

# STATEMENT OF ENVIRONMENTAL EFFECTS

Proposed Shop Top  
Housing Development

1 – 3 Gondola Road,  
North Narrabeen

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# Statement of Environmental Effects

## Proposed Shop Top Housing Development



**1 - 3 Gondola Road, North Narrabeen**

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## 1.0 Introduction

This document has been prepared to accompany the lodgement of a development application proposing the construction of a shop top housing development comprising 14 residential apartments and 2 x ground floor retail (commercial) tenancies including parking for 38 vehicles over 2 levels. The application also proposes roof top communal open space and the implementation of an enhanced site landscape regime.

We confirm that development consent has been obtained for separate shop top housing developments on each of the subject properties with the proposal providing for a rationalisation of built form, car parking and landscape outcomes across the consolidated allotment consistent with the height form and massing of the previously approved schemes (DA2018/1210 and DA2022/0919).

In the preparation of this application consideration has also been given to the minutes arising from formal pre-lodgement engagement with Council and the Northern Beaches Design and Sustainability Advisory Panel (DSAP) (PLM2023/0161) with the final design detailing responsive to the associated recommendations. In this regard, the final design incorporates a number of design changes including architectural expression and the appropriate use of materials and finishes.

The proposed development has been developed in consideration of detailed site, contextual, and urban design analysis. Furthermore, the proposal has been designed with regard to the flood hazard that affects the site, and with specific regard to recent approvals issued for development across the subject properties. The final design, the subject of this application, represents a highly considered and resolved response to the constraints and opportunities identified, with the proposed development exhibiting good design not only in its architectural form, function and amenity but importantly, its success in responding to the significant constraint associated with the flood affectation and the current and desired future character of the area.

In addition to this SEE, the application is also accompanied by the following:

- Architectural Plans
- Survey
- Flood Risk Assessment and Flood Emergency Response Plan
- Landscape Plans
- Traffic and Parking Assessment Report
- Accessibility Report
- BCA Compliance Report
- Stormwater Management Plans
- Preliminary Site Investigation

- Geotechnical Report
- Arborist Report
- Acoustic Report
- Waste Management Plan
- QS Report
- Architect Design Verification Statement
- ADG Compliance Table
- BASIX Certificate

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

- Environmental Planning and Assessment Act 1979, as amended (**EP&A Act**)
- Water Management Act 2000
- Pittwater Local Environmental Plan 2014 (**PLEP 2014**)
- Pittwater 21 Development Control Plan 2014 (**P21 DCP**)
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Housing) 2021 - Design Quality of Residential Apartment Development
- State Environmental Planning Policy (Sustainable Buildings) 2021.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15(1) of the EP&A Act. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The accompanying plans depict a high quality and contextually appropriate built form outcome that responds to adjacent and nearby development and the surrounding environment.
- The 3 storey apparent height and bulk of the proposed development is compatible with that of surrounding development.

- 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 height or bulk of the proposed development offensive, jarring or unsympathetic in the streetscape context.
- Whilst the proposal requires the consent authority to give favourable consideration to a variation to the building height development standard, strict compliance has been found to be unreasonable and unnecessary in this instance as the development is otherwise consistent with the objectives of the development standards and sufficient environmental planning grounds exist to support the variation (as outlined in the attached Clause 4.6 Variation Request).
- The areas of non-compliance with regard to the percentage of retail floor space and the undergrounding of overhead wires have been acknowledged and appropriately justified having regard to the associated objectives. Such variations succeed pursuant to section 4.15(3A)(b) of the EP&A Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of the DCP standards for dealing with that aspect of the development.
- The site is assessed as suitable for the proposal having regard to the relevant considerations pursuant to the SEPP (Housing) 2021 - Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide (ADG).

## 2.0 Site description and Locality

### 2.1 The Site

The subject properties are legally described as Lots 187 and 188, DP16719, No's 1 and 3 Gondola Road, North Narrabeen. The consolidated property is irregular in shape, tapering in width towards its southern rear boundary, with a 36.59m wide primary frontage to Gondola Road, secondary frontage to Minarto Lane 39.045m and an area of 1289.2m<sup>2</sup>. The sites are generally flat with No. 1 Gondola Road currently vacant and No. 3 Gondola Road occupied by a 1 and 2 storey building that covers the majority of the site. Gondola Road is a two lane local road with on-street parallel parking on both sides of the street. The frontage contains kerb, guttering and a public footpath. A site survey extract is at Figure 1 below with an aerial context/ location and site photographs at Figures 2 and 3 over page.



Figure 1 – Extract of site survey



Figure 2 – Aerial photograph



Figure 3 – Subject site as viewed from Gondola Road



## 2.2 The Locality

The extension of the tram to Narrabeen in 1913 established the North Narrabeen Locality as a popular area for holidays and camping. Until this time, the locality remained relatively undeveloped, used mainly as a through-route to Mona Vale and land further north. A bridge constructed across Narrabeen Lagoon in 1880, and the opening of the Wakehurst Parkway in 1946, connected the locality and rest of Pittwater with land to the south. From the 1950s, residential development intensified in the locality.

Since this time, the locality has developed into a predominantly low-density residential area, with dwellings built along the valley floor, slopes, and adjacent to Narrabeen Lagoon. The locality is characterised by one and two-storey dwelling houses on 450-650 square metre allotments (some smaller allotments may exist). 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 a neighbourhood retail centre at Pittwater Road, which also serves as a retail centre for passing motorists, and nearby residents descending from Elanora Heights. A smaller neighbourhood centre is located at the corner of Powderworks Road and Garden Street. This services the local industrial area that is dominated by car uses including servicing, repair and sales, that is located between Garden and Warraba Road. The locality also contains Narrabeen RSL club, a community centre and recreational facilities including tennis courts, several reserves and Narrabeen Lake.

