



COMMERCIAL OCCUPATION / ADDITIONS / SIGNAGE / CHANGE OF USE DEVELOPMENT APPLICATION ASSESSMENT REPORT

Development Application Number:	DA2011/1145
Assessment Officer:	Phil Lane
Property Address:	Lot A & B in DP 326907 & Lot 1 in DP 588603, No. 33 Oaks Avenue, Dee Why
Proposal Description:	Demolition works and alterations and additions to a shop
Recommendation:	APPROVED
Clause 20 Variation:	No
Proposal in Detail:	Internal demolition and new tenancy shopfront, ramp infill floor within tenancy (shop 10) and new wall to shop 8 and demolition existing fitout
History and Background:	<ul style="list-style-type: none">• DA1999/1424, Alterations to Woolworth's Supermarket, (Approved)• DA1999/2274, Tenancy Fitout for Liquor Shop, (Approved)• DA2002/1761, Installation of Boom Gates and Associated Signage and Introduction of Parking Fees to Existing Carpark - Dee Why Shopping Centre (Woolworths), (Approved)• EDCDC 2006/1272, Refurbishment of Existing Woolworth's Supermarket, (Approved)• DA2007/0051, Infill existing parapet, additional signage & associated works, (Approved)• DA2007/1259, Installation of a lift & refurbishment of the external facade, (Approved)• MOD2008/0184, (Modification) Relocation of lift and external facade changes, (Approved)• DA2008/1148, Fitout and use for a shop (Fruit and vegetable market), (Approved)• DA2008/1149, Fitout and use for a shop (Deli), (Approved)• DA2008/1446, Fitout and use for a shop (Butcher), (Approved)• CDC2009/0017, Fitout and use for a shop (Cafe), (Approved)• CDC2009/0041, Fitout and use for a shop (Pizza), (Approved)• CDC2009/0047, Fitout & use for a shop (Seafood), (Approved)• CDC2009/0049, Fitout & use for a shop (Bakery), (Approved)• DA2009/0308, Change of use of office premises to a gymnasium and associated signage, (Approved)• DA2010/0489, Signage, (Approved)• DA2010/1791, Signage, (Approved)• DA2010/1977, Alterations and additions to an existing building and signage, (Approved)

The previous use within the retail area was for a which approved via



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DA2008/1148 (Fitout and use for a shop - Fruit and vegetable market)

Plans Reference

Drawing Number	Title	Revision	Dated	Drawn By
DA 01	Plans, Elevations, Sections	A	August 2011	LawtonHurley

Report Section	Applicable – Yes or No
Section 1 – Code Assessment	Yes
Section 2 – Issues Assessment	Yes
Section 3 – Site Inspection	Yes

Notification Required:	Yes	14 DAYS
Submissions Received:	No	Number of Submissions: Nil
Cost of Works:	\$95000.00	
Section 94A Applicable:	No	TOTAL: (If applicable)

SECTION 1 – CODE ASSESSMENT REPORT

ENVIRONMENTAL PLANNING INSTRUMENTS

Warringah Local Environmental Plan 2000

Locality: E7 Pacific Parade

Development Definition: Shops

Category of Development: Category 2

Desired Future Character Statement:

“The Pacific Parade locality will remain characterised by apartment style housing interspersed with existing business uses.

Future development in the locality will comprise mainly new apartment buildings and the upgrading of existing apartment buildings. In the event that Woolworth’s arcade is redeveloped for housing, a pedestrian link will be maintained between Oaks Avenue and Pacific Parade.

The scale of future development will be consistent with the scale of existing development in the locality generally. New apartment buildings will address the street by locating carparking below ground and maximising the number of dwellings with entrances directly from Pacific Parade. Shared driveway access will be used where possible.”

Is the development consistent with the Locality’s Desired Future Character Statement? Yes

Category 2

Requirement: *The Pacific Parade locality will remain characterised by apartment style housing interspersed with existing business uses.*

Comment: The subject premise is within an existing shopping complex. The premise is currently vacant. However, the proposed fitout and use of the premise is consistent with its intended purpose as a shop.

Requirement: *Future development in the locality will comprise mainly new apartment buildings and the upgrading of existing apartment buildings. In the event that Woolworth's arcade is redeveloped for housing, a pedestrian link will be maintained between Oaks Avenue and Pacific Parade.*

Comment: The proposal relates to internal fitout and makes no changes to the building façade. It will maintain the existing scale of existing development and will not impact on the existing apartment housing in the locality, or building layout and access.

