

3.1 10, 16, 20, 22 & 28 Lawrence Street, Freshwater – Construction of a Mixed Use (Commercial/Retail/Residential) Building, Subdivision (Stratum & Strata) and Signage

DEVELOPMENT ASSESSMENT REPORT

Assessment Officer:	Tony Collier
Address / Property Description:	Lot 1 in DP 595422, No. 10 Lawrence Street; Lot 45 in DP 974653, No. 16 Lawrence Street; Lot 1 in DP 578401, No. 20 Lawrence Street, Lot 1 in DP 100563, No. 22 Lawrence Street; and Lot 1 in DP 900061, No. 28 Lawrence Street, Freshwater
Development Application No:	DA2011/1361 for demolition works and construction of a mixed use (commercial and residential) building, subdivision (stratum and strata) and signage
Application Lodged:	19 October 2011
Plans Reference:	DA00 to DA12
Amended Plans:	N/A.
Applicant:	Chris Zakos and Alex Zakos
Owner:	Chris Zakos (Nos. 10, 16 & 20 Lawrence Street) Alex Zakos (Nos. 22 & 28 Lawrence Street)
WLEP 2000 Locality:	H2 Harbord Village
WLEP 2000 Consistency with DFC:	Yes
WLEP 2000 Category:	Shops (Category 1) Restaurant (Category 1) Business Premises (Category 1) Housing (Not on Ground Floor) (Category 1)
Variations to WLEP 2000 Controls (Clause 20/Clause 18(3)):	<ul style="list-style-type: none">• Building Height Built Form Control (supported)• Front Setback Built Form Control (supported)
WLEP 2011 Zoning:	B2 Local Centre
WLEP 2011 Consistency to Zoning Objectives:	Yes
WLEP 2011 Permissible or Prohibited Land use:	Commercial Premises <u>Retail Premises</u> <ul style="list-style-type: none">• Shop (Permitted with Consent)• Food and Drink Premises (Permitted with Consent)<ul style="list-style-type: none">◦ Restaurant/Café (Permitted with Consent)◦ Take Away Food and Drink Premises (Permitted with Consent) <u>Business Premises</u> (Permitted with Consent) <u>Office Premises</u> (Permitted with Consent) Residential Accommodation <ul style="list-style-type: none">• Shop Top Housing (Permitted with Consent)
Variations to Development Standard (Clause 4.6):	Height of Buildings (supported)
Referred to ADP:	No
Referred to WDAP:	Yes (Cost of works greater than \$1m plus 45 submissions objecting to the proposal)

Land and Environment Court Action: No Land and Environment Court action is current or pending to date

SUMMARY

Submissions: 48 submissions received: 3 in support, 45 in objection

Submission Issues: Traffic access/egress and pedestrian safety; Inadequate provision of car parking; Increased traffic on Lawrence Street; Location of the loading dock on Dowling Street; Non-compliance with the Building Height Built Form Control; Non-compliance with the Front Setback Built Form Control; Use of first floor for businesses; Incompatibility with the character of the area; Removal of outdoor dining pods; Proximity to electromagnetic field (EMF); and Impact upon hydrology.

Assessment Issues: Traffic access/egress and pedestrian safety; Provision of car parking; Building Height; and Front Setback.

Recommendation: Approval

Attachments:

- A. Site & Elevation Plans.
- B. Copy of Council's letter to applicant pertaining to DA2011/0540 - Under Separate Cover
- C. Pre-lodgement Notes - Under Separate Cover

LOCALITY PLAN



Subject Site: Lot 1 in DP 595422, No. 10 Lawrence Street; Lot 45 in DP 974653, No. 16 Lawrence Street; Lot 1 in DP 578401, No. 20 Lawrence Street; Lot 1 in DP 100563, No. 22 Lawrence Street; and Lot 1 in DP 900061, No. 28 Lawrence Street, Freshwater

Public Exhibition: Notification 1
The subject application was publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan. The application was initially notified to 408 adjoining land owners and occupiers for a minimum period of 30 calendar days commencing on 4 November 2011 and being finalised on 6 December 2011. Furthermore, the application was advertised in the Manly Daily on 5 November 2011 and a notice was placed upon the site.

Notification 2
The application was re-notified in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan to 408 adjoining land owners and occupiers for an extended period ending on 13 December 2011. The re-notification was to inform recipients of the full site details and to advise of the extended notification period.

SITE DESCRIPTION

The subject site consists of five (5) allotments located on the southern side of Lawrence Street and at the corner of Dowling Street. The sites are legally known as Lot 1 in DP 595422, No. 10 Lawrence Street; Lot 45 in DP 974653, No. 16 Lawrence Street; Lot 1 in DP 578401, No. 20 Lawrence Street; Lot 1 in DP 100563, No. 22 Lawrence Street; and Lot 1 in DP 900061, No. 28 Lawrence Street, Freshwater.

The site is rectangular in shape with a frontage of 82.22m along Lawrence Street and a frontage of 30.48m along Dowling Street. The site has a surveyed area of 2,581m². The southern boundary is irregular due to the variable lot depths of neighbouring residential properties along Undercliff Road.

The site accommodates an eclectic mix of buildings of varying age and architectural style. Commercial uses occupy the ground floor tenancies while residential apartments occupy the upper floors of the double storey buildings. The rear yards of Nos. 20, 22 and 28 Lawrence Street predominantly consist of concrete hardstand and contain a variety of outbuildings. Figures 1 and 2 below show the site from Lawrence Street and Albert Street.



Figure 1 View of site from north-western corner of Lawrence Street.



Figure 2 View of site from Albert Street looking west up Lawrence Street.

Customer car parking is limited to a roof top area above No. 10 Lawrence Street. The car park accommodates 18 spaces and is accessed via a variable width 50m long two way driveway and ramp from Dowling Street. A garage to No. 28 Lawrence Street is also accessed via the Dowling Street driveway. A 2.0m wide crossover and concrete driveway is provided between Nos. 20 and 22 Lawrence Street and provides vehicular access to a garage at the rear of No. 20 Lawrence Street. Figures 3 and 4 show the driveway ramp to the car park located above No. 10 Lawrence Street.



Figure 3 View of driveway ramp from Dowling Street.



Figure 4 View of driveway ramp from rooftop car park (towards Dowling Street)

The site slopes predominantly from west to east which is most notable at street level where the site slopes downward by 3.24m along Dowling Street to the corner of Lawrence Street.

The site does not accommodate any vegetation given the on-going commercial development of the site since at least 1935.

The site is located within the H2 Harbord Village locality which consists of a relatively small commercial/mixed use area. The H2 Harbord Village locality is surrounded by the larger H1 Freshwater Beach locality which predominantly consists of low density residential uses interspersed with residential flat buildings. Consequently, the site is immediately surrounded by mixed use retail, commercial and restaurant uses to the north, east and west and by low density residential uses to the south. Two heritage listed buildings are located diagonally opposite the site to the north-west which accommodate the Harbord Literary Institute and the Harbord Early Childhood Health Centre.

Due to the topography of the area, the properties along Undercliff Road are sited higher than the ground level of Lawrence Street by approximately 5.5m.

The Harbord Village locality is serviced by both public and private customer car parking. Two public car parking areas are located within the locality and provide a total of 56 spaces. This together with available timed on-street car parking equates to approximately 90 spaces. Private customer parking is currently provided at the subject site (18 spaces), at the Freshwater Village Plaza (87 spaces) and at Nos. 22 to 26 Albert Street (28 spaces). Therefore, the total available public and private customer car parking within the Harbord Village locality equates to 223 spaces.

Note: The suburb of 'Harbord' was officially named 'Freshwater' on 12 January 2008 and references to 'Freshwater' and 'Harbord' in this report are used interchangeably due to the continued use of the name 'Harbord' in WLEP 2000.



SITE HISTORY

The site accommodates five (5) buildings which were constructed between 1935 (No. 18 Lawrence Street) and 1979 (No. 10 Lawrence Street).

All buildings have been used continuously for mixed-use commercial/residential purposes since their respective construction and generally remain unaltered.

DEVELOPMENT APPLICATION HISTORY

DA2011/0540

Development Application DA2011/0540 was lodged with Council on 28 April 2011. The assessment of the application revealed various matters which required attention, the most fundamental being the scale of the building element on Dowling Street and a car parking provision which represented a significant shortfall.

The application was subsequently withdrawn on 29 June 2011.

A copy of Council's letter to the applicant requesting the withdrawal of the application is attached to this report.

PROPOSED DEVELOPMENT

The applicant seeks consent to demolish the existing buildings on the site and to construct a mixed use building which is made up of four (4) blocks (Blocks A, B, C & D). Figure 5 below provides a reference to the floor levels proposed and the block configuration.

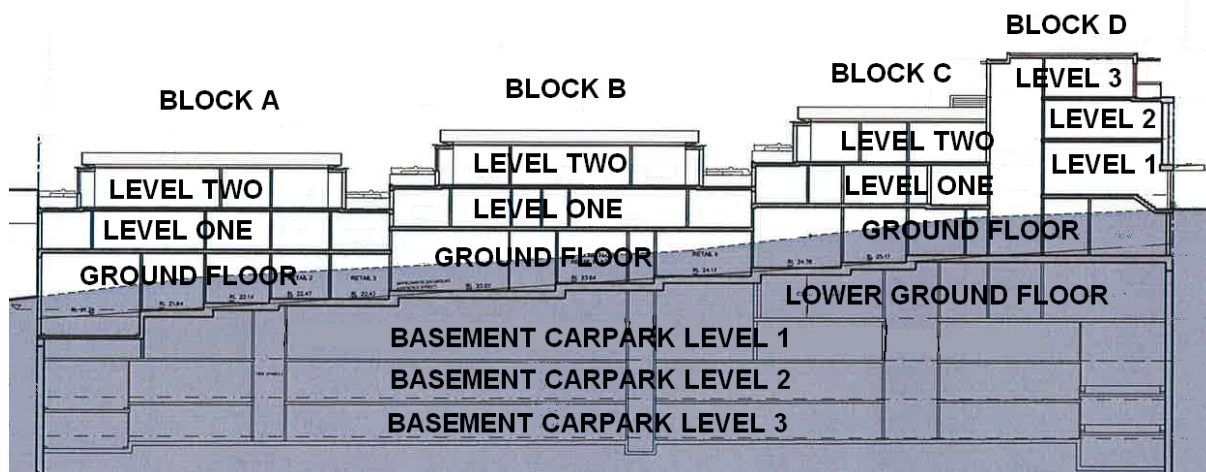


Figure 5 A cross-section (Section C-C) through the development showing the floor levels proposed. References to Blocks A,B, C and D are used throughout this report.

Source: Adapted by the author from Plan No. DA12 dated 19 October 2011 as prepared by PBD Architects.

In detail, the development consists of the following:

Basement Carpark Level 3 (RL 11.00 & RL 12.56)

- Extends below Buildings A, B, C & D.
- Car parking for 65 commercial vehicles.
- Lift and fire stairwell access/egress.

Basement Carpark Level 2 (RL 13.80 & RL 15.36)

- Extends below Buildings A, B, C & D.
- Car parking for 63 commercial vehicles.
- Lift and fire stairwell access/egress.

Basement Carpark Level 1 (RL 17.80 & RL 18.16)

- Extends below Buildings A, B, C & D.
- Dedicated car parking for 33 residential vehicles.
- Car parking for 25 commercial vehicles
- Separate bicycle parking for 18 residential bikes and 14 commercial bikes.
- Approximately 164.36m³ of storage area within the residential car parking area.
- Lift and fire stairwell access/egress.

Lower Ground Floor (RL 21.18)

- Extends below Buildings C and D.
- Nine (9) commercial suites and associated amenities.
- Lift and stairwell access/egress.

Ground Floor (RL 21.64 to RL 25.72)

- Vehicle crossover (7.9m wide) and driveway (6.4m wide) onto Lawrence Street.
- Seven (7) x shop tenancies with dedicated undercover outdoor retail areas.
- Four (4) x restaurant tenancies with dedicated undercover outdoor dining areas.
- Lift and stairwell access/egress.
- Central pedestrian retail plaza.
- Removal of existing dining pods.
- Installation of a 14.0m long median strip on Lawrence Street.

Level 1 (RL 25.97 to RL 30.08)

- Eight (8) x one bedroom apartments with balconies.
- Five (5) x two bedroom apartments with balconies.
- One (1) x shop tenancy with balcony.
- Loading dock with vehicle turntable, garbage rooms and lift.
- Variable width 435m² deep soil landscaped area along the southern boundary of the site.
- Lift and stairwell access/egress.

Level 2 (RL 28.97 to RL 34.09)

- One (1) x one bedroom apartment with balcony.
- Three (3) x two bedroom apartments with balconies.
- Two (2) x three bedroom apartments with balconies.
- Three (3) x commercial tenancies.
- Lift and stairwell access/egress.

Level 3 (RL 37.09)

- One (1) x commercial tenancy with balcony.
- Lift and stairwell access/egress.

Signage

- Ten (10) x under-awning signs with surface areas of 0.63m² each (total 6.3m²).
- Four (4) x wall hung signs with surface areas of 0.28m² (total 1.12m²).

Subdivision

The applicant also seeks consent to consolidate the site into two (2) allotments, stratum subdivide the site into four (4) allotments and strata subdivide the site into its residential components and associated unit allocations.

The stratum subdivision consists of the following allotments:

- Stratum Lot 101 – Shops;
- Stratum Lot 102 – Residential;
- Stratum Lot 103 – Offices; and
- Stratum Lot 104 – Shops and Restaurants.

AMENDMENTS TO THE SUBJECT APPLICATION

There are no amendments to the subject application.

STATUTORY CONTROLS

- (a) Environmental Planning and Assessment Act 1979;
- (b) Environmental Planning and Assessment Regulations 2000;
- (c) State Environmental Planning Policy No. 6 – Number of Storeys in a Building*;
- (d) State Environmental Planning Policy No. 55 – Remediation of Land;
- (e) State Environmental Planning Policy No. 64 – Advertising and Signage;
- (f) State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development;
- (g) State Environmental Planning Policy (Infrastructure) 2007;
- (h) Warringah Local Environment Plan 2000; and
- (i) Warringah Local Environment Plan 2011.

***Note:** State Environmental Planning Policy No. 6 – Number of Storeys in a Building is not an applicable planning instrument under Warringah Local Environment Plan 2000 and is used in this report for reference and clarification purposes only.

NON-STATUTORY CONTROLS

- Warringah Development Control Plan No. 1.

RELEVANT PLANNING PRINCIPLES

The following Planning Principles have been considered in this assessment:

- GPC No. 5 (Wombarra) Pty Ltd v Wollongong City Council [2003] NSWLEC 268;
- Project Venture Developments v Pittwater Council [2005] NSWLEC 191;
- Peninsula Developments Australia Pty Ltd v Pittwater Council [2011] NSWLEC 1244;
- Tenacity Consulting Pty Ltd Vs Warringah Council [2004] NSWLEC 140;
- Freshwater Village Developments Pty Ltd v Warringah Council [2011] NSWLEC 1127; and
- Trustees of the Sisters of the Good Samaritan v Warringah Council [2011] NSWLEC 1181.

PUBLIC EXHIBITION

Notification 1

The subject application was publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan No. 1. The application was initially notified to 408 adjoining land owners and occupiers for a minimum period of 30 calendar days commencing on 4 November 2011 and being finalised on 6 December 2011.

Furthermore, the application was advertised in the Manly Daily on 5 November 2011 and a notice was placed upon the site.

Notification 2

The application was re-notified in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan 2011 to 408 adjoining land owners and occupiers for an extended period ending on 13 December 2011. The re-notification was to inform recipients of the full site details and to advise of the extended notification period.

As a result of the public exhibition process 48 submissions were received which includes three (3) in support and 45 in objection. Submissions were received from:

Submission	Address
A & N Urquhart	Carlton Street, Freshwater
A Kivovitch	68 Crown Road, Queenscliff
A Sharp	77 Brighton Street, Curl Curl
A Skarratt	7 Eric Street, Freshwater
A Walker	108 Soldiers Avenue, Freshwater
A Walker-Powell	Kooloora Avenue, Freshwater
B Calcraft	2 Marmora Street, Freshwater
B Dunphy	33 Foam Street, Freshwater
B Hayes	16 Marmora Street, Freshwater
B McPherson Smith	Dowling Street, Queenscliff
D Ferris	16 Oliver Street, Freshwater
D Keeping	36 Oceanview Road, Freshwater
D Luff	Online Submission
D Morrissey (NSW Health)	No Address provided
E Joyce	22 Soldiers Avenue, Freshwater
Friends of Freshwater (P Harley)	Online Submission
G Kolivas	12 Nirimba Avenue, North Epping
G O'Hara, A Firbank & S Watson	16 Soldiers Avenue, Freshwater
I Jackson	42 Coles Road, Freshwater
J Calcraft	18 Ronald Avenue, Freshwater
J Orme-Nicoll	Ocean View Road, Freshwater
J Turton & K Yamakanond	26A Soldiers Avenue, Freshwater
J Vaccaro	57 Brighton Street, Freshwater
K Bull	20 Undercliff Road, Freshwater
K Girdwood	8 Eric Street, Freshwater
K Graham	17 Soldiers Avenue, Freshwater
M & A Desmond	4A Surfers Parade, Harbord
M, K & K Tuckey	15 Undercliffe Road, Freshwater
N Taylor	40 Waine Street, Freshwater
P & J Curry	5 Marmora Street, Freshwater
P & J Harley	4 Marmora Street, Freshwater
P & S Adams	2 Undercliff Road, Freshwater
P Castle	10 Undercliff Road, Freshwater
P Collins	4 Undercliff Road, Freshwater
P Demonchaux	16 Highview Avenue, Queenscliff
P Warr	Online Submission
R & E Adams	17 Kooloora Avenue, Freshwater
R Anderton	104 Abbott Road, North Curl Curl
R March & G Brunton	22 Wyadra Avenue, Freshwater
R Millar	67 Gardere Avenue, Curl Curl
S Kreft	5 Oceanview Road, Freshwater
S Mallender	5 Lawrence Street, Freshwater
T Evans	3 Marmora Street, Freshwater
T Orme	Ocean View Road, Freshwater
U Moloney	117 Crown Road, Queenscliff
V & R Bergseng	24 Kooloora Avenue, Freshwater
W Jensen	18 Carrington Parade, Freshwater
W Kuger, C Casey & C Bristol	69 Evans Street, Freshwater

The matters raised within the submission are addressed as follows:

Traffic access/egress and pedestrian safety

Concern is raised that the proposed driveway/crossover onto Lawrence Street will compromise pedestrian safety.

Comment:

This matter is addressed later in this report (refer to the objectives of the B2 Local Centre zone under Warringah Local Environmental Plan 2011 and the Desired Future Character of the H2 Harbord Village locality and General Principle of Development Control 72 under Warringah Local Environmental Plan 2000).

In summary, it has been found that the traffic calming effect of the in situ pedestrian crossing and applied driveway design features, it is considered that preservation of pedestrian safety has been appropriately addressed.

This matter does not warrant the refusal of the Development Application.

Inadequate provision of car parking

Concern is raised that the development is deficient in its provision of car parking.

Comment:

The provision of car parking is addressed later in this report (refer to 'Schedule 17 Carparking Provision') where it is noted that the development proposes an overall car parking shortfall of 26 spaces.

In summary, the consulting Traffic Engineer notes in the Traffic and Parking Assessment Report dated 12 October 2011 (refer to Pages 32 and 33 of that report) that, because of the mixed use nature of the development, the potential exists for dual usage (or 'reciprocal' car parking) of the non-residential parking spaces, in particular between the commercial components (Retail, Office and Business Premises) which is usually applied in highly urbanised commercial centres to regulate car parking. It should be noted that the residential car parking is unaffected by dual usage as it is contained within a dedicated car parking area.

This matter does not warrant the refusal of the Development Application.

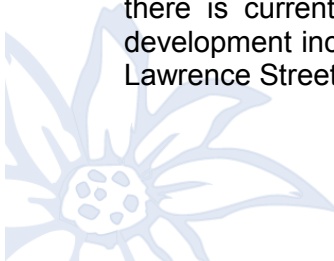
Increased traffic on Lawrence Street and surrounding road network

Concern is raised that the development will result in a significant increase in traffic volume and congestion on Lawrence Street.

Comment:

The concern regarding traffic congestion appears to be based upon an assumption that 100% of vehicles will either access or exit the site simultaneously thereby 'flooding' Lawrence Street and the surrounding road network.

Apart from the driveway which services a single garage at the rear of No. 20 Lawrence Street, there is currently no direct vehicle access from the subject site onto Lawrence Street. The development includes a new crossover which will introduce two-way traffic movement onto and off Lawrence Street. This access/egress is left-in/left-out only.



Using the projected AM and PM peak period traffic generation data (ie; the worse case scenario) provided in the Traffic and Parking Assessment Report it is estimated that the following traffic movements are likely to occur on Lawrence Street:

Period	Existing Generation p/h	Projected Generation p/h	Difference -/+	Movements/sec
AM Peak ²	Nil	41.2 ³	+41.2 (+17.7%) ¹	1 vehicle/87 secs
PM Peak ²	Nil	83.2 ³	+83.2 (+23.1%) ¹	1 vehicle/43 secs

Notes: ¹ The percentage difference is calculated from the surveyed westbound vehicle movements along Lawrence Street during the AM and PM peak periods (ie: 41.2/232 and 83.2/359)

² AM peak period is taken as 8.15am to 9.15am and PM peak period is taken as 4.45pm to 5.45pm.

³ Rates for the uses are based upon the RTA publication Guide to Traffic Generating Developments 2002.

The survey data provided in the Traffic and Parking Assessment Report indicates that there are 232 westbound vehicle movements past the proposed crossover during the AM peak period and 359 westbound vehicle movements past the proposed crossover during the PM peak period (refer to R.O.A.R data in Appendix A of that report). Based upon this data and the RTA projected rates per land use, the above table indicates that the additional traffic generated by the development represents an increase of 17.7% (i.e. one vehicle every 87 seconds using the proposed crossover) and 23.1% (ie: one vehicle every 43 seconds using the proposed crossover) respectively in traffic movement on Lawrence Street which is considered by Council's Traffic Engineer to be relatively low.

The Report has also undertaken an analysis of the two existing intersections along Lawrence Street and the proposed crossover which effectively forms a new intersection in its own right. The analysis, using SIDRA Intersection software, has found that the Lawrence Street/Albert Street intersection will continue to operate at Level of Service 'A' (Level of Service 'A' means that intersections regulated by traffic signals/roundabouts/give way signs and stop signs will achieve good operation) and that the Lawrence Street/ Dowling Street intersection will also continue to operate at Level of Service 'A'.

The Report notes that the intersection of Lawrence Street and the proposed crossover will operate at Level of Service 'A'. However, as mentioned previously, the operation of the proposed crossover will be regulated by pedestrian movements rather than vehicle priority, in that the ability of vehicles to enter the site will be delayed if a pedestrian is crossing Lawrence Street. Whilst such movements cannot be adequately described by traffic modelling it is considered to be consistent with Lawrence Street's status as a high pedestrian area.

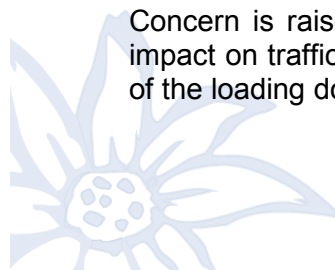
With respect to Degrees of Saturation, the Report notes that the Degrees of Saturation at all three intersections are well within the satisfactory limit of 0.8 with the Lawrence Street/Albert Street intersection exhibiting a 0.217 to 0.228 Degree of Saturation, the Lawrence Street/Dowling Street intersection exhibiting a 0.202 to 0.282 Degree of Saturation and the Lawrence Street/Crossover intersection exhibiting a 0.236 to 0.237 Degree of Saturation.

Council's Traffic Engineer has assessed the information contained in the Report and confirms that the additional traffic volume at normal peak times is considered to be within the environmental capacity of Lawrence Street, and that the additional traffic generated by this development will not have a significant adverse impact on the surrounding road network or intersection operation.

This matter does not warrant the refusal of the Development Application.

Location of the loading dock on Dowling Street

Concern is raised that the locating of the loading dock on Dowling Street will have an adverse impact on traffic due to the width of the road. Additionally, concern is raised regarding the impact of the loading dock on the amenity of neighbouring dwellings (most notably No. 2 Dowling Street).



Comment:

An assessment of the site indicates that the location of the loading dock is the most functional option given the limitations placed upon Medium Rigid Vehicles (MRVs) manoeuvring on Lawrence Street and the prohibition on the location of driveways near the Lawrence Street/Dowling Street intersection as prescribed under AS2890.1.

The swept path diagram provided with the Traffic and Parking Assessment Report indicates that a MRV would be able to easily access the loading dock in its proposed location and would be assisted in exiting the dock via the internal vehicle turntable.

Despite the provision of a 2.0m wide landscape buffer between the rear of No. 2 Undercliff Road and the southern wall of the loading dock, the concern regarding the impact upon neighbouring amenity is acknowledged and appropriate conditions are included in the Recommendation of this report which limits delivery and garbage pick up times although it is unlikely that any additional unreasonable impact will occur compared to the current driveway access arrangement.

This matter does not warrant the refusal of the Development Application.

Non-compliance with the Building Height Built Form Control

Concern is raised that the development exceeds the building height permitted under the Building Height Built Form Control in WLEP 2000. In particular, the submissions point out that the development exceeds three storeys.

Comment:

This matter is addressed later in this report (refer to the objectives of the 'Height of Buildings' Development Standard under Warringah Local Environmental Plan 2011 and the Building Height Built Form Control under Warringah Local Environmental Plan 2000) where it has been found that the non-compliant elements of the overall building height (ie: in metres) were minor and supportable under the respective provisions of Clause 4.6 'Exceptions to development Standards' under *Warringah Local Environmental Plan 2011* and Clause 20 'Can development be approved if it does not comply with a development standard?' under *Warringah Local Environmental Plan 2000*.

Notwithstanding the support for the overall building height, further clarification as to the question of storeys is required.

A storey is defined in Warringah Local Environmental Plan 2000 as "the space between two floors, or the space between any floor and its ceiling or roof above". The definition is intended to minimise building bulk and scale and is therefore interpreted to identify the enclosed space between two floor areas above ground level.

Whilst not an applicable planning instrument under *Warringah Local Environmental Plan 2000*, it is noted that a storey is also defined under Section 6 of State Environmental Planning Policy No. 6 – Number of Storeys in a Building which corresponds to the above LEP definition and states:

"6. Determination of number of storeys which a building contains

- (1) Where the application of a provision of an environmental planning instrument requires a determination of the number of storeys, floors or levels which a building contains, that number shall, for the purposes of applying the provision, be deemed to be the maximum number of storeys, floors or levels, as the case may be, of the building which may be intersected by the same vertical line, not being a line which passes through any wall of the building.*



- (2) *Except as provided by subclause (3), when applying subclause (1) in relation to a provision referred to in that subclause, a reference in subclause (1) to storeys, floors or levels shall be treated as a reference to storeys, floors or levels, within the meaning of the provision.*
- (3) *The second reference in subclause (1) to storeys, floors or levels does not include a reference to the whole or any part of a roof used as an uncovered garden, terrace or deck."*

Figure 5 in this report shows that the Lower Ground and Ground Floors accommodates leasable floor space and, in accordance with the above definitions, are counted as storeys. Therefore, Block C contains four (4) storeys and Block D contains five (5) storeys.

The imposition of a limit on the number of storeys is expressed under Clause 3(b) of *State Environmental Planning Policy No. 6 – Number of Storeys in a Building* which aims to “facilitate the erection of buildings which conform to the topography of the land on which the buildings are erected”. In this respect, it is worth noting that the Macquarie Dictionary (4th Edition) defines topography as “the relief features or surface configuration of an area”.

As can be seen in Figures 5 and 10 in this report, the development has been designed to address the topography by stepping the building down in blocks and subsequently matching, or conforming to, the ‘surface configuration of the area’. Consequently, it can also be seen that the locating of the Lower Ground Floor wholly below natural and existing ground level and the Ground Floor partially below natural ground level does not have any visual impact upon the surrounding lands.

The issue of the application of storeys in building height non-compliance was raised in the recent case, *Freshwater Village Developments Pty Ltd v Warringah Council* [2011] NSWLEC 1127 for the proposed mixed-use development on the northern side of Lawrence Street and Albert Street (DA2010/1446). That development proposed three multi-storey buildings, all of which presented as three storey buildings at the street alignment. However, the development included an excavated public plaza (accessed directly from Albert Street) which subsequently exacerbated the visual scale of the buildings by exposing the lower storeys to view from the public domain. Figure 6 below shows a section of DA2010/1446 through the excavated public plaza.