The locality is characterised by a valley and steeper slopes to the north, south, and west, and lowlands extending to Narrabeen Lake to the east and Mullet Creek. Due to the topography, some significant views can be obtained to the east and south. 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. Much of the tree canopy around the escarpment has been retained. The natural features of the locality result in a high risk of bushfire, landslide and flood.

The major roads within the locality are Pittwater Road, Rickard Road, and the Wakehurst Parkway. Powderworks Road is a common through-route from the beaches to land further north/west, and similarly, the Wakehurst Parkway is a major link with land further west and south. Several pedestrian links and pathways exist within the locality, including a popular pedestrian/cycleway adjacent to Narrabeen Lake.

The property is located within the North Narrabeen Local Centre which is characterised predominantly by 1 and 2 storey commercial development fronting Pittwater Road and more contemporary 3 storey shop top housing development. The development of this Local Centre has been slowed by virtue of the high hazard flooding affectation and the fragmented nature of ownership, particularly in relation to the Pittwater Road fronting properties.

The property to the immediate west (5 Gondola Road) contains a two storey building that is currently unoccupied, but previously contained a scrap metal collection point. The properties to the south currently contain single storey dwelling houses, but benefit from development consent for the construction of a shop top housing development.

The properties further to the east along Pittwater Road are occupied by older 1 and 2 storey commercial development with frontages to Pittwater Road and/or Gondola/Rickard Roads with servicing generally occurring from Minarto Lane. Development to the north includes single storey commercial premises, including a drive-through Liquorland and a 7-11 service station, with the balance of properties located on the northern side of Gondola Road occupied by 1 and 2 storey detached dwelling houses.

The property is within walking distance of regularly serviced bus stops, including the B-Line bus service at Narrabeen Town Centre. The site is in close proximity to Narrabeen Lake and a plethora of open space recreational areas. Such characteristics makes the site ideally suited for medium density housing.

### 3.0 Proposed Development

The application seeks consent for the construction of a shop top housing development comprising 14 residential apartments and a ground floor retail (commercial) tenancy over 2 levels of car parking for 38 vehicles. The detail of the application is depicted on the following Architectural Plans prepared by Mackenzie Architects International:

<b>DRAWING SCHEDULE</b>			
	<b>DRAWING NAME</b>	<b>ISSUE</b>	<b>SCALE</b>
<b>A0000 GENERAL INFORMATION</b>			
A0001	COVERPAGE	A	
A0002	SITE ANALYSIS	A	
A0003	SITE ANALYSIS P2	A	
A0004	DEMOLITION PLAN	A	1:200
A0005	SITE PLAN	A	1:200
<b>A1000 GENERAL ARRANGEMENT PLAN</b>			
A1001	BASEMENT PLAN	A	1:200
A1002	GROUND FLOOR PLAN	A	1:200
A1003	FIRST FLOOR PLAN	A	1:200
A1004	SECOND FLOOR PLAN	A	1:200
A1005	COS FLOOR PLAN	A	1:200
A1006	ROOF PLAN	A	1:200
<b>A2000 ELEVATIONS</b>			
A2001	NORTH & EAST ELEVATIONS	A	1:200
A2002	SOUTH & WEST ELEVATIONS	A	1:200
<b>A2100 SECTIONS</b>			
A2101	SECTIONS	A	1:200
<b>A3000 ADDITIONAL INFO</b>			
A3001	GFA CALCULATIONS	A	1:400
A3002	LANDSCAPE CALCULATIONS	A	1:400
A3003	DEEP SOIL CALCULATIONS	A	1:200
A3004	BUILDING HEIGHT PLANE	A	1:200
A3005	COMMUNAL OPEN SPACE	A	1:200
A3006	CROSS-VENTILATION	A	1:300
A3007	PRE-ADAPTABLE/SILVER	A	1:100
A3008	POST ADAPTABLE	A	1:100
A3009	SAMPLE BOARD	A	1:300
A3010	TRAVEL DISTANCES	A	1:400
A3011	SITE PLANNING	A	1:300
<b>A4000 SOLAR ACCESS</b>			
A4001	SOLAR ACCESS 9AM-12PM	A	
A4002	SOLAR ACCESS 1PM-3PM	A	
A4003	SOLAR ACCESS ANALYSIS	A	
<b>A4100 SHADOW DIAGRAMS</b>			
A4101	SHADOW DIAGRAM 9AM	A	
A4102	SHADOW DIAGRAM 12PM	A	
A4103	SHADOW DIAGRAM 3PM	A	

Specifically, the proposed development incorporates the following:

- Demolition of the existing site structures,
- Tree removal,
- Construction of a multi-storey storey shop top housing development, comprising:
  - 14 apartments comprising 8 x 3 and 6 x 2 bedrooms (including 3 (21%) adaptable units),
  - 2 x retail/ commercial tenancies with a total GFA of 396.498m<sup>2</sup> (20.06% of total GFA),
  - Carparking for 38 vehicles comprising 25 residential spaces, 3 residential visitor spaces and 10 retail spaces accessed via a ramp to Minarto Lane,
  - Separated residential and commercial bin storage,
  - Roof top communal open space,
- Landscaping, including at-grade and upper-level planters, and
- Stormwater infrastructure.

The development is a considered design solution for the site, that appropriately responds to the evolving context of the North Narrabeen locality and the flood affectation of the land.

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 of building will soften the building form in a streetscape context.

All stormwater will be gravity drained to Gondola Road with the elevated nature of the ground floor area of the development determined by the required flood planning levels and flood storage requirements as detailed in the accompanying Flood Risk Management Report. The application is accompanied by a detailed Finishes Schedule demonstrating a suitable palette for the streetscape context and the locality.

