

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/0505
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<b>Responsible Officer:</b>	Rebecca Englund
<b>Land to be developed (Address):</b>	Lot 2 DP 9900, 876 Pittwater Road DEE WHY NSW 2099 Lot 3 DP 9900, 876 Pittwater Road DEE WHY NSW 2099 Lot 4 DP 9900, 876 Pittwater Road DEE WHY NSW 2099 Lot 1 DP 9900, 874 Pittwater Road DEE WHY NSW 2099
<b>Proposed Development:</b>	Demolition works and the construction of a shop top housing development with associated basement car parking, landscaping and infrastructure
<b>Zoning:</b>	Warringah LEP2011 - Land zoned B4 Mixed Use
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	DL Dee Why Pty Ltd
<b>Applicant:</b>	Crawford Architects Pty Ltd

<b>Application Lodged:</b>	22/05/2019
<b>Integrated Development:</b>	Yes
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Mixed
<b>Notified:</b>	15/06/2019 to 15/07/2019
<b>Advertised:</b>	15/06/2019
<b>Submissions Received:</b>	7
<b>Clause 4.6 Variation:</b>	4.3 Height of buildings: 12.5%
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 17,265,020.00
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### EXECUTIVE SUMMARY

The application proposes an eight storey shop top housing development that is subject to the provisions of *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development*. In accordance with the direction of the Secretary, the development constitutes 'sensitive' development, that must be referred to the Local Planning Panel for determination. The application also involves a variation to the building height development standard in excess of 10%, which also triggers the need for referral to the Local Planning Panel for determination. As such, the application is referred to the Northern Beaches Local Planning Panel ('NBLPP'), with a recommendation of approval.

## PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for an eight storey shop top housing development over four levels of basement car parking, including:

- 12 x ground floor retail tenancies with a total GLA of 758.4m<sup>2</sup>,
- 78 x residential apartments, inclusive of 7 x adaptable units, comprising:
  - 4 x studio apartments,
  - 41 x 1 bedroom apartments,
  - 31 x 2 bedroom apartments,
  - 2 x 3 bedroom apartments,
- 141 x parking spaces, comprising:
  - 78 x residential parking spaces,
  - 47 x retail parking spaces,
  - 11 x residential visitor spaces,
  - 1 x maintenance space,
  - 1 x removalist space, and
  - 3 x car share spaces,
- Associated infrastructure, and
- Landscaping.

## 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 - 4.3 Height of buildings  
Warringah Local Environmental Plan 2011 - Zone B4 Mixed Use  
Warringah Local Environmental Plan 2011 - 4.3 Height of buildings  
Warringah Local Environmental Plan 2011 - 6.2 Earthworks

Warringah Local Environmental Plan 2011 - 6.3 Flood planning  
 Warringah Development Control Plan - C3 Parking Facilities  
 Warringah Development Control Plan - C9 Waste Management  
 Warringah Development Control Plan - D2 Private Open Space  
 Warringah Development Control Plan - D6 Access to Sunlight  
 Warringah Development Control Plan - D8 Privacy  
 Warringah Development Control Plan - D18 Accessibility and Adaptability  
 Warringah Development Control Plan - Area 7 Pittwater Road

## SITE DESCRIPTION

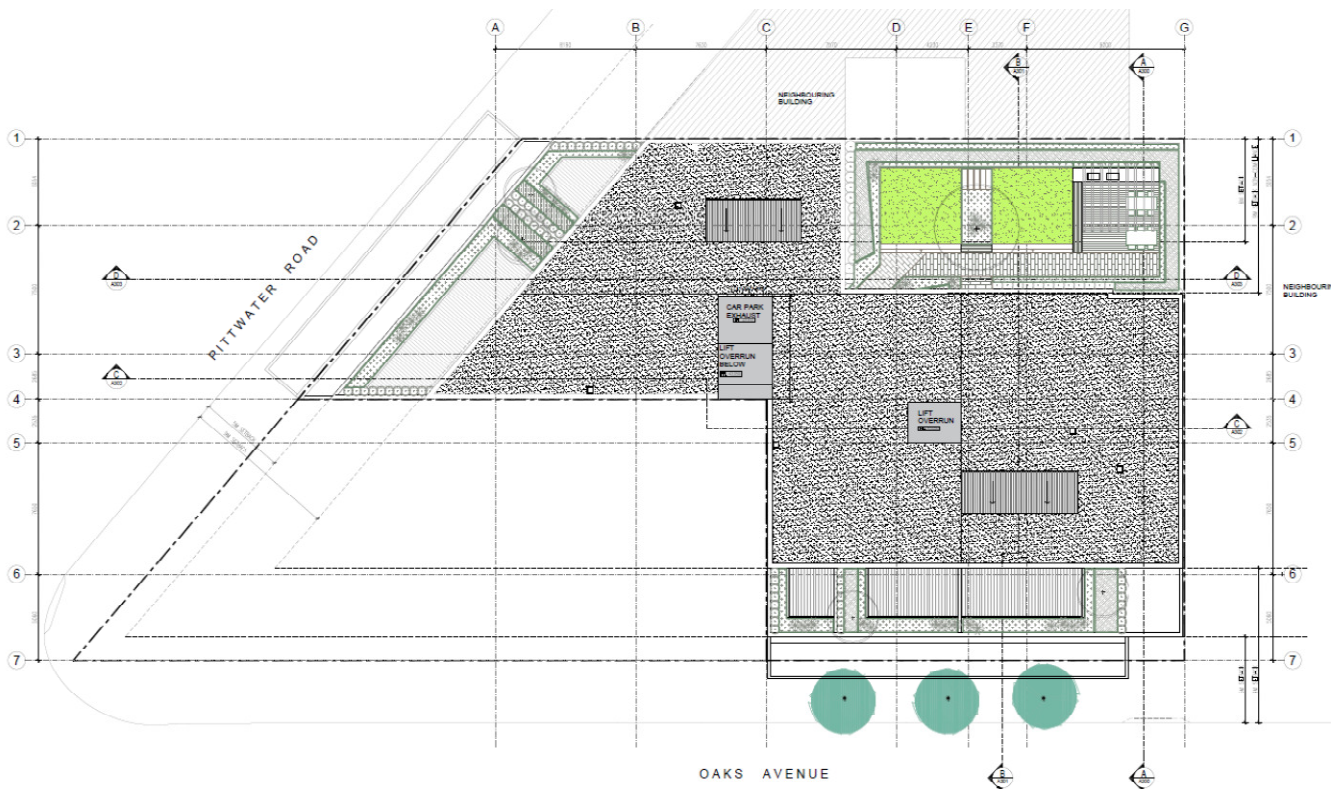
<b>Property Description:</b>	Lot 2 DP 9900 , 876 Pittwater Road DEE WHY NSW 2099 Lot 3 DP 9900 , 876 Pittwater Road DEE WHY NSW 2099 Lot 4 DP 9900 , 876 Pittwater Road DEE WHY NSW 2099 Lot 1 DP 9900 , 874 Pittwater Road DEE WHY NSW 2099
<b>Detailed Site Description:</b>	<p>The site is irregular in shape, with a 61.17m wide frontage to Oaks Avenue to the south, a 36.525m wide frontage to Pittwater Road to the west, a 3.055m wide splay at the intersection of the two streets and a total area of 1571m<sup>2</sup>. The site currently contains two separate two-storey mixed used buildings, with vehicular access gained via two separate driveway crossings to Oaks Avenue.</p> <p>Pittwater Road is a six-seven lane classified road, with bus lanes and time-restricted parking on both sides of the street. The main bus stops servicing Dee Why are located immediately to the north of the site on both sides of Pittwater Road. Oaks Avenue is a four lane local street, with time-restricted parking on both sides. The intersection of Pittwater Road and Oaks Avenue is controlled with traffic lights, with pedestrian crossings connecting the site with the western side of Pittwater Road and the southern side of Oaks Avenue. Both the Pittwater Road and Oaks Avenue public road reserves have been the subject of recent upgrades, with improved stormwater infrastructure, new kerb and guttering, paving and street trees.</p> <p>The site is located within the Dee Why Mixed Use Centre, and is surrounded by mixed use development of varying age, character and scale. The site is bounded to the north and east by an L-shaped six-seven storey shoptop housing development known as 880 Pittwater Road and 10 Oaks Avenue, which is sited with nil setbacks to the common side boundary.</p> <p>The site is subject to medium and high risk flooding.</p>

Map:

## Previous Development Applications

On 20 June 2018, development application DA2017/1063 was approved by Council, under the delegation of the Northern Beaches Local Planning Panel. The approved development is shown in **Figure 1**, below.





**Figure 1 - Site plan of development approved pursuant to DA2017/1063.**

On 16 August 2018, a prelodgement meeting was held with Council to discuss a potential eight storey shop top housing development at 874 and 876 Pittwater Road (the subject site). The applicant presented a schematic form generally consistent with that now proposed, which was supported by Council staff.

On 12 November 2018, development application DA2018/1851 was lodged with Council, seeking consent for an eight storey shop top housing development at the subject site.

On 30 January 2019, development application DA2018/1851 was withdrawn from Council, due to multiple areas of non-compliance with relevant requirements.

#### Application Background

On 22 May 2019, the subject development application was lodged with Council.

On 24 July 2019, Council requested additional information with relation to:

- Footpath levels and flooding
- Stormwater management
- Building height
- Communal open space
- Traffic & basement design
- Inadequate information
- Design & amenity with respect to the Apartment Design Guide

On 2 September 2019, amended plans and additional information were submitted to Council.

On 6 November 2019, Council requested further additional information with regard to:

- Refinement of the facades
- Emphasis of entrances
- Design & amenity with respect to the Apartment Design Guide

On 20 November 2019, amended plans and documentation were submitted to Council.

#### Relevant Policy Background

On 18 October 2016, the Department of Planning and Environment issued a Gateway determination of the Dee Why Town Centre Planning Proposal. Relevant to the site, the planning proposal sought to increase the building height development standard from 24m to 27m.

From 22 February 2018 to 25 March 2018, draft WLEP 2011 was publicly exhibited, in conjunction with associated draft amendments to WDCP 2011.

On 25 September 2018, draft WLEP 2011 was adopted by Council and was subsequently forwarded to the Minister of Planning and Environment.

From 8 October 2018 to 11 November 2018, further amendments to WDCP 2011 were publicly exhibited.

On 5 March 2019, the amendments to WDCP 2011 were adopted by Council, to be implemented in conjunction with the gazettal of the amendments to WLEP 2011.

As at the date of this report, draft WLEP 2011 remained under review by Parliamentary Counsel.

### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

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

#### **Section 4.15 Evaluation**

<b>Section 4.15 Matters for Consideration</b>	<b>Comments</b>
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	Amendments to Warringah Local Environmental Plan 2011 (' <b>WLEP 2011</b> ') have been publicly exhibited and are with Parliamentary Counsel for review. See further discussion, below.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 (' <b>WDCP 2011</b> ') applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters can be addressed via

Section 4.15 Matters for Consideration	Comments
	<p>a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter can be addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter can be addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This matter can 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) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the WDCP 2011 section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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	The site is considered suitable for the proposed development.
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	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## Draft WLEP 2011

Amendments to WLEP 2011 have been publicly exhibited (on two occasions), adopted by Council and are with Parliamentary Counsel for review. The amendments relevant to the site are considered individually, below:

- *Redefinition (increase) of the Dee Why Town Centre*

Comment: The current version of WLEP 2011 defines an area of Dee Why as the Dee Why Town Centre, as shown on the Key Sites Map of WLEP 2011. The area is limited to two Key Sites, along Pittwater Road, Howard Avenue and Oaks Avenue. The subject site is not located within the Dee Why Town Centre as currently mapped, and as such, the provisions of Part 7 of WLEP 2011 do not apply.

The draft amendments to WLEP 2011 seek to include a new Dee Why Town Centre Map, comprised of all B4 Mixed Use zoned sites in Dee Why, inclusive of the subject site. The Key Sites Map is also to be amended to include additional key sites, exclusive of the subject site. By virtue of inclusion within the Dee Why Town Centre, the provisions of Part 7 of WLEP 2011 will be applicable to the site. However, the majority of these controls are limited to the current nominated Key Sites, and do not relate to the subject site. Furthermore, even the objectives identified for the town centre as a whole are very specific to these current Key Sites, and no indication of how these objectives are to be amended to reflect the newly defined town centre has been forthcoming or made available to the general public.

- *A 3m increase to the height of buildings across the Dee Why Town Centre Area,*

Comment: The planning proposal was supported by a draft Height of Buildings Map that identifies a 3m increase to the current maximum height of buildings across the Dee Why Town Centre. In relation to the subject site, the maximum building height is to be increased from 24m to 27m under the provisions of clause 4.3 of WLEP 2011.

- *A reduction to podium heights across the entire Dee Why Town Centre Area,*

Comment: The planning proposal indicates an intent to reduce podium heights throughout the town centre to two and three storeys. Clause G1 of WDCP 2011 currently prescribes that podium heights are to be four storeys along Pittwater Road. Whilst unclear at this stage, it is assumed that the reduced podium height will be addressed under the current provisions of clause 7.3(d) of WLEP 2011, which prescribe a desire to create a unified and consistent building form, with street edges defined by podiums. The current design, which incorporates a four storey podium, is considered to achieve consistency in this regard, aligning with the established heights of podiums along Pittwater Road. Any reduction to the podium height (to 3 storeys as anticipated by the draft amendments) would be antipathetic to this outcome, with a podium that is distinctly lower than the established alignment of podiums along Pittwater Road. As such, the four storey podium proposed is supported in this regard, despite the reduction contemplated in the draft LEP.

- *The introduction of floor space ratio.*

Comment: The planning proposal indicates an intent to introduce a floor space ratio (FSR) for development within the Dee Why Town Centre to "control the amount of floor area so that traffic generation rates remain within the capacity of the overall road network". The planning proposal was supported by a draft Floor Space Ratio Map which highlights a proposed FSR of 4:1 in relation to the subject site. The proposed development is inconsistent with the draft FSR, with a FSR of 4.37:1. The application was supported by a detailed statement addressing the non-compliance with draft FSR, stating that strict compliance with the draft provision is unreasonable in the circumstances where the expressed intent of the control is otherwise met. Namely, that the density of the proposed development will not result in any adverse impacts upon traffic generation and the capacity of the overall road network. This position is supported by the



findings of the Traffic & Parking Assessment Report provided to support the application, and Council's Traffic Engineer who has no objection to the proposal on traffic grounds.