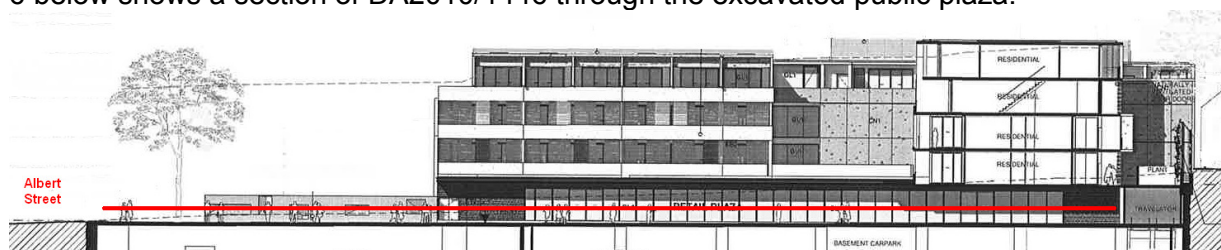


Figure 6 South-facing section through DA2010/1446 showing the excavated public plaza and direct sightline from Albert Street (indicated by the red line)

Source: Adapted by the author from Plan no. A-0503(12) dated 9 June 2010 as prepared by SJB Architects.

The subject proposal does not follow the design principle of DA2010/1446 and sites the non-compliant storeys below ground which visually renders the above ground development to three storeys only.

Notwithstanding, the development has been also assessed in terms of its overall building height (refer respectively to ‘Height of Buildings’ Development Standard under Warringah Local Environmental Plan 2011 and ‘Building Height Built Form Control’ under Warringah Local Environmental Plan 2000 in this report) where it was found that the non-compliant overall building height was relatively minor and did not result in any significant impact upon the amenity of neighbouring properties or public domain nor add to the building bulk of the building such that it failed compliance with ‘Clause 66 – Building Bulk’ under the General Principles of Development Control as prescribed under Warringah Local Environmental Plan 2000.

This matter does not warrant the refusal of the Development Application.

Non-compliance with the Front Setback Built Form Control

Concern is raised that the development does not comply with the front setback as permitted under the Front Setback Built Form Control in WLEP 2000.

Comment:

This matter is addressed later in this report (refer to the Front Setback Built Form Control under Warringah Local Environmental Plan 2000) where it has been found that the non-compliant elements of the front setback were supportable under the provisions of Clause 20 under Warringah Local Environmental Plan 2000.

This matter does not warrant the refusal of the Development Application.

Use of first floor for businesses

Concern is raised that the first floor of the development does not permit adaptation for business uses in the future.

Comment:

This matter is addressed later in this report (refer to Desired Future Character under Warringah Local Environmental Plan 2000) where it is considered that the first floor of the development could be used for home occupation/business purposes or adapted through a carefully designed refit for business use if required in the future or.

This matter does not warrant the refusal of the Development Application.

Incompatibility with the character of the area

The submissions raise concern that the bulk and scale of the development is not appropriate for the Freshwater Village and that the development is not compatible with the character of the local area.

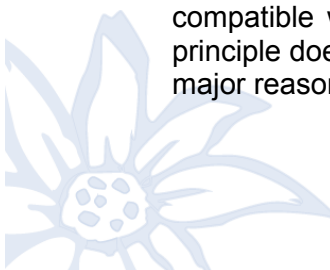
Comment:

The character of the area is defined in the Desired Future Character statement of the locality under WLEP 2000 and examined in the Design Quality Principles under State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (refer to these two sections in this report).

The matter of assessing the character compatibility of development has been examined by the Land and Environment Court in GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003) NSWLEC 268 and Project Venture Developments v Pittwater Council (2005) NSWLEC 191 where Senior Commissioner Roseth set out Planning Principles to better evaluate how a development should respond to the character of its environment. The following provides an assessment against the Planning Principles established in those two cases.

In the case of 'GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003) NSWLEC 268' Senior Commissioner Roseth developed the following Planning Principles:

- The first principle is that buildings in a development do not have to be single-storey to be compatible with the streetscape even where most existing buildings are single storey. The principle does not apply to conservation areas where single storey dwellings are likely to be the major reason for conservation.



Comment:

An inspection of site reveals that Lawrence Street consists of an eclectic mix of residential and non-residential uses of varying age, scale and intensity. Undercliff Road, to the rear, consists of a mix of single and double storey detached dwellings and residential flat buildings.

Most notably, the neighbouring buildings at the eastern side of the site consist of a three storey mixed-use commercial/residential development ('The Caville' located at the corner of Lawrence Street and Albert Street) and a three storey shopping centre (the 'Freshwater Village Plaza' located at No. 1-3 Moore Street).

The development consists of a three to five storey building (although it has been demonstrated that the development is visually expressed as a three storey building above ground) which accommodates a mix of residential and non-residential uses. The proposed building is highly articulated and stepped up the site towards Dowling Street to respond to the topography of the area and to correspond to the scale and current formation of buildings along this part of Lawrence Street and with the above-referenced neighbouring buildings.

In this regard, it is considered that the scale of the development is compatible with the streetscape and consistent with the first principle.

- The second principle is that where the size of a development is much greater than the other buildings in the street, it should be visually broken up so that it does not appear as one building. Sections of a building, or separate buildings should be separated by generous breaks and landscaping.

Comment:

As the site is located within the commercial centre of Freshwater Village, Lawrence Street (and the remainder of the Village centre to the north, east and west) consists of a mix of building forms including a contemporary three storey mixed-use building, an aging three storey shopping centre and a mix of single and double storey buildings of varying age, architectural style and use. Development immediately to the south consists of low to medium density development in the form of detached dwellings and residential flat buildings of varying age, scale and design.

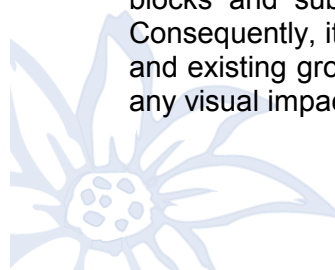
The development has been articulated to visually break up the building into four (4) distinct blocks to visually respond to the topography of the land and to the formation of buildings along this part of Lawrence Street. Additionally, each block within the development maintains a consistent building height across the width of the site resulting in a visibly lower building height (ie: one to two storeys) when viewed from the Undercliff Road properties due to the differences in topography. The resulting design achieves a commensurate scale with the surrounding residential and non-residential development.

In this regard, the development is considered to be compatible with the scale of surrounding development and consistent with the second principle.

- The third principle is that where a site has existing characteristics that assist in reducing the visual dominance of development, these characteristics should be preserved. Topography that makes development appear smaller should not be modified. It is preferable to preserve existing vegetation around a site's edges to destroying it and planting new vegetation.

Comment:

The development has been designed to address the topography by stepping the building down in blocks and subsequently matching, or conforming to, the 'surface configuration of the area'. Consequently, it can also be seen that the locating of the Lower Ground Floor wholly below natural and existing ground level and the Ground Floor partially below natural ground level does not have any visual impact upon the topography of the land.



Currently, the site does not accommodate any vegetation although mature and well developed vegetation is accommodated within the rear yards of the residential properties to the south. The development includes approximately 435m² (16.8%) of deep soil landscaped open space along the rear boundary. This space has a width of between 2.0m to 7.2m and, according to the landscape plan (see Plan No. 621.02 dated 12 October 2011 as prepared by Tramonte Jensen), will accommodate a selection of native shrubs and trees which will achieve a mature height of between 0.8m to 5.0m respectively. This landscaped feature, combined with the physical separation at the rear, will further soften the overall appearance of the development while providing a defining but sympathetic buffer between the higher intensity mixed-use area and the lower intensity residential area.

In this regard, it is considered that effective methods have been employed in the design of the development to reduce its visual dominance and is consistent with the third principle.

- The fourth principle is that a development should aim to reflect the materials and building forms of other buildings in the street. This is not to say that new materials and forms can never be introduced only that their introduction should be done with care and sensitivity.

Comment:

The development includes a Schedule of Colours and Finishes which indicates that the proposed colour scheme is neutral and will reflect the colours of the neighbouring buildings and the predominant colour theme for development in the Freshwater Village.

In this regard, the development is considered to be consistent with the fourth principle.

The above Principals were further developed in Project Venture Developments v Pittwater Council (2005) NSWLEC 191 to include the following:

Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

Comment:

The physical impacts of the development on surrounding properties is assessed as consisting of constraints on the development potential of surrounding sites, privacy, overshadowing and noise.

Constraints on the development potential of surrounding sites

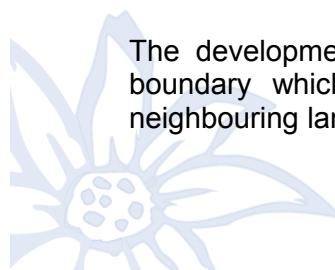
The development is sited on five (5) allotments which will be consolidated in accordance with Clause 5 of the Environmental Planning and Assessment Act, 1979 to provide for the orderly and economic development of the land.

The remainder of Lawrence Street and Undercliff Road consists of regular shaped allotments which respectively accommodates commercial and residential development. In this regard, the development does not place any constraints on the development potential of surrounding sites.

Privacy

Levels 2 and 3 in Blocks A, B and C accommodate the residential elements of the development which are setback from the rear boundary by 5.2m to 7.2m from the south facing balconies and by 8.0m to 12.0m from the south facing windows.

The development also includes a substantial area of landscaped open space along the rear boundary which will provide an appropriate depth of planting to preserve the privacy of neighbouring land.



Given the proposed setbacks and provision of the landscaped buffer, It is considered that the development does not present overlooking opportunities into the neighbouring residential properties along Undercliff Road.

Overshadowing

The shadow diagrams provided by the applicant (see Plan Nos. SD 1 (9.00am), SD 4 (Noon), and SD 7 (3.00pm)) indicate that the development will not result in significant overshadowing over the neighbouring residential properties to the south and is consistent with General Principle 62 of WLEP 2000 and State Environmental Planning Policy No. 65.

Noise

The top two levels of the development accommodate the residential use which is not considered to unreasonably impact upon neighbouring residential properties with regard to noise.

The balconies at the rear of the development are sufficiently setback from the rear yards of the residential properties to the south to minimise any unreasonable noise transfer.

Notwithstanding, conditions have been included in the recommendation of this report requiring the development to be designed in accordance with AS2107 and the EPA Guidelines for Acoustic Privacy.

In this regard, the development is considered to be consistent with the fourth principle.

Is the proposal's appearance in harmony with the buildings around it and the character of the street?

Comment:

As discussed previously, Lawrence Street, which forms the local area or visual catchment, consists of a varying mix of building forms including a contemporary three storey mixed-use building, a three storey shopping centre and a mix of single and double storey commercial buildings of varying age and architectural style.

The development has been sufficiently articulated to visually define the four (4) proposed blocks. In this sense, while the building constitutes one building, it has been sufficiently 'broken up' to visually respond to the topography and building forms in the area with the resulting design achieving an effective architectural transition between the surrounding commercial and residential buildings which collectively characterise the local area.

Conclusion of Character Assessment

The above character assessment has found that, in the context of the Land and Environment Court Planning Principles, the proposal is compatible with the character of the local area and surrounding wider locality.

This matter does not warrant the refusal of the Development Application.

Removal of outdoor dining pods

Concern is raised regarding the removal of the outdoor dining pods on Lawrence Street as a result of the development.

Comment:

The outdoor dining pods were originally considered and approved on the basis of community and local business support to the upgrading of the public domain within Freshwater Village. Since their construction it has been noted that pods have received little or no use from the community and/or local businesses.



Although not part of this Development Application, Council has prepared a design for the construction of four (4) new alfresco dining terraces along the frontage of Lawrence Street adjacent to the subject site. The terraces have been located and designed as an integrated response to Council's commitment towards the upgrading of the Freshwater Village streetscape and to the future development of the subject site. It is proposed to commence these works in April/May 2012 to avoid peak trading times for the nearby restaurants.

Notwithstanding, the Development Application was referred to Council's Road Assets Department as the proposed driveway/crossover conflicted with the outdoor dining pods currently located within the frontage of Lawrence Street. No objection was raised to the removal of the pods subject to a condition which requires that the pods may be either relocated or removed at expense of the developer. This condition is included in the Recommendation of this report.

This matter does not warrant the refusal of the Development Application.

Proximity to electromagnetic field (EMF)

Concern is raised that the development is sited in close proximity to the Ausgrid power station located approximately 65m to the north.

Comment:

The Development Application was referred to Ausgrid for consideration under the provisions of State environment Planning Policy (Infrastructure) 2007. Ausgrid did not raise any objection to the proposal subject to the imposition of standard conditions including the following:

"The development must comply with both the Reference Levels and the precautionary requirements of the draft ARPANSA's Radiation Protection Standard for Exposure Limits to Electric and Magnetic Fields 0 Hz - 3 kHz, 7 December 20065."

The above condition is imposed to address the following requirements and is not specifically applied because of the proximity of the site to the power station:

- Clause 45b(i) immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- Clause 45b(ii) immediately adjacent to an electricity substation.
- Clause 45b(iii) within 5m of an exposed overhead electricity power line.

The afore-mentioned condition is included in the Recommendation of this report.

This matter does not warrant the refusal of the Development Application.

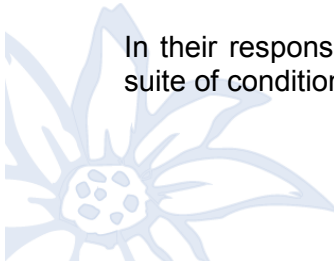
Impact upon hydrology

Concern is raised that the excavation associated with the development could result in a 'perched' water table, impact upon groundwater levels and affect the availability of bore water in the area.

Comment:

The Development Application was referred to the NSW Office of Water as Integrated Development under s.91 of the Environmental Planning and Assessment Act, 1979 due to the temporary groundwater dewatering of the site. The Development Application was considered under the relevant provisions of the Water Management Act, 2000 which includes aquifer interference.

In their response to Council's referral, the NSW Office of Water raised no objection subject to a suite of conditions imposed in their General Terms of Approval which include the following:



"Groundwater inflow predictions"

1. *The predicted instantaneous inflow rate (expressed in litres per second) and the predicted total groundwater extraction volume (expressed in megalitres) for the defined period of construction (expressed in months) of the development shall be determined and advised to the Warringah Council. The treatment, management and disposal of the pumped groundwater will be subject to the approval of the appropriate regulatory authority.*
2. *The predicted instantaneous inflow rate (expressed in litres per second) and the predicted total groundwater extraction volume (expressed in megalitres per year) for the long-term operation of the development shall be determined and advised to the NSW Office of Water. The treatment, management and disposal of the pumped groundwater will be subject to the approval of the appropriate regulatory authority.*

Note: *The appropriate regulatory authority may be either council, Sydney Water, the NSW Environmental Protection Authority or the Warringah Council, depending on the quality or contamination status of the groundwater and the proposed method of disposal.*

Reduction or elimination of groundwater impact

3. *If, during the detailed design of the development or during construction significant quantities of groundwater are identified or encountered, the NSW Office of Water shall be consulted. Any measures as directed or agreed to by the NSW Office of Water to reduce or eliminate the inflow of groundwater to the construction site shall be incorporated into the detailed design and/or construction of the development.*

Note: *The NSW Office of Water shall determine the significance of any extraction volume and the need for an authorisation to account for the take of water so identified. Where an authorisation is deemed to be required, the applicant shall procure an entitlement from the relevant water source(s) appropriate to account for the extraction of groundwater. The authorisation shall be subject to prescribed assessment fees and administrative charges as determined from time-to-time by the Independent Pricing and Regulatory Tribunal (IPART)."*

The above conditions are included in the Recommendation of this report.

Provision of bicycle parking

A submission requests that consideration be given to the provision of public bicycle parking on the site.

Comment:

The development provides for 32 spaces which includes 18 spaces for residential occupants and 14 spaces for staff/customers of the commercial uses.

This matter does not warrant the refusal of the Development Application.

MEDIATION

Has mediation been requested by the objectors?	No
Has the applicant agreed to mediation?	N/A
Has mediation been conducted?	No

LAND AND ENVIRONMENT COURT ACTION

There is no Land and Environment Court action current or pending on this application to date.



REFERRALS

External Referrals

NSW Office of Water

The Development Application was referred to the NSW Office of Water as Integrated Development under the provisions of s.91 of the Environmental Planning and Assessment Act, 1979.

The NSW Office of Water do not raise any objection to the proposal and have issued their General Terms of Approval (GTAs). The conditions imposed in the GTAs are subsequently included as conditions in the Recommendation of this report.

State Transit Authority of NSW (STA)

State Transit do not raise any objection to the development but do note that the Traffic and Parking Assessment Report does not address public transport services and requests Council to take into consideration the following (the numbering is in order of the letter from State Transit):

"2. Both bus stops on Lawrence Street experience heavy use by passengers and, with the addition of further dwellings, the demand placed on these stops is expected to rise. State Transit believes that this development provides an opportunity to upgrade the current stops to cater for future growth and enhance customer amenity. State Transit would be happy to discuss this issue, as any changes will need to be approved by STA prior to implementation."

Comment:

There is no provision under WLEP 2000 or WLEP 2011 which requires the applicant to undertake this work. The applicant has been forwarded these comments to provide for potential discussion between the parties.

"3. State Transit raises some concern with the location of the proposed driveway and the limited space for the bus stop to the west of the driveway exit. While it is acknowledged that traffic generation is not significantly enhanced by the proposed development, it would be beneficial to see plans showing the turning paths of vehicles entering/exiting the development and that travel along the kerbside, including buses to the bus stop."

Comment:

It is noted that the development seeks to shorten the overall length of the indented bus bay and loading bay at the front of the site from 52m to 36m (taken from the draw-in/draw-out length which includes the furthest edges of the splays at either end of the bay) to accommodate the relocation/removal of Council's alfresco dining terraces which are currently scheduled for construction in April/May 2012.

Section 3.7 of the State Transit's 'Bus Infrastructure Guide' (Issue 2) dated July 2011 prescribes, under that a bus bay which services an articulated bus (which has a length of 18.0m) should have a minimum draw-in/draw-out length of 40.0m. The proposed length of the indented bay is therefore 4.0m shorter than required to adequately service articulated bus movements.

In this regard, it is considered appropriate to impose a condition which requires that the development must meet the geometric requirements of the State Transit Authority for bus access to the indented bus bay. A condition to this effect is included in the Recommendation of this report.



"4. Should the inclusion of any hoarding and/or fencing along the Lawrence Street frontage be required it should be approved in accordance with Council's requirements and have a minimum 800mm setback from the face of the kerb."

Comment:

All hoarding will be erected in accordance with Council's requirements and will align with the property boundary.

"5. State Transit raises concern about the loading facilities as they would appear inadequate given the existing use of the kerbside throughout the day."

Comment:

The loading dock off Dowling Street has been considered by Council's Traffic Engineer to be acceptable pending the submission of details regarding the operation of the vehicle turntable on the Dowling Street entrance which must be designed to accommodate Medium Rigid Vehicles.

"6. Concern is also expressed with the proposed alfresco dining along the entire frontage of the site. Where do customers for bus services stand and how is the kerbside expected to function?"

Comment:

The proposed outdoor dining areas are located within verandah structures which are situated entirely within the property boundary of the site. The use of the dining areas will not have any impact upon the movement of people along the footpath nor upon State Transit customers.

"7. At this point in time it is unclear what steps are envisaged during the demolition and construction stages of the development. I would recommend that a works zone be provided for the minimum possible period and that all work associated with the demolition and construction stages should be contained as far as practicable within the site itself."

Comment:

The applicant is to apply to Council for a Works Zone. Council's Traffic Engineer notes that it may not be practical to allow for a Works Zone on Lawrence Street and that the Works Zone should be located on Dowling Street. Works Zones will require approval from the Traffic Committee.

"8. The effects on the bus stop during the demolition and construction phases of the development have not been addressed but it is evident that State Transit's approval to any change would be required prior to these phases commencing."

Comment:

The approval of State Transit will only be required if the bus stop is to be moved or removed. In the unlikely event that this should be found to be necessary during the demolition/construction stages, the applicant will be required to obtain approval from State Transit.

"9. If during the demolition and construction stages road closures are required and/or bus services impacted, State Transit will need to be consulted and given the chance to comment prior to such activity."

Comment:

The applicant will be required to consult with State Transit if bus services are impacted as a result of the demolition/construction stages.

Given the above, State Transit do not raise any objection to the application subject to recommendations which have been included in the Recommendation of this report.

Ausgrid

Ausgrid has not raised any objection to the application subject to conditions which have been included in the Recommendation of this report.

NSW Police Force

NSW Police do not raise any objection to the application subject to recommendations which have been included in the Recommendation of this report.

Internal Referrals

Urban Design

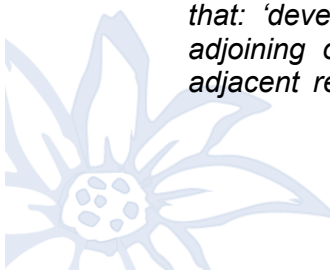
Council's Urban Design Officer has assessed the Development Application and provides the following comments:

"Positive Aspects:

- 1. Articulated building forms. Facades are composed with an appropriate scale, rhythm and proportion.*
- 2. Consistent retail street address at Lawrence Street with the rest of Freshwater village. Buildings contribute to the public domain and streetscape by fronting onto major streets with active uses.*
- 3. The proposed development has a setback of 3.5m along the entire length of Lawrence Street frontage at street level to allow for alfresco dining within the site boundary. This is consistent with the desired future character statement for locality H2, Warringah LEP 2000, calling for commercial use of part of the footpath for outdoor eating as an appropriate activity. As usage of the public footpath for seating is limited due to the indented bay for the bus stop and street car parking, providing outdoor dining area within the private boundary is a positive move to free up the public footpath for safe pedestrian movement and congregation around the bus stop.*
- 4. Consolidation of possible multiple vehicular access points providing safe pedestrian routes through amalgamation of sites.*

Negative Aspects:

- 1. The building exceeds the 3 storey height limit at the corner of Dowling Street by having two basement commercial floors. The additional storeys are not visibly noticeable from the street elevations and utilise otherwise redundant spaces created between the basement car park and ground level due to the sloping site topography. This non-compliance can be supported as they do not contribute to the visual perception of scale and height of the building and make good use of leftover space created by site topography.*
- 2. The 11m building height control has been exceeded at the corner of Lawrence and Dowling Streets by up to about 15m at the highest point. The desired future character statement states that: 'development that adjoins residential land is not to reduce the amenity enjoyed by adjoining occupants...built form of development in the village to provide a transition to adjacent residential development, including reasonable setbacks...'.The extent of the non-*



compliance has been reduced from the previous DA and the extra height is not very visible from street level as it is well set back from the building façade.

The proposed building at this corner will cast extra shadow especially onto the garden and deck to the house at No.2 Undercliff Road. The shadow diagrams submitted indicate that the deck and 50% of the garden can have 2 hours of sunlight. However due to overshadowing by existing structure and fences in this particular backyard, sunlight should not be further reduced by the proposed development by more than 20% (Clause 62, Access to sunlight, WLEP). The applicant has submitted shadow diagrams to demonstrate compliance.

- 3. The front building setback from Lawrence Street at the 3rd storey does not comply fully with the 5m required. (3, 4 & 5m proposed). These non-compliances are acceptable in view of the majority of the 3rd storey setback complies with the 5m and the introduction of view corridors and break in roof forms in the overall bulk and scale of the upper levels.*

Conclusion

The urban design issues discussed above demonstrate that the concerns identified in the previous DA proposal have been addressed and reconciled in this latest proposal. Therefore the development proposal can be supported in its current form from an urban design view point."

Development Engineering

Council's Development Engineer has not raised any objection to the application subject to conditions which have been included in the recommendation of this report. The conditions include two Deferred Commencement conditions which require the following:

"Stormwater disposal

The stormwater drainage plans are to be submitted to Council for assessment and approval. The drainage plans must detail the following:

- 1. An engineering longitudinal section through the outlet pipe from the OSD tank to the connection into the Council system must be provided. This longsection is to show design invert levels, finished surface levels of the proposed access ramp, pipes size, design flows, all utility services that may cross the line and a hydraulic grade line.*

Note: It is the responsibility of the Applicant to provide full details of all relevant services that may conflict with the proposed OSD system(s) and stormwater lines. The exact locations of any crossings or connections are to be shown.

- 2. Details of how upstream catchment surface flows must be directed around the OSD system are to be provided. Refer to section 4.6 of Council's Onsite Stormwater Detention Technical Specification.*
- 3. At least two (2) complete sections through the detention tank showing all dimensions must be shown on the plan. This is to include internal dimensions of the OSD tank, all finished surface levels in relation to adjoining properties, proposed and existing buildings, wall details, high early discharge chamber details, overflow weir details, structural requirements of the OSD tank, step irons, etc.*

Reason: *To ensure adequate provision is made for stormwater drainage from the site. (Special condition)*



Vehicular access

4. *The applicant must use Council's standard 'Normal' driveway profile for each vehicle crossing fronting Dowling Street and Lawrence Street. In this regard, the applicant is to provide engineering longitudinal sections (showing existing and proposed levels) on both sides of the two driveways to demonstrate that the internal proposed levels can be achieved with appropriate transitions. The property boundary levels shall match the existing levels. All transitions must be within the subject site and in accordance with AS2890.1:2004.*

Reason: *To ensure suitable vehicular access to private property. (Special condition)"*

Comment:

All conditions imposed by Council's Development Engineer have been included in the recommendation of this report.

Traffic Engineering

Council's Traffic Engineer has assessed the Traffic and Parking Assessment Report dated 12 October 2011 as prepared by Varga Traffic Planning Pty Ltd which accompanied the Development Application and provides the following comments:

"The installation of the median on Lawrence Street will require the concurrence of the Local Traffic Committee as it is a permanent installation on the local road network.

Access

Proposed driveway access can accommodate a 99% vehicle.

The width of this driveway on Lawrence Street is in accordance with AS2890.1:2004 (width of 7.9m).

The driveway must provide an additional separation island at the site boundary, similar to the separation island located 5.4m inside the driveway.

Details regarding the operation of the vehicle turntable on the Dowling Street entrance are not provided. This turntable must be designed to accommodate MRVs.

Traffic Generation

Traffic generated by this site will not have a significant adverse impact on the existing road network. Additional 24 at 7am and 2 at 7pm.

Lawrence Street is classified as a collector road in council's road hierarchy additional traffic generated by this development will not approach the environmental capacity of this road.

Work Zone

It may not be practical to allow for a work zone on Lawrence Street. The applicant is to apply for a Works Zone on Dowling Street.

Parking

This development has a shortfall of parking. This is deemed acceptable as the various uses of the development have differing peak demand times for parking. When the existing shortfall of parking is considered this development will provide a significant amount of additional parking in the area."

Comment:

Conditions have been included in the Recommendation of this report which includes the requirement that the median strip be referred to Council's Local Traffic Committee prior to the issue of a Construction Certificate.

Environmental Health

Council's Environmental Health Officer has not raised any objection to the application subject to conditions which have been included in the recommendation of this report.

Road Assets

The Development Application was referred to Council's Road Assets as the proposed driveway/crossover conflicted with the outdoor dining pods currently located within the frontage of Lawrence Street.

No objection has been raised by Road Assets subject to a condition which requires that the pods may be relocated or removed at expense of the developer. This condition is included in the Recommendation of this report.

Heritage

Council's Heritage Officer has assessed the Development Application and provides the following comments:

"Impact upon heritage items in the vicinity"

The north western corner of the development is located opposite the Early Childhood Health Centre, which adjoins the Harbord Literary Institute, located further to the west. Both these buildings are owned by Council and are listed as heritage items in Warringah LEP 2011.

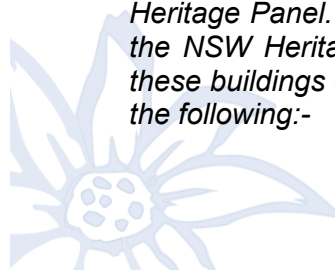
I have reviewed the Statement of Environmental Effects submitted with the development application. The existing buildings are a mixture of different styles, dating mainly from the 1960's. It is considered that the new development will provide an acceptable, integrated façade along this part of Lawrence Street, and as such, will not have any detrimental impact upon the heritage significance of the heritage listed buildings on the opposite side of Lawrence Street. It is noted that the 3rd level is stepped back for greater articulation, reducing the bulk of the development when viewed from the heritage items on the other side of Lawrence Street.

On this basis, it is considered that there will be no detrimental impact from the proposed development on the heritage items in the vicinity, being the Early Childhood Health Centre and the Harbord Literary Institute. Therefore, no objections are raised to this application on heritage grounds.