The acceptability of the access, car parking and servicing arrangements are detailed within the accompanying Traffic and Parking Assessment Report. The proposal readiness to comply with the relevant provisions of the BCA is detailed in the BCA Compliance Report, with the proposal's acceptability in relation to accessibility addressed in the accompanying Access Assessment.

Finally, the application is supported by a Construction, Demolition and On-Going Waste Management Plans detailing how demolition and construction waste is to be managed during the construction phase and how general waste is to be managed throughout the life of the development.

## 4.0 Statutory Planning Framework

### 4.1 Pittwater Local Environmental Plan 2014

#### 4.1.1 Zoning

The subject property is zoned E1 Local Centre pursuant to the provisions of PLEP 2014 and shop top housing is permissible in the zone. The proposal is consistent with the stated zone objectives, as follows:

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

Response: The development provides retail spaces at ground level. This future tenancies will be able to contain uses that serve the needs of people who live in, work in or visit the area.

- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*

Response: The development provides retail spaces at ground level. Approval of the application will achieve the objective of encouraging investment in local commercial development that generates employment opportunities and economic growth.

- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*

Response: The proposal incorporates 14 upper-level apartments which will contribute to a vibrant and active local centre not only in relation to their contribution as actively occupied residential tenancies but also through the introduction of additional population within the local centre consistent with the Council's strategic planning for residential development in the area.

- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*

Response: The development provides for retail spaces at ground level and to that extent achieves this objective notwithstanding the building height breaching elements.

- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse, and functional streets and public spaces.*

Response: The ground floor retail spaces will assist in the revitalisation of this local centre with the building design providing for an attractive and vibrant built form outcome which will contribute significantly to the built form quality of development within the centre. The active street frontages proposed will attract pedestrian traffic and contribute to a diverse and functional streetscape.

Accordingly, there is no statutory zoning or zone objective impediment to the granting of approval to the proposed development.

#### 4.1.2 Height of Buildings

Pursuant to clause 4.3(2) of PLEP 2014 development the land must not exceed a height of 8.5 metres. Clause 4.3(2A) states that despite subclause (2), development on land:

- (a) *at or below the flood planning level or identified as “Coastal Erosion/Wave Inundation” on the Coastal Risk Planning Map, and*
- (b) *that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map, may exceed a height of 8.5 metres, but not be more than 8.0 metres above the flood planning level.*

The site is identified as being affected by High Hazard flooding on Council’s Flood Risk Precinct Maps. The Comprehensive Flood Information Report issued by Northern Beaches Council identifies a Flood Planning Level (FPL) of 4.4m AHD. Having regard to clause 4.3(2A) provisions, development on the land must not exceed a height of 8.0m above the FPL, being 12.4m AHD.

The stated objectives of this standard are as follows:

- (a) *to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*
- (b) *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (c) *to minimise any overshadowing of neighbouring properties,*
- (d) *to allow for the reasonable sharing of views,*
- (e) *to encourage buildings that are designed to respond sensitively to the natural topography,*
- (f) *to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

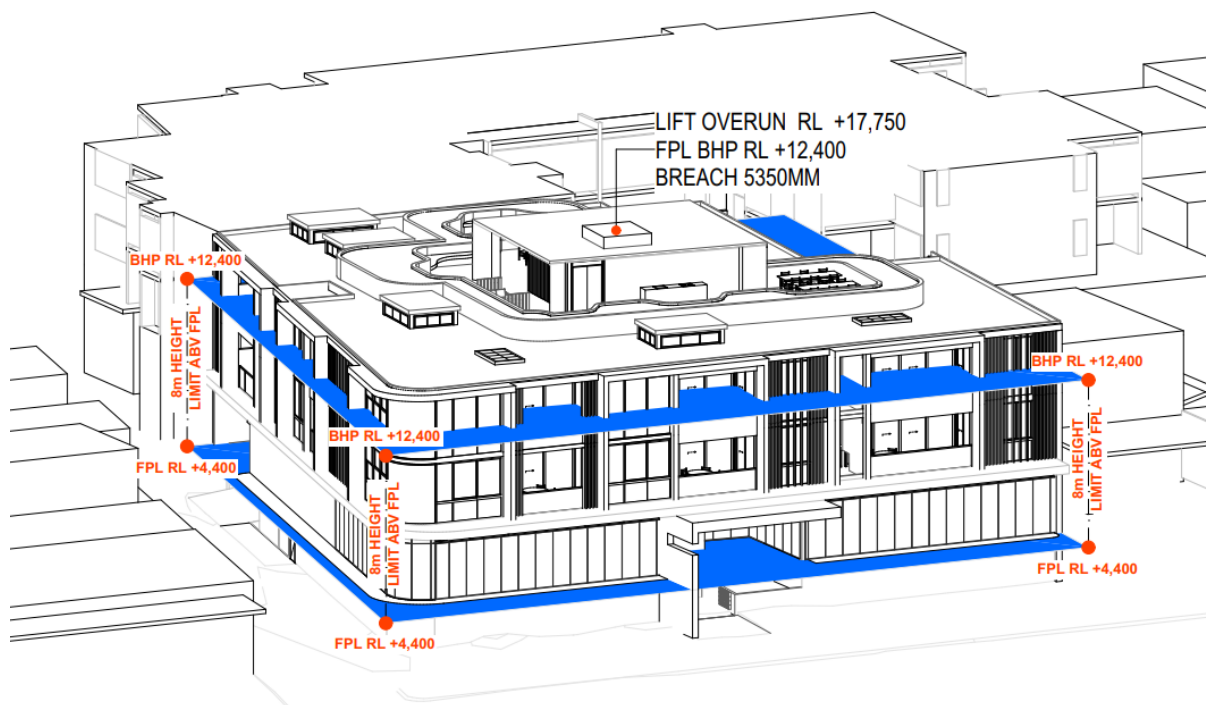
The proposed lift overrun reaches a maximum RL of 17.75m AHD, representative of a 5.35m (62.9%) variation of the building height development standard with the roof terrace balustrade having a maximum height of RL 15.3m AHD, representative of a 2.9m (36.25%) variation of the building height standard. The upper level roof parapet exceeds the building height standard by 2.1m or 26.25%. The extent of the non-conforming elements is depicted in the Height Plane Diagram in Figure 4 on the following page.