Requirement: *The scale of future development will be consistent with the scale of existing development in the locality generally. New apartment buildings will address the street by locating carparking below ground and maximising the number of dwellings with entrances directly from Pacific Parade. Shared driveway access will be used where possible.*

Comment: Not applicable

BUILT FORM CONTROLS

This application seeks consent for Demolition works and alterations and additions to a shop. The proposal involves internal work to the tenancy and makes no changes to the external façade of the building, which front both Pacific Parade and Oaks Avenue. Therefore the Built Form Controls on building height, ceiling height, building setbacks, side boundary envelope and landscaped open space are not applicable in this case.

GENERAL PRINCIPLES OF DEVELOPMENT CONTROL

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	Yes	Satisfactory	Yes
CL39 Local retail centres	No		N/A
CL40 Housing for Older People and People with Disabilities	No		N/A
CL41 Brothels	No		N/A
CL42 Construction Sites	Yes	Satisfactory, subject to condition(s)	Yes
CL43 Noise	Yes	Satisfactory, subject to condition(s)	Yes
CL44 Pollutants	No		N/A
CL45 Hazardous Uses	No		N/A
CL46 Radiation Emission Levels	No		N/A
CL47 Flood Affected Land	Yes	The site is identified within flood affected lands and thus referred to Councils Natural Environmental Unit for comment with no objections.	Yes
CL48 Potentially Contaminated Land	Yes		Yes



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General Principles	Applies	Comments	Complies
CL49 Remediation of Contaminated Land	No		N/A
CL49a Acid Sulphate Soils	No		N/A
CL50 Safety & Security	Yes		Yes
CL51 Front Fences and Walls	No		N/A
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	No		N/A
CL53 Signs	Yes	Satisfactory	Yes
CL54 Provision and Location of Utility Services	Yes	Satisfactory	Yes
CL55 Site Consolidation in 'Medium Density Areas'	No		N/A
CL56 Retaining Unique Environmental Features on Site	No		N/A
CL57 Development on Sloping Land	No		N/A
CL58 Protection of Existing Flora	No		N/A
CL59 Koala Habitat Protection	No		N/A
CL60 Watercourses & Aquatic Habitats	No		N/A
CL61 Views	No		N/A
CL62 Access to sunlight	No		N/A
CL63 Landscaped Open Space	No		N/A
CL63A Rear Building Setback	No		N/A
CL64 Private open space	No		N/A
CL65 Privacy	No		N/A
CL66 Building bulk	No		N/A
CL67 Roofs	No		N/A
CL68 Conservation of	No		N/A



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General Principles	Applies	Comments	Complies
Energy and Water			
CL69 Accessibility – Public and Semi-Public Buildings	Yes	<p><i>Clause 69- Accessibility- Public and Semi Public Buildings provides that access is to comply with the Disability Discrimination Act 1992 and AS1428.2- 1992 Design for access and mobility- enhanced and additional requirements- buildings and facilities. A condition is imposed to ensure that the proposed fitout complies with AS 1428.2. However, the proposal includes no toilet facilities within the subject tenancy.</i></p> <p>Section 11 of the Disability Discrimination Act allows an applicant to demonstrate unjustifiable hardship in relation to the provision of disabled services. The tests under section 11 have been applied to the proposal as follows:</p> <p>The nature of the benefit or detriment likely to accrue or be suffered by any persons concerned.</p> <p>Strict compliance with the provisions of the Act would provide little benefit to the applicant as the proposal is for an internal fitout of an existing tenancy which currently has no toilet facilities, where the proposal is essentially a continuation in the use of the existing premises.</p> <p>The effect of the disability of a person concerned</p> <p>The unavailable toilet facilities at the subject tenancy would not have a detrimental effect on the disability of a person concerned. The subject tenancy has access to the toilet facilities on the level 1 carpark area in the subject shopping complex that is accessible via a lift which complies with the relevant AS1428.2.</p> <p>The financial circumstances and the estimated amount of expenditure required to be made by the person claiming unjustifiable hardship</p> <p>The proposal's difficulties in providing services for the disabled arise from the age of the building and its existing configuration. It would be unreasonable in the circumstances of this case to require strict adherence to the Act as this would be preventative to the application and would effectively sterilize the building from any future uses.</p> <p>In the case of the provision of services, or the making available of facilities—an action plan given to the Commission under section 64.</p> <p>Not applicable to the development.</p> <p>In summary, it is considered the strict compliance with the Act would cause unjustifiable hardship in terms of the net gain to the applicant and to disabled persons. The proposal is considered on balance to not decrease the level of facilities for the disabled in the circumstances of this case and is satisfactory in addressing Section 11 of the Act and therefore Clause 69 of WLEP 2000.</p>	Yes
CL70 Site facilities	Yes	Satisfactory	Yes



