

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1453
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Responsible Officer:	Lashta Haidari
Land to be developed (Address):	Lot 1 DP 881326, 4 Collaroy Street COLLAROY NSW 2097 Lot CP SP 5367, 1 Alexander Street COLLAROY NSW 2097
Proposed Development:	Demolition works and construction of a shop-top housing development
Zoning:	Warringah LEP2011 - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	Yes
Owner:	Collaroy Street Pty Ltd
Applicant:	Collaroy Street Pty Ltd

Application Lodged:	16/11/2020
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Mixed
Notified:	27/11/2020 to 19/01/2021
Advertised:	27/11/2020
Submissions Received:	155
Clause 4.6 Variation:	4.3 Height of buildings: 54%
Recommendation:	Refusal

Estimated Cost of Works:	\$ 18,363,774.00
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Executive Summary

This report provides an assessment of a proposed mixed-use (shop top housing) development at No. 1 Alexander and 4 Collaroy Street (the site). The consolidated site has primary frontages to Collaroy Street (22m) and Alexander Street (70m) a secondary frontage to a laneway to the east (48m) and a site area of 2,570sqm.

The site is zoned B2 Local Centre under the provisions of Warringah Local Environmental Plan 2011 (WLEP 2011). The proposal involves the demolition of existing buildings and construction of a 4- 5 storey development containing retail premises (244m²), 39 residential apartments and basement and ground level car parking.

The proposal has a maximum building height of 12.2m to 17m, which exceeds the maximum building height of 11m permitted on the land under clause 4.3(2) of WLEP 2011. A request to vary the control under clause 4.6 of WLEP 2011 has been submitted and is discussed in detail below. It is considered that the written request does not satisfy the requirements of clause 4.6 of WLEP 2011 and that the variation sought to the building height control should not be approved.

The application is recommended for refusal because having regard to the design and character requirements embodied in the applicable planning controls, including the requirements of SEPP 65, the proposal is not considered to be an appropriate or suitable response in its current form. Further, the assessment of the proposal against the provisions of WDCP 2011 has identified that the development, as proposed, is not a successful built form in terms of how it relates to the desirable elements of the neighbourhood or how it transitions from low density residential locality.

The application was referred to internal departments and external authorities. In the responses, there are a number of referral issues raised in relation to the proposed development, which also form reasons for refusal in that the application is deficient in identifying the relevant impacts associated with the subject site.

The public exhibition of the DA resulted in a significant response from the community, including both concerned residents and a number of letters supporting the proposal. Those objecting to the proposal raised concerns primarily on the basis of the bulk and scale and consequent visual, and view impacts of the development, and the amount of additional traffic that would be generated. Those supporting the development raised the benefits of the urban renewal of the site.

It is important to acknowledge that the redevelopment of the subject site would be a significant improvement in comparison to the existing situation. However, while the redevelopment of the site is a positive feature of the development, the bulk and scale of the building has not been successfully resolved and is ultimately considered to be inconsistent with the character and context of the locality.

Accordingly, the assessment concludes that proposal cannot be supported in its current form and is recommended for refusal.

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves the demolition of existing structures and construction of a mixed use development (shop top housing) and associated basement carpark and through site connection from Alexander Street to Collaroy Street to the laneway. Specifically, the development comprises:

- 4 retail units with a total GFA of 244sqm and frontage to both Collaroy and Alexander Streets,
- 39 residential apartments over 3 levels, with ground level communal games room, gymnasium, surfboard storage room and 2 x roof top communal open space areas, and
- Ground level and basement level carparking for 93 vehicles, comprising 71 residential, 8 visitor and 14 retail spaces with access from Collaroy Street.
- Residential and retail waste areas are serviced via a loading dock accessed from the laneway.

The figures below depicts the development as viewed from Pittwater Road towards Alexander Street (View 1) and from Pittwater Road towards Collaroy Street (View 2).



View 1: Proposed Development as view from Pittwater Road towards Alexander Street



View 2: Proposed Development as view from Pittwater Road towards Collaroy Street

ASSESSMENT INTRODUCTION

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

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

to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings

Warringah Local Environmental Plan 2011 - 6.2 Earthworks

Warringah Development Control Plan - B2 Number of Storeys

Warringah Development Control Plan - B6 Merit Assessment of Side Boundary Setbacks

Warringah Development Control Plan - B7 Front Boundary Setbacks

Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - C4 Stormwater

Warringah Development Control Plan - D6 Access to Sunlight

Warringah Development Control Plan - D9 Building Bulk

Warringah Development Control Plan - F1 Local and Neighbourhood Centres

SITE DESCRIPTION

Property Description:	Lot 1 DP 881326 , 4 Collaroy Street COLLAROY NSW 2097 Lot CP SP 5367 , 1 Alexander Street COLLAROY NSW 2097
Detailed Site Description:	<p>The development site comprises two individual Lots, being No. 1 Alexander Street, and No. 4 Collaroy Street, Collaroy.</p> <p>The consolidated site has primary frontages to Collaroy Street (22m) and Alexander Street (70m), a secondary frontage to a laneway to the east (48m) and a site area of 2,570sqm.</p> <p>No. 1 Alexander Street is currently occupied by a 3 storey apartment block comprising 5 residential units, 3 retail shops and 1 storage unit.</p> <p>No. 4 Collaroy Street is currently occupied by a 3 storey building providing <i>short term accommodation</i> operated as Sydney Beachouse YHA. The building contains 65 rooms, 226 beds and a swimming pool. The property has dual street access to Collaroy Street and Alexander Street.</p> <p>The subject site is zoned B2 Local Centre under the provisions of Warringah LEP 2011. Adjoining development located on the southern side of Collaroy Street includes a 4</p>

storey shop top housing development at No. 1119 Pittwater Road and a Council carpark accessed from Collaroy Street. The balance of the properties to the west of the site, including those located on the southern side of Alexander Street, are occupied by detached style dwellings reflecting the R2 Low Density Residential zoning. Development to the east of the site has its frontage and address to Pittwater Road and comprises 1 and 2 storey retail and business premises.

Map:



SITE HISTORY

Pre-Lodgement Meeting

A pre-lodgement meeting for the demolition works and construction of a shop top housing development was held between the applicant and Council on 30 July 2020.

DEVELOPMENT APPLICATION HISTORY

An opportunity was presented to the applicant to withdraw the application by letter dated 23 February 2021, with a view to address the specific concerns and prepare the required information, and resubmit a new DA. The applicant was advised that failure to withdraw the application would result in Council reporting the application based upon the information provided at lodgement. The applicant has not responded to the above letter.

On 24 February 2021, an Appeal against the deemed refusal of the subject development application was lodged with the Land and Environment Court.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter can be addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter can be addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This matter may be addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. In summary, the proposed development is capable of being constructed so as to not result in any adverse environmental impacts on the natural environment. However, the proposed development in its current form will have an adverse impact on the adjoining development and streetscape by virtue of its excessive size, bulk and scale. Therefore, the impacts of the proposal are unsatisfactory in its current form</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	<p>The site is suitable for the proposed development as the site is zoned for that purpose and the development will replace the existing development which does not provide a positive contribution to the character of the locality.</p> <p>The fact that the site is bordered by public roads, is elevated with ample opportunities for views and sunlight access, leads itself to a development of this type and configuration. However, the two street frontages and the configuration of the available land being located in between low density and medium density housing presents significant design challenges subject to the resolution of these design and height issues, the site is considered to be suitable for the proposed mixed use development.</p>
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	<p>The planning controls contained within WLEP 2011 and the WDCP 2011 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, as well as the guiding design principles under SEPP 65.</p> <p>It is acknowledged, and as evident by the number of support letters received from the community, that the development of the site could provide a much needed boost to the immediate and surrounding locality and streetscapes, certainly in comparison to the current situation. However, the benefits of new and modern uses on the site do not outweigh the fact that the proposal, in its current form, represents a scale of development that is excessive for the site and locality.</p>

Section 4.15 Matters for Consideration'	Comments
	<p>This assessment has found the development to be inconsistent with the scale and intensity of development that the community can reasonably expect to be provided on this site and should be reduced to better reflect a sympathetic and sensitive scale of development.</p> <p>On balance, this assessment finds that the public benefits do not outweigh the need for the proposal to appropriately respond to the planning controls and the context and character of the locality.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 27/11/2020 to 19/01/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 155 submission/s from:

Name:	Address:
Anthony Hayer	4 Alexander Street COLLAROY NSW 2097
Mr Joseph Pino Fiori	6 Richmond Road SEAFORTH NSW 2092
Mr Geoffrey William Sparke	12 Collaroy Street COLLAROY NSW 2097
Karen Eileen Rolls	30 Alexander Street COLLAROY NSW 2097
Ms Tiga Joan Elizabeth Wallman	11 Alexander Street COLLAROY NSW 2097
Mr Niall Alastair Lindsay Johnston	11 Alexander Street COLLAROY NSW 2097
Araquem Paiva Ferreira Junior	12 / 119 Oaks Avenue DEE WHY NSW 2099
Mrs Natasha Rose Howell	7 Athene Place COLLAROY PLATEAU NSW 2097
Mr Bruce Davison	15 Alexander Street COLLAROY NSW 2097
Mr Mark Damian Donlan	3 / 40 Ocean Street NARRABEEN NSW 2101
Michael Hayer	Address Unknown
Aaron Johnstone	4 / 1 Alexander Street COLLAROY NSW 2097
Mr Bruce Ian Nicholas	18 James Wheeler Place WHEELER HEIGHTS NSW 2097
Mr Robert Jeffrey Robinson	114 Claudare Street COLLAROY PLATEAU NSW 2097
Ms Aimee Patricia Gundry	6 Waterview Street MONA VALE NSW 2103
Mr Jan Kacerovsky	7 / 1 Alexander Street COLLAROY NSW 2097