Clause 4.6 of PLEP 2014 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.*

Having regard to these provisions, strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the ability to

satisfy the objectives of the zone and the objectives of the development standard. Sufficient environmental planning grounds exist to support the variation proposed, as outlined in the accompanying clause 4.6 variation request at **ANNEXURE 1**.



**Figure 4 – Height Plane Blanket**

#### 4.1.3 Flood Planning

The site is identified as being affected by High Hazard flooding on Council's Flood Risk Precinct Maps and the provisions of clause 5.21 of PLEP 2014 are applicable in relation to the site and the proposed development.

Pursuant to clause 5.21(2) of PLEP 2014, development consent must not be granted unless the consent authority is satisfied that the development:

- (a) *is compatible with the flood function and behaviour on the land, and*
- (b) *will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) *will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) *incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) *will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

The application is supported by a Flood Risk Management Report that addresses these points of consideration and concludes:

*A review of relevant flood information indicates that the site is impacted by longer duration lagoon flooding. The site is located outside of the floodway for all flood events and is classified as a flood storage hydraulic category.*

*Hazards during flood events are high, with the site being classified as a high-risk flood precinct for both the 1% AEP and PMF events. The site is affected by a flood life hazard category of H3 for the 1% AEP event and H5 for the PMF event.*

*A FERP has been prepared to ensure that the site can operate safely in the floodplain environment. The proposed development incorporates several flood mitigation measures which allow evacuation to take place as an appropriate emergency response. With the implementation of the FERP procedures the risk to life is reduced to acceptable levels.*

*A Flood Risk Assessment, flood storage assessment and a compliance assessment have been provided and demonstrate that the proposed development is compatible with the existing floodplain environment and achieves Council's flood planning requirements. We note that:*

- 1. The proposed development is expected to have acceptable offsite flood impacts.*
- 2. Compliance with Council's flood planning level requirements for building and car park levels is achieved.*
- 3. The proposed development satisfies flood hazard and flood storage controls set out in Council's DCP.*
- 4. Evacuation to Mona Vale Road within an hour from the start of the storm is recommended as an emergency response in flood event.*

*Proposed flood characteristics will be largely consistent with existing conditions, and differences due to the proposed development are negligible.*

#### **4.1.4 Acid Sulfate Soils**

The site is identified as being within Area 3 on the Acid Sulfate Soils Map of PLEP 2014, and the provisions of clause 7.1 of PLEP 2014 are relevant to the proposal. This application is accompanied by a Preliminary Acid Sulfate Soils Assessment that confirms:

*On the basis of the ASS action criteria presented in Section 5.4.2, we conclude tested soil samples below 1.2 mbgl exceed the action criteria either for the acid trail and/or sulfur trail and therefore to be PASS. In accordance with ASSMAC (1998), an ASSMP will be required if PASS soils are to be disturbed during construction works. 1 of the 5 samples requires a liming rate of 40kg CaCO<sub>3</sub>/t.*

*Should materials be identified during construction works which do not resemble materials identified in this report, Martens and Associates should be contacted to inspect the material and assess the need for further testing / advice.*



#### 4.1.5 Earthworks

The consent authority can be satisfied that the excavation proposed to accommodate the basement will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, consistent with the provisions of clause 7.2 of PLEP 2014.

#### 4.1.6 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.*

The consent authority can be satisfied that these services will be available prior to occupation, and conditions of consent can be imposed in this regard.

## 4.2 Pittwater 21 Development Control Plan

This policy document came into effect on 1 February 2004. P21 DCP 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.

### 4.2.1 North Narrabeen Locality

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

*The North Narrabeen 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 on the valley floor on land that has less tree canopy coverage, species and habitat diversity and fewer other constraints to development. 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 will be designed to be safe from hazards.*

*The design, scale and treatment of future development within the North Narrabeen commercial centre on Pittwater Road will reflect the status of the centre as the 'gateway' to Pittwater through building design, signage and landscaping, and will reflect principles of good urban design.*

*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.*

The proposed design appropriately responds to the flood affectation of the site, whilst providing a development of good design quality that will positively contribute to the Gondola Road streetscape and the wider locality. The site is conveniently located in close proximity to commercial centres, public transport and community facilities, and is supported by adequate infrastructure.

The design, scale and treatment of the proposed development is compatible with that anticipated in this precinct as reflected by recent approvals for 3 storey shop top housing at 2 – 8 Rickard Road (N0267/16), 1473 Pittwater Road (N0033/15) and upon the subject allotments (DA2018/1210 and DA2022/0919).

External materials and finishes will be consistent with the colours and materials anticipated in the locality. In this regard, the development is consistent with the desired future character of the North Narrabeen locality.