The planning proposal does not relate the proposed FSR to anticipated built form outcomes, and no objectives are prescribed (as the FSR clause of the standard instrument is not adopted in the current LEP). In the absence of any nominated objectives, and noting that the proposal is supported on the basis of traffic generation, the proposed non-compliance with the draft FSR is not considered to warrant the refusal of this application.

Note: When gazetted, the amended height of buildings, and newly introduced podium heights and FSR prescribed by draft WLEP 2011 will be development standards, that are only able to be varied under the provisions of clause 4.6 of WLEP 2011. However, whilst in draft form, the controls are not 'development standards', as they are not provisions of an environmental planning instrument "made, or taken to have been made, under Part 3 and in force". Whilst they are relevant to the assessment of the proposal and are to be taken into consideration under the provisions of clause 4.15 of the EP&A Act, the consent authority can grant consent to a development that is inconsistent with a provision of a draft instrument without reliance upon clause 4.6.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 7 submission/s from:

Name:	Address:
Miss Kathryn Renee Young	8 / 10 Oaks Avenue DEE WHY NSW 2099
George Carl Crowley	51 Parkland Road MONA VALE NSW 2103
Mr Noel Raymond Patrick Kelly	11 / 10 Oaks Avenue DEE WHY NSW 2099
Ms Dana Boudaghian	38 / 880 Pittwater Road DEE WHY NSW 2099
Ms Carol-Anne Stewart	27 / 10 Oaks Avenue DEE WHY NSW 2099
Mr David Martin	35 / 880 Pittwater Road DEE WHY NSW 2099
Mr Alexander James Rizzo	1 / 15 Oaks Avenue DEE WHY NSW 2099

The concerns raised in the submissions received are considered, as follows:

- **Height**

Comment: A number of submissions have been received raising concerns with regard to the height of the proposed development, particularly in contrast with the adjoining development at 880 Pittwater Road and 10 Oaks Avenue. The proposed eight storey building is consistent with the maximum building height development standard prescribed by draft WLEP 2011, and is reflective of the height/scale of development envisioned for the Dee Why Town Centre, as exhibited to the community and as adopted by Council. The proposal is not incompatible with the adjoining six-seven storey development at 880 Pittwater Road and 10 Oaks Avenue, nor the nine storey Carlyle development to the north-west at 701 Pittwater Road or the 17 storey Meriton development to the north at 884-896 Pittwater Road.

- **Depth of excavation**

Comment: Concern has been raised in submissions from adjoining property owners regarding the depth of excavation proposed and potential impacts to their property during construction. The depth of excavation proposed is not inconsistent with the scale of development anticipated on the site, and the impacts upon adjoining properties can be minimised by appropriate conditions of consent. Furthermore, to address concerns regarding property damage, conditions of consent are recommended to require the applicant to produce pre/post construction dilapidation reports. The application has been referred to Council's Development Engineers and NSW Water (with regard to construction dewatering), and no concern is raised in this regard, subject to consistency with the recommended conditions of consent.

- **Solar access**

Comment: Five submissions have been received from owners of apartments within the adjoining development raising concern regarding the potential loss of sunlight arising from the proposed development. The potential impacts upon these apartments are considered individually, as follows:

- Apartment 8 (10 Oaks Avenue)

A two storey apartment located on Levels 1 and 2 of 10 Oaks Avenue, in the centre of the southern facade presenting to Oaks Avenue. Solar access to Apartment 8 will not be impacted as a result of the proposal.

- Apartment 27 (10 Oaks Avenue)

A single storey apartment located at the south-east corner of Level 3 of 10 Oaks Avenue, presenting to Oaks Avenue. Solar access to Apartment 27 will not be impacted as a result of the proposal.

- Apartment 35 (880 Pittwater Road)

A single storey apartment on the eastern facade of Level 4 of 880 Pittwater Road, located to the north of the subject site. Apartment 35 has a bedroom window oriented to the west into an internal light well. The proposal will obstruct late afternoon sun to this bedroom window during the peak summer months. However, the proposal will not impact upon solar access to the primary living space and balcony which are oriented to the east.

- Apartment 37 (880 Pittwater Road)

A two storey apartment on the north-western corner of Levels 5 and 6 of 880 Pittwater Road, presenting to Pittwater Road. Solar access to Apartment 37 will not be impacted as a result of the proposal.

- Apartment 38 (880 Pittwater Road)

A two storey apartment on the eastern facade of Levels 5 and 6 of 880 Pittwater Road, located to the north of the subject site. Apartment 38 has a bedroom window on Level 5 and

windows associated with a loft space on Level 6 oriented to the west into an internal light well. The proposal will obstruct late afternoon sun to these windows during the peak summer months. However, the proposal will not impact upon solar access to the primary living space or balcony which are oriented to the east.

As discussed in further detail with regard to clause D6 of WDCP 2011, the proposal is not considered to result in any unreasonable impacts upon solar access to adjoining properties.

- **Visual privacy**

Comment: Two submissions were received from owners of apartments within the adjoining development at 10 Oaks Avenue and 880 Pittwater Road raising concern regarding visual privacy. The two relevant apartments, Apartments 8 and 37, are not in the immediate vicinity of the proposal, and will not be overlooked by the proposed development. A further submission was received raising concerns regarding overlooking of units on the southern side of Oaks Avenue. The spatial separation between buildings on either side of Oaks Avenue (approximately 26m) is considered to provide sufficient privacy between opposing dwellings.

As discussed in further detail with regard to clause D8 of WDCP 2011, the proposed development is not considered to result in any unreasonable impacts upon privacy of adjoining properties.

- **Traffic**

Comment: Submissions have been received in objection to the proposal, with concerns that the development will further exacerbate traffic congestion along Oaks Avenue. The proposal has been considered by Council's Traffic Engineer, who raises no concern in this regard.

- **Noise during construction**

Comment: Concern has been raised in regards to noise levels during construction. Conditions of consent are recommended to limit construction hours at the site, and to require compliance with relevant industry standards, to ensure that impacts upon neighbouring properties are minimised during construction.

It is noted that the proposal has undergone a series of amendments in the time since the application was originally notified. Whilst displayed on Council's website, the amendments were not notified to adjoining neighbours, as the changes were relatively minor and did not alter impacts to adjoining properties.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p><b>Approval, with conditions.</b></p> <p><i>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</i></p>

Internal Referral Body	Comments
	<p><i>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</i></p>
<p>Environmental Health (Industrial)</p>	<p><b>Approval, with conditions.</b></p> <p><i>The proposal is for an eight storey building with four below ground levels of parking. Ground level is retail, all levels above that are residential. It is noted that the master plans state separate DAs will be submitted for the use of each retail space. Currently there are no amenities included on the lower floors and no plans for vertical / roof top discharge of retail exhausts or residential air-conditioning. This raises some concern due to odour and noise issues caused by horizontal (street-side) discharge of emissions. We must make it clear that the provision for amenities and adequate fixtures such as mechanical exhaust ventilation, grease arrestors and plant must be included in those future applications.</i></p> <p><i>Given the information provided, we can recommend conditions covering noise and dust emissions during the demolition, excavation and construction phases, and ongoing conditions for noise and odour emissions generally.</i></p> <p><i>We have no overall objections to the development and recommend approval subject to conditions.</i></p>
<p>Landscape Officer</p>	<p><b>Approval, with conditions.</b></p> <p><i>No objections to the proposed works in general terms.</i></p> <p><i>It is noted that Council has recently undertaken streetscape works on the Pittwater Road frontage and that street tree planting has previously been undertaken in Oaks Avenue, limiting planting requirements to within the site itself.</i></p> <p><i>No objections subject to conditions as recommended.</i></p>
<p>NECC (Development Engineering)</p>	<p><b>Approval, with conditions.</b></p> <p><i>The stormwater drainage concept plan detailing the provision of On site stormwater detention is generally satisfactory , however the outlet pipe being skewed at 45 degrees has to much of an impact of Councils recently installed street paving and street planting. A condition has been recommended that a new inlet pit by constructed on the RHS of the proposed vehicle crossing in which the outlet pipe can be connected.</i></p> <p><i>No objections to the proposal subject to conditions.</i></p>
<p>NECC (Stormwater and Floodplain Engineering – Flood risk)</p>	<p><b>Approval, with conditions.</b></p> <p><i>The development proposes a new mixed use, multi-level building with multi-level basement car park. The site is affected by the one in 100 year flood extent. Subject to conditions, the development complies</i></p>

Internal Referral Body	Comments																												
	<p>with Section E11 of the Warringah Development Control Plan and Clause 6.3 of the Warringah LEP. This includes the 6.3 (3) a-e, as the development is: compatible with the flood hazard f the land, is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties; incorporates appropriate measures to manage risk to life from flood; is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses; and is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding. Subject to conditions, the development is compliant with Council's flood prone land controls.</p>																												
Strategic and Place Planning	<p><b>Approval, with conditions.</b></p> <p>The application proposes the demolition of existing structures and construction of a shop-top housing development comprising 758.4m<sup>2</sup> of retail GFA and 78 residential apartments, being:</p> <ul style="list-style-type: none"><li>• 45 x 1-bed units</li><li>• 31 x 2-bed units</li><li>• 2 x 3-bed units.</li></ul> <p>The Dee Why Town Centre Contributions Plan 2019 applies to this development. The development will increase the demand for local infrastructure levied by the Plan. The contribution is calculated as follows:</p> <p>Proposed Residential Development:</p> <table><tr><th>Type</th><th>Number</th><th>Contribution Rate</th><th>Subtotal</th></tr><tr><td>1 Bed</td><td>45</td><td>\$9,487.77</td><td>\$426,949.65</td></tr><tr><td>2 Bed</td><td>31</td><td>\$13,915.40</td><td>\$431,377.40</td></tr><tr><td>3 Bed</td><td>2</td><td>\$20,000.00</td><td>\$40,000.00</td></tr><tr><td colspan="3">Total</td><td>\$898,327.05</td></tr></table> <p>Proposed Non-Residential Development:</p> <table><tr><th>GFA (m<sup>2</sup>)</th><th>Contribution Rate</th></tr><tr><td></td><td>(\$16,603.60/100m<sup>2</sup>)</td></tr><tr><td>758.4m<sup>2</sup></td><td>\$166.04m<sup>2</sup></td></tr><tr><td>Total</td><td>\$125,924.73</td></tr></table> <p>Total monetary contribution = \$1,024,251.78</p> <p>Clause 4.3 of the Contributions Plan advises that the total contribution is attributable to the net increase in infrastructure demand. This clause stipulates that the applicant must demonstrate a case for the existing</p>	Type	Number	Contribution Rate	Subtotal	1 Bed	45	\$9,487.77	\$426,949.65	2 Bed	31	\$13,915.40	\$431,377.40	3 Bed	2	\$20,000.00	\$40,000.00	Total			\$898,327.05	GFA (m <sup>2</sup> )	Contribution Rate		(\$16,603.60/100m <sup>2</sup> )	758.4m <sup>2</sup>	\$166.04m <sup>2</sup>	Total	\$125,924.73
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Internal Referral Body	Comments
	<p>development to be taken into consideration in the calculation of the required contribution. There has been no information submitted with this application demonstrating the quantum of existing approved development.</p>
<p>Strategic and Place Planning (Urban Design)</p>	<p><b>Approval, with conditions.</b></p> <p>The applicant has submitted a new DA2019/0505 as a response to the previous DA2018/1851 which was withdrawn. Amended drawings dated 20 August 2019 was submitted in response to the issues raised. The proposal can now be supported for the following reasons:</p> <ol style="list-style-type: none"> <li> <p><b>Previous DA:</b> The 24m building height control has been exceeded by about 7.8m. The amendment to the LEP (Dee Why Town Centre Planning Proposal) proposes a 27m building height ie. 3m height limit increase in exchange for a one storey reduction in podium height limit. However the LEP amendments have not been gazetted to date.</p> <p>Assuming the LEP amended building height of 27m, the proposal will still be 4.8m over the building height limit. The proposed roof garden amenity structure comprising of fire stairs, lift core/lobby, toilet and undercover bbq seating area exceeds the building height control. The development should be beneath the maximum Height of Buildings permitted with variations only being considered for roof features or articulation – not additional floor space.</p> <p>The building height towards the Eastern boundary should step down to a maximum height of 24m at grid D to ensure adequate solar access and lessen the impact of the proposed built form to the residential units next door. Detailed shadow diagrams should be submitted to demonstrate solar access compliance to these next door units. The step down in the built form can then be utilised as the roof garden area (24m building height roof area) with the undercover amenities area tucked into the 27m building height area. The roof communal garden area should be designed to keep users away from the building edge for visual/acoustic privacy, comfort level, safety and security considerations.</p> <p><b>New DA:</b> The proposal is about 4m above the 24m building height control. Given the LEP amendments for the Dee Why Town Centre Planning Proposal have not been made and the 27m building height is endorsed by Council, the proposed building height from grid A to grid D/E can be supported. The building height from grid D/E to H should be reduced to 24m to allow more daylight access and minimise the built form impact to the existing residential units on the eastern boundary. The roof communal garden can be located on this lower roof area. The provision of a 1.8m high glass balustrade to make the roof garden more comfortable and safe during windy days should be considered.</p> <p><b>Amended DA Aug 2019:</b> The proposal is now totally within the 27m building height limit. Compared to the previously approved</p> </li> </ol>