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General Principles	Applies	Comments	Complies
CL71 Parking facilities (visual impact)	No		N/A
CL72 Traffic access & safety	Yes		Yes
CL73 On-site Loading and Unloading	No		N/A
CL74 Provision of Carparking	No		N/A
CL75 Design of Carparking Areas	No		N/A
CL76 Management of Stormwater	No		N/A
CL77 Landfill	No		N/A
CL78 Erosion & Sedimentation	No		N/A
CL79 Heritage Control	No		N/A
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	No		N/A
CL82 Development in the Vicinity of Heritage Items	Yes	<p>The following advice was received from the Councils Heritage Advisor:</p> <p><i>"The application is for alterations and additions to existing tenancies within the Dee Why Market Shopping Centre located at 33 Oaks Avenue, Dee Why in accordance with the Statement of Environmental Effects and plans attached as part of DA2011/1145. The site has a carpark entrance/exit and rear pedestrian entrance from Pacific Parade. The heritage item is located opposite this Pacific Parade entrance.</i></p> <p><i>The subject site does not directly adjoin any heritage item and is physically and visually separated from the heritage item at 45 Pacific Parade by existing development. Due to the location of the subject site and the nature of the proposed works (being predominantly internal) it is considered that the proposal will have no impact on the item of heritage significance in the vicinity of the subject site, being the house at 45 Pacific Parade, Dee Why. "</i></p> <p>Given the above it is deemed that the proposal is deemed acceptable in this instance.</p>	Yes
CL83 Development of Known or Potential Archaeological Sites	No		N/A



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SCHEDULES

Schedule	Applicable	Compliant
Schedule 5 State policies	No	N/A
Schedule 6 Preservation of bushland	No	N/A
Schedule 7 Matters for consideration in a subdivision of land	No	N/A
Schedule 8 Site analysis	Yes	Yes
Schedule 9 Notification requirements for remediation work	No	N/A
Schedule 10 Traffic generating development	No	N/A
Schedule 11 Koala feed tree species and plans of management	No	N/A
Schedule 12 Requirements for complying development	No	N/A
Schedule 13 Development guidelines for Collaroy/Narrabeen Beach	No	N/A
Schedule 14 Guiding principles for development near Middle Harbour	No	N/A
Schedule 15 Statement of environmental effects	No	N/A
Schedule 17 Carparking provision	No	N/A

OTHER RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS:

STATE ENVIRONMENTAL PLANNING POLICIES, REGIONAL ENVIRONMENTAL PLANS			
POLICY	ASSESSMENT	YES /NO /N/A	COMPLIES
SEPP - BASIX	BASIX Certificate supplied?	No	N/A
SEPP – 55	Based on the previous land uses if the site likely to be contaminated?	No	Yes
	Is the site suitable for the proposed land use?	Yes	
SEPP INFRASTRUCTURE	Is the proposal for a swimming pool, or	No	Yes
	Within 30m of an overhead line support structure?		
	Within 5m of an overhead power line?		
SREP-Sydney Regional Environmental Plan – Sydney Harbour Catchment (If applicable)		No	N/A

OTHER MATTERS FOR FURTHER CONSIDERATION

Section 2A – SEPP No.64 - Advertising and Signage

Is SEPP64 Applicable to the proposal	No
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EPA REGULATION CONSIDERATIONS:

Regulation Clause	Applicable	Conditioned
Clause 54 & 109 (Stop the Clock)	No	N/A
Clause 92 (Demolition of Structures)	Yes	Yes
Clause 92 (Government Coastal Policy)	No	N/A
Clause 93 & 94 (Fire Safety)	Yes	Yes
Clause 94 (Upgrade of Building for Disability Access)	No	N/A
Clause 98 (BCA)	Yes	Yes

REFERRALS

Referral Body Internal	Comments	Consent Recommended
Heritage	No objection	Yes
Building Compliance	No objection, subject to conditions	Yes
Natural Environmental	No objection	Yes