#### 4.2.2 P21 DCP Compliance Table

Control	Requirement	Proposed	Compliance
<b>Part B General Controls</b>			
<b>B1.3 Heritage Conservation - General</b>	If a property, the subject of a development application, is identified as possibly meeting any of the criteria for heritage listing (encompassing the four values of the Burra Charter, being historical, aesthetic, scientific and social significance) then additional independent information on the potential heritage significance may be requested. If the property meets the criteria for heritage listing then development control B1.1 of this DCP will apply.	The subject sites are not considered to meet any of the criteria for heritage listing.	Yes
<b>B1.4 Aboriginal Heritage Significance</b>	If a property, the subject of a development application is identified as possibly meeting any of the criteria for being a	The site is heavily disturbed and is unlikely to contain any items of Aboriginal Heritage Significance.	Yes

Control	Requirement	Proposed	Compliance
	<p>potential Aboriginal place or containing an Aboriginal object then additional independent information on the potential heritage significance may be requested.</p>		
<p><b>B2.6 Dwelling Density and Subdivision – Shop Top Housing</b></p>	<p>The commercial/retail component of the development must be a minimum of 25% of the gross floor area of the building.</p>	<p>Retail component: 20.06%</p> <p>The size/area of the ground floor retail spaces are compromised by the flood affectation, which necessitates the driveway to rise above the flood planning level before continuing down to the basement and the cost prohibitive nature of a second level of basement parking. This has resulted in the utilisation of a portion of the ground floor level floor plate for carparking where it does not compromise the developments ability to appropriately activate the street frontages.</p> <p>Despite non-compliance, both the floor space and the presentation of the retail premises to the street has been maximised to a degree that is commensurate with surrounding and nearby mixed use developments.</p>	<p><b>No</b> Acceptable on merit</p>
<p><b>B3.6 Contaminated Land and Potentially</b></p>	<p>Council shall consider:</p> <ul style="list-style-type: none"> <li>whether the land is contaminated; and</li> </ul>	<p>The application is supported by a Preliminary Site Investigation with no objection to the conclusions contained within this</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
<b>Contaminated Land</b>	<ul style="list-style-type: none"> <li>if the land is contaminated, whether the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out; and</li> <li>if the land requires remediation, whether the land will be remediated before the land is used for that purpose.</li> </ul>	document forming appropriately worded conditions of development consent.	
<b>B3.11 Floor Prone Land</b>	<p>Development must comply with the prescriptive controls.</p> <p>Development on flood prone land requires the preparation of a Flood Management Report by a suitably qualified professional.</p>	The application is supported by a Flood Risk Management Report.	Yes
<b>B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)</b>	The Flood Risk Management Report is to include consideration of climate change, specifically the impacts of sea level rise and the impacts of sea level rise combined with increased rainfall volume.	The application is supported by a Flood Risk Management Report that addresses climate change.	Yes
<b>B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land</b>	Development shall retain and enhance habitat for threatened species, endangered populations, endangered ecological	The application will result in the enhancement of landscaping on the site, as demonstrated in the Landscape Plans prepared	Yes

Control	Requirement	Proposed	Compliance
	<p>communities and locally native species.</p> <p>Development shall provide flora and fauna habitat by active restoration, regeneration, and / or creation.</p> <p>Development shall result in no significant onsite loss of canopy cover or a net loss in native canopy trees.</p> <p>Landscaping is not to include environmental weeds.</p>	<p>to accompany this application.</p>	
<p><b>B5.15 Stormwater</b></p>	<p>Stormwater runoff must not cause downstream flooding and must have minimal environmental impact on any receiving stormwater infrastructure, watercourse, stream, lagoon, lake and waterway or the like. The stormwater drainage systems for all developments are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.</p>	<p>The application is supported by Stormwater Management Plans that demonstrate consistency with Council's Water Management for Development Policy.</p>	<p>Yes</p>
<p><b>B6.1 Access Driveways and Works on the Public Road Reserve</b></p>	<p>The design of all Access Driveways shall be in accordance with the current edition of Australian Standard AS/NZS</p>	<p>The suitability of the proposed driveway crossing is confirmed in the Traffic and Parking Assessment</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
	<p><i>2890.1-2004: Parking Facilities - Part 1: Off-Street Car Parking.</i></p>	<p>Report prepared to accompany this application.</p>	
<p><b>B6.2 Internal Driveways</b></p>	<p>Internal Driveways are to be designed and constructed to provide safe access and shall have a maximum gradient of 1:5 (V:H). Recommended maximum gradient of an Internal Driveway for a distance of 2m on the approach to a garage, parking area or carport is 1:20 (V:H). There must be a minimum 2 metre long transition between the driveway and the garage/parking area/carport in accordance with the standards.</p>	<p>The suitability of the proposed driveway is confirmed in the Traffic and Parking Assessment Report prepared to accompany this application.</p>	<p>Yes</p>
<p><b>B6.3 Off-Street Vehicle and Parking Requirements</b></p>	<p>2 space per dwelling, 1 space per 3 dwellings for visitors, and 1 space per 30m<sup>2</sup> GLA.</p>	<p>The suitability of the proposed parking arrangements is confirmed in the Traffic and Parking Assessment Report prepared to accompany this application.</p>	<p>Yes</p>
<p><b>B8.1 Construction and Demolition – Excavation</b></p>	<p>Excavation greater than 1 metre deep, the edge of which is closer to a site boundary or structure to be retained on the site, than the overall depth of the excavation and any excavation greater than 1.5 metres deep below the existing surface must</p>	<p>The application is supported by a Geotechnical Risk Management Report, consistent with the requirements of the <i>Geotechnical Risk Management Policy for Pittwater</i>.</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
	<p>comply with the requirements of the <i>Geotechnical Risk Management Policy for Pittwater</i>.</p>		
<p><b>B8.3 Construction and Demolition – Waste Minimisation</b></p>	<p>Waste materials generated through demolition, excavation and construction works is to be minimised by reuse on-site, recycling, or disposal at an appropriate waste facility.</p>	<p>The application is supported by Waste Management Plan.</p>	<p>Yes</p>
<p><b>Part C Development Type Controls</b></p>			
<p><b>C1.1 and C2.1 Landscaping</b></p>	<p>A built form softened and complemented by landscaping.</p> <p>For shop top housing, a minimum landscaped area of 20% of the site area, or 35m<sup>2</sup> per dwelling, whichever is the greater, shall be provided.</p> <p>The following soil depths are required in order to be counted as landscaping:</p> <ul style="list-style-type: none"> <li>• 300mm for lawn</li> <li>• 600mm for shrubs</li> <li>• 1metre for trees</li> </ul>	<p>Landscaping works are proposed at the front and rear of the site, and at upper levels of the development, as detailed on the Landscape Plans provided to accompany the application.</p> <p>The landscaping will appropriately soften the proposed development and the existing commercial building.</p>	<p>Yes</p>
<p><b>C1.2 and C2.2 Safety and Security</b></p>	<p>The development is to be designed in accordance with the four CPTED principles.</p>	<p>The proposed development has been specifically designed to minimise the opportunity for crime by adopting appropriate measures with respect to</p>	<p>Yes</p>



