">N/A</td> <td data-bbox="826 1370 1468 1467"></td> </tr> </tbody> </table> <p>Consideration of Application</p> <p>The proposal seeks consent for alterations and additions to the existing single storey building, incorporating 3 residential units, with an upper floor addition and alterations to the existing ground floor areas. The existing driveway is proposed to be retained to provide four parking spaces. Given the physical separation afforded by the roads and distance the proposal is not considered to impact the significance of the heritage items in the vicinity.</p> <p>Therefore, no objections are raised on heritage grounds and no conditions required.</p> <p><u>Consider against the provisions of CL5.10 of WLEP.</u></p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p>	Other relevant heritage listings			SEPP (Biodiversity and Conservation) 2021	No		Australian Heritage Register	No		NSW State Heritage Register	No		National Trust of Australia (NSW) Register	No		RAIA Register of 20th Century Buildings of Significance	No		Other	N/A	
Other relevant heritage listings																						
SEPP (Biodiversity and Conservation) 2021	No																					
Australian Heritage Register	No																					
NSW State Heritage Register	No																					
National Trust of Australia (NSW) Register	No																					
RAIA Register of 20th Century Buildings of Significance	No																					
Other	N/A																					

Internal Referral Body	Comments
Traffic Engineer	<p>Supported - subject to recommended conditions</p> <p>Proposal Description: Proposed alteration and addition to existing residential dwelling Consulting rooms at 1289 Pittwater Road, Narrabeen The traffic team has reviewed the following documents:</p> <ul style="list-style-type: none"> • Plans (Master Set) designed by Rapid Plans Building Design and Architectural Drafting, dated 3/06/2024. • The Statement of Environmental Effects, prepared by Rapid Plans Building Design and Architectural Drafting. • Transport for NSW Referral Response, reference number SYD24/01809/01, dated November 2024. <p>Comments</p> <ul style="list-style-type: none"> • It is noted that the proposed development is for alteration and addition of an existing combined residence and commercial development into a residential flat building consisting of 3 units. Unit 1 has 2 bedrooms, unit 2 has 3 bedrooms and unit 3 has 2 bedrooms and a study room. <i>Please note the architectural plans do not show access or entry to unit 2.</i> • Existing vehicle access and existing car parking spaces (total of 4 spaces) are retained to serve the proposed development. • It is noted that TfNSW in its referral (reference number SYD24/01809/01) provides no objection to the proposed development. • A Traffic report has not been provided to support the proposed development. • The Warringah DCP applies to the subject site. According to the DCP, car parking spaces for a residential flat building should be provided at a rate of 1 space per bedroom dwelling, 1.2 spaces per 2 bedroom dwelling and 1.5 spaces per 3 bedroom dwelling. Therefore, the proposed development is required to provide a total of 4 spaces. The provision of 4 car parking spaces satisfies the DCP requirement. All the car parking spaces, aisle width and manoeuvring area must be designed in accordance with AS2890.1:2004. • The DCP also requires bicycle parking to be provided at a rate of 1 per dwelling. Therefore, the proposed development is required to provide a total of 3 bicycle parking spaces. The architectural plans do not show any bicycle parking spaces. A minimum of 3 bicycle parking spaces in accordance with AS2890.3:2015 must be provided. This can be conditioned. • No information is provided on loading activities associated with removalists of residents. It is understood that loading activities for removalists will be undertaken utilising one of the on-street parking spaces. Given the low number of units in the development, removalist activity will be infrequent and this arrangement is acceptable. • The architectural plan shows 1.65m high rendered masonry boundary fence with horizontal slat inserts at the frontage and does not provide any sight triangles at driveway. It should be noted that a sight triangle of 2m x 2.5m is required on both sides of a one-way driveway for clear visibility between vehicles leaving the driveway and pedestrians on the frontage road footpath. These sight triangles should be clear of any obstruction, or anything within the sight triangles should have a height of