Nomination of existing buildings as a potential heritage item

The existing retail/commercial buildings proposed to be demolished as part of this application, were nominated by a member of the public, in May 2011, as part of the Warringah Community Based Heritage Study Review. This nomination was in response to a public call for the community to nominate any items of potential heritage significance.

All nominations are in the process of being assessed by heritage experts on Council's Warringah Heritage Panel. All nominations need to be assessed against the heritage criteria for listing set by the NSW Heritage Office. This nomination has been assessed and it has been determined that these buildings do not meet the criteria for heritage listing. The consultant's assessment concluded the following:-



"Integrity of each shop is low and streetscape contribution is very limited. The shops as a group do not meet inclusion criteria; however, they meet a number of exclusion criteria. In this situation, the NSW Heritage Council guidelines recommend that the item should not be listed as a heritage item."

Therefore there is no objection to the buildings being demolished as a result of this application."

Comment:

No conditions have been requested to be imposed by Council's Heritage Officer.

Landscape

Council's Landscape Officer has not raised any objection to the application subject to conditions which have been included in the recommendation of this report.

Natural Environment Unit

Council's Natural Environment Unit has not raised any objection to the application nor imposed any conditions.

Waste Management

Council's Waste Management Officer has not raised any objections to the application subject to conditions which have been included in the recommendation of this report.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	Not applicable
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) - Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the regulations	<p>The EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter may be addressed via a condition of consent.</p> <p><u>Clause 92</u> of the EPA Regulations 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter may be addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EPA Regulations 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 143A</u> of the EPA Regulations 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a CC. This matter may be addressed via a condition of consent.</p>

Section 79C 'Matters for Consideration'	Comments
Section 79C (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) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the mixed use character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the mixed use nature of the proposed land use.</p>
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	<p>The various controls contained within WLEP 2000 provide the community with a level of certainty as to the scale and intensity of future development and the form and character of development that is in keeping with the desired future character envisaged for the locality.</p> <p>The development, as proposed, is considered to be consistent with the desired future character of the H2 Harbord Village locality and with the Objectives of the B2 Local Centre zone. Additionally, while the development does not achieve compliance with the relevant Built Form Controls the variations were considered to be minor and are supported under Clause 20 of WLEP 2000. The development has been found to be consistent with key General Principles of Development Control.</p> <p>This assessment has found the development to be consistent with the scale and intensity of development that the community can reasonably expect to be provided on this site and within the respective localities/zones and is therefore considered, in its current form, to be in the public interest.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS

Warringah Local Environmental Plan 2011 (WLEP 2011)

The relevance of a draft Local Environmental Plan and the weight to be given to it relies on the facts of the particular case and circumstances which have been highlighted by numerous Land and Environment Court cases including *Mathers v North Sydney Council* [2000] NSWLEC 84, *Haywood and Bakker Pty Ltd v North Sydney Council* [2000] NSWLEC 138 *Blackmore Design Group Pty Ltd v North Sydney Council* [2001] NSWLEC 279).

In summary, the primary principles arising from Land and Environment Court cases are that the weight to be placed upon a draft Local Environmental Plan, when determining a development application depends on:

1. The imminence of the draft LEP and the degree of certainty that it will come into force;
2. The extent of conflict between proposed development and planning objectives of the zone contained in the draft LEP; and
3. The existence and applicability of savings provisions in the draft LEP.



1. The imminence of the draft LEP and the degree of certainty that it will come into force.

Comment:

The Draft WLEP 2009 was gazetted as WLEP 2011 on 9 December 2011.

2. The extent of conflict between the proposed development and the planning objectives contained in the draft LEP.

Comment:

See commentary below.

3. The existence and applicability of savings provisions in the draft LEP.

Comment:

Warringah Local Environmental Plan 2011 was made on 9 December 2011. This application was lodged on 4 October 2011 and is therefore subject to assessment under the provisions of Clause 1.8A 'Savings provision relating to development applications' of WLEP 2011. Notwithstanding, the following consideration is given to the application under the relevant zoning and Development Standard provisions of WLEP 2011 to ascertain permissibility and compliance.

Definition of uses with the proposed development: (ref. WLEP 2011 Dictionary)

Commercial Premises

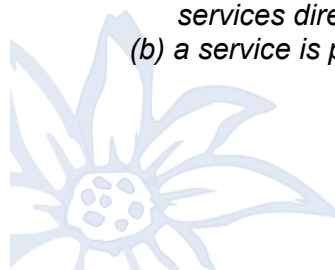
Shop means "premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop, but does not include food and drink premises or restricted premises."

Food and Drink Premises means "premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or café means "a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, takeaway meals and drinks or entertainment are also provided".
- (b) a take away food and drink premises means "premises that are predominantly used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises".
- (c) a pub means "licensed premises under the Liquor Act 2007 the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises".

Business Premises means a "building or place at or on which:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- (b) a service is provided directly to members of the public on a regular basis,



and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital."

Office Premises means "a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used".

Residential Accommodation

Shop Top Housing means "one or more dwellings located above ground floor retail premises or business premises.

Zone:

- B2 Local Centre.

Permitted with Consent or Prohibited:

Commercial Premises

Retail Premises

- Shop (Permitted with Consent)
- Food and Drink Premises (Permitted with Consent)
 - Restaurant/Café (Permitted with Consent)
 - Take Away Food and Drink Premises (Permitted with Consent)

Business Premises (Permitted with Consent)

Office Premises (Permitted with Consent)

Residential Accommodation

- Shop Top Housing (Permitted with Consent)

Additional Permitted used for particular land – Refer to Schedule 1:

- None Applicable.

Principal Development Standards:

Development Standard	Required	Proposed	Complies	Clause 4.6 Exception to Development Standard
Minimum Subdivision Lot Size:	N/A in the B2 Local Centre zone	N/A	N/A	N/A
Rural Subdivision:	N/A	N/A	N/A	N/A
No Strata Plan or Community Title Subdivisions in certain rural and environmental zones:	N/A	N/A	N/A	N/A

Development Standard	Required	Proposed	Complies	Clause 4.6 Exception to Development Standard
Height of Buildings*:	11.0m	Block A – 6.5m to 11.5m Block B – 5.4m to 11.4m Block C – 6.4m to 11.4m Block D – 10.8m to 12.5m	No (+0.5m) No (+0.4m) No (+0.4m) No (+1.5m)	See commentary below

***Note:** Building heights under WLEP 2011 are taken from existing ground level as opposed to natural ground level under WLEP 2000.

Area of non-compliance

As can be seen in Figures 7, 8 and 9 below, the non-compliant areas, as indicated in yellow, are located at the north facing eaves of the butterfly roofs to Blocks A, B & C; the northern side of the butterfly roof and the top most section of the lift overrun at Block D.

Note: The existing ground levels are indicated in red along the base of the building and are taken from the survey diagram accompanying the Development Application (refer to Plan No. 15478C dated March 2011 as prepared by Bee & Lethbridge Pty Ltd).



Figure 7 Building height non-compliance as viewed from Lawrence Street.

Source: Adapted by author from Plan No. DA10 dated 19 October 2012 as prepared by PBD Architects.

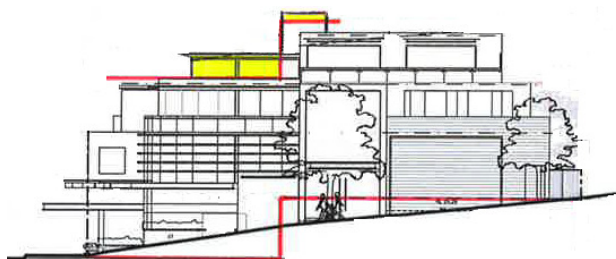


Figure 8 Building height non-compliance at Block D as viewed from Dowling Street.

Source: Adapted by author from Plan No. DA11 dated 19 October 2012 as prepared by PBD Architects.

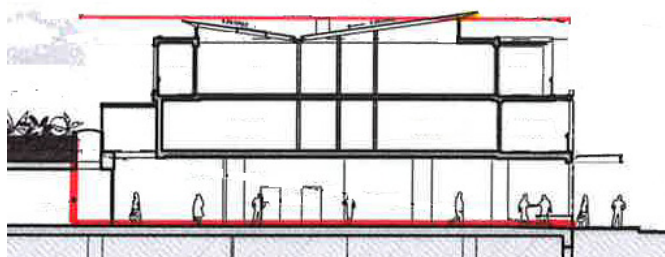


Figure 9 Building height non-compliance as viewed through a typical west facing cross section.

Source: Adapted by author from Plan No. DA11 dated 19 October 2012 as prepared by PBD Architects.

Variations to the Building Height Development Standard

The site is located within the B2 Local Centre zone and is subject to a Building Height Control of 11.0m. **Note:** Building height is taken from natural ground level under WLEP 2000.

The proposal must satisfy the objectives of Clause 4.3 – Height of Buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under WLEP 2011. The following provides an assessment of the variation against relevant objectives.

1. Is the planning control in question a development standard?

The prescribed height limitation pursuant to Clause 4.3 of WLEP 2011 is a development standard.

2. What are the objectives of the development standard?

Pursuant to Clause 4.3(1) – ‘Height of Buildings’ of WLEP 2011, the objectives of the Development Standard are as follows:

(1) *The objectives of this clause are as follows:*

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

Comment:

Because of the topography and stepping down of the building to address the slope of the site and the articulation of the upper levels, the development achieves visual consistency with the heights of the commercial buildings to the east (most notably the neighbouring mixed-use buildings at No. 8 Lawrence Street (The Caville) and No. 1-3 Moore Road (Freshwater Village Plaza) and with the residential buildings to the south along Undercliff Road.

As seen in Figures 10 and 11 below, the development appropriately achieves the appearance of a three storey building along Lawrence Street and as a two to three storey building along the rear.



Figure 10 South-east facing perspective of the development as viewed from the corner of Lawrence Street and Dowling Street (note the comparative scale of the existing neighbouring mixed-use building at the far left of the image)
Source: Statement of Environmental Effects dated October 2011.





Figure 11 North-facing perspective of the development as viewed from the rear yards of residential properties along Undercliff Road. Note the view corridors (note: this figure is used for illustrative purposes to show the appearance of the rear of the development only).

Source: Statement of Environmental Effects dated October 2011.

It is considered that the development satisfies this objective.

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

Comment:

Visual impact

As seen in Figure 10 above, the development has been designed to present as a mixed use commercial/residential building from Lawrence Street and Dowling Street, consistent with the objectives of the of the B2 Local Centre zone.

By stepping the building into blocks to respond to the topography, the inclusion of recessed verandahs and balconies, the progressive setting back of the upper-most residential levels and the incorporation of a muted schedule of colours and finishes, it is considered that the development achieves an appropriate level of horizontal and vertical articulation which contributes towards minimising its visual impact on the streetscape of Lawrence Street.

Similarly, as seen in Figure 11 above, because the site abuts a residential area, the rear of the development has been designed to sympathetically respond to the scale of residential development along Undercliff Road.

It is noted that, particularly when viewed from the rear residential properties, the upper level of the development includes building separations of 6.4m to 8.5m between Blocks A, B and C which provide through site viewing while minimising building bulk.

The south-facing facade to Block D includes a 5.0m high wall which is setback 2.0m from the rear boundary abutting No. 2 Undercliff Road. The setback then progressively increases to 3.2m at Level 2 and 5.0m at Level 3. The progressive stepping back of Level 2 in Block D provides sufficient curtilage between the development and the neighbouring residential properties to minimise visual impact and to maintain amenity.

The development includes approximately 435m² (16.8%) of deep soil landscaped open space along the rear boundary. This space has a width of between 2.0m to 7.2m and, according to the landscape plan (see Plan No. 621.02 dated 12 October 2011 as prepared by Tramonte Jensen), will accommodate a selection of native shrubs and trees which will achieve a mature height of between 0.8m to 5.0m respectively. This landscaped feature will further soften the overall appearance of the development while providing a defining but sympathetic buffer between the higher intensity mixed-use area and the lower intensity residential area.

Privacy

Levels 2 and 3 in Blocks A, B and C accommodate the residential elements of the development which are setback from the rear boundary by 5.2m to 7.2m from the south facing balconies and by 8.0m to 12.0m from the south facing windows.

The development also includes a substantial area of landscaped open space along the rear boundary which will provide an appropriate depth of planting to preserve the privacy of neighbouring land.

Given the proposed setbacks and provision of the landscaped buffer, It is considered that the development does not present overlooking opportunities into the neighbouring residential properties along Undercliff Road.

Solar Access

The shadow diagrams provided by the applicant (see Plan Nos. SD 1 (9.00am), SD 4 (Noon), and SD 7 (3.00pm)) indicate that the development will not result in significant overshadowing over the neighbouring residential properties to the south.

It is considered that the development satisfies this objective.

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

Comment:

The site is not located within visual proximity to a coastal or bush environment such that it would have an adverse impact.

It is considered that the development satisfies this objective.

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

Comment:

Although not readily visible from any parks and reserves, the development is visible from the public domains of Lawrence and Dowling Street and from the community facilities diagonally opposite the site on Lawrence Street (the Early Childhood Health Centre, which adjoins the Harbord Literary Institute).

Through the incorporation of effective architectural articulation and the sensitive application of muted colours and finishes, the development has been designed to visually relate to its surrounding urban environment.

3. What are the underlying objectives of the zone?

In assessing the developments non-compliance with the building height, consideration must be given to its consistency with the objectives within the zone.

B2 Local Centre zone

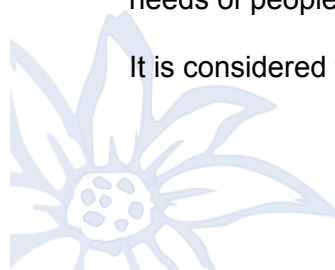
The objectives of this clause are:

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

Comment:

The development includes a range of commercial uses (Retail, business and Office) which, because of the centralised and accessible location within the Freshwater Village, will serve the needs of people who live in, work in and visit the local area.

It is considered that the development satisfies this objective.



- *To encourage employment opportunities in accessible locations.*

Comment:

Currently the site accommodates 1,447m² of non-residential uses which comprise of the following:

Use	Existing	Proposed	Difference +/-
Shops; Business Premises; Restaurants; and Offices	1,447m ²	2,699.8m ²	+ 1,252.8m ²

As can be seen in the above table, the development will provide approximately 2,699m² of non-residential floor space which represents an overall increase of 86.5% above the current provision within the Village.

Given the increase in non-residential floor space and the accessibility of the location, which is serviced by regular public transport, it is considered that the development will encourage additional employment opportunities within the B2 Local Centre zone than what is currently available.

It is considered that the development satisfies this objective.

- *To maximise public transport patronage and encourage walking and cycling.*

Comment:

Freshwater Village is limited in available public and private non-residential car parking which could serve to encourage patrons of the Village to use alternative means of transport, including walking and cycling.

The site is located directly opposite two bus stops which service high frequency Sydney Bus routes running through the Village via the main thoroughfares of Lawrence Street and Albert Street.

Additionally, the development includes the parking provision for 32 bicycles (consisting of 18 residential spaces and 14 commercial spaces) located within Basement Carpark Level 1.

Whilst the development will improve upon the afore-mentioned deficiency of public and private non-residential car parking by providing an additional 142 non-residential car parking spaces (ie: 186 spaces minus 26 residential spaces minus the 18 roof top spaces currently available on the site) it will also increase the residential and non-residential population of the Village area which could, in turn, increase public transport patronage, particularly commuters to the Sydney CBD, and walking/cycling to the nearby beaches of Freshwater and Queenscliff.

It is considered that the development satisfies this objective.

- *To provide an environment for pedestrians that is safe, comfortable and interesting.*

Comment:

With regards to pedestrian safety, the development proposes to remove an existing crossover and introduce a new crossover over a main pedestrian thoroughfare onto Lawrence Street which will provide vehicular access/egress to the development.

The development includes the following features which are intended to maintain a safe environment for pedestrians using Lawrence Street:



- The installation of a concrete median strip along the centreline of Lawrence Street, immediately adjacent to the proposed new crossover, to restrict vehicle turning movements to left-in/left-out only;
- The provision of an 8.0m long near level ramp grade at the entry/footpath threshold in accordance with AS 2890.1-2004 'Parking Facilities – Off-Street Car Parking' which provides motorists/pedestrians with good mutual sight distance to any pedestrians moving on the footpath adjacent to the site access and contributes to increased vehicle control;
- The provision of a speed hump situated 2.0m within the driveway prior to the crossover; and
- The provision of sightline splays with low level landscaping at the intersection of the driveway and footpath in accordance with AS 2890.1-2004 'Parking Facilities – Off-Street Car Parking' to ensure that good sight distance is maintained.

Additionally, it is noted that the speed and movement of vehicles accessing the site via the left in/left-out arrangement will be controlled by pedestrian movements across the raised in situ pedestrian crossing located 11.0m to the east of the proposed crossover. In this manner, the movement of pedestrians on Lawrence Street will determine the flow of vehicles in accordance with the continued status of Lawrence Street as a high pedestrian area.

The traffic calming effect of the in situ pedestrian crossing and the above-mentioned driveway design features, it is considered that preservation of pedestrian safety has been appropriately addressed.

With regards to pedestrian comfort and interest, the development provides a significant level of articulation and activation at street level in the form of open 'verandahs' to each commercial frontage along the Lawrence Street facade. These areas are located wholly within the site and may be used for 'outdoor' dining and display/sales without impacting upon the movement of pedestrians along the footpath.

It is considered that the development satisfies this objective.

- *To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.*

Comment:

The development has been designed to respond to the topography of the site which slopes downwards in a diagonal direction from the south-western corner to the north-eastern corner by stepping down Lawrence Street in a series of blocks.

The proposed building heights are generally compliant with the Height of Buildings Development Standard under WLEP 2011, with exception to minor encroachments in the overall height.

The development also includes approximately 435m² (16.8%) of deep soil landscaped open space along the rear boundary which will soften the overall appearance of the development while providing a defining but sympathetic buffer between the higher intensity mixed-use area and the lower intensity residential area.

In addition to the above, the development includes recessed verandahs at ground floor and balconies at the upper levels, the progressive setting back of the upper-most residential levels and the incorporation of a muted schedule of colours and finishes.



The combination of the above features results in a development which achieves an appropriate urban form that is considered to relate favourably in both architectural scale and landscape treatment to neighbouring mixed-use and residential land uses.

It is considered that the development satisfies this objective.

- *To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of any adjoining or nearby residential land uses.*

Comment:

The rear of the site abuts the R2 Low Density Residential zone which predominantly consists of low density detached style residential dwellings and residential flat buildings in landscaped settings. Due to the topography of the area, the properties along Undercliff Road are sited higher than the ground level of Lawrence Street by approximately 5.5m.

It is worth noting that, currently, the rear of the site accommodates a two-way driveway which services the 18 space roof top car park above No. 10 Lawrence Street.

The development has been designed to use this topography to present a three storey built form to Lawrence Street and to present a one to two storey built form to Undercliff Road in Blocks A, B and C and a three storey built form in Block D.

Additionally, in place of the existing two-way driveway, the development includes a substantial landscaped buffer along the entire length of the rear boundary to visually soften the appearance of the development while enhancing visual and acoustic privacy.

It is considered that the development satisfies this objective.

Given the above considerations, the proposal is considered to be consistent with the objectives of both Clause 4.3 - Height of Buildings and the B2 Local Centre zone of Warringah Local Environmental Plan 2011.

4. Is the variation to the development standard consistent with the objectives of Clause 4.6 of the WLEP 2011?

The objectives of Clause 4.6 – ‘Development Standards’ of WLEP 2011 seek:

- *to provide an appropriate degree of flexibility in applying certain development standards to particular development; and*
- *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

In this regard, sub-clause 4.6(4) requires that:

- (4) *Consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

Comment:

The applicant has provided commentary within the Statement of Environmental Effects which adequately addresses the proposed variation to the Building Height Built Form Control under Clause 20 of WLEP 2000 and a statement which addresses the non-compliance under Clause 4.6 of WLEP 2011.

- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*



Comment:

It has been found that the development is in the public interest as it achieves consistency with the Objectives of the B2 Local Centre zone.

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

Comment:

Planning Circular PS 08-003 dated 9 May 2008, as issued by the NSW Department of Planning, advises that the concurrence of the Director-General may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the Objectives of the zone, the concurrence of the Director-General for the variation to the Height of Buildings Development Standard is assumed.

5. Is the variation well founded?

The variation to the building height development standard is considered to be well founded in that the proposed non-compliance is consistent with objectives of Clause 4.3 – Height of Buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under WLEP 2011, as set out above.

6. Is compliance with the standard unreasonable or unnecessary in the circumstances of the case?

On the basis of the above comments, it is considered that the variation to the building height development standard is well founded and that compliance is unreasonable and unnecessary in the particular circumstances of the case.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy No. 55 – Remediation of Land

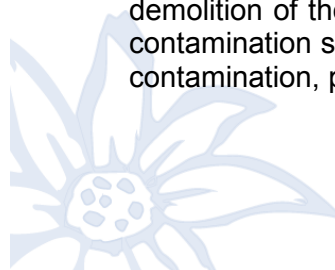
Clause 7(1)(a) of the SEPP requires the Consent Authority to consider whether land is contaminated.

The Preliminary Contamination Assessment (refer to Report No. 12446/2-AA dated 15 April 2011 as prepared by Geotechnique Pty Ltd) notes that Nos. 22 and 32 Lawrence Street have been respectively used as a dry cleaners shop and a Laundromat since 1978. However, the Report also notes that “a search of the Department of Environment, Climate Change and Water (DECCW) record of notices for contaminated land on 7 April 2011 revealed no DECCW notices relating to contamination investigation and/or remediation issued for the site”.

The report identifies that subsurface fill was encountered in all three boreholes drilled during the field investigation which comprises of silty and gravely sand with crushed sandstone and bricks.

The report therefore suggests that the potential for contamination is considered to be possible from the dry cleaners shop and Laundromat, from the presence of fill beneath the site and from the potential presence of asbestos within the existing buildings.

The report concludes that “the site is suitable for residential use subject to the implementation of a suitable sampling and testing plan (detailed contamination assessment), preferably after the demolition of the buildings, in order to address the potential for contamination and to confirm the contamination status of the site” and that “if contamination is identified, delineation of the extent of contamination, preparation of a Remedial Action Plan (RAP) and validation will be required”.



Council's Environmental Health Officer has reviewed the report and has subsequently imposed the following condition (in addition to conditions requiring the notification to Council of new contamination evidence, the off-site disposal of contaminated land, and validation for remediation):

"After demolition, in accordance with the Preliminary Contamination Assessment Report prepared by Geotechnique Pty Ltd (dated 15 April 2011), undertake a Stage 2 Detailed Investigation of the site in accordance with the Contaminated Lands Management Act 1997, SEPP 55 and "Sampling Design Guidelines for Contaminated Sites", 1995 NSW EPA. A copy of the report must be provided to Council."

If Stage 2 determines contamination then a Remediation Action Plan (RAP) is to be undertaken to ensure the land is suitable for residential use.

The above conditions, including all recommendations made in the Preliminary Contamination Assessment Report prepared by Geotechnique Pty Ltd (dated 15 April 2011), are included in the Recommendation of this report.

State Environmental Planning Policy No. 64 - Advertising and Signage

SEPP 64 applies to all signage that, under another environmental planning instrument can be displayed with or without development consent and is visible from any public place or public reserve. Under the SEPP the proposed signage is defined as building identification and business identification signage and therefore only Parts 1, 2 and 4 of the SEPP applied to the proposed modification.

Clause 8 of the SEPP states the following;

"A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- (a) That the signage is consistent with the objectives of this Policy as set out in clause 3(1)(a); and*
- (b) That the signage the subject of the application satisfied the assessment criteria specified in Schedule."*

The objectives under clause 3(1)(a) are to ensure that signage is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations, and is of high quality design and finish.

The signs will be fixed below the awning and against the external wall on the northern elevation of the building at the ground floor level. The consistency of the proposed sign against the objectives under Clause 3(1)(a) is considered in more detail within the following assessment of the proposal against the criteria in Schedule 1 of the SEPP:

1. Character of the area

Control	Comments	Consistent
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The site is situated within the H2 Harbord Village locality under Warringah Local Environmental Plan 2000. It is considered that the sign proposed as part of this application is consistent with the desired future character of the locality.	Yes
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposed sign is considered consistent with signs on other buildings within the locality	Yes

2. Special areas

Control	Comments	Consistent
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas.	<p>The location of the signage along Lawrence Street does not impact upon any environmentally sensitive areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas.</p> <p>The signage is of sufficient size and is located such, that it will not have any detrimental impact upon the listed heritage items located diagonally opposite the site across Lawrence Street.</p>	Yes

3. Views and vistas

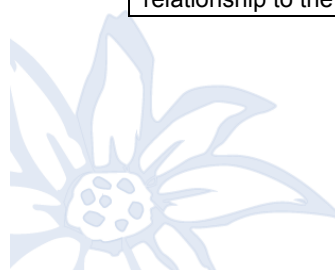
Control	Comments	Consistent
Does the proposal obscure or compromise important views?	The proposed signs will be affixed to the building. Views and vistas will not be obscured or compromised as a result of the proposed sign.	Yes
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signs will not therefore result in any changes to the skyline or quality of vistas	Yes
Does the proposal respect the viewing rights of other advertisers?	The proposed signs do not obstruct viewing rights of other advertisers in the vicinity	Yes

4. Streetscape, setting or landscape

Control	Comments	Consistent
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposed signs are appropriate given the scale of the development and the use proposed.	Yes
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signs provide business identification for the subject premises. The sign provide an appropriate level of visual interest.	Yes
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed signs are complementary to the design of the development and do not result in any 'visual clutter'.	Yes
Does the proposal screen unsightliness?	The proposed signs will not screen any unsightly part of the building	Not Applicable
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signs will not protrude above the existing building or tree canopies in the area.	Yes

5. Site and building

Control	Comments	Consistent
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both on which the proposed signage is to be located?	The scale of the proposed signs is considered to be appropriate for the size of the site and the development, awnings and façade to which it they are to be affixed.	Yes
Does the proposal show innovation and imagination in its relationship to the site or building?	The proposed signs are of a standard form. The design is considered satisfactory for the intended identification purposes.	Yes



6. Associated devices and logos with advertisements and advertising structures

Control	Comments	Consistent
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	No safety devices, platforms, lighting devices are to be incorporated as part of the modified signage design.	Not Applicable

7. Illumination

Control	Comments	Consistent
Would illumination result in unacceptable glare?	The lettering only of the proposed signs will be internally illuminated. The level of illumination is considered to be passive and non-intrusive such that it would not have any adverse glare impact upon pedestrians or vehicles nor would it detract from the amenity of any residence within the development or in close proximity to the site. Given the above considerations, the illumination would not be required to be subject to a curfew.	Yes
Would illumination affect safety for pedestrians, vehicles or aircraft?		
Would illumination detract from the amenity of any residence other form of accommodation?		
Can the intensity of the illumination be adjusted?		
Is the illumination subject to a curfew?		

7. Safety

Control	Comments	Consistent
Would the proposed signage reduce the safety for any public road?	The size, location and level of illumination of the proposed signage will ensure that the sign will not reduce the safety of a public road.	Yes
Would the proposal reduce the safety for pedestrians or bicyclists?	The proposed signage will be sufficiently elevated above head height (2.7m) and therefore will not reduce the safety of pedestrians or bicyclists.	Yes
Would the proposal reduce the safety for pedestrians particularly children, by obscuring sightlines from public areas?	The proposed signage will not obscure sightlines along the footpath and the road. The development is not considered to reduce the safety of pedestrians or bicyclists.	Yes

Based on the above assessment, the signage proposed under this application is considered to be consistent with the assessment criteria specified in Schedule 1 as required by Clause 8(b) of the SEPP. The findings of the above assessment also demonstrate the proposal is consistent with the objectives under Clause 8(a) of the SEPP.

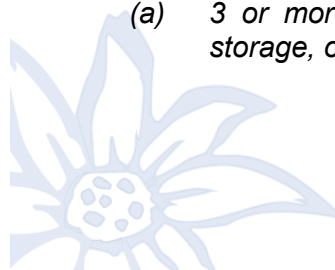
As the proposal meets the requirements of Clause 8(a) and (b) of the SEPP, consent may be granted for the proposed identification sign.

