

## SYDNEY NORTH PLANNING PANEL COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSSNH-304
<b>DA Number</b>	DA2022/0145
<b>LGA</b>	Northern Beaches
<b>Proposed Development</b>	Demolition works and construction of a mixed-use development comprising a residential flat building and shop top housing, basement parking, lot consolidation and torrens title subdivision
<b>Street Address</b>	Lot CP SP 32072, 812 Pittwater Road DEE WHY NSW 2099 Lot CP SP 32071, 4 Delmar Parade DEE WHY NSW 2099
<b>Applicant/Owner</b>	Landmark Group Australia Pty Ltd The Owners Of Strata Plan 32071
<b>Date of DA lodgement</b>	15/03/2022
<b>Number of Submissions</b>	3
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)</b>	State Environmental Planning Policy (Planning Systems) 2021 (Schedule 6 (2))
<b>List of all relevant s4.15(1) (a) matters</b>	
<b>List all documents submitted with this report for the Panel's consideration</b>	
<b>Clause 4.6 requests</b>	
<b>Summary of key submissions</b>	<ul style="list-style-type: none"> <li>• Clause 4.4 Floor Space Ratio variation request</li> <li>• Clause 6.7 Residential flat buildings in Zone B4 Mixed Use variation request</li> <li>• Clause 7.6A Podium Heights variation request</li> <li>• Clause 7.12 Provisions Promoting Retail Activity variation request</li> <li>• Site Isolation / amalgamation and future development potential</li> <li>• Flooding and management of stormwater infrastructure</li> <li>• Design excellence</li> <li>• Housing supply</li> <li>• Impacts on heritage conservation area</li> </ul>
<b>Report prepared by</b>	Louise Kerr Director, Planning and Place
<b>Responsible Officer</b>	Adam Susko, Principal Planner
<b>Report date</b>	

### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **YES**

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the

consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?  
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

**YES**

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**Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

**YES**

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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)? Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

**N/A**

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**Conditions**

Have draft conditions been provided to the applicant for comment? Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

**YES**

**EXECUTIVE SUMMARY**

***Introduction***

This application has been assessed by Northern Beaches Council and is put to the Sydney North Planning Panel (SNPP) for determination pursuant to Schedule 6 (2) *General development over \$30 million* of the State Environmental Planning Policy (Planning Systems) 2021, as the proposal has a Capital Investment Value over \$30 Million, being \$60,195,000.

The application seeks to amalgamate two of the largest lots within the southern part of the Dee Why Town Centre and construct a new mixed-use development with the second highest number of dwellings delivered by a single development in the Northern Beaches in the past decade. The proposal responds to the universally accepted housing shortage across Sydney by delivering 219 new apartment style dwellings into this Major Centre, assisting to attain the goal of Council's housing target (being 12,000 new dwellings in the next 12 years).

The site has presented a number of unique challenges and constraints that have been key drivers in the evolution of the planning and referrals assessments and the design response. It is the southernmost site within the Town Centre area, being approximately 600 to 700m distant from the "core", which is generally defined as the Meriton *Lighthouse* development. The site is directly adjacent to land zoned for R2 Low Density Residential and is developed as dwelling houses. The site also sits immediately to the north of the Stony Range Botanical Reserve, which is a locally listed Heritage Conservation Area. The streetblock making up this corner of the Town Centre also comprises two other sites, one being a recently completed shop-top housing development at No. 2 Delmar Parade, and the other being a car rental business at 816 Pittwater Road, known as the *Avis Site*.

Furthermore, the site has a slope affecting it and falls from south to north by up to 5m and is burdened by significant flooding constraints, a public stormwater pipe and overland flow path.

Because of these constraints, the form of the building and the arrangement of land uses differs from what is typically envisaged by the planning controls in the Warringah Local Environmental Plan 2011 (WLEP 2011) and, to a lesser extent, the Warringah Development Control Plan 2011 (WDCP 2011). Primarily, these differences emerge as formal requests for Clause 4.6 variations, to which the development has four (4).

### **Clause 4.6 Variations**

The first two (2) Clause 4.6 variation requests relate to the arrangement of land uses on the ground and first floors of the building. Clauses 6.7 and 7.12 operate in conjunction to secure commercial uses on those levels and ensure that there is no residential use on the ground floor level of the building, and that the first floor level should be used for employment generating floorspace. The proposal does not provide for the envisaged outcome, and instead provides for four (4) commercial tenancies at the street frontages of the building, and providing residential accommodation behind (at the ground level) and for the entire first level (and above). This latter request is the most significant variation sought by the applicant.

The applicant's argument to justify the variations puts forward that the B4 Mixed Use zoning permits development for the purpose of residential flat buildings, to which the larger portion of this proposal is appropriately described. It argues that because of the spatial and geographical disconnect the site has from the core of the Town Centre, and its peripheral location at the edge of the Town Centre, that the site is not suitable for such intensive commercial floorspace. It is also argued by the applicant that, given the adjacent R2 zoning and existence of low density detached dwelling houses, that having two storeys of commercial floorspace down this side of the site is unsuitable, undesirable and inappropriate, as it would be deleterious to the amenity of neighbours and an inferior planning outcome.

This matter has been the subject of significant discussions between the applicant and Council, and through various revisions of the scheme, the ratio of commercial floorspace has been increased, in addition to the provision of several ground floor apartments, that could be converted to commercial floorspace in the future. This assessment report finds that the applicant's rationale behind the variation is well-founded, reasoned and logical in its basis, and that whilst the proposal may not be providing the desired quantum of commercial floorspace, it does provide an appropriate level of commercial activation of the street frontages in this area of the Town Centre, and provides much needed additional apartment type housing in the Town Centre area. Therefore, the variations relating to the location and amount of commercial use are supported.

The other two (2) Clause 4.6 variation requests pertain to the *Podium Heights* of the building at the street frontages to Pittwater Road and Delmar Parade and a variation to the *Floor Space Ratio* (FSR) development standard. The proposed podium heights are found to be consistent with what is established in the Town Centre and, having regard to the site's geographical location as a 'Gateway' into the Town Centre, warrant the building having an increased visual presence to Pittwater Road. In terms of the Clause 4.6 for the FSR, the site has two (2) different floor space ratios applying to it, and does not comply with one (1) of those, however when the total area of floorspace is combined, it becomes lesser than the maximum prescribed by the control (were the two areas combined) and because of this, the variation is supported.

### **Public Consultation**

The Development Application has been publicly exhibited in accordance with Council's Community Participation Plan, whereby the proposal was notified to 841 households and businesses. In response to this, Council received two (2) submissions objecting to the application. The first of which was from a nearby resident objecting on the basis of the excessive scale of the building, and the impacts which more cars and garbage collection would have on the local road network. The second was received from a representative of the owners of the adjoining and aforementioned Avis Site regarding the lack of site amalgamation and jeopardising the future development potential of the Avis Site.

### **Amalgamation**

In summarising the Avis Site submission, the concern is primarily that the subject site is not being amalgamated with the Avis Site at 816 Pittwater Road, which adjoins the subject site on two boundaries

to the west, and that, if the proposal were to be approved and built, that the layout and setbacks of the proposed development will prejudice the future development potential of the Avis Site. On the issue of amalgamation, the applicant has provided evidence of written offers to the owners of the Avis Site, which are accompanied by two (2) independent valuations, prepared by expert Valuers. The offers put forward were in excess of the appraised market values.

The applicant acknowledges that a superior planning outcome would be achieved if amalgamation with 816 Pittwater Road was able to be done, but no commercial agreements have been successful to date. A similar scenario existed when the DA for the site at No. 2 Delmar Parade was being assessed, whereby they also could not successfully acquire the Avis Site at the time due to commercial agreements not being reached. In that approval (which has since been constructed and occupied), the Avis Site benefits from a Right of Carriageway through the basement of No. 2 Delmar Parade to a future basement on 816 Pittwater Road to ensure that they will have vehicular access which does not rely on access from Pittwater Road.

### ***Site Isolation***

The applicant for the current proposal, who is the same developer for No. 2 Delmar Parade (after it changed hands from the original developer), maintains that the Avis Site will not be isolated, as they already have established vehicular access via 2 Delmar Parade, and schematic plans have been furnished by the project architects, Rothelowman which demonstrate that the site maintains a reasonable development potential, determined to be 39 residential units and two (2) commercial units with basement parking, as shown in the concept plans.

### ***Traffic and Waste***

The design and operation of the building is such that impacts on the local road network should be minimised, particularly having regard to the fact that the site has only one main driveway and that all waste collection will occur entirely within the site, with garbage trucks being able to enter and exit the site in a forward direction. The proposal has been referred to Transport for NSW, who have raised no objections to the proposal and put forward no recommended conditions. Council's Traffic and Waste sections have supported the revised scheme.

### ***General Planning Comments***

This site is one of the biggest "pieces of the puzzle" that make up the Dee Why Town Centre. The development of the site at the height, scale and density as detailed in the amended scheme is generally consistent with what was envisaged in the Dee Why Town Centre Master Plan and as embodied in the applicable planning controls.

Whilst the arrangement of land uses, distribution and quantum of commercial floorspace is not fully compliant with the planning controls applying under the WLEP 2011, in the circumstances of this site and its location within the Town Centre, the variations are considered to be warranted and supportable. The impact of there being less commercial floorspace than what is envisaged, is reasonably offset by the provision of additional apartment style housing and it does maintain active street frontages to Pittwater Road and Delmar Parade. The Clause 4.6 variations, and the size, scale, density and character of the development as a whole are found, on balance, to have no unreasonable impacts on adjoining residents, businesses and the Stony Range Reserve, and that the proposal will have a net positive benefit to the Town Centre. It will promote urban renewal and continue the momentum of redevelopment of significant sites within the Town Centre.

### ***Recommendation***

This report concludes that, on balance, the proposal has sufficient merit to be recommended for approval to the Sydney North Planning Panel, subject to the special and standard conditions attached to the Recommendation.

## PROPOSED DEVELOPMENT IN DETAIL

The proposal, as amended, involves demolition works, tree removal, excavation, the construction of a part-five/part-seven storey mixed-use development comprising shop-top housing and residential flat buildings, with associated basement car parking and torrens title subdivision.

Specifically, the proposal involves the following:

- Demolition of all structures, including existing commercial buildings and carparking areas
- Removal of 59 trees
- Bulk excavation of the site
- 334 car parking spaces (258 residential, 44 visitor and 32 commercial) in two basement levels
- Vehicular access, loading dock and waste collection from Delmar Parade
- Two main buildings, with varying heights, including five, six and seven storeys
- 219 apartments; comprising 122 units in the Delmar Parade building (being 44 x 1 bed, 8 x 1 bed+, 30 x 2 bed, 16 x 2 bed+, 21 x 3 bed, and 3 x 3 bed+) and 97 units in the Pittwater Road building (being 35 x 1 bed, 6 x 1 bed+, 35 x 2 bed, 6 x 2 bed+, 12 x 3 bed, and 3 x 3 bed+)
- Four (4) commercial tenancies, two facing Pittwater Road and two facing Delmar Parade
- 2,011m<sup>2</sup> of communal open space, including ground floor level and roof top terraces
- Relocated stormwater infrastructure and Overland Flow Path
- New landscaping

Approval is not being sought for the use, fitout or signage of any of the commercial tenancies.

## 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 - 4.4 Floor space ratio

Warringah Local Environmental Plan 2011 - 7.4 Development must be consistent with objectives for development and design excellence

Warringah Local Environmental Plan 2011 - 7.13 Mobility, traffic management and parking

Warringah Development Control Plan - D6 Access to Sunlight  
 Warringah Development Control Plan - D7 Views  
 Warringah Development Control Plan - 6 Site amalgamation  
 Warringah Development Control Plan - 9 Sustainability

**SITE DESCRIPTION**

<b>Property Description:</b>	<p>Lot CP SP 32072 , 812 Pittwater Road DEE WHY NSW 2099</p> <p>Lot CP SP 32071 , 4 Delmar Parade DEE WHY NSW 2099</p>
<b>Detailed Site Description:</b>	<p>The subject site comprises of two allotments legally identified as SP 32071 and SP32072 and known as 4 Delmar Parade and 812 Pittwater Road, Dee Why.</p> <p>The site fall within the mapped Dee Why Town Centre and is zoned B4 Mixed Use pursuant to the WLEP 2011. The site is the southernmost lot within the town centre.</p> <p>The site is irregular in shape with two street frontages, intersected by existing development to the northwest. The site has a 52m wide northern frontage to Delmar Parade and a 20m westerly frontage to Pittwater Road. The site has a north-south depth of 100m and an east-west depth of 130m. Overall the site has an area of 7,790m<sup>2</sup>.</p> <p>The site currently contains three (3) two-storey commercial buildings bound by at-grade car parking. Access to the site is from Delmar Parade. The site has limited vegetation throughout, consequent of the expanse of car parking.</p> <p>Topographically the site falls from south to north by approximately 4.5m via a gradual slope, although much of this has been levelled already.</p> <p>Developments surrounding the site vary significantly.</p> <p>To the east land is zoned R2 Low Density Residential and accommodates a battle-axe subdivided allotment with two detached dwelling houses in landscaped settings.</p> <p>To the north is a shop-top housing development known as 822 Pittwater Road which presents as a sheer 9 storey high development with no setback to the southern boundary. This building casts significant shadow onto Delmar Parade and the northern portion of the site, as can be seen in the below aerial photograph.</p> <p>To the north-west there are two sites, one being 2 Delmar Parade which comprises of a recently completed 7 storey shop top housing development completed by the same architect and developer as this subject DA. The other is 816 Pittwater Road, commonly known as the Avis site. The Avis site accommodates a small single storey building and at-</p>







**Figure 1: Historical imagery from 1943**



**Figure 2: Historical imagery from 1978**





**Figure 3: Historical imagery from 1986**

## DEVELOPMENT HISTORY

### PLM2020/0226

In September 2020, the Applicant approached Council to discuss the redevelopment of 4 Delmar Parade.

That scheme sought a significant variation to the height of buildings development standard under Clause 4.6 (which was permitted at the time, but the application of Clause 4.6 for building height has since been omitted in the Dee Why Town Centre area) and included a pedestrian linkage through the eastern side of the site down to 812 Pittwater Road, and considered a basement punch-through to this site.