Internal Referral Body	Comments
	<p>maximum 1 metre. The sight triangles should be provided in accordance with AS2890.1:2004.</p> <p>Traffic generation</p> <ul style="list-style-type: none"> The existing development is a residence and commercial consisting of 2 consul rooms. There were 4 existing car parking spaces serving the residence and consulting rooms. The proposed development is a low density residential flat bui consisting of 3 units and is served by existing 4 car parking spaces. The revised guide to traffic generating developments:2024 provides traffic generation rate for single dwelling and medium density dwellings, however it does not provide any t generation rates for Consulting Rooms. Although there is no rate for Consulting Rooms and total traffic generation from the proposed development is not calcula Council anticipates that the traffic generation from proposed development would similar to the traffic generation from existing development and will not have adve impact in the surrounding road network. <p>Conclusion The proposed development can be supported subject to conditions.</p>
Waste Officer	<p><i>Not Supported</i></p> <p><u>January 2025 Waste Referral Response</u></p> <p>Applicant has completed the Waste Management Plan for one or two dwellings. The application is for alterations and additions to a dwelling house to create a residential flat building comprising of three (3) units. An updated Waste Management Plan should be completed.</p> <p>Increasing the property from two dwellings to three dwellings will result in the property changing from having individual bins presented for collection by the occupants to comm bins serviced by Council via a "wheel out/wheel in" service.</p> <p>The waste bin storage facility shown on the plans is still too far from the property bound with the street and access is blocked by a security gate. A suitably sized and located bin enclosure must be provided that complies with Councils Waste Management Design guidelines. The bin enclosure must:</p> <ul style="list-style-type: none"> be large enough to contain 5 x 240 litre bins. be within 6.5 metres of the property boundary with the street. provide unimpeded access for Councils' collection staff (no locked gate, security etc) from 5.30am to 6.00pm on the scheduled day of collection. not be accessed via the vehicular driveway. not have steps or ramps steeper than 1 in 8 as part of the service access. No closer than 3m from any dwelling openings. Clear of any entry points to stormwater systems and prevent waste water from entering any stormwater system

Internal Referral Body	Comments
	<p>Waste Storage Area location requirements The Waste Storage Area must be:</p> <p>Additional requirements for external Waste Storage Areas</p> <p>Where Waste Storage Areas are external to the building, they must be housed in an enclosure that has:</p> <p>a) Have a minimum wall height of 1600mm.</p> <p>b) Be roofed with a minimum ceiling height of 2100mm throughout and clear of any obstructions.</p> <p>c) Be screened from the street frontage in a manner that improves the streetscape appearance of the facility</p> <p><u>September 2024 Waste Management Comments</u></p> <p>Unsupported - the proposal is unacceptable.</p> <p>The waste bin storage facility shown on the plans is too far from the property boundary, the street and access is blocked by a security gate.</p> <p>The proposal is for the property to increase from two dwellings to three dwellings. This will result in the property changing from having individual bins presented for collect by the occupants to communal bins serviced by Council via a "wheel out/wheel in" service. A suitably sized and located bin enclosure must be provided that complies with Council's Waste Management Design guidelines.</p> <p>The bin enclosure must:</p> <ul style="list-style-type: none"> • be large enough to contain 5 x 240 litre bins. • be within 6.5 metres of the property boundary with the street. • provide unimpeded access for Council's collection staff (no locked gate, security etc) from 5.30am to 6.00pm on the scheduled day of collection. • not be accessed via the vehicular driveway. • not have steps or ramps steeper than 1 in 8 as part of the service access.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p><i>Supported - subject to recommended conditions</i></p> <p>The proposal was referred to Ausgrid who provided a response</p>

External Referral Body	Comments
	stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
Roads and Maritime Service - Roads Act 1993, s138 (Non-integrated)	<p>Supported - subject to recommended conditions</p> <p>Reference is made to Council's referral regarding the abovementioned application which was referred to Transport for NSW (TfNSW) for comment in accordance with Section 2.119 of the State Environment Planning Policy (Transport and Infrastructure) 2021.</p> <p>Following a review of the submitted application, TfNSW has no objections to the application and recommends the following requirements are included in any consent issued by the Council:</p> <p>1. A Road Occupancy Licence (ROL) should be obtained from the Transport Management Centre for any works that may impact on traffic flows on Pittwater Road during construction activities. A ROL can be obtained through https://myrta.com/oplinc2/pages/security/oplincLogin.jsf</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

Housing and Productivity Contribution

Part 2 Development for which contribution is require and determination of contribution, Division 2 Housing and productivity contribution amounts, Clause 7 Base component.

This clause details the base component amounts that apply to the calculation of the housing and productivity contribution, as set out in the following table:

Region	HPC class of development	Amount	HPC unit
Greater Sydney	Residential subdivision	\$12,000	new dwelling lot
	Residential strata subdivision	\$10,000	new strata dwelling lot
	Non-strata multi-dwelling development	\$10,000	new non-strata dwelling
	Commercial development	\$30	square metre of new GFA
	Industrial development	\$15	square metre of new GFA

Comment:

The subject site is located within the Greater Sydney region and would provide two new strata dwellings on the site, noting that there is currently one dwelling on the site and the resulting dwelling would contain three dwellings.

In the event the application was approved, a monetary contribution of \$20,000 would be applicable.

SEPP (Sustainable Buildings) 2022

A satisfactory BASIX Certificate was lodged with this application, which meets the requirements of State Environmental Planning Policy (Sustainable Buildings) 2021.

SEPP (Housing) 2021

The provisions of State Environmental Planning Policy (Housing) 2021 are not applicable to this development as the proposed residential flat building is less than 3 storeys in height.