Internal Referral Body	Comments
	<p>DA, the building depth on the eastern boundary has been reduced from 16 to 13m. So despite the increase in previously DA approved building height of 24m to proposed 27m, the building façade width has been reduced by 3m as well, thereby neutralising the potential building impact on the adjacent neighbouring apartments. The proposed building height on the eastern boundary will not affect winter solar access to the neighbouring apartment units. The additional 4 units proposed on the top floor are also solar compliant units in accordance to the Apartment Design Guideline. As such, the proposal can be supported.</p> <p>2. <b>Previous DA:</b> Building built-to lines on Pittwater Road/ Oaks Ave: 5m to kerb for the first 4/3 (3/2 – amended DCP) storeys respectively and 9m for the above storeys have not been complied with. The proposed solid structure balconies also encroach into the 9m setback requirement. Only lightweight structures that do not add to the visual mass of the building, such as pergolas and balconies, may penetrate the build-to lines. (Warringah DCP 2011). There are also balconies encroaching into the 5m setback zone sitting on top of the footpath awning structure. These balconies can become quite unsightly when the residents move in and start putting out clothe-drying racks and outdoor furniture. There will also be issues of noise nuisance and visual privacy between balconies. <b>New DA:</b> The proposal has complied with the Building built-to lines and proposed a further setback of about 2.5m (on top of the 9m kerb setback) to the upper stories on the south-eastern corner. This will reduce the shadow impact on the southern side of Oaks Avenue. <b>Amended DA Aug 2019:</b> The amendments do not affect the comments made previously which were supported.</p> <p>3. <b>Previous DA:</b> Apartment Design Guidelines (ADG Pg. 87) require minimum ground floor retail/residential floor to ceiling height of 3.3/ 2.7m respectively. ADG recommends floor to floor height of 3.7/ 3.1m respectively allowing 0.4m for building structure and services. The proposal does not comply. <b>New DA:</b> The proposal has proposed 3.94 to 3.97/ 3.1m floor to floor height on the ground floor retail/residential floor. Shortfall on the ADG requirement of 70% solar access with 56.4% of the apartment proposed can be supported given the constrained nature of the site and the 75.6% (60% required) cross ventilation of apartment achieved. <b>Amended DA Aug 2019:</b> The amendments do not affect the comments made previously which were supported.</p> <p>4. <b>Previous DA:</b> The corner built form treatment could be further improved. The curved solid wall treatment with the dark colour panel finish on the upper floors appears very heavy. It could be lightened with corner windows treatment or change in colour/material finishes to a more neutral cohesive scheme.</p>

Internal Referral Body	Comments
	<p><b>New DA:</b> The upper floor is now cladded with a lighter shade of material finish (dark cedar 'Urbanline' cladding) which will complement the face-brick façade panels of the neighbouring building.</p> <p><b>Amended DA Aug 2019:</b> The amendments do not affect the comments made previously which were supported.</p> <p>5. <b>Previous DA:</b> The cross ventilation concept using the internal venting of the units via a small opening next to the front door relying on convection of hotter air rising to the roof top vents is a concern as there will be issues of noise and smell nuisance leaking through the unit vents into the common corridors. A suggestion to improve ventilation will be to extend and open the linear light/air well into the main courtyard to ensure effective air circulation and avoid trapped smell.</p> <p><b>New DA:</b> The cross-ventilation concept has been improved via a continuous window opening facing the Pittwater Road boundary.</p> <p><b>Amended DA Aug 2019:</b> The amendments do not affect the comments made previously which were supported.</p> <p>6. <b>Previous DA:</b> The awning at Oaks Avenue closer to Pittwater Road side should be extended wider to achieve a 1m setback from the kerb. Where there are street trees on the footpath, the awning should be 1.5m set backed from the kerb. Minimum awning clearance height of 3.2m should be maintained. Coordination with the upgrading works at Dee Why Town Centre currently underway will be required.</p> <p><b>New DA:</b> The Dee Why Town Centre upgrading works around the site have been completed. There are 3 cabbage Palms along the Pittwater Road façade so the shop awning should be 1m setback from the original kerb line which is correctly shown on the drawings but not dimensioned. The shop awning facing Oaks Avenue should be extended wider to achieve a 1.5m setback from the kerb given there are 4 street trees along that façade.</p> <p><b>Amended DA Aug 2019:</b> The shop awning along Pittwater façade should be 1m setback from the original kerb line. The shop awning along Oaks Avenue should be extended wider to be 1.5m setback from the kerb line to cater for the existing street trees. All dimensions to be indicated on drawings.</p> <p><u>Planner comment:</u> A 1.5m increase to the depth of the awning along Oaks Avenue will clash with the location of recently planted street trees, as shown on the amended survey provided to support the application. However, a 500mm increase could be accommodated without compromising the future growth of these street trees. This increase has been shown on the most recent version of amended plans submitted to Council.</p>

Internal Referral Body	Comments
	<p>Given the scale of the development, a peer review of the proposal was undertaken by an alternate member of Council's Urban Design Team. As a result of the peer review, further amendments were sought in relation to:</p> <ul style="list-style-type: none"> <li>• Refinement of facades,</li> <li>• Emphasis on entrances, and</li> <li>• Design and amenity with respect to the Apartment Design Guide.</li> </ul> <p>The following comments contain both the initial feedback from the peer review, with the response to the submission of amended plans in bold text:</p> <ol style="list-style-type: none"> <li>1. <u>Site</u> The corner of Pittwater Road and Oaks Avenue is a significant gateway corner in the strategic centre of Dee Why, not least of all the distinct geometry of the acute corner position and the resultant view corridors and public realm which will be framed by the two street frontages.</li> <li>2. <u>Bulk and Scale</u> <i>The proposed development reads as three distinct elements by virtue of the varying materiality, architectural language and expression of the finishes between the pedestrian ground plane, the podium and the upper level. The general massing works well for the corner site with its acute angled and colonnaded pedestrian thoroughfare. The scale in terms of the street elevation similarly is well broken up and setback at upper levels sufficient enough to reduce the bulk.</i></li> <li>3. <u>Façade treatment/ Materiality/Bulk and Scale</u> <i>The strategy of breaking up the massing and built form utilises various tactics; modulation by contrasting material/colour finishes, patterns and texture. The resulting composition; bulk, colour and materiality serves to accentuate the scale of the whole through the sum of its parts. There are various different treatments being articulated across the whole of the development which limits a cohesive conceptual response in terms of architectural language, rather the expression is more a 'blocking' of treatments that defines the pedestrian realm separated from the podium and separated yet again from the tower element.</i>  <i>Relatively, the building is not of a scale that seems to warrant the tripartite strategy, which can be seen in high rise developments, that defines distinct yet separate uses.</i>  <i>The upper level darker timber look treatment of the façade whilst dark has a softer materiality than the starkness of the</i></li> </ol>

Internal Referral Body	Comments
	<p><i>white composite panels of the podium below. Given the location and selection of lighter coloured materials this may pose reflectivity issues at certain times of the day. The difference and contrast of these two elements should be further tested so the building reads as a conceptual whole. This could be achieved by reducing the material palette.</i></p> <p><i>The treatment of the precast concrete panel wall to the eastern elevation is successful in that it expresses an honesty and robustness in materiality in contrast to the proposed ACP treatment. It is also an opportune element in the palette that could be further tested as the main treatment to replace the composite panels.</i></p> <p><b>See comments below.</b></p> <p>4. <u><i>Ground Plane/Commercial Façade</i></u>  <i>The elegant nature and repetition of the columnar detail and geometry connecting to the awning and resolving to the ground plane facade softens the shear full height commercial glazing suites at the street level to provide a pedestrian scaled experience.</i>  <i>Beyond the awning the podium above stands in isolation by virtue of the contrast with the tower above.</i></p> <p><u><i>Podium &amp; Tower/Residential</i></u>  <i>The materiality of the lower podium section presents as a very light coloured composite panel and reads more as a commercial tenancy rather than a residential use. The strategy used to break up the mass of this lower section through contrasting fenestration framing suite colours is very lively and dynamic to the point of being a different language to that of the timber look tower element above. Moreover, should the jointing detail be of a contrasting or even similar tone to the cladding panels this would not reduce the same overall effect of the perception of a commercial podium. The distinct disconnection of the street level from the podium level is heightened by this contrast in materiality and surface treatment.</i></p> <p><i>Overall the physical separation of the three elements through physical horizontal breaks in the bulk and mass assist to break up the mass. However the contrast of the materiality of the two above ground elements, whilst read as difference may read better conceptually if there was a similar deployment of patterned striation linking the two elements.</i></p> <p><i>Consideration of the use of the prefabricated and patterned concrete panels demonstrated on the southern elevation (drawing A212 A) in place of a composite panel material demonstrated on the proposed development would assist to tie the whole development together. The concrete elements of the scheme could also serve to resolve connections from ground</i></p>



Internal Referral Body	Comments
	<p><i>plane through to upper levels of the development. The use of natural materials; concrete and timber would further enhance the building's gateway presence of this residential development.</i></p> <p><b><i>The revised drawings demonstrate further articulation to the concrete element through further striation which will result from the varying modular pre-cast panel sizes, assuming the striation is a jointing element. The relationship and vertical compatibility in the striation patterning assist to bring the elements together so as to be read as a whole. This further articulation assists to render a more nuanced response to the facade materiality and can be supported. Conditions that see this resolution through to construction should be considered.</i></b></p> <p>5. <u><i>Public Realm/Ground Plane</i></u>  <i>The built to boundary nature of the building at street level as an extrusion of the cadastral does not allow for public realm additions within the site as an extension of street, but rather pushes public realm activation back out to the pavement proper. Whilst not a criticism of the scheme, the site and context would benefit from a finer grain response to site and seems to be an opportunity missed.</i></p> <p><b><i>No change to comment on.</i></b></p> <p>6. <u><i>Pedestrian Entries /Lobbies</i></u>  <i>Vertical resolution of the breaks in the building façade coinciding with building entrances on both Pittwater Road and Oaks Avenue are discreet. The combination of the columns and connection to the awning demonstrate a well resolved articulation at street level. More generous entries to both street elevations for the commercial and residential entries could better identify the respective street addresses.</i></p> <p><b><i>See comments below.</i></b></p> <p>7. <u><i>Residential Entry/Lobby</i></u>  <i>The current design shows solid walls to either side of the residential entry with a deeper than wide covered entry way on the Oaks Avenue elevation. There are potential CPTED issues with these small alcove type entries. Additionally the length and narrow width of this entry is not a welcoming or conducive entry to an apartment lobby. CPTED issues could be addressed by further widening the whole entry sequence corridor to 3 metres with the provision of glazed end walls of retail tenancies 10 and 11 that line the corridor. This option would see the deletion of retail 11 and the creation of a larger tenancy floor space for retail 12. Alternately, chamfered glazed walls at the entry to the corridor and glazed end walls as mentioned above may also achieve a more generous entry</i></p>

Internal Referral Body	Comments
	<p><i>sequence to the residential lobby and allow for borrowed light to activate the corridor.</i></p> <p><b><i>It is noted that the corridor to the residential has not changed significantly in width. The glazed entry to the corridor are supported. However consideration to the placement of letterboxes needs to consider the glazed elements (difficult to mount letterboxes on glazing. The curved geometry to the lobby proper provides a generous complement to the lobby and can be supported.</i></b></p> <p>8. <u><i>Retail Entry/Lobby</i></u>  <i>The retail lobby fronting Pittwater Road reads as (and is) an access service lobby connecting to commercial carparking. The plan demonstrates a limited circulation area at the bottom and the top of the ramp and stairs. In the elevation of the streetscape this has the potential to read as a service cupboard or dark recess corner which poses potential CPTED issues with the current configuration. Clearance distance for access and perpendicular cross paths of travel out of this alcove require testing to ensure adequate circulation and access is achieved without disrupting pedestrian flows along the street frontage. A more generous lobby in terms of adequate circulation space and extension of a public arcade through to the rear of the retail stores and exiting onto Oaks Avenue suggest a more dynamic and enhanced pedestrian through site experience is an opportunity missed or unexplored. The bigger gesture of a 'through site connection' is another missed opportunity to create a permeable ground plane providing an enhanced pedestrian experience on this key gateway site.</i></p> <p><b><i>The revised planning to the Pittwater Road lobby has addressed previous concerns to provide an adequate response to the streetscape and entry circulation.</i></b></p> <p>9. <u><i>Reveals</i></u>  <i>Fenestration reveals across the development should be carefully considered given the nature of the vertical flat plane of the two main facades. The vertical elemental distribution of fenestration down through the two residential elements reads as a cohesive and considered architectural response. As evidenced to the north on Pittwater Road the resulting architectural detail concerning the lack reveals or any distinctive architectural device to provide modulation across the facade results in a poor design outcome with little detail or sense of design consideration to the finishing and is not a desired outcome for this prominent gateway site. Whilst we are unable to assess these kinds of details at the DA stage it warrants consideration to ensure the façade materiality, ornament and massing are perceived as a conceptual whole. As outlined above the distinct difference in materiality to the</i></p>

Internal Referral Body	Comments
	<p><i>upper level podium and tower elements negate this tactic.</i></p> <p><b>As noted this is difficult to monitor once the DA is out of our hands. Fenestration reveals need to be carefully considered and designed with attention to the quality of the detailing to the façade fenestration reveal details.</b></p> <p>10. <u>Upper Module Soffit</u>  <i>The underside/soffit of the upper portion of the proposed development (drawing A211 A) should look to further recede this element by use of a darker colour. Lighter colours have the potential to deteriorate/discolour over time due to the nature of colour leeching through environmental effects.</i></p> <p><b>Revised colour demonstrated on revised drawings addresses previous concerns. Supported</b></p> <p>11. <u>Apartment Series 04 A</u>  Unit 109A Balustrade  <i>Drawing A105 E and A210 A show the unit's balustrade extending across the elevation to enclose the garden area and break in the vertical resolution of the façade. Whilst this provides additional external balcony space the extension across this area is somewhat discordant with the rhythm set up by the resolution of the two balconies directly above it. Extent of balustrade to unit 109A should align with those above.</i></p> <p><b>The revised drawings demonstrate revision to the extent of balcony on the first level addressing Pittwater road. Supported</b></p> <p>12. <u>Angled Apartment</u>  <i>The length of the apartment coupled with the angle and the distribution in floor plan results in loss of solar amenity to the centre of the apartment.</i>  <i>There are several acoustic amenity issues with these apartments that dovetail the bathrooms of one apartment into the adjacent apartment beside bedrooms. Acoustic noise from bathrooms adjacent the bedrooms and kitchen are not ideal. Further testing of the planning regime is encouraged to seek a solution that finds a simple modularity and distribution of apartments potentially off the lift corridor in the eastern zone.</i></p> <p><b>The revised drawings demonstrate a plan rearrangement that adequately addressed the issue of acoustic amenity between apartments. Supported</b></p> <p>13. <u>Balcony Overhangs Oaks Avenue</u>  <i>There are several upper level balconies that protrude minimally beyond the façade on the Oaks Avenue elevation. The small dimension of this overhang does not really serve any benefit to the articulation of the façade. Balconies could be</i></p>