Control	Requirement	Proposed	Compliance
		surveillance, access control, territorial reinforcement and space management.	
<b>C1.3 and C2.5 View Sharing</b>	All new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.	Upon review of the context of the site, it is unlikely that the proposed development will result in any adverse or unreasonable impacts upon existing view corridors.	Yes
<b>C1.4 Solar Access</b>	<p>The main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.</p> <p>Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows).</p>	The solar access requirements of P21 DCP are inconsistent with those of the ADG. In accordance with the provisions of clause 149 of SEPP (Housing), provisions of a DCP relating to solar access that are inconsistent with those prescribed by the ADG are of no effect.	N/A
<b>C1.5 Visual Privacy</b>	Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building	The proposed development does not result in any unreasonable overlooking of adjoining properties, particularly noting the absence of areas of private open space or windows associated with living rooms within 9m from the western	Yes

Control	Requirement	Proposed	Compliance
	<p>layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).</p>	<p>elevation of the proposed development.</p>	
<p><b>C1.6 Acoustic Privacy</b></p>	<p>Noise-sensitive rooms, such as bedrooms, should be located away from noise sources, including main roads, parking areas, living areas and communal and private open space areas and the like.</p> <p>Walls and/or ceilings of dwellings that are attached to another dwelling/s shall have a noise transmission rating in accordance with Part F(5) of the <i>Building Code of Australia</i>. (Walls and ceilings of attached dwellings must also comply with the fire rating provisions of the <i>Building Code of Australia</i>).</p>	<p>The application is supported by an Acoustic Report confirming that the proposed development has been designed to maximise internal amenity with regard to noise levels.</p>	<p>Yes</p>
<p><b>C1.7 Private Open Space</b></p>	<p>For Shop Top Housing, residential flat buildings and multi dwelling housing, private open space at upper levels in the form of front/rear or internal courtyard balconies and terraces are required. The dimension of the balcony should be sufficient so that the area</p>	<p>Each of the proposed terraces exceed 10m<sup>2</sup>.</p> <p>The proposed development is primarily oriented to the north and west, away from adjacent dwellings.</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
	<p>can be usable for recreational purposes (ie a minimum area of 10m<sup>2</sup> and a minimum width of 2.4 metres). First floor balconies along the side boundary must be designed to limit overlooking and maintain privacy of adjoining residences.</p>		
<p><b>C1.9 and C2.6 Adaptable Housing and Accessibility</b></p>	<p>20% of units (rounded up) are to be adaptable units, designed to meet the silver level of the Liveable Housing Guideline.</p> <p>Development shall include the design and construction of works in the public domain to ensure accessibility for the full frontage of the site to any public road and to ensure access to the site from the public domain.</p>	<p>30 of 14 or 21% of the proposed apartments are adaptable units.</p> <p>The suitability of the proposal with regard to adaptability and accessibility is addressed in the Access Report that accompanies this application.</p>	<p>Yes</p>
<p><b>C1.10 and C2.7 Building Facades</b></p>	<p>Building facades to any public place including balconies and carpark entry points must not contain any stormwater, sewer, gas, electrical or communication service pipe or conduit that is visible from the public place.</p> <p>For multi dwelling housing, residential flat buildings or seniors housing and similar</p>	<p>Pipes and conduits will be integrated into the development to minimise visual clutter.</p> <p>The proposed mailboxes are located perpendicular to the front boundary.</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
	development that includes multiple dwellings with multiple letterboxes, where possible mailboxes should be orientated obliquely to the street to reduce visual clutter and the perception of multiple dwellings.		
<b>C1.12 and C2.9 Waste and Recycling Facilities</b>	All development that is, or includes, demolition and/or construction, must comply with the appropriate sections of the Waste Management Guidelines and all relevant Development Applications must be accompanied by a Waste Management Plan.	The application is supported by a Waste Management Plan.	Yes
<b>C1.15 Storage Facilities</b>	A lockable storage area of minimum 8 cubic metres per dwelling shall be provided.	A storage area is provided for each of the proposed units within the basement, which is in addition to storage provided within each unit.	Yes
<b>C1.20 and C2.16 Undergrounding of Utility Services</b>	<p>All existing and proposed utility services within the site are to be placed underground or encapsulated within the building.</p> <p>All existing and proposed utility services to the site, or adjacent to the site within a public road reserve, are to be placed underground for the total</p>	<p>All services connecting to the site will be located underground.</p> <p>Existing overhead wires are proposed to be retained along the road reserve. The subject site relates to only a portion of an existing span, and it would be an unreasonable burden on the</p>	<p>Yes</p> <p><b>No</b> Acceptable on Merit</p>