SEPP (Transport and Infrastructure) 2021

Chapter 2 - Infrastructure

Section 2.48 - Development impacted by an electricity tower, electricity easement, substation, power line

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which could be included as recommended conditions of consent in the event the application is approved.

Section 2.119 - Development with frontage to a classified road

Section 2.119 - Development with frontage to classified road states:

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

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

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

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

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

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

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

Comment:

The development is consistent with the above-mentioned requirements for the following reasons:

- The development would generate approximately 8 vehicle movements per day (4 in 4 out) and would not adversely impact upon the safety, efficiency and ongoing operation of the classified road. Transport for NSW have also reviewed the application and raised no concerns in relation to traffic generation.
- The existing vehicle crossing will be maintained as per the existing arrangement.
- The development relates to residential accommodation and will not result in substantial on-going air quality emissions with respect to smoke or dust, apart from minor engine emissions from vehicular movements which is minor and acceptable.

2.120 Impact of road noise or vibration on non-road development

Section 2.120 - Impact of road noise or vibration on non-road development states:

(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.

(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—

(a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7

am,

(b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

Comment:

The applicant has not demonstrated how the apartments would satisfy the above-mentioned noise criteria. Hence, this forms a recommended reason for refusal.

Conclusion

As demonstrated above, the development is not consistent with the relevant requirements of State Environmental Planning Policy (Transport and Infrastructure) 2021. This forms a recommended reason for refusal.

SEPP (Biodiversity and Conservation) 2021

Chapter 2 - Vegetation in non-rural areas

Chapter Two of State Environmental Planning Policy (Biodiversity and Conservation) 2021 (BC SEPP) applies to the development pursuant to clause 2.3 and aims to protect the biodiversity and amenity values of trees within non-rural areas of the state.

The development involves the removal of one tree on the site, which is supported by Council's Landscape Officer.

The assessment has concluded that the development is consistent with Chapter 2 of the BC SEPP.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is located within the Coastal Environment Area and Coastal Use Area and therefore, is subject to Chapter 2 of State Environmental Planning Policy (Resilience and Hazards) 2021 (RH SEPP). Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - b) *coastal environmental values and natural coastal processes,*
 - c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*

- d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - f) *Aboriginal cultural heritage, practices and places,*
 - g) *the use of the surf zone.*
- 2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or*
 - b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

Council's Coast and Catchment referral response has advised that the development meets the relevant considerations under Division 3 of the RH SEPP.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
- a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - i) *existing, safe access to and along the foreshore, beach, headland or rock*
 - ii) *platform for members of the public, including persons with a disability,*
 - iii) *overshadowing, wind funnelling and the loss of views from public places to*
 - iv) *foreshores,*
 - v) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
Aboriginal cultural heritage, practices and places,
cultural and built environment heritage, and
 - b) *is satisfied that:*
 - i) *the development is designed, sited and will be managed to avoid an*
 - ii) *adverse impact referred to in paragraph (a), or*
 - iii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

Comment:

Council's Coast and Catchment referral response has advised that the development meets the relevant considerations under Division 4 of the RH SEPP.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The development is not likely to increase the risk of coastal hazards within the locality based off the extent of works proposed and the physical separation from the coastal foreshore, which located on the eastern side of Pittwater Road.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

The development is consistent with the Collaroy-Narrabeen Coastal Management Plan.

As such, it is considered that the application complies with the requirements of Chapter 2 of the RH SEPP.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Conclusion

The development meets the relevant requirements under the RH SEPP.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	11m	7.194m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone R3 Medium Density Residential

The applicant seeks consent for a residential flat building, which is a permissible land use within the R3 Medium Density Residential zone. However, the assessment has concluded that the development is not consistent with the following objectives of the R3 Medium Density Residential zone:

- *To ensure that medium density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*
- *To ensure that medium density residential environments are of a high visual quality in their presentation to public streets and spaces.*

The assessment has reached this conclusion for the following reasons:

- Typically medium density developments include landscape treatment (i.e. hedging or small to medium trees) around to curtilage of the building to offset the bulk and scale of the proposed buildings and enhance the internal amenity of the development. This particular development does not provide any landscape planting around the curtilage of the building, contrary to most typical medium density development. Furthermore, adjacent residential flat buildings to the south of the site include this type of screening around the curtilage of the buildings. The development also retains the hardstand car parking area within the front setback and results in no improvements to the landscaped setting at the front of the site. As such, the landscaped setting is not in harmony with the natural and built environment that is typical of the R3 Medium Density Residential zone.
- The development has not provided any meaningful design treatments to offset the bulk of the side elevations and consequently, does not provide a development that is of high visual quality in its presentation to the public domain and surrounding properties.