State Environmental Planning Policy No. 65 – Design Quality for Residential Flat Development

Clause 3 of the SEPP defines a residential flat building as follows:

“Residential flat building means a building that comprises or includes:

- (a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and



- (b) *4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops), but does not include a Class 1a building or a Class 1b building under the Building Code of Australia."*

The development includes 19 dwellings within a building which achieves a height of between three (3) to five (5) storeys. Therefore, for the purposes of the SEPP, the development is defined as a residential flat building and is required to be assessed against Clauses 9 to 18 of the SEPP and against the provisions of the Residential Flat Design Code.

The following provides an assessment of the development against the 10 Design Quality Principles as required under Clauses 9 to 18 of the SEPP.

Principle 1: Context

Clause 9 (Principle 1: Context) stipulates that:

"Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the Desired Future Character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area".

Comment:

The site is located on the southern periphery of Freshwater Village and forms a transitional zone between the high intensity mixed-use area of the village centre and the low density residential area to the south.

Because of the urbanised nature of the area, the key natural features have been largely modified such that only the topographical slope of the site remains as the most notable natural feature. Notwithstanding, the development has been designed to respond to the topography by stepping the building in blocks up Lawrence Street and cutting the building into the southern side of the site such that it only achieves a building height of between 5.4m to 7.2m for Blocks A, B and C and a building height of 10.8m for Block D. In this way, the development achieves a scale commensurate to the urban context of both the H2 Harbord Village locality and the H1 Freshwater Beach locality.

Because of the diverse mix of development surrounding the site, the key built features of the area are varied and consist of one, two and three storey mixed-use buildings to the north, east and west and one to two storey residential dwellings to the south and residential flat buildings.

The design of the development is considered to respond to the key built features of the area by appropriately articulating the buildings to avoid the visual monotony of a continuous street wall type development which includes the stepped form of the building and appropriately considered façade fenestration, materials and finishes.

Freshwater Village is identified in the NSW Government's Metropolitan Plan for Sydney 2036 (2010) as a 'Small Village' centre which includes a small strip of shops adjacent to a residential area within a 5 to 10 minute walk and which contains between 150 and 2,700 dwellings within a 400m catchment. Like any commercial centre, the context of Freshwater Village as a centre will be subject to change as it physically evolves. The development, as proposed, is considered to be consistent with this evolution and will provide an appropriate transition between the character of surrounding localities/zones.

The development satisfies this Principle.



Principle 2: Scale

Clause 10 (Principle 2: Scale) stipulates that:

“Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the Desired Future Character of the area”.

Comment:

Through the stepped design the development achieves the appearance of four (4) distinct, although architecturally related, buildings all of which generally comply with the Building Height Built Form Control (with exception to minor encroachments which are supported under Clause 20 of WLEP 2000).

The overall building bulk and height of the development is considered, in the context to surrounding development, to achieve a scale commensurate to its role as a gateway building to the Freshwater Village centre. The highly articulated built form, which includes the progressive setting back and separation of the upper floor levels, detailed façade fenestration to incorporate ground floor verandahs and upper floor balconies, the use of subtle materials and finishes and the addition of the dense landscaped buffer along the rear of the site will ensure that the development maintains a human scale within a locality which is subject to transition.

The development satisfies this Principle.

Principle 3: Built Form

Clause 11 (Principle 3: Built Form) stipulates that:

“Good design achieves an appropriate Built Form for a site and the building’s purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

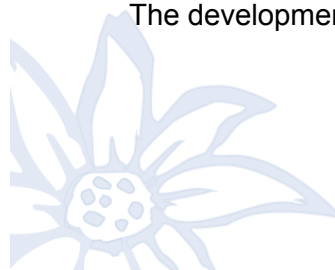
Appropriate Built Form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.”

Comment:

The building alignments, proportions and types are considered to be appropriate in that the development will reinforce the transitional role of the site by introducing built forms and landscaping which will be of a character, scale and intensity appropriately suited to the Freshwater Village centre and to the neighbouring residential area.

The proposed building alignments along Lawrence and Dowling Street successfully define the public domain through the positioning of buildings around the perimeter of the site which, in turn, contributes towards the urban character of the streetscape within the commercial Village environment. Similarly, the building alignments, heights, and separations together with the landscaped buffer the rear of the development successfully define a transition between the Village and the neighbouring residential area.

The development satisfies this Principle.



Principle 4: Density

Clause 12 (Principle 4: Density) stipulates that:

“Good design has a density appropriate for a site and its context; in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality”.

Comment:

The development proposes the provision of 19 apartments which translates to a residential density of 1 dwelling per 135m² although it should be noted that WLEP 2000 does not include a Density Built Form Control for the H2 Harbord Village locality.

Rather, density is gauged by how the development responds to the Design Quality Principles of SEPP 65, the Desired Future Character of the locality, the relevant built form controls and the General Principles of Development Control in WLEP 2000. This assessment has found that the development, as proposed achieves a satisfactory level of compliance and consistency with these controls.

As discussed previously in this report, Freshwater Village is subject to transition commensurate to its role as a Small Village of the north-east sub-region as defined in the Metropolitan Plan for Sydney 2036. In this regard, the proposed density is not considered to be contrary to the future regional context, the availability of infrastructure, public transport, community facilities and environmental quality.

The development satisfies this Principle.

Principle 5: Resource, Energy and Water Efficiency.

Clause 13 (Principle 5: Resource, Energy and Water Efficiency) stipulates that:

“Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and Built Form, passive solar design principles, efficient appliances and mechanical and mechanical services, soil zones for vegetation and re-use of water”.

Comment:

The site currently accommodates existing commercial and residential structures which includes materials which may be recycled for use in the construction of the development. An appropriate condition is included in the Recommendation of this report.

The residential elements of the development have been designed to achieve the commitment targets set by SEPP (BASIX) and satisfies the relevant environmental Primary Development Controls under the Residential Flat Design Code.



Additionally, the development proposes 435m² (16.8%) deep soil landscaping which provides appropriate soil zones for the planting of native vegetation.

The development satisfies this Principle.

Principle 6: Landscape

Clause 14 (Principle 6: Landscape) stipulates that:

“Good design recognises that, together, landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site’s natural and cultural features in responsible and creative ways. It enhances the development’s natural environmental performance by co-ordinating water and soil management, solar access, microclimate, and tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character or Desired Future Character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours’ amenity and provide for practical establishment and long-term management.”

Comment:

The development includes approximately 435m² (16.8%) of deep soil landscaped open space along the rear boundary. This space has a width of between 2.0m to 7.2m and, according to the landscape plan (see Plan No. 621.02 dated 12 October 2011 as prepared by Tramonte Jensen), will accommodate a selection of native shrubs and trees which will achieve a mature height of between 0.8m to 5.0m respectively. This landscaped feature will further soften the overall appearance of the development while providing a defining but sympathetic buffer between the higher intensity mixed-use area and the lower intensity residential area.

Figures 12 and 13 show the layout and height of the proposed landscaping buffer along the rear boundary.



Figure 12 Landscaped area along the rear boundary.
Source: Adapted by author from Plan No. 621.02 dated 12 October 2012 as prepared by Tramonte Jensen

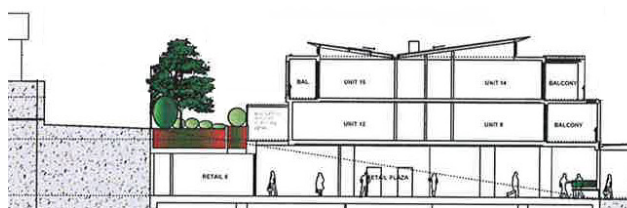


Figure 13 Landscaped area along the rear boundary as seen through a typical west-facing section.
Source: Adapted by author from Plan No. 621.02 dated 12 October 2012 as prepared by Tramonte Jensen

With regards to co-ordinating water and soil management, the application was referred to Council’s Development Engineer who did not raise any objection subject to conditions. These conditions have been included in the Recommendation of this report.

The development satisfies this Principle.



Principle 7: Amenity

Clause 15 (Principle 7: Amenity) stipulates that:

“Good design provides amenity through the physical, spatial and environmental quality of a development.

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

Comment:

The development has been assessed with regards to impacts upon the amenity of neighbouring residential properties to the south.

Privacy

Levels 2 and 3 in Blocks A, B and C accommodate the residential elements of the development which are setback from the rear boundary by 5.2m to 7.2m from the south facing balconies and by 8.0m to 12.0m from the south facing windows.

The development also includes a substantial area of landscaped open space along the rear boundary which will provide an appropriate depth of planting to supplement the physical separation to ensure reasonable levels of privacy to neighbouring land.

Given the proposed setbacks and provision of the landscaped buffer, It is considered that the development does not present unreasonable overlooking opportunities into the neighbouring residential properties along Undercliff Road.

Overshadowing

The shadow diagrams provided by the applicant (see Plan Nos. SD 1 (9.00am), SD 4 (Noon), and SD 7 (3.00pm)) indicate that the development will not result in significant overshadowing over the neighbouring residential properties to the south.

View Sharing

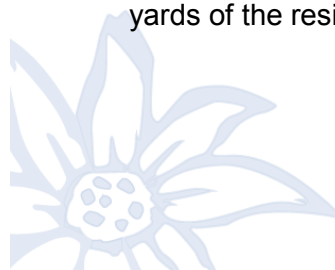
This matter has been addressed elsewhere in this report (refer to Clause 61 ‘Views’ under WLEP 2000 General Principles of Development Control).

In summary, the proposal has been designed to take in to account the available district views through the provision of appropriate building separations and maintaining a consistent building height across the width of the site. Overall, the proposal is considered appropriate for the site and acceptable in this instance.

Noise

The top two levels of the development accommodate the residential use which is not considered to significantly impact upon neighbouring residential properties with regard to noise.

The balconies at the rear of the development are sufficiently setback and screened from the rear yards of the residential properties to the south to minimise any noise transfer.



Notwithstanding, conditions have been included in the recommendation of this report requiring the development to be designed in accordance with AS2107 and the EPA Guidelines for Acoustic Privacy.

The development satisfies this Principle.

Principle 8: Safety and Security

Clause 16 (Principle 8: Safety and Security) stipulates that:

“Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.”

Comment:

The units in the development which face towards the street provide optimum passive surveillance. Internal security is achieved by providing lockable entry doors at street level and a gated car park entrance.

The Development Application was referred to NSW Police for consideration under the principles of Crime Prevention through Environment Design (CPTED). The recommendations included in the response by NSW Police are included as a condition within the Recommendation of this report.

In this regard, the proposal is considered to adequately achieve safety and security for future occupants of the development providing good casual visual surveillance of the street and the private domain.

The development satisfies this Principle.

Principle 9: Social Dimensions

Clause 17 (Principle 9: Social Dimensions) stipulates that:

“Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New developments should optimise the provisions of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community”.

Comment:

The development provides a mix of apartment which will vary in size and affordability. This mix suits the social evolution of the community as purchasers will choose to buy because of the proximity of the site to Freshwater Beach, accessibility to shopping and services, and the high frequency public transport route along Lawrence Street.

The development satisfies this Principle.



Principle 10: Aesthetics

Clause 18 (Principle 10: Aesthetics) stipulates that:

“Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the Desired Future Character of the area”.

Comment:

The development provides a highly articulated built form, which includes the progressive setting back and separation of the upper floor levels, detailed façade fenestration to incorporate ground floor verandahs and upper floor balconies, the use of subtle materials and finishes and the addition of the dense landscaped buffer along the rear of the site.

In this regard, the development is considered to incorporate an appropriate composition of building elements, textures, materials and colours to reflect the mixed-use nature, internal design and structure of the development and which achieves an appropriate urban form that is considered to relate favourably in both architectural scale and landscape treatment to neighbouring mixed-use and residential land uses.

The development satisfies this Principle.

Residential Flat Design Code

The SEPP requires the assessment of any development application for residential flat development against 10 principles contained in Clauses 9 -18 and Council is required to consider the matters contained in the publication “Residential Flat Design Code”.

Primary Development Controls	Guideline	Consistent/Comments
PART 01 LOCAL CONTEXT		
Floor Space Ratio	Where there is an existing floor space ratio (FSR), test height controls against it to ensure a good fit.	N/A Floor space ratios do not apply under WLEP 2000
Building Height	Test heights against the number of storeys and the minimum ceiling heights required for the desired building use.	Consistent Note: Despite the heights tested below, WLEP 2000 permits 11.0m/3storeys. This is discussed under WLEP 2000 in this report. Blocks A, B & C <u>Minimum heights:</u> 1 x 3.3m floor to ceiling 2 x 2.7m floor-to-ceiling 3 x 0.3m concrete floor plates = 9.6m/3 x storeys <u>Proposed:</u> 5.4m to 11.4m/3 x storeys Block D <u>Minimum heights:</u> 3 x 3.3m floor to ceiling

Primary Development Controls	Guideline	Consistent/Comments																				
		2 x 2.7m floor-to-ceiling 5 x 0.3m concrete floor plates = 16.8m/5 x storeys <u>Proposed:</u> 10.2m to 13.0m/5 storeys																				
Building Separation	<p>Design and test building separation controls in plan and section.</p> <p>For buildings up to four storeys/12m:</p> <p>(a) 12m between habitable rooms/balconies; (b) 9.0m between habitable/balconies and non-habitable rooms; (c) 6.0m between non-habitable rooms.</p> <p>Note: The RFDC defines a habitable room as any room or area used for normal domestic activities, including living, dining, family, lounge, bedrooms, study, kitchen, sun room and play room</p>	<p>Consistent</p> <p>The tables below illustrate the areas of compliance & non-compliance with regards to building separation.</p> <p><u>External</u> The table below is used to show the separation between the proposed apartments and the existing dwellings on neighbouring residential properties to the south.</p> <p>(a) Habitable rooms/balconies to habitable rooms</p> <table><tr><td>Block A</td><td>16.5m – 22.4m</td></tr><tr><td>Block B</td><td>15.5m – 23.2m</td></tr><tr><td>Block C</td><td>14.0m – 19.0m</td></tr><tr><td>Block D</td><td>N/A</td></tr></table> <p>The development complies with the required 12.0m separation between habitable rooms.</p> <p><u>Internal</u> The tables below are used to show the separation between the balconies and habitable rooms of each proposed block within the site.</p> <p>(a) Habitable rooms/balconies to habitable rooms</p> <table><tr><td>Blocks A - B</td><td>1.4m – 8.5m</td></tr><tr><td>Blocks B - C</td><td>1.4m – 8.5m</td></tr><tr><td>Blocks C - D</td><td>N/A</td></tr></table> <p>The development is stepped resulting in differential heights of 2.5m between habitable rooms/balconies to habitable rooms in Blocks A – B and Blocks B – C. This provides appropriate levels of privacy by avoiding direct viewing or overlooking.</p> <p>(b) Habitable rooms/balconies to non-habitable rooms</p> <table><tr><td>Blocks A - B</td><td>5.0m</td></tr><tr><td>Blocks B - C</td><td>N/A</td></tr><tr><td>Blocks C - D</td><td>N/A</td></tr></table> <p>The development is stepped resulting in differential heights of 2.5m between habitable rooms/balconies to non-habitable rooms in Blocks A – B. This provides appropriate levels of</p>	Block A	16.5m – 22.4m	Block B	15.5m – 23.2m	Block C	14.0m – 19.0m	Block D	N/A	Blocks A - B	1.4m – 8.5m	Blocks B - C	1.4m – 8.5m	Blocks C - D	N/A	Blocks A - B	5.0m	Blocks B - C	N/A	Blocks C - D	N/A
Block A	16.5m – 22.4m																					
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Blocks A - B	5.0m																					
Blocks B - C	N/A																					
Blocks C - D	N/A																					

Primary Development Controls	Guideline	Consistent/Comments						
		<p>privacy by avoiding direct viewing or overlooking.</p> <p>(c) Non-habitable room to non-habitable room</p> <table><tr><td>Blocks A - B</td><td>6.4m</td></tr><tr><td>Blocks B - C</td><td>N/A</td></tr><tr><td>Blocks C - D</td><td>N/A</td></tr></table> <p>The development complies with the required 6.0m separation between non-habitable rooms.</p>	Blocks A - B	6.4m	Blocks B - C	N/A	Blocks C - D	N/A
Blocks A - B	6.4m							
Blocks B - C	N/A							
Blocks C - D	N/A							
Street Setbacks	Identify the desired streetscape character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls.	Consistent Proposed setback – Nil to 5.0m Predominant setback – Nil to 5.0m						
	Test street setbacks with building envelopes and street sections.	Consistent The third floor levels are setback sufficiently from the primary and secondary street alignments to provide adequate vertical articulation. The layout of the development results in an vertical articulation which visually compliments the commercial character of the street section.						
	Test controls for their impact on the scale, proportion and shape of building facades	Consistent The development exhibits a high level of articulation throughout the site due to the layout of the individual buildings which is in keeping with the relative scale, proportion and shape of building facades along Lawrence Street. The development respects the existing topography of the site resulting in a gradual stepped-down development thereby permitting the maintenance of a three story scale at the street. The overall scale of the development is considered to be appropriate given the commercial character of the area.						
Side & Rear setbacks	Relate side setbacks to existing streetscape patterns.	Consistent The site is located within a commercial precinct which encourages zero setbacks. However, it is noted that the site abuts a residential area to the rear an the development provides a rear setback commensurate to the preservation of the amenity of neighbouring dwellings.						
Floor space ratio	Test the desired built form outcome against proposed floor space ratio to ensure consistency with building height- building footprint the three dimensional building envelope open space requirements.	N/A Floor space ratios do not apply under WLEP 2000						

Primary Development Controls	Guideline	Consistent/Comments																																								
PART 02 SITE DESIGN																																										
Deep Soil Zones	A minimum of 25% of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, Stormwater treatment measures must be integrated with the design of the residential flat building.	Consistent The site is located within a heavily urbanised area where the site is built out the there is limited capacity for water infiltration. Notwithstanding, it is noted that the development provides 16.8% continuous deep soil area along the rear of the property. Council's Development Engineer has assessed the Development Application and does not raise any objection subject to conditions which are included in the Recommendation of this report.																																								
Open Space.	The area of communal open space required should generally be at least between 25% and 30% of the site area. Larger sites and brownfield sites may have potential for more than 30%.	N/A The development does not include any communal open space due to the limitations of the site area and the mixed-use nature of the development.																																								
	Where developments are unable to achieve the recommended communal open space, such as those in dense urban areas, they must demonstrate that residential amenity is provided in the form of increased private open space and/or in a contribution to public open space.	Consistent The development provides the following areas of private open space. <table><tr><th>Apartment</th><th>POS Area</th></tr><tr><td>1</td><td>40.3m²</td></tr><tr><td>2</td><td>25m²</td></tr><tr><td>3</td><td>45.6m²</td></tr><tr><td>4</td><td>25.3m²</td></tr><tr><td>5</td><td>25.3m²</td></tr><tr><td>6</td><td>58.3m²</td></tr><tr><td>7</td><td>75.7m²</td></tr><tr><td>8</td><td>46.3m²</td></tr><tr><td>9</td><td>25.3m²</td></tr><tr><td>10</td><td>48.6m²</td></tr><tr><td>11</td><td>25.3m²</td></tr><tr><td>12</td><td>25.3m²</td></tr><tr><td>13</td><td>64.4m²</td></tr><tr><td>14</td><td>85.5m²</td></tr><tr><td>15</td><td>9.2m²</td></tr><tr><td>16</td><td>33.5m²</td></tr><tr><td>17</td><td>25.3m²</td></tr><tr><td>18</td><td>21.2m²</td></tr><tr><td>19</td><td>84.4m²</td></tr></table> With exception to the private open space provision for Unit 15, the remaining apartments exceed the private open space requirements under CL64 Private open space of WLEP 2000. A condition is included in the Recommendation of this report to require the area of the balcony to Unit 15 to be increased to 10m ² .	Apartment	POS Area	1	40.3m ²	2	25m ²	3	45.6m ²	4	25.3m ²	5	25.3m ²	6	58.3m ²	7	75.7m ²	8	46.3m ²	9	25.3m ²	10	48.6m ²	11	25.3m ²	12	25.3m ²	13	64.4m ²	14	85.5m ²	15	9.2m ²	16	33.5m ²	17	25.3m ²	18	21.2m ²	19	84.4m ²
	Apartment	POS Area																																								
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18	21.2m ²																																									
19	84.4m ²																																									
	The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m ² ; the minimum preferred dimension in one direction is 4.0m. (see 'Balconies' for other private open space requirements).	N/A All apartments are located above ground.																																								

Primary Development Controls	Guideline	Consistent/Comments
Planting on structures	<p>In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity. The following are recommended as minimum standards for a range of plant sizes:</p> <ul style="list-style-type: none"> • Large trees such as figs (canopy diameter of up to 16m at maturity) - minimum soil volume 150m³ - minimum soil depth 1.3m - minimum soil area 10m x 10m area or equivalent. • Medium trees (8.0m canopy diameter at maturity) - minimum soil volume 35m³ - minimum soil depth 1.0m - approximate soil area 6.0m x 6.0m or equivalent. • Small trees (4.0m canopy diameter at maturity) - minimum soil volume 9.0m³ - minimum soil depth 800mm - approximate soil area 3.5m x 3.5m or equivalent. • Shrubs - minimum soil depths 500-600mm • Ground cover - minimum soil depths 300-450mm • Turf- minimum soil depths 100-300mm • any subsurface drainage requirements are in addition to the minimum soil depths quoted above. 	<p>Consistent</p> <p>The rear landscaped area will have a minimum soil depth of 1.5m which will permit the planting of ground cover, shrubs and large trees.</p> <p>The landscape plan submitted with application (see Plan No. 621.02 dated 12 October 2011 as prepared by Tramonte Jensen) confirms that planting will occur in accordance with this requirement.</p>
Safety	Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.	<p>Consistent</p> <p>The Development Application was referred to NSW Police for consideration under the principles of Crime Prevention through Environment Design (CPTED). The recommendations include in the response by NSW Police are included as a condition within the Recommendation of this report.</p>
Visual amenity	Refer to Building Separation minimum standards	<p>Consistent</p> <p>The development is vertically and horizontally articulated through its use of the site configuration and sloping topography to guide the built form.</p> <p>Additionally, in conjunction with the above articulation, the development exhibits an acceptable degree of separation between neighbouring residential buildings to the rear.</p>
Pedestrian access	Identify the access requirements from the street or car parking area to the apartment entrance.	<p>Consistent</p> <p>The development provides level pedestrian access throughout the property from the lift lobbies on Lawrence Street, and from the basement car parking area.</p>
	Follow the accessibility standard set out in AS 1428 (parts 1 and 2), as a minimum.	<p>Consistent</p> <p>Conditions will be imposed which require compliance with AS 1428.2 – 1992 'Design for Access and Mobility and the recommendations included within the Access Report.</p>

Primary Development Controls	Guideline	Consistent/Comments																														
	Provide barrier free access to at least 20% of dwellings in the development.	Consistent 100% of apartments have barrier free access via a lift and bridges to all floors.																														
Vehicle access	Generally limit the width of driveways to a maximum of 6.0m.	Consistent The development provides a driveway with a width of 6.2 which is considered to be appropriate in providing safe vehicle access/egress and pedestrian sightlines.																														
	Locate vehicle entries away from main pedestrian entries and on secondary frontages.	Not Consistent This matter has been discussed elsewhere in this report (refer to Public Exhibition). The development proposes to locate the primary vehicle entry/exit point on Lawrence Street which is a main thoroughfare of Freshwater Village. The location of the driveway is considered to be the most viable option (as opposed to Dowling Street) due to the level of the access point relative to the basement car parking levels below, the available sightline lengths, the shallow slope of the roadway and the minimal impact upon the residential area to the rear of the site (along Undercliff Road). Notwithstanding the inconsistency with this clause in locating vehicle entries away from main pedestrian entries and on secondary frontages, the traffic calming effect of the in situ pedestrian crossing and applied driveway design features, it is considered that preservation of pedestrian safety has been appropriately addressed.																														
PART 03 BUILDING DESIGN																																
Building Depth	The back of a kitchen should be no more than 8.0m from a window.	Consistent The development includes the following apartment depths: <table><tr><th>Apartment</th><th>Depth</th></tr><tr><td>1</td><td>9.0m</td></tr><tr><td>2</td><td>6.8m</td></tr><tr><td>3</td><td>8.5m</td></tr><tr><td>4</td><td>3.0m</td></tr><tr><td>5</td><td>6.6m</td></tr><tr><td>6</td><td>3.2m</td></tr><tr><td>7</td><td>6.5m</td></tr><tr><td>8</td><td>8.5m</td></tr><tr><td>9</td><td>6.5m</td></tr><tr><td>10</td><td>8.5m</td></tr><tr><td>11</td><td>6.6m</td></tr><tr><td>12</td><td>3.0m</td></tr><tr><td>13</td><td>2.2m</td></tr><tr><td>14</td><td>2.4m</td></tr></table>	Apartment	Depth	1	9.0m	2	6.8m	3	8.5m	4	3.0m	5	6.6m	6	3.2m	7	6.5m	8	8.5m	9	6.5m	10	8.5m	11	6.6m	12	3.0m	13	2.2m	14	2.4m
Apartment	Depth																															
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Primary Development Controls	Guideline	Consistent/Comments																																								
		<table><tr><td>15</td><td>6.4m</td></tr><tr><td>16</td><td>9.0m</td></tr><tr><td>17</td><td>6.5m</td></tr><tr><td>18</td><td>2.5m</td></tr><tr><td>19</td><td>4.4m</td></tr></table> <p>The inconsistent depths in Units 1, 3, 8, 10, and 16 are minor variations which are not considered to have any significant adverse impact upon the amenity of the respective dwellings.</p>	15	6.4m	16	9.0m	17	6.5m	18	2.5m	19	4.4m																														
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18	2.5m																																									
19	4.4m																																									
Balconies	<p>Provide primary balconies for all apartments with a minimum depth of 2.0m. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions.</p> <p>Provide scale plans of balcony with furniture layout to confirm adequate, useable space when an alternate balcony depth is proposed.</p>	<p>Consistent</p> <p>The development includes the following balcony provision:</p> <table><tr><th>Apartment</th><th>Balcony Depth</th></tr><tr><td>1</td><td>3.4m - 3.4m</td></tr><tr><td>2</td><td>2.2m - 3.5m</td></tr><tr><td>3</td><td>3.4m - 4.6m</td></tr><tr><td>4</td><td>2.5m – 3.4m</td></tr><tr><td>5</td><td>2.5m – 3.4m</td></tr><tr><td>6</td><td>2.8m – 4.8m</td></tr><tr><td>7</td><td>2.8m – 4.8m</td></tr><tr><td>8</td><td>3.4m - 4.6m</td></tr><tr><td>9</td><td>2.2m – 3.5m</td></tr><tr><td>10</td><td>3.4m – 4.6m</td></tr><tr><td>11</td><td>2.8m – 3.4m</td></tr><tr><td>12</td><td>2.8m – 3.4m</td></tr><tr><td>13</td><td>2.8m – 3.8m</td></tr><tr><td>14</td><td>2.8m – 4.4m</td></tr><tr><td>15</td><td>2.2m</td></tr><tr><td>16</td><td>2.0m – 3.4m</td></tr><tr><td>17</td><td>2.0m – 3.4m</td></tr><tr><td>18</td><td>2.6m</td></tr><tr><td>19</td><td>3.8m – 4.8m</td></tr></table>	Apartment	Balcony Depth	1	3.4m - 3.4m	2	2.2m - 3.5m	3	3.4m - 4.6m	4	2.5m – 3.4m	5	2.5m – 3.4m	6	2.8m – 4.8m	7	2.8m – 4.8m	8	3.4m - 4.6m	9	2.2m – 3.5m	10	3.4m – 4.6m	11	2.8m – 3.4m	12	2.8m – 3.4m	13	2.8m – 3.8m	14	2.8m – 4.4m	15	2.2m	16	2.0m – 3.4m	17	2.0m – 3.4m	18	2.6m	19	3.8m – 4.8m
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Ceiling Heights	<p>The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL). These are minimums only and do not preclude higher ceilings, if desired.</p> <ul style="list-style-type: none"><i>in mixed use buildings: 3.3m minimum for ground floor retail or commercial and for first floor residential, retail or commercial to promote future flexibility of use</i><i>in residential flat buildings in mixed use areas: 3.3m minimum for ground floor to promote future flexibility of use in residential flat buildings or other residential floors in mixed use buildings</i><i>in general, 2.7m minimum for all habitable rooms on all floors, 2.4m is the preferred minimum for all non-habitable rooms, however 2.25m is permitted.</i><i>for two storey units, 2.4m minimum for second storey if 50 percent or more of the minimum wall height at edge</i><i>for two-storey units with a two storey void space, 2.4m minimum ceiling heights</i><i>attic spaces, 1.5 metre minimum wall height at edge of room with a 30 degree minimum - ceiling slope.</i>	<p>Consistent</p> <p>The development consists of mixed uses with commercial orientated uses on the below ground floor and ground floor levels. These commercial spaces have floor-to-ceiling heights of between 3.3m and 4.0m.</p> <p>All apartments achieve floor-to-ceiling heights of 2.7m.</p>																																								

Primary Development Controls	Guideline	Consistent/Comments
Ground Floor Apartments	Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.	N/A No apartments are located on the ground floor
	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	N/A No apartments are located on the ground floor
Storage	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: <ul style="list-style-type: none"> studio apartments 6.0m³ one-bedroom apartments 6.0m³ two-bedroom apartments 8.0m³ three plus bedroom apartments 10m³ 	Consistent 1 bedroom - 9 x 6.0m ³ = 54m ³ 2 bedroom - 8 x 8.0m ³ = 64m ³ 3 bedroom - 2 x 10m ³ = 20m ³ Total storage required = 138m ³ Total storage provided = 164m ³ Note: All storage is located within the basement car parking areas.
Building Amenity		
Daylight Access	Living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9am and 3pm in mid-winter. In dense urban areas a minimum of two hours may be acceptable.	Consistent The site is located within a dense urban area and approximately 14 (73.6%) apartments achieve a minimum of 2 hours direct sunlight between 9am and 3pm in mid-winter.
	Limit the number of single-aspect apartments with a southerly aspect (SWSE) to a maximum of 10% of the total units proposed. Note: The RFDC does not define single-aspect apartments but does define dual aspect apartments as having at least two major external walls facing in different directions, including corner, cross over and cross through apartments.	Not Consistent The development provides 6 (31%) single bedroom apartments which are single aspect with a south facing. Five of six apartments are at Level 1 and the sixth is at Level 2. This elevated position provides for additional daylight access. Notwithstanding the inconsistency with this clause this not considered to be a fundamental departure from the requirement as the south facing apartments achieve a satisfactory level of outlook and daylight access through the provision of the generous rear setback.
Natural Ventilation	Building depths, which support natural ventilation typically range from 10m to 18m.	Consistent All apartments achieve a depth of up to 17.0m.
	Sixty percent (60%) of residential units should be naturally cross ventilated.	Consistent The development provides 13 (68%) dual aspect/flow-through apartments which facilitate natural cross ventilation.