Referral Body External	Comments	Consent Recommended
AUSGRID	No objection, subject to conditions	Yes

APPLICABLE LEGISLATION/ EPI'S /POLICIES:	
EPA Act 1979	Yes
EPA Regulations 2000	Yes
Disability Discrimination Act 1992	Yes
Local Government Act 1993	N/A
Roads Act 1993	N/A
Rural Fires Act 1997	N/A
RFI Act 1948	N/A
Water Management Act 2000	N/A
Water Act 1912	N/A
Swimming Pools Act 1992	N/A
SEPP No. 55 – Remediation of Land	Yes
SEPP No. 64 – Advertising and Signage	No



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APPLICABLE LEGISLATION/ EPI'S /POLICIES:	
SEPP No. 71 – Coastal Protection	N/A
SEPP BASIX	N/A
SEPP Infrastructure	Yes
WLEP 2000	Yes
WDCP	Yes
DWLEP 2009	Yes
S94 Development Contributions Plan	N/A
S94A Development Contributions Plan	N/A
NSW Coastal Policy (cl 92 EPA Regulation)	N/A

Section 79C "Matters for Consideration"	
Section 79C (1) (a) (i) – Have you considered all relevant provisions of any relevant environmental planning instrument?	Yes
Section 79C (1) (a)(ii) – Have you considered all relevant provisions of any provisions of any draft environmental planning instrument	Yes
Section 79C (1) (a)(iii) – Have you considered all relevant provisions of any provisions of any development control plan	Yes
Section 79C (1) (a)(iiia) - Have you considered all relevant provisions of any Planning Agreement or Draft Planning Agreement	Yes
Section 79C (1) (a)(iv) - Have you considered all relevant provisions of any Regulations?	Yes
Section 79C (1) (b) – Are the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality acceptable?	Yes
Section 79C (1) (c) – Is the site suitable for the development?	Yes
Section 79C (1) (d) – Have you considered any submissions made in accordance with the EPA Act or EPA Regs?	Yes
Section 79C (1) (e) – Is the proposal in the public interest?	Yes

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

Draft Warringah Local Environmental Plan 2009 (Draft WLEP 2009)

Definition: Shop

Land Use Zone: B4 Mixed Use

Permissible or Prohibited: Permissible with consent, being developments not identified as permissible without consent or prohibited.

Principal Development Standards:

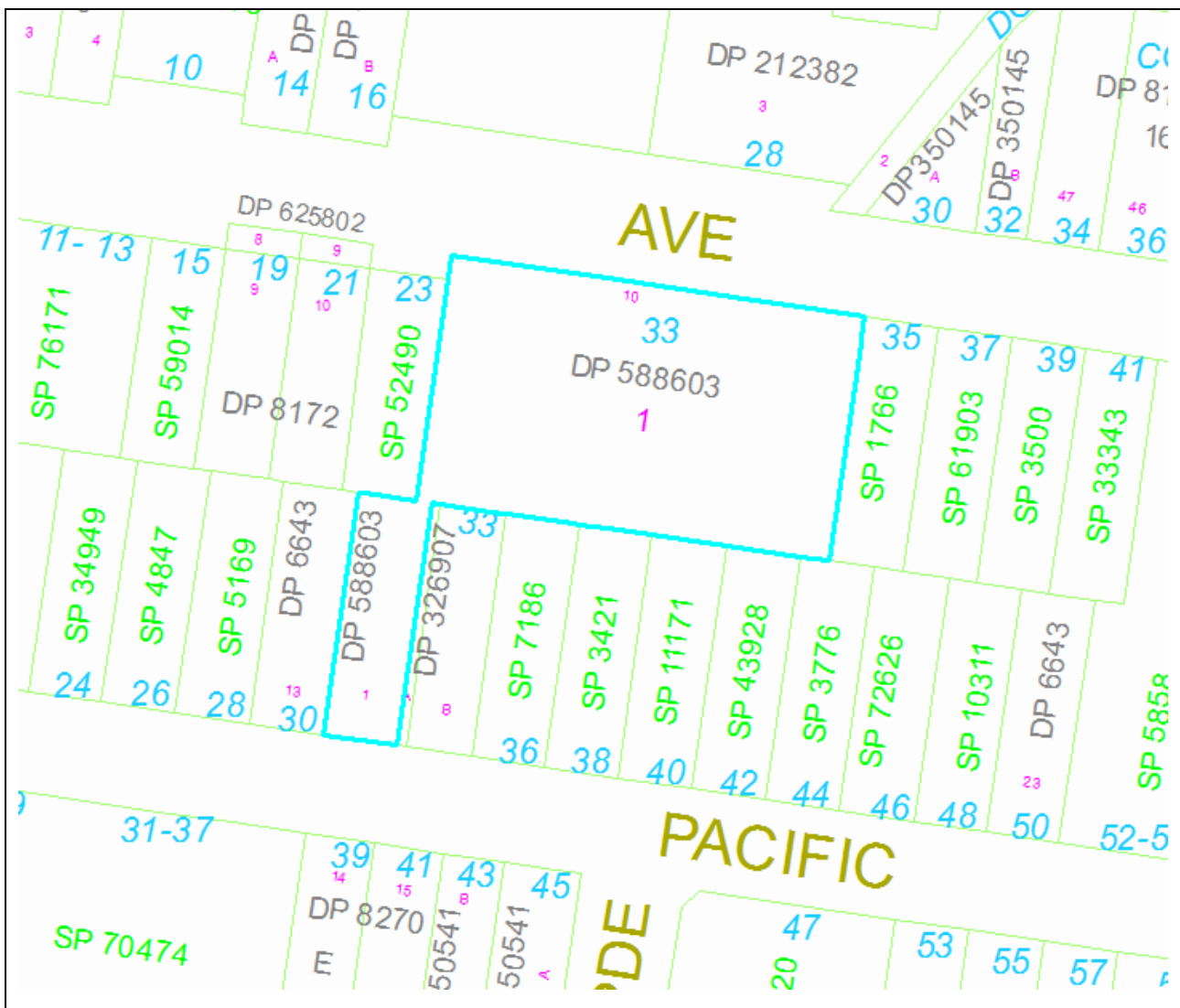
Development Standard	Required	Proposed	Complies
Height of Buildings:	21 metres (Oaks Avenue) 13 metres (Pacific Parade)	4.3 metres	YES