These matters form a recommended reason for refusal.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B2 Number of storeys	Maximum of 3 storeys	2 storeys	-	Yes
B3 Side Boundary Envelope	4m / 45 degrees (north)	Within Envelope	-	Yes
	4m / 45 degrees (south)	Within Envelope	-	Yes
B5 Side Boundary Setbacks	4.5m (north)	Ground Floor: No Change First Floor: 2.98m	33.78%	No
	4.5m (south)	Ground Floor: No Change First Floor: 1.21m	73.11%	No
B7 Front Boundary Setbacks	6.5m	Hardstand Car Parking Area: 3.2m - as historically approved Bin Storage: 0.9m Building: 16.4m	86.15%	No (bin storage and car parking)
B9 Rear Boundary Setbacks	6m	Ground Floor: No change First Floor: 6m	-	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	50% (239.45sqm)	25.93% (124.2sqm)	48.13%	No
P2 Private Open Space	10sqm with 2.5m dimensions per dwelling	Unit 1: Nil (as not fenced off for privacy) Unit 2: >10sqm Unit 3: 19.75sqm	100%	No
Appendix 1 Car Parking Requirements	4 spaces (rounded down from 4.2 spaces)	4 spaces	-	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	No	No
B2 Number of Storeys	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	No	No
B7 Front Boundary Setbacks	No	No
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	No	No
D1 Landscaped Open Space and Bushland Setting	No	No
D2 Private Open Space	No	No
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	No	No
D10 Building Colours and Materials	No	No
D11 Roofs	Yes	Yes
D12 Glare and Reflection	No	No
D13 Front Fences and Front Walls	Yes	Yes
D14 Site Facilities	No	No
D19 Site Consolidation in the R3 and IN1 Zone	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

A.5 Objectives

The objectives of the WDCP read as follows:

- *To ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood*
- *To ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome*
- *To inspire design innovation for residential, commercial and industrial development*
- *To provide a high level of access to and within development.*
- *To protect environmentally sensitive areas from overdevelopment or visually intrusive development so that scenic qualities, as well as the biological and ecological values of those areas, are maintained*
- *To achieve environmentally, economically and socially sustainable development for the community of*

Warringah

The development is not consistent with the objectives of the WDCP, insofar as the development includes long-unarticulated facades with no design measures or landscape treatment to offset the bulk of the building as observed from the streetscape and surrounding properties. The development also provides a poor landscaped setting that is not in harmony with surrounding development.

In this regard, the development will not create an attractive design outcome or inspire design innovation for residential development, contrary to the WDCP objectives.

This matter forms a recommended reason for refusal.

B5 Side Boundary Setbacks

Description of non-compliance

Section B5 of the WDCP requires development within the R3 Medium Density Residential zone to be setback at least 4.5m from the side boundaries.

The new components of the building are setback 1.21m from the southern boundary and 2.98m from the northern boundary, which do not satisfy the numerical requirements of the control.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying objectives of the control as follows:

- *To provide opportunities for deep soil landscape areas.*

Comment:

The development increases the proportion of deep soil landscaping on the site through the removal of redundant paving on the northern side of the street. In this regard, the development does not contravene this objective.

- *To ensure that development does not become visually dominant.*

Comment:

The assessment acknowledges that the site is an infill residential site that has a maximum width of 12.19m. As such, the site constraints render it difficult for the development to comply with the 4.5m setback requirement, which envisages site amalgamation to carry out medium density development.

Notwithstanding, the first floor addition includes 19.2m long facades that face towards the northern and southern side boundaries. These facades are devoid of any meaningful articulation to offset the bulk of these long facades. Consequently, the development will be visually dominant and bulky when observed from the public domain and surrounding properties.

In this regard, the development does not achieve this objective.

- *To ensure that the scale and bulk of buildings is minimised.*

Comment:

As outlined above, the bulk and scale of the building has not been minimised and the assessment has concluded that the development will be visually dominant and bulky when observed from the public domain and surrounding properties. Hence, the development does not achieve this objective.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

Comment:

The side setback non-compliance does not result in any adverse impacts to neighbouring properties in terms of privacy, view sharing or solar access. However, the long, bulk northern and southern facades will have an adverse impact on the visual amenity of surrounding properties. Hence, the development will not achieve this objective.

- *To provide reasonable sharing of views to and from public and private properties.*

Comment:

The side setback non-compliance does not obstruct any significant view corridors.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the requirements and objectives of Section B5 of the WDCP. This matter forms a recommended reason for refusal.

B7 Front Boundary Setbacks

Description of non-compliance

Section B7 of the WDCP requires development to be setback at least 6.5m from the front boundary and requires the front setback area to be landscaped. The residential flat building is setback over 6.5m from the front boundary; however, the following elements encroach into the front setback area:

- The bin storage area, providing a front setback of 0.9m.
- The hardstand car parking area, providing a front setback of 3.2m.

It is noted that the bin storage area is required to be located within the 6.5m front setback area under Council's Waste Management Guidelines. Hence, this element is supported.