Control	Requirement	Proposed	Compliance
	frontage of the site to any public road.	subject development to require the undergrounding of the entire span, particularly when it was not required in relation to the adjoining development.	
<b>C1.25 and C2.22 Plant, Equipment Boxes and Lift Over Run</b>	Where provided, plant and equipment boxes, air conditioning units and lift over-runs are to be integrated internally into the design fabric of the built form of the building.	The lift overrun has been integrated into the design of the roof top terrace.	Yes
<b>Part D11 North Narrabeen Locality</b>			
<b>D11.1 Character as viewed from a public place</b>	<p>The facades of buildings presenting to any public place must address these public places, provide visual interest, have a street presence and incorporate design elements that are compatible with any design themes existing in the immediate vicinity. Blank facades that front public places are not supported.</p> <p>Clear visual connection must be achieved between the public place and the front setback/front façade of the building.</p> <p>The bulk and scale of buildings must be minimised.</p>	<p>The proposed development is well articulated, with both the ground floor retail space and upper level residences presenting to Gondola Road.</p> <p>The bulk and scale of the development is commensurate with that of surrounding development (existing and approved), with landscaping along the front setback that will soften the visual impact as seen from the street.</p> <p>The roof terrace has been setback from all building edges with the lift overrun/ stair core and adjacent WC and shade elements not discernible elements in the streetscape.</p>	Yes

Control	Requirement	Proposed	Compliance
	Conceal services.		
<b>D11.3 Building Colours and Materials</b>	Dark and earthy tones.	The application is accompanied by a schedule of finishes. The development incorporates external colours, materials and finishes which are consistent with the predominant colours of development in the North Narrabeen locality.	Yes
<b>D11.6 Front Building Line</b>	3.5m to Gondola Road 1.75m to Minarto Lane	3.5m to Gondola Road and variable between 5 and 1.5m to Minarto Lane.  The facade is highly articulated and displays setbacks entirely consistent with those approved pursuant to DA2018/1210  Strict compliance has been found to be unreasonable and unnecessary given the acceptability of the streetscape outcomes achieved.	Yes  Gondola Road  No  Minarto Lane - acceptable on merit
<b>D11.7 Side and Rear Building Line</b>	Nil	West: Nil – 10.4m South: Nil – 19m	Yes

### 4.3 State Environmental Planning Policy (Sustainable Buildings) 2022

State Environmental Planning Policy (Sustainable Buildings) 2022 applies to the residential component of the development and aims to encourage sustainable residential development.

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

### 4.4 State Environmental Planning Policy (Resilience and Hazards) 2021

#### 4.4.1 Coastal Hazard

Chapter 2 of SEPP (Resilience and Hazards) aims to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner that is consistent with the objects of the *Coastal Management Act 2016*.

The site is identified as “coastal environmental area” of the Coastal Environment Area Map, and the provisions of Chapter 2 of this policy are applicable.

Clause 2.10(2) of SEPP (Resilience and Hazards) prescribes that development consent must not be granted unless the consent authority is satisfied that the proposed development is designed, sited and will be managed to avoid an adverse impact on the matters referred to in clause 2.10(1) of this policy. The relevant matters are addressed as follows:

- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*

Comment: The application is supported by a Geotechnical Report and Stormwater Management Plans that confirm that the development can be constructed with minimal environmental impact.

- (b) *coastal environmental values and natural coastal processes,*

Comment: The proposed works will not result in any adverse impacts upon 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,*

Comment: The proposed development is not located in the vicinity of a marine estate.

- (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*

Comment: The proposed development does not result in any unreasonable impacts upon native vegetation and fauna and their habitats.

- (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,*

Comment: The proposed works are located within private property and not within a foreshore area.

(f) *Aboriginal cultural heritage, practices and places,*

Comment: The proposed works do not impact upon any known/nominated sites of Aboriginal cultural significance.

(g) *the use of the surf zone.*

Comment: The proposed works are not located within the surf zone.

The consent authority can be satisfied with regard to clause 2.10 of SEPP (Resilience and Hazards).

Clause 2.12 of SEPP (Resilience and Hazards) prescribes that 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. The proposed development is not likely to cause increased risk at the site or for adjoining land, and the consent authority can be satisfied in this regard.

#### **4.4.2 Remediation of Land**

Chapter 4 of SEPP (Resilience and Hazards) applies to all land and aims to provide for a state-wide planning approach to the remediation of contaminated land.

Clause 4.6(1)(a) of this policy requires the consent authority to consider whether land is contaminated.

The application is supported by a Preliminary Site Investigation with no objection to the conclusions contained within this document forming appropriately worded conditions of development consent.

#### **4.5 State Environmental Planning Policy (Housing) 2021 - Design Quality of Residential Apartment Development**

Chapter 4 of State Environmental Planning Policy (Housing) 2021 aims to improve the design quality of shop top housing development 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.

These provisions apply to new shop top housing developments that are at least 3 or more storeys in height and that contain at least 4 dwellings.



As the proposed development is for the erection of a 3 storey shop top housing development containing 14 dwellings, these provision are applicable to the proposed development.

Clause 147(1)(a) requires the proposal to be assessed against the 9 design quality principles contained in Schedule 9. The proposal's compliance with the design quality principles is detailed in the Architect Design Statement prepared by Mackenzie Architects provided to support this application.

Clause 147(1)(b) requires the consent authority to take into consideration the Apartment Design Guide. In this regard, an Apartment Design Guide compliance table prepared by Mackenzie Architects accompanies this application.

#### **4.6 Water Management Act 2000**

The Geotechnical Report identifies that ground water will be encountered during excavation for the proposed basement, which will require water to be pumped from the site during construction. The proposed basement will then be tanked, to prevent water ingress occurring in the future.

The development constitutes integrated development and requires aquifer interference approval under the provisions of section 91 of the Water Management Act 2000.