Name:	Address:
Mr Stephen Colin Crawford	6 Bushrangers Hill NEWPORT NSW 2106
Mr Patrick Charles O'Halloran	17/28 Barcoo Street ROSEVILLE NSW 2069
Richard John Trim	16 Bruzzano Place CROMER NSW 2099
Mr Kenyon Charles McKie	2 Athene Place COLLAROY PLATEAU NSW 2097
William Joseph Barden	67 Brighton Street CURL CURL NSW 2096
Anthony Onsley	22 Eastbank Avenue COLLAROY NSW 2097
Mr Christopher Mark Montgomery	10 Ocean Grove COLLAROY NSW 2097
Collaroy RSL Collaroy Beach Club	1058 Pittwater Road COLLAROY NSW 2097
Mr Brett Sandvoss	112 Sydney Road FAIRLIGHT NSW 2094
Eleanor Lamb	1 Alexander Street COLLAROY NSW 2097
Christopher Gordon	Address Unknown
Mr Geoffrey Wayne Davis	Po Box 900 MONA VALE NSW 1660
Mr Adam William Bate	9 / 27 Ocean Avenue NEWPORT NSW 2106
Daniel Stephen Saggus	4 / 121 Balgowlah Road FAIRLIGHT NSW 2094
Mr Damien Hatfield	Address Unknown
Annabelle Sue Chapman	15 Ralston Road PALM BEACH NSW 2108
David Bradley Hopper	18 Surrey Avenue COLLAROY NSW 2097
Mr Peter Gordon Jenkins	1 / 1135 - 1137 Pittwater Road COLLAROY NSW 2097
Jason Jenkins	20 / 1135 - 1137 Pittwater Road COLLAROY NSW 2097
Mr John Arthur McCann	8 Collaroy Street COLLAROY NSW 2097
Susannah Lee Barry	12 Alexander Street COLLAROY NSW 2097
Philip David Feltscheer	120 Anzac Avenue COLLAROY NSW 2097
Michael Healey	3 / 1 Alexander Street COLLAROY NSW 2097
Mr Brian Leslie Frederick Curtis	11 / 22 - 26 The Avenue COLLAROY NSW 2097
Rhett David Tregunna	1 Highview Avenue QUEENSCLIFF NSW 2096
Les Walden	66 Castle Circuit SEAFORTH NSW 2092
Mr Russell Dominic Pettit	23 Banksia Street DEE WHY NSW 2099
Barry John Muncke	36 Mactier Street NARRABEEN NSW 2101
Angus James	7 A Karloo Parade NEWPORT NSW 2106
Mr Glenville Paul Donegal	PO Box 300 COLLAROY BEACH NSW 2097
Mr Gareth Edward Grant	6 Homestead Avenue COLLAROY NSW 2097
Mr Timothy James Trelayne Brown	14 Pine Street MANLY NSW 2095
Mr David Hugh Macintosh	12 Beach Road COLLAROY NSW 2097
David Morgan	28 Mildred Avenue MANLY VALE NSW 2093
Stacy Lee Howell	118 Headland Road NORTH CURL CURL NSW 2099
Mr Simon Ibbetson	26 New Street BALGOWLAH NSW 2093
Ms Prudence Ann Casey-	4 Bushrangers Hill NEWPORT NSW 2106

Name:	Address:
Spark	
Mr Daniel Joseph Gallen	11 Beatty Street BALGOWLAH HEIGHTS NSW 2093
Mr Timothy Frederick Maurice Spark	4 Bushrangers Hill NEWPORT NSW 2106
Mr Mark Geoffrey Spring	37 White Street BALGOWLAH NSW 2093
Michael Ernest Nicholson	34 Campbell Parade MANLY VALE NSW 2093
Mrs Rowena Louise McGilvray	41 Bellevue Avenue AVALON BEACH NSW 2107
Benjamin Peters	38 Austin Avenue NORTH CURL CURL NSW 2099
Mr Manus John McFadyen	8 / 4 Queens Parade NEWPORT NSW 2106
Mr Robert William Miller	18 The Serpentine BILGOLA BEACH NSW 2107
Mr Paul Justin Debien	2 / 11 Fielding Street COLLAROY NSW 2097
Mr John Charles Wilson	13 Lancaster Crescent COLLAROY NSW 2097
Ms Carol Pamela Crawford	11 / 22 - 26 The Avenue COLLAROY NSW 2097
Mr Phillipe John De Gail	7 Seaview Parade COLLAROY NSW 2097
Tim Donlan	3 / 40 Ocean Street NARRABEEN NSW 2101
Mr Milford Mackay James	68 A Binburra Avenue AVALON BEACH NSW 2107
Mr Gregory Charles Marr	3 / 89 Dee Why Parade DEE WHY NSW 2099
Mr Sean Andrew Davies	12 / 4 - 10 The Avenue COLLAROY NSW 2097
Mr Mitchell Pax Trim	4 / 1172 Pittwater Road NARRABEEN NSW 2101
Mr Timothy Michael Parker	10 Cumberland Avenue COLLAROY NSW 2097
Mr Matthew Peter Considine	22 Claudare Street COLLAROY PLATEAU NSW 2097
Mr Richard Gillen Wall	1853 Pittwater Road BAYVIEW NSW 2104
Alan Horn	65 a Upper Beach Street BALGOWLAH NSW 2093
Mr Jack Peter Tomkins	3 Penrith Avenue WHEELER HEIGHTS NSW 2097
Mr Jordan Reid	14 / 7 Lauderdale Avenue FAIRLIGHT NSW 2094
Peter Barratt	4 Bennett Street DEE WHY NSW 2099
Mr Phillip John Parsons	4 / 116 Pacific Parade DEE WHY NSW 2099
Mr Tod Stephen McGruther	11 Dendrobium Crescent ELANORA HEIGHTS NSW 2101
Ben Adams	2 A Boronia Street NORTH BALGOWLAH NSW 2093
Mr James Anthony Jennings	18 Austin Avenue NORTH CURL CURL NSW 2099
Mr Gregory John Macmahon	10 / 1030 - 1034 Pittwater Road COLLAROY NSW 2097
James Hayes	Address Unknown
James Muir	22 A Arthur Street DEE WHY NSW 2099
Mr Ricky Dean Kawulia	60 Hilltop Road AVALON BEACH NSW 2107
Mr Scott Charles Kelly	12 Serpentine Crescent NORTH BALGOWLAH NSW 2093
Scott Mcurdo	Address Unknown
Mr Sam Jackson Nicholas	111 Woorarra Avenue ELANORA HEIGHTS NSW 2101
Bailey Dwyer	36 Lake Park Road NORTH NARRABEEN NSW 2101
Mr Craig Bannister	PO Box 321 AVALON BEACH NSW 2107
Mr Mark John Baker	16 Worcester Street COLLAROY NSW 2097

Name:	Address:
Mr David Eugene Gerber	29 / 7 - 11 Collaroy Street COLLAROY NSW 2097
Emily George	9 / 15 Jenkins Street COLLAROY NSW 2097
Kelly James	175 The Boulevarde MIRANDA NSW 2228
Elliott Green	19 Mirrabooka Street BILGOLA PLATEAU NSW 2107
Drew Fearn	Address Unknown
Michael Birch	18 / 4 8 Darley Road MANLY NSW 2095
Mrs Melanie Louise Thomas	88 Cutler Road CLONTARF NSW 2093
Nick Salerno & Pino Salerno	The Strand DEE WHY NSW 2099
Mr Matthew John Board	149 Harbord Road FRESHWATER NSW 2096
Kirsty Anne Macpherson	116 Fuller Street COLLAROY PLATEAU NSW 2097
Peter Thomson	1103 Pittwater Road COLLAROY NSW 2097
Irene Dalecki	70 Lantana Avenue NARRABEEN NSW 2101
Mr Gary Waters	254 Whale Beach Road WHALE BEACH NSW 2107
Lisa-Marie Moegle	Address Unknown
Mr Leslie George Galbraith	146 Barrenjoey Road MONA VALE NSW 2103
Mr Ronald Kenneth Griffiths	35 / 20 Bonner Avenue MANLY NSW 2095
Massimo Frollano	13 / 28 South Creek Road DEE WHY NSW 2099
Mr Travis Bruce Olifent	64 Aubreen Street COLLAROY PLATEAU NSW 2097
Nick Griffiths	Address Unknown
Mr Anthony Peter Macri	1 / 54 - 56 Darley Street MONA VALE NSW 2103
Mr Aaron Raco	1 / 104 - 106 Whistler Street MANLY NSW 2095
Dr Robert Alexander Orth	9 / 1150 Pittwater Road COLLAROY NSW 2097
Evolution Planning Pty Ltd	Po Box 309 FRENCHS FOREST NSW 1640
Ms Susan Jane Gerber	29 / 7 - 11 Collaroy Street COLLAROY NSW 2097
Mr John Joseph Briggs	C/- John J Briggs & Associates PO Box 807 NARRABEEN NSW 2101
Garry Fahey	Address Unknown
Mrs Christine Marie Pavitt	16 Alexander Street COLLAROY NSW 2097
Mr Ye Wang	16 The Strand DEE WHY NSW 2099
Olivia Edwards	Address Unknown
Michael Mcginley	8 / 1731 Pittwater Road MONA VALE NSW 2103
Mr Miguel Angel Ranzetta Ms Jacquelyn Archer	7 Alexander Street COLLAROY NSW 2097
Mr David Joseph Phillips Roggiero	18 Collaroy Street COLLAROY NSW 2097
Mr Stephen Christopher Jones	50 Collaroy Street COLLAROY NSW 2097
Lisa Morrison	Address Unknown
Mr Kenneth Charles Talbot- Sapsford	7 Mariposa Road BILGOLA PLATEAU NSW 2107
Mr Kelly Redmond Mulvihill	18 / 21 - 23 Koorala Street MANLY VALE NSW 2093
Ziggy De Haan	111 / 5 Mooramba Road DEE WHY NSW 2099

Name:	Address:
Nicholas Albert	1 Tottenham Street NORTH BALGOWLAH NSW 2093
Mr Stephen Richard Doyle	19 Marine Parade AVALON BEACH NSW 2107
Andre De Ruyter	4 Loftus Street NARRABEEN NSW 2101
Brigitte Elasi	Address Unknown
Katarina Hubner	3 / 17 Whistler Street MANLY NSW 2095
Mr Phil Feseha	42 Lewis Street DEE WHY NSW 2099
Georgia Watkinson	1 / 208 Pittwater Road MANLY NSW 2095
Mark Hunter	5 / 228 Headland Road NORTH CURL CURL NSW 2099
Bernadette Mary Johnson	3 / 44 Rose Avenue WHEELER HEIGHTS NSW 2097
Ian Robert Dodd	11 Birinta Street NARRAWEENA NSW 2099
Christina O'Neill	1 / 15 Daintrey Street FAIRLIGHT NSW 2094
Lamaii Black	76 Tristram Road BEACON HILL NSW 2100
Miss Jessica Anne Howard	4 / 21 - 21 Pine Avenue BROOKVALE NSW 2100
Mr Peter James Macmahon	PO Box 386 COLLAROY BEACH NSW 2097
Vincent West	Address Unknown
Mr Graham Leslie Atkins	4 Whitney Street MONA VALE NSW 2103
Mr Gregory Peter Twemlow	2 / 13 Eustace Street MANLY NSW 2095
Randelle Mcdonald	2 / 56 Wyadra Avenue FRESHWATER NSW 2096
Mrs Kirsty Janet Hunter	1 / 60 - 62 Park Street MONA VALE NSW 2103
Ms Karen Elizabeth Flook	14 Beach Road COLLAROY NSW 2097
Ray Smith	1123 Pittwater Road COLLAROY NSW 2097
Mark Wieland	6 Meehan Road CROMER NSW 2099
Mr Paul Robert Peill Hutton	19 Alexander Street COLLAROY NSW 2097
Ms Giuliana Lina Gualdi	1 / 3 A Northcote Avenue FAIRLIGHT NSW 2094
Luke Preston	Address Unknown
DFP Planning Pty Ltd	PO Box 230 PENNANT HILLS NSW 1715
Tim Dalecki	Address Unknown

A total of 152 submissions were received by Council (not including multiple submissions from the same people). Out of the 152 submissions, 136 submissions were in support of the proposal and 16 objected to the proposal.