In summary, the proposed development is consistent with the aims and objectives of the Draft WLEP 2009.



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SECTION 3 – SITE INSPECTION ANALYSIS



SITE AREA: 600sqm

Detail existing onsite structures:

- The shopping complex is currently under renovation.
- The subject tenancy is currently vacant.

Site Features:

Nil

Site constraints and other considerations

Bushfire Prone?	No
Flood Prone?	Yes
Affected by Acid Sulphate Soils	No
Located within 40m of any natural watercourse?	No
Located within 1km landward of the open coast watermark or within 1km of any bay estuaries, coastal lake, lagoon, island, tidal waterway within the area mapped within the NSW	No



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Site constraints and other considerations

Coastal Policy?	
Located within 100m of the mean high watermark?	No
Located within an area identified as a Wave Impact Zone?	No
Any items of heritage significance located upon it?	No
Located within the vicinity of any items of heritage significance?	Yes
Located within an area identified as potential land slip?	No
Is the development Integrated?	No
Does the development require concurrence?	No
Is the site owned or is the DA made by the "Crown"?	No
Have you reviewed the DP and s88B instrument?	Yes
Does the proposal impact upon any easements / Rights of Way?	No

SITE INSPECTION / DESKTOP ASSESSMENT UNDERTAKEN BY:

Does the site inspection <Section 3> confirm the assessment undertaken against the relevant EPI's <Section's 1 & 2>?	Yes
Are there any additional matters that have arisen from your site inspection that would require any additional assessment to be undertaken?	No
Are there any existing unauthorised works on site?	No
If YES has the application been referred to compliance section for comments?	No

Signed

Date 8 October 2011

Phil Lane, Senior Development Assessment Officer



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SECTION 4 – APPLICATION DETERMINATION

Conclusion:

The proposal (Demolition works and alterations and additions to a shop) at No. 33 Oaks Avenue, Dee Why has been assessed against the relevant matters for consideration under Section 79C of the EP&A Act 1979. This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

RECOMMENDATION - APPROVAL

That Council as the consent authority:

GRANT DEVELOPMENT CONSENT to the development subject to:

The conditions detailed within the associated notice of determination; and

“I am aware of Warringah’s Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest”

Signed

Date 8 October 2011

Phil Lane, Senior Development Assessment Officer

The application is determined under the delegated authority of:

Signed

Date 8 October 2011

Rod Piggott, Team Leader, Development Assessment