Internal Referral Body	Comments
	<p><i>recessed so they do not extend beyond the façade line. Whilst this may seem counter intuitive to the principle of modulation, this can be achieved by recessing balconies and providing generous reveals and articulation to the fenestration.</i></p>
Traffic Engineer	<p><b>Approval, with conditions.</b></p> <p><u>Parking:</u> The DCP indicates the following requirements in respect of the development elements:</p> <ul style="list-style-type: none"> <li>• Studio &amp; One-Bedroom apartments 1.0 space</li> <li>• Two-bedroom apartments 1.2 spaces</li> <li>• Three bedroom apartments 1.5 spaces</li> <li>• Visitors 1 space per 5 apartments</li> <li>• Retail 1 space per 16.4m<sup>2</sup> GLFA</li> </ul> <p>Application of these guidelines to the proposed development would indicate the following minimum provision:</p> <ul style="list-style-type: none"> <li>• 4 x Studio apartments - 4 spaces</li> <li>• 41 x One-bedroom apartments - 41 spaces</li> <li>• 31 x Two-bedroom apartments - 37.2 spaces</li> <li>• 2 x Three bedroom apartments - 3 spaces</li> <li>• Visitors - 15.6 spaces</li> <li>• Retail (767m<sup>2</sup>) - 46.7 spaces</li> </ul> <p>Total: 148 spaces (85 residential spaces, 16 visitor spaces and 47 retail spaces)</p> <p>The DCP also specifies the provision of 1 bicycle space per apartment, a total of 12 visitor bike rails and 1 bicycle space per 200m<sup>2</sup> retail GFA. Provision will be made for storage of bicycles in each apartment or within basement storage areas and there will be some 17 bicycle racks made available for visitors and retail users. This is considered satisfactory</p> <p>The applicant has proposed 141 car parking spaces in the following composition:</p> <ul style="list-style-type: none"> <li>• Residents - 78 spaces</li> <li>• Visitors - 11 spaces</li> <li>• Commercial/Retail - 47 spaces</li> <li>• Car share - 3 spaces</li> <li>• Removalist - 1 space</li> <li>• Maintenance/Service - 1 space</li> </ul>

Internal Referral Body	Comments
	<p><i>In addition there will also be 4 motorcycle spaces.</i></p> <p><i>Although the quantum of carparking is 7 spaces short of the DCP requirement, given the provision of motorcycle parking and car share parking, it is considered that the shortfall is satisfactorily offset. The car share spaces will address the under supply of residential spaces.</i></p> <p><u>Traffic:</u>  <i>The applicant has provided an amended traffic generation assessment (as requested) which has revised the traffic generation arising from the retail component of the development in line with RMS Traffic Generation rates. Incorporating these revised rates into the SIDRA traffic modelling for the development indicates that the revised traffic generation rates are acceptable and are unlikely to produce significant impacts on the local road network.</i></p> <p><u>Servicing:</u>  <i>Servicing of the site internally by contracted waste providers for the commercial component is deemed adequate. Swept paths are also considered appropriate.</i></p> <p><u>Car Parking Layout:</u>  <i>All parking spaces are to be compliant with AS2890.1 (most current revision) including the accessible spaces and shared zones.</i></p>
Waste Officer	<p><b>Approval, with conditions.</b></p> <p><i>The amended design of the residential garbage room and bulky good storage room as shown on drawing A154 still does not provide an efficient working space for the removal of waste by contractors, or deposit of waste by residents, and does not fully comply with Council's Waste Guidelines. However, is acceptable subject to the draft conditions, attached.</i></p> <p><i>To avoid ongoing waste issues for residents and ensure access by contractors it is essential that the rooms and access be maintained clear of any obstructions, waste stored on the floor, on top of bins or in any other way not contained within the approved bins, otherwise the space will become unserviceable.</i></p> <p><i>The rooms must also have clear visible signage with these instructions for residents.</i></p>
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p><b>No response.</b></p> <p>The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.</p>
Ausgrid: (Electricity Supply)	<p><b>No response.</b></p>



External Referral Body	Comments
	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
NSW Police - Local Command (CPTED)	<b>No comment.</b>  The application was referred to NSW Police, who provided a response on 18 June 2019 advising that no referral response is required.
NSW Roads and Maritime Services (Traffic Generating Development)	<b>Approval, with conditions.</b>  The application was referred to the RMS, who provided a referral response on 1 July 2019, recommending a series of conditions to be incorporated into any consent issued. These conditions have been included in the draft determination, attached.
Nominated Integrated Development – WaterNSW (Permit for Temporary Construction Dewatering)	<b>General terms of approval issued.</b>  General Terms of Approval were issued by Water NSW on 27 September 2019, which are included in the draft determination, attached.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\*

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

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

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

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

### SEPP 55 - Remediation of Land

Clause 7 (1)(a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for commercial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7(1)(b) and (c) of SEPP 55 and the land is considered to be suitable for the development proposed.

### SEPP 65 - Design Quality of Residential Apartment Development

The application seeks consent for an eight storey shop top housing development, comprising 78 dwellings, and as such, the provisions of SEPP 65 apply to this development.

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

The proposal is considered to be consistent with the design quality principles of SEPP 65, as follows:

- **Principle 1: Context and Neighbourhood Character**

Comment: The proposed development is located in the Dee Why Town Centre, on the main road that runs from north to south through the Northern Beaches, with extremely high volumes of vehicular and pedestrian traffic passing along the frontages of the site. The town centre is transitioning from a low scale, medium density local centre to a high density mixed use town centre, and the site is surrounded by development of varying land use, scale, character and density.

The proposed development is compatible with the character of surrounding development within the B4 zone, and is consistent with the dominant form of recent development constructed within the town centre.

- **Principle 2: Built Form and Scale**

Comment: The ground floor retail level comprises a series of fine-grain shopfronts, providing activated street frontages that are consistent with the pattern of shopfronts throughout the locality. The height of the podium aligns with the height and scale of existing adjacent podiums along Pittwater Road, and the height of the tower is compatible with the height of surrounding shop top housing developments, specifically the Carlyle development to the north-west (701 Pittwater Road), the upper podium of the Meriton development to the north (884-896 Pittwater Road), and a number of more recent developments along Pittwater Road to the south.

The form of the building is appropriately resolved by virtue of articulation, modulation and varied materials and the scale of the building responds to the context of the site, being a corner block in the town centre. Overall, the proposal represents an appropriate, balanced solution between the current and draft/proposed built form controls that are applicable to the site.

- **Principle 3: Density**

Comment: There are no provisions within WLEP 2011 or WDCP 2011 that relate to the density anticipated on the subject site, and as such, the appropriateness of the density proposed is appraised based on the amenity of the development, the size/scale of the development and the impact of the development upon the surrounding environment.

The proposed development is an appropriate contextual fit for the site, with a density that is suitable within the B4 Mixed Use zone and for a site that is within the town centre, in such close proximity to the main transport links on Pittwater Road. The proposed density does not attribute to excessive bulk and scale, nor does it compromise the amenity for future occupants of the development. As such, the proposed density is considered to be appropriate for the site.

- **Principle 4: Sustainability**

Comment: The proposed development was supported by BASIX and NatHERS Certificates,

which include recommendations to ensure that the building performs in accordance with industry standards. Furthermore, the proposal has been designed to maximise natural cross ventilation with adequate levels of natural daylight, such that the amenity and livability of apartments will be high, despite the constraints associated with the south-facing corner site.

- **Principle 5: Landscape**

Comment: The site is located within a high density town centre that has no landscaped area requirements prescribed by WDCP 2011. Nonetheless, the proposal seeks to incorporate landscaping on the upper levels of the building, particularly Levels 1 and 4. The landscape solution is considered to be appropriate for the site.

- **Principle 6: Amenity**

Comment: As detailed in the assessment against the ADG and WDCP 2011, the proposed development provides a reasonable level of amenity for future occupants of the development, without unreasonably compromising the amenity of adjoining properties. Whilst there are some areas of technical non-compliance with regard to the design criteria and guidance prescribed by the ADG with regard to solar access and natural ventilation, the design is considered to be an appropriate response for the context of the site and the majority of apartments are reasonably resolved with high internal amenity.

- **Principle 7: Safety**

Comment: The proposed development is considered to maximise safety for future occupants and visitors of the development, with appropriate division/delineation between public and private spaces.

- **Principle 8: Housing Diversity and Social Interaction**

Comment: The application proposes a mix of 4 x studio, 41 x 1 bedroom, 31 x 2 bedroom and 2 x 3 bedroom apartments, inclusive of adaptable and "Livable" apartments interspersed throughout the development. The proposal is considered to be an appropriate response for the Dee Why Town Centre housing market, providing an appropriate balance of different housing options for a variety of living needs and household budgets.

- **Principle 9: Aesthetics**

Comment: The composition of the proposal is well refined, with appropriate articulation and modulation to respond to the scale of adjoining development, without overwhelming the streetscape. The proposal also features varied materiality to break down the scale of the development, and respond to the context of site.

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

DC – Is the development consistent with the Design Criteria?

DG – Is the development consistent with the Design Guidance?

O – Is the development consistent with the Objective?

ADG reference	Subclause	Design Criteria	DC	DG	O
<b>Part 3 Siting the Development</b>					
3A Site analysis	3A-1	Design decisions based on site analysis.	-	Y	Y
3B Orientation	3B-1	Layouts respond to the streetscape and optimise solar access.	-	Y	Y
	3B-2	Overshadowing of neighbouring properties is minimised during mid winter.	-	Y	Y
3C Public domain interface	3C-1	Transition between private and public places is achieved without compromising safety and security.	-	Y	Y
	3C-2	Amenity of the public domain is retained and enhanced.	-	Y	Y
3D Communal and public open space	3D-1	Communal open space has a minimum area equal to 25% of the site.	N	Y	Y
		Development must achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (midwinter).	Y	Y	Y
	3D-2	Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.	-	Y	Y
	3D-3	Communal open space is designed to maximise safety.	-	Y	Y
3E Deep soil zones	3D-4	Public open space is responsive to the existing pattern and uses of the neighbourhood.	-	Y	Y
3F Visual privacy	3E-1	At least 7% of the site are shall comprise deep soil zones.	N	Y	Y
3F Visual privacy	3F-1	A minimum setback of 6m is to be provided between habitable rooms and balconies and side or rear setbacks, and a minimum setback of 3m is to be provided is to be provided between non-habitable rooms and side and rear setbacks.	Y	Y	Y
	3F-2	Building design elements increase privacy without compromising access to light and air and balance outlook from habitable rooms and private open space.	-	Y	Y
3G Pedestrian access and entries	3G-1	Entries and pedestrian access connects to and addresses the public domain.	-	Y	Y
	3G-2	Access, entries and pathways are accessible and easy to identify.	-	Y	Y
	3G-3	Large sites provide pedestrian links for access to streets and connection to destinations.	-	Y	Y
3H Vehicle access	3H-1	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	-	Y	Y
3J Bicycle and car parking	3J-1	Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.	-	Y	Y
	3J-2	Parking and facilities are provided for other modes of transport.	-	Y	Y

ADG reference	Subclause	Design Criteria	DC	DG	O										
	3J-3	Car park design and access is safe and secure.	-	Y	Y										
	3J-4	Visual and environmental impacts of underground car parking are minimised.	-	Y	Y										
	3J-5	Visual and environmental impacts of on-grade parking are minimised.	-	-	-										
	3J-6	Visual and environmental impacts of above ground enclosed car parking are minimised.	-	-	-										
Part 4 Designing the building															
Amenity															
4A Solar and daylight access	4A-1	Living rooms and private open space of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at midwinter.	N	Y	Y										
		A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	N	Y	Y										
	4A-2	Daylight access is maximised where sunlight is limited.	-	Y	Y										
	4A-3	Design incorporates shading and glare control, particularly for warmer months.	-	Y	Y										
4B Natural ventilation	4B-1	All habitable rooms are naturally ventilated.	Y	Y	Y										
	4B-2	The layout and design of single aspect apartments maximises natural ventilation.	-	Y	Y										
	4B-3	At least 60% of all apartments are naturally cross ventilated.	N	Y	Y										
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.		N	Y	Y											
4C Ceiling heights	4C-1	As measured from the finished floor level, the minimum ceiling height for: - habitable rooms is 2.7m, - non-habitable rooms is 2.4m, and - ground floor non-residential uses is 3.3m.	Y	Y	Y										
	4C-2	Ceiling height increases the sense of space in apartments and provides for well proportioned rooms.	-	Y	Y										
	4C-3	Ceiling heights contribute to the flexibility of building use over the life of the building.	-	Y	Y										
4D Apartment size and layout	4D-1	Apartments are required to have the following minimum internal areas:	Y	Y	Y										
		<table><tr><th>Apartment Type</th><th>Min. internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 Bedroom</td><td>50m²</td></tr><tr><td>2 Bedroom</td><td>70m²</td></tr><tr><td>3 Bedroom</td><td>90m²</td></tr></table>				Apartment Type	Min. internal area	Studio	35m²	1 Bedroom	50m²	2 Bedroom	70m²	3 Bedroom	90m²
		Apartment Type				Min. internal area									
		Studio				35m²									
		1 Bedroom				50m²									
		2 Bedroom				70m²									
	3 Bedroom	90m²													
The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.															
Every habitable room must have a window in an external wall with a total minimum glass area of not															
	Y	Y	Y												