Assessment of Residents Issues

The matters raised within the submissions have been considered and are addressed as follows:

- **Non-compliant and excessive height**

The submissions raised concerns that the height of the proposal is unreasonable and would result in additional impact when viewed from the surrounding residential properties and streetscape.

Comment:

This matter has been addressed later in this report (refer to the section 'Detailed Assessment of the Variation to Clause 4.3 – Height of Buildings Development Standard' under Warringah Local

Environmental Plan 2011).

The development is assessed against the height of buildings development Standard under the WLEP 2011 and has been appropriately considered in relation to the requirements of Clause 4.6 of the WLEP 2011, wherein it was found that the development is inconsistent with the objectives of the Development Standard.

This issue constitutes a reason for the refusal of the application.

- **The development has insufficient parking and will cause excessive traffic**

A number of submissions raised concerns regarding the additional traffic generated by the proposed development given insufficient parking provided by the development.

Comment:

The Traffic and Parking Assessment Report submitted with the application advises that the proposed parking and traffic generation for the development is considered to be acceptable and that the new traffic volumes would not substantially increase congestion on the surrounding road network.

Council's Traffic Engineer and Transport for NSW has reviewed the application and has raised no objection subject to conditions.

The proposal provides car parking for the shop top housing in accordance with the requirements of WDCP 2011.

Therefore, this issue should not be given determining weight.

- **The development causes unacceptable impacts on existing views**

The concern raised with the regards to loss of views from the adjoining property owners at:

- 30 Alexander Street
- 7 and 19 Collaroy Street

Comment:

As the proposal results in a significant breach in the height of the development, the applicant was not requested to erect height poles to accurately determine the impact on views.

If the proposal was amended to reduce the overall height to achieve compliance, the overall views and outlook of the adjoining property will also improve.

In this regard, the issue raised is concurred with and included as reason for refusal.

- **Construction impacts, including noise**

The following concerns have been raised in relation to construction related impacts:

- The proposed excavation hard up on the boundary against the footings of my building will undermine the footings of building causing severe structural damage. - 1119 Pittwater Road Collaroy;
- Structural damage to house - 6 Alexander Street ;
- Excavation on North Boundary Adjacent to 1119 Pittwater Road, and It should also be noted

that the sewer connection to 1119 Pittwater Road is near the south west corner of the building and connects to the sewer main which runs across the development site.

Comment

Construction of a major development on the site will undoubtedly lead to impacts during the period of construction. However, the construction can be managed to mitigate such impacts through a range of measures including the requirement of dilapidation report, restrictions on the hours of construction and the preparation and implementation of Construction and Traffic Management Plans.

Such matters can be addressed by conditions of consent.

- **Overshadowing**

Concerns have been raised that the height of the proposed development will cast shadow on properties from No. 6 - 12 Alexander street. In addition, concerns have also been raised that proposed development will block the windows of the southern boundary of 1119 Pittwater Road.

Comment:

It is agreed that the impact upon solar access on the adjoining development, while relatively minor, is a direct result of the non-compliance with the height of buildings development standard.

The issue of building separation is addressed under SEPP 65 section of this report. In summary, there is insufficient separation distance between the proposed development and the existing building at No.1119 Pittwater Road southern facing wall, which will impact the daylight and ventilation to the south facing windows at 1119 Pittwater Road.

Therefore, the associated impacts do form a reason for refusal in the recommendation.

- **Visual and Acoustic Privacy**

Concerns have been raised that the proposed development will cause adverse privacy impact on the adjoining development at No. 7 Alexander Street. Concerns have also been raised in relation to acoustic and visual privacy relating to the roof top terrace area.

Comment:

The proposed development, at present provides for insufficient setback and stepping back at upper levels of the building to the western boundary and does not ensure adequate transition between the B2 Local Centre and R2 -Low Density Residential zoned sites. Accordingly, the concern raised in relation to acoustic and visual privacy is concurrent with and included as a reason for refusal.

Submissions in Support

- Improve public amenity,
- Delivering much needed parking to the beach area
- Delivers a low-rise coastal built form that fits perfectly with its surrounds and in context of Collaroy's Town Centre
- Collaroy 'town' itself is in desperate need of considered modernisation

- Improving the retail offering and retail amenity
- Enhanced landscaping, green walls and rooftop gardens
- Revitalisation of the area
- Help surrounding business owners
- Removal of backpackers will be a positive

Comment:

The redevelopment of the site is generally supported. The existing building currently is out of character and does not make a positive contribution to the locality.

The redevelopment of the site along the lines proposed provides the opportunity to improve the visual quality of the locality by providing urban renewal, improved aesthetics and a high standard of architecture. Whilst the redevelopment of the site is supported, it is required to be designed having regard to the applicable planning controls to minimise the impact on the streetscape, views, vistas and outlooks in the area. This must be done by providing a built form that is sympathetic and sensitive to the site and the area in terms of its bulk and scale, and setbacks.

Therefore the development cannot be supported in its current form.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported (subject to conditions) The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate stage.</p>
Environmental Health (Acid Sulphate)	<p>Supported Acid sulphate soils were not encountered in the borehole sampling exercises, we concur that exposure is unlikely. No management procedures recommended.</p>
Environmental Health (Contaminated Lands)	<p>Supported (subject to conditions) Contaminated land investigation via boreholes found elevated levels of Cobalt, Copper and Zinc, as well as the presence of petrochemicals/hydrocarbons. According to the <i>Waste Classification Guidelines</i>, the excavated material may be disposed of as "general solid waste".</p>
Environmental Health (Industrial)	<p>Supported (subject to conditions) Noise report recommends 'a detailed review to be conducted prior to CC to comply with the noise emission guideline summary levels'. Specifically assessing: (a) rooftop mechanical plant, and (b) retail waste collections impact on residences facing the Laneway.</p>

Internal Referral Body	Comments
Landscape Officer	<p>Not supported</p> <p>The development application is for demolition of existing site structures and the construction of a shop top housing development located on land zoned B2 Local Centre, and associated works including landscape works.</p> <p>The application is assessed by Landscape Referral against State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP65), and associated Apartment Design Guide (ADG), and Warringah Local Environmental Plan (WLEP) and Warringah Development Control Plan 2011 (WDCP), including but not limited to the following clauses:</p> <ul style="list-style-type: none"> • Principle 5: Landscape, of SEPP65 requires " that ... landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance ... which contribute to the local context, ... micro-climate, tree canopy, ... and preserving green networks. Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity ..." • ADG: Part 3E Deep Soil Zones - under the objective of 3E a minimum of 7% deep soil shall be provided with a minimum width of 6 metres; Part 4O Landscape Design - Table 4 of this section recommends tree planting at a rate of 1 large tree or 2 medium trees per 80m² of deep soil zones, and provides the following guidance - diverse planting, shade tree planting, areas for residents to plant vegetables and herbs, and use of green roofs or walls; and Part 4P Planting on Structures - medium size trees require 6m x 6m in 1m soil depth; small trees require 3m x 3m in 1m soil depth. • WLEP: no deep soil requirements exist under Warringah Local Environmental Plan for land zoned B2 Local Centre. • WDCP: the minimum soil depth of land that can be included as landscaped open space is 1 metre. <p>Landscape Plans are provided with the development application and these require modifications to be acceptable and shall be the subject of amended landscape plans.</p> <p>Natural ground deep soil equals 90 square metres and is calculated as 3.5% of the site area and does not achieve the minimum width of 6 metres. The Apartment Design Guide (ADG) requires a minimum 7% deep soil zone to meet the design criteria of objective 3E-1 of the ADG and the current deep soil provisions do not meet the ADG objectives, and furthermore the ADG suggests a design guidance of</p>

Internal Referral Body	Comments
	<p>15% for sites greater than 1500m² such as this site.</p> <p>The remaining landscape areas occur as planting on structure with the minimum depth of 1 metre achieved in accordance with ADG, with various ground floor planters providing approximately 290 metres square area, various level 1 planters providing approximately 440 metres square area, various level 3 planters providing approximately 120 metres square area, and various level 4 planters providing approximately 150 metres square area. As such the total area of landscape area provided as planting on structure is capable of achieving of landscape outcome to provide an attractive residential landscape amenity, subject to variations to the current landscape scheme as documented.</p> <p>Concern is raised that planting densities are inadequate and/or sparse in areas to support mass planting that will provide the required landscape amenity outcome. The landscape plans require modification to ensure an appropriate landscape amenity outcome is achieved and shall additionally include the following design suggestions:</p> <p>Ground floor:</p> <ul style="list-style-type: none"> • planters facing Alexander Street shall incorporate small tree planting in lieu of the proposed palm planting, • incorporate a mix of small tree planting and palms to the ground floor where open to the sky, and consider mature heights of planting underneath level 1 slabs. <p>Level 1:</p> <ul style="list-style-type: none"> • incorporate small trees to planters where the planter is at least 3m x 3m in area, • all planters located adjacent to terraces shall support shrub planting capable of attaining 1 metre in height for visual privacy, as well as groundcover planting, in lieu of the groundcover only planting proposed and documented in some areas, <p>Level 3:</p> <ul style="list-style-type: none"> • all planters located adjacent to terraces shall support shrub planting capable of attaining 1 metre in height for visual privacy, as well as groundcover planting, in lieu of the groundcover only planting proposed and documented in some areas, <p>Level 4</p> <ul style="list-style-type: none"> • incorporate small trees to planters where the planter is at least 3m x 3m in area,

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • all planters located adjacent to terraces shall support shrub planting capable of attaining 1 metre in height for visual privacy, as well as groundcover planting, in lieu of the groundcover only planting proposed and documented in some areas, <p>All levels:</p> <ul style="list-style-type: none"> • planting densities shall be documented as follows: i) screen shrubs - 1 per linear metre centre; ii) small shrubs - 700mm centres; iii) groundcovers - 450mm centres; iv) ferns - 450mm centres except for Cyathea and Dicksonia; v) succulents - 300mm centres. <p>Amended landscape plans are required to accurately determine the appropriateness of the landscape proposals to achieve acceptance of the landscape scheme including the required deep soil zone areas, and at this stage the proposal does not warrant approval until amended landscape plans for review and approval by Council are submitted. With the complexity of the micro-climate and light levels for planting between the two buildings and the use of planters to undercroft areas, it is advised that a landscape architect may be utilised to further develop the scheme to ensure ongoing suitability of the proposed landscape design including selection of materials and planting. The selection of suitable planter soils and the installation of an automatic irrigation system is a key component to achieving successful landscape treatments within planters on slab.</p> <p>Additionally a landscape maintenance program will be required to establish ongoing landscape maintenance of the landscape planters, as well as all other landscape areas, requiring regular monitoring of soil conditions and any requirement for additional soil additives, fertilising program, monitoring of soil moisture, and general care and maintenance including replacement. Conditions of consent for this component is to be imposed as Ongoing Landscape Maintenance.</p> <p>A Arboricultural Impact Assessment report is provided with the development application, proposing the retention of two native trees within the site (Paperbark and Blueberry Ash), transplanting of native Cabbage Tree Palm, protection of adjoining property trees, removal of one native tree (Coast Banksia) within the site, and removal of Exempt Species within the site. The report recommendations raise no issues.</p>
NECC (Coast and Catchments)	<p>Supported</p> <p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Warringah LEP 2011 and Warringah DCP 2011.</p> <ul style="list-style-type: none"> • Coastal Management Act 2016