Primary Development Controls	Guideline	Consistent/Comments
Building Performance		
Waste Management	Supply waste management plans as part of the development application submission as per the NSW Waste Board.	<p>Consistent</p> <p>A Waste Management Plan has been provided as part of the application.</p> <p>Council's Waste Management Officer has not any objections to the application. Notwithstanding, appropriate conditions have been imposed which require the development to comply with Council's Policy No. PL 850 – Waste.</p>
Water Conservation	Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos- cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	<p>Consistent</p> <p>Subject to condition.</p> <p>The development provides for normal guttering. No lead or bitumen-based paints will be permitted.</p>

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

A BASIX certificate for Multi Dwelling has been submitted with the application (see Certificate No. 369955M dated 13 October 2011). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 62536272 dated 13 October 2011).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	35	35

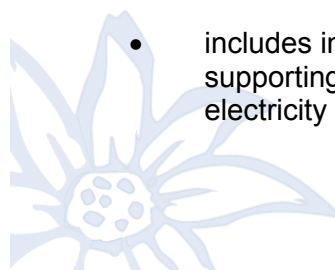
A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

State Environmental Planning Policy (Infrastructure) 2007

Ausgrid

Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists),
- immediately adjacent to an electricity substation,
- within 5m of an overhead power line
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line



Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out as a result the application was referred to Ausgrid who raised no objection to the proposal subject to conditions which are included in the Recommendation of this report.

Roads and Maritime Service (RMS)

Clause 104 and Schedule 3 of the SEPP requires that the following residential flat developments are referred to the RMS as Traffic Generating Development:

Purpose of Development	Size or Capacity (Site with access to any road)	Size or Capacity
		Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road
Residential flat building	300 or more dwellings	75 or more dwellings
Commercial premises	10,000m ² in area	2,500m ² in area
Refreshment rooms	200 or more motor vehicles	300m ²
Shops	2,000m ²	500m ²

Note: Under Clause 104(2) of the SEPP, 'relevant size of capacity' is defined as meaning:

“(2) (a) in relation to development on a site that has direct vehicular or pedestrian access to any road - the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or

(b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection - the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.”

With regards to the requirements of Clause 104(2)(a) and Column 2, the development proposes the following (in order of the table):

- 19 dwellings;
- approximately 1,103m² of commercial premises;
- capacity of 186 motor vehicles; and
- approximately 669m² of restaurant floor area.

With regards to requirements of Clause 104(2)(b) and Column 3, the development does not have direct access to a classified road nor does the development connect to a road that is within 90m of a classified road. In this regard, Column 3 and Clause 104(2)(b) do not apply.

In this regard, the development achieves compliance with the requirements of the SEPP and does not require referral to the RMS.

Regional Environment Plans (REPs)

There are no Regional Environmental Plans applicable to this development.



Local Environment Plans (LEPs)

Warringah Local Environment Plan 2000 (WLEP 2000)

Desired Future Character

The subject site is located in the H2 Harbord Village locality under Warringah Local Environmental Plan 2000.

The Desired Future Character Statement for the locality states:

“The Harbord Village will retain its retail character incorporating a mix of small retail and business uses with low-rise shop-top housing. A range of retailing and after-hours activities at street level will reinforce the character of the village.

Future development will maintain the continuity of existing building facades ensuring that they are broken into distinct vertical segments reflecting the traditional pattern of shopfront development. The design and treatment of buildings will also reflect the exposed nature of the locality incorporating continuous footpath awnings and creating a pedestrian environment which is safe, comfortable and interesting. Commercial use of part of the footpath for outdoor eating is appropriate.

The ground floor of buildings will be predominantly used for business purposes while upper floors may be used for housing. Building design will enable the first floor to be adapted for business use in the future.

Buildings greater than 2 storeys in height are to be designed so that the massing is substantially reduced on the top floor thereby reducing the visual bulk of the development and enabling views between buildings.

Development that adjoins residential land is not to reduce the amenity enjoyed by adjoining occupants. In this regard the built form of development in the village is to provide a transition to adjacent residential development, including reasonable setbacks from side and rear boundaries, particularly above the ground floor level.”

The proposed uses within the development are defined and categorised under WLEP 2000 as follows:

- Shops (Category 1);
- Restaurant (Category 1);
- Business Premises (Category 1); and
- Housing (Not on Ground Floor) (Category 1).

Clause 12(3)(a) of WLEP 2000 requires the consent authority to consider Category 1 development against the locality's DFC statement. Notwithstanding Clause 12(3)(a) only requires the consideration of the DFC statement, the proposed development results in non-compliances with the Building Height and Front Setback Built Form Controls. As such pursuant to Clause 20(1) a test of consistency against the Locality's DFC is required as follows:

- *The Harbord Village will retain its retail character incorporating a mix of small retail and business uses with low-rise shop-top housing. A range of retailing and after-hours activities at street level will reinforce the character of the village.*



Comment:

The development will provide nine (9) shops, 13 business/office premises and four (4) restaurants each of varying size. Nineteen apartments (which include nine (9) x one bedroom, eight (8) x two bedroom and two (2) x three bedroom units) are located on the upper two levels.

The Building Height Built Form Control under WLEP 2000 allows for buildings in this locality to achieve a height of 11.0m and three (3) storeys.

Low-rise shop top housing is not defined under WLEP 2000 but was considered in the Land and Environment Court judgement 'Freshwater Village Developments Pty Ltd v Warringah Council [2011] NSWLEC 1127'. In that judgement it was determined that buildings not exceeding 3 storeys or 11.0m in height and, with the third storey setback a minimum of 5.0m, can reasonably be described as low-rise shop top housing. Clause 78 in the judgement points to the Caville building at No. 8 Lawrence Street as an appropriate form of development in terms of height and storeys. This development achieves consistency with the built form of the Caville building in terms of height, the number of storeys above ground level and the combined terraced block-form and separation of the upper storeys which provides a direct visual relationship.

The development exhibits minor departures from the overall building height and to the number of storeys, both of which are considered below under Clause 20 of WLEP 2000 where it was found that the development is visually consistent with the intent and provisions of the Control and therefore considered to constitute low-rise shop-top housing.

Shops and restaurant uses are proposed at street level which reinforces the character of the Village.

- *Future development will maintain the continuity of existing building facades ensuring that they are broken into distinct vertical segments reflecting the traditional pattern of shopfront development. The design and treatment of buildings will also reflect the exposed nature of the locality incorporating continuous footpath awnings and creating a pedestrian environment which is safe, comfortable and interesting. Commercial use of part of the footpath for outdoor eating is appropriate.*

Comment:

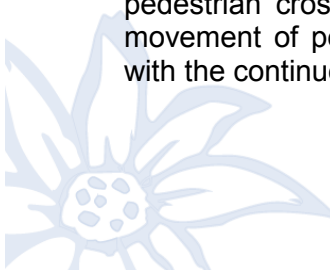
Because of the terracing of the building to address the slope of the site and the articulation of the upper levels, the development achieves visual continuity of existing building facades ensuring that they are broken into distinct vertical segments reflecting the traditional pattern of shopfront development.

The development includes continuous awnings along the Lawrence Street and Dowling Street frontages. Because of the sloping topography of the street, the awnings are terraced to respond accordingly.

With regards to pedestrian safety, the development proposes to remove an existing crossover and introduce a new crossover over a main pedestrian thoroughfare onto Lawrence Street which will provide vehicular access/egress to the development.

The development includes features to the access/egress point which are intended to maintain a safe environment for pedestrians using Lawrence Street.

Additionally, it is noted that the speed and movement of vehicles accessing the site via the left in/left out arrangement will be controlled by pedestrian movements across the raised in situ pedestrian crossing located 11.0m to the east of the proposed crossover. In this manner, the movement of pedestrians on Lawrence Street will determine the flow of vehicles in accordance with the continued status of Lawrence Street as a high pedestrian area.



Therefore, the traffic calming effect of the in situ pedestrian crossings and the driveway design features, it is considered that preservation of pedestrian safety has been appropriately addressed.

With regards to pedestrian comfort and interest, the development provides a significant level of articulation and activation at street level in the form of open 'verandahs' to each shop/restaurant frontage along the Lawrence Street facade. These areas are located wholly within the site and may be used for 'outdoor' dining and retail display/sales without impacting upon the movement of pedestrians along the footpath.

The development includes dedicated verandah areas within the site which will be used for outdoor dining.

- *The ground floor of buildings will be predominantly used for business purposes while upper floors may be used for housing. Building design will enable the first floor to be adapted for business use in the future.*

Comment:

The first floor of the development has been designed for residential use but could be used for home occupation/business purposes or converted through a carefully designed refit for business use if required in the future.

- *Buildings greater than 2 storeys in height are to be designed so that the massing is substantially reduced on the top floor thereby reducing the visual bulk of the development and enabling views between buildings.*

Comment:

The development provides sufficient articulation at the upper residential levels (Levels 2 and 3) by setting back the third storey along the main façade facing Lawrence Street. The breaking up of the building into blocks results in the creation of three (3) separate roof forms which are separated by two (2) 6.4m gaps thereby reducing building mass, minimising visual impact and enabling views through the site from the properties to the rear along Undercliff Road.

- *Development that adjoins residential land is not to reduce the amenity enjoyed by adjoining occupants. In this regard the built form of development in the village is to provide a transition to adjacent residential development, including reasonable setbacks from side and rear boundaries, particularly above the ground floor level.*

Comment:

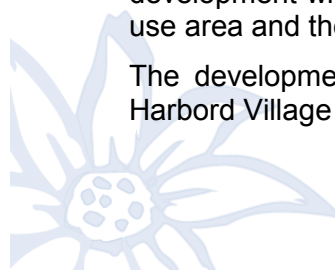
The rear of the development has been designed to sympathetically respond to the scale of residential development along Undercliff Road.

It is noted that, particularly when viewed from the rear residential properties, the upper level of the development includes building separations of 6.4m to 8.5m between Blocks A, B and C which provide through site viewing while minimising building bulk.

The south-facing facade to Block D includes a 5.0m high wall which is setback 2.0m from the rear boundary abutting No. 2 Undercliff Road. The setback then progressively increases to 3.2m at Level 2 and 5.0m at Level 3. The progressive stepping back of Level 2 in Block D provides sufficient curtilage between the development and the neighbouring residential properties to minimise visual impact and to maintain amenity.

The development also includes approximately 435m² (16.8%) of deep soil landscaped open space along the rear boundary. This space has a width of between 2.0m to 7.2m and will accommodate a selection of native shrubs and trees which will achieve a mature height of between 0.8m to 5.0m respectively. This landscaped feature will further soften the overall appearance of the development while providing a defining but sympathetic buffer between the higher intensity mixed-use area and the lower intensity residential area.

The development is considered to be consistent with the Desired Future Character of the H2 Harbord Village locality.



Built Form Controls (Development Standards)

The following table outlines compliance with the Built form Control of the above locality statement:

Built Form Standard	Permitted	Proposed	Compliant
Building Height: Block A Block B Block C Block D	3 storeys/11m 3 storeys/11m 3 storeys/11m 3 storeys/11m	3 storeys/6.4m to 11.4m 3 storeys/5.4m to 11.4m 3 to 4 storeys*/6.4m to 11.4m 5 storeys*/10.2m to 13.0m	No (eaves) No (eaves) No (eaves) No (lift overrun)
Front Setbacks: <u>Lawrence Street</u> <u>Block A</u> Basement Level 3 Basement Level 2 Basement Level 1 Ground Floor (First Storey*) Level 1 (Second Storey*) Level 2 (Third Storey*) <u>Block B</u> Basement Level 3 Basement Level 2 Basement Level 1 Ground Floor (First Storey*) Level 1 (Second Storey*) Level 2 (Third Storey*) <u>Block C</u> Basement Level 3 Basement Level 2 Basement Level 1 Lower Ground Floor (First Storey*) Ground Floor (Second Storey*) Level 1 (Third Storey*) Level 2 (Fourth Storey*) <u>Block D</u> Basement Level 3 Basement Level 2 Basement Level 1 Lower Ground Floor (First Storey*) Ground Floor (Second Storey*) Level 1 (Third Storey*) Level 2 (Fourth Storey*) Level 3 (Fifth Storey*) <u>Dowling Street</u> <u>Block D</u> Basement Level 3 Basement Level 2 Basement Level 1 Lower Ground Floor (First Storey*) Ground Floor (Second Storey*) Level 1 (Third Storey*) Level 2 (Fourth Storey*) Level 3 (Fifth Storey*)	Nil Nil Nil Nil Nil 5.0m Nil Nil Nil Nil Nil 5.0m Nil Nil Nil Nil Nil 5.0m 5.0m Nil Nil Nil Nil Nil 5.0m 5.0m 5.0m Nil Nil Nil Nil Nil 5.0m 5.0m 5.0m	Nil Nil Nil Nil to 3.5m 2.5m to 3.8m 4.0m to 5.0m Nil Nil Nil Nil to 3.5m 2.5m to 3.8m 4.0m to 5.0m Nil Nil Nil Nil Nil Nil to 3.5m 2.5m to 3.8m 5.0m to 6.0m Nil Nil Nil Nil Nil Nil to 3.5m Nil to 3.5m 1.5m to 5.0m 12.0m Nil Nil Nil Nil Nil Nil 0.8m 2.5m	Yes Yes Yes Yes Yes No Yes Yes Yes Yes Yes No Yes Yes Yes Yes Yes Yes No Yes Yes Yes Yes Yes Yes Yes No No No
Footpath Awnings	Footpath awnings must be incorporated into the design of buildings to provide shelter to pedestrians and help reinforce the human scale of the Freshwater Centre.	Footpath awnings are incorporated into the design of the development and will provide shelter to pedestrians and help reinforce the human scale of the Freshwater Centre.	Yes

***Note:** The definition of 'Storey' is taken literally from WLEP 2000 which states:

- "a storey is the space between two floors, or the space between any floor and its ceiling or roof above,
- foundation spaces, garages, workshops, store rooms and the like which do not project more than 1 metre above natural ground level (at any point) are not counted as storeys,
- the number of storeys is the maximum number of storeys which may be intersected by the same vertical line, not being a line which passes through any wall of the building."

The proposed development does not comply with the Locality's Building Height and Front Setback Built Form Controls. Accordingly, further assessment is considered against the applicability of Clause 20(1)

Clause 20(1):

Clause 20(1) under WLEP 2000 stipulates:

"Notwithstanding clause 12(2)(b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State environmental planning policy."

In determining whether the proposal qualifies for a variation under Clause 20(1) of WLEP 2000, consideration must be given to the following:

(i) General Principles of Development Control

The proposal achieves consistency with the General Principles of Development Control and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on "General Principles of Development Control" in this report for a detailed assessment of consistency).

(ii) Desired Future Character of the Locality

The proposal is consistent with the H2 Harbord Village locality's Desired Future Character Statement and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on "Desired Future Character" in this report for a detailed assessment of consistency).

(iii) Relevant State Environmental Planning Policies

The proposal is consistent with the applicable State Environmental Planning Policies. Accordingly the proposal qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1).

In assessing these elements of the proposal, it is necessary to consider the underlying intent of the respective Controls. Accordingly, a merit consideration is addressed below:

Building Height Built Form Control

Built Form Standard	Required	Proposed
Building Height:		
Block A	3 storeys/11m	3 storeys/6.4m to 11.4m (eaves)
Block B	3 storeys/11m	3 storeys/5.4m to 11.4m (eaves)
Block C	3 storeys/11m	3 to 4 storeys/6.4m to 11.4m (eaves)
Block D	3 storeys/11m	5 storeys/10.2m to 13.0m (lift overrun)

Areas of Non-compliance

The non-compliances occur at the lift overruns and eastern sides of the butterfly roof structures and within the below ground commercial levels of Blocks C and D.

Figures 14, 15 and 16 below indicate the areas of non-compliance in terms of overall building height in metres (non-compliances are indicated in yellow). Refer to Figure 6 in this report for the location of the storeys.

Note: Building height is taken from natural ground level under WLEP 2000.



Figure 14 Lawrence Street elevation showing the assessed areas of building height non-compliance
Source: Adapted by the author from Plan No. DA10 dated 19 October 2011 as prepared by PBD Architects

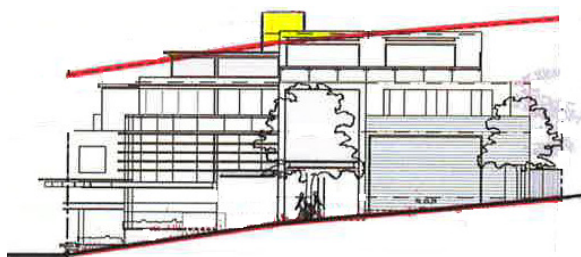


Figure 15 Building height non-compliance at Block D as viewed from Dowling Street
Source: Adapted by author from Plan No. DA11 dated 19 October 2012 as prepared by PBD Architects

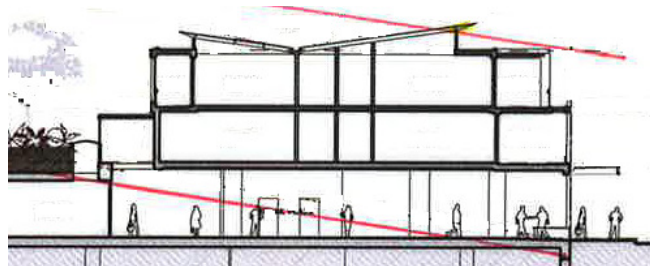


Figure 16 Building height non-compliance as viewed through a typical west facing cross section
Source: Adapted by author from Plan No. DA11 dated 19 October 2012 as prepared by PBD Architects

Merit consideration of non-compliance

- *Ensure that development does not become visually dominant by virtue of its height and bulk.*

Comment:

Overall Building height

The overall visual impact is considered to be minimal in that the non-compliant elements are sufficiently setback from the front, side and rear edges of the building such that they do not add to the overall building bulk. The dimensions of the lift overrun and pergola roofs ensure the proposal is not visually dominant as visual bulk is minimised.

As seen in Figure 6 in this report, the number of storeys are wholly contained within the permitted building height limit of 11.0m (with exception to the minor encroachments identified above) and do not have any significant impact upon the height and bulk of the building.

The development satisfies this objective.

- *Preserve the amenity of surrounding land.*

The amenity of surrounding land is considered under the terms of visual impact, view sharing, overshadowing, privacy and noise.

Visual impact

As seen in Figure 11 in this report, the rear of the development has been designed to sympathetically respond to the scale of residential development along Undercliff Road.

It is noted that, particularly when viewed from the rear residential properties, the upper level of the development includes building separations of 6.4m between Blocks A, B and C which provide through site viewing while minimising building bulk.

The south-facing facade to Block D includes a 5.0m high wall which is setback 2.0m from the rear boundary abutting No. 2 Undercliff Road. The setback then progressively increases to 3.2m at Level 2 and 5.0m at Level 3. The progressive stepping back of Level 2 in Block D provides sufficient curtilage between the development and the neighbouring residential properties to minimise visual impact and to maintain amenity.

View Sharing

Overall Building height

As seen in Figures 14, 15 and 16 above, the development largely complies with the overall building height with exception to the identified minor encroachments. The compliant building heights will reduce direct views across the site which include district views of the adjacent ridgeline to north. However, the non-compliant elements do not exacerbate this reduction and are compensated by the 6.4m wide building separation between Blocks A, B and C. In this respect, the areas of non-compliance do not constitute a reason for refusal.

It is noted that diagonal district views to the east and north-east (towards Freshwater Beach) from the rear of the residential properties along Undercliff Road are minimally affected, if at all, by the development.

Storeys

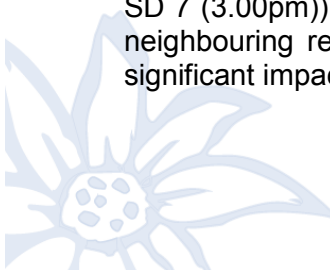
The non-compliant storey components are wholly located within the prescribed overall building height limit of 11.0m due to the subterranean nature of these storeys and do not have any significant impact upon the availability of views from neighbouring properties. In this regard, the number of storeys will not have any significant impact upon view sharing.

Privacy

The development includes reasonable setbacks and a substantial landscaped buffer along the rear boundary which will reasonably preserve the privacy of neighbouring residential properties along Undercliff Road. The non-compliant elements will not have an significant impact upon the privacy of neighbouring properties.

Overshadowing

The shadow diagrams provided by the applicant (see Plan Nos. SD 1 (9.00am), SD 4 (Noon), and SD 7 (3.00pm)) indicate that the development will not result in significant overshadowing over the neighbouring residential properties to the south. The non-compliant elements will not have any significant impact upon the overshadowing of neighbouring properties.



The development satisfies this objective.

- *Ensure that development responds to site topography and minimises excavation of the natural landform.*

Comment:

Because of the urban history of the area, the natural features of the site have been largely modified through on-going development such that only the topographical slope of the site remains as the most notable natural feature. However, the development has been designed to respond to this topography by stepping the building in blocks up Lawrence Street and cutting the building into the southern side of the site such that it only achieves a building height of between 5.4m to 7.2m for Blocks A, B and C and a building height of 10.8m for Block D resulting a visual reference to the slope of the site.

Comparatively, the area of the site is such that excavation is a necessity if the site is to be developed to its full capacity, as permitted under WLEP 2000. In this regard, the excavation of the basement areas is considered to be acceptable.

The development satisfies this objective.

- *Provide sufficient area for roof pitch and variation in roof design rather than a flat roof.*

Comment:

The development includes four (4) tiered blocks which include the butterfly roof structures and a flat roof form on Block D. These variable roof forms, the edges of which are the subject of this non-compliance, provide a satisfactory variation in roof design to the normally proposed flat roof design.

The development satisfies this objective.

The variation to the Building Height Built Form Control is supported.

Front Setbacks Built Form Control

Built Form Standard	Permitted	Proposed	Compliant
Lawrence Street <u>Block A</u> Level 2 (Third Storey)	5.0m	4.0m to 5.0m	No
<u>Block B</u> Level 2 (Third Storey)	5.0m	4.0m to 5.0m	No
<u>Block C</u> Level 1 (Third Storey)	5.0m	2.5m to 3.8m	No
<u>Block D</u> Level 1 (Third Storey) Level 2 (Fourth Storey)	5.0m 5.0m	Nil to 3.5m 1.5m to 5.0m	No No
Dowling Street <u>Block D</u> Level 1 (Third Storey) Level 2 (Fourth Storey) Level 3 (Fifth Storey)	5.0m 5.0m 5.0m	Nil 0.8m 2.5m	No No No



Areas of Non-compliance

The development does not comply with the Front Setback Built Form Control at Levels 1, 2 and 3 in Blocks A, B, C and D. It should be noted that the non-compliant areas to Levels 1 and 2 in Block D are a result of the strict application of the definition of storey under WLEP 2000 in that, if the below ground commercial levels were not counted as storeys, Levels 1 and 2 would comply.

Figures 17, 18 and 19 below indicate the areas of non-compliance by floor level (non-compliances are indicated in yellow).

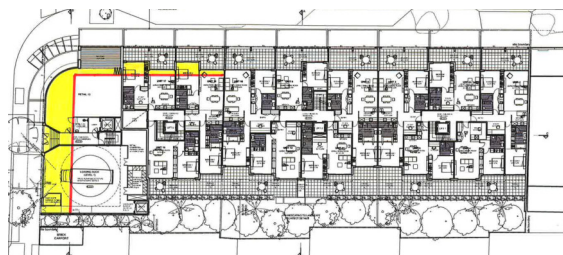


Figure 17 Front setback non-compliance at Level 1 in Blocks C & D.
Source: Adapted by author from Plan No. DA07 dated 19 October 2012 as prepared by PBD Architects.

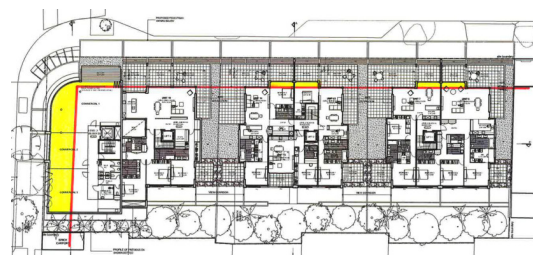


Figure 18 Front setback non-compliance at Level 2 in Blocks A, B & D.
Source: Adapted by author from Plan No. DA07 dated 19 October 2012 as prepared by PBD Architects.

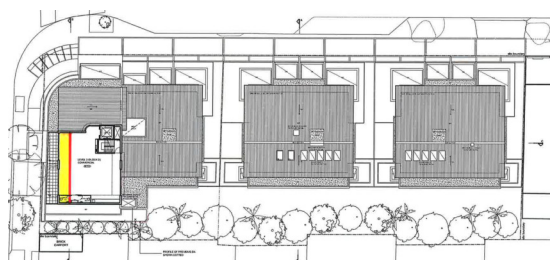


Figure 19 Front setback non-compliance at Level 3 in Block D.
Source: Adapted by author from Plan No. DA07 dated 19 October 2012 as prepared by PBD Architects.

Merit consideration of non-compliance

- *Create a sense of openness.*

The non-compliant elements within Blocks A, B and C are sufficiently articulated, elevated and setback from the street alignment to facilitate a continued sense of openness from the street.

The non-compliant elements within Block D occur over a relatively short length due to the corner location of the building. The combination of the sloping topography of the street at this part of the site and the articulation employed in the design of the façade results in a modulation of the built form such that it does not detract from a sense of openness to the streetscape.

The development satisfies this objective.

- *Provide opportunities for landscaping.*

The development includes a landscape theme which incorporates planter boxes within the proposed verandah features along the street alignment of Lawrence Street (refer to Plan No. 621.01 dated 12 October 2011 as prepared by Tramonte Jensen).

The development satisfies this objective.

- *Minimise the impact of development on the streetscape.*

As seen in Figure 11 in this report, the non-compliant elements facing Lawrence Street and Dowling Street are setback sufficiently to minimise building bulk on the streetscape whilst providing visual interest through effective articulation.

The development satisfies this objective.

- *Maintain the visual continuity and pattern of buildings, front gardens and landscape elements.*

The non-compliant elements in Blocks A, B and C are considered to be minor, occur above ground level and do not have any adverse impact upon the visual continuity and pattern of buildings along Lawrence Street.

The non-compliant elements in Block D at Levels 1 and 2 maintain the visual continuity of the building alignments within Freshwater Village and with the secondary building alignment of No. 2 Undercliff Road to the rear. The non-compliant element at Level 3 has been setback sufficiently from the street alignment to provide sufficient articulation and visual relief.