ADG reference	Subclause	Design Criteria	DC	DG	O																
		less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.																			
	4D-2	Habitable room depths are limited to a maximum of 2.5 x ceiling height.	Y	Y	Y																
		In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	N	Y	Y																
	4D-3	Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobes).	Y	Y	Y																
		Bedrooms have a minimum dimension of 3m (excluding wardrobes).	Y	Y	Y																
		Living rooms or combined living/dining rooms have a minimum width of 3.6m for 1 bedroom apartments and 4m for 2 bedroom apartments.	Y	Y	Y																
		The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	Y	Y	Y																
	4E Private open space and balconies	4E-1	All apartments are required to have primary balconies as follows:	Y	Y	Y															
<table><tr><th>Apartment Type</th><th>Min. area</th><th>Min. depth</th></tr><tr><td>Studio</td><td>4m²</td><td>-</td></tr><tr><td>1 Bedroom</td><td>8m²</td><td>2m</td></tr><tr><td>2 Bedroom</td><td>10m²</td><td>2m</td></tr><tr><td>3 Bedroom</td><td>12m²</td><td>2.4m</td></tr></table>			Apartment Type	Min. area	Min. depth	Studio	4m²	-	1 Bedroom	8m²	2m	2 Bedroom	10m²	2m	3 Bedroom	12m²	2.4m				
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Studio			4m²	-																	
1 Bedroom			8m²	2m																	
2 Bedroom			10m²	2m																	
3 Bedroom		12m²	2.4m																		
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m².		Y	Y	Y																	
4E-2		Primary private open space and balconies are appropriately located to enhance liveability for residents.	-	Y	Y																
4E-3	Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.	-	Y	Y																	
4E-4	Private open space and balcony design maximises safety.	-	Y	Y																	
4F Common circulation and spaces	4F-1	The maximum number of apartments off each circulation core on a single level is eight.	N	Y	Y																
	4F-2	Common circulation spaces promote safety and provide for social interactions between residents.	-	Y	Y																
4G Storage	4G-1	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided:	Y	Y	Y																
		<table><tr><th>Apartment Type</th><th>Min. area</th></tr><tr><td>Studio</td><td>4m³</td></tr><tr><td>1 Bedroom</td><td>6m³</td></tr><tr><td>2 Bedroom</td><td>8m³</td></tr><tr><td></td><td></td></tr></table>		Apartment Type	Min. area	Studio	4m³	1 Bedroom	6m³	2 Bedroom	8m³										
		Apartment Type	Min. area																		
		Studio	4m³																		
		1 Bedroom	6m³																		
		2 Bedroom	8m³																		

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

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

### Detailed Assessment

- 3D Communal and public open space**

The proposed development is inconsistent with the requirement for an area of communal open space equal to 25% of the site area, with no communal open space proposed. Despite non-compliance, the proposal is supportable in this regard, noting the proximity of the site to areas of public open space and that all individual areas of private open space are generously proportioned and in excess of the minimum requirements of the ADG.

- 3E Deep soil zones**

With no deep soil zones proposed, the development is inconsistent with the requirement for a minimum of 7% of the site area to comprise deep soil zones. However, as acknowledged by the ADG, this requirement may not be possible on some sites, including sites such as this within a local centre with a non-residential ground floor use, where the DCP does not require any landscaped areas. Nonetheless, the proposal comprises appropriate landscaping, including plantings on structures, and an appropriate stormwater solution can be achieved.

- **4A Solar and daylight access**

The development is inconsistent with Objective 4A-1 of the ADG which requires living rooms and areas of private open space of at least 70% of apartments in a building to receive a minimum of 2 hours of direct sunlight between 9am and 3pm in midwinter, with only 40 apartments (51%) receiving compliant levels of solar access. Furthermore, the proposal is also inconsistent with the requirement that no more than 15% of apartments in a building are to receive no direct sunlight during this time.

However, strict compliance with this control is considered to be unfeasible in consideration of the context of the south-facing site, which is bordered by 6-7 storey buildings with nil setbacks to the northern and eastern side boundaries. The proposed development has maximised indirect light to all of the apartments, with appropriate ceiling heights and floor-to-ceiling glazing along the full width of the living space of each of the generously proportioned apartments. As such, the proposed apartments should still feel light and airy, despite the lack of direct sunlight during midwinter, and the non-compliance is not considered to warrant the refusal of the proposed development.

- **4B Natural ventilation**

With 37 of the 78 (47%) apartments proposed designed to achieve cross-ventilation, the proposed development falls shy of the 60% minimum requirement prescribed by Objective 4B-1 of the ADG. However, in order to maximise ventilation to units in the south-west corner of the site (where most of the single aspect apartments are located), the proposal has been designed with an alternate ventilation system, that promotes airflow through these apartments and into the common circulation core that is open to Pittwater Road. Whilst not ideal, the alternate ventilation system at least provides the opportunity for 20 additional apartments to choose to achieve a greater level of ventilation to these single aspect apartments.

Apartments 105A, 205A, and 305A are cross-through apartments that exceed the 18m maximum glass line to glass line depth prescribed by Objective 4B-1 of the ADG, with a maximum depth of 18.5m. However, the 500mm non-compliance is limited in area, and quickly recedes along the length of a diagonal glazed doorway. The marginally non-compliant depth of these apartments is not considered to detrimentally impact upon the amenity of these units, and is considered supportable on merit.

The proposed configuration of units is considered to be the best-fit design solution for the site, appropriately responsive to the orientation and the siting/design of adjoining development. As such, the proposed non-compliance with this design criteria is not considered to warrant the refusal of the proposed development.

- **4D Apartment size and layout**

Nine of the proposed units (106A, 107A, 206A, 207A, 306A, 307A, 506A, 606A and 705A) feature open plan living rooms with a depth that marginally exceeds 8m, resulting in

inconsistency with the maximum depth prescribed by Objective 4D-2 of the ADG. The depth of these spaces is directly attributable to the inclusion laundries at the end of each respective kitchen, and the minor degree of non-compliance is not considered to reduce or adversely impact the amenity of the proposed unit.

- **4F Common Circulation & Spaces**

Levels 1, 2 and 3 have nine apartments accessible from the circulation core associated with Lift A, inconsistent with the 8 apartment limit prescribed by Objective 4F-1 of the ADG. The length of these circulation cores are not excessive, the circulation spaces are appropriately dimensioned and each level features openings to the Pittwater Road facade and voids to upper/lower levels. The demand upon these three circulation cores is not considered to be excessive, and does not warrant the refusal of the proposal in this regard.

- **4Q Universal Design**

Whilst not immediately evident on the plans, an Access Report has been submitted to confirm that 21 of the 78 (27%) apartments proposed have been designed to achieve consistency with the Silver Level requirements of the Livable Housing Guidelines, in excess of the 20% minimum encouraged by Objective 4Q-1 of the ADG.

The consent authority can be satisfied that the development has been considered in accordance with the requirements of clause 28 of SEPP 65, and that the proposal is generally consistent with the design principles of SEPP 65 and the objectives of the ADG.

## **SEPP (Infrastructure) 2007**

The proposal was referred to Ausgrid in accordance with clause 45 of this policy. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Clause 101 of SEPP Infrastructure prescribes that the consent authority must not grant consent to development on land with a frontage to a classified road (Pittwater Road) unless it is satisfied of the matters considered below:

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

Comment: Vehicular access to the site is gained from Oaks Avenue. The location and design of the proposed driveway is supported by Council's Development and Traffic Engineers.

- *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*

Comment: The proposed development will not result in any adverse impact upon the safety, efficiency or operation of Pittwater Road.



- 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: Subject to conditions of consent requiring high-performance glazing to relevant windows, the proposal is considered to be designed to minimise impacts upon the internal amenity of proposed residences fronting Pittwater Road.

As such, the consent authority can be satisfied that the proposal can be approved in accordance with clause 101 of this policy.

As the proposal meets the definition of 'Traffic Generating Development', the application was also referred to the RMS in accordance with clause 104 of this policy. RMS provided a response confirming that they have no objection to the proposal, subject to a series of conditions. The conditions provided by RMS have been included in the draft determination, attached.

### 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?	Yes

### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	24m	27m	3m (12.5%)	No

### Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes

### Detailed Assessment

#### Zone B4 Mixed Use

The proposed development is consistent with the objectives of the B4 Mixed Use zone, as follows:

- To provide a mixture of compatible land uses.

Comment: The proposed shop top housing development comprises a mix of retail and residential spaces, which are compatible with the surrounding mixed use zone.

- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

Comment: The main bus stops servicing Dee Why are located immediately to the north of the site, on both sides of Pittwater Road, connected to the site by an accessible path of travel. The proposed shop top housing development is located at the heart of the town centre, surrounded by a variety of retail and business premises which promote street activation and encourage walking within the locality. Council is also undertaking extensive works throughout the town centre to upgrade footpaths and public spaces, to also encourage walking and cycling.

- *To reinforce the role of Dee Why as the major centre in the sub-region by the treatment of public spaces, the scale and intensity of development, the focus of civic activity and the arrangement of land uses.*

Comment: The scale of the development is consistent with that anticipated within the Dee Why Town Centre. Furthermore, the proposal is a high-quality architectural design solution, resulting in a considerable improvement in the public presentation of the subject site.

- *To promote building design that creates active building fronts, contributes to the life of streets and public spaces and creates environments that are appropriate to human scale as well as being comfortable, interesting and safe.*

Comment: The ground floor level comprises a series of fine-grain retail spaces which mimic the scale of surrounding retail spaces throughout the town centre, and actively enhance the streetscape.

- *To promote a land use pattern that is characterised by shops, restaurants and business premises on the ground floor and housing and offices on the upper floors of buildings.*

Comment: The proposed shop top housing development provides retail premises on the ground floor, with residential dwellings above.

- *To encourage site amalgamations to facilitate new development and to facilitate the provision of car parking below ground.*

Comment: The proposed development comprises four separate allotments, being the last of the undeveloped sites at the corner of Pittwater Road and Oaks Avenue. A previous application was approved in 2018 for the development of three of these sites, excluding the corner most site. The proposal is a considerable improvement on this approved situation, allowing the orderly development the entire corner site, and limiting access points to basement car parks along Oaks Avenue.

### 4.3 Height of buildings

#### and clause 4.6 Exceptions to development standards

With a maximum height of 27m, the proposed development is non-compliant with the 24m maximum building height prescribed by clause 4.3 of WLEP 2011. The maximum building height is a development

standard, as defined by the EP&A Act, and as such, the provisions of clause 4.6 of WLEP 2011 can be applied.

Pursuant to clause 4.6(2) of WLEP 2011, consent may be granted for development even though the development contravenes a development standard prescribed by an environmental planning instrument. Whilst this clause does not apply to those standards expressly excluded from this clause, the maximum building height is not expressly excluded and thus the clause can be applied in this instance.

Has the Applicant's submission addressed the relevant criteria?

Pursuant to clause 4.6(4) of WLEP 2011, consent can only be granted if the consent authority is satisfied that the applicant's written request to vary the development standard has addressed the criteria of clause 4.6(3) of WLEP 2011. The application was supported by a detailed submission (**attached**) addressing the provisions of clause 4.6 of WLEP 2011. The submission is considered with regard to the criteria of clause 4.6(3) of WLEP 2011, as follows:

- a. *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,*

Comment: In accordance with the decision of the NSW LEC in the matter of *Wehbe v Pittwater Council [2007] NSWLEC 827*, one way in which strict compliance with a development standard may be found to be unreasonable or unnecessary is if it can be demonstrated that the objectives of the standard are achieved, despite non-compliance with the development standard. In this regard, the applicant's submission has satisfactorily demonstrated that the non-compliant element of the proposal will achieve consistency with the objectives of the building height development standard, and as such, strict compliance with the 24m height limit is considered to be unreasonable and unnecessary in the circumstances of this application.

- b. *That there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment: In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, "environmental planning grounds" were found to be grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects prescribed by clause 1.3 of that Act.

The applicant's submission provides that the proposed height of the development is consistent with the amended maximum building height prescribed by Draft WLEP 2011, being an orderly development outcome that is representative of the existing height of recently approved surrounding development and the desired height of development anticipated throughout the town centre. Furthermore, the proposal is a high quality architectural design solution, and the height breach does not attribute to any unreasonable impacts upon adjoining properties or the surrounding environment.

It is agreed that the proposed eight storey shop top housing development is consistent with the height and scale of a number of recent developments throughout the Dee Why Town Centre, and that there are a number of other examples where whereby the consent authority has endorsed variations to the existing 24m building height limit to permit eight and nine storey shop top housing developments. Furthermore, it is acknowledged that the majority of these approvals were prior to Council's exhibition and adoption of the draft 27m height limit.

With this in mind, it is considered that the applicant's written request to vary the maximum

building height development standard satisfactorily demonstrates that there are sufficient environmental planning grounds to justify contravention of the 24m maximum building height development standard.

Therefore, the consent authority can be satisfied that the applicant's written request has satisfactorily addressed the matters required by clause 4.6(3) of WLEP 2011.

Is the proposal in the public interest?

Under the provisions of clause 4.6(4)(a) of WLEP 2011, consent must not be granted to a proposal that contravenes a development standard unless the proposed development (as a whole) will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is to be carried out.

The proposal is considered to be consistent with the objectives of the building height development standard, as follows:

- a. *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*

Comment: As discussed in the matter of *Project Venture Developments v Pittwater Council [2005] NSWLEC 191*, compatibility does not require sameness, but rather the capability of existing in harmony together. The proposed development has been refined to ensure that the height and scale of the resultant development does not result in any unreasonable impacts upon the amenity of adjoining development, and the height and scale of the development is consistent with, and will visually align with, nearby development.

- b. *to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*

Comment: The proposed development is well articulated, comprising two distinct built form elements and a mix of surface treatments in order to minimise the visual impact of the proposal. Furthermore, the height of the proposed development has not been found to result in any adverse impacts upon adjoining properties with regard to view loss, visual privacy or overshadowing.

- c. *to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,*

Comment: The proposed development is not considered to attribute to any adverse impacts upon the scenic quality of the area. The height of the proposal is consistent with the maximum height anticipated by draft WLEP 2011, and the proposal will ultimately sit within a precinct containing much taller development (up to 12 storeys to the east and 17 storeys to the north).

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

Comment: The proportions of the podium align with the existing podiums of adjoining buildings to the north along Pittwater Road, and the height and scale of the development is consistent with the height and scale of other nearby developments, including the nine storey shop top housing development to the north-west (701 Pittwater Road), the nine storey upper podium of the Meriton development to the north (884-896 Pittwater Road), and a number of more recent eight storey developments along Pittwater Road to the south.