Internal Referral Body	Comments
	<p>The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</p> <ul style="list-style-type: none"> • State Environmental Planning Policy (Coastal Management) 2018 <p>The subject land has been included on the 'Coastal Use Area' map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 14 and 15 of the CM SEPP apply for this DA.</p> <p><u>Comment:</u> On internal assessment and as also assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Boston Blyth Fleming Pty. Ltd. dated November 2020, the DA satisfies requirements under clauses 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <ul style="list-style-type: none"> • Warringah LEP 2011 and Warringah DCP 2011 <p>No other coastal related issues identified.</p> <p>As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Warringah LEP 2011 and Warringah DCP 2011.</p>
NECC (Development Engineering)	<p>Not supported</p> <p>The stormwater drainage plans have been reviewed detailing the provision of on site stormwater detention and the following information is required prior to further assessment:</p> <ol style="list-style-type: none"> 1. The submission of the DRAINS model is required by Council to verify the site storage requirements and post development discharges. 2. The point of connection to the existing Council pit in Alexander street is not acceptable as this area is subject to minor/major flooding which impacts the property at 1097 Pittwater Road (Entrances in Alexander street). As such the stormwater discharge from the property is to be connected to the existing Council Inlet Pit on the opposite side of Alexander street. A pipe longsection is to be provided drawn at a suitable scale detailing clearances to gas, water and sewer services. The minimum pipe size is to be 375mm RCP. 3. The stormwater drainage plans are to make provision for

Internal Referral Body	Comments
	upstream overland flow entering the property.
NECC (Water Management)	<p>Not Supported</p> <p>The applicant has proposed a Water Sensitive Urban Design strategy for stormwater management that includes a 20KL rainwater tank and 2 stormfilter cartridges located in the on-site detention tank. We generally only accept stormfilter cartridges of this form when there is evidence of complementary actions such as reducing the quantity of stormwater runoff through efficiency and reuse and addressing infiltration/evaporation where possible. To satisfy this requirement, the applicant simply needs to tell us how the water collected in the 20KL tank will be used, because the application has no information about this at all. Given there are planters throughout and potential for tree pits in the courtyard, there are also opportunities to connect stormwater downpipes via these planters to provide direct irrigation.</p> <p>The applicant should provide a statement addressing how the water in the 20KL tank will be used in and around the building.</p> <p>The applicant has not provided the MUSIC model file (.sqz) for our review, only a printout. This should be provided.</p> <p>These are simple requests and a response will be prioritised once the additional information is received.</p>
Property Management and Commercial	<p>Supported (subject to conditions)</p> <p>The proposal is for the demolition of existing structures on site and the construction of a shop top housing scheme.</p> <p>The site is adjacent to Council's public carpark located at 6 Collaroy St, which is classified as 'Community' land under the provisions of the <i>Local Government Act 1993</i>.</p> <p>It is noted that the western elevation of the proposal adjacent to Council's public carpark has a number of window elements comprising fixed glass bricks which are located on the property boundary. While this design element as proposed does not impact the adjacent public carpark, it is recommended that a condition be placed on the consent that these shall never be converted to openable windows. The location of the external wall of the building on the property boundary means that openable windows are likely to give rise to encroachments over the public carpark, which would require the landowner to enter into an legal agreement with Council. The Local Government Act strictly regulates the types of dealings Council can undertake on community classified land and dealings that are solely to benefit a private land owner are generally not permitted.</p>
Road Reserve	<p>supported</p> <p>No impact on existing road assets.</p> <p>It is noted the existing infrastructure (kerb, pram ramp and footpath) on the south west corner of the laneway is being damaged by the turning movements of heavy vehicles. The property boundary at this</p>

Internal Referral Body	Comments
	<p>corner is very close to the laneway kerb, preventing any future widening of the laneway kerb return. Council's Transport/Traffic Team to give consideration to the dedication of a splay corner to improve turning, sight distance and safety, and widening by the applicant. Also access to the loadnig bay is likely to be prevented by onstreet parking practices in the laneway and may require some form of parking restrictions.</p> <p>Urban Design and Development Engineering Teams to give consideration to extending the Collaroy Accessibilty Shopping Precinct streetscape to the Alexander Street frontage (to ensure consistency with Collaroy Street frontage) thereby providing connectivity of the retail elements of the development with the Main Street.</p> <p>It is noted that the building is located on top of an existing sewer main (running through basement) which may require referral to Sydney Water.</p>
Strategic and Place Planning (Heritage Officer)	<p>Supported</p>
	<p>Discussion of reason for referral</p>
	<p>The proposal has been referred to Heritage as the subject site is located within the vicinity of two heritage items, listed in Schedule 5 of Warringah LEP 2011:</p> <p>Item I22 - Collaroy Cinema (facades and interiors) - 1097 Pittwater Road</p> <p>Item I23 - Former Westpac Bank - 1121 Pittwater Road</p>
	<p>Details of heritage items affected</p>
<p>Details of the item as contained within the Northern Beaches Heritage Inventory are as follows:</p> <p>Item I22 - Collaroy Cinema (facades and interiors) <u>Statement of significance:</u> A rare surviving example of an inter-war art deco cinema. Displays high integrity of fabric & use. One of few operating art deco cinemas in Sydney. Historically provides evidence of the early recreational & social role of the Collaroy commercial area. <u>Physical description:</u> Constructed in 1926-1950. Smooth rendered masonry cinema building with high stepped parapet and "streamlined" decorative detailing. Building curves around the corner. Corrugated iron roof. Prominent cinema sign, similar to original.</p> <p>Item I23 - Former Westpac Bank <u>Statement of significance:</u> A locally rare example of a suburban bank in the Inter-war Georgian Revival style, representative of bank architecture at the time. Historically provides evidence of the development of</p>	

Internal Referral Body	Comments			
	<p>commercial infrastructure to serve residential growth. Local landmark.</p> <p><u>Physical description:</u> Constructed in 1926-1950. Two storey face brick bank building designed to address corner site. Stone dressings as horizontal string courses and as carved motifs between ground & first floor windows. Tiled hipped roof. Art deco detailing in carved stone dressings. Multi-paned windows.</p>			
	<p>Other relevant heritage listings</p>			
	<table border="1"> <tr> <td data-bbox="520 674 855 813">Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td> <td data-bbox="855 674 951 813">No</td> <td data-bbox="951 674 1436 813"></td> </tr> </table>	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
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Other	No			
	<p>Consideration of Application</p>			
	<p>The proposal is for the demolition of the existing buildings on the subject site and the construction of a 4 storey shop top housing development including a basement carparking and 4 retail units to the ground floor.</p> <p>The heritage listed Collaroy Cinema building is located to the south-east of the proposal across Alexander Street and the heritage listed Former Westpac Bank site is located to the north-west of the subject site across Collaroy Street.</p> <p>New works within the vicinity of heritage items should respect and support the context, scale and character of the heritage items, and should not overpower them. Although, Heritage recommends to consider a further setback to level 3 of the proposal for a better design response, that respects and supports the significance of the heritage items, it is considered that, given the separation between the subject site and the heritage items, afforded by the roads, the adverse impact of the proposal upon the the heritage items within the vicinity will be manageable.</p> <p>Therefore, no objections are raised on heritage grounds and no conditions required.</p> <p><u>Consider against the provisions of CL5.10 of WLEP 2011.</u> Is a Conservation Management Plan (CMP) Required? No</p>			

Internal Referral Body	Comments
	<p>Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? No - addressed in the SEE.</p>
<p>Strategic and Place Planning (Urban Design)</p>	<p>Not Supported</p> <p>WLEP 2011 <i>4.3 Height of Buildings</i></p> <p>The site fronts both Alexander and Collaroy Streets set behind the Pittwater frontage of older tenancies in a B2 Local neighbourhood comprising mixed use, commercial and residential areas with a distinctive character fronting Collaroy Beach.</p> <p>Further back into the site is a distinct transition to the R2 low density zone.</p> <p>The height of the proposed development is 4 storeys including an additional smaller pop top roof element screening roof plant and lift overruns that assist to break down the expanse of roof form. This additional storey set back from the leading edge has the effect of a fifth storey which is not supported.</p> <p>Additionally the upper storey Level three plan is regarded as an over development of the site.</p> <p>The building is significantly over the Height of Buildings control and therefore cannot be supported.</p> <p>B2 Local Centre <i>Objectives of zone</i></p> <ul style="list-style-type: none"> • <i>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.</i> • <i>To encourage employment opportunities in accessible locations.</i> • <i>To maximise public transport patronage and encourage walking and cycling.</i> • <i>To provide an environment for pedestrians that is safe, comfortable and interesting.</i> • <i>To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.</i> • <i>To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of any adjoining or nearby residential land uses.</i>

Internal Referral Body	Comments
	<p>RESPONSE</p> <p>The form and bulk, including building line setbacks at ground and upper levels should relate favourably in scale and architecture to the adjoining context by the provision of a transitioning approach to the building bulk to both Alexander and Collaroy St frontages and particularly to the rear boundary adjoining the R2 zone where the transition is most critical.</p> <p>As the site is mediated by a row of commercial buildings on the Pittwater road frontage and is dissected by a service laneway, the development demonstrates potential for the relationship between the two sites to develop a more pedestrian friendly streetscape and laneway in future development of the area.</p> <p>As previously discussed the consideration of a wider footpath and circulation zone to the eastern boundary of the site would be recommended.</p> <p>The activation of this pedestrian edge fronting the laneway can be supported, however a more generous pedestrian path is highly encouraged.</p> <p>B2 - Number of Storeys</p> <p><i>Objectives</i></p> <ul style="list-style-type: none"> • <i>To ensure development does not visually dominate its surrounds.</i> • <i>To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.</i> • <i>To provide equitable sharing of views to and from public and private properties.</i> • <i>To ensure a reasonable level of amenity is provided and maintained to adjoining and nearby properties.</i> • <i>To provide sufficient scope for innovative roof pitch and variation in roof design.</i> • <i>To complement the height of buildings control in the LEP with a number of storeys control.</i> <p>RESPONSE</p> <p>3 Storeys height control</p> <p>The proposed development suggests five storeys to parts of the building. With a building height of approximately 2 storeys higher than the permitted 3 storeys and represents a significant breach of the storey control.</p> <p>This combined with the lack of setback at the upper storeys has the effect of the building reading as an overdevelopment.</p> <p>Additionally there are the smaller roofed elements over the rooftop terraces and similarly to the housing/screening of mechanical plant on the Alexander street building.</p> <p>WDCP 2011</p>