As the site is located within the commercial precinct of Freshwater Village, there is no requirement to maintain front gardens and landscape elements within the front setback.

The development satisfies this objective.

- *The provision for corner allotments relates to street corners.*

The development is located on the corner of Lawrence Street and Dowling Street where the highest degree of non-compliance occurs. However, it should be noted that the Front Setback Built Form Control does not include any provision for addressing secondary street front setbacks which are usually applied to residential areas and not commercial areas where construction to the street alignment is encouraged.

The development satisfies this objective.

Therefore, in conclusion the above merit assessment has found that the development satisfies the relevant objectives which underpin the Built Form Controls.

General Principles of Development Control

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development:

General Principles	Applies	Comments	Compliant
CL38 Glare & reflections	Yes	<p>Clause 38 requires that development is not to result in overspill or glare from artificial illumination, or sun reflection, which would unreasonably diminish the amenity of the locality.</p> <p><u>Comment:</u></p> <p>The proposal requires the use of various building elements that have reflective qualities such as glass and metal roofing. Conditions are recommended to provide low reflective glass is used for windows in consideration of residential amenity.</p> <p>Subject to addressing the imposed conditions, the application is considered capable of satisfying the provisions of this General Principle.</p>	Yes Subject to condition

General Principles	Applies	Comments	Compliant
CL39 Local retail centres	No	Not applicable.	Not applicable.
CL40 Housing for Older People and People with Disabilities	No	Not applicable.	Not applicable.
CL41 Brothels	No	Not applicable.	Not applicable.
CL42 Construction Sites	Yes	<p>Clause 42 requires that construction sites are not to unreasonably impact on the surrounding amenity, pedestrian or road safety, or the natural environment.</p> <p><u>Comment:</u></p> <p>Construction and excavation is proposed for the site. Conditions are to be imposed to maintain the amenity of neighbouring properties with regard to construction site access, sediment and erosion control, tree protection and hours of construction.</p> <p>Subject to addressing the imposed conditions, the application is considered capable of satisfying the provisions of this General Principle.</p>	Yes Subject to condition
CL43 Noise	Yes	<p>Clause 43 requires that development is not to result in noise emission which would unreasonably diminish the amenity of the area and is not to result in noise intrusion which would be unreasonable to the occupants.</p> <p><u>Comment:</u></p> <p>The application includes an Acoustic Report dated 11 November 2011 as prepared by Renzo Tonin & Associates. The report concludes that:</p> <ul style="list-style-type: none"> <i>Noise from the proposed loading dock facing Dowling Street is not expected to cause any adverse noise impacts as long as the dock hours are restricted to between 7am and 10pm. Noise from the proposed turntable is not an issue</i> <i>Mechanical plant rooms have been strategically located and ventilation openings are designed to face away from residential properties in Undercliff Road. Some silencing of mechanical plant may be required however this can readily be achieved using standard noise control elements and building products.</i> <i>Construction noise impacts are likely, particularly when plant are working close to the southern boundary adjacent to residential premises. Prior to any work commencing on site, a noise and vibration management plan should be prepared showing how all reasonable and feasible mitigation measures will be implemented.</i> <i>During excavation, vibration emissions will need to be carefully controlled by the contractor. Substituting rock breaking with alternative processes such as rock sawing may be required when working close to the southern boundary. Vibration monitoring and dilapidation reports will also be important management measures.</i> <p>The development is for a mixed use, which is not considered to significantly impact upon neighbouring properties with regards to noise, given the physical separation of the non-residential uses to nearby residential properties.</p>	Yes Subject to condition

General Principles	Applies	Comments	Compliant
		<p>Notwithstanding, the application proposes the construction of a basement carpark, which will require mechanical ventilation (BCA). In addition, the lift shafts have the potential to cause noise.</p> <p>Accordingly, conditions are included in the Recommendation of this report requiring the development to be designed in accordance with AS 2107 and the EPA Guidelines for Acoustic Privacy.</p> <p>Subject to addressing the imposed conditions and the recommendation contained in the Acoustic Report, the application is considered capable of satisfying the provisions of this General Principle.</p>	
CL44 Pollutants	No	Not applicable.	Not applicable.
CL45 Hazardous Uses	No	Not applicable.	Not applicable.
CL46 Radiation Emission Levels	No	Not applicable.	Not applicable.
CL47 Flood Affected Land	No	Not applicable.	Not applicable.
CL48 Potentially Contaminated Land	Yes	<p>Clause 48 requires that:</p> <p>(1) The consent authority must not consent to the carrying out of development on land unless:</p> <ul style="list-style-type: none"> • it has considered whether the land is contaminated, and • if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and • if the land requires remediation to be made suitable for the development proposed to be carried out, it is satisfied that the land will be remediated before the development is carried out. <p>(2) Consent for development on any of the following land must not be granted unless the consent authority has considered a preliminary investigation of the land concerned prepared in accordance with the contaminated land planning guidelines under section 145C of the Act:</p> <ul style="list-style-type: none"> • land that is specified in a preliminary investigation order under the Contaminated Land Management Act 1997 • land on which development referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out • any land, to the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purpose of a hospital • any land in relation to which there is no knowledge (or incomplete knowledge) as to whether development referred to in Table 1 to the contaminated land planning guidelines has been carried out • any land on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge). <p><u>Comment:</u></p> <p>The Preliminary Contamination Assessment (refer to Report No. 12446/2-AA dated 15 April 2011 as prepared by Geotechnique Pty Ltd) notes that Nos. 22 and 32 Lawrence Street have been respectively used as a dry cleaners shop and a Laundromat since 1978. However, the Report also notes that “a search of the Department of Environment, Climate Change and Water (DECCW)</p>	<p>Yes</p> <p>Subject to condition</p>

General Principles	Applies	Comments	Compliant
		<p>record of notices for contaminated land on 7 April 2011 revealed no DECCW notices relating to contamination investigation and/or remediation issued for the site".</p> <p>The report identifies that subsurface fill was encountered in all three boreholes drilled during the field investigation which comprises of silty and gravelly sand with crushed sandstone and bricks.</p> <p>The report therefore suggests that the potential for contamination is considered to be possible from the dry cleaners shop and Laundromat, from the presence of fill beneath the site and from the potential presence of asbestos within the existing buildings.</p> <p>The report concludes that "the site is suitable for residential use subject to the implementation of a suitable sampling and testing plan (detailed contamination assessment), preferably after the demolition of the buildings, in order to address the potential for contamination and to confirm the contamination status of the site" and that "if contamination is identified, delineation of the extent of contamination, preparation of a Remedial Action Plan (RAP) and validation will be required".</p> <p>Council's Environmental Health Officer has reviewed the report and has subsequently imposed the following condition (in addition to conditions requiring the notification to Council of new contamination evidence, the off-site disposal of contaminated land, and validation for remediation):</p> <p>"After demolition, in accordance with the Preliminary Contamination Assessment Report prepared by Geotechnique Pty Ltd (dated 15 April 2011), undertake a Stage 2 Detailed Investigation of the site in accordance with the Contaminated Lands Management Act 1997, SEPP 55 and "Sampling Design Guidelines for Contaminated Sites", 1995 NSW EPA. A copy of the report must be provided to Council."</p> <p>If Stage 2 determines contamination then a Remediation Action Plan (RAP) is to be undertaken to ensure the land is suitable for residential use.</p> <p>The above conditions, including all recommendations made in the Preliminary Contamination Assessment Report prepared by Geotechnique Pty Ltd (dated 15 April 2011), are included in the Recommendation of this report.</p> <p>Subject to addressing the imposed conditions, the application is considered capable of satisfying the provisions of this General Principle.</p>	
CL49 Remediation of Contaminated Land	Yes	Refer to Clause 48 above.	Yes Subject to condition
CL49a Acid Sulfate Soils	No	Not applicable.	Not applicable.
CL50 Safety & Security	Yes	<p>Clause 50 requires that development is to maintain and where possible enhance the safety and security of the locality.</p> <p><u>Comment:</u></p> <p>The Development Application was referred to NSW Police for consideration under the principles of Crime Prevention through Environment Design (CPTED). The recommendations include in the response by NSW Police are included as a condition within the Recommendation of this report.</p>	Yes Subject to condition

General Principles	Applies	Comments	Compliant						
		Subject to addressing the imposed conditions, the application is considered capable of satisfying the provisions of this General Principle.							
CL51 Front Fences and Walls	No	Not applicable.	Not applicable.						
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	No	Not applicable.	Not applicable.						
CL53 Signs	Yes	<p>Clause 53 requires that the number, size, shape, extent, placement and content of signs are to be limited to the extent necessary to:</p> <ul style="list-style-type: none">• allow the reasonable identification of the land use, business, activity or building to which the sign relates, and• ensure that the sign is compatible with the design, scale and architectural character of the building or site upon which it is to be placed, and• ensure that the sign does not dominate or obscure other signs or result in visual clutter, and• ensure that the sign does not endanger the public or diminish the amenity of nearby properties. <p><u>Comment:</u></p> <table><tr><th>Land Use</th><th>Maximum Area</th><th>Maximum Area</th></tr><tr><td>Business Uses</td><td>Maximum of 5.0m²</td><td>9 x 1.8m x 0.35m = 5.67m²</td></tr></table> <p>Fourteen (14) signs are proposed as part of this application, although nine (9) will be fixed below the awning. As can be seen in the above table. The proposed area exceeds the maximum permitted area by 0.67m² which is not considered to be excessive and will not have any adverse visual impact upon the streetscape.</p> <p>The under awning signs are compatible with the design, scale and architectural character of the building and the commercial nature of Freshwater Village.</p> <p>The signs will not dominate or obscure other signs or result in visual clutter and will not endanger the public or diminish the amenity of nearby properties.</p> <p>The application is considered to satisfy the provisions of this General Principle.</p>	Land Use	Maximum Area	Maximum Area	Business Uses	Maximum of 5.0m ²	9 x 1.8m x 0.35m = 5.67m ²	Yes
Land Use	Maximum Area	Maximum Area							
Business Uses	Maximum of 5.0m ²	9 x 1.8m x 0.35m = 5.67m ²							
CL54 Provision and Location of Utility Services	Yes	<p>Clause 54 requires that utility services must be provided to the site of the development, including provision for the supply of water, gas, telecommunications and electricity and the satisfactory management of sewage and drainage.</p> <p><u>Comment:</u></p> <p>Conditions have been included in the Recommendation of this report requiring connection to all utility services including an approved telecommunications provider, energy, water and sewerage.</p> <p>Subject to addressing the imposed conditions, the application is considered capable of satisfying the provisions of this General Principle.</p>	Yes Subject to condition						
CL55 Site Consolidation in 'Medium Density Areas'	No	Not applicable.	Not applicable.						
CL56 Retaining Unique Environmental Features on Site	No	Not applicable.	Not applicable.						

General Principles	Applies	Comments	Compliant
CL57 Development on Sloping Land	Yes	<p>Clause 57 requires that, on sloping land, the height and bulk of development, particularly on the downhill side, is to be minimised and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope.</p> <p><u>Comment:</u></p> <p>The site has a diagonal south-western to north-eastern slope of 8.77m although the topography is most notable at street level where the site slopes downward by 3.24m along Dowling Street to the corner of Lawrence Street, then again slopes downward by 5.53m to the eastern-most boundary.</p> <p>The development has been designed to use this topography to present a three storey built form to Lawrence Street and to present a one to two storey built form to Undercliff Road in Blocks A, B and C and a three storey built form in Block D.</p> <p>The application is considered to satisfy the provisions of this General Principle.</p>	Yes
CL58 Protection of Existing Flora	No	Not applicable.	Not applicable.
CL59 Koala Habitat Protection	No	Not applicable.	Not applicable.
CL60 Watercourses & Aquatic Habitats	No	Not applicable.	Not applicable.
CL61 Views	Yes	<p>Clause 61 requires that development is to allow for the reasonable sharing of views.</p> <p><u>Comment:</u></p> <p>The development does not have any adverse impact on view sharing. The proposal generally complies with the overall Building Height Built Form Control and district views across the site to the north will be largely maintained by the proposed building separations. The proposal is consistent with the Planning Principle – Tenacity v Warringah Council.</p> <p>An assessment of view sharing is provided below:</p>	Yes

CL 61 Views (assessment):

The proposal allows for a reasonable sharing of views between adjoining and neighbouring dwellings. In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, were applied to the proposal.

Note: No objections were received with regards to view loss and, subsequently, no site inspections of individual residential properties has been undertaken. The following view assessment has been prepared having regard to all surrounding properties based upon survey information and inspections from the subject site.

1. Nature of the views affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment:

The subject site is located on the southern side of Lawrence Street where double storey neighbouring residential properties to the rear (along Undercliff Road) currently enjoy partial district (land) views across the site to the north and partial district (land) views diagonally to the north-east due to their naturally elevated position on a ridgeline.

Notwithstanding, the rear yards of the above-mentioned residential properties contain significant levels of mature landscaping which may have been installed by individual land owners to provide a buffer between the residential properties and the commercial buildings currently occupying the subject site, in particular the driveway which runs along the length of the rear boundary. It is noted that this dense landscaping further limits available views.

2. What part of the affected property are the views obtained

“The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic”.

Comment:

The northern and north-eastern views from the residential properties located the rear of the site are currently available from the rear upper floor levels in double storey dwellings.

3. Extent of impact

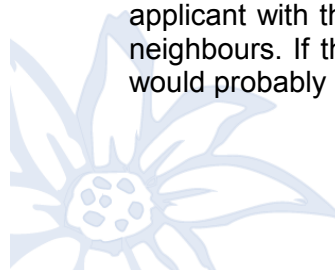
“The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating”.

Comment:

It was not possible to ascertain which rooms within the residential dwellings were affected but it is assumed from the inspections that the main living areas are located towards the rear, away from the street and with direct access to private open space areas. In this regard, if the views were unobstructed, the impact would be considered to be significant. However, as noted above, the views are obscured by the roof lines of the existing buildings on the subject site and by the dense landscaping which extends along the length of the rear boundary. In this regard, the views are partial district views to the north and north-east and the impact is thus considered to be moderate.

4. Reasonableness of the proposal that is causing the impact

“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”



Comment:

Notwithstanding, the non-compliance with the Building Height (Number of Storeys) and Front Setback Built Form Controls, the development maintains compliance with the overall Building Height Built Form Control subject to minor variations which are supported under Clause 20 of WLEP 2000. The proposal has been designed to take in to account the available district views through the provision of appropriate view corridors and maintaining a consistent building height across the width of the site. Overall, the proposal is considered appropriate for the site and acceptable in this instance.

The application is considered to satisfy the provisions of this General Principle.

General Principles	Applies	Comments	Compliant																								
CL62 Access to sunlight	Yes	<p>Clause 62 'Access to Sunlight' under WLEP 2000 requires that "development is not to unreasonably reduce sunlight to surrounding properties.</p> <p>In the case of housing:</p> <ul style="list-style-type: none"> sunlight, to at least 50% of the principal private open spaces, is not to be reduced to less than 2 hours between 9am and 3pm on June 21, and where overshadowing by existing structures and fences is greater than this, sunlight is not to be further reduced by development by more than 20%". <p><u>Comment:</u></p> <p>The shadow diagrams provided by the applicant (see Plan Nos. SD 1 (9.00am), SD 4 (Noon), and SD 7 (3.00pm)) indicate that the development will not result in significant overshadowing over the neighbouring residential properties to the south.</p> <p>Based upon the above-mentioned shadow diagrams, the following table provides an assessment of the areas of sunlight cast over the most affected neighbouring properties to the south along Undercliff Road.</p> <table border="1"> <thead> <tr> <th>Property</th><th>9.00am</th><th>Noon</th><th>3.00pm</th></tr> </thead> <tbody> <tr> <td>2 Undercliff Road</td><td>100%</td><td>50%</td><td>Nil</td></tr> <tr> <td>4 Undercliff Road</td><td>50%</td><td>57%</td><td>34%</td></tr> <tr> <td>6 Undercliff Road</td><td>24%</td><td>26%</td><td>83%</td></tr> <tr> <td>8 Undercliff Road</td><td>Nil</td><td>Nil</td><td>100%</td></tr> <tr> <td>10 Undercliff Road</td><td>Nil</td><td>Nil</td><td>100%</td></tr> </tbody> </table> <p>The above table indicates that access to sunlight for neighbouring residential properties is consistent with the provisions of WLEP 2000.</p> <p>The application is considered to satisfy the provisions of this General Principle.</p>	Property	9.00am	Noon	3.00pm	2 Undercliff Road	100%	50%	Nil	4 Undercliff Road	50%	57%	34%	6 Undercliff Road	24%	26%	83%	8 Undercliff Road	Nil	Nil	100%	10 Undercliff Road	Nil	Nil	100%	Yes
Property	9.00am	Noon	3.00pm																								
2 Undercliff Road	100%	50%	Nil																								
4 Undercliff Road	50%	57%	34%																								
6 Undercliff Road	24%	26%	83%																								
8 Undercliff Road	Nil	Nil	100%																								
10 Undercliff Road	Nil	Nil	100%																								
CL63 Landscaped Open Space		<p>Clause 63 requires that landscaped open space is to be of such dimensions and slope and of such characteristics that it will:</p> <ul style="list-style-type: none"> Enable the establishment of appropriate plantings to maintain and enhance the streetscape and the desired future character of the locality. <p><u>Comment:</u></p> <p>The landscape plans accompanying the Development Application (refer to Plan Nos. 621.01 and 621.02 dated 12 October 2012 as prepared by Tramonte Jensen) indicate that the development will provide for street level planter box landscaping along the frontage of Lawrence Street and 435m² of landscaped area along the rear boundary abutting the</p>	Yes Subject to condition																								

General Principles	Applies	Comments	Compliant
		<p>residential area of the H1 Freshwater Beach locality.</p> <ul style="list-style-type: none"> • Enable the establishment of appropriate plantings that are of a scale and density commensurate with the building height, bulk and scale. <p><u>Comment:</u></p> <p>The proposed landscaping along the rear boundary is of sufficient area, depth and height to respond to the scale of the development and the scale of the neighbouring dwellings.</p> <ul style="list-style-type: none"> • Enhance privacy between dwellings. <p><u>Comment:</u></p> <p>The landscaped area at the rear of the site may provide an effective landscaped buffer, in conjunction with the already dense landscaping along the rear boundaries of the neighbouring residential properties.</p> <ul style="list-style-type: none"> • Accommodate appropriate outdoor recreational needs and suit the anticipated requirements of dwelling occupants. <p><u>Comment:</u></p> <p>The terraces/balconies provided in the development are considered to be satisfactory in accommodating the appropriate outdoor recreational needs of the occupants. The landscaped area along the rear boundary will provide visual relief and outlook.</p> <ul style="list-style-type: none"> • Provide space for service functions, including clothes drying. <p><u>Comment:</u></p> <p>All service functions are accommodated within the building area.</p> <ul style="list-style-type: none"> • Facilitate water management including on-site detention and the infiltration of stormwater. <p><u>Comment:</u></p> <p>The landscaped area along the rear of the site consists of a soil depth of 1.5m which constitutes a deep soil zone. Council's Development Engineer has assessed the Development Application with regards to on-site detention and does not raise any objection subject to conditions which are included in the Recommendation of this report.</p> <ul style="list-style-type: none"> • Incorporate the establishment of any plant species nominated in the relevant Locality Statement. <p><u>Comment:</u></p> <p>The locality statement does not nominate any plant species. Notwithstanding, Council's Landscape Officer has imposed a condition which requires the planting of 2 x <i>Tristania laurina</i> (Water Gum) on Lawrence Street in place of the removed outdoor dining pods. This condition is included in the Recommendation of this report.</p> <ul style="list-style-type: none"> • Enable the establishment of indigenous vegetation and habitat for native fauna. <p><u>Comment:</u></p> <p>The planting schedule included on Plan No. 621.02 dated 12 October 2012 as prepared by Tramonte Jensen indicates that all planting will consist of native species.</p> <ul style="list-style-type: none"> • Conserve significant features of the site. <p><u>Comment:</u></p> <p>Given the commercial nature of the site and the historical development of the area, there are no significant features of the</p>	

General Principles	Applies	Comments	Compliant																																																												
		site to conserve. In this regard, the proposed landscape features of the development will be an improvement of the visual appearance of the site. Subject to addressing the imposed conditions, the application is considered capable of satisfying the provisions of this General Principle.																																																													
CL63A Rear Building Setback	N/A	Not applicable.	Not applicable.																																																												
CL64 Private open space		<p>CL 64 requires that apartment style development to include 10m² of private open space per apartment with a minimum dimension of 2.5m.</p> <p><u>Comment:</u></p> <p>The development includes the following balcony provisions:</p> <table><tr><th>Apartment</th><th>Balcony Dimension</th><th>Area</th></tr><tr><td>1</td><td>3.4m - 3.4m</td><td>40.3m²</td></tr><tr><td>2</td><td>2.2m - 3.5m</td><td>25m²</td></tr><tr><td>3</td><td>3.4m - 4.6m</td><td>45.6m²</td></tr><tr><td>4</td><td>2.5m – 3.4m</td><td>25.3m²</td></tr><tr><td>5</td><td>2.5m – 3.4m</td><td>25.3m²</td></tr><tr><td>6</td><td>2.8m – 4.8m</td><td>58.3m²</td></tr><tr><td>7</td><td>2.8m – 4.8m</td><td>75.7m²</td></tr><tr><td>8</td><td>3.4m - 4.6m</td><td>46.3m²</td></tr><tr><td>9</td><td>2.2m – 3.5m</td><td>25.3m²</td></tr><tr><td>10</td><td>3.4m – 4.6m</td><td>48.6m²</td></tr><tr><td>11</td><td>2.8m – 3.4m</td><td>25.3m²</td></tr><tr><td>12</td><td>2.8m – 3.4m</td><td>25.3m²</td></tr><tr><td>13</td><td>2.8m – 3.8m</td><td>64.4m²</td></tr><tr><td>14</td><td>2.8m – 4.4m</td><td>85.5m²</td></tr><tr><td>15</td><td>2.2m</td><td>9.2m²</td></tr><tr><td>16</td><td>2.0m – 3.4m</td><td>33.5m²</td></tr><tr><td>17</td><td>2.0m – 3.4m</td><td>25.3m²</td></tr><tr><td>18</td><td>2.6m</td><td>21.2m²</td></tr><tr><td>19</td><td>3.8m – 4.8m</td><td>84.4m²</td></tr></table> <p>It is noted that Apartment Nos. 2, 9, 15, 16 and 17 have minimum dimensions which are less than the required 2.5m. A condition is included in the Recommendation of this report to increase the minimum dimensions to comply.</p> <p>Subject to addressing the imposed conditions, the application is considered capable of satisfying the provisions of this General Principle.</p>	Apartment	Balcony Dimension	Area	1	3.4m - 3.4m	40.3m ²	2	2.2m - 3.5m	25m ²	3	3.4m - 4.6m	45.6m ²	4	2.5m – 3.4m	25.3m ²	5	2.5m – 3.4m	25.3m ²	6	2.8m – 4.8m	58.3m ²	7	2.8m – 4.8m	75.7m ²	8	3.4m - 4.6m	46.3m ²	9	2.2m – 3.5m	25.3m ²	10	3.4m – 4.6m	48.6m ²	11	2.8m – 3.4m	25.3m ²	12	2.8m – 3.4m	25.3m ²	13	2.8m – 3.8m	64.4m ²	14	2.8m – 4.4m	85.5m ²	15	2.2m	9.2m ²	16	2.0m – 3.4m	33.5m ²	17	2.0m – 3.4m	25.3m ²	18	2.6m	21.2m ²	19	3.8m – 4.8m	84.4m ²	Yes Subject to condition.
Apartment	Balcony Dimension	Area																																																													
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19	3.8m – 4.8m	84.4m ²																																																													
CL65 Privacy	Yes	<p>Clause 65 requires that development is not to cause unreasonable direct overlooking of habitable rooms and principal private open spaces of other dwellings.</p> <p>In particular:</p> <ul style="list-style-type: none">the windows of one dwelling are to be located so they do not provide direct and close views (ie from less than 9 metres away) into the windows of other dwellings, andplanter boxes, louvre screens, pergolas, balcony design and the like are to be used to screen a minimum of 50% of the principal private open space of a lower apartment from overlooking from an upper apartment. <p><u>Comment:</u></p> <p>Levels 2 and 3 in Blocks A, B and C accommodate the residential elements of the development which are setback from the rear boundary by 5.2m to 7.2m from the south facing balconies and by 8.0m to 12.0m from the south facing windows.</p> <p>The development also includes a substantial area of landscaped open space along the rear boundary which will provide an appropriate depth of planting to reasonably preserve the privacy of neighbouring land in conjunction with the physical separation provided.</p>	Yes																																																												

General Principles	Applies	Comments	Compliant
		Given the proposed setbacks and provision of the landscaped buffer, It is considered that the development does not present unreasonable overlooking opportunities into the neighbouring residential properties along Undercliff Road.	
CL66 Building bulk	Yes	<p>Clause 66 requires structures not to dominate the street or surrounding spaces and to have progressive setbacks for side and rear boundaries.</p> <p><u>Comment:</u></p> <p>The development has been designed to respond to the topography of the site which slopes downwards in a diagonal direction from the south-western corner to the north-eastern corner by stepping down Lawrence Street in a series of blocks.</p> <p>The proposed building heights are generally compliant with the Building Height Built Form Control under WLEP 2000 and with the Height of Buildings Development Standard under WLEP 2011, with exception to minor encroachments in the overall height.</p> <p>The development also includes approximately 435m² (16.8%) of deep soil landscaped open space along the rear boundary which will soften the overall appearance of the development while providing a defining but sympathetic buffer between the higher intensity mixed-use area and the lower intensity residential area.</p> <p>In addition to the above, the development includes recessed verandahs at ground floor and balconies at the upper levels, the progressive setting back of the upper-most residential levels and the incorporation of a muted schedule of colours and finishes.</p> <p>The combination of the above features results in a development which achieves an appropriate urban form that is considered to relate favourably in architectural bulk and scale to the streetscape and neighbouring mixed-use and residential land uses.</p>	Yes
CL67 Roofs	Yes	<p>Clause 67 requires that roofs are to complement the local skyline. Lift overruns and other mechanical equipment is not to detract from the appearance of roofs.</p> <p><u>Comment:</u></p> <p>The development provides butterfly roofs which will not be readily visible from the street due to the setbacks to the third storey above ground level. No features will be located on the roof beyond a lift over run and light well openings which are not considered be detrimental to the design of the building or to any views. Irrespective, conditions are proposed to detail the colour and reflectivity.</p> <p>Subject to addressing the imposed conditions, the application is considered capable of satisfying the provisions of this General Principle.</p>	Yes Subject to condition.
CL68 Conservation of Energy and Water		<p>CL 68 requires a development to make the most efficient use of energy and water. In particular:</p> <ul style="list-style-type: none"> The buildings within the development have been orientated to maximise the provision of landscaping, solar access and natural ventilation. The development achieves compliant above-ground setbacks and overall building heights to permit reasonable solar access to neighbouring sites (in accordance with CL 62 of WLEP 2000). The landscape design assists in the conservation of energy and water through the planting of native species of various heights and canopy densities. 	Yes Subject to condition.