Furthermore, as discussed in further detail separately above, the proposal is considered to be consistent with the relevant objectives of the B4 Mixed Use zone.

Therefore, the consent authority can be satisfied that the proposal is in the public interest.

#### Has concurrence been obtained?

Pursuant to clause 4.6(4)(b) of WLEP 2011, development consent must not be granted to a development that contravenes a development standard unless the concurrence of the Secretary has been obtained. In accordance with Planning Circular PS 18-003 (dated 21 February 2018) issued by the NSW Department of Planning and Environment, the Secretary's concurrence may be assumed in this instance as the application is to be determined by the NBLPP.

#### Conclusion

Overall, the consent authority can be satisfied of the matters prescribed by clause 4.6 of WLEP 2011, and the proposal can be supported, despite contravention of the building height development standard.

### **6.2 Earthworks**

In accordance with clause 6.2 of WLEP 2011, in deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:

- *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- *the effect of the development on the likely future use or redevelopment of the land,*
- *the quality of the fill or the soil to be excavated, or both,*
- *the effect of the development on the existing and likely amenity of adjoining properties,*
- *the source of any fill material and the destination of any excavated material,*
- *the likelihood of disturbing relics,*
- *the proximity to, and potential for adverse impacts on any waterway, drinking water catchment or environmentally sensitive area,*
- *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,*
- *the proximity to and potential for adverse impacts on any heritage item, archaeological site, or heritage conservation area.*

The consent authority can be satisfied that all relevant matters listed above have been considered in the assessment of this application, by virtue of consideration of specific LEP and DCP controls and referrals to relevant internal and external referral bodies.

### **6.3 Flood planning**

In accordance with clause 6.3 of WLEP 2011, development consent must not be granted to the proposed development unless the consent authority is satisfied that the development:

- *is compatible with the flood hazard of the land, and*
- *is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- *incorporates appropriate measures to manage risk to life from flood, and*



- *is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

Council's Flood Engineer has reviewed the proposed development, including the Flood Risk Management Report provided to support the application, and has confirmed that the proposal:

- is consistent with the provisions of clause E11 of WDCP 2011, and
- is consistent with the Objectives of this control, and
- is compatible with the flood hazard of the land, and
- is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
- incorporates appropriate measures to manage risk to life from flood, and
- is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
- is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

## Warringah Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
G1 Build to Lines	5m from kerb - first 4 storeys	5m	-	Yes
	9m from kerb - above 4 storeys	5m - 12m	44%	No
G1 Ceiling Heights	3.6m - ground floor	3.8m (min)	-	Yes
	2.7m - residential floors	2.7m	-	Yes
G1 Maximum Area of Floor Plate	30% of roof	21%	-	Yes
	50% of top floor	63%	26%	No
	70% of second top floor	63%	-	Yes

**\*Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example:  $38/40 \times 100 = 95$  then  $100 - 95 = 5\%$  variation)

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C3 Parking Facilities	No	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	No	Yes
D2 Private Open Space	No	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	No	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	No	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	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
E11 Flood Prone Land	Yes	Yes
Area 7 Pittwater Road	No	Yes

#### Detailed Assessment

#### **C3 Parking Facilities**

As discussed by Council's Traffic Engineer, the proposal is technically non-compliant with the minimum off-street parking requirements, with a shortfall of 7 spaces. However, this non-compliance is supported in such circumstances where the proposal is located immediately adjacent to the main bus stops servicing Dee Why and noting the incorporation of 3 car share spaces within the Level 1 Basement.

It is also noted that draft DCP controls have been adopted by Council that reduce the parking rate associated with shop top housing developments within the Dee Why Town Centre, as follows:

- 0.6 spaces per studio and 1 bedroom apartment
- 0.9 spaces per 2 bedroom apartment
- 1.4 spaces per 3 bedroom apartment

- 1 visitor space per 5 units
- 1 car share space per 25 units
- 4.2 retail spaces per 100m<sup>2</sup> of GFA

Based on these comparably reduced parking requirements, the proposal generates the need for only 108 off-street parking spaces, such that the proposal will result in an excess/over-supply of 31 spaces.

Overall, the proposed development is considered to provide adequate off-street car parking for the site, and noting that the location and design of the entrance to the car park is also acceptable, the proposal is considered to achieve consistency with the objectives of this development control.

## **C9 Waste Management**

The application was not supported by a Waste Management Plan produced in accordance with Council's Waste Management Guidelines. Should the application be approved, a condition of consent can be included to require the production of a Waste Management Plan prior to the issuance of a construction certificate.

## **D2 Private Open Space**

Clause D2 of WDCP 2011 requires a minimum area of 10m<sup>2</sup> of private open space, with minimum dimensions of 2.5m, for each dwelling in the proposed development. However, these requirements are inconsistent with the minimum requirements of the Apartment Design Guide, and, in accordance with clause 6A of SEPP 65, development controls that conflict with the provisions of the Apartment Design Guide in relation to private open space and balconies have no effect.

## **D6 Access to Sunlight**

Clause D6 of WDCP 2011 requires a minimum area of 3 hours of direct sunlight to 50% of each area of private open space between 9am and 3pm in midwinter. However, these requirements are inconsistent with the minimum requirements of the Apartment Design Guide, and, in accordance with clause 6A of SEPP 65, development controls that conflict with the provisions of the Apartment Design Guide in relation to solar and daylight access have no effect.

However, the provisions of the ADG do not derogate from the provisions of this clause that require the maintenance of direct sunlight to areas of private space of adjoining dwellings. In this regard, the proposed development will result in additional overshadowing of areas of private open space of the adjoining development to the south, specifically the side balconies associated with Apartments 1, 11 and 21 at 10 Oaks Avenue (located in the south-west corner of Levels 1, 2 and 3). These balconies are currently overshadowed for the majority of the day in midwinter, and do not comply with the current 3 hour minimum requirement prescribed by this control. The proposal will result in new/additional overshadowing of these balconies from 2pm to 3pm in midwinter.

The overshadowing does not arise as a result of a built form non-compliance, and the impact is lessened when compared to that previously approved pursuant to DA2017/1063. The south-facing balconies in question are considered to be extremely vulnerable to additional overshadowing, and with that in mind, the impact is not considered to be unreasonable.

Overall, the proposal is an appropriate design solution that responds well to the context of the site, and reasonable access to sunlight is maintained to adjoining properties. As such, the proposal is considered to be consistent with the objectives of this control.

## D8 Privacy

The proposed development has been designed to maximise visual privacy of adjoining properties and future occupants. Whilst the garden courtyards in the north-eastern corner of Level 1 will be overlooked by dwellings above, each of the respective units have alternate areas of outdoor space, with dimensions in excess of the minimum requirements of the ADG. As such, the proposal is considered to be consistent with the provisions of this control which aim to ensure that 50% of the principal private open space of a lower apartment is protected from overlooking from apartments above.

## D18 Accessibility and Adaptability

Clause D18 of WDCP 2011 requires 10% (rounded up to the next whole number) of dwellings within the proposed development to be capable of adaptation in accordance with the Class C requirements of AS4299. The proposed development is inconsistent with this control, with only 7 of the 78 (8.9%) of apartments proposed meeting this requirement.

However, upon review of the floor plans, it is apparent that the layouts of other units comply with these requirements or are capable of achieving compliance with very little amendment to the current design. Furthermore, an additional adaptable parking space can be accommodated within the basement (specifically along the northern wall of Basement Level 3) without reducing the amount of car parking spaces. As such, it is considered that the non-compliance can be rectified by virtue of a condition of consent, requiring an additional adaptable unit (and associated parking space) to be incorporated into the construction certificate detail.

## Area 7 Pittwater Road

### Build-to Lines

In accordance with this development control, the first four floors of the building are to be set back 5m from the kerb, with any additional storeys set back 9m from the kerb. Whilst the first four floors are consistent with this control, the corner tower element is inconsistent with this control, with the maintenance of the 5m setback extended up to the top (eighth) floor.

However, the proposed design is consistent with the draft DCP amendments that have been publicly exhibited and adopted by Council, which prescribe that an exception to the upper level setback can be provided on corner sites where they are given visual prominence through a change in articulation, materials or colour or roof expression. In this regard, the non-compliant corner tower element is visually separated from the remainder of the development by virtue of the change in setbacks, which increases to 9m along the western facade and 12.5m along the Oaks Avenue facade, consistent with the slightly increased build-to lines along Oaks Avenue prescribed by the draft DCP.

Furthermore, the setbacks and scale of the proposal are compatible with other recent development constructed on nearby corner sites, including the Meriton development to the north (884-896 Pittwater Road) and the Carlyle development to the north-west (701 Pittwater Road).

### Maximum Area of Floorplates

With an area of approximately 988m<sup>2</sup> or 63% of the ground floor floorplate, the proposed top (eighth) floor is inconsistent with this development control, which limits the floorplate of the topmost storey to 50% of the ground floor floorplate. Rather, the area of the top floor replicates that of the three levels below to achieve a consistent built form at the upper portion of the development. It is noted that this numeric requirement is not carried across into the draft DCP, and is no longer reflective of the design intent for Dee Why, as exhibited to the community and as adopted by Council.

Despite technical non-compliance with the current provisions of this clause, the proposed development is consistent with the draft DCP amendments and the design and form of the development has been supported by Council's Urban Designer. The variations to these aspects of the current controls are also supportable on merit, as the design of the proposal is consistent with the objectives of the development controls, as follows:

- *Development will reinforce the Dee Why Town Centre as the focus of regional activity and will be reflected in the treatment of public spaces, the arrangement of land uses and the scale and intensity of development.*

Comment: The proposed development provides ground floor retail to activate the street frontage, with seven floors of residential development above. Overall, the arrangement of land uses and the scale and intensity of the proposed development is consistent with that anticipated within the Dee Why Town Centre, particularly as reflected in the exhibited and adopted draft DCP.

- *To encourage good design and innovative architecture.*

Comment: The proposed development is considered to be an appropriate design solution for the context of the site, supported by Council's Urban Design Team.

- *To ensure shops and dwellings enjoy good access to natural light.*

Comment: The ground floor retail spaces have been designed with generous ceiling heights and maximum glazing to the streets, to maximise natural light into each space. Furthermore, the depth of the spaces is to be limited by virtue of fixed storage areas, to avoid long, skinny retail areas. The dwellings have also been designed to maximise access to natural light. Whilst the proposal does not strictly comply with the solar access requirements of the ADG, the proposal is considered to be an appropriate response in consideration of the south-west orientation of the site and in light of overshadowing arising from adjoining development.

- *To ensure that buildings have an active street frontage.*

Comment: The vast majority of the two street frontages are comprised of glazed shopfronts and entrance points to the development, ensuring that the activation of the street frontage is maximised.

- *To create an environment that is human in scale as well as comfortable, interesting and safe.*

Comment: The proportions of the development align with existing built form along the street frontages. Furthermore, the retail spaces have a fine-grain presentation to both Pittwater Road and Oaks Avenue, consistent with the streetscape character of the Dee Why Town Centre.

## THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

## CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN



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

## **Dee Why Town Centre Contributions Plan 2019**

### **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- 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, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

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

Despite areas of technical non-compliance with regard to the current maximum building height, and a number of DCP and ADG controls/criteria, the proposed development is a high quality architectural response that is appropriate for the context of the site.

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

### **RECOMMENDATION**

Council is satisfied that:

1. The applicant's written request under clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of clause 4.3 Height of Buildings development standard has adequately addressed and demonstrated that:
  - a. compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and

b. there are sufficient environmental planning grounds to justify the contravention.

2. The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2019/0505 for Demolition works and the construction of a shop top housing development with associated basement car parking, landscaping and infrastructure on land at Lot 2 DP 9900, 876 Pittwater Road, DEE WHY, Lot 3 DP 9900, 876 Pittwater Road, DEE WHY, Lot 4 DP 9900, 876 Pittwater Road, DEE WHY, Lot 1 DP 9900, 874 Pittwater Road, DEE WHY, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

#### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Basement Level 4 A100, issue G	20 November 2019	Crawford Architects
Basement Level 3 A101, issue F	20 November 2019	Crawford Architects
Basement Level 2 A102, issue G	20 November 2019	Crawford Architects
Basement Level 1 A103, issue J	20 November 2019	Crawford Architects
Ground Floor Plan A104, issue P	20 November 2019	Crawford Architects
Level 1 Floor Plan A105, issue J	20 November 2019	Crawford Architects
Level 2 Floor Plan A106, issue G	20 November 2019	Crawford Architects
Level 3 Floor Plan A107, issue G	20 November 2019	Crawford Architects
Level 4 Floor Plan A108, issue G	20 November 2019	Crawford Architects
Level 5 Floor Plan A109, issue G	20 November 2019	Crawford Architects
Level 6 Floor Plan A110, issue G	20 November 2019	Crawford Architects
Level 7 Floor Plan A111, issue J	20 November 2019	Crawford Architects
Level 8 Floor Plan A112, issue K	20 November 2019	Crawford Architects
South Elevation A200, issue J	20 November 2019	Crawford Architects
West Elevation A201, issue J	20 November 2019	Crawford Architects
North Elevation A202, issue G	20 November 2019	Crawford Architects
East Elevation A203, issue G	20 November 2019	Crawford Architects
Section AA A300, issue G	20 November 2019	Crawford Architects
Section BB A301, issue G	20 November 2019	Crawford Architects

Section CC A302, issue G	20 November 2019	Crawford Architects
Section DD A303, issue F	20 November 2019	Crawford Architects
Section EE A304, issue F	20 November 2019	Crawford Architects
Section CC-1 A305, issue D	20 November 2019	Crawford Architects
Ramp Section A310, issue C	28 August 2019	Crawford Architects

<b>Concept Drainage Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Stormwater Notes & Drawing Schedule SW10, revision P3	6 November 2018	Demlakian Engineering
Basement Level 4 Drainage Concept Plan SW11, revision P4	18 March 2019	Demlakian Engineering
Ground Floor Drainage Concept Plan SW12, revision P5	20 August 2019	Demlakian Engineering
Drainage Details Sheet 1 SW14, revision P4	20 August 2019	Demlakian Engineering
Drainage Details Sheet 2 SW15, revision P4	20 August 2019	Demlakian Engineering
Sediment Control Plan SW16, revision P4	19 March 2019	Demlakian Engineering
Sediment & Erosion Control Details SW17, revision P3	6 November 2018	Demlakian Engineering