While the hardstand car parking area is historically approved, the application seeks to intensify development on the site without any improvements to the landscaped setting within front setback area. Hence, this historical non-compliance is assessed below.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying objectives of the control as follows:

- *To create a sense of openness.*

Comment:

The encroaching elements are open structures and do not preclude a sense of openness on the site.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

An examination of the site and the surrounds has revealed that several medium density developments on the western side of Pittwater Road contain substantial deep soil landscaped zones at the front of the site with canopy planting. The development retains the large hardstand car parking area within the front setback area and does not provide any improvements to the landscaped setting on the site in terms of significant deep soil landscaped zones and canopy tree planting within the front setback area. In this regard, the development will not maintain visual continuity with the landscaped setting on the western side of Pittwater Road, contrary to this objective.

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

Comment:

As detailed throughout this report, the development will be visually dominant when observed from the public domain. This, coupled with the poor landscaping outcome, will reduce the visual quality of the streetscape. Hence, the development does not achieve this objective.

- *To achieve reasonable view sharing.*

Comment:

The front setback encroachments do not obstruct significant view corridors.

Having regard to the above assessment, it is concluded that the proposed development is not consistent with the requirements or objectives of this control. This matter forms a recommended reason for refusal.

C9 Waste Management

Section C9 of the WDCP requires development to satisfy Council's Waste Management Guidelines (WMG). As detailed within the Waste Management referral response, the proposed bin storage area does not comply with Council's WMG. This is due to the bin storage area not providing unimpeded access for Council's waste collection staff, noting that the waste storage area is bordered off by a security gate.

Additionally, as the area does not contain a roof covering and is not bunded, leachate may enter into the public stormwater network following heavy rainfall.

Consequently, the development will:

- not ensure waste storage and collection facilities complement waste collection and management services offered by Council,
- not minimise risk to health and safety associated with the handling and disposal of waste, and
- not minimise adverse environmental impacts associated with the storage and collection of waste.

In this regard, the development does not achieve the objectives of this control.

This matter forms a recommended reason for refusal.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

Section D1 of the WDCP requires that 50% (239.45sqm) of the site comprises of landscaped open space (LOS). The development proposes 25.93% of the site as LOS, contrary to the requirements of the control. However, it is noted that the development does increase the quantum of LOS on the site, noting that the site currently accommodates 11.84% (56.69sqm) of the site as LOS.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying objectives of the control as follows:

- *To enable planting to maintain and enhance the streetscape.*

Comment:

While the development does increase the quantum of LOS on the site, the development fails to provide any appropriate planting around the curtilage of the building to enhance the streetscape, soften the built form and enhance the internal amenity of the ground floor apartments. There is sufficient scope to provide such planting along the northern boundary and this has been requested by Council during the assessment process; however, the applicant has not provided any perimeter planting around the building. There appears to also be scope to include meaningful planting at the front of the site; however, the applicant has not incorporated any planting within the front setback area.

The lack of any meaningful vegetation around the perimeter of the building, coupled with the long, un-articulated side facades, will detract from the visual amenity of the streetscape. Council's Landscape Referral response has also advised that additional planting should be provided on the site to provide for enhanced amenity; however, this matter should be left to the assessing officer for consideration.

Hence, the development does not achieve this objective, insofar as the development does not enable appropriate planting to maintain and enhance the streetscape.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment:

The development does not result in the removal of remnant native vegetation, topographic features or significant wildlife habitat.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

Comment:

The LOS along the northern side setback area is of a sufficient width to accommodate for small to medium sized trees and shrubs. However, the applicant has not proposed any vegetation planting to soften the built form and enhance the internal amenity of the proposed ground floor apartments. Therefore, this objective is not achieved.

- *To enhance privacy between buildings.*

Comment:

The provision of additional planting along the northern side of the site would enhance the amenity for the future occupants of the development. However, no planting is proposed and due to the lack of fencing to the private open space for Unit 1 that separates common and private open space, the internal amenity outcome for this apartment is unsatisfactory.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment:

The outdoor spaces on the northern side of the site are of a suitable size to accommodate private open space for the ground floor apartments.

- *To provide space for service functions, including clothes drying.*

Comment:

The northern and western setback zones can facilitate functions such as cloths drying.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

Water infiltration would be enhanced as the development increases LOS on the site when compared to the existing scenario.

Having regard to the above assessment, it is concluded that the proposed development is not consistent with the requirements or objectives of this control. This matter forms a recommended reason for refusal.

D2 Private Open Space

Description of non-compliance

Section D2 of the WDCP requires that each apartment contain 10sqm of private open space (POS) with a minimum dimension of 2.5m. Units 2 and 3 within the development contain compliant POS; however, Unit 1 does not contain any POS, given there is no fencing that separates the POS from the common areas of the site (see **Figure 1**).