## 5.0 Matters for Consideration Pursuant to Section 4.15(1) of the EP&A Act

The following matters are to be taken into consideration when assessing an application pursuant to section 4.15(1) of the EP&A Act:

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

The proposal is permissible under the provisions of PLEP 2014 and is generally in conformity with the General, Development Type and Locality Specific Controls contained within P21 DCP. Whilst the application requires the consent authority to give favourable consideration to a variation of the height of buildings development standard contained at clause 4.3 of PLEP 2014, this report demonstrates that strict compliance is both unreasonable and unnecessary given the significant floor level constraint imposed by flooding and the desirability of roof top communal open space in a mixed-use development effected by flooding where occupants will need to “shelter in place” during a flooding event.

The development satisfies the Design Principles prescribed within Schedule 9 of SEPP (Housing), the associated Clause 148 standards and the objectives specified in the Apartment Design Guide for the relevant design criteria. The height and density proposed is entirely appropriate given the paucity of adverse environmental consequences, the ability to provide appropriately for off-street carparking and the developments consistency with the Department of Planning’s Sydney’s Metropolitan Strategy ‘City of Cities’ and the Subregional Strategy as it relates to the appropriate concentration of residential density.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15C 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.

### **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 proposed development has been developed through detailed site, contextual, flood planning and urban design analysis.

The final design, the subject of this application, represents a considered and resolved response to the constraints and opportunities identified during the initial site analysis with the proposed development exhibiting good design not only in its architectural form, function and amenity but importantly, its success in responding to the significant constraint imposed by flooding and the current and desired future character of the area.

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 and upgraded utility services will adequately service the development.

#### *Flora and fauna*

The application is accompanied by Landscape Plan which detail the proposed landscape regime for the entire site.

#### *Waste*

Normal domestic and commercial waste collection applies to this development.

#### *Natural hazards*

The site is in a high risk flood area and a detailed Flood Risk Management Report accompanies this application.

#### *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 spaces.

#### *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 detailed in the accompanying BCA report. 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.

#### **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. There will be no excessive levels of transport demand created.

*Are the site attributes conducive to development?*

The constraints associated with the natural hazards that affect the site do not inhibit development of the nature proposed.

#### **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.

**The public interest.**

The proposed development has been developed through detailed site, contextual, flood planning and urban design analysis and in response to the minutes arising from formal pre-DA discussions with Council. The final design, the subject of this application, represents a considered and resolved response to the constraints and opportunities identified during the initial site analysis with the proposed development exhibiting good design not only in its architectural form, function and amenity but importantly, its success in responding to the significant constraint imposed by flooding and the current and desired future character of the area. The development will not only provide a quality built form outcome on the site and greater housing choice in this particular locality but also improve the commercial and retail viability of this commercial centre.

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.

## 6.0 Conclusion

The proposal is permissible under the provisions of PLEP 2014 and generally in conformity with the General, Development Type and Locality Specific Controls contained within P21DCP. Whilst the application requires the consent authority to give favourable consideration to a variation of the height of buildings development standard contained at clause 4.3 of PLEP 2014, this report demonstrates that strict compliance is both unreasonable and unnecessary given the significant floor level constraint imposed by flooding and the desirability of roof top communal open space in a mixed-use development effected by flooding where occupants will need to “shelter in place” during a flooding event.

The development satisfies the Design Principles prescribed by Schedule 9 of SEPP (Housing), the associated Clause 148 standards and the objectives specified in the Apartment Design Guide for the relevant design criteria. The height and density proposed is entirely appropriate given the paucity of adverse environmental consequences, the ability to provide appropriately for off-street carparking and the developments consistency with the Department of Planning’s Sydney’s Metropolitan Strategy ‘City of Cities’ and the Subregional Strategy as it relates to the appropriate concentration of residential density.

The proposed development has been developed in consideration of detailed site, contextual, and urban design analysis. Furthermore, the proposal has been designed with regard to the flood hazard that affects the site, and with specific regard to recent approvals issued on adjoining sites. The final design, the subject of this application, represents a highly considered and resolved response to the constraints and opportunities identified, with the proposed development exhibiting good design not only in its architectural form, function and amenity but importantly, its success in responding to the significant constraint associated with the flood affectation and the current and desired future character of the area.

- The accompanying plans depict a high quality and contextually appropriate built form outcome that responds to adjacent and nearby development and the surrounding environment.
- The 3 storey apparent height and bulk of the proposed development is compatible with that of surrounding development.
- 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 height or bulk of the proposed development offensive, jarring or unsympathetic in the streetscape context.
- Whilst the proposal requires the consent authority to give favourable consideration to a variation to the building height development standard, strict compliance has been found to be unreasonable and unnecessary in this instance as the development is otherwise consistent with the objectives of the development standards and sufficient environmental planning grounds exist to support the variation (as outlined in the attached Clause 4.6 Variation Request).

- The areas of non-compliance with regard to the percentage of retail floor space, Minarto Lane setback and the undergrounding of overhead wires have been acknowledged and appropriately justified having regard to the associated objectives. Such variations succeed pursuant to section 4.15(3A)(b) of the EP&A Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of the DCP standards for dealing with that aspect of the development.
- The site is assessed as suitable for the proposal having regard to the relevant considerations pursuant to SEPP (Housing) - Design Quality of Residential Apartment Development and the Apartment Design Guide.

Having given due consideration to the matters pursuant to Section 4.15(1) of the EP&A Act as amended, it is considered that there are no matters which would prevent Council from granting consent to this proposal in this instance.

## **BOSTON BLYTH FLEMING TOWN PLANNERS**



**Greg Boston**



**ANNEXURE 1**

**CLAUSE 4.6 VARIATION REQUEST – HEIGHT OF BUILDINGS**

**Attached Separately**