General Principles	Applies	Comments	Compliant
		<p>A BASIX certificate for Multi Dwelling has been submitted with the application (see Certificate No. 369955M dated 13 October 2011). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 62536272 dated 13 October 2011).</p> <p>The BASIX Certificate indicates that the development will achieve the required targets.</p> <p>A condition has been included in the Recommendation of this report requiring compliance with the requirements of the applicable BASIX Certificate.</p> <p>Subject to addressing the imposed conditions, the application is considered capable of satisfying the provisions of this General Principle.</p>	
CL69 Accessibility – Public and Semi-Public Buildings	Yes	<p>Clause 69 requires that the siting, design and construction of premises available to the public are to ensure an accessible continuous path of travel, so that all people can enter and use the premises. Such access is to comply with the requirements of the <u>Disability Discrimination Act 1992</u> of the Commonwealth and with Australian Standard AS 1428.2—1992, Design for access and mobility—Enhanced and additional requirements—Buildings and facilities.</p> <p><u>Comment:</u></p> <p>The Development Application includes an Access Report dated 13 October 2011 as prepared by Accessibility Solutions (NSW) Pty Ltd which concludes the following:</p> <ul style="list-style-type: none"> • “The common domain ramped accessways to the retail /commercial areas on the ground floor, lift lobby, lifts and designated parking will provide appropriate access for people with disabilities in accordance with Part D3 of the BCA 2011 and Council’s WLEP Clause 69; and • The lifts provide access between all building levels and to all commercial/retail tenancies and all apartments in a manner that will satisfy Part D3.3 and Part E3.6 of the BCA 2011 and Council’s WLEP Clause 69; and • The 2400mm width + 2400mm shared area accessible parking spaces facilitate easy access for dual transfers or vehicles with side-loading ramps and hoists which complies with AS2890.6 to satisfy Part D3.5 of the BCA 2011; and • There will be 100% wheelchair access to all 19 apartment entrances consistent with Table D3.1 of the BCA 2011, SEPP 65 and SEPP 65 Design Code, WLEP Clause 69; and • That 10% of apartments – two (2) of nineteen (19) will be adaptable to comply with AS4299, which is consistent with SEPP 65 and the SEPP 65 Design Code. <p>Therefore, given the degree of access to the retail/commercial areas, common domain residential amenities, wheelchair access to 100% of apartments and adaptability of 10% of apartments I conclude that the development satisfies the accessibility provisions of the BCA 2011, DDA Premises Standards and relevant Council WLEP Clause 69 and SEPP 65.”</p> <p>Notwithstanding, conditions will be imposed which require compliance with AS 1428.2 – 1992 ‘Design for Access and Mobility and the recommendations included within the Access Report.</p> <p>Subject to addressing the imposed conditions, the application is considered capable of satisfying the provisions of this General Principle.</p>	Yes Subject to condition

General Principles	Applies	Comments	Compliant
CL70 Site facilities	Yes	<p>Clause 70 requires that site facilities including garbage and recycling bin enclosures, mailboxes and clothes drying facilities are to be adequate and convenient for the needs of users and are to have minimal visual impact from public places.</p> <p><u>Comment:</u></p> <p>The development incorporates centralised garbage and recycling bin enclosures adjacent to the loading dock area at Level 1 in Block D.</p> <p>The residential garbage room is located at Basement level 1 and is accessed via the lifts and internal ramp. Residential garbage bins will then be moved to the centralised garbage bin enclosure in Block D by a private contractor to be collected by Council.</p> <p>Commercial waste (including food waste) is deposited directly in the retail/commercial garbage room located at Level 1 in Block D to be collected by a private waste contractor.</p> <p>Mail boxes are located within the ground floor residential lobbies. Separate clothes drying facilities are not provided due to the limitations of the site.</p> <p>The application is considered to satisfy the provisions of this General Principle.</p>	Yes
CL71 Parking facilities (visual impact)	Yes	<p>Clause 71 requires that parking facilities (including garages) are to be sited and designed so as not to dominate the street frontage or other public spaces.</p> <p><u>Comment:</u></p> <p>All on-site car parking is located within the basement level, as such, the proposed car park, with one access/egress point off Lawrence Street, will have no unreasonable visual impact.</p> <p>The application is considered to satisfy the provisions of this General Principle.</p>	Yes
CL72 Traffic access & safety	Yes	<p>Clause 72 requires that vehicle access points for parking, servicing or deliveries, and pedestrian access, are to be located in such a way as to minimise:</p> <ul style="list-style-type: none"> • traffic hazards, and • vehicles queuing on public roads, and • the number of crossing places to a street, and • traffic and pedestrian conflict, and • interference with public transport facilities. <p>Where practical, vehicle access is to be obtained from minor streets and lanes.</p> <p><u>Comment:</u></p> <p>The development proposes vehicular access/egress via a crossover onto Lawrence Street which forms a main thoroughfare through Freshwater Village. As a result, primary concern was raised in all submissions received in objection to the proposal with regards to vehicle/pedestrian conflict and traffic congestion on Lawrence Street. State Transit also raised concern with regards to potential conflict with bus services due to the proximity of the indented bus bay on Lawrence Street.</p> <p>These matters have been addressed elsewhere in this report (refer to 'Public Exhibition') but, in summary, it was found that:</p> <ul style="list-style-type: none"> • With the traffic calming effect of the in situ pedestrian crossing and applied driveway design features, it is considered that preservation of pedestrian safety has been appropriately addressed. 	Yes Subject to condition

General Principles	Applies	Comments	Compliant
		<ul style="list-style-type: none"> The additional traffic volume at normal peak times is considered to be relatively low and the traffic generated by this development, in conjunction with the Level of Service and Degrees of Saturation at all three intersections, will not have a significant adverse impact on the existing road network. The proposed length of the indented bay will be 4.0m shorter than required to adequately service articulated bus movements and, in this regard, an appropriate is included in the Recommendation of this report which requires that the development must meet the geometric requirements of the State Transit Authority for bus access to the indented bus bay. <p>Subject to addressing the imposed conditions, the application is considered capable of satisfying the provisions of this General Principle.</p>	
CL73 On-site Loading and Unloading	Yes	<p>Clause 73 requires that facilities for the loading and unloading of service, delivery and emergency vehicles are to be appropriate to the size and nature of the development. On-site facilities are to be screened from public view and designed so that vehicles may enter and leave in a forward direction.</p> <p><u>Comment:</u></p> <p>The development incorporates the main loading dock into the ground level of Block D which is accessed from Dowling Street.</p> <p>The dock has been designed to accommodate a medium rigid vehicle (MRV) which will be manoeuvred within the dock area on a turntable to enable the vehicle to enter and leave the site in a forward direction. The dock is enclosed within the main building envelope and will be screened from public view through a sliding door.</p> <p>Council's Traffic Engineer has imposed a condition which requires the turntable to be designed to accommodate MRVs.</p> <p>Due to its proximity to the residential area, a condition requiring time restrictions on the loading and unloading of vehicles is considered to be appropriate.</p> <p>Both conditions are included in the Recommendation of this report and, subject to addressing the imposed conditions, the application is considered capable of satisfying the provisions of this General Principle.</p>	Yes Subject to recommendation
CL74 Provision of Car parking	Yes	<p>Clause 74 requires that adequate off-street carparking is to be provided within the subject property boundaries in accordance with the use provisions of Schedule 17 in WLEP 2000 (refer to Schedule 17 in this report for discussion on reciprocal car parking) and having regard to:</p> <ul style="list-style-type: none"> <i>the land use.</i> <p><u>Comment:</u></p> <p>The development includes a number of residential and non-residential land uses. The car parking for the residential land uses are dedicated within a separate car park and provide a surplus amount of visitor car parking (+7.6 spaces). The non-residential land uses operate during different hours of the day/evening and therefore qualify for dual use/reciprocal car parking (refer to Schedule 17 in this report for further discussion).</p> <ul style="list-style-type: none"> <i>the hours of operation.</i> <p>The non-residential land uses operate under a reciprocal car parking arrangement due to the differing hours of operation between the various permitted uses (refer to Schedule 17 in this report for further discussion).</p>	Yes

General Principles	Applies	Comments	Compliant
		<ul style="list-style-type: none"> <i>the availability of public transport.</i> <p>The site is serviced by a frequent public transport route which runs along Lawrence Street in both an eastern and western direction.</p> <ul style="list-style-type: none"> <i>the availability of alternative carparking.</i> <p>The area includes two public car parks which accommodate 56 spaces. The availability of on-street car parking increases the provision of public car parking to approximately 90 spaces.</p> <ul style="list-style-type: none"> <i>the need for parking facilities for courier vehicles, delivery/service vehicles and bicycles.</i> <p>A dedicated loading dock is located on Dowling Street which can accommodate small to medium rigid vehicles.</p> <p>The application is considered to satisfy the provisions of this General Principle.</p>	
CL75 Design of Car parking Areas	Yes	<p>Clause 75 requires that the design of car parking areas is to be provided in accordance with the most recent "Guide to Traffic Generating Developments" (NSW Roads and Traffic Authority).</p> <p><u>Comment:</u></p> <p>The car park has been generally laid out in a satisfactory manner in that the proposal has allowed for appropriate manoeuvring for vehicles. In this regard it is considered that the proposed car parking area is designed to adequately accommodate the development.</p> <p>Whilst Council's Traffic Engineer raises no objection to the proposal, a condition is included in the Recommendation of this report which requires that the proposed driveway, parking aisles and car spaces are to conform with Australian Standard AS/NZS 2890.1- 2004.</p> <p>Subject to addressing the imposed conditions, the application is considered capable of satisfying the provisions of this General Principle.</p>	Yes Subject to condition
CL76 Management of Stormwater	Yes	<p>Clause 76 requires that stormwater runoff from development is to discharge to a Council drainage system approved by the Council for the purpose and is to have minimal impact on any receiving stormwater infrastructure, watercourse, stream, lagoon, lake, waterway or the like. Water quality control measures are to be provided in accordance with the Northern Beaches Stormwater Management Plan.</p> <p><u>Comment:</u></p> <p>Council's Development Engineer has assessed the Development Application and does not raise any objection subject to conditions which are included in the Recommendation of this report.</p> <p>Subject to addressing the imposed conditions, the application is considered capable of satisfying the provisions of this General Principle.</p>	Yes Subject to condition
CL77 Landfill	No	Not applicable.	Not applicable.
CL78 Erosion & Sedimentation	Yes	<p>Clause 78 requires that development is to be sited and designed, and related construction work carried out, so as to minimise the potential for soil erosion.</p> <p><u>Comment:</u></p> <p>Appropriate conditions associated with management of erosion and sedimentation have been included in the Recommendation of this report.</p>	Yes Subject to condition

General Principles	Applies	Comments	Compliant
		Subject to addressing the imposed conditions, the application is considered capable of satisfying the provisions of this General Principle.	
CL79 Heritage Control	Yes	Refer to Clause 82 below.	Yes
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	No	Not applicable.	Not applicable.
CL81 Notice to Heritage Council	No	Not applicable.	Not applicable.
CL82 Development in the Vicinity of Heritage Items	Yes	<p>Clause 82 requires that development in the vicinity of heritage items or heritage conservation areas is to complement the character of the heritage item or buildings of heritage significance within that area in terms of its architectural style, scale, setback, siting, external materials, finishes, colours and setting. Significant views to and from heritage items or heritage conservation areas, are not to be adversely affected.</p> <p><u>Comment:</u></p> <p>Council's Heritage Officer has assessed the Development Application and does not raise any objection nor impose any conditions.</p>	Yes
CL83 Development of Known or Potential Archaeological Sites	No	Not applicable.	Not applicable.

Other relevant WLEP 2000 Clauses

Clause 13 - 'To what extent should neighbouring Locality Statements be considered?'

Clause 13 requires that, before granting consent for development within a locality, the consent authority must consider the provisions of a Locality Statement applying to a neighbouring locality if the extent to which they should be considered is specifically described in the Locality Statement for the locality in which the development is proposed.

The site abuts the H1 Freshwater Beach locality. The Desired Future Character statement for the locality states:

"The Freshwater Beach locality will remain characterised by detached style housing in landscaped settings interspersed by existing apartment style housing and a range of complementary and compatible uses."

Comment:

The development is located within the H2 Harbord Village locality which is a commercial/mixed-use precinct surrounded by the H1 Freshwater Beach locality. In this regard, the development has been designed to provide an appropriate visual transition between localities. This is achieved through the design of the upper residential levels, building separations and the siting of the building such that it achieves a height and scale which is consistent with the height and scale of the residential buildings to the south along Undercliff Road.



"Future development will maintain the visual pattern and predominant scale of existing detached style housing in the locality except for the Harbord Diggers Club. The streets will be characterised by landscaped front gardens and consistent front building setbacks. Unless exemptions are made to the housing density standard in this locality statement, any subdivision of land is to be consistent with the predominant pattern, size and configuration of existing allotments in the locality."

Comment:

The development will maintain the mixed-use character of the neighbouring H2 Harbord Village locality but, through the design of the upper residential levels, the development will be consistent with the visual pattern and predominant scale of existing detached style housing when viewed from the neighbouring residential properties located in the H1 Freshwater Beach locality to the rear (ie: to the south)

"The locality contains hillsides and elevated landforms, prominent coastal headlands and cliffs and remnant vegetation. These elements will be protected from development that would detract from their visual and natural qualities, presenting in some parts of the locality a constraint to further development."

Comment:

The development is sited such that it appropriately addresses the topography of the land. No significant landforms such as prominent coastal headlands and cliffs are located on or near the site and no remnant vegetation will be impacted.

"The Harbord Diggers Club will continue to cater for the recreational and leisure needs of the community. If the existing approved building and carparking areas are to be expanded, regard must be had to any approved and detailed masterplan for the site. Such a masterplan is to address issues such as views, visual impact, natural features, management of traffic and impact upon the amenity of the locality."

Comment:

The development is not situated on or near the Harbord Diggers Club.

"The locality will continue to be served by the existing local retail centre shown on the map. Future development in this centre will be in accordance with the general principles of development control provided in clause 39."

Comment:

The locality is not served by an existing local retail centre. Notwithstanding, the locality is served by adjacent Freshwater Village and the development will maintain this service.

SCHEDULES

Schedule 8 - Site analysis

Clause 22(2)(a) of WLEP 2000 requires that the consent authority must consider a Site Analysis prepared in accordance with the criteria listed in Schedule 8.

It is considered that the submitted Site Analysis, in conjunction with the Statement of Environmental Effects (as prepared by LJB Urban Planning Pty Ltd dated October 2011) adequately addresses how the development responds to its surrounds and the locality.



Schedule 17 – Car parking Provision

The development provides the following on-site car parking:

Use	Schedule 17 Calculation	Required	Provided	Difference
Residential 1 Bedroom 2 Bedroom 3 Bedroom Visitor	1 space/dwelling 1.2 spaces/dwelling 1.5 spaces/dwelling 4 spaces/5 dwellings	9 x 1 = 9 spaces 8 x 1.2 = 9.6 spaces 2 x 1.5 = 3 spaces 1/5 units = 3.8 spaces	29 spaces 4 spaces	
Residential Subtotal		25.4 spaces	33 spaces	+7.6 spaces
Shop	1 space/16.4m ² GLFA	927.2m ² /16.4m ² GLFA = 56.5 spaces	153 spaces	
Restaurant	15 spaces/100m ² GFA or 1 space/3 seats (whichever greater)	669.6m ² /100m ² GFA x 15 spaces = 100.4 spaces		
Business Premises	1 space/40m ² GFA excluding customer service/access areas plus for customer service/access areas 1 space/16.4m ² GFA	1,045m ² /40m ² GFA = 26.1 spaces 58m ² /16.4m ² GFA = 3.5 spaces		
Office Premises	1 space/40m ² GFA	See note below		
Non-Residential Subtotal		186.5 spaces	153 spaces	- 33.5 spaces
Total		212 spaces	186 spaces	- 26 spaces

Note: The Office Premises rate does not exclude customer access areas. The plans submitted have provided for customer service/access areas so the calculations for Office Premises are based upon the Business Premises rate.

It is noted that the Traffic and Parking Assessment Report dated 12 October 2012 as prepared by Varga Traffic Planning Pty Ltd calculates the total required car parking as 193.4 spaces which represents an overall difference of 18.3 spaces. Apart from minor variations in the calculation of floor space, this difference is essentially based upon the consulting Traffic Engineer's use of the RTA rates for retail development under Section 5 of the Guide to Traffic Generating Development which enables a parking rate of 4.5 spaces per 100m² GFA and a resulting shortfall of 7.4 car parking spaces. The use of the RTA rate for retail development is not accepted by Council's Traffic Engineer and the shortfall of 26 car parking spaces is maintained.

Notwithstanding, the consulting Traffic Engineer notes in the Traffic and Parking Assessment Report dated 12 October 2011 (refer to Pages 32 and 33 of that report) that, because of the mixed use nature of the development, the potential exists for dual usage (or 'reciprocal' car parking) of the non-residential parking spaces, in particular between the business/office/shop components and the restaurant components. Using the same methodology as the consulting Traffic Engineer (refer to Page 33 of the Traffic and Parking Assessment Report) and applying Council's calculated rates as required by Schedule 17, it can be seen that the following car parking demands are required during the lunch-time and evening periods:

Use	Total Required	Lunch-Time Parking Demands	Evening Parking Demands	Evening Parking Demands (Peak)
Residential	21.6 spaces	21.6 spaces	21.6 spaces	21.6 spaces
Visitors	3.8 spaces	3.8 spaces	3.8 spaces	3.8 spaces
Shop	56.5 spaces	56.5 spaces	Closed	56.5 spaces
Restaurant	100 spaces	50 spaces	100 spaces	100 spaces
Business Premises/Office	29.6 spaces	29.6 spaces	Closed	Closed
Total Required	212 spaces	162 spaces	126 spaces	182 spaces
Total Provided	186 spaces			
Difference	- 26 spaces	+ 24 spaces	+ 60 spaces	+ 4 spaces

The lunchtime surplus is based on a 50% occupancy rate of restaurants. Up to 75% lunchtime occupancy can be accommodated with the proposed parking provision which assumes 100% occupancy rates for the shop and business/office uses during this time. The evening surplus is based on the regular closing times for shop/business/office uses.

Clause 74 WLEP 2000 requires that adequate off-street car parking is to be provided within the subject property boundaries in accordance with the use provisions of Schedule 17 and having regard to:

- *the land use.*

Comment:

As seen in the table above, the development includes a number of residential and non-residential land uses. The car parking for the residential land uses are dedicated within a separate car park and provide a surplus amount of visitor car parking (+7.6 spaces). The non-residential land uses operate during different hours of the day/evening and therefore qualify for dual use/reciprocal car parking.

- *the hours of operation.*

The non-residential land uses will operate under a reciprocal car parking arrangement due to the differing hours of operation between the various permitted uses.

- *the availability of public transport.*

The site is serviced by a frequent public transport route which runs along Lawrence Street in both an eastern and western direction.

- *the availability of alternative carparking.*

The area includes two public car parks which accommodate 56 spaces. The availability of on-street car parking increases the provision of public car parking to approximately 90 spaces.

- *the need for parking facilities for courier vehicles, delivery/service vehicles and bicycles.*

A dedicated loading dock is located on Dowling Street which can accommodate small to medium rigid vehicles.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan 2006

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Warringah Section 94A Development Contributions Plan		
Contribution based on total development cost of		
	\$	12,112,500.00
Contribution - all parts Warringah	Levy Rate	Contribution Payable
Total S94A Levy	0.95%	115,069
S94A Planning and Administration	0.05%	6,056
Total	1.0%	\$121,125

A condition has been included in the recommendation of this report to ensure that the required contributions are paid prior to the issue of the Construction Certificate

OTHER MATTERS

Draft Freshwater Village Development Control Plan

The Draft Freshwater Village Development Control Plan was referred to Council on 14 February 2012 where it was resolved to place the Draft DCP on public exhibition. Following the public exhibition period, the Draft DCP is anticipated to be referred back to Council in May 2012. If adopted, the Draft DCP will become Part G5 of WDCP 2011.

Section 79C(1)(iii) under the Environmental Planning and Assessment Act, 1979 requires Council to take into consideration any Development Control Plan. In this regard, the Draft DCP has not been adopted and, subsequently, is not an operative document.

Additionally, as noted earlier in this report, this Development Application was lodged on 4 October 2011 and is therefore subject to assessment under the provisions of Clause 1.8A 'Savings provision relating to development applications' of WLEP 2011.

Council is therefore not required to consider the Draft DCP for this Development Application.

CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, the provisions relevant Environmental Planning Instruments including Warringah Local Environment Plan 2000, Warringah Local Environmental Plan 2011 and the relevant codes and policies of Council.

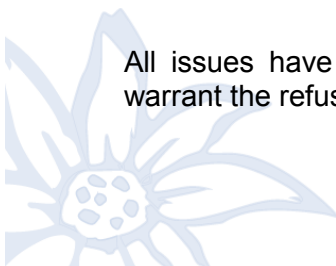
In summary, the assessment of the Development Application found that:

Submissions

The application was notified to 408 adjoining and nearby landowners and occupiers and attracted 48 submissions were received which includes three (3) in support and 45 in objection. The submissions objecting to the proposal raised the following issues:

- Traffic access/egress and pedestrian safety;
- Inadequate provision of car parking;
- Increased traffic on Lawrence Street;
- Location of the loading dock on Dowling Street;
- Non-compliance with the Building Height Built Form Control;
- Non-compliance with the Front Setback Built Form Control;
- Use of first floor for businesses;
- Incompatibility with the character of the area;
- Removal of outdoor dining pods;
- Proximity to electromagnetic field (EMF); and
- Impact upon hydrology.

All issues have been addressed in this report (see 'Public Exhibition') and were found to not warrant the refusal of the application.



Referrals

All recommendations and matters for consideration pertaining to the development Application raised by external and internal referral bodies have been included in the Recommendation of this report.

Environmental Planning Instruments

The development has been found to be consistent with the Matters for Consideration under s.79C of the Environmental Planning & Assessment Act, 1979.

The development has been found to be consistent with the various provisions of the following Environmental Planning Instruments:

- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy No. 64 – Advertising and Signage;
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development; and
- State Environmental Planning Policy (Infrastructure) 2007.

Additionally, the assessment also found that the development is consistent with the zoning Objectives of WLEP 2011.

Desired Future Character

The development has been found to be consistent with the Desired Future Character of the H2 Harbord Village locality.

Built Form Controls

The assessment found that the development does not comply with the Building Height and Front Setback Built Form Controls. The merit assessment of the non-compliance against the objectives of the Controls found that the non-compliances were reasonable and acceptable given the site constraints imposed and the resultant impacts and does not represent an overdevelopment of the site.

The non-compliances have been considered supportable under Clause 20 variations.

General Principles of Development Control

The development has been assessed under the General Principles of Development Control and was found to be generally compliant and consistent or capable of complying subject to conditions.

Schedules

The development has been assessed under 'Schedule 8 – Site Analysis' and 'Schedule 17 - Carparking Provision'.

The car parking provision was found to be acceptable based upon the reciprocal car parking arrangement which is achievable through the mixed commercial uses within the development.

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed and that the Consent Authority approve the application subject to the conditions included within the "Recommendation" section of this report.



RECOMMENDATION - APPROVAL

That the Warringah Development Assessment Panel approve Development Application No. 2011/1361 for demolition works and construction of a mixed use (commercial and residential) building, subdivision (stratum and strata) and signage at Lot 1 in DP 595422, No. 10 Lawrence Street; Lot 45 in DP 974653, No. 16 Lawrence Street; Lot 1 in DP 578401, No. 20 Lawrence Street; Lot 1 in DP 100563, No. 22 Lawrence Street; and Lot 1 in DP 900061, No. 28 Lawrence Street, Freshwater subject to the following conditions

DEFERRED COMMENCEMENT CONDITIONS

This consent must not operate until the following deferred commencement conditions have been satisfied.

1. Stormwater disposal

The stormwater drainage plans are to be submitted to Council for assessment and approval. The drainage plans must detail the following:

- A. An engineering longitudinal section through the outlet pipe from the OSD tank to the connection into the Council system must be provided. This longsection is to show design invert levels, finished surface levels of the proposed access ramp, pipes size, design flows, all utility services that may cross the line and a hydraulic grade line.

Note: It is the responsibility of the Applicant to provide full details of all relevant services that may conflict with the proposed OSD system(s) and stormwater lines. The exact locations of any crossings or connections are to be shown.

- B. Details of how upstream catchment surface flows must be directed around the OSD system are to be provided. Refer to section 4.6 of Council's Onsite Stormwater Detention Technical Specification.
- C. At least two (2) complete sections through the detention tank showing all dimensions must be shown on the plan. This is to include internal dimensions of the OSD tank, all finished surface levels in relation to adjoining properties, proposed and existing buildings, wall details, high early discharge chamber details, overflow weir details, structural requirements of the OSD tank, step irons, etc.

Reason: To ensure adequate provision is made for stormwater drainage from the site. (Special condition)

2. Vehicular access

The applicant must use Council's standard 'Normal' driveway profile for each vehicle crossing fronting Dowling Street and Lawrence Street. In this regard, the applicant is to provide engineering longitudinal sections (showing existing and proposed levels) on both sides of the two driveways to demonstrate that the internal proposed levels can be achieved with appropriate transitions. The property boundary levels shall match the existing levels. All transitions must be within the subject site and in accordance with AS2890.1:2004.

Reason: To ensure suitable vehicular access to private property. (Special condition)



Evidence required to satisfy this condition must be submitted to Council within five (5) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

GENERAL CONDITIONS

CONDITIONS THAT IDENTIFY APPROVED PLANS

3. 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:

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA01(A) Site Analysis & Roof Plan	19/10/2011	PBD Architects & Project Managers Pty Ltd
DA02(A) Basement Carpark Level 3 Plan	19/10/2011	PBD Architects & Project Managers Pty Ltd
DA03(A) Basement Carpark Level 2 Plan	19/10/2011	PBD Architects & Project Managers Pty Ltd
DA04(A) Basement Carpark Level 1 Plan	19/10/2011	PBD Architects & Project Managers Pty Ltd
DA05(A) Lower Ground Floor Plan	19/10/2011	PBD Architects & Project Managers Pty Ltd
DA06(A) Ground Floor Plan	19/10/2011	PBD Architects & Project Managers Pty Ltd
DA07(A) Level 01 Plan	19/10/2011	PBD Architects & Project Managers Pty Ltd
DA08(A) Level 02 Plan	19/10/2011	PBD Architects & Project Managers Pty Ltd
DA09(A) Level 03 Plan	19/10/2011	PBD Architects & Project Managers Pty Ltd
DA10(A) North and South Elevation	19/10/2011	PBD Architects & Project Managers Pty Ltd
DA11(A) West Elevation & Section A-A	19/10/2011	PBD Architects & Project Managers Pty Ltd
DA12(A) Section B-B & Section C-C	19/10/2011	PBD Architects & Project Managers Pty Ltd
01 Schedule of Colours	19/10/2011	PBD Architects & Project Managers Pty Ltd
02 Schedule of Materials/Finishes	19/10/2011	PBD Architects & Project Managers Pty Ltd
04 Alfresco Dining	19/10/2011	PBD Architects & Project Managers Pty Ltd
03a Signage	19/10/2011	PBD Architects & Project Managers Pty Ltd
03b Signage Location Plan	19/10/2011	PBD Architects & Project Managers Pty Ltd
05 Carpark Entry	19/10/2011	PBD Architects & Project Managers Pty Ltd

Subdivision Plans - Endorsed with Council's stamp		
Drawing Number	Dated	Prepared By
15478 Stratum Location Plan	17/10/2011	Bee & Lethbridge Pty Ltd
15478 Stratum Basement Level 3	17/10/2011	Bee & Lethbridge Pty Ltd
15478 Stratum Basement Level 2	17/10/2011	Bee & Lethbridge Pty Ltd
15478 Stratum Basement Level 1	17/10/2011	Bee & Lethbridge Pty Ltd
15478 Stratum Lower Ground Floor	17/10/2011	Bee & Lethbridge Pty Ltd
15478 Stratum Ground Floor	17/10/2011	Bee & Lethbridge Pty Ltd
15478 Stratum First Floor	17/10/2011	Bee & Lethbridge Pty Ltd
15478 Stratum Second Floor	17/10/2011	Bee & Lethbridge Pty Ltd
15478 Stratum Third Floor	17/10/2011	Bee & Lethbridge Pty Ltd
15478 SP Location Plan	17/10/2011	Bee & Lethbridge Pty Ltd
15478 SP Basement Level 1	17/10/2011	Bee & Lethbridge Pty Ltd
15478 SP First Floor	17/10/2011	Bee & Lethbridge Pty Ltd
15478 SP Second Floor Plan	17/10/2011	Bee & Lethbridge Pty Ltd



Reports/Documentation		
Report	Dated	Prepared By
Geotechnical Investigation	31/03/2011	Geotechnique Pty Ltd
Hydrological Report	8 April 2011	Coffey Geotechnics Pty Ltd
Preliminary Contamination Assessment	15/04/2011	Geotechnique Pty Ltd
BCA Assessment Report	11/10/2011	Building Code Assistance - Peter Dix
Access Report	13/10/2011	Accessibility Solutions (NSW) Pty Ltd
Acoustic Report TF538-01F02 (REV 0)	11/11/2011	Renzo Tonin & Associates
Any documentation submitted (and endorsed by Council) to satisfy a Deferred Commencement Condition requirement is to be fully complied with.		