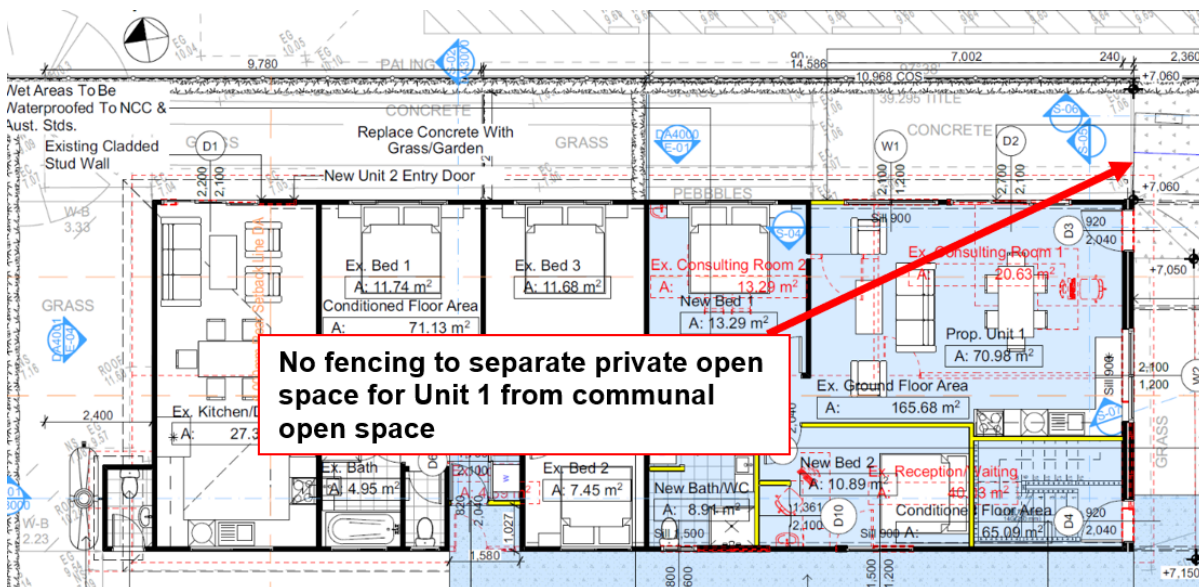


Figure 1 - private open space configuration for ground floor apartments

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying objectives of the control as follows:

- *To ensure that all residential development is provided with functional, well located areas of private open space.*

Comment:

Unit 1 is not provided with functional or well located POS on the site, given it can be directly accessed from communal areas on the site. Therefore, this objective is not achieved.

- *To ensure that private open space is integrated with, and directly accessible from, the living area of dwellings.*

Comment:

The northern landscaped areas (which is the appropriate location for POS) can be directly accessed from north-facing sliding doors from Units 1 and 2. The POS for Unit 3 can also be directly accessible from the living rooms.

- *To minimise any adverse impact of private open space on adjoining buildings and their associated private open spaces.*

Comment:

The proposed areas of POS for Units 2 and 3 do not result in adverse impacts to POS areas on adjoining sites.

- *To ensure that private open space receives sufficient solar access and privacy.*

Comment:

The proposed POS areas for Units 2 and 3 receive adequate sunlight as they benefit from northern aspects; however, no POS is proposed for Unit 1 as this area is not separated from communal open space areas on the site. Hence, this objective is not achieved.

Having regard to the above assessment, it is concluded that the proposed development is not consistent with the requirements or objectives of this control. This matter forms a recommended reason for refusal.

D6 Access to Sunlight

Section D6 of the WDCP requires that at least 50% of the required POS within the development and on adjoining properties receive 3 hours of sunlight between 9am - 3pm on June 21. Compliant solar access is received internally within the site.

In assessing the overshadowing impacts on adjoining properties, it is noted that due to the east/west aspect of the allotments located on the western side of Pittwater Road, overshadowing from the development will largely be confined to the southern adjoining property (1283-1287 Pittwater Road), which accommodates a three storey residential flat building.

As revealed on the applicant's shadow diagrams in **Figure 2**, the development will result in overshadowing of north-facing windows within the ground floor apartments within the southern adjoining residential flat building.



Figure 2 - elevational shadow diagrams (source: applicant's architectural plans)

Despite this, a review of the strata plan for the southern adjoining residential flat building has revealed that the private open space for the north-facing apartments is located on the eastern (i.e. front) and western (i.e. rear) elevations (see **Figure 3**).