Internal Referral Body	Comments
	<p>SETBACKS GENERALLY</p> <p>Front Setback Control – Ground and First Floor Street Frontage Alignment</p> <p>As the development spans a full block with through site links it is assumed the length and extent of the Alexander Street frontage and the Collaroy Street Frontage could be assessed as front setbacks. With a built to line control for front setback is noted that through pre-lodgement the development of a significant pedestrian pathway was develop to address level of activation to this elevation and somewhat to the Collaroy Street elevation/frontage. Provision of a minimum 3.5 – 4 metre setback to the building lines to both Alexander and Collaroy street provides a far move activated and pedestrian friendly.</p> <p>The two 6m x 6m deep soil planting zones with understory landscape and large tree canopy to the Alexander street frontage assist with breaking up the bulk and scale of the building when viewed from the ground plane and surrounding street views. The strategy can be supported.</p> <p>At upper levels, Level 2 and up, the control steps the upper levels back 5 metres from the built line. A discussion as to the merit of this control could be has as to whether this is required given the bulk and scale breakdown resulting from the deep soil planting zones/stepping back of built form discussed above negates this control.</p> <p>Side Setback Control – Merit</p> <p>Whilst the side set back is merit based we would seek to ensure that sufficient setback and stepping back at upper levels of the building to the western boundary to ensure adequate transition between the B2 local Centre and R2 Residential.</p> <p>Similarly and as previously discussed the laneway considered as a side setback would benefit from and increased pedestrian circulation zone.</p> <p>Generally the development presents as an overdevelopment of the site and cannot be supported.</p>
Traffic Engineer	<p>Supported (subject to conditions)</p> <p>The proposed development to provide 39 residential units (1 bedroom - 4, 2 Bedroom - 20, and 3 Bedroom - 15) and 246 m² of retail space has been assessed against the relevant requirement in the Warringah LEP/DCP applicable to the site. It is supported subject to the conditions provided on traffic and transport grounds.</p> <p>Parking Provision</p> <p>Residential component of the development requires a minimum of 51 spaces to comply with 71 provided.</p> <p>Visitor parking provision is compliant with the DCP requirements with 8 spaces.</p>

Internal Referral Body	Comments
	<p>Retail parking provision is deficient one space when compared with the DCP requirements - 14 provided/15 required.</p> <p>The traffic assessment provided addresses this through the concept of dual and complementary use of the visitor and retail parking, where the peak demand for one use does not coincide with the peak demand for the other key use period. The shortfall of one space is deemed acceptable, given the number of spaces provided, proximity to public transport and nearby parking availability.</p> <p>Loading provision. The development has two loading options, with 2 dedicate bays in the parking area (limited to small van deliveries) and a separate loading dock for an SRV design vehicle accessed from the unnamed service lane to the east of the site. The accessibility of the loading dock has been demonstrated for the SRV design vehicle in line with AS2890. The serviceability of the site will be restricted to the use of Small Rigid Vehicles through the loading dock, with larger vehicles restricted by condition to access the site outside peak delivery times to minimise the impact on adjoining businesses using the service lane.</p> <p>Access to site. The car park layout complies with the requirements of AS 2890.1</p> <p>Access to public transport The site is close to the Collaroy B-Line stop with approx. 125 m between the site and the main Collaroy bus stop.</p> <p>Traffic generation. The development traffic generation is acceptable given the impact on the adjoining road network, increasing the queue and delay at the Collaroy Street intersection signals within an acceptable level of tolerance.</p> <p>Therefore the development is supported from a traffic and transport perspective.</p>
Waste Officer	<p>Supported (subject to conditions) The size and location of the waste storage rooms (2 x binrooms & 1 x bulky goods room) comply with Council requirements.</p> <p>The access doors to the Collaroy Street binroom and bulky goods room both swing inwards instead of outwards.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>Supported (Subject to conditions) The application was referred to Ausgrid pursuant to Clause45(2) of the State Environmental Planning Policy (Infrastructure) 2007. In their response, no objection was raised subject to requirements that the development must comply with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.</p>

External Referral Body	Comments
	The requirements stipulated by Ausgrid can be included as a condition, should the application be worthy of approval.
NSW Roads and Maritime Services (Traffic Generating Development)	<p>Supported (Subject to conditions)</p> <p>The Application which was referred to Transport for NSW (TfNSW) for comment. TfNSW has reviewed the development application and raises no objections to the Application subject to conditions.</p>
Nominated Integrated Development – Natural Resources Access Regulator - Water Management Act 2000 (s91 Controlled Activity Approval for works within 40m of watercourse)	<p>supported (subject to conditions)</p> <p>The application was referred to WaterNSW as integrated Development under section 91A (3) of the Environmental Planning and Assessment Act 1979 (EPA Act). WaterNSW reviewed the application and provided its general terms of approval to Council on 1 March 2021, which will form part of the consent should the application be worthy of approval.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7(1)(a) of SEPP 55 requires the consent authority to consider whether land is contaminated.

In response to the above requirements of the SEPP, the applicant has indicated that the likelihood of encountering contaminated soils on the subject site is extremely low given the sites are currently being used for residential purposes (backpacker accommodation and shop top housing).

In this regard, Council's Environmental Health section is satisfied that the land can be made suitable for the purpose for which the development is proposed to be carried out subject to the recommendations included in the investigation and the conditions imposed by Council's Environmental Health Department within the draft consent, should the application be worthy of approval.

SEPP 65 - Design Quality of Residential Apartment Development

Clause 4 of State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment

Development (SEPP 65) stipulates that:

(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

(a) the development consists of any of the following:

- (i) the erection of a new building,
- (ii) the substantial redevelopment or the substantial refurbishment of an existing building,
- (iii) the conversion of an existing building, and

(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and

(c) the building concerned contains at least 4 or more dwellings.

As previously outlined, the proposed development is for the erection of a mixed use development plus basement car parking for the provision of four retail units and 39 residential apartments.

As per the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are applicable to the assessment of this application.

As previously outlined within this report Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a Design Verification Certificate from the building designer at lodgement of the development application. This documentation has been submitted.

Clause 28 of SEPP 65 requires:

(2) In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):

- (a) the advice (if any) obtained from the design review panel, and
- (b) the design quality of the development when evaluated in accordance with the design quality principles, and
- (c) the Apartment Design Guide.

DESIGN REVIEW PANEL

On 17 December 2020, the Northern Beaches Council Design and Sustainability Advisory Panel (DSAP), considered the application at their meeting and concluded that:

The Panel does not support the proposal in its current form while recognising that it has many positive design features and is generally in accord with the strategic directions for Collaroy.

Non compliance with heights and built form controls need to be justified. Most importantly the ground and first level common spaces and raised planters, interface and integration with the public domain and lane, retail ceiling heights, provision of deep soil, through site link will require re-design.

A redesign and investigation of alternative options that consider all of the recommendations set out above is required.

DESIGN QUALITY PRINCIPLES

Principle 1: Context and Neighbourhood Character

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

Comment:

The site is set behind the Pittwater Road retail strip and comprises older tenancies in the B2 Local Centre zone. There is a mix of older and newer mixed use developments which provide a low scale character opposite the Collaroy Beach and parkland reserve. Further westwards, the site marks a transition from B2 to the R2 low density zone.

The site has a maximum building height limit of 11 metres applying under Clause 4.3 of the LEP.

The portion of the building facing Alexander Street has an overall height of between 12.8m and 13.2m respectively, representing variations to the height control of 2.2m (20%).

The portion of the building facing Collaroy Street has an overall height of 12.2m to 17m respectively representing variations of up to 6 metres (54%). The height of the proposed development is 4 storeys, including an additional smaller "pop-top" roof element screening roof plant and lift overruns, that assist to break down the expanse of the roof form. This additional storey is set back from the leading edge and has the effect of a fifth storey.

Therefore, the non-compliance with the height of buildings development standard, which ultimately determines the contextual fit of the development with the surrounding locality, cannot be supported.

Accordingly, it is considered that the proposal does not satisfy this principle.

Principle 2: Built Form and Scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation 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 proposed development contains many examples of good design in terms of its architecture, including the levels of articulation, design of balconies, and strongly defined architectural elements

presenting to the two street frontages.

However, while the architectural design of the building is a positive feature of the development, the height and bulk of the structure is not consistent with the controls applicable to the site and the development will result in a built form and scale that does not meet the requirements of the current controls for the site and it is inconsistent with the scale of existing developments within the locality.

Accordingly, it is considered that the proposal does not satisfy this principle

Principle 3: Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Comment:

The planning controls under WLEP 2011 and the WDCP 2011 do not specify a maximum housing density for the zone. The appropriate density is determined by how the development responds to the Design Quality Principles of SEPP 65, and the relevant controls contained within the WLEP 2011 and the WDCP 2011.

This assessment has found that the development, as proposed, does not achieve a satisfactory level of compliance and consistency with these controls, in particular, the overall height of the building and the building separation.

In this regard, the proposed number of units and the density is considered to be excessive for this site.

Accordingly, it is considered that the proposal does not satisfy this principle

Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.

Comment:

The proposal includes demolition of all structures currently on the site and excavation works to accommodate the new development.

In this regard, a condition of consent will be imposed requiring the submission of a Construction Management Plan (CMP) detailing disposal and recycling of demolition and excavation materials, should the Development Application be approved.

In addition, a BASIX Certificate for the residential component of the development has been submitted with the application. The certificate confirms that the development is capable of achieving the water and energy targets and has obtained a pass for thermal comfort.

Accordingly, it is considered that the proposal satisfies this principle.

Principle 5: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.

Comment:

The landscape plans submitted with the application provide details of the proposed landscaping for the site, which has been reviewed by Council's Landscape Officer, who has raised concern that the development does not integrate with the landscape character of the locality, and that the proposal is unable to support landscape planting of a size that is capable of softening the built form.

For these reasons, the development does not meet the objectives of Design Quality Principle 5. This issue has been included as a reason for refusal.

Principle 6: Amenity

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.

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

Comment:

The development has been assessed against the various amenity requirements of the Apartment Design Guideline (ADG), where it has been found that the development does not comply with some of the requirements.

The assessment has found that there is insufficient separation provided between the proposed development and the existing building at No.1119 Pittwater Road southern facing wall. In addition, there is also insufficient setback and stepping back at upper levels of the building to the western boundary to ensure adequate transition between the B2 local Centre and R2 - Low Density Residential zoned sites.

Accordingly, it is considered that the proposal does not satisfy this principle.

Principle 7: Safety

Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

Comment:

The development provides for acceptable levels of safety and security in accordance with the principles of Crime Prevention Through Environmental Design (CPTED).