A meeting was held on 3 December 2020, in which Council raised a number of concerns with the proposal. The meeting notes issued by Council concluded:

*These notes are in response to a pre-lodgement meeting held on 3 December 2020 to discuss the construction of a mixed use development (comprising Shop Top Housing and Residential Flat Building) at 4 Delmar Parade and 812 Pittwater Road, Dee Why.*

*The notes reference the architectural concept design plans prepared by Rothelowman dated 18 November 2020.*

*The proposal exhibits a number of significant matters as outlined in detail in these Notes which prevent Council from supporting the development in its current form.*

*You are strongly advised to review and satisfactorily address the issues identified in these Notes prior to submitting a Development Application.*

*The success of the scheme will be dependent on the support for the Clause 4.6 Variation, compliance with the ADG, the impacts on the apartments facing east at No. 2 Delmar Parade, the breakdown of the visual bulk of the non-compliant 6<sup>th</sup> and 7<sup>th</sup> storeys, the incorporation of sufficient retail/business premises on the northern half of the site forming part of the "Shop Top Housing" and the interface of the ground floor areas with the laneway on the western side of the site.*

*A second formal PLM meeting would be appropriate in the circumstances to allow your revised scheme to be considered and advice provided prior to DA lodgement.*

The applicant proceeded to engage in a number of informal discussions with Council officers, but no formal second pre-lodgement meeting was ever held.

## HISTORY OF CURRENT APPLICATION

This DA was first submitted with Council on 4 February 2022 and was formally accepted on 17 March 2022.

The proposal was reviewed by the *Sydney North Planning Panel* (SNPP) in a briefing, and at Council's *Design and Sustainability Advisory Panel* (DSAP), the comments of which are addressed later in this report.

Council wrote to the applicant on 7 July 2022 raising concern with a number of aspects of the proposal and invited the applicant to either amend or withdraw the application. A number of meetings were held post that RFI letter and a revised scheme was submitted in late December 2022.

The main changes include:

- Reduction in apartments from 230 to 219 (reduced by 11 units)
- Doubling the amount of commercial floorspace
- Increasing the eastern setback by 3.0m to provide deep soil
- Reconfiguration of the basement to achieve the above
- Amended facades to remove expanses of white concrete facing south and east to be of a warmer masonry finish
- New on-slab plantings, including planter boxes to the edge of the balcony and on the roof
- New rooftop communal space
- Revision to loading bay, driveway entrance, and stormwater/flooding infrastructure

That revised scheme has been internally re-referred to the various departments within Council to comment on, and has been amended on several occasions, generally to address flooding and overland flow matters. It is these plans and documents that are considered in this report.

## 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	<p>The NSW Employment Zones reforms have been made and came into force on 26 April 2023. These reforms result in this property changing from a B4 Mixed Use zone to a MU1 Mixed Use zone, and have been formalised through the introduction of the <i>State Environmental Planning Policy (Land Use Zones) (No 5) 2022</i>.</p> <p>The general premise of the application for a mixed-use development would remain permissible, however in paragraph [12] of the gazette, clause 6.7 is to be omitted, and residential flat buildings are to be deleted from the '<i>permitted with consent</i>' table within the Land Use Table. To this extent, the</p>

Section 4.15 Matters for Consideration	Comments
	<p>premise of residential accommodation on the ground floor would go from 'permitted with consent' to 'prohibited', which represents a discrepancy between this proposal and the reforms.</p> <p>The reforms also change the Objectives of the zone to be:</p> <ul style="list-style-type: none"> <li>• <i>To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.</i></li> <li>• <i>To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.</i></li> <li>• <i>To minimise conflict between land uses within this zone and land uses within adjoining zones.</i></li> <li>• <i>To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.</i></li> <li>• <i>To provide an active day and evening economy encouraging, where appropriate, weekend and night-time economy functions.</i></li> </ul> <p>This application remains permissible under the relevant savings provisions, however notwithstanding that, it is considered that the proposal still meets the new zone Objectives.</p> <p>The site is unique in that it is the only mixed-use zoned land within the Dee Why Town Centre which shares a boundary with R2 Low Density Residential zoned land. The variation in permissible built form and land use between these two zones creates an inherent conflict. The concentration of commercial floor space to the sites two main street frontages and centrally within the site, minimises impacts on neighbours, but retains an active street frontage that contributes to the activation and vibrancy of the street. Because of the interface to the R2 zone, as well as being geographically isolated from the Town Centre core, it is not considered appropriate for the commercial outlets within the site to contribute to an active evening or night-time economy (generally consistent with how the subject site and Delmar Parade operates now).</p> <p>The particular site location with unusual interfaces with more sensitive uses, and a significant site depth, warrants a unique site planning approach. The development, if approved, would still achieve the Objectives of the zone, without compromising the integrity of the wider Town Centre or residential amenity.</p> <p>Therefore, even though the proposal remains permissible through the savings provisions, the proposal would satisfy the Objectives of the MU1 Mixed Use employment zone, as amended.</p>
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	The abovementioned reforms were introduced through gazette and formalised during the course of this application.
Section 4.15 (1) (a)(iii) –	Warringah Development Control Plan 2011 applies to this proposal.

Section 4.15 Matters for Consideration	Comments
Provisions of any development control plan	
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 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 29</u> of the EP&amp;A Regulation 2021 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 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. During the course of the application, Council requested additional information as detailed earlier in this report.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 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>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b></p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report.</p> <p>The development would introduce a significantly more varied and interesting landscape treatment to the site, commensurate to what it currently accommodates. The proposal has been reviewed by Council's Landscape Officer who, subject to the submitted landscape plans and conditions, finds that the proposal would have a positive environmental impact.</p> <p>The development introduces a substantial "<i>green corridor</i>" from Delmar Parade down to Stony Range Reserve which, in part, exists to manage stormwater, but will also accommodate significant native trees to improve the urban canopy and to reduce the urban heat island effect. The redesign/enlargement of the loading dock/waste collection turning area for trucks has impinged on this green setback, but sufficient remains to provide for its intended purpose.</p> <p>This green corridor is a significant piece of green infrastructure and is of</p>



Section 4.15 Matters for Consideration	Comments
	<p>visual and environmental benefit. The corridor is consistent with the intent of the <i>Northern Beaches Council Draft Urban Tree Canopy Plan</i>.</p> <p><b>(ii) Social Impact</b> The site falls within the Town Centre and has been earmarked for redevelopment since the WLEP 2011 came into force. The site is one of the last large amalgamated parcels of land within the Town Centre area and forms an important 'bookend' both as the southern entry/exit to the Town Centre, but also as a transitional site the low density residential area to the east. The site is well located, being proximate to services, transport and public lands and the introduction of a significant volume of apartment style housing within the Town Centre would significantly contribute towards Council's housing targets.</p> <p>The redevelopment of the site and the significant contribution it will make towards the provision of apartment style housing is a positive addition to the local community and this part of the Northern Beaches area.</p> <p><b>(iii) Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the predominantly residential nature of the proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	<p>The proposed development is considered to be an appropriate development for the site, one which is consistent with the original Dee Why Town Centre Master Plan and the majority of the planning controls that apply to the land. The proposal responds to neighbouring context, setting and environmental constraints, in order to minimise or mitigate any impacts that may be generated.</p> <p>The proposal is not free of environmental impacts, particularly in relation to residential amenity, streetscape, landscape and public domain, however there is a reasonable expectation by the applicant to develop the site generally to its capacity as envisaged by the planning controls. Despite the variations to those controls, this assessment finds that the impacts caused by the development are reasonable and do not warrant a reduction in size, scale and density and can be appropriately managed.</p> <p>On the balance of all site suitability factors, constraints and planning controls, the site is considered to be suitable for the proposed development.</p>
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	<p>See discussion on “Notification &amp; Submissions Received” in this report. In summary, whilst the number of submissions is low, the issues raised in those submissions are critical to the assessment of the application. The main issues of site amalgamation, site isolation, impacts on development potential of the Avis Site and compliance with SEPP 65, ADG and WLEP 2011 are addressed in the following sections of this report.</p> <p>The conclusion is that the public submissions do not warrant the refusal of the application.</p>
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest. Whilst the application involves a

Section 4.15 Matters for Consideration	Comments
	number of significant variations to the planning controls under WLEP 2011, the overall benefits of the redevelopment, urban renewal, housing supply, enhancement of streetscapes and character and provisions for infrastructure and protection of amenity, mean the public interest is maintained to a reasonable and acceptable extent.

## 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 23/03/2022 to 20/04/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 3 submission/s from:

Name:	Address:
Mr Anthony Wayne Winslow	60 Delmar Parade DEE WHY NSW 2099
Mr Dale Branch	PO Box 44 DEE WHY NSW 2099
Fineoak Pty Ltd	816 Pittwater Road DEE WHY NSW 2099

During the public exhibition of the Development Application, 841 households and businesses were notified of the proposal.

Responses were received from two (2) separate addresses.

The following issues were raised in those submissions:

- **Site Amalgamation and future development potential of 816 Pittwater Road**
- **Numerical non-compliances**
- **Suitability of Delmar Parade for retail street frontage**
- **Carparking, traffic congestion and waste collection**
- **Architecture and proportions of the development**

The above issues are addressed as follows:

- **Site Amalgamation and future development potential of 816 Pittwater Road**

*A submission has been received on behalf of the owners of the adjoining 816 Pittwater Road (the "Avis Site") which, in part, asserts that the proposed development site should be amalgamated with the Avis Site to provide a superior urban design outcome.*

Comment:

There is no legal means within the Environmental Planning and Assessment Act, 1979 for a consent authority to force a developer or a neighbour to sell or purchase other land. The applicant has provided evidence of attempts to purchase the Avis Site, which is accompanied by two independent Valuation Assessments prepared by separate registered real estate valuers (Note - several of these documents are not be available on Council's DA Tracker given their '*commercial in confidence*' nature).

The redevelopment of No. 2 Delmar Parade (DA2017/1183) secured vehicular access to the Avis Site through the imposition of Condition 65, which requires the creation of a *Right of Access* ("*through site link*") under the provisions of s88B of the Conveyancing Act, which is to ensure that vehicular access can be provided to the Avis Site through No. 2 Delmar Parade upon the redevelopment and commencement of works at the Avis Site.

**65. Right of Access (through-site vehicle link)**

A right of access (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision and the accompanying 88B instrument to ensure a through-site vehicle access within the ground level to No. 814 -816 Pittwater Road, Dee Why (Avis site) detailed on the approved plans.

The terms of the right of way (available from Northern Beaches Council), are to be prepared by a registered surveyor to Northern Beaches Council's standard requirements at the applicant's expense.

Activation of the through site link will only occur upon redevelopment and physical commencement of a mixed-use development on 814-816 Pittwater Rd Dee Why (Avis Site)

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issue of any Subdivision Certificate.

Reason: To allow the reasonable development of the neighbouring site. (DACENH23)

**Figure 4: Condition No. 65 of Development Consent DA2017/1183 - Through-Site Link**

The submission states that the future development of the Avis Site (to its maximum capacity under the planning controls) may have adverse impacts on the solar access of units in the proposed development, if it were to be constructed. It must be noted that not all sites are capable of being developed to their maximum capacity. There is no avenue within the EPA Act to presuppose amenity issues for a proposal created from a separate site that has no active consent or Development Application lodged. Notwithstanding, the applicant has submitted concept plans for the redevelopment of the Avis Site, whilst giving it reasonable development potential/yield.

These matters are discussed throughout this report, however on balance and in consideration of the legislative framework, this report concludes with the recommendation that the DA be approved, and that amalgamation with the Avis Site is not required in this instance, but it is acknowledged that amalgamation with the Avis Site would generate a superior design and planning outcome for both parties. Therefore, this issue should not be given determining weight.

- **Numerical Non-compliances**

*One submission received states that the building is too big and too tall, and the other points out several areas of non-compliance in the proposed development.*

Comment:

The proposal seeks the support for a number of non-compliances with the planning controls under the WLEP 2011, WDCP 2011 and SEPP 65/Apartment Design Guide (ADG). The requests for variations have been addressed in detail under the respective clauses. On balance, the non-compliances sought are not of a magnitude or consequence that would warrant the refusal of the application. The Clause 4.6 Variations are assessed against the accepted LEC case laws and have been determined to be well-founded and are supported.

- **Suitability of Delmar Parade for retail street frontage**

*A submission has been received from a resident in Delmar Parade who states that "Delmar Parade is not a retail area and is totally unsuitable for shops of any nature."*

Comment:

The zoning of the site envisages retail and commercial premises at the ground and first floor of the building and to each street frontage to ensure appropriate levels of activation and employment generation. However, it is accepted that there is limited demand for commercial gross leasable floor area (GLFA) in this location, given its physical disconnect from the main Town Centre area, and because the site adjoins sensitive (in terms of residential amenity) R2 Low Density Residential zoned land to the east.

Instead of providing the required amount of retail and commercial GLFA, the Applicant has elected to provide retail and commercial offerings at the sites two street frontages only, and have the internal spaces dedicated to residential apartments (noting that several ground floor units would be capable of adaptation to commercial uses, if such was to become more feasible in the future.

The provision of a retail frontage to Delmar Parade is considered to be suitable and appropriate in this context and setting. Therefore, the issue does not warrant the refusal of the application.

- **Carparking, traffic congestion and waste collection**

*The submissions raised concerns that the proposal would impact on existing street parking (and parking in Stony Range Reserve); would result in traffic congestion; and that waste collection would further impact on the road network.*

Comment:

The proposal provides a surplus of car parking to mitigate the need for occupants to park on the surrounding road network. Traffic flows, potential conflicts and road capacity have been reviewed by Transport for NSW and Council's Traffic Team and no concerns have been raised. The proposal has been designed to have all waste collection carried out internal of the site through the provision of a dedicated loading/waste collection bay. The proposal does not rely on bins being stacked on the street, nor any bins being collected directly from the street.