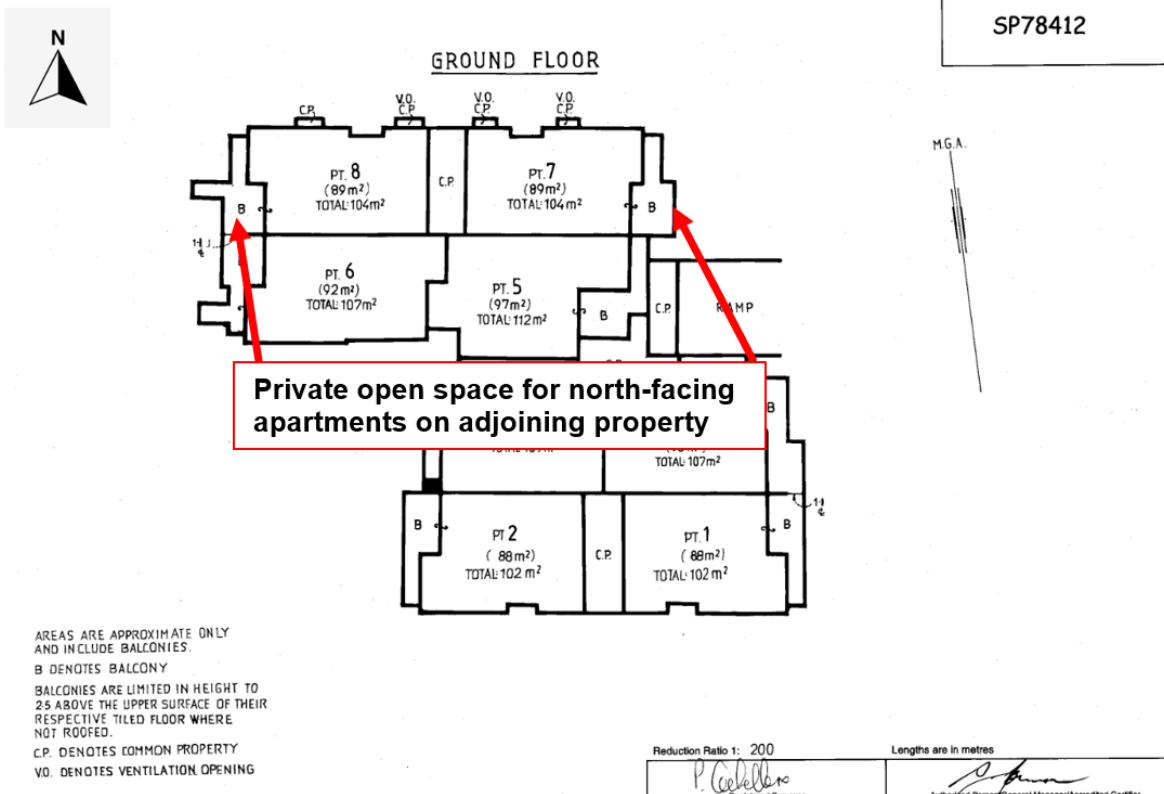


Figure 3 - strata plan depicting location of private open space for ground floor apartments at 1283-1287 Pittwater Road

The shadow diagrams reveal that these areas will receive the required 3 hours of sunlight on June 21 and therefore, the development complies with Section D6 of the WDCP.

D9 Building Bulk

Description of non-compliance

Section D9 of the WDCP requires as follows:

1. *Side and rear setbacks are to be progressively increased as wall height increases.*
2. *Large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief.*
3. *On sloping land, the height and bulk of development (particularly on the downhill side) is to be minimised, and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope. In particular:
The amount of fill is not to exceed one metre in depth.
Fill is not to spread beyond the footprint of the building.
Excavation of the landform is to be minimised.*
4. *Building height and scale needs to relate to topography and site conditions.*
5. *Orientate development to address the street.*
6. *Use colour, materials and surface treatment to reduce building bulk.*
7. *Landscape plantings are to be provided to reduce the visual bulk of new building and works.*
8. *Articulate walls to reduce building mass.*

The development does not provide a satisfactory response to the requirements of this control, noting that the northern and southern side elevations of the residential flat building contain 19.2m long unarticulated facades. The development also does not introduce any varied materials and colours to offset the bulk of the northern and southern side elevations, does not provide any modulation or articulated elements, nor does it incorporate landscape plantings to reduce the visual bulk of the development.

Merit consideration

The development is considered against the underlying objectives of the control as follows:

- *To encourage good design and innovative architecture to improve the urban environment.*

Comment:

The development does not provide an appropriate design response or innovative architecture to improve the urban environment. Appropriate design solutions to offset the bulk of the northern and southern elevations could include a combination of modulating the facades (i.e. providing recesses in the northern and southern elevations), stepping the upper floor substantially in from the lower floors (i.e. not 200mm as proposed), providing window hoods to articulate the facades and incorporated varied external colours and materials. The applicant has not provided any of these design solutions to offset the bulk of these long and dominant facades, despite the request for further information letter and subsequent correspondence requesting such treatments.