The elevated and exposed nature of the development enables an improved degree of passive surveillance above what is already achievable from the site and which appropriately fits the intended higher density residential purpose.

The territorial spaces within the site are appropriately defined to identify communal and private areas and includes clearly defined secure and visible access points that could be easily maintained.

The development is considered to be consistent with this principle.

Principle 8: Housing Diversity and Social Interaction

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.

Comment:

This principle essentially relates to design responding to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities and optimising the provision of housing to suit the social mix and provide for the desired future community.

The provision of a mix of apartment sizes in this location is considered desirable due to the site's close proximity to a major bus interchange, commercial facilities and other opportunities within the Collaroy Town Centre and other public amenities and facilities.

The development provides a reasonable mix of apartments and includes active street front uses on the ground floor level which is considered to contribute to the social context by encouraging and providing for social interaction and engagement.

Accordingly, it is considered that the proposal satisfies this principle.

Principle 9: Aesthetics

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

Comment:

The proposed development is considered to be appropriate in terms of the composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the resultant building. The aesthetics of the development respond positively to the environment and context, contributing in an appropriate manner to the desired future character of the area.

Accordingly, it is considered that the proposal satisfies this principle.

APARTMENT DESIGN GUIDE

The following table is an assessment against the criteria of the ‘Apartment Design Guide’ as required by SEPP 65.

Development Control	Criteria / Guideline	Comments
Part 3 Siting the Development		
Site Analysis	Does the development relate well to its context and is it sited appropriately?	<p>Inconsistent</p> <p>The surrounding area consists of a large variety of development ranging from single dwellings to 4 storey residential and mixed use buildings.</p> <p>The excessive height of the proposal and the proposed upper storey combined with the lack of setback at the upper storeys has the effect of the building reading as excessive in scale and symptomatic of an overdevelopment of the site.</p> <p>Furthermore, the development provides insufficient setback and stepping to ensure adequate transition between the B2 Local Centre and adjoining R2 Residential zoned sites.</p> <p>Additionally, the development provides insufficient landscape setbacks with no meaningful planting along the front setback to maintain the lush green character of the area.</p>
Orientation	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	<p>Inconsistent</p> <p>The development provides insufficient landscape setbacks with no</p>

		<p>meaningful planting along the front setback to maintain the lush green character of the area.</p> <p>The development has units facing north, east and west taking advantage of the available aspects and prevailing wind and solar patterns.</p> <p>The proposal breaks up the built form to allow for the units in the southern building to receive additional solar access.</p> <p>The proposal would allow sufficient solar access to adjoining neighbours</p>						
Public Domain Interface	<p>Does the development transition well between the private and public domain without compromising safety and security?</p> <p>Is the amenity of the public domain retained and enhanced?</p>	<p>Consistent</p> <p>The development is considered to provide a satisfactory transition between the private and public domains without compromising safety and security.</p>						
Communal and Public Open Space	<p>Appropriate communal open space is to be provided as follows:</p> <ol style="list-style-type: none"> 1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter) 	<p>Inconsistent</p> <p>Insufficient communal open space is provided. The communal open space provided on the ground floor would not receive adequate solar access given its location and the design of the roof overhangs.</p> <p>The proposed communal open space on the northern block roof is not easily accessed for residents of the southern blocks that contain the majority of units.</p>						
Deep Soil Zones	<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1" data-bbox="440 2085 1064 2145"> <thead> <tr> <th>Site area</th> <th>Minimum</th> <th>Deep soil</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Site area	Minimum	Deep soil				<p>Inconsistent</p> <p>The deep soil area is calculated as 3.5% of the site area, which does not</p>
Site area	Minimum	Deep soil						

	<table border="1"> <thead> <tr> <th></th> <th>dimensions</th> <th>zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>Less than 650m²</td> <td>-</td> <td rowspan="4">7%</td> </tr> <tr> <td>650m² – 1,500m²</td> <td>3m</td> </tr> <tr> <td>Greater than 1,500m²</td> <td>6m</td> </tr> <tr> <td>Greater than 1,500m² with significant existing tree cover</td> <td>6m</td> </tr> </tbody> </table>		dimensions	zone (% of site area)	Less than 650m ²	-	7%	650m ² – 1,500m ²	3m	Greater than 1,500m ²	6m	Greater than 1,500m ² with significant existing tree cover	6m	<p>comply with 7% requirement. In addition, the minimum dimensions for the deep soil zone does not achieve the minimum width of 6 metres.</p> <p>This matter is addressed within the Landscape referral comments.</p>
	dimensions	zone (% of site area)												
Less than 650m ²	-	7%												
650m ² – 1,500m ²	3m													
Greater than 1,500m ²	6m													
Greater than 1,500m ² with significant existing tree cover	6m													
<p>Visual Privacy</p>	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1"> <thead> <tr> <th>Building height</th> <th>Habitable rooms and balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</p> <p><i>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</i></p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>Inconsistent</p> <p>There is insufficient separation distance between the proposed development and the existing building at No.1119 Pittwater Road southern facing wall.</p> <p>In addition, there is also insufficient setback and stepping back at upper levels of the building to the western boundary to ensure adequate transition between the B2 Local Centre and R2 Residential zoned sites.</p>
Building height	Habitable rooms and balconies	Non-habitable rooms												
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Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												
<p>Pedestrian Access and entries</p>	<p>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>	<p>Consistent</p> <p>The development provides an accessible and legible building entry which defines the private property from the public domain.</p>												
<p>Vehicle Access</p>	<p>Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?</p>	<p>Consistent</p> <p>The development includes a 6.0m wide driveway and crossover which facilitates adequate sightline distances along the adjacent footpath.</p>												

		The driveway is ramped down slightly from the street such that visual impact is minimised
Bicycle and Car Parking	<p>For development in the following locations:</p> <ul style="list-style-type: none"> On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>	<p>Consistent</p> <p>The site is not located within 80m of a railway station or light rail stop or on land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre. Therefore, the parking requirements of the Warringah Development Control Plan 2011 (WDCP) apply.</p> <p>The development provides car parking in accordance with the requirements of the WDCP (see Clause 'C3 - Parking Facilities' in the WDCP section of this report).</p> <p><u>Bicycle parking</u> The ADG does not include any numerical requirement for the provision of bicycle parking. This is addressed under Clause C3(A) of the WDCP 2011.</p> <p>The parking is provided within a ground floor parking area which is (with exception to the entry) concealed from view from the street and adjoining properties.</p>
Part 4 Designing the Building		
Amenity		
Solar and Daylight Access	<p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> Living rooms and private open spaces of at least 70% of apartments in a building 	<p>Inconsistent</p> <p>Insufficient information has been provided to verify if the proposal will meet Solar and Daylight</p>

	are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter.	Access requirements.										
	<ul style="list-style-type: none"> A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter. 	As above										
Natural Ventilation	The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by: <ul style="list-style-type: none"> At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed. 	Consistent 27 of 39 (69%) of apartments are naturally cross-ventilated										
	<ul style="list-style-type: none"> Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line. 	Consistent No apartments exceed the 18.0m requirement.										
Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	Consistent The floor to ceiling heights of the apartments within the development meet the minimum 2.7m as required by the ADG.										
	<table border="1"> <thead> <tr> <th colspan="2">Minimum ceiling height</th> </tr> </thead> <tbody> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td>For 2 storey apartments</td> <td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td> </tr> <tr> <td>Attic spaces</td> <td>1.8m at edge of room with a 30 degree minimum ceiling slope</td> </tr> <tr> <td>If located in mixed used areas</td> <td>3.3m for ground and first floor to promote future flexibility of use areas</td> </tr> </tbody> </table>		Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope
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Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope											
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use areas											
Apartment Size and Layout	Apartments are required to have the following minimum internal areas:	Inconsistent The following apartments within the development do not comply with the minimum area. <ul style="list-style-type: none"> Unit 2 Unit 34 Unit 35 Unit 37 										
	<table border="1"> <thead> <tr> <th>Apartment type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m²</td> </tr> <tr> <td>1 bedroom</td> <td>50m²</td> </tr> <tr> <td>2 bedroom</td> <td>70m²</td> </tr> <tr> <td>3 bedroom</td> <td>90m²</td> </tr> </tbody> </table>		Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²
Apartment type	Minimum internal area											
Studio	35m ²											
1 bedroom	50m ²											
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3 bedroom	90m ²											

	<p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>																
Private Open Space and Balconies	<p>All apartments are required to have primary balconies as follows:</p> <table border="1"> <thead> <tr> <th>Dwelling Type</th> <th>Minimum Area</th> <th>Minimum Depth</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m²</td> <td>-</td> </tr> <tr> <td>1 bedroom apartments</td> <td>8m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom apartments</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>12m²</td> <td>2.4m</td> </tr> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	<p>Consistent All apartments within the development comply with the minimum balcony area and depth.</p>
	Dwelling Type	Minimum Area	Minimum Depth														
Studio apartments	4m ²	-															
1 bedroom apartments	8m ²	2m															
2 bedroom apartments	10m ²	2m															
3+ bedroom apartments	12m ²	2.4m															
<p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.</p>	<p>Consistent All apartments within the development comply with the minimum balcony area and depth.</p>																
Common Circulation and Spaces	<p>The maximum number of apartments off a circulation core on a single level is eight.</p>	<p>Consistent The maximum number of apartments off a circulation core on a single level is less than 8.</p> <p>The proposed development includes access to all floors via a lift.</p>															
	<p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	<p>Not Applicable</p>															
Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1"> <thead> <tr> <th>Dwelling Type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m²</td> </tr> <tr> <td>1 bedroom apartments</td> <td>6m²</td> </tr> <tr> <td>2 bedroom apartments</td> <td>8m²</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>10m²</td> </tr> </tbody> </table>	Dwelling Type	Storage size volume	Studio apartments	4m ²	1 bedroom apartments	6m ²	2 bedroom apartments	8m ²	3+ bedroom apartments	10m ²	<p>Consistent (subject to condition) The proposed development includes resident storage areas for all units within the building and as well as within the basement levels.</p> <p>A condition of consent could be imposed if the application is to be approved to ensure the</p>					
Dwelling Type	Storage size volume																
Studio apartments	4m ²																
1 bedroom apartments	6m ²																
2 bedroom apartments	8m ²																
3+ bedroom apartments	10m ²																

	At least 50% of the required storage is to be located within the apartment.	proposed storage areas are allocated in accordance with the size requirements of the ADG for the respective units.
Acoustic Privacy	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	Consistent All garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, private open spaces and circulation areas are located more than 3m away from bedrooms.
Noise and Pollution	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	Satisfactory The development is designed to minimise acoustic impact from neighbouring development and the local road network as well as minimising noise transmission to neighbouring land uses.
Configuration		
Apartment Mix	Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.	Consistent The development provides the following mix: <ul style="list-style-type: none">• 4 x 1 Bedroom (10%)• 20 x 2 bedroom (51%)• 15 x 3 bedroom (39%)
Ground Floor Apartments	Do the ground floor apartments deliver amenity and safety for their residents?	Not Applicable The development does not have ground level apartments .
Facades	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	Consistent The facade treatment is appropriate for the site.
Roof Design	Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top.	Consistent The development includes skillion roof forms which are considered to respond to the street and adjacent buildings.
Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	Not Consistent Landscape plans have been submitted with the application, providing

detailed plans for the landscape treatment. The Landscape Design has been assessed by Council's Landscape officer and have been found to be unsatisfactory.