- **Architecture and proportion of development**

*The submissions raised concerns that the building is too big for the site and incompatible with the desired character of the Dee Why Town Centre.*



Comment:

Where a portion of the building is non-compliant with the prescribed built form controls, that non-compliance is assessed under the relevant section in this report. The general massing and proportions of the buildings are consistent with what could reasonably be expected to be developed on the land pursuant to the prevailing planning controls. The architectural vernacular of the building is also considered in the assessment, and is on balance is deemed to be appropriate for the sites context, which is one that is in a transitional location between the more densely developed B4 zoned Town Centre, the low density R2 zone to the east and the flora reserve to the south.

The concerns are addressed throughout this report and on merit, they do not warrant the refusal of the application.

**REFERRALS**

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p><b>Not Supported</b></p> <p><i>The Panel is of the view that the recommended changes in the design generally, and particularly those related to public domain, landscape, communal amenity and resident amenity need to be resolved to demonstrate Design Excellence and merit for the sought variations to the WLEP.</i></p> <p><i>The design and planning, needs to consider the future development on adjoining sites.</i></p> <p><i>The following information is required:</i></p> <ul style="list-style-type: none"> <li>• <i>Views-from-the-sun solar modelling including the impacts of potential building that comply with required envelopes on adjoining sites.</i></li> <li>• <i>Cross ventilation diagrams identifying all cross ventilated apartments.</i></li> <li>• <i>Coordinated landscape and stormwater design information.</i></li> </ul> <p><u>Planner comment</u> The comments provided by the DSAP were based on the original design of the proposal which was subsequently amended to improve compliance and to reduce impacts. The specific recommendations of the DSAP are addressed later in this report under the SEPP 65 / ADG assessment. The Applicant has provided all information requested by the DSAP and those form part of the consideration of this assessment.</p>
Building Assessment - Fire and Disability upgrades	<p><b>Supported, with conditions</b></p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department.</p>

Internal Referral Body	Comments
	<p>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 (Contaminated Lands)	<p><b>Supported, with conditions</b></p> <p>Geosyntec Consultants Proprietary Limited have completed a Detailed Site Investigation dated 4 May 2022, following councils request for additional information in March 2022.</p> <p>The report concludes that the site is suitable for the proposed high-density residential land use noting that the following should be undertaken:</p> <ul style="list-style-type: none"> <li>• A Hazardous Buildings Material Survey (Hazmat) of existing site structures prior to demolition, as recommended in the REDITUS (2021) PSI.</li> <li>• Given the identification of asbestos within the fill material an Asbestos Management Plan (AMP) must be prepared to comply with the Work Health and Safety (WHS) Regulation 2017</li> <li>• Additional inspections and sampling under the hardstand area once the buildings and concrete are removed to ascertain the extent of asbestos containing fibre cement fragments and fines across the site area.</li> <li>• Given the majority of the soil in the site will be removed to facilitate the development, the compilation of a soil management plan after the additional sampling is completed.</li> </ul> <p>Accordingly, Environmental Health supports the subject to conditions.</p>
Landscape Officer	<p><b>Supported, with conditions</b></p> <p>Amended Landscape Plans are noted and can generally be supported. The eastern side of the site has provided soft landscape and tree planting improvement with additional deep soil.</p> <p>Southern interface with Stony Range reserve remains poor. The new building is proposed to be built to boundary on NW corner (currently there is a setback)</p> <p>Only the drainage swale separates the reserve (carpark) from the building, and balconies overhang the swale. Consider stepping back the building at each level above ground from the southern boundary to maintain light access and a degree of transition to the Reserve.</p> <p>However, it is noted that cadastral plans and Lot &amp; DP Plans indicate that the site actually adjoins road reserve, rather than a public</p>

Internal Referral Body	Comments
	<p>reserve.</p> <p>The proposal includes requirement to remove some 10 locally native trees in the road reserve, previously presumed to be within Stony Range Regional Botanic Gardens. As such, removal of the trees can be supported subject to replanting within the road reserve, which will assist with providing a softer transition between the development and Stony Range.</p> <p>No detail is provided with regard to the treatment at the south western corner of the site. Upgraded paving and landscape works are indicated in the Pittwater Road road reserve along the western boundary, but is unclear how the transition to the road reserve to the south of the site is to be handled.</p> <p>Given the prominence of the proposal as a gateway to Dee Why and the limited opportunity for tree planting along Pittwater Road due to underground services, it is recommended that a small grove of advanced <i>Livistona australis</i> (Cabbage tree Palms) be provided at this point. <i>L. australis</i> has been used throughout Dee Why Town Centre as a highlight/feature plant and it is considered that the public domain works proposed should include a similar gateway treatment in concert with the built form proposed. Recommended conditions have been included to provide for this aspect in consideration of the vegetation to be removed from the road reserve and the proximity to Stony Range and gateway to the Dee Why Town Centre.</p> <p>No further objections are raised with regard to landscape issues subject to conditions as recommended.</p> <p><u>Planner comment:</u> The recommendations made by Council's Landscape Officer are noted. The building is permitted to be built to the southern boundary as it is (in part) proposed by the development. Treatment works of the footpath and surrounding public domain are to be resolved at s138 stage should consent be granted.</p>
NECC (Development Engineering)	<p><b>Supported, with conditions</b></p> <p><b>Final comments</b></p> <p>SGC engineers have now further amended the stormwater drainage plans to detail the upgraded Council 1200mm RCP line now continuing across Delmar Parade to the pit on the north side of the road. A section 68 Local Government Act drainage approval will be required to be approved by Council for these works, which will include further hydraulic modelling to provide hydraulic grade line analysis and inlet pit design / swale design confirmation.</p> <p>Overland flow issues have now been generally satisfied with the flood modelling demonstrating the the existing overland flow regime flows have been closely maintained.</p> <p>No objections to the proposed development subject to conditions.</p>

Internal Referral Body	Comments
	<p><b>Updated comments</b>            These comments only cover the previous council stormwater line upgrade works only as Council's Flooding team are still to update their previous referral comments.            The application is not supported because the previous requested hydraulic information as detailed below has not ben submitted:</p> <p><i>Development Engineering supports the Flood teams comments and position and and also have identified a number or related overland flow/drainage network issues as below:</i></p> <p>1) <i>The design capacity of the council stormwater line upgrade is to be confirmed . The minimum design AEP in accordance with Councils Water Management Policy foe development is a 5/100AEP with an overland flow path provided over the pipeline. Easement widths are to be in accordance with the Water Management Plan.</i></p> <p>2) <i>A hydraulic grade line analysis is to be provided within Delmar Parade proposed drainage system correct K factors and pit loss factors adopted . It is highly unlikely that the proposed pipe configuration will be supported as the the losses resulting from the 90degree bend would be excessive. The consultant is to realign to a more efficient configuration by upgrading existing pipes in Delmar parade to reduce the hydraulic losses. The 90 degree bend in Delmar Parade not acceptable . All pipes are to circular RCP class applicable pipes.</i></p> <p>In addition to the above requested further information the hydraulic engineer is to submit to council in an updated report the existing Council pipe flows running through the site and within Delmar parade and the corresponding AEP event.</p> <p><b>Original comments</b>            The applicant has provided a flood study report prepared by SGC engineers Issue C. In reference to Councils flood teams referral response the application is not supported for the following reasons:</p> <p>1)The Flood Impact assessment does not address the requirements of section B3.11 of Councils DCP.</p> <p>2)The flood maps are lacking in detail especially adjacent to downstream and neighboring properties and the adjoining road network.</p> <p>3)From the results provided, by collecting and conveying the entire overland flow to a single discharge point in Delmar Parade has exacerbated existing flood behaviour at various locations, e.g flood depths increased by at least 0.1m in Delmar Avenue and velocity x depth now has increased to above 0.4 etc This resulted increased flood risks to existing properties and road users in Delmar Parade, Accordingly, does not comply with item A1 of section B3.11 of DCP.</p> <p>Development Engineering supports the Flood teams comments and position and and also have identified a number or related overland flow/drainage network issues as below:</p> <p>1) The design capacity of the council stormwater line upgrade is to be</p>



Internal Referral Body	Comments
	<p>confirmed . The minimum design AEP in accordance with Councils Water Management Policy for development is a 5/100AEP with an overland flow path provided over the pipeline. Easement widths are to be in accordance with the Water Management Plan.</p> <p>2) A hydraulic grade line analysis is to be provided within Delmar Parade proposed drainage system correct K factors and pit loss factors adopted . It is highly unlikely that the proposed pipe configuration will be supported as the the losses resulting from the 90degree bend would be excessive. The consultant should realign to a more efficient configuration by upgrading existing pipes in Delmar parade to reduce the hydraulic losses.</p> <p>In relation to the On site stormwater detention design/plans the applicant is to submit the DRAINS model to council for review.</p> <p>The current Development application is not supported.</p>
NECC (Flooding)	<p><b>Supported, with conditions</b></p> <p>The proposed mixed-use development is currently affected by overland flow emanating from the Botanic Garden to the south of the site. The overland flow enters the site on the south and south-eastern side. From the south it then travels in the northwest direction to Pittwater Road, whilst on the southeast it travels along the eastern boundary to Delmar Parade. The site is currently burden by a council's drainage easement carrying a 1050 diameter trunk drainage line.</p> <p>To facilitate the development, the applicant's engineer has proposed to amplify and relocate Council's trunk drainage line to the eastern boundary and also collect both overland flow as they enter the site at the south and south-eastern boundary and convey them to Delmar Parade via a an underground drainage system and a dedicated overland flow channel located adjacent to the eastern boundary.</p> <p>Flood documentation related to the application includes the following:</p> <ul style="list-style-type: none"> <li>• Flood Management Report - SGC Consulting Engineers (dated 01.12.21)</li> <li>• Referral comments - Council (dated 31.05.22)</li> <li>• Flood study addendum letter - SGC Consulting Engineers (dated 05.12.22)</li> <li>• Referral comments - Council (dated 15.02.23)</li> <li>• Flood study addendum letter - SGC Consulting Engineers (dated 23.03.23)</li> <li>• Flood Planning Level Information email - SGC Consulting Engineers (sent 18.04.23)</li> </ul> <p>SGC engineers have now further amended the flood report to provide details based on Council's comments on 15.02.2.</p> <p>The development appropriately manages risk to life from flooding. It is compatible with the flood function and behaviour of the land. Adverse flood impacts on public land are minimised. There are no significant</p>

Internal Referral Body	Comments
	adverse impacts on private land as a result of the development. No objections to the proposed development subject to conditions.
NECC (Water Management)	<p><b>Supported, with conditions</b></p> <p>The documentation supporting the water quality strategy is satisfactory and demonstrate compliance with the Northern Beaches Council Water Management for Development Policy water quality targets relevant for the site.</p> <p>The Geotechnical Report indicates that the excavation will approach the water table, and that groundwater could pose an issue during construction works. Should dewatering be necessary, the applicant will need to request a dewatering permit from Council.</p> <p>To undertake construction dewatering, the following approvals must be obtained from WaterNSW.</p> <ul style="list-style-type: none"> <li>-water supply work approval</li> <li>-water access licence (WAL) - unless the project qualifies for an exemption, please refer to the exemption aquifer interference activities taking 3ML or less and exemption for excavation dewatering taking greater than 3ML fact sheets for more information</li> <li>-water use approval - unless there is a development application from a local government authority.</li> </ul> <p>The development application is supported subject to conditions and WaterNSW general terms of approval.</p>
Parks, reserves, beaches, foreshore	<p><b>Supported, with conditions</b></p> <p>Amended Plans Comment</p> <p>The applicant has demonstrated that trees to be removed outside of the site are located in the road reserve, rather than within Stony Range Reserve and as such, no objections to that tree removal with regard to Parks issues are raised. Landscape requirements for replanting along the road reserve boundary are noted and supported.</p> <p>Issues regarding building setback and transition to the reserve and potential overshadowing are still of concern, however conditions have been provided if consent is to be granted.</p> <p>Original Comment</p> <p>The Tree Removal Plan indicates removal of trees within Stony Range Reserve which is not supported.</p> <p>The proposal does not provide adequate spatial or landscape transition to the reserve, proposing sheer walls virtually to the boundary. The shadow diagrams do not indicate the extent of new shadowing on the reserve. This has implications for user amenity and impacts on vegetation currently growing on site.</p> <p>The proposal is therefore not able to be supported.</p>
Strategic and Place Planning (Heritage Officer)	<p><b>Not supported</b></p> <p>The proposal has been referred to Heritage as the subject site is located within proximity to the Stony Range Flora Reserve at 802</p>

Internal Referral Body	Comments
	<p>Pittwater Road, Dee Why.</p> <p><u>Statement of significance:</u> The Stony Range Flora and Fauna Reserve has a high degree of local significance for growing a wide range of native flora, mostly endemic to the Sydney Region, and for contributing to community awareness of them. It is a skilfully and aesthetically designed, laid out and planted cultural landscape which has a combination of scientific, research and educational functions which are much valued by the community, both local and regional.</p> <p><u>Physical description:</u> The Reserve currently includes 3.6425 hectares of fenced bushland over an area of Hawkesbury sandstone soil formation and contains a caretaker's cottage, meeting hall, shade houses, nursery compound and garage. Stone and gravel serpentine paths lead through the site which rises approximately 30 metres from its low to high points. When the Reserve was first notified in 1957, the area along the main creek was badly infested with exotics, lantana and privet, and these were eradicated over several years. Since that time the area has been developed as a rainforest, planted with Cedar, Coachwood, Flame Tree, Hoop Pine, Lilly Pilly, ferns and palms. A specific area of rainforest was planted in 1988 with Proteaceae specimens donated by the Sydney Royal Botanic Gardens. A total of three small watercourses intersect the Reserve. In 1977 the upper part of the Reserve was deliberately burnt, which resulted in impressive regenerative results. In 1986 a section of the Reserve was planted with all 86 species of Proteaceae which grow in the Sydney region. Subsequently, other specialist planting areas have been established in the Reserve. A picnic area was developed on the northern edge of the lower section of the Reserve in 2001, added to the site from a portion of the carpark on its northern side. It contains tables and two free electric barbecue plates. One small section of woodland vegetation in the upper area could be classified as being in its natural state and this is reputedly maintained in this condition. Prior to development most of the larger trees had been cut down and a serious fire in 1936 also caused major ecological changes to the vegetation.</p> <p><u>Comments:</u> The proposal seeks consent for the demolition of all structures located on the site and the construction of a multi-storey mixed-use development with basement parking.</p> <p>The subject site is not a listed heritage item but adjoins a heritage conservation area with a small section of parking area to the immediate south of the proposal. The impact of the existing buildings on the subject site, adjoining the reserve, is considered neutral, however the proposed high rise building, replacing the existing two storey building, located at the south-west of the site, is considered to impact upon the significance of the HCA and also to impact upon the views to and from the HCA, especially views from Pittwater Road. Heritage would recommend the low-rise section of the proposal to be</p>

Internal Referral Body	Comments
	<p>located adjacent to the conservation area, to minimise the impact.</p> <p>Heritage also raised concerns for the possible overshadowing impact of the high-rise portion of the proposal on the heritage listed reserve, given that the extent of the overshadowing to the south is not clear from the submitted documents.</p> <p><b>Revised Comments - 18 January 2023</b></p> <p>Amended plans, submitted on 16 December 2022 have not resolved the heritage related concerns. The subject site adjoins a heritage conservation, which is located to the southern boundary of the site, therefore, the impact of the proposed bulk and scale must be taken into consideration, as stated in the DSAP report as well: <i>"RE1 zoned land to the south – the local heritage significant Stony Range Flora and Fauna Reserve, which requires sensitive resolution of the ground plane, site arrangement, building mass and setbacks to avoid impacts to public domain open space recreation and any flora or fauna significance and promote public domain connectivity."</i></p> <p>Therefore, Heritage can not support the proposal in its current form and require amendments and further information regarding the impact on the heritage conservation area.</p> <p><u>Planner comment:</u> The concerns raised by Council's Heritage Officer regarding potential impacts to the heritage conservation area are noted, however they are not entirely agreed with. As noted, a Council car park and road reserve separates the reserve and the development site. The proposal will cast shadow onto the car park, and to a lesser degree, onto the reserve. There is no numerical requirement regarding access to sunlight to these spaces, and there is also no metric to measure the acceptability of impact.</p> <p>To this extent, the proposal has also been reviewed by Council's Parks and Reserves department who are supportive of the proposal, subject to conditions as included in the Recommendations of this report. That department is satisfied that the extent of overshadowing to vegetation within the reserve is not deleterious to their success in longevity.</p> <p>Further analysis against the concerns raised are included later in this report where necessary, and on balance the concern does not warrant the substantial redesign of the proposal suggested by the Heritage Officer, nor the refusal of the application.</p>
Strategic and Place Planning (Development Contributions)	<p><b>INTRODUCTION</b></p> <p>DA2022/0145 was accepted by Council on 4 March 2022. A referral request was made to Strategic and Place Planning for development contribution comments.</p>

Internal Referral Body	Comments
	<p>Subsequently, the Assessing Officer advised that the applicant was undertaking a significant redesign of the proposal that was likely to result in changes to the quantum of dwelling and non-residential floorspace.</p> <p>An interim referral response was provided on 14 September 2022, requesting that the DA be re-referred once the additional information had been received.</p> <p>Additional information was received on 16 December 2022. This memo supersedes the response provided on 14 September.</p> <p><b>SUBJECT SITE</b> The subject site is:</p> <ul style="list-style-type: none"> <li>• 4 Delmar Parade Dee Why (Lot CP SP 32071), and</li> <li>• 812 Pittwater Road Dee Why (Lot CP SP 32072)</li> </ul> <p>The land is zoned B4 Mixed Use under the Warringah LEP 2011. The land is also identified as being within the Dee Why Town Centre on the Centres LEP Map.</p> <p>The site has a frontage to Pittwater Road and Delmar Parade. It adjoins Stony Range Flora Reserve, 816 Pittwater Road, and 2, 6 and 8 Delmar Parade.</p> <p>The site currently contains three 2-storey commercial buildings.</p> <p><b>ASSESSMENT OF DA</b> The submitted Statement of Environment Effects (SEE) has been prepared by Sutherland &amp; Associates Planning.</p> <p>The SEE advises that the application seeks consent for demolition of existing structures and construction of a mixed-use development containing 3 commercial tenancies and 230 apartments over a 2-storey basement containing 340 car parking spaces, lot consolidation and a 2-lot Torrens title subdivision to reflect the commercial and residential components of the development.</p> <p>Additional information was received on 16 December 2022. This included amended architectural plans prepared by Rothelowman dated 7 December 2022. No updated SEE was provided.</p> <p>The amended plans resulted in a change to the total quantum of proposed dwellings. The amended plans identify that the updated application comprises a total of 219 dwellings and 763.9m<sup>2</sup> of non-residential floorspace.</p> <p>The Dee Why Contributions Plan 2019 (the Contributions Plan) applies to the land and to this development. The Contributions Plan levies for:</p> <ul style="list-style-type: none"> <li>• non-residential development that will result in a net increase in gross floor area on the land.</li> </ul>



Internal Referral Body	Comments																				
	<p>• residential development that will result in a net increase in dwellings c</p> <p>To determine the net increase in residential and non-residential develop development. This clause states that an allowance for existing resident development.</p> <p><u>Existing development on the subject site</u> The site currently contains three 2-storey commercial buildings. These</p> <p>The survey identifies the footprint of the existing commercial buildings.</p> <p><u>Non-Residential Development</u> The amended plans identify a total of 763.9m<sup>2</sup> of proposed non-resider • Ground floor - 325.4m<sup>2</sup> • Level 1 - 438.5 m<sup>2</sup></p> <p>This quantum of non-residential floorspace is significantly below the ex residential component of this development.</p> <p><u>Residential Development</u> The Contributions Plan applies a residential contribution rate based on rates are:</p> <p>Residential Contribution Rates (Dec 2022) Per studio or 1 bed dwelling \$10,660.51 Per 2 bed dwelling \$15,635.42 Per 3 or more bed dwelling \$20,000</p> <p>The 3-bedroom contribution rate is capped at \$20,000 in accordance w</p> <p>Clause 4.3 of the Contributions Plan states: <i>Council will make the final determination on the number of be</i></p> <p>Five dwellings contain rooms that are considered to be bedrooms that I to be a bedroom for the purpose of calculating a development contribut</p> <p>The amended plans identify a total of 219 additional dwellings on the si</p> <table border="1" data-bbox="512 1680 1449 1926"> <thead> <tr> <th>Net increase in residential development</th> <th></th> <th>Contribution rate</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>1-bed</td> <td>86</td> <td>\$10,660.51</td> <td>\$916,803.25</td> </tr> <tr> <td>2-bed</td> <td>91</td> <td>\$15,635.42</td> <td>\$1,422,822.15</td> </tr> <tr> <td>3-bed</td> <td>42</td> <td>\$20,000</td> <td>\$840,000</td> </tr> <tr> <td></td> <td>219</td> <td></td> <td>\$3,179,625.40</td> </tr> </tbody> </table> <p>The residential contribution is based on the following dwelling breakdov</p> <p><u>Ground Floor – 21 dwellings</u> 1 bed dwelling 9</p>	Net increase in residential development		Contribution rate	Total	1-bed	86	\$10,660.51	\$916,803.25	2-bed	91	\$15,635.42	\$1,422,822.15	3-bed	42	\$20,000	\$840,000		219		\$3,179,625.40
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Internal Referral Body	Comments
	<p>2 bed dwelling 6 3 bed dwelling 6</p> <p><u>First Floor – 39 dwellings</u> 1 bed dwelling 19 2 bed dwelling 15 3 bed dwelling 5</p> <p><u>Second Floor – 44 dwellings</u> 1 bed dwelling 18 2 bed dwelling 20 3 bed dwelling 6</p> <p><u>Third Floor – 44 dwellings</u> 1 bed dwelling 18 2 bed dwelling 20 3 bed dwelling 6</p> <p><u>Fourth Floor – 42 dwellings</u> 1 bed dwelling 15 2 bed dwelling 20 3 bed dwelling 7</p> <p><u>Fifth Floor – 19 dwellings</u> 1 bed dwelling 5 2 bed dwelling 8 3 bed dwelling 6</p> <p><u>Sixth Floor – 5 dwellings</u> 1 bed dwelling 1 2 bed dwelling 1 3 bed dwelling 3</p> <p><u>Seventh Floor – 5 dwellings</u> 1 bed dwelling 1 2 bed dwelling 1 3 bed dwelling 3</p> <p><b>RECOMMENDATION</b> A. The rates in the Contributions Plan are indexed quarterly by CPI, released by the ABS. The next CPI release date is 26 April 2023.</p> <p>If DA2022/0145 is not determined by 26 April 2023, a new referral must be made to SPP3 to recalculate the contribution rate.</p> <p>B. The application is supported subject to the provided condition of</p>

Internal Referral Body	Comments
	<p>consent. This has been added to the conditions tab.</p>
<p>Traffic Engineer</p>	<p><b><i>Supported, with conditions</i></b>  <b>Revised comments on amended plans 21/3/23</b>  The applicant has lodged amended plans and a response to traffic issues raised in earlier referral comments. The amended plans have incorporated a revised loading dock arrangement which satisfactorily addresses concerns raised regarding conflict with vehicles entering and exiting the basement carpark level. The additional information provided by the applicant's traffic consultant has responded to the traffic and parking concerns previously raised and after review of that information:</p> <ul style="list-style-type: none"> <li>- the over supply of parking is noted and while it would be preferred if the parking levels matched DCP parking rates the oversupply of parking is no longer pressed as an issue preventing approval of the DA</li> <li>- given that parking rates are in excess of DCP requirements there is no reason to require car share parking on the site</li> <li>- the traffic generation analysis is noted and traffic modelling results indicate increased numbers turning right into Delmar Parade in the PM peak period and worsening queuing issues associated with right turns in and out of Delmar Parade. It is also noted that very low numbers turn right out of Delmar Pde in both the AM and PM peak periods. In view of the increased numbers turning right into Delmar Parade and the likelihood that it will both result in worsening queuing and an increased right turn related crash history it is considered that either 1) the existing AM peak right turn ban should be extended to cover the PM peak OR b) right turns in and out of Delmar Parade should be prevented by closure of the median island on Pittwater</li> </ul>

Internal Referral Body	Comments
	<p>Road. Either option would require consent from Transport for NSW and a condition of consent will be drafted requiring the applicant to undertake whatever works are supported by Transport for NSW at their cost.</p> <ul style="list-style-type: none"> <li>- the request for separate driveways for cars and service vehicles is no longer pressed given that the amended loading dock arrangement has addressed concerns relating to conflict between the two access functions.</li> <li>- the carpark design has been reviewed and has satisfactorily provided for passing opportunities at locations where sight lines are restricted.</li> </ul> <p>The amended plans are now considered acceptable and can be supported for approval subject to conditions of consent</p> <p><b>comments on amended plans - 10/1/23</b></p> <p>The revised plans have reduced the number of apartments from 230 to 219 and has increased the commercial/retail floor area from 439m<sup>2</sup> to 817m<sup>2</sup>. This will now be served by 334 parking spaces including 259 residential spaces, 47 visitor spaces and 28 commercial/retail spaces. A Loading Bay for a small rigid vehicle has been added to the basement 1 parking area meaning that the development will now be served by 2 loading bays.</p> <p><u>Parking</u></p> <p>In terms of DCP requirements the amended development is required to provided 191 residential spaces, 44 visitor spaces, and 34 retail spaces (if the higher retail rate is adopted rather than the commercial rate). A total of 269 parking spaces is required. The developer is also required to provide 1 car share spaces at a rate of 1 car share space for each 25 car spaces.</p> <p>The developer is now proposing to provide 334 parking spaces, well in excess of DCP requirements. The residential parking component is some 68 parking spaces in excess of requirements while the retail parking component is 6 spaces under the DCP requirement. The developer is still not providing any car share spaces.</p> <p>As noted in the original traffic referral comments a DCP objective for the Dee Why Town Centre is that developments should “encourage walking, cycling, public transport and car sharing”</p> <p>By providing residential parking well in excess of DCP requirements the developer is encouraging higher levels of car ownership and is not encouraging travel by public transport. The absence of car share spaces also does not support reduced levels of private car ownership.</p>

Internal Referral Body	Comments
	<p>Parking space provision should be reduced to levels nearer to the DCP requirement with the required car share spaces provided and sited in locations consistent with the requirements outlined in Part G1 clause 8 of the Warringah DCP</p> <p><u>Traffic Generation</u></p> <p>As noted in the original traffic referral comments, the applicant's traffic consultant has estimated traffic based on an optimistic assumption that the development will generate traffic at a rate consistent with similar developments located near a rail line. This is not accepted and a more realistic traffic generation rate of 0.29 trips/ residential car space in the AM peak and 0.28trips/residential car space in the pm should be used given the absence of a rail line and the 500m walking distance to the nearest B-Line bus stop. For the revised development it is considered that more realistic trip rates from the residential component would be 0.29x235 (68) residential trips in AM peak and 0/28x235 (66) residential trips in the PM peak.</p> <p>In addition there will be 19 AM peak retail/commercial trips and 38 PM peak retail commercial trips</p> <p>i.e a total AM peak traffic generation of 87 trips/hr and a PM peak traffic generation of 104 trips/hr.</p> <p>The developer's traffic consultant has estimated the existing commercial development on the site to have generated 64 trips/hr in the AM peak and 48 trips/hr in the PM peak.</p> <p>Based upon the above, the PM peak traffic is estimated to increase by 56 vehicles per hour post development. In addition, as noted in the original traffic referral comments the commercial traffic from the existing site would be primarily inbound in the morning and outbound in the evening. The proposed development by contrast would be primarily outbound in the morning and inbound in the evening. The PM peak traffic generated by the high number of residential apartments will generate a high PM peak right turn movement into Delmar Pde which may result in road safety or queuing issues associated with that movement at that time. The developer's traffic consultants do not appear to have undertaken any traffic modelling at this stage which is unacceptable for a development of this size. It is also noted that TfNSW have also requested intersection modelling of the Pittwater Road/Delmar Parade intersection.</p> <p>The required traffic modelling should be provided for review to both Council and TfNSW</p> <p><u>Property access and traffic circulation</u></p>



Internal Referral Body	Comments
	<p>As noted in the original traffic referral comments a development providing access to 334 parking spaces is required to provide a category 3 driveway (Table 3.1 of AS/NZS 2890.1) with a 6m wide entry driveway and a 4m to 6m wide exit driveway. The driveways should be separated by 1 to 3 metres. The plans are not compliant as they only make provision for a single driveway of approximately 8.5m in width. The access driveway should be redesigned as a category 3 driveway to provide for suitable separation of entry and exit movements, and more adequate provision for pedestrian safety.</p> <p>Separate driveways for cars and service vehicles are also required as outlined in Clause 6.4.2 of the RMS Guide to Traffic Generating Development. This would eliminate any conflict between vehicles making deliveries/collecting waste and traffic using the carpark. The queueing analysis undertaken by the developer's traffic consultant has been prepared on the basis of a lower rate of traffic generation than is considered reasonable for this site. It is considered that inbound traffic movements into the development in the pm peak are likely to be almost double that estimated by the developers traffic consultant (see comments above). It is also likely that there will be a high level of platooning as vehicles turn together from Pittwater Road into Delmar Parade into gaps in the southbound traffic flow. Noting that there is only space for two vehicles to queue north of the loading dock, queuing across the footpath is therefore anticipated to be a likely regular occurrence. Furthermore, any queuing of vehicles waiting for a truck to manoeuvre into or out of the loading dock is considered inconvenient and undesirable. Given the number of parking spaces accessed from the driveway and the number of vehicles using it, queuing space for at least 3 vehicles is required however a separate driveway for access to and from the main loading dock is considered a far superior outcome.</p> <p>Swept path plots provided in the traffic report reveal that there are a number of locations within both the basement 1 and basement 2 parking levels where the circulation area has not been designed to allow for passing of B85 &amp; B99 vehicle as required by AS2890.1 clause 2.5.2(c). Given that there is a significant over supply of parking in terms of DCP requirements and given the number of vehicles likely to be circulating to and from parking spaces, deletion of some parking spaces and/or widening of circulation aisles to facilitate adequate passing opportunities is required.</p> <p><u>Pedestrian sight lines</u></p> <p>The amended plans now appear to accommodate a pedestrian sight line triangle at the property boundary that is consistent with AS2890.1 Clause 3.2.4(b)</p>

Internal Referral Body	Comments
	<p><u>Loading Bays and servicing</u></p> <p>It is noted that the amended plans have made allowance for an additional loading bay in basement level 1 capable of accommodating a Small Rigid Vehicle. It is also noted that the applicants traffic consultant has confirmed that the required clearance of 3.5m is available to and from the basement 1 loading bay and that 4.5m headroom clearance is available over the ground floor loading dock as required for access by a Medium Rigid Vehicle.</p> <p>It is noted that the size of the ground floor loading dock has been increased however there is concern that the dual use of this area as a goods receiving area and a waste pick up area may lead to the area becoming over-congested with bins on waste collection days. The adequacy of this area to meet waste collection needs should be addressed by Council's Waste Services team.</p> <p><u>Summary</u></p> <p>There are a number of matters outlined above which were raised in the initial traffic referral comments but remain unaddressed or unsatisfactorily addressed by the applicant. Further information and/or amendments to the plans are required prior to further review of the Development Application.</p> <p><b>Original comments - 25/5/22</b></p> <p>The development is for demolition of the existing office/commercial buildings on the site and construction of a mixed use development comprising:</p> <p>230 residential apartments and 439m<sup>2</sup> of GFA for 3 commercial units</p> <p>The development will provide parking for 340 vehicles including 275 residential spaces, 46 visitor spaces and 19 commercial/retail spaces</p> <p>The development site lies at the southern end of the B4 Mixed Use zone of the Dee Why Town Centre</p> <p><u>Parking</u></p> <p>In terms of the DCP, as the development lies within the Dee Why Town Centre, the following parking rates apply:</p>

Internal Referral Body	Comments
	<p>Residential component</p> <ul style="list-style-type: none"> <li>0.6 parking spaces for each 1 bedroom apartment</li> <li>0.9 parking spaces for each 2 bedroom apartment</li> <li>1.4 parking spaces for each 3 bedroom apartment</li> <li>1 visitor parking space for each 5 units</li> </ul> <p>Commercial/retail component</p> <ul style="list-style-type: none"> <li>1 space per 40 sqm (commercial) or 4.2 spaces per 100 m2 (retail)</li> </ul> <p>Bicycle Parking</p> <ul style="list-style-type: none"> <li>1 space per dwelling</li> <li>1 space per 12 dwellings (for visitors)</li> <li>1 space per 200m2 for Commercial/Retail</li> </ul> <p>Car Share</p> <p>In the Dee Why Town centre developments with more than 25 dwellings are required to provide 1 car share space for each 25 dwellings with that car share space to replace one regular car space.</p> <p>The above rates result in a residential parking requirement of 194 residential spaces (including 7 car share spaces), 46 visitor spaces and 18 retail parking spaces (if the higher retail parking rate is used rather than the lower commercial rate). A total of 258 spaces in total together with 232 resident/employee bicycle parking spaces and 19 visitor bicycle parking spaces</p> <p><b>Proposed:</b></p>

Internal Referral Body	Comments
	<p>The developer proposes to provide 340 parking spaces comprised of 275 residential spaces, 46 visitor spaces and 19 commercial spaces. None of the spaces are proposed to be for car share use. Bicycle parking for residents is proposed to be accommodated within residential storage cages while 22 visitor bicycle parking spaces are proposed. The quantum of parking is 82 spaces in excess of DCP requirements with most of that excess associated with residential parking.</p> <p>The DCP notes as an objective for the Dee Why Town Centre that developments should “encourage walking, cycling, public transport and car sharing”</p> <p>By providing residential parking well in excess of DCP requirements the developer is encouraging higher levels of car ownership and is not encouraging travel by public transport. The absence of car share spaces also does not support reduced levels of private car ownership.</p> <p>Parking space provision should be reduced to levels nearer to the DCP requirement with the required car share spaces provided and sited in locations consistent with the requirements outlined in Part G1 clause 8 of the Warringah DCP.</p> <p><b><u>Traffic Generation</u></b></p> <p>Traffic generation rates quoted in the applicants traffic report are from the TfNSW document Guide to Traffic Generation updated surveys 2013. The rates quoted are sourced from data for high density residential adjacent to public transport – each site surveyed in that data is in a location adjacent to a rail line. As there is no rail line through Dee Why residents will rely upon bus transport. Although the B-Line bus service is a high frequency bus service, the nearest B-Line bus stop is sited over 500m from the development site and does not provide the same level of service as a rail line adjacent to a development would do. Buses still need to negotiate traffic signals, are subject to traffic congestion and the B-Line does not benefit from full time bus lanes on all of its route to/from the Sydney CBD. Bus routes serving other destinations also exist but offer a lower standard of service than the B-Line. Residents of this development will therefore tend to have a higher reliance on private motor vehicle travel than residents of high density developments adjacent to a rail line and a higher level of traffic generation than the 0.19 trips/unit used in the</p>

Internal Referral Body	Comments
	<p>traffic impact assessment is considered appropriate, particularly if parking rates which are well above DCP requirements are proposed.</p> <p>The revised surveys provide a range of values for the Sydney Region, if we consider the rates per car space, a range of values for the am peak of 0.09 to 0.29 trips per car space is quoted with a range of 0.05 to 0.28 trips per car space in the pm peak. Using the upper level of that range (given the use of bus rather than train as public transport option, noting the travel time distance to the Sydney CBD and the high level of proposed parking provision), the residential component of the development might generate <math>0.29 \times 321 = 93</math> AM peak hour trips and <math>0.28 \times 321 = 90</math> PM peak hour trips. Total traffic generation (adding the commercial traffic quoted in the traffic report) might therefore be as high as 103 trips per hour in the AM peak and 110 trips per hour in the PM peak.</p> <p>It is noted that TfNSW has requested intersection modelling of the Pittwater Road/Delmar Pde intersection. That modelling should be undertaken on the basis of the generated traffic quoted above. In addition, the modelling should take account of the fact that traffic movements associated with the residential use will be largely outbound in the AM peak and inbound in the PM peak which will differ to the demands associated with the previous office uses which would primarily have been inbound in the AM peak and outbound in the PM peak. It is also noted that the PM peak traffic generated by the high number of residential apartments will generate a high PM peak right turn movement into Delmar Pde which may result in road safety issues associated with that movement at that time. The developer's traffic consultants do not appear to have undertaken any traffic modelling at this stage which is unacceptable for a development of this size.</p> <p><b><u>Property access and traffic circulation</u></b></p> <p>For a development providing access to 340 parking spaces Table 3.1 of AS2890.1 advises that the carpark driveway should be category 3 with a 6m wide entry driveway and a 4m to 6m wide exit driveway. The driveways should be separated by 1 to 3 metres. The plans are uncompliant as they only make provision for a single driveway of approximately 8.5m in width. The access driveway should be redesigned as a category 3 driveway to provide for suitable separation of entry and exit movements, and more adequate provision for pedestrian safety.</p>



Internal Referral Body	Comments
	<p>Separate driveways for cars and service vehicles are also required as outlined in Clause 6.4.2 of the RMS Guide to Traffic Generating Development.</p> <p>Swept path plots provided in the traffic report reveal that there are a number of locations within both the basement 1 and basement 2 parking levels where the circulation area has not been designed to allow for passing of B85 &amp; B99 vehicle as required by AS2890.1 clause 2.5.2(c). Given that there is a significant over supply of parking in terms of DCP requirements deletion of some parking spaces and/or widening of circulation aisles to facilitate adequate passing opportunities are required.</p> <p><b><u>Pedestrian Sight Lines</u></b></p> <p>The traffic report has plotted the pedestrian sight line triangle and it appears that a pedestrian sight line triangle that complies with the ASAS2890.1 Clause 3.2.4(b) is not available at the point where the carpark driveway meets the Delmar Pde property boundary. This shall be amended.</p> <p><b><u>Loading Bays and Servicing</u></b></p> <p>There is only one loading dock to service the whole development and only one point for waste collection to occur.</p> <p>The single bin room to service the entire development is questioned particularly when it is insufficiently sized and reliant upon bins being placed along the side of the bin room where they would be inaccessible for rear loading. A truck manoeuvring into the bin room will also block entry and exit to/from carpark ramps resulting in potential queuing/reversing issues back onto the road or across the footpath</p> <p>The commercial units facing Pittwater Rd have no access to a Loading Dock and no ability for deliveries to be achieved on-street given the presence of on street No Parking restrictions and an AM peak Bus Lane. It is therefore unclear how deliveries to these units will be achieved noting that the adjacent Council carpark is not designed for and inappropriate for truck parking.</p>

Internal Referral Body	Comments
	<p>Clause 6.4.2 of RMS Guide to Traffic Generating Development suggests that there should be separate truck and carpark driveways the plans should be amended to comply.</p> <p><b><u>Points of clarification</u></b></p> <ul style="list-style-type: none"> <li>· It is unclear if the commercial carparking is accessible without having to activate a security gate. It is noted that there is an intercom at the top of carpark ramp which may result in these spaces being difficult to access for commercial customers. All commercial spaces and visitor parking spaces should be located where they can be accessed without needing to activate a security gate</li> <li>· It is unclear if the Pittwater Rd &amp; Delmar Pde commercial units are accessible from the basement 1 commercial parking spaces. It is noted that there is a lift and stairs which could provide access and it should be confirmed that access for non-residents from the carpark via both the lift and stairs to the street will be available.</li> </ul>
Waste Officer	Waste Management Assessment - Amended Plans (07/03/2023) Supported - the proposal is acceptable subject to the attached conditions

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p><b><i>Supported, with conditions</i></b></p> <p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>
Aboriginal Heritage Office	<p><b><i>Supported, with conditions</i></b></p> <p>No objections to the development, subject to the imposition of standard conditions as detailed in the recommendations of this report.</p>
Roads and Maritime Service - SEPP (Transport and Infrastructure) 2021, s2.122 - Traffic generating development	<p><b><i>Supported, without conditions</i></b></p> <p><i>"Reference is made to the Council's referral dated 2 February 2023 regarding the submission of amended plans and additional information associated with the abovementioned application, which was referred to Transport for NSW (TfNSW) in accordance with clause 2.121 of State Environmental Planning Policy (Transport and Infrastructure) 2021.</i></p>

External Referral Body	Comments
	<i>TfNSW has reviewed the amended plans and addendum traffic study and has no requirements as the proposed development will not have a significant impact on the classified road network."</i>
Nominated Integrated Development – WaterNSW - Water Management Act 2000 (s91 Permit for Temporary Construction Dewatering)	<b>Supported, with conditions</b> The proposal was referred to WaterNSW who provided their General Terms of Approval for Water Supply Work under the <i>Water Management Act 2000</i> on 3 April 2023. The requirements of the GTAs are endorsed by way of condition included in the Recommendation of this report.

### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

All, Environmental Planning Instruments (SEPPs 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 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 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.*

The development is for the erection of a part-five/part-seven storey mixed-use building comprising residential accommodation atop of basement car parking, with a total of 219 apartments/dwellings.

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.

Clause 29 of the Environmental Planning and Assessment Regulation 2021 requires the submission of a *Design Verification Certificate*, which has been provided by the project architects, Rothelowman.

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

Northern Beaches Council uses a ***Design and Sustainability Advisory Panel*** (DSAP) for design advice, however that Panel does not constitute a formal DRP. Nevertheless, the advice and recommendations by the DSAP are an important stage in the assessment of the proposal, and are addressed later in this report.

## 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 subject site comprises two allotments within the Dee Why Town Centre which, commensurate to the yield afforded by the planning controls, are under-developed lots accommodating only one and two storey semi-industrial/commercial buildings surrounded by open carparking areas.

In the past decade, Dee Why Town Centre has transformed through significant gentrification and urban renewal, consistent with the overall intent of the adopted Master Plan for the region. The re-development of this site to provide high-quality residential accommodation and retail opportunities is consistent with the desired character of the locale and is contextually appropriate.

The building provides an active retail frontage for the full available width at Delmar Parade and Pittwater Road, and provides a building height consistent with what is envisaged for the site. To the east, the site provides a significant setback to accommodate a dense landscaped buffer between the building and the adjacent R2 Low Density Residential zoned land. To the south, the site adjoins the Stony Range Botanical Reserve, and the building complies with all requisite built form controls applying to this interface. Through negotiation and numerous discussions the facade treatment to this southern

interface has been amended to include brickwork, rendering and landscape planter boxes towards the outer edges of all balconies which will contribute to a softening of the building.

The bulk, scale and proportions of the building are consistent with that envisaged by the planning controls and in comparison with other recent developments within the Town Centre, and to that extent, the development is consistent with Principle 1: Context and Neighbourhood Character.

## **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:

An appropriate bulk and scale is dictated by what is permissible under the relevant planning controls. The building complies with the requisite setbacks, height and landscape requirements. To the street frontage, the building does exceed the anticipated street podium height, however this is considered to be acceptable, as described in the Clause 4.6 variation section of this report, as the site does act as a 'Gateway' into the Town Centre. The original Master Plan for the Dee Why Town Centre envisaged some form of 'Gateway' or 'Landmark' in this general location (albeit without specifying this site). The variation to the podium height is supported (as detailed elsewhere), as enforcing strict compliance would result in a lesser and inferior prominence at the entry to the Town Centre.

The building adopts a different façade language for the four different interfaces of the building. These interfaces respond well to the proportions, materiality and format of the architecture of the adjoining properties. The façade types also respond to the land uses of adjoining properties.

Whilst the proposal is a large building, it is also a large site, and its built form and scale is consistent with what has been envisaged to be developed on the site for over a decade, both through the Master Plan and the subsequent planning controls, and therefore the development is consistent with Principle 2: Built Form and Scale.

## **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:

There are no density clauses applicable to the proposed development, rather density is to be achieved within a prescribed envelope. In this instance, the building complies with the relevant landscape requirements and height control and, when measured across the two lots, complies with the floor space ratio standards. The proposal also achieves compliance with the required internal and external minimum dimensions for all apartments. Therefore, given this inherent compliance, it can be said that the density is appropriate and consistent with what could reasonably be expected to be developed on the site.



The *Northern Beaches Housing Strategy* identifies a need for 12,000 new dwellings within the next 12-13 years, and one of the key fixtures of those new dwellings is that they be well-located and proximate to existing services, employment and recreation. The addition of 219 new dwellings under this proposal represents a significant contribution to this target, particularly noting that the Strategy considered that there was inadequate housing planned within the region to meet the 12,000 target.

Conversely, one could argue that the site should be providing more commercial floorspace to provide employment opportunities for these future residents. On the balance of factors and owing to the site's disconnect from the Town Centre core, and its close relationship with the detached dwelling houses to the east, the provision of dwellings in lieu of commercial floorspace is supported (as detailed elsewhere in this report) and in doing so, provides a significant boost to the projected housing delivery targets in the Northern Beaches and wider region. Therefore, the development is consistent with Principle 3: Density.

#### **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 development is accompanied by all required documentation to ensure that the building achieves its sustainability targets (from an energy, water, and thermal performance perspective). The building also affords occupants good opportunities for recreational and socialisation, both within their private homes, but also in the communal areas at ground level and on the roof of the building. The building is acceptable with regards to Principle 4: Sustainability.

#### **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 current development of the site has next to no landscaping, but has strips of planting in the open parking areas that contain canopy trees. The proposed development includes a (variable) 12.0m wide deep soil landscaped zone along most of its eastern edge, to provide a buffer to the R2 zone, stormwater infrastructure, and a green corridor running from Delmar Parade to the Stony Range Reserve. This area is approximately the same width of Delmar Parade (kerb to kerb) or the same width as the pedestrian through-site link/arcade in the Meriton Lighthouse development at the core of Dee Why Town Centre. This *green corridor* will be of significant visual benefit and positive for the environment through the establishment of a buffer of open space and planting.

Beyond that, the building has a pleasant landscaped entry courtyard in a more formalised layout and planting regime. The rooftop communal space has greenery in the form of raised lawns and planter boxes, and the outer edges of various balconies across the building incorporate planter boxes. On balance, the building responds to and improves the landscaped outcome of the site and wider locale. The development is consistent with Principle 5: Landscape.

#### **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 provides a high level of amenity for future occupiers without prejudicing the amenity of adjacent or nearby residents. These matters are assessed in detail under the ADG compliance table below. The development is consistent with Principle 6: Amenity.

#### **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 building has been designed with adequate regard to the provisions of CPTED and is suitably safe. Later in this report, there is detailed commentary regarding the possibility of the whole ground floor being commercial floorspace, which concludes that in that doing so, would either likely jeopardise safety (or the feeling of safety) for residents, and would likely reduce opportunities for casual social interactions amongst residents.

The proposal is consistent with Principle 7: Safety.

#### **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:

The application includes a number of one, two and three bedroom units which is considered appropriate

for a town centre market. The adjacent R2 zoned land caters for larger detached style dwelling houses. Therefore, the variety of apartment sizes is considered appropriate. The facilities afforded to residents in the development are also of a suitable quality - being the communal rooftop terrace, which would receive ample sunlight and views out towards the ocean, but also the central courtyard at ground level, which all residents would need to walk through to get to the street. This courtyard provides significant opportunities for social interaction amongst residents and is a positive part of the scheme. Therefore, the proposal is consistent with Principle 8: Housing Diversity and Social Interaction

**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:

For the reasons detailed above in the Principles and below in the ADG compliance table, the building is deemed to be of an acceptable scale, proportion, built form and materiality which, in conjunction with the proposed landscape treatment, will ensure the building is aesthetically pleasing. The proposal is consistent with Principle 9: Aesthetics.

**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
<b>Part 3 Siting the Development</b>		
<b>Site Analysis</b>	Does the development relate well to its context and is it sited appropriately?	<p><b>CONSISTENT</b></p> <p>The site is the southernmost lot within the Dee Why Town Centre and adjoins R2 zoned land to the east and a botanical reserve to the south. The context of the site is unusual and unique because of these factors.</p> <p>Notwithstanding these locational features, the development generally conforms with the prescribed building envelope and has been designed with different facade treatments to the north, south, east and west to respond to the</p>

		<p>corresponding interface (i.e., taller and commercial appearance to Pittwater Road, subdued and textured finishes to the botanical reserve, and a significant landscaped setback and building articulation to the low density residential interface.</p> <p>The redevelopment of this site is inevitably going to change the relationship between the land and the botanical reserve given that the existing development is much lower in size and scale. Notwithstanding that, the proposal is considered to be beneficial to the reserve, particularly to the carpark and pathway which adjoin the site to the south that presently feels unsafe and isolated from public domain views. The development would provide for better passive and casual surveillance of these areas which would enhance the visitor experience to the reserve.</p> <p>The footprint and height of the building are established through the planning controls and the design conforms with these parameters. For these reasons, inter alia the remainder of this assessment, the development is found to relate well to its context and is appropriately sited.</p>
<p><b>Orientation</b></p>	<p>Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?</p>	<p><b>CONSISTENT</b> The orientation of the development has largely been established by the planning controls which</p>

		<p>have been in place for over a decade. The development provides retail to the street frontages and locates the tallest parts of the building alongside the Pittwater Road frontage.</p> <p>The footprint of the building is designed, in part, to provide a spatial buffer to the eastern R2 zoned properties and a central courtyard area within the site to provide access, sunlight and amenity, which protects amenity of residents in No. 2 Delmar Parade. The orientation of the building doesn't unreasonably impede on the solar access to neighbouring properties beyond what is anticipated by the controls.</p> <p>It is acknowledged that the future development of 816 Pittwater Road (Avis Site) may impact on the solar access of some units within the proposal, however that impact is not pertinent to this assessment and is, in any regard, not considered to be a significant issue.</p>
<p><b>Public Domain Interface</b></p>	<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><b>CONSISTENT</b></p> <p>The proposal provides retail frontages to Pittwater Road and Delmar Parade, which provides for appropriate passive surveillance of the street. Internal of the site, there is a large courtyard area for resident amenity and access. The interface of ground floor units to this courtyard is intersected by a landscaped strip which provides privacy and a</p>

		good sense of enclosure to the terraces of the units. Therefore, the public domain interface of the development is acceptable.															
<b>Communal and Public Open Space</b>	<p>Appropriate communal open space is to be provided as follows:</p> <ol style="list-style-type: none"> <li>Communal open space has a minimum area equal to 25% of the site</li> <li>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)</li> </ol>	<p><b>CONSISTENT</b></p> <p>The proposal provides 2,011.1m<sup>2</sup> of communal open space, equivalent to 25.8% of the total site area. The project architect has demonstrated that 64.3% of this space will receive two hours of solar access between 9am and 3pm on the winter solstice.</p>															
<b>Deep Soil Zones</b>	<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1" data-bbox="438 987 1062 1532"> <thead> <tr> <th>Site area</th> <th>Minimum dimensions</th> <th>Deep soil zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>Less than 650m<sup>2</sup></td> <td>-</td> <td>7%</td> </tr> <tr> <td>650m<sup>2</sup> – 1,500m<sup>2</sup></td> <td>3m</td> <td></td> </tr> <tr> <td>Greater than 1,500m<sup>2</sup></td> <td>6m</td> <td></td> </tr> <tr> <td>Greater than 1,500m<sup>2</sup> with significant existing tree cover</td> <td>6m</td> <td></td> </tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m <sup>2</sup>	-	7%	650m <sup>2</sup> – 1,500m <sup>2</sup>	3m		Greater than 1,500m <sup>2</sup>	6m		Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m		<p><b>CONSISTENT</b></p> <p>The site is over 1,500m<sup>2</sup> but does not have a significant existing tree canopy.</p> <p>The proposal provides deep soil zones across the entire eastern edge of the site, and the portion of this deep soil zone with a minimum width of 6m is 1,019m<sup>2</sup>, equivalent to 13% of the site area.</p>
Site area	Minimum dimensions	Deep soil zone (% of site area)															
Less than 650m <sup>2</sup>	-	7%															
650m <sup>2</sup> – 1,500m <sup>2</sup>	3m																
Greater than 1,500m <sup>2</sup>	6m																
Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m																
<b>Visual Privacy</b>	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="438 1715 1062 2074"> <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>	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><b>NOT CONSISTENT - ACCEPTABLE ON MERIT</b></p> <p>The proposed buildings vary from 5 to 7 storeys and do not exceed 25m at any point.</p> <p>The buildings interface to the street is not subject to these controls. The southern interface of the building to the Stony Range Botanical Reserve is unusual and is not anticipated by the guidance in Part 3F of the</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															



**Note:** Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.

*Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.*

ADG. This publicly owned reserve is unlikely to ever be developed, and it is therefore considered unnecessary to apply the spatial separation requirements to the southern interface as there will be no visual privacy impacts attributable to this facade.

The interfaces relevant to this assessment therefore include the R2 zoned land to the east, the newly completed shop-top housing building at 2 Delmar on the corner of Pittwater Road and Delmar Parade, and the adjoining Avis Site at 816 Pittwater Road.

#### 6 and 8 Delmar Parade Interface

The ADG provides that an interface between development and a zone that yields a lower density should employ an additional 3m to the prescribed setback.

At the ground floor level of the development, the building provides a setback varying from 9m to 12m. This setback is largely vegetated.

To Levels 1, 2 and 3, the minimum 9m setback is maintained and is increased, in part, to 14.5m.

To Levels 4 and 5, the requirement changes and a 12m setback is now required (9m +3m). The face of the building at these levels is setback

12m and increases in parts to 17m. There are three terraces to units A502, D502 and D503, which encroach within this setback, providing setbacks of only 9m and 10m. The terrace to unit A502 generally faces Delmar Parade and is not the primary aspect of the unit. Were the adjoining 6 Delmar Parade to be developed, the terrace would not impact on the privacy of its rear yard, and this is therefore deemed acceptable.

The terraces to units D502 and D503 employ a built-in planter box along their eastern edge which would largely restrict downwards views in 6 and 8 Delmar Parade from the physical structure itself - and opportunities for overlooking would be further reduced upon maturity of plantings in this planter box. This outcome is deemed acceptable.

#### 2 Delmar Parade Interface

The majority of the built form provides spatial separation of 6m to 13.5m from the building face to the western boundary that is shared with the new shop-top building at 2 Delmar Parade.

Only one unit in the proposal fails to provide the required spatial separation, and that is unit A504 located on Level 4. The living room and terrace of this unit are orientated in a westerly direction with a 6m setback

to the boundary instead of the required 9m. The approved plans and finished building at 2 Delmar Parade have been reviewed, and it is noted that the eastern facing windows from living spaces towards the subject site, are all highlight windows, and the balconies along the eastern edge of the building have built-in planter boxes for their full widths.

The non-compliant terrace in question does not directly align with the primary sight-line aspect from any units in 2 Delmar and because of this, and the fact that the potential impact only arises from a single unit, the variation to the guidance is deemed acceptable.

#### Avis Site (816 Pittwater Road) Interface

There are difficulties in assessing privacy impacts to and from this site as the site is currently 'under-developed' commensurate to what is permitted under the planning controls, and contains a single storey and open-yard car hire premises.

The ground level of the proposed development is split and therefore 'Level 4' as detailed on the architectural plans is not truly 'Level 4' across the whole building. Notwithstanding that, this assessment pertains to the levels/storeys as detailed on the plans.

There are several units on the upper level of the development which fail to provide the required 9m spatial separation, instead providing 6m. These include units F507, E509, E510, F511 and E502 at Level 4, and units F605, F606, F607, F608 and F609 at Level 5. Unit F603 on the same level has a terrace running alongside the shared boundary.

As the Avis Site currently exists, there would be no privacy impacts. If it were to be developed as a Shop-Top Housing development and to a similar capacity to the subject development, it is reasonably anticipated that there would be a very limited number of units with south-facing private open spaces or primary aspects, as the site is more conducive to an east-west orientated building.

The non-compliances sought to the Part 3F guidance are considered to be reasonably minor and would not be severely detrimental to the development potential of the Avis Site. A 6m separation will still provide reasonable separation, particularly when noting that there are opportunities for landscaping at ground level that could contribute to screening upon maturity (albeit this might require a modification to the species selected on Landscape Plan 3 (LDA-104 E).

On balance, the overall

		visual privacy outcome provided by the development is satisfactory, and provides a level of amenity that could reasonably be anticipated within a dense urban area like the Dee Why Town Centre.
<b>Pedestrian Access and entries</b>	<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><b>CONSISTENT</b></p> <p>The primary entrances to the building from Pittwater Road and Delmar Parade are easily identifiable. Access through the site is generally via the large central courtyard which, subject to appropriate wayfinding signage within the development, would afford occupants and their guests the ease of finding the correct building.</p>
<b>Vehicle Access</b>	<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><b>CONSISTENT</b></p> <p>The vehicle access location is deemed to be the safest on the site and has been approved by Council's Traffic Engineer and Transport for NSW.</p>
<b>Bicycle and Car Parking</b>	<p>For development in the following locations:</p> <ul style="list-style-type: none"> <li>On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or</li> <li>On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</li> </ul> <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><b>CONSISTENT</b></p> <p>The development provides a parking ratio in excess of Council's requirements. This has already been discussed in detailed earlier in this report under the Traffic Engineer comments.</p>

Visual and environmental impacts are minimised.

**Part 4 Designing the Building**

**Amenity**

**Solar and Daylight Access**

To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:

- Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter.

**CONSISTENT**

The project architect has provided an analysis demonstrating that 70.8% of units (i.e., 155) achieve at least 2 hours of direct sunlight between 9am and 3pm on the winter solstice.

It is noted that the submission from the owners of the Avis Site raises concern that the anticipated future development of that site would impinge on the solar access of units within the subject development. This is not strictly a consideration under the EP&A Act 1979 and there is therefore limited weight that can be given to this issue.

The applicant submitted a concept development proposal for 816 Pittwater Road, which demonstrates that a compliant proposal can be achieved on that site.

Therefore, it is considered that there are design alternatives for the Avis Site that would still afford the owner with a reasonable yield and urban design outcome without unreasonably impacting on the solar access to neighbouring buildings.

Therefore, the development application complies with this requirements.



	<ul style="list-style-type: none"> <li>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter.</li> </ul>	<p><b>CONSISTENT</b></p> <p>14.2% (31) of the apartments proposed receive no direct sunlight in mid-winter. This is largely attributable to the fact that the widest part of the site is south-facing, and achieving compliance would result in an extremely restrictive building footprint.</p> <p>Where units have limited to no direct solar access, they are largely the south-facing units. These units would enjoy expansive and uninterrupted views over the botanical reserve and would have uninterrupted daylight access (being different to direct sunlight access).</p>								
<b>Natural Ventilation</b>	<p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:</p> <ul style="list-style-type: none"> <li>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.</li> <li>Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.</li> </ul>	<p><b>CONSISTENT</b></p> <p>The project architect has provided a study which demonstrates that 63% of units (138) achieve natural cross ventilation.</p>								
<b>Ceiling Heights</b>	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="440 1738 1062 2130"> <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> </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	<p><b>CONSISTENT</b></p> <p>The proposal provides floor to ceiling heights (FFL-CL) at ground level of 3.6m, and FFL-CL to all levels above of 2.8m - both of which are in excess of the guidance and Australian Standards.</p>
Minimum ceiling height										
Habitable rooms	2.7m									
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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									

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<p><b>Apartment Size and Layout</b></p>	<p>Apartments are required to have the following minimum internal areas:</p> <table border="1"> <thead> <tr> <th>Apartment type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m<sup>2</sup></td> </tr> <tr> <td>1 bedroom</td> <td>50m<sup>2</sup></td> </tr> <tr> <td>2 bedroom</td> <td>70m<sup>2</sup></td> </tr> <tr> <td>3 bedroom</td> <td>90m<sup>2</sup></td> </tr> </tbody> </table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p> <p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p>	Apartment type	Minimum internal area	Studio	35m <sup>2</sup>	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	<p><b>CONSISTENT</b> All apartments within the development comply with the minimum internal area requirements.</p> <p><b>CONSISTENT</b></p> <p><b>CONSISTENT</b></p> <p><b>INCONSISTENT - ACCEPABLE ON MERIT</b> All of the units within the development have an open plan layout and generally comply with the maximum habitable room depth of 8m, however in some instances there is an exceedance up to a maximum depth of 9m.</p> <p>It is understood that the intent of the control is to ensure that apartments are afforded a high level of amenity with natural light and a good sense of openness.</p> <p>In this circumstances, each</p>
Apartment type	Minimum internal area											
Studio	35m <sup>2</sup>											
1 bedroom	50m <sup>2</sup>											
2 bedroom	70m <sup>2</sup>											
3 bedroom	90m <sup>2</sup>											

		<p>open plan space in question is bound by a full wall of floor to ceiling glazing and has ceiling heights in excess of that recommended by the ADG. It is not considered that the apartments would feel cramped or "closed in", and it is not considered that an additional 1m depth is not of significant detriment to the amenity of occupants.</p> <p>Therefore, the variations are supported on merit.</p>															
	Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space).	<b>CONSISTENT</b>															
	Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension.	<b>CONSISTENT</b>															
	<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> <li>• 3.6m for studio and 1 bedroom apartments</li> <li>• 4m for 2 and 3 bedroom apartments</li> </ul>	<b>CONSISTENT</b>															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	<b>CONSISTENT</b>															
<b>Private Open Space and Balconies</b>	<p>All apartments are required to have primary balconies as follows:</p> <table border="1" data-bbox="438 1545 1061 1803"> <thead> <tr> <th>Dwelling Type</th> <th>Minimum Area</th> <th>Minimum Depth</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m<sup>2</sup></td> <td>-</td> </tr> <tr> <td>1 bedroom apartments</td> <td>8m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>2 bedroom apartments</td> <td>10m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>12m<sup>2</sup></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 <sup>2</sup>	-	1 bedroom apartments	8m <sup>2</sup>	2m	2 bedroom apartments	10m <sup>2</sup>	2m	3+ bedroom apartments	12m <sup>2</sup>	2.4m	<p><b>CONSISTENT</b></p> <p>All apartments within the development comply with the minimum dimensions for outdoor private open space.</p>
Dwelling Type	Minimum Area	Minimum Depth															
Studio apartments	4m <sup>2</sup>	-															
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	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 15m <sup>2</sup> and a minimum depth of 3m.	<b>CONSISTENT</b>															
<b>Common Circulation</b>	The maximum number of apartments off a	<b>INCONSISTENT -</b>															

<p><b>and Spaces</b></p>	<p>circulation core on a single level is eight.</p>	<p><b>ACCEPTABLE ON MERIT</b></p> <p>The eastern half of the building fronting Pittwater Road has a single core, and each level serviced by that core provides between 9 and 11 units, thus being in excess of the recommended number.</p> <p>Part 4F also states that is Design Criteria 1 is not achieved (i.e., the statement to the left), that:</p> <p><i>"Where design criteria 1 is not achieved, no more than 12 apartments should be provided off a circulation core on a single level."</i></p> <p>The proposal would comply with this secondary statement within the ADG.</p> <p>The building in question, at each level, has one lift and at least one stairways. The building is not a particularly tall flat building and it may be the case that residents on lower levels would elect to use the stairs thus reducing demand for the singular lift.</p> <p>The extent of variation sought is not significant, and is not found to have an considerable impact on the amenity of occupants or the livability of the apartments. In this instance, the variation is supported.</p>				
	<p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	<p><b>Not Applicable</b></p>				
<p><b>Storage</b></p>	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1" data-bbox="440 2078 1062 2139"> <thead> <tr> <th data-bbox="440 2078 751 2139">Dwelling Type</th> <th data-bbox="751 2078 1062 2139">Storage size volume</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> </tr> </tbody> </table>	Dwelling Type	Storage size volume			<p><b>CONSISTENT</b></p>
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Studio apartments	4m <sup>2</sup>									
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<b>Acoustic Privacy</b>	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.	<p><b>CONSISTENT</b></p> <p>There are three units within the proposal that are located next to or above the driveway and loading dock. Each of these units (along side all other units in the building) comply with the 3m setback requirement.</p> <p>It is not considered that the use of the driveway or loading dock would be of such a magnitude that it would be severely detrimental to the amenity of future occupants. Impacts could reasonably be mitigated through the use of double or triple glazing where necessary.</p>								
<b>Noise and Pollution</b>	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	<b>CONSISTENT</b>								
<b>Configuration</b>										
<b>Apartment Mix</b>	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.	<p><b>CONSISTENT</b></p> <p>The proposal provides a range of one, two and three bedroom apartments, a number of which are adaptable for persons who use a wheelchair. This is considered adequate to support the needs of persons in the wider community.</p>								
<b>Ground Floor Apartments</b>	Do the ground floor apartments deliver amenity and safety for their residents?	<p><b>CONSISTENT</b></p> <p>There are a number of ground floor units within</p>								

		the proposal. Each of these units opens upon to their own private terrace / courtyard or garden which provides both a sense of ownership, privacy, and a pleasant outlook towards greenery.
<b>Facades</b>	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	<b>CONSISTENT</b> The architectural expression of the building varies on each facade so ensure that an appropriate interface is shared with the adjacent land - whether that be a road, a reserve or a detached dwelling house. The facades of the building are appropriately modulated with an interesting material palette to ensure that the visual bulk of the building is minimised, and to ensure that the building is congruent with the character of the wider town centre.
<b>Roof Design</b>	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.	<b>CONSISTENT</b> The roof of the building accommodates a large area of communal open space, providing multiple areas for sitting and relaxation interspersed with landscaped elements.  The building provides a satisfactory provision of sustainability features in accordance with the requirements of the SEPP BASIX.
<b>Landscape Design</b>	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	<b>CONSISTENT</b> The application is accompanied by a comprehensive landscape plan which has been assessed as satisfactory by Council's Landscape Officers.
<b>Planting on</b>	When planting on structures the following are	<b>CONSISTENT</b>



<p><b>Structures</b></p>	<p>recommended as minimum standards for a range of plant sizes:</p> <table border="1" data-bbox="422 376 1075 1323"> <thead> <tr> <th>Plant type</th> <th>Definition</th> <th>Soil Volume</th> <th>Soil Depth</th> <th>Soil Area</th> </tr> </thead> <tbody> <tr> <td>Large Trees</td> <td>12-18m high, up to 16m crown spread at maturity</td> <td>150m<sup>3</sup></td> <td>1,200mm</td> <td>10m x 10m or equivalent</td> </tr> <tr> <td>Medium Trees</td> <td>8-12m high, up to 8m crown spread at maturity</td> <td>35m<sup>3</sup></td> <td>1,000mm</td> <td>6m x 6m or equivalent</td> </tr> <tr> <td>Small trees</td> <td>6-8m high, up to 4m crown spread at maturity</td> <td>9m<sup>3</sup></td> <td>800mm</td> <td>3.5m x 3.5m or equivalent</td> </tr> <tr> <td>Shrubs</td> <td></td> <td></td> <td>500-600mm</td> <td></td> </tr> <tr> <td>Ground Cover</td> <td></td> <td></td> <td>300-450mm</td> <td></td> </tr> <tr> <td>Turf</td> <td></td> <td></td> <td>200mm</td> <td></td> </tr> </tbody> </table>	Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Large Trees	12-18m high, up to 16m crown spread at maturity	150m <sup>3</sup>	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m <sup>3</sup>	1,000mm	6m x 6m or equivalent	Small trees	6-8m high, up to 4m crown spread at maturity	9m <sup>3</sup>	800mm	3.5m x 3.5m or equivalent	Shrubs			500-600mm		Ground Cover			300-450mm		Turf			200mm		<p>The architectural and landscape plans provide details as to the various depths and dimensions of planter boxes on structures, the two of which can then be used to calculate soil volume.</p> <p>Notwithstanding the dimensions shown on the plans, additional conditions are recommended to be imposed to ensure that the soil depths are adequate to accommodate a range of plant sizes as envisaged by this report, and the ADG.</p>
Plant type	Definition	Soil Volume	Soil Depth	Soil Area																																	
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Ground Cover			300-450mm																																		
Turf			200mm																																		
<p><b>Universal Design</b></p>	<p>Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features</p>	<p><b>CONSISTENT</b></p>																																			
<p><b>Adaptable Reuse</b></p>	<p>New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.</p>	<p><b>Not Applicable</b></p>																																			
<p><b>Mixed Use</b></p>	<p>Can the development be accessed through public transport and does it positively contribute to the public domain?</p> <p>Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.</p>	<p><b>CONSISTENT</b></p> <p>The commercial floorspace of the development is easily accessible from the public domain and positively contributes to the vibrancy of the streetscape.</p>																																			
<p><b>Awnings and Signage</b></p>	<p>Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development.</p> <p>Signage must respond to the existing streetscape character and context.</p>	<p><b>CONSISTENT</b></p> <p>The application does not seek any approval for signage.</p> <p>The application plans show an awning projecting over</p>																																			

		the footpath to Delmar Parade and Pittwater Road, however no specific details are provided. It is presumed that the awning would follow alignment of the recently completed awning at 2 Delmar Parade. Specific details regarding this structure over Council land is to be resolved at a later date under the provisions of s138 or s139 of the Roads Act.
<b>Performance</b>		
<b>Energy Efficiency</b>	Have the requirements in the BASIX certificate been shown in the submitted plans?	<b>CONSISTENT</b>
<b>Water Management and Conservation</b>	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	<b>CONSISTENT</b>
<b>Waste Management</b>	Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?	<b>CONSISTENT</b>
<b>Building Maintenance</b>	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	<b>CONSISTENT</b>

## STANDARDS THAT CANNOT BE USED TO REFUSE DEVELOPMENT CONSENT

Clause 30 of SEPP 65 Standards that cannot be used as grounds to refuse development consent or modification of development consent states that:

*(1) If an application for the modification of a development consent or a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:*

- (a) if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,*
- (b) if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,*
- (c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.*

**Note.** *The Building Code of Australia specifies minimum ceiling heights for residential flat buildings.*

Comment:

The application is not recommended for refusal for any of the grounds listed in cl.30(1) as above.

*(2) Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:*

- (a) the design quality principles, and*
- (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.*

*(3) To remove doubt:*

- (a) subclause (1) does not prevent a consent authority from refusing an application in relation to a matter not specified in subclause (1), including on the basis of subclause (2), and*
- (b) the design criteria specified in subclause (1) are standards to which clause 79C (2) of the Act applies.*

**Note.** *The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant or modify development consent.*

Comment:

The proposed development has been designed and has had regard to the underlying design quality principles of the SEPP and the objectives and design criteria within the ADG. A comprehensive assessment of both these tools is provided above, and from a review of that assessment, it is evident that the development is consistent with all principles, and generally adheres to the design guidance provided (reiterating that it is for guidance purposes only and not a legislative or statutory instrument). Where inconsistencies do occur, they are minor (i.e., a room having an additional depth of 1m, or various levels of the building providing one to three more units than recommended serviced by one core) or have been suitably designed out, notwithstanding the variation (such as the primary orientation of apartments and privacy fixtures imposed to ameliorate any impacts derived from an inconsistent spatial separation between buildings).

The consent authority can be satisfied that the application and this assessment has demonstrated that adequate regard has been given to the provisions of the SEPP and the ADG.

## **DESIGN AND SUSTAINABILITY ADVISORY PANEL**

The proposal was reviewed by the DSAP on 28 April 2022. The DSAP indicated their position on the proposal, which was not supportive of the proposal, and provided a number of recommendations to Council regarding the merits of the design and outcomes based on the planning controls. For the purposes of this section of the report, only comments relating to the specific recommendations are considered and addressed below:

### **1. Variations to the podium are to demonstrate their merit in a wider streetscape.**

Comment

The applicant has provided a Clause 4.6 Variation Request with regard to the variation to the podium height non-compliance, and that is assessed later in this report. From an urban design point of view, the variation is claimed to be acceptable as it would align with the recently completed shop-top housing development at No. 2 Delmar Parade. Requiring compliance would result in an awkward relationship between the two sites and would pose difficulties in the future development of the Avis Site in providing a contextually responsive design to the streetscape.

The variation would is not materially attributable to any significant impacts and would work well to

herald northbound entry into the Dee Why Town Centre.

**2. Balcony balustrading should not present full height glazing. Balconies with components of solid upturns that may include handrails or glazing above so the solid elements do not obstruct outlook when residents are at a seated level. This enables more flexible use of private open spaces, needed visual privacy when viewed from the public domain, and outlook amenity for residents.**

Comment

The development is assessed as providing a satisfactory provision of visual privacy for future occupants and neighbouring properties. The Applicant has elected not to amend this element of the proposal given the general consistency with the visual privacy provisions of the ADG.

**3. Further design development of façade modulation and a greater use of robust, low maintenance materials is required.**

Comment

At the time the DSAP reviewed the original scheme, the majority of the building was finished in white painted pre-cast concrete slabs with a brick base. In response to this, the applicant and Council collaborated through a number of different façade alternatives, and in summary it was agreed that the Pittwater Road and Delmar Parade façade interface could maintain a more commercial appearance, but the eastern and southern elevations should present with a more residential character.

To achieve this desired character, the architect has used more brickwork across the façade and at various levels to visually break down the scale of the building, and to respond to the materiality of nearby dwelling houses. Additionally, landscape planter boxes have been added to the outer edges of a number of balconies that should, upon maturity and if maintained well, result in a 'spilling' effect of landscaping over the edges of the balconies.

Additional to these material changes, the setback of the building to the eastern boundary has been increased to provide a greater spatial separation to the R2 zone, and to provide greater façade articulation across the eastern and southern elevations of the development.

The material selection is considered to be suitably durable and low maintenance for a town centre environment.

**4. Excavation levels should be reconsidered to better coordinate with boundary interface levels and do not result in subterranean spaces.**

***The extent of excavation should be reduced so replacement canopy is accommodated and adequate deep soil is achieved. Setbacks and other deep soil areas need minimum 6m dimensions for viable tree planting and continuity with ground water systems.***

Comment

There are no controls which limit the extent of excavation on the site, only a defacto restricting based on stormwater infrastructure and overland flow paths. Additionally, there is a requirement for deep soil landscaped areas. The extent of excavation proposed is not inconsistent with what is reasonably anticipated in a town centre location. The building has been redesigned with a greater setback to the eastern edge of the site, to provide greater spatial separation, and a compliant provision of 6m wide deep soil plantings.

This recommendation has been resolved.

**5. Setback conditions for landscape and 'channels' for stormwater infrastructure are to be further considered so that adequate perimeter landscape is achieved and opportunities for an environmental corridor are maximised.**

Comment

The area referenced is the eastern portion of the property and its shared interface with the R2 Low

Density Residential zone. This area serves three primary purposes:

- An overland flow path for stormwater.
- Deep soil landscaping to meet numerical requirements and to screen and soften the building.
- To allow for adequate spatial separation between properties, to minimise amenity impacts on neighbours and future occupiers, in accordance with the relevant ADG controls.

This 'channel' is discussed earlier in this report and acts as a pseudo-green street corridor between Delmar Parade and Stony Range Reserve.

Council's Landscape Officer and Flooding Engineers are satisfied with the design resolution for this area, in that it can serve the first two above-listed purposes. The third purpose is deemed to be satisfied by way of ADG compliance.

**6. *Opportunities for a rooftop communal open space are available with a reduction of GFA. This is in context of the variation to FSR being proposed.***

Comment

The applicant amended the scheme to provide a 533sqm communal roof terrace for occupants to enjoy. The terrace is largely landscaped and receives unimpeded sunlight.

**7. *The central open space requires reconsideration because of the extent of functions it is trying to perform and which present inherent conflicts.***

Comment

The central courtyard serves as the pedestrian entryway into the building. If the ground floor units were adapted in future, then it would also serve as the pedestrian entry way into those premises. The courtyard does not permit any vehicular access or servicing arrangements for the commercial premises along the street frontages.

It is not concurred with that the courtyard is trying to serve an excessive number of functions, and it will be able to operate successfully.

**8. *Relocate any communal rooms to locations with the highest amenity and are well integrated.***

Comment

The scheme has been amended to provide a small communal gym at the ground level which does not have a high level of amenity (by way of natural light), however this is considered to be offset by the large communal roof terrace, which enjoys the highest level of amenity in the development.

**9. *All communal lobbies on all levels are to provide natural daylight and natural ventilation.***

Comment

The applicant submitted amended plans in response to this feedback and has provided natural light to a number of the communal corridors throughout the building, however not to all of them. None of the corridors have been provided with natural ventilation. Whilst this would be desirable and a positive addition, it is not enforceable through any legislation and, given the size of the corridors, it is unlikely that one would spend anything longer than a 'short passage of time' in the corridor before entering an apartment or existing the building.

**10. *Design quality requires high levels of resident amenity. The deficiencies identified above are to be addressed. The combination of excessive building footprint depth and excessive yield appear to be a core reason for the areas of poor performance.***

Comment

The building is assessed as providing a high level of amenity for future residents. Whilst that amenity could always be improved, the level provided is reasonable, and is not considered to be attributable to excessive building footprint or excavation.

**11. Cross ventilation diagrams are to be submitted and the number of single aspect apartment types is to be minimized. Note: the Apartment Design Guide provides definitions and graphics of units types accepted as achieving natural cross ventilation. Single aspect types with a corner window in one room or within narrow slots do not achieve natural cross ventilation.**

Comment

Provided and satisfactory.

**12. Provision of rooftop PV and EV charging facilities is to be accommodated.**

Comment

The building complies with the requisite sustainability standards under the SEPP BASIX. Whilst the DCP provides more ambitious targets, cls. 8 and 9 of the SEPP make clear that the requirements of BASIX prevail in the event of an inconsistency.

**13. All habitable rooms and spaces are to have natural daylight and natural ventilation.**

Comment

Achieved.

**14. Provision for the infrastructure needed for EV charging is necessary.**

Comment

There is no statutory requirement for EV charging infrastructure to be provided for the whole of the development. If required, this matter could be conditioned.

**SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted for the amended scheme (see Certificate No. 1250181M\_03 dated 24 March 2023). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. HR-6DIV8O-03 date 24 November 2022).

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

Commitment	Required Target	Proposed
Water	40	42
Thermal Comfort	Pass	Pass
Energy	25	31

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

**SEPP (Transport and Infrastructure) 2021**

**Ausgrid**



Section 2.48 of Chapter 2 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 proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

***Transport for NSW***

The proposed development was referred to Transport for NSW pursuant to clause 2.121 as the site is within 90m of a connection to Pittwater Road and accommodates more than 75 dwellings.

Comment:

The amended plans and addendum traffic studies were referred to Transport for NSW who did not raise any objection to the proposal and stated that the development will not have a significant impact on the classified road network (2 March 2023).

**SEPP (Resilience and Hazards) 2021**

Sub-section 4.6 (1)(a) of Chapter 4 requires the consent authority to consider whether land is contaminated.

In response to the above requirements of Chapter 4, the applicant has submitted a *Preliminary Environmental Site Investigation*. The Investigation indicates that there is a potential for contaminants to exist on the site, sub-section 4.6 (1)(b) and 7(1)(c) of this chapter must be considered.

Sub-section 4.6(1)(b) stipulates that "*if the land is contaminated, it [Council] is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out*".

Given the claimed potential of contamination on the site, as noted in the Phase 1 Investigation, Council requested the applicant submit a 'Phase 2' Detailed Site Investigation, which was submitted by Geosyntec Consultants and dated 4 May 2022 (report reference 21325 Final R1 DSI). In that report, Geosyntec Consultants conclude (direct extract):

- *The site currently comprises a two-storey brick building used for commercial purposes towards Pittwater Road, and two larger two-storey brick buildings in use as offices and warehousing.*
- *Reworked natural soils comprising silty sand, clayey sand and sand were encountered at the majority of sampling locations underneath the concrete hardstand between the depths of 0.15 and 1.2m below ground surface (bgs). Underlying natural geology generally consistent of natural*

*weathered sandstone.*

- *Boreholes located in landscaping areas generally comprised of brown silty and and clayey sand topsoil ranging between the depths of 0 - 0.6m underlain by sand and sandy clays.*
- *All soil results were reported below adopted site suitability criteria, with the exception of zinc in locations BH4, BH10 and HA2A and nickel at BH11 exceeding conservative site specific ecological (EIL) criteria. Given that the proposed redevelopment would include a two-storey basement and the material will likely be excavated and removed offsite, there is a low risk to human and ecological receptors in the current configuration given the majority of the site is sealed.*
- *Concentrations of analytes were reported and concentrations below the site criteria in groundwater samples, except zinc and nickel in all three wells, which were reported above NEPM (2013) GILs / ANZG 95% protection criteria for marine waters. These metal concentrations are not considered to have originated from shallow fill at the site and are rather considered to be representative of background groundwater conditions and localised infiltration that occurred during the sampling round, and present a low risk towards potential human and ecological receptors.*
- *An asbestos fibre cement fragment was encountered in BH9 during this investigation. Asbestos fines were previously reported in the Reditus Preliminary Waste Classification report for the northeastern portion of the site, as outlined in Figure 2, Appendix A.*
- *Analytical results from fill material were also assessed against NSW EPA (2014) Waste Classification Guidelines. Based on the results, the fill material met the criteria for General Solid Waste (no-putrescible), except for the sampling locations BH9A, BH1 and BH2 (Reditus, 2021), where asbestos-containing material (ACM) was encountered. These sampling locations are classified as Special Waste (Asbestos). Further testing will be required after demolition to confirm this preliminary classification.*
- *Given that no indicators of contamination were observed in underlying soils and that no sources of gross contamination were identified during the review of site history and site walkover (e.g. spillages, extensive industrial land use), underlying natural materials at the site may be classifiable as Virgin Excavated Natural Material (VENM) and / or Excavated Natural Material (ENM) pending further assessment during bulk earthworks.*

Based on the above, it is concluded that the site is suitable for the proposed high-density residential land use, associated landscaping and commercial ground-floor use, noting that the following should be undertaken:

- *A Hazardous Building Materials Survey (HAZMAT) of existing site structures prior to demolition, as recommended in the Reditus (2021) PSI.*
- *Given the identification of asbestos within the fill material, an Asbestos Management Plan (AMP) must be prepared to comply with the Work health and Safety (WHS) Regulation 2017.*
- *Additional inspections and sampling under hardstand areas once the buildings and concrete are removed to ascertain the extent of asbestos-containing fibre cement fragments and fines across the site.*
- *Given the majority of the soils on site will be required to facilitate the development, the compilation of a soil management plan after the additional sampling is completed.*

Therefore, Council is satisfied that the land can be made suitable for the purpose for which the development is proposed to be carried out and the recommendations included in the investigation are included as conditions in the recommendation of this report.

Sub-section 4.6 (1)(c) stipulates that "if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be


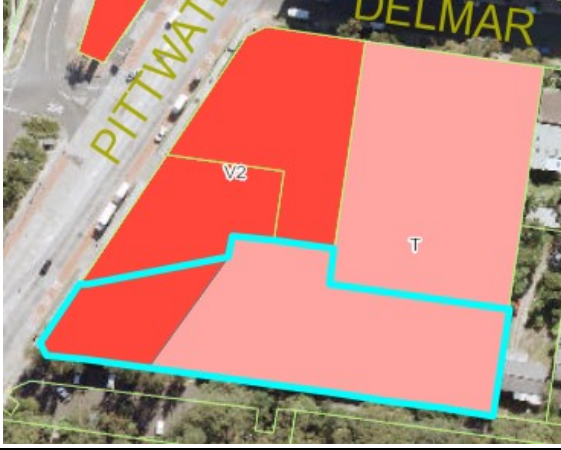
remediated before the land is used for that purpose".

Council is satisfied that the land can be made suitable for the purpose for which the development is proposed to be carried out and the recommendations included in the investigation are included as conditions in the recommendation of this report.

### Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
<b>Clause 4.3 Height of Buildings</b> 	4 Delmar Parade: 16m	16m	-	Yes
	812