Additionally, no landscape plantings have been incorporated around the curtilage of the building to enhance the natural amenity of the area and soften the built form.

For these reasons, the assessment has concluded that the development does not achieve this objective.

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

For the reasons outlined above, the proposal has not minimised the visual impact of the development when viewed from adjoining properties and the public domain, contrary to this objective.

Having regard to the above assessment, it is concluded that the proposed development is not consistent with the requirements or objectives of this control. This matter forms a recommended reason for refusal.

D10 Building Colours and Materials

The objective of Section D10 of the WDCP requires the colours and materials of new or altered buildings to be sympathetic to the surrounding natural and built environment. The applicant has not stipulated the chosen colours and materials of the new additions, contrary to the requirements and objective of this control.

This matter forms a recommended reason for refusal as the assessing officer is not able to ascertain whether the development would maintain an appropriate visual relationship with the surrounding natural and built environment. This is of particular concern as the proposed residential flat building is visually dominant and bulky and the use of appropriate building articulation, coupled with varied external finishes, could offset the bulk and scale of the building as observed from the public domain and surrounding properties.

D12 Glare and Reflection

The objectives and requirements of Section D12 of the WDCP require development to incorporate dark and earthy tones to minimise solar reflections. The applicant has not stipulated the chosen colours and materials of the new additions, contrary to the requirements and objective of this control.

This matter forms a recommended reason for refusal as the assessing officer is not able to ascertain whether the development would minimise solar reflections to adjoining properties. As such, the assessment cannot conclude that the development would meet the objectives of this control.

D13 Front Fences and Front Walls

A 1.65m high front boundary fence and vehicular / pedestrian gate is proposed along the front boundary of the site. The fence contains masonry material with timber batten infills.

The height and nature of the fence is compatible with surrounding fences along the western side of

Pittwater Road and is supported.

D14 Site Facilities

As demonstrated earlier within this report, the proposed bin storage area does not comply with Council's WMG. As such, the development will not make servicing the site as efficient and easy as possible, contrary to the objectives of this control.

This matter forms a recommended reason for refusal.

D19 Site Consolidation in the R3 and IN1 Zone

Section D19 of the WDCP stipulates that development shall not result in adjacent allotments that have areas or dimensions, or are constrained in other ways, that would render such allotment(s) incapable of being developed in accordance with WLEP.

While it would seem logical to consolidate the subject site with the two northern adjoining properties (1293 and 1291) to provide for a larger residential flat building that is of a similar scale to the southern adjacent residential flat building at 1283 - 1287, the proposed development would not unreasonably constrain the northern adjoining properties from being developed generally within the parameters of the WLEP and WDCP.

If the subject site were to be developed for the purpose of a small residential flat building similar to what is proposed under the current application, the two northern adjoining properties would have a combined frontage of 21.94m to Pittwater Road, a splayed corner frontage of 3.92m to Pittwater Road and Goodwin Street, and a secondary frontage of 29.715m to Goodwin Avenue, which involves a total area of 835.5sqm (based off Council's GIS data). This potential amalgamated site would include appropriate proportions to accommodate a three storey residential flat building with approximately 6 apartments, which is generally consistent with nature and extent of development envisaged for the R3 zone under the WLEP and WDCP.

In this regard, the development complies with the requirements of this control, insofar as it would not sterilize surrounding properties.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of \$9,405 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$940,500.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2024/1089 for the Alterations and additions to a dwelling house to create a residential flat building comprising of three (3) units. on land at Lot 1 DP 951859, 1289 Pittwater Road, NARRABEEN, for the reasons outlined as follows:

1. Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the following objectives of the R3 Medium Density Residential zone:
 - To ensure that medium density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.
 - To ensure that medium density residential environments are of a high visual quality in their presentation to public streets and spaces.
2. Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with Section 2.120 of State Environmental Planning Policy (Transport and Infrastructure) 2021 as the applicant has not demonstrated how the residential apartments would achieve the noise amenity criteria between 10.00pm and 7.00am

that is required by Section 2.120 of State Environmental Planning Policy (Transport and Infrastructure) 2021.

3. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the requirements and objectives of the following provisions within the Warringah Development Control Plan 2011:
 - o Section A.5 Objectives
 - o Section B5 Side Boundary Setbacks
 - o Section B7 Front Boundary Setbacks
 - o Section C9 Waste Management
 - o Section D1 Landscaped Open Space
 - o Section D2 Private Open Space
 - o Section D9 Building Bulk
 - o Section D10 Building Colours and Materials
 - o Section D12 Glare and Reflection
 - o Section D14 Site Facilities
4. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with Northern Beaches Council's Waste Management Guidelines.
5. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is not suitable to accommodate for a residential flat building of this size.
6. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Thomas Burns, Principal Planner

The application is determined on 05/02/2025, under the delegated authority of:



Steven Findlay, Manager Development Assessments