No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

The development is to be undertaken generally in accordance with the following:

Landscape Plans - Endorsed with Council's stamp		
Drawing Number	Dated	Prepared By
621.01(E) Landscape Plan Ground Level	12/10/2011	Tramonte Jensen
621.02(E) Landscape Plan Upper Levels	12/10/2011	Tramonte Jensen

Waste Management Plan - Endorsed with Council's stamp		
Plan Number	Dated	Prepared By
Waste Management Plan	October 2011	PBD Architects & Project Managers Pty Ltd

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

4. Compliance with External Department, Authority or Service Requirements

The development must be carried out in compliance with the following:

External Department, Authority or Service	E-Services Reference	Dated
Ausgrid	Referral response - Ausgrid	26/10/2011
NSW Office of Water	Referral response – NSW Office of Water	23/12/2011
NSW Police	Referral response – NSW Police	24/11/2011
State Transit Authority	Referral response - STA	10/02/2012

(**Note:** For a copy of the above referenced document/s, please see Council's 'E-Services' system at www.warringah.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of External Department, Authority or Bodies. (DACPLB02)

5. No Approval for any Signage above the parapet/roof line

No approval is granted under this Development Consent for the erection of any business identification signage located above the roof/parapet line. All signage above the roof/parapet shall be deleted.

Reason: Compliance with Schedule 4 of Warringah Local Environment Plan 2000. (DACPLB07)



6. Prescribed Conditions

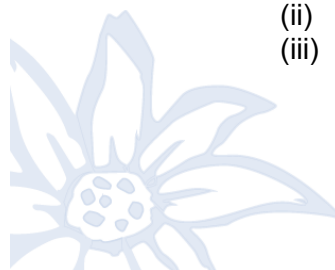
- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications 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. (DACPLB09)

7. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

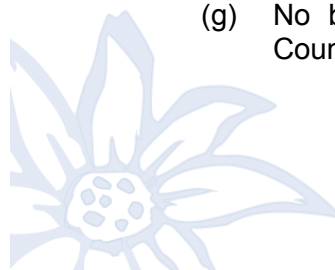
7.00 am to 5.00 pm inclusive Monday to Friday
8.00 am to 1.00 pm inclusive on Saturday,
No work on Sundays and Public Holidays.

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 shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.



- (h) All sound producing plant, equipment, machinery or fittings and uses will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) 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.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

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

8. Section 94A Contributions

The Section 94A Contributions are required to be paid for this development. This amount has been calculated using the Warringah Section 94A Development Contributions Plan. The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index).

The basis for the contributions is as follows:

Warringah Section 94A Development Contributions Plan		
Contribution based on total development cost of		\$ 12,112,500.00
Contribution - all parts Warringah	Levy Rate	Contribution Payable
Total S94A Levy	0.95%	115,069
S94A Planning and Administration	0.05%	6,056
Total	1.0%	\$121,125

Details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To retain a level of service for the existing population and to provide the same level of service for the population resulting from new development. (DACPLC01)

9. 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. (DACPLC02)

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'**
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (j) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (k) AS 1428.1 - 2009* Design for access and mobility - General requirements for access - New building work**
- (l) AS 1428.2 - 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

***Note:** The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website: http://www.humanrights.gov.au/disability_rights/buildings/good.htm

****Note:** the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to.

10. External Colours and Materials

(a) External Glazing

The reflectivity index of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20% (expressed as a per centum of the reflected light falling upon any surface).

(b) External Roofing

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

(c) Anti Graffiti Coating

The finishes of the walls adjoining Lawrence Street and Dowling Street must be finished in heavy duty long life, ultra violet resistant coating with a high resistance to solvents and chemicals as an anti-graffiti coating easily cleaned by solvent wipe.

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

Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development. (DACPLC04)

11. Sewer/Water Quickcheck

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:



- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

12. Bonds

(a) 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.

(b) Construction, Excavation and Associated Works Bond (Pollution)

A Bond of \$5,000 as security to ensure that there is no transmission of material, soil etc off the site and onto the public road and/or drainage systems.

(c) Construction, Excavation and Associated Works Bond (Failure to Remove Waste)

A bond of \$10,000 as security against damage to Council's road(s) fronting the site caused by the transport and disposal of materials and equipment to and from the 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.

Reason: To ensure adequate protection of Council infrastructure. (DACENC01)

13. On-site Stormwater Detention Compliance Certification

Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Warringah Council's "On-site Stormwater Detention Technical Specification" and the approved concept stormwater drainage plan.

Details demonstrating compliance are to be submitted to the Certifying Authority 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. (DACENC03)

14. Pump-Out System Design for Stormwater Disposal

The design of the pump-out system for stormwater disposal will be permitted for drainage of basement areas only, and must be designed in accordance with Council's Stormwater Drainage Policy. Engineering details demonstrating compliance with this requirement and certified by an appropriately qualified and practising hydraulic engineer.



Details demonstrating compliance are to be submitted to the 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. (DACENC04)

15. 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 rock anchors are to be used within Council land.

Details demonstrating compliance are to be submitted to the 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. (DACENC05)

16. Vehicle Crossings Application Formwork Inspection

An application for street levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid.

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

Reason: To facilitate suitable vehicular access to private property. (DACENC12)

17. Vehicle Driveway Gradients

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in Council's Minor Works Policy.

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

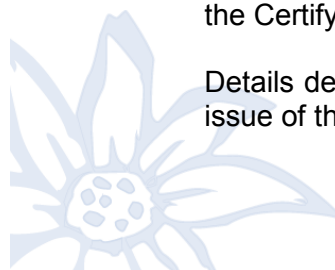
Reason: To ensure suitable vehicular access to private property. (DACENC13)

18. Waterproofing/Tanking of Basement Level

The basement area is to be permanently tanked or waterproofed. Details of the waterproofing/ 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 NSW Office of Water. The bore license must be obtained prior to commencement of dewatering works. All requirements of the NSW Office of Water and General Terms of Approval from the NSW Office of Water are to be complied with. A copy of the approval must be submitted to the Certifying Authority.

Details demonstrating compliance are to be submitted to the 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. (Special condition)

19. Utilities Services

Prior to the issue of the Construction Certificate, evidence is to be submitted to the Certifying Authority that

- (a) A letter from the telecommunications service provider confirming that satisfactory arrangements have been made for the provision of underground telecommunications for the approved development have been made; and
- (b) Evidence that notification has been received from an Electricity Service Provider of electricity supply requirements for the development can be provided.

Reason: To ensure that services have been provided as required by this consent. (DACENC15)

20. Submission of Engineering Plans for Civil Works in the Public Road Reserve

Engineering plans are to be submitted to Council's Manager Road & Drainage Assets for approval under the provisions of Section 138 of the Roads Act 1993. The submission is to include four (4) copies of Civil Engineering plans for the design of vehicular crossing fronting Lawrence Street and associated works to the footpath, relocation of dining pods and street furniture which are to be generally in accordance with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and/or Council's Minor Works Specification and to the satisfaction of Council's Manager Road & Drainage Assets .

All costs related to the above works are to be borne by the applicant/developer.

The Fee Associated with the assessment and approval of the plans is to be in accordance with Council's Fees and Charges.

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

Reason: Ensure engineering works are constructed in accordance with relevant standards. (DACENC17)

21. 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 Certifying Authority prior to the issue of the Construction Certificate.

Reason: Safety. (DACENC19)



22. Outdoor dining areas

The access points to all outdoor dining areas are to be amended to match the existing footpath levels fronting Dowling Street and Lawrence Street. The existing levels of the footpath must not be adjusted. All transitions must be within the subject site and in accordance with Australian Standards AS1428.

Details demonstrating compliance 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. (Special condition)

23. Works within the Lawrence Street road reserve

The proposed median strip and any associated signs and line-marking or works within the road reserve in Lawrence Street shall be designed and constructed at no cost to Council.

Detailed construction plans of the proposed median strip shall be submitted to Council's Traffic Committee for approval prior to the issue of the Construction Certificate.

Reason: To ensure adequate arrangements are made for infrastructure.

24. Driveway separation island

The separation island within the proposed driveway is to be extended to the northern site boundary.

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

Reason: To ensure pedestrian safety

25. Loading dock vehicle space

The internal space and the vehicle turntable within the loading dock off Dowling Street is to be designed to accommodate a Medium Rigid Vehicle (MRV) while the main sliding entry door is closed.

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

Reason: To ensure suitable vehicular access is provided and to protect neighbouring amenity.

26. Balcony area to Unit 15

The balcony to Unit No. 15 is to be increased to achieve a minimum area of 10m².

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

Reason: To ensure compliance and occupant amenity.



27. Waste/Recycling Requirements to comply with Policy

Details demonstrating compliance with Section 3.2.1 of Warringah Council's Policy Number PL 850 - Waste, including the required 'Waste Management Plan' are to be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with Warringah Council's Policy Number PL 850 - Waste, 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."

28. Works within boundary

The louvres to the curved element of the development located on the corner of Lawrence Street and Dowling Street are not to protrude over Council owned land and are to be contained entirely within the property boundary.

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

Reason: To ensure protection of Council owned property.

29. Sydney Water (Fire Hydrant System)

Subdivisions involving the creation of private roads are to be serviced with fire hydrant systems to ensure that coverage of no less than 90 metres is maintained to all areas of the development.

(Note: The fire hydrants are to be installed in accordance with all relevant Australian Standards and the requirements of the Sydney Water Authority and the NSW Fire Brigades.)

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

Reason: NSW Fire Brigades Requirement. (DACENC11)

30. Exhaust Fumes from Car Park

Any exhaust ventilation from the car park is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1. Details demonstrating compliance are to be provided with the Construction Certificate.

Reason: To preserve community health and ensure compliance with acceptable standards.

31. Provision of services

Certification must be obtained from the relevant statutory authority that adequate services are available to satisfy the demands of the proposed development. Specifically, the proposal shall be designed to ensure that any Ausgrid substations can be accommodated within the development and accessed by the relevant authority. Such certification is to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that services have been provided as required by this consent.



32. Mechanical ventilation

Mechanical ventilation must comply with AS 1668 Parts 1 and 2 and the exhaust hood and air conditioning system has been installed in accordance with AS 1668 and AS1055.

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

Reason: To ensure compliance with applicable standards and preservation of local amenity. (DACHPC07)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

33. 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 \$10 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 Warringah 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. (DACEND01)

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

34. Installation and Maintenance of Sediment Control

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Warringah Council Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACPLE02)

35. Property Boundary Levels

The property boundary levels shall match the existing levels except where modified for the vehicular crossing. The applicant shall design and construct having regard for the existing levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

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

Reason: To maintain the existing profile of the nature strip/road reserve. (DACENE01)



36. Vehicle Crossings

The provision of two vehicle crossing 7.9 and 5.6 metres wide in accordance with Warringah Council Drawing No A4-3330/ 1 Normal and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. 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. (DACENE05)

37. Civil Works Supervision

All civil works approved in the Construction Certificate are to be supervised by an appropriately qualified and practising Civil Engineer.

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

Reason: To ensure compliance of civil works with Council's specification for engineering works. (DACENE06)

38. Layback Construction

Two laybacks 7.9 and 5.6 metres wide (excluding the wings) are to be constructed in accordance with Warringah Council Drawing No A4-2276 and specifications.

Reason: To ensure suitable vehicular access to private property. (DACENE08)

39. Maintenance of 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. (DACENE09)

40. Traffic Control During Road Works

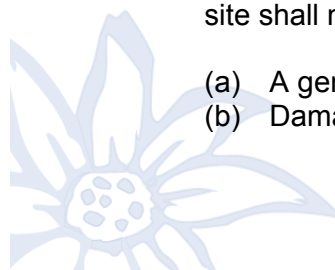
Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with Council's Minor Works Policy and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works.

Reason: Public Safety. (DACENE11)

41. Trees Condition

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.



- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees. (DACLA03)

42. Requirement to Notify about New Contamination Evidence

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.

Reason: To protect human health and the environment. (DACHPE01)

43. Off-site disposal of contaminated material

All contaminated material removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with:

- a. Protection of the Environment Operations Act 1997 (NSW); and
- b. Environment Protection Authority's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).

Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

Reason: For protection of environment and human health and to ensure compliance with the legislation.

44. Dewatering

During construction any water being discharged from the site to stormwater must not cause pollution and must comply with the ANZECC 2000 guidelines and meet the following requirements:

- Suspended sediment must be less than 50mg/L
- Turbidity must be less than 150 NTU
- Oil & Grease must be less than 10mg/L
- BOD 5 must be less than 30
- pH must be between 6.5 -8.5

Any discharged water must be analysed prior to discharge, and weekly thereafter, by an independent NATA accredited laboratory and records of water quality discharge must be kept on site. Water must be discharged in a manner that does not cause safety nuisances.

Reason: Environmental Protection



45. Stage 2 Detailed Investigation for Contamination

After demolition, in accordance with the Preliminary Contamination Assessment Report prepared by Geotechnique Pty Ltd (dated 15 April 2011), undertake a Stage 2 Detailed Investigation of the site in accordance with the Contaminated Lands Management Act 1997, SEPP 55 and "Sampling Design Guidelines for Contaminated Sites", 1995 NSW EPA. A copy of the report must be provided to Council.

If the detailed site investigation report identifies that remediation works are required they are to be undertaken in accordance with a remedial action plan is to be prepared by an appropriately qualified environmental consultant that in accordance with relevant NSW DEC (EPA) guidelines and any contaminated land planning guidelines under section 145C of the *Environmental Planning and Assessment Act 1979*.

Reason: For protection of environment and human health and to ensure compliance with the legislation.

46. Removal of outdoor dining pods

The outdoor dining pods currently located within proximity to the proposed vehicle crossover onto Lawrence Street may be removed and/or relocated, if required, to the satisfaction of Council at no cost to Council.

Reason: To ensure safe vehicle egress.

47. On-street work zone

The applicant shall lodge an application for a work zone for the frontage of the site to Council for consideration and approval. The provision of a work zone will require approval from Warringah Traffic Committee and the Roads and Maritime Service of NSW. Application forms for work zones are available on Council's website or at the Customer Service section at Council's administration building. Applications shall be lodged at least 4 weeks prior to work commencing.

Reason: To ensure works vehicles do not impact on parking, traffic flows and pedestrian thoroughfares.

48. Changes to bus bay and requirement to consult with NSW State Transit Authority

The bus bay on the southern side of Lawrence Street immediately adjacent to the site shall maintain the minimum geometric dimensions required under the State Transit's 'Bus Infrastructure Guide' (Issue 2) dated July 2011.

The applicant is required to consult with the NSW State Transit Authority with regards to any changes required to be made to the bus bay and the location of the bus stop.

Reason: To maintain public accessibility, transport infrastructure and vehicular safety.

49. Compliance with Erosion & Sediment Plan

During demolition and construction, compliance with the Erosion & Sediment control details in the Site Based Stormwater Management Plan prepared by Yeats Consulting Engineers (dated October 2011) must be achieved to prevent pollution.

Reason: Pollution Prevention



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

50. 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 any interim / final Occupation Certificate.

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

51. Building Number

The building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings. (DACPLF04)

52. Intercom

An intercom system must be provided in a convenient location adjacent to the visitor parking entry to enable easier and safe access to visitor parking.

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 convenient access is available for visitors to the building.

53. 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 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.

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 any interim / final Occupation Certificate.

Reason: To facilitate the preservation of on street parking spaces. (DACENF03)



55. Positive Covenant for the Maintenance of Stormwater Pump-out Facilities

A Positive Covenant (under the provisions of Section 88B of the Conveyancing Act 1919) is to be created on the property title to ensure the on-going maintenance of the stormwater pump-out facilities on the property being developed.

Warringah Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Warringah Council's delegate shall sign these documents prior to the submission to the Land & Property Information Department.

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 adequate provision is made for the stormwater pump out system to be maintained to an appropriate operational standard. (DACENF11)

56. Required Planting

Species	Location	Pot Size
2 x <i>Tristanopsis laurina</i> (Water Gum)	Street frontage in front of 10 Lawrence Street in place of removed pods	75 litre

Required trees are to satisfy the following:

- All replacement trees must be of a species that will attain a minimum height of five (5) metres at maturity within 5 years of planting;
- All replacement trees must be maintained until they reach five (5) metres in height;
- If any replacement tree dies prior to reaching five (5) metres in height that tree is to be replaced; and

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

Reason: To maintain environmental amenity. (DACLAF01)

57. Sydney Water Approval

Prior to occupation certificate (Interim or Final), submit to the Principal Certifying Authority written evidence from Sydney Water regarding evidence of a trade waste agreement.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: Statutory requirement of Sydney Water (DACHPF05)

58. Validation for Remediation

Where contamination is identified in the Stage 2 Detailed Investigation, a validation report issued under the Contaminated Land Management Act 1997 must be submitted to the Council within one month from completion of the remediation work.

Reason: To ensure environmental amenity is maintained.

59. 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 an interim/final Occupation Certificate. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such a covenant.

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



60. 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 any interim / final Occupation Certificate.

(Note: The following Standards and Codes applied at the time of determination:

- a) Australian/New Zealand Standard AS/NZS 3500.3:2003 - Plumbing and drainage - Stormwater drainage
- b) Australian/New Zealand Standard AS/NZS 3500.3:2003/Amdt 1:2006 - Plumbing and drainage - Stormwater drainage
- c) National Plumbing and Drainage Code.)

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)

61. Mechanical ventilation

Prior to occupation certificate, provide certification from a suitably qualified person demonstrating that the mechanical ventilation complies with AS 1668.

Reason: To ensure compliance with applicable standards.

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

62. Use of Premises

- (a) This consent approves the following uses:

Premises (as nominated on the approved plans)	Approved Use (as defined under WLEP 2011)	Area
Lower Ground Floor		
Commercial	Business Premises/Office Premises	772.9m ² GFA
Ground Floor		
Retail	Shop	827.2m ² GLFA
Retail	Restaurant/Café; and Take-Away Food and Drink Premises	669.6m ² GFA
Level One		
Retail	Shop	100m ² GLFA
Level Two		
Commercial	Business Premises/Office Premises	208.9m ² GFA
Level Three		
Commercial	Business Premises/Office Premises	121.5m ² GFA

- (b) Separate Development Consent is required for the use of any of the premises listed in (a) above if the proposed use is outside of the approved use.

Reason: To ensure compliance with legislative requirements.

63. Hours of Operation

The hours of operation for the restaurant/café/take away food and drink premises are to be restricted to (inclusive):

- 7.00am to 10.00pm Monday to Sunday.

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

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

64. Separate Commercial and Residential Garbage and Recycling Rooms

Physically separated commercial and residential waste storage rooms that are designed so they are easy to clean, suitably ventilated and managed to prevent pests shall be provided within the premises for the storage of all garbage bins and recycling containers and all other waste and recyclable material generated by this premises. All internal walls of the garbage 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. The commercial and residential garbage rooms must be adequately labelled.

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

65. Delivery Hours

Delivery and service vehicles must not enter the loading dock between 7.00pm to 6.00am Monday to Saturday and 7.00pm to 7.00am Sundays and Public Holidays.

Reason: Protect residential amenity

66. Dock operation hours

The loading dock is to cease all operations between 10.00pm and 7.00am.

Reason: Protect residential amenity

67. Allocation of Spaces

Car parking spaces provided shall be provided, made accessible and maintained at all times. The spaces shall be allocated as follows:

29 x spaces	-	Residential
4 x spaces	-	Residential - Visitors
153 x spaces	-	Business/Office (1,103m ² GFA)
	-	Shop (927.2m ² GLFA)
	-	Restaurant (669.6m ² GFA)

Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space shall be line marked and numbered or signposted to indicate the unit / tenancy to which it is allocated.

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 that adequate parking facilities to service the development are provided on site. (DACPLG01)



68. Visitor Car parking

Visitor car parking must be permanently available, freely accessible and clearly marked / signposted. The visitor car parking spaces area not to be allocated to individual units / tenancies.

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 visitor carparking is available at all times and is clearly identified. (DACPLG02)

69. Vehicle Egress Signs

Appropriate sign(s) shall be provided and maintained within the site at the point(s) of vehicular egress to compel all vehicles to come to a complete stop before proceeding onto the public way.

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 pedestrian safety. (DACPLG03)

70. Parking Enclosure

No parking spaces, or access thereto shall be constrained or enclosed by any form of structure such as fencing, cages, walls, storage space, or the like, without prior consent from Council.

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 that minimum dimensions for parking spaces are not reduced or that vehicle manoeuvring is compliant with relevant standards. (DACPLG05)

71. Signs/Goods in the Public Way

No signs or goods are to be placed on the footway or roadway adjacent to the property.

Reason: To ensure pedestrian safety and to protect the streetscape. (DACPLG15)

72. 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. (DACPLG19)

73. Loading Within Site

All loading and unloading operations shall be carried out wholly within the confines of the site and within the approved loading areas, at all times.

Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian safety and amenity. (DACPLG20)



74. Commercial Waste Collection

Waste and recyclable material, generated by this premises, must not be collected between the hours of 9pm and 8am on any day.

Reason: To ensure the acoustic amenity of surrounding properties. (DACPLG24)

CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA SUBDIVISION OR SUBDIVISION CERTIFICATE

75. Positive Covenant for On-site Stormwater Detention

A positive covenant (under the provisions of Section 88B of the Conveyancing Act 1919) is to be created on the final plan of subdivision and accompanying 88B instrument, 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, which are available from Warringah Council. Warringah Council shall be nominated as the sole authority empowered 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 Subdivision Certificate.

Reason: To ensure ongoing maintenance of the on-site stormwater detention system. (DACENH02)

76. Provision of Services for Subdivision

The applicant is to ensure all services including, water, electricity, telephone and gas are provided, located and certified by a registered surveyor on a copy of the final plan.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure that utility services have been provided to the newly created lots. (DACENH03)

77. Right of Carriageway

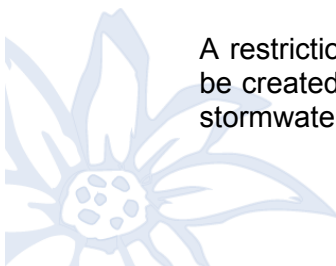
A right of carriageway (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision and accompanying 88B instrument to include all vehicular access and manoeuvring areas.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: Council's subdivision standards and the statutory requirements of the Conveyancing Act 1919. (DACENH04)

78. Restriction as to User for On-site Stormwater Detention

A restriction as to user (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision and accompanying 88B instrument for the on-site stormwater detention system, restricting any alteration or additions to the system. The terms



of such restriction are to be prepared to Council's standard requirements, which are available from Warringah Council. Warringah 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 Subdivision Certificate.

Reason: To ensure no modification to the on-site stormwater detention structure without Council's approval. (DACENH07)

79. Stormwater Drainage and Utility Services Plan

A plan of subdivision identifying the location of water, gas, telephone, electricity and stormwater drainage in relation to boundaries and/or relevant easements, prepared by a registered surveyor is to be submitted to Council.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure that services have been provided with appropriate easements as required by the Conveyancing Act 1919. (DACENH10)

80. Survey Plan - Construction Identification

A declaration by a registered surveyor shall be provided to Council as evidence that all construction has been effected within the appropriate property, easement boundaries and rights of carriageway. This shall be in the form of a copy of the final subdivision or easement plan, with the distances from the boundaries to the edges of these structures endorsed in red thereon and signed by the surveyor.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure accurate location of buildings, access and services. (DACENH12)

81. Sydney Water Compliance Certification

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 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 the Subdivision Certificate.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACENH13)



82. Title Encumbrances

All easements, rights of carriageway, positive covenants and restrictions as to user as indicated on the plans and required by this consent are to be created on the title naming Warringah Council as the sole authority empowered to release or modify.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure proper management of land.(DACENH14)

83. Easement for Drainage

An easement for drainage (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision the accompanying 88B instrument to ensure all drainage infrastructure is located within the appropriate easement(s).

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919. (DACENH16)

84. Electrical Substations

The applicant shall dedicate the land required for an electricity sub-station as a public road, if requested by the energy authority. The dedication is to be detailed on the final plan of subdivision, to be submitted to Council with the application for a Subdivision Certificate.

Reason: To comply with statutory requirements of the energy authority (DACENH19).

85. On-Site Stormwater Detention Compliance Certification

Prior to issue of a subdivision certificate the on-site stormwater detention (OSD) system must be certified by a consulting engineer and include a "works as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans. 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.

Reason: To ensure stormwater disposal is constructed to standard specifications AUSPEC 1. (DACENH21)

86. Release of Subdivision Certificate

To enable the lodgement of the final plan at the NSW Land and Property Information Department the Subdivision Certificate shall not be issued until the Final Occupation Certificate for the approved development.

Reason: To ensure that the plans relate to approved development. (DACENH23)

87. Subdivision Certificate Application

Prior to the issue of the Subdivision Certificate, a completed Subdivision Certificate form, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919 are to be submitted to Council. Nine copies of the final plan of subdivision are to be submitted. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks. The fee payable is to be in accordance with Council's fees and charges.

Reason: Statutory requirement of the Conveyancing Act 1919. (DACENH24)



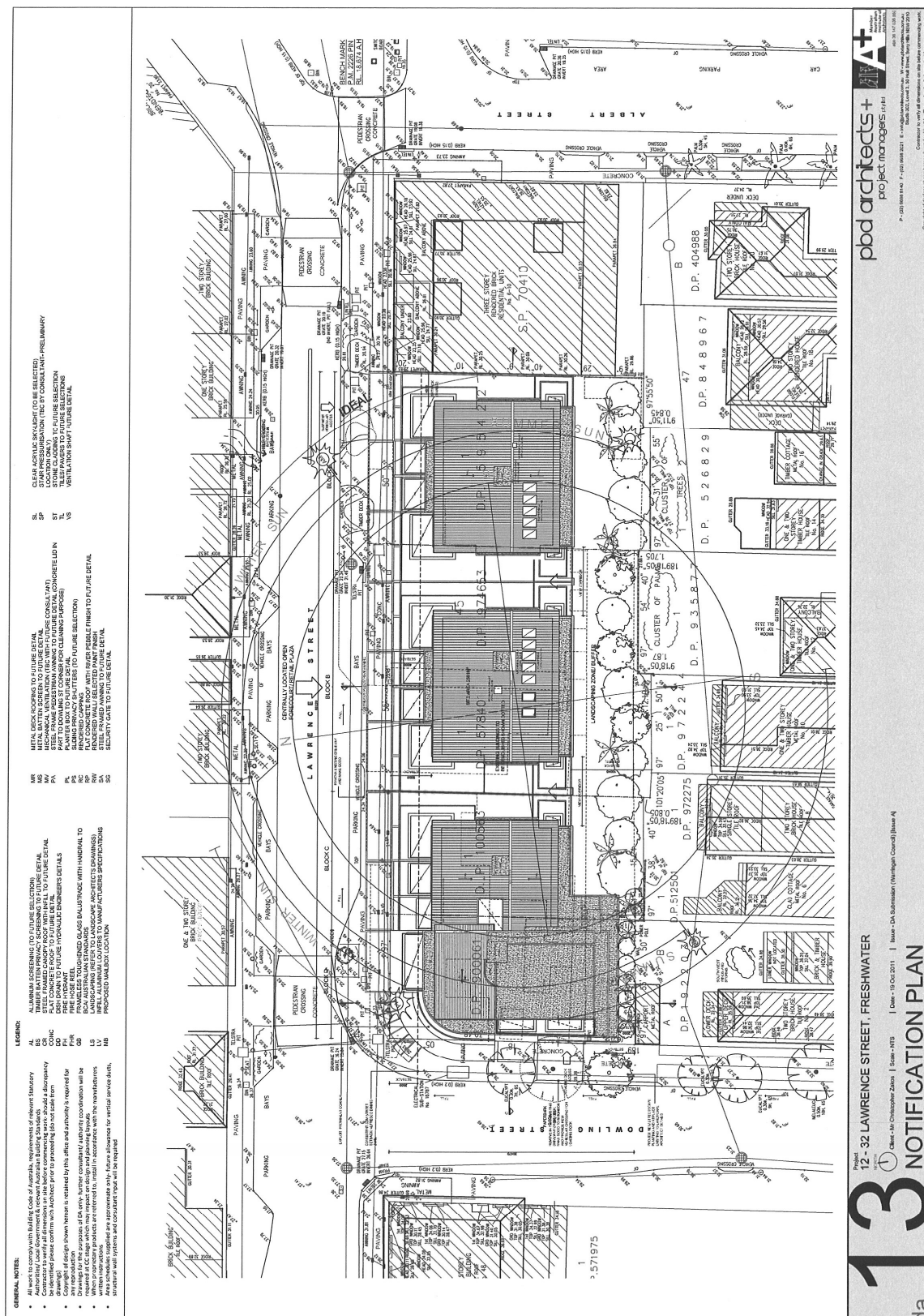
88. Plans

If the Strata Subdivision Certificate Application is lodged with Council, the final plan and nine (9) copies of the strata plan are to be lodged with the application, or if the Subdivision Certificate is obtained from an Accredited Certifier, a copy of the endorsed Subdivision Certificate plan is to be forwarded to Council within 14 days of lodgement with the "NSW Land and Property Information Division".

Reason: To ensure compliance with the Conveyancing Act 1919. (DACENH22)



Site and Elevation Plans



Site and Elevation Plans