Planting on Structures

When planting on structures the following are recommended as minimum standards for a range of plant sizes:

Plant type	Definition	Soil Volume	Soil Depth	Soil Area
Large Trees	12-18m high, up to 16m crown spread at maturity	150m ³	1,200mm	10m x 10m or equivalent
Medium Trees	8-12m high, up to 8m crown spread at maturity	35m ³	1,000mm	6m x 6m or equivalent
Small trees	6-8m high, up to 4m crown spread at maturity	9m ³	800mm	3.5m x 3.5m or equivalent
Shrubs			500-600mm	
Ground Cover			300-450mm	
Turf			200mm	

Not Consistent
Refer to Principle 5 above and Landscape referral comments

Universal Design

Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features

Consistent
The development satisfies all 7 core design elements (universal design features) for 100% of apartments.

Mixed Use

Can the development be accessed through public transport and does it positively contribute to the public domain?

Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.

Consistent
The development has accessibility to regular public transport routes along Pittwater Road.
The ground floor

		accommodates retail and car parking only. All residential use is located on the levels above.
Performance		
Energy Efficiency	Have the requirements in the BASIX certificate been shown in the submitted plans?	Consistent The BASIX Certificate submitted with the application (see Certificate No. 1150877M dated 33 November 2020) indicates that the development will achieve above target scores for water (40) and energy (45) usage while Thermal Comfort will achieve a target pass.
Water Management and Conservation	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	Consistent The application includes Geotechnical Site Investigation which take into account water disposal measures and the impact of the development on any groundwater seepage.
Waste Management	Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?	Consistent The application includes a Schedule of Materials and Finishes which ensures the longevity and sustainability of the building.
Building Maintenance	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	Consistent The application includes a Schedule of Materials and Finishes which ensures the longevity and sustainability of the building.

SEPP (Infrastructure) 2007

Ausgrid

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

- within or immediately adjacent to an easement for electricity purposes (whether or not the

electricity infrastructure exists).

- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment

The application was referred to Ausgrid pursuant to Clause 45(2) of the State Environmental Planning Policy (Infrastructure) 2007. In their response, no objection was raised subject to requirements that the development must comply with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

The requirements stipulated by Ausgrid can be included as a condition, should the application be worthy of approval.

Transport for NSW (RMS)

Because the site is located approximately 30m from Pittwater Road, the application was referred to Transport for NSW for comment. In their response, Transport for NSW did not object to the proposal subject to conditions.

The requirements stipulated by Transport for NSW can be included as a condition, should the application be worthy of approval.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	11.0m	17.0m	54.54%	No

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	No
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes

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

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	11m
Proposed:	12.2m to 17m
Percentage variation to requirement:	up to 54%

The portion of the building facing Alexander Street has an overall height of between 12.8m and 13.2m respectively, representing variations to the height control of up to 2.2m (20%).

The portion of the building facing Collaroy Street has an overall height of 12.2m to 17m representing variations of up to 6 metres (54%).

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard, has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

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

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

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment:

Clause 4.3 – Height of Buildings development standard is not expressly excluded from the operation of this clause.

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development 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

(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

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request (attached to this report as an Appendix) has not demonstrated that the objectives of the development standard are achieved.

In this regard, the Applicant's written request has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part:

In my opinion, there are sufficient environmental planning grounds to justify the variation. The additional height proposed facilitates a complimentary and compatible 4 storey form on this site consistent with the heights and form of recently approved and constructed shop top housing development within the Collaroy Beach B2 Local Centre zoned precinct. A better urban design and streetscape outcome is achieved.

The additional height proposed will ensure that the development maintains a complimentary and compatible streetscape height and form consistent with the heights and form of recently approved and constructed shop top housing development along this section of Pittwater Road and Collaroy Streets. We note that all floor levels are nearly identical to those established by the shop top housing developments to the north and south of the site.

Strict compliance would require the deletion of the entire upper floor of the development and result in a 3 storey form that would appear inconsistent with the height and cohesive streetscape established by recently approved and constructed shop top housing development adjacent to the site. The building is of exception design quality with the variation facilitating a height and floor space that provides for contextual built form compatibility and the orderly and economic use and development of the land consistent with objectives 1.3(c) and (g) of the Act.

It is noted that in Initial Action, the Court clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test.

The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the

development standard.

There are sufficient environmental planning grounds to justify contravening the development standard.

The written request solely relies on the fact that development is compatible with development in the area and this is not agreed with. In this regard, whilst there a four storey building along Collaroy Street, these buildings were approved under under a different planning instrument and are not designed to achieve strict compliance with ADG in terms of floor to ceiling height.

The applicant has not presented information to demonstrate that the variation to the development standard will achieve a better outcome compared to a compliant development. Furthermore, the variation to the building height development standard is a result of the fourth floor and “pop-top” roof element which causes substantial amenity impacts to the adjoining development (shadowing, privacy and view impacts). Therefore, the applicant's written request has not adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is not satisfied that the applicant’s written request has adequately addressed the matters required to be demonstrated by cl 4.6(3) and the application should be refused on these grounds.

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the height of buildings development standard and the objectives of the B2 Local Centre zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the WLEP 2011 are:

(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:

The height of the proposed development is 4 storeys, including an additional smaller “pop-top” roof element screening roof plant and lift overruns. This additional storey is set back from the leading edge and has the effect of a fifth storey. The proposal does not result in a scale and character that is compatible with the surrounding locality. whilst there are four storey building along Collaroy Street, these buildings were approved under under a different planning instrument and are not adjoining an R2 zone.

The proposed development is clearly incompatible with the character of the locality. A compliant

development would achieve a greater degree of compatibility.

In summary, the proposed breach of the building height control results in a development that does not satisfy this objective of the control

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Comment:

The height and scale of the proposed development has potential impacts on views, outlooks and vistas from residential areas to the west and properties located across the road at Collaroy Street, which overlook the site.

The proposed development will also impact on solar access on the adjoining property at 1119 Pittwater Road and adverse impact on No. 7 Alexander Street.

In summary, the proposed breach of the building height control results in a development that does not satisfy this objective of the control

c) to minimise adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

Comment:

The breach of the building height control does not have a significant impact on the scenic quality of Warringah's coastal and bush environments as the site is not in close proximity to those environments and development of the site does not have scenic impacts (as distinct from visual impacts related to bulk and scale and impacts on streetscape and character of the area).

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

Comment:

With regards to the streetscape presentation, it is considered that the presentation is clearly not compliant. The entire top level exceeds the building height control, is clearly visible from the street, and contributes to the jarring appearance when compared to the existing streetscape.

The other elements of the building that exceed the building height control also result in a negative impact when viewed from neighbouring streets and the public open space.

The change in level of the site does not present a significant constraint to the development of a compliant building. It is a gentle slope that can be used to provide a higher level of amenity for the shop top housing component by stepping dwellings up the slope of the land to obtain solar access, outlook and natural ventilation.

In summary, the proposed breach of the building height control results in a development that is inconsistent with this objective of the control.

Zone objectives

The underlying objectives of the B2 Local Centre zone 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 proposal is consistent with this objective.

- *To encourage employment opportunities in accessible locations.*

Comment

The proposal is consistent with this objective.

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

Comment

The proposal is consistent with this objective.

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

Comment

The proposal is consistent with this objective as detailed .

- *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

For the reasons discussed in this assessment report the proposal is considered to have a bulk and scape that is greater than that which is anticipated by the planning controls and does not relate favourably to neighbouring residential land uses. The proposal is not consistent with 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

For the reasons discussed in this assessment report the proposed land uses give rise to impacts that have a negative impact on adjoining and nearby residential land uses. The proposal is not consistent with this objective.

Conclusion:

For the reasons detailed above, the proposal is inconsistent with the objectives of the B2 Local Centre zone.

Conclusion of Clause 4.6 variation request

It is considered that the written request to vary the building height standard has not demonstrated that compliance is unreasonable or unnecessary in the circumstances of the case. Nor does it demonstrate sufficient environmental planning grounds to justify a variation to the control. Furthermore, the proposal does not satisfy all of the objectives of the control and the zone.

In summary, the proposal fails to satisfy the relevant matters in Clause 4.6 of WLEP 2011 and it is recommended that this issue be given determining weight and the development application not be approved.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, 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 inconsistency of the variation to the objectives of the standard and the objectives of the zone, the concurrence of the Director-General for the variation to the Height of buildings Development Standard cannot be assumed.

6.2 Earthworks

The objectives of Clause 6.2 - 'Earthworks' require development:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and*
- (b) to allow earthworks of a minor nature without requiring separate development consent.*

In this regard, before granting development consent for earthworks, Council must consider the following matters:

- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality*

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

- (b) the effect of the proposed development on the likely future use or redevelopment of the land*

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

- (c) the quality of the fill or the soil to be excavated, or both*

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition could be included in the consent, should the application be worthy of approval requiring any fill to be of a suitable quality.

- (d) the effect of the proposed development on the existing and likely amenity of adjoining properties*

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions could be included in the consent, should the application be worthy of approval to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development. Condition could be included in the consent, should the application be worthy of approval requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics

Comment: The site is not mapped as being a potential location of Aboriginal or other relics.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B2 Number of storeys	3	4 (+roof top terrace & associated structures)	25%	No
B5 Side Boundary Setbacks	East - Merit Assessment	Basement - Nil Ground - Nil to 8.8m First - Nil to 8.5m Second - Nil to 8.7m Third - Nil to 9.4m Fourth - Nil -9.1m	N/A	No
	West - Merit Assessment	Basement - Nil to 3.0m Ground - 0.4m to 4.7m First - Nil to 4.1m Second - Nil to 7.9m Third - Nil to 8.4m Fourth - 3.4m - 5.4m	N/A	No
B7 Front Boundary Setbacks - Collaroy Street (North)	Ground: Maintain street front First Floor: Maintain street front Second Floor: 5.0m	Basement - Nil Ground - 0.6m (Bin enclosure) to 3.0m (Retail) First - Nil to 1.9m Second - Nil to 1.9m Third - 0.3m to 1.9m Fourth - 7.0m to 13.9m	N/A	No
B7 Front Boundary Setbacks - Alexander Street (South)	Ground: Maintain street front First Floor: Maintain street front	Basement - Nil Ground - 0.6m (Bin enclosure) to 4.1m (Retail)		No

	Second Floor: 5.0m	First - Nil to 3.5m Second - Nil to 3.5m Third - 0.3m to 3.5m Fourth - 3.6m -3.9m (lift overrun)		
B9 Rear Boundary Setbacks	Merit Assessment	N/A	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	No	No
B2 Number of Storeys	No	No
B6 Merit Assessment of Side Boundary Setbacks	No	No
B7 Front Boundary Setbacks	No	No
B10 Merit assessment of rear boundary setbacks	N/A	N/A
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C4 Stormwater	No	No
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	No	No
D7 Views	No	No
D8 Privacy	No	No
D9 Building Bulk	No	No
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
D23 Signs	N/A	N/A
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features		

Clause	Compliance with Requirements	Consistency Aims/Objectives
E7 Development on land adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes
F1 Local and Neighbourhood Centres	No	No

Detailed Assessment

B2 Number of Storeys

Description of non-compliance

The development does not comply with the control in that it proposes the construction of 4 storeys which exceeds the control by one storey.

Merit consideration:

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

- *To ensure development does not visually dominate its surrounds.*

Comment:

The subject site is zoned B2 Local Centre under the provisions of Warringah LEP 2011. Adjoining development located on the southern side of Collaroy Street includes a 3-4 storey shop top housing development at No. 1119 Pittwater Road and a Council carpark accessed from Collaroy Street. The balance of the properties to the west of the site, including those located on the southern side of Alexander Street, are occupied by detached style dwellings reflecting the R2 Low Density Residential zoning. Development to the east of the site has its frontage and address to Pittwater Road and comprises 1 and 2 storey retail and business premises.

The proposal is a large-scale development that provides no articulation to the side boundaries. In this context, the proposed scale of the development will not be commensurate to that of adjoining sites, the development will visually dominate its surrounds and will be noticeable from the streetscape.

The proposal does not satisfy this Objective.

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

Comment:

The proposed development does not maintain the visual continuity and patterns of buildings nor protect and enhance the visual quality of the streetscape.

The development will not impact upon views from waterways or land zoned for public recreation purposes.

The proposal does not satisfy this Objective.

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

Comment:

The development will infill the site to achieve a height of 17m. The infilling of this site to that height will obstruct views from the afore-mentioned neighbouring residential properties to the west, which overlook the site.

The proposal does not satisfy this Objective.

- *To ensure a reasonable level of amenity is provided and maintained to adjoining and nearby properties.*

Comment:

The development does not provide reasonable amenity level to the adjoining and nearby properties with regards to its visual impact.

The proposal does not satisfy this Objective.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

Comment:

The development provides for a innovative roof pitch and variation in roof design.

The proposal satisfies this Objective.

- *To complement the height of buildings control in the LEP with a number of storeys control.*

Comment:

The development exceeds the permitted 11.0m overall building height as stipulated under the height of buildings development Standard in the WLEP 2011 by 6m. The non-compliant overall building height has been assessed against the provisions of Clause 4.6 under the WLEP and was found to be inconsistent with the Objectives of the Development Standard and the Objectives of the zone. In this respect, the non-compliance is not supported.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B6 Merit Assessment of Side Boundary Setbacks

Whilst the side setback control is merit based, at present there is insufficient setback and stepping back at upper levels of the building to the western boundary to ensure adequate transition between the B2 Local Centre and R2 - Low Density Residential zoned sites. There is also insufficient setback provided to the adjoining development at No.1119 Pittwater Road.

Similarly, and as previously discussed in relation to the laneway, the eastern boundary is considered as a side setback, which would benefit from an increased pedestrian circulation zone.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B7 Front Boundary Setbacks

Description of non-compliance

The control stipulates the following requirements:

- Ground and first floors of the building: Aligned to street frontage.
- For any storey above the first floor: 5.0m.

The non-compliance relates to the 2nd Level both street frontages (as stipulated in the table below), which is required to be setback 5m:

B7 Front Boundary Setbacks - Collaroy Street (North)	Ground: Maintain street front First Floor: Maintain street front Second Floor: 5.0m	Basement - Nil Ground - 0.6m (Bin enclosure) to 3.0m (Retail) First - Nil to 1.9m Second - Nil to 1.9m Third -0.3m to 1.9m Fourth - 7.0m to 13.9m	N/A	No
B7 Front Boundary Setbacks - Alexander Street (South)	Ground: Maintain street front First Floor: Maintain street front Second Floor: 5.0m	Basement - Nil Ground -0.6m (Bin enclosure) to 4.1m (Retail) First - Nil to 3.5m Second -Nil to 3.5m Third -0.3m to 3.5m Fourth - 3.6m -3.9m (lift overrun)		No

The proposed development does satisfy the objectives of this control, as the development adds to unreasonable building bulk and scale to the street. The non-compliance is particularly noticeable due to the building height and number of storeys non-compliances.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

C3 Parking Facilities

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference
<u>Residential</u> 1 Bedroom (4) 2 Bedroom (20) 3 Bedroom (15)	1 space/dwelling 1.2 spaces/dwelling 1.5 spaces/dwelling	4 space 24 spaces 22.5 spaces	63 spaces	+12
Visitors	1 space/5 dwellings	7.8 spaces	8 space	Nil
<u>Retail</u> Retail 01 (40.5m ²) Retail 02 (68.45m ²) Retail 03 (68.25m ²) Retail 04 (69.32m ²) Total (246.27m ²)	1 space/16.4m ² GLFA	15 spaces	14 spaces	-1 spaces
Total		65.5 spaces	85 spaces	A short fall 1 retail parking space

As demonstrated in the table above, the proposal is 1 space short for the retail component of the development when calculated against the WDCP requirement for car parking.

To address the non-compliance, the proposal is accompanied by a Parking and Traffic Impact Assessment report, prepared by Tarrific Pty Ltd, The report states that shortfall in retail parking is considered acceptable for the following reasons:

1. *The shortfall is only 1 retail parking space;*
2. *The existing 177m² of retail floor space on the site is served by only 3 off-street parking spaces (1 space per unit). Based on the DCP parking requirements, the existing retail would generate 11 parking representing a shortfall of 8 spaces*
3. *Adjoining the site off Collaroy Street is an 18 space public carpark with a 2 hour parking limit.*
4. *The 16 visitor and retail shopper parking spaces on the ground level will take into account dual and complementary use of parking spaces presented by the mixed-use development proposal*
5. *The site has convenient access to numerous bus services which will reduce the demand for car travel*

Council's Traffic Engineer supports the applicant's Traffic report's justification on the shortfall relating to

parking. Therefore, the development is acceptable with regards to the parking provided for the development.

C4 Stormwater

Council's Development Engineer has raised concerns with regards to the proposed arrangements for stormwater disposal from the site. These concerns have been given determining weight as a reason for refusal of the development application.

D6 Access to Sunlight

The Development Application includes certified shadow diagrams which indicate that the development will create additional overshadowing to the neighbouring properties to the south and west of the subject site. whilst it can be argued that the level of overshadowing is compliant with Clause D6– Access to Sunlight.

However, the level of overshadowing cast by the development can be reduced by lowering the building height, and increasing the side and front setback.

D9 Building Bulk

As discussed above with regards to the building height control in WLEP 2011, the proposed building height results in a bulk and scale of development that is considered to be excessive, having a negative impact on streetscapes and the character of the area. It is considered that the proposal does not satisfy the requirement of Clause D9 of WDCP 2011 that "*building height and scale needs to relate to topography and site conditions*" and this issue has been given determining weight as a reason for refusal of the development application.

F1 Local and Neighbourhood Centres

As discussed above with regards to the building height control in WLEP 2011 and within Urban Design referral comments, the proposed building height results in a bulk and scale of development that is considered to be excessive, having a negative impact on streetscapes and the character of the area. It is considered that the proposal does not satisfy the following requirements of Clause F1:

- *Buildings are to define the streets and public spaces and create environments that are appropriate to the human scale as well as being interesting, safe and comfortable.*
- *The design and arrangement of buildings are to recognise and preserve existing significant public views.*
- *Development that adjoins residential land is not to reduce amenity enjoyed by adjoining residents.*
- *The built form of development in the local or neighbourhood retail centre is to provide a transition to adjacent residential development, including reasonable setbacks from side and rear boundaries, particularly above ground floor level.*
- *Buildings greater than 2 storeys are to be designed so that the massing is substantially reduced on the top floors and stepped back from the street front to reduce bulk and ensure that new*

development does not dominate existing buildings and public spaces.

This issue has also been raised as a concern by Council's Urban Design Advisor in the comments detailed above. These concerns are concurred with and this issue has been given determining weight as a reason for refusal of the development application.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$183,638 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$18,363,774.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

Council is not satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

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

The proposed development involves a substantial breach of the building height control in clause 4.3 of WLEP 2011. At its maximum, the breach is up to 6m metres (54%). The breach of the building height control occurs over a large portion of the development. The applicant has submitted a written request to vary the control under clause 4.6 of WLEP 2011. It is considered that the proposal fails to satisfy the requirements of clause 4.6 of WLEP 2011 because compliance with the control is not unreasonable or unnecessary and because there are not sufficient environmental planning grounds to justify the variation that is sought.

The assessment of the application against the provisions of SEPP 65 found that the proposal is inconsistent with a number of the design principals and a number of relevant requirements as contained in the associated ADG, particularly as it relates to building separation.

The public notification resulted in 152 submissions, 136 of which supported the proposal. The objections raised a variety of issues, some of which have been given determining weight. These include the impacts of the proposal on the character of the area, the height, bulk and scale of the development, the impact of the development on the adjoining development. .

The breach of the controls and the impacts arising from those breaches are indicative of a proposal that is an overdevelopment of the site.

Accordingly, the application is recommended for refusal.

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council , as the consent authority REFUSE Development Consent to Development Application No DA2020/1453 for the Demolition works and construction of a shop-top housing development on land at Lot 1 DP 881326,4 Collaroy Street, COLLAROY, Lot CP SP 5367,1 Alexander Street, COLLAROY, for the reasons outlined as follows:

1. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of State Environmental Planning Policy 65 - Design Quality of Residential Flat Development and its associated Apartment Design Guide.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Warringah Local Environmental Plan 2011.
3. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause Zone B2 Local Centre of the Warringah Local Environmental Plan 2011.
4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.3 (2) Height of Buildings of the Warringah Local Environmental Plan 2011.
5. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the written request to vary the building height control pursuant to clause 4.6 of Warringah Local Environmental Plan 2011 is not well founded.
6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B2 Number of Storeys of the Warringah Development Control Plan.
7. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B6 Merit Assessment of Side Boundary Setbacks of the Warringah Development Control Plan.
8. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B7 Front Boundary Setbacks of the Warringah Development Control Plan.
9. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C4 Stormwater of the Warringah Development Control Plan.
10. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D6 Access to Sunlight of the Warringah Development Control Plan.
11. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D7 Views of the Warringah Development Control Plan.

12. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D8 Privacy of the Warringah Development Control Plan.
13. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D9 Building Bulk of the Warringah Development Control Plan.
14. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause F1 local and Neighbourhood Centres of the Warringah Development Control Plan.