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Cover Sheet 000, revision D	19 March 2019	Site Image Landscape Architects
Landscape Plan Level 1 101, issue E	11 November 2019	Site Image Landscape Architects
Landscape Plan Level 4 102, issue E	13 November 2019	Site Image Landscape Architects
Landscape Details 501, issue C	17 October 2018	Site Image Landscape Architects
Landscape Details 502, issue C	17 October 2018	Site Image Landscape Architects
Landscape Specification 503, issue C	17 October 2018	Site Image Landscape Architects

b) Approved Reports (and the recommendations contained within):

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No.</b>	<b>Dated</b>	<b>Prepared By</b>

Preliminary Geotechnical Investigation, reference 4495-1-R1-Rev2	13 June 2019	Asset Geotechnical Engineering Pty Ltd
Flood Risk Management Report, Version D	19 March 2019	Demlakian Engineering
Access Report	15 March 2019	Accessible Building Solutions
BASIX Certificate 861253_04	25 April 2019	Damian O'Toole Town Planning P/L

c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

## 2. **Compliance with the GTA issued by WaterNSW**

The development must be carried out in compliance with the GTA issued by WaterNSW in their correspondence dated 27 September 2019, as follows:

- a. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application.
- b. An authorisation under the relevant water legislation, such as a Water Access Licence (WAL), shall be obtained for the take of groundwater as part of the activity. For avoidance of doubt, these terms do not represent any authorisation for the take of groundwater, nor do they constitute the grant, or the indication of an intention to grant, any required WAL.
- c. An authorisation under the relevant water legislation, such as an Approval, is also required for the works involved in extracting the groundwater. For avoidance of doubt, these terms do not represent any authorisation for the construction or installation of such works.
- d. The relevant works must not be carried out, installed or operated until a specialist hydrogeological assessment has been completed by the Department of Planning Industry and Environment, which concludes that adequate arrangements are in force to ensure that no more than minimal harm will be done to any water source, or its dependent ecosystems, as a consequence of the construction or use of the proposed water management work.
- e. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.
- f. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
  - a. any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
  - b. any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
  - c. where the habitable part of the structure (not being footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.

- g. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
- h. The Applicant is bound by the above terms and any other terms and conditions of the subsequent authorisation(s) required for the extraction of groundwater and the associated works under the relevant water legislation.
- i. Measurement and monitoring arrangements to the satisfaction of WaterNSW are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.
- j. Following cessation of the dewatering operations and prior to the surrender of any associated authorisation, the applicant shall submit to WaterNSW the completion report which shall include:
  - i. Detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
  - ii. The location and construction of groundwater extraction works that are decommissioned; and
  - iii. A water table map depicting the aquifers settled groundwater condition and a comparison to the baseline conditions; and
  - iv. A detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.

(NOTE: For a copy of the above referenced document, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of WaterNSW.

### 3. **Compliance with the requirements of RMS**

The development must be carried out in compliance with the requirements of Roads and Maritime Services (RMS) as outlined in their correspondence dated 1 July 2019, as follows:

- a. There are no objections to the development proposal on property grounds provided all buildings and structures (other than pedestrian footpath awnings), together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along the Pittwater Road boundary.
- b. Detailed design plans and hydraulic calculations of any changes to the Roads and Maritime's stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works. Documents should be submitted to [Development.Sydney@rms.nsw.gov.au](mailto:Development.Sydney@rms.nsw.gov.au)  
A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.
- c. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.  
Documents should be submitted to:



Development.Sydney@rms.nsw.gov.au

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

- d. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.
- e. A Road Occupancy Licence (ROL) should be obtained from 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>
- f. In accordance with AS 2890.1- 2004 (Parking Facilities, Part 1: Off-street car parking), the driveway shall be a minimum of 5.5 metres in width for a minimum distance of 6 metres from the property boundary.
- g. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004 and AS2890.6-2009. Parking Restrictions may be required to maintain the required sight distances at the driveway.
- h. Sight distances from the proposed vehicular crossings to vehicles on Oaks Avenue are to be in accordance with the Austroads Guide to Road Design: Part 4A: Unsignalised and Signalised Intersections (Section 3 – Sight Distance) and AS 2890. Vegetation and proposed landscaping/fencing must not hinder sight lines to and from the vehicular crossings to motorists, pedestrians and cyclists.
- i. Parking for building maintenance and removalists is to be provided on site.
- j. The swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
- k. All vehicles are to enter and leave the site in a forward direction.
- l. All vehicles are to be wholly contained on site before being required to stop.
- m. The proposed development will generate additional pedestrian movements in the area. Pedestrian safety is to be considered in the vicinity.
- n. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Pittwater Road.

(NOTE: For a copy of the above referenced document, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of RMS.

#### 4. **Approval for Retail Use**

This consent authorises the use of the ground floor retail spaces for retail use.

Reason: To enable the first use of ground floor spaces.

## 5. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

**6. General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

## FEES / CHARGES / CONTRIBUTIONS

### 7. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

Reason: To ensure adequate protection of Council's infrastructure.

### 8. **Construction, Excavation and Associated Works Bond (Road)**

A Bond of \$40,000 as security against any damage to Council's footpath paving, kerb and gutter for the frontage of the site.

Reason: Protection of Council's infrastructure.

### 9. **Development Contributions**

A monetary contribution of \$1,024,251.78 (subject to (a) below) is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to Section 7.11 of the Environmental Planning and Assessment Act 1979 and the Dee Why Town Centre Contributions Plan 2019.

The contribution is calculated as follows:

Proposed Residential Development:

45 x 1-bed dwellings x \$9,487.77 = \$426,949.65

31 x 2-bed dwellings x \$13,915.40 = \$431,377.40

2 x 3-bed dwellings x \$20,000 = \$40,000

Total = \$898,327.05

Proposed Non-Residential Development:

\$16,603.60/100m<sup>2</sup>

\$166.04/m<sup>2</sup>

758.4m<sup>2</sup> x \$166.04/m<sup>2</sup> = \$125,924.73

Total monetary contribution = \$1,024,251.78

- a. Written evidence (receipt/s) from Council for the payment of the monetary contribution is to be provided to the Certifying Authority prior to issue of the construction certificate or subdivision certificate (whichever occurs first) or prior to the issue of the subdivision certificate where no construction certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter in which the development consent is issued, the amount unpaid (whether it be the full monetary contribution amount or a part thereof) will increase on a quarterly basis in accordance with the applicable Consumer Price Index.
- b. The Applicant may negotiate with Council for the direct provision of other facilities and services, and/or the dedication of land in lieu of the monetary contribution above (or any portion of that monetary contribution) through a Planning Agreement in accordance with the Dee Why Town Centre Contributions Plan 2019. A Planning Agreement between the Applicant and Council must be finalised, formally signed and in place prior to the payment of the monetary contribution.

The Dee Why Town Centre Contributions Plan may be viewed at 725 Pittwater Road, Dee Why or on Council's website.

Reason: To provide for contributions in accordance with the Contribution Plan that enables the provision of local infrastructure and services commensurate with the increased demand resulting from development in the Dee Why Town Centre.

## CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

### 10. On Slab Landscape Planting and Associated Works

A suitably qualified landscaping professional is provide:

- a. Confirmation of the proposed method of waterproofing to all internal walls and slab, and drainage of the concrete slab over which soil and planting is being provided.
- b. Landscape treatment details indicating the proposed soil volume, soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

Details demonstrating compliance with these requirements are to be provided to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure appropriate and secure waterproofing and drainage is installed to direct

water flow into the drainage system, and away from habitable areas.

**11. Stormwater Disposal**

Stormwater shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's (Warringah) Water Management Policy PL850.

A certificate is to be provided by a qualified experienced practicing Civil Engineer, with Corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a Corporate member and has appropriate experience and competence in the related field that the existing approved system can accommodate the additional flows or provide drainage plans demonstrating compliance with Council's requirements.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority for approval prior to the issue of the construction certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development.

**12. BCA Report and Fire Audit**

A 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' from an appropriately qualified Accredited Certifier\* is to be submitted addressing the following:

- a. The report is to detail the extent to which the proposed building does or does not comply with the deemed-to-satisfy provisions of Sections C, D, E and F of the Building Code of Australia. The report is to also provide recommendations with respect to the proposed building required to ensure that the specified measures and facilities contained in the proposed building, including any modifications to be made by the proposed development are appropriate for its intended use. In this regard the report should include any items which may form part of a Performance (Alternative) Solution.

\*To be regarded as an "appropriately qualified accredited certifier" the certifier must hold the relevant level of accreditation that would enable the certifier to issue a construction certificate for the subject building.

The 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' is to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure adequate provision is made for health, amenity, access and fire safety for building occupant health and safety.

**13. Pump-Out System Design for Stormwater Disposal**

The design of the pump-out system for stormwater disposal will be permitted for drainage of hard surfaces areas such as driveways and basement pavement areas only, and must be designed in accordance with AS/NZS 3500. Engineering details demonstrating compliance with this requirement and certified by an appropriately qualified and practising hydraulic engineer are to be submitted to the Principal Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure adequate provision is made for the discharge of stormwater from the excavated parts of the site.

**14. Tanking of Basement Level**



The basement area is to be permanently tanked. Details of the tanking are to be prepared by a suitably qualified Engineer. Where temporary dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the relevant authority. The bore license must be obtained prior to commencement of dewatering works. All requirements of the relevant authority are to be complied with and a copy of the approval must be submitted to the Principal Certifying Authority prior to the issue of the construction certificate.

Reason: To prevent ingress of sub-surface flows into the basement area and to comply with State government requirements.

15. **On-Site Stormwater Detention**

An on-site stormwater detention system must be designed and constructed in accordance with Northern Beaches Council's (Warringah) Water Management Policy PL850, and generally in accordance with the Approved Concept Drainage Plans referenced in Condition 1 of this consent.

Detailed drainage plans are to be prepared by a qualified experienced practicing Civil Engineer, with membership of the Institute of Engineers Australia (M.I.E.) or RPENG.

The drainage plans must address the following:

- a. The detention tank outlet pipe is to be connected to a new stormwater inlet pit within Oaks Avenue located on the right side of the vehicle crossing.
- b. All utility services are to be shown on a long section relative to the outlet pipe within the footpath area.

Detailed drainage plans, including engineering certification confirming the above requirements have been satisfied and complying with Council's requirements, are to be submitted to the Principal Certifying Authority for approval prior to the issue of the construction certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.

16. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- a. Maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- b. Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the construction certificate.

Reason: To provide public and private safety.

17. **Shoring of Adjoining Property**

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the

engineering drawings.

Council approval is required if temporary ground anchors are to be used within Council land. A Temporary Ground Anchors (Road Reserve) Application is to be submitted with Council for assessment and approval subject to Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the construction certificate

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

18. **Vehicle Crossings Application**

A Driveway Levels and Formwork Inspections Application shall be made with Council subject to the payment of the fee in accordance with Council's Fees and Charges. The fee includes all Council inspections relating to the driveway construction and must be paid.

Approval of the application by Council is to be submitted to the Principal Certifying Authority prior to the issue of the construction certificate.

Reason: To facilitate suitable vehicular access to private property.

19. **Construction Traffic Management Plan**

A Construction Traffic Management Plan is to be submitted to Council for approval. The Construction Traffic Management Plan shall be prepared to RMS standard by an appropriately certified person. Council's written approval of the Construction Traffic Management Plan is to be submitted to the Principal Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community.

20. **Stormwater Drainage Application**

A Stormwater Drainage Application under Section 68 of the Local Government Act 1993 is to be submitted to Council for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of a new stormwater inlet pit within Oaks avenue (located adjacent to the RHS of the vehicle crossing) which is to be generally in accordance with Council's specification for engineering works - AUS-SPEC #1.

The Stormwater Drainage Application form can be found on Council's website. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure appropriate stormwater management.

21. **Flooding**

A suitably qualified flood engineer is to provide certification that the following requirements are satisfied:

- a. Building Components and Structural Soundness – C1

All new development shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006). Fittings and flooring below the relevant Flood Planning Level must be made of flood compatible material.

b. Building Components and Structural Soundness – C2

All new development must be designed and constructed to ensure structural integrity up to the Probable Maximum Flood level, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion. Structural certification shall be provided confirming the above.

c. Building Components and Structural Soundness – C3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the respective Flood Planning Level.

d. Flood Emergency Response – E2

Appropriate access to a shelter in place refuge should be available from all areas of the new development.

e. Floor Levels – F1

New floor levels within the development shall be set at or above the relevant Flood Planning Level. Except areas that are within 5 meters of the street frontage in retail premises. In these areas, floor levels must be no lower than the adjacent footpath level and finishes below the Flood Planning Level must be constructed of flood compatible materials.

f. Car parking – G3

All access, ventilation and any other potential water entry points, including entry ramp crests to the basement car park shall be at or above the relevant Flood Planning Level.

Refer to the approved Ground Floor Plan referenced in Condition 1, as amended by Condition 12 of this consent for the relevant Flood Planning Level for specific parts of the development.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

22. **Pre-Commencement Stormwater Asset Dilapidation Report**

A Pre-Commencement Dilapidation Survey of Council's stormwater assets in Oaks Avenue is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available on Council's website.

The Pre-Commencement Dilapidation Report must be submitted to Council for approval, and a copy of Council's written approval is to be provided to the Principal Certifying Authority prior to the issue of the construction certificate.

Reason: Protection of Council's infrastructure.

23. **Pre-Commencement Dilapidation Report**

The applicant must prepare and submit a Pre-Commencement Dilapidation Report providing an accurate record of the existing condition of adjoining public and private properties and public

infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties prior to the issuance of the construction certificate.

Evidence of the preparation and submission of the Pre-Commencement Dilapidation Report is to be submitted to the Certifying Authority prior to the issuance of the construction certificate.

Reason: Protection of public and private infrastructure during construction.

24. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

25. **External Materials and Finishes**

The external materials and finishes of the proposed development must be strictly in accordance with those nominated on the Approved Plans, referenced in Condition 1 of this Consent. Furthermore, the off form concrete columns and concrete awnings on the ground floor are to be finished in the same light grey finish as the precast panels on the external facade of the building, and the timber grain aluminium cladding is to be 'dark cedar'.

Demonstrated evidence is to be provided to the certifying authority prior to the issue of the construction certificate.

Reason: To ensure a high quality architectural finish.

26. **Boundary Survey**

A boundary survey, prepared by a Registered Surveyor, shall be provided as evidence that all buildings/works are within the subject site, with the setbacks shown on the approved plans referenced in Condition 1 of this consent. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issuance of the construction certificate.

Reason: To ensure the accurate location of buildings in relation to boundaries.

27. **Glazing to Western Windows and Doors**

All glazed windows and doors on the western facade, and those that open onto balconies on the western facade, are to comprise double glazing to reduce traffic noise and minimise heat load.

Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure compliance with clause 101 of SEPP Infrastructure and to maximise energy efficiency.

28. **Adaptable Units**

The proposed development is to comprise eight (8) adaptable units designed in accordance with Class C requirements of AS4299.

Details demonstrating consistency with this requirement, inclusive of an amended Access Report prepared by a suitably qualified access consultant, are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To provide adaptable housing.

29. **Livable Housing**

Prior to the issuance of the construction certificate, a suitably qualified access consultant is to provide written certification to the certifying authority to confirm that all 21 “livable” apartments (and access thereto) have been designed to meet the Silver Level requirements of the Livable Housing Design Guidelines.

Reason: To provide livable housing options.

30. **Compliance with Approved Reports**

Written certification from suitably qualified persons is required to confirm that all the works/methods/procedures/control measures/recommendations approved by Council in the Approved Reports referenced in Condition 1 of this consent have been incorporated into the construction certificate detail.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure compliance with recommendations endorsed by Council.

31. **Excavation Management Plan**

Prior to the issue of the construction certificate, an Excavation Management Plan shall be prepared and submitted to the Council. The plan shall include (but not limited to):

- a. Vibrations limits (as measured at adjoining properties) to be complied with during excavations.
- b. Ongoing vibration monitoring during the course of excavation works.
- c. Identified plant and equipment to be utilised during excavations.
- d. Management responses to be undertaken in the event that vibration limits are exceeded at any time during the excavation.
- e. Evidence of compliance is to be documented and available on site at all time for Council to inspect. This evidence is then to be provided to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure the structural integrity of adjoining properties.

32. **Residential Apartment Development**

Prior to the issuance of the construction certificate, a statement by the qualified designer is to be submitted to the Certifying Authority to verify that the plans and specifications of the development achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles.

Reason: Legislative requirement.

33. **Facade Treatment**

All services, drainage, conduit, ducting and the like are to be encapsulated within the building

and are not to be visible from the public domain.

Evidence is to be provided to the Certifying Authority prior to the issue of the construction certificate and incorporated into the construction certificate plans.

Reason: To ensure a high quality architectural finish and to minimise visual clutter.

**34. Access to Retail and Visitor Parking**

The installation of any security roller shutters or boom gates shall not restrict access to any designated visitor or retail car parking spaces. This requirement is to be reflected on the construction certificate plans and any supporting documentation for the endorsement of the Principal Certifying Authority prior to the release of the construction certificate.

Reason: To ensure spaces remain available for development parking demands.

**35. Waste and Recycling Requirements**

Details demonstrating compliance with Warringah Development Control Plan 2011 – Part C9 Waste Management, including the required Warringah Waste Management Plan, are to be submitted to and approved by the Certifying Authority prior to the issue of the construction certificate.

Note: If the proposal, when compliant with Warringah Development Control Plan – Part C9 Waste Management, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

**36. Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with Council's Waste Management Guidelines.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

**37. Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

**38. Tree Protection**

The following tree protection measures are applicable in relation to existing street trees to be



retained within the adjacent road reserve:

- a. No tree roots greater than 30mm diameter are to be cut from protected trees unless authorised by a qualified Arborist present.
- b. All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist.
- c. All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- d. All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on/near the site.

## CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

### 39. Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

### 40. Notification of Inspections

Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

- a. Prior to backfilling of pipelines with the footpath area.
- b. Prior to pouring of stormwater gully pits.

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification. Council approval or acceptance of any stage of the work must be obtained in writing, and will only be issued after completion of the work to the satisfaction of Council and receipt of the required certification

Reason: To ensure new Council infrastructure is constructed to Council's requirements.

### 41. Vehicle Crossings

The provision of one vehicle crossing 7 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ Normal and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

### 42. Maintenance of Sediment

Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped

to the Principal Certifying Authority's satisfaction.

Reason: To ensure sediment controls are effective.

**43. Site Entry Access way**

An all-weather access way at the front of the property consisting of 50-75mm aggregate or similar material at a minimum thickness of 200mm and 15metres long laid over geotechnical fabric is to be constructed prior to commencement of works and maintenance over the works period.

Reason: To reduce sediment being taken off site.

**44. Cleaning of Vehicles Leaving Site**

Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.

Reason: To reduce sediment being taken off site.

**45. Protection of Adjoining Property - Excavation**

Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner.

Reason: To ensure private and public safety.

**46. Dust Management**

Measures shall be undertaken to minimise any dust created as a result of excavation, vehicle movements and construction so as not to impact on neighbouring premises or create air pollution at any time.

Reason: To prevent air pollution from dust and comply with legislation.

**47. Protection of Street Trees**

No existing street trees can be removed without Council approval. Where such approval is granted, the trees must be replaced at full cost by the applicant with an advanced tree of a species nominated by Council's relevant officer.

Reason: To encourage the retention of street trees.

**48. Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP) required by this consent. All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council's Traffic Engineer for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to the accredited certifier or Council staff on request.

Reason: To ensure the developer/builder adheres to the Construction Traffic Management Plan.

**49. Waste/Recycling Requirements**

During demolition and/or construction the proposal/works shall be generally consistent with the Waste Management Plan required prior to the issue of the construction certificate.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

## CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

50. **Approved Landscape Plan**

Planting is to be implemented in accordance with the approved Landscape Plans referenced in Condition 1 of this consent and any associated condition.

Hard and soft (planting) landscape works are to be approved as completed by the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure the built form is softened and complemented by landscaping, reflecting the scale and form of development.

51. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

52. **Compliance with GTA Issued by WaterNSW**

Prior to the issue of the occupation certificate, written certification from WaterNSW is to be provided to the Certifying Authority to confirm satisfaction of the GTA imposed in their correspondence dated 27 September 2019, as prescribed in Condition 2 of this consent.

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of WaterNSW.

53. **Authorisation of Legal Documentation Required for Onsite Detention**

The original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To create encumbrances on the land.

54. **Reinstatement of Kerb**

All redundant laybacks and vehicular crossings shall be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To facilitate the preservation of on-street parking spaces.

55. **On-Site Stormwater Detention Compliance Certification**

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue the occupation certificate.

Reason: To ensure stormwater disposal is constructed to Council's satisfaction.

56. **Positive Covenant and Restriction as to User for On-Site Stormwater Detention**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

57. **Creation of Positive Covenant and Restriction as a User**

A restriction on the use of land and a positive covenant shall be created on the title of the land in respect of the installation and maintenance of on-site stormwater disposal structures. The detailed information for a restriction on the use of land and a positive covenant is shown in Northern Beaches Council's (Warringah) Water Management Policy PL850. The terms of the positive covenant and a Restriction on the use of land are to be prepared to Council's standard requirements, at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

58. **Restoration of Damaged Public Infrastructure**

Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed

satisfactorily must be obtained and provided to the Private Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure public infrastructure is returned to the state it was in prior to development.

59. **External Materials and Finishes Certification**

Prior to the issue of the occupation certificate, the project architect is to provide written certification to the Certifying Authority to confirm that the external material and finishes of the as-built development are consistent with those nominated in the Approved Plans referenced in Condition 1 of this consent, and as clarified by the "External Materials and Finishes" condition of this consent.

Reason: To ensure a high quality finish of development.

60. **Post-Construction Dilapidation Survey**

The applicant must prepare and submit a Post Construction Dilapidation Report providing an accurate record of the condition of adjoining public and private infrastructure (including roads, gutter, footpaths, etc) and property following the completion of works on the site in comparison to the record contained within the Pre-Commencement Dilapidation Report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

The applicant must bear the cost of all restoration works to infrastructure and property damaged during the course of this development.

The Post Construction Dilapidation Report and confirmation of the satisfactory restoration of any recorded damage must be submitted to Council for review. Written certification confirming Council's satisfaction with the Post Construction Dilapidation Report and any restoration works is to be provided to the Certifying Authority prior to the issue of the occupation certificate.

Reason: Protection of public and private infrastructure during construction.

61. **Garbage and Recycling Facilities**

All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To prevent pollution of the environment and to protect the amenity of the area.

62. **Height Survey**

A survey prepared by a Registered Surveyor shall be provided as evidence that the development is constructed in accordance with the approved RL's for each of the floor levels and roof ridge levels of the building. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure the development is constructed in accordance with the approved levels.

63. **Undergrounding of Services**

Arrangements are to be made for the provision of all necessary services to the building to be provided underground.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To reduce visual clutter associated with above ground infrastructure.

64. **Sydney Water**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) <<http://www.sydneywater.com.au>> then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure compliance with the statutory requirements of Sydney Water.

65. **Compliance with Approved Reports**

Written certification from suitably qualified persons is required to confirm that all the works/methods/procedures/control measures/recommendations approved by Council in the Approved Reports referenced in Condition 1 of this consent, and the additional reports required within this consent, have been incorporated into the as-built development.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure compliance with recommendations endorsed by Council.

66. **Compliance with RMS Requirements**

Prior to the issue of the occupation certificate, written certification from RMS is to be provided to the Certifying Authority to confirm satisfaction of the conditions imposed in their correspondence dated 1 July 2019, as prescribed in Condition 3 of this consent.

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of RMS.

67. **Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with Warringah Development Control Plan 2011 – Part C9 Waste Management

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure waste and recycling facilities are provided.



**68. Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure waste is minimised and recycled.

**69. Positive Covenant for Waste Services**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to provide access to the waste storage facilities prior to the issue of the occupation certificate. The terms of the positive covenant are to be prepared to Council's standard requirements, at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities.

**70. Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (Department of Lands standard form 13PC) must be submitted to Council for authorisation prior to the issue of the occupation certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

**ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**

**71. Bulky Goods Store and Garbage Room**

The door to the bulky goods storeroom is to remain closed at all times (but able to be latched temporarily in the open position).

The garbage room must remain free of anything not contained within the bins supplied by Council. The garbage room must not contain waste bins other than approved Council provided bins.

Reason: To enable safe removal of waste from the site.

**72. Mechanical Ventilation System - Amenity**

The implementation of any mechanical ventilation system shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

In the event of Council receiving complaints resulting from the mechanical exhaust system, the owner/occupier may be required, at their own cost, to provide a report from an Air Quality Consultant specifying the proposed methods for the control of odour and other air impurities discharging from the premises.

Any discharge to the atmosphere from the subject development shall not result in any odour or

other air impurity being detected outside the boundaries of the property.

Reason: To minimise the operational impact on the surrounding neighbourhood.

**73. Landscape Maintenance**

Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting. If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan as referenced in Condition 1 of this consent.

Reason: To maintain local environmental amenity.

**74. Flood Risk Management - Storage of Goods**

Storage of hazardous materials, electrical items, equipment or and any other items susceptible to water damage on the ground floor are to be located above the relevant Flood Planning Level.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

**75. Flood Risk Management - Floor Levels**

Retail frontages and lobbies below the relevant Flood Planning Level must be flood proofed (wet and/or dry) to the Flood Planning Level. These frontages can only accommodate window displays, pedestrian stairs and/or ramps that lead up to the remainder of the development.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

**76. Hours of Operation for Retail Tenancies**

The hours of operation of the ground floor retail tenancies are to be restricted to:

- Monday to Friday – 7:00am to 7:00pm
- Saturday – 7:00am to 5:00pm
- Sunday and Public Holidays – 9:00am to 5:00pm

Reason: To ensure that amenity of the surrounding locality is maintained.

**77. Commercial Waste and Recycling Storage**

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins as shown on the approved plans.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed.

**78. Amenity**

Activities must not detrimentally impact existing and future general amenity of the adjoining occupations and the neighbourhood by the emission of noise, smoke, dust, fumes, light or waste. Activities may include, but are not limited to the operation of plant, equipment, vehicles and commercial operations.

Reason: To protect existing and future amenity of the surrounding occupations and residents

from the emissions caused by operations.

**79. Restriction of Visual Clutter**

No air-conditioning units or plant equipment are to be located on any roof or in any location visible from the public domain.

All services, drainage, conduit, ducting and the like are to be encapsulated within the building and are not to be visible from the public domain.

Reason: To ensure a high quality architectural finish and to minimise visual clutter.

**80. Parking allocation**

All 141 parking spaces are to be maintained free of obstruction and used solely for the parking of vehicles. The development is to maintain the following spaces for the life of the development:

- a. 78 x dedicated spaces for the 78 residential apartments,
- b. 11 x dedicated visitor parking spaces, clearly marked "visitor", including 1 parking space for people with disabilities compliant with the provisions of AS2890.6,
- c. 47 x dedicated retail spaces, clearly marked "retail", inclusive of 2 parking spaces for people with disabilities compliant with the provisions of AS2890.6,
- d. 3 x dedicated car share spaces, clearly marked and identified,
- e. 1 x removalist space, clearly marked and identified,
- f. 1 x delivery/maintenance space, clearly marked and identified,

Reason: To ensure that off-street parking is maintained for the life of the development.

**81. Adaptable Housing**

Eight (8) adaptable units, designed in accordance with Class C requirements of AS4299, are to be maintained for the life of the development.

Reason: To ensure the long-term provision of adaptable housing.

**82. Livable Housing**

21 livable units, designed to meet the Silver Level requirements of the Livable Housing Design Guidelines, are to be maintained for the life of the development.

Reason: To ensure the long-term provision of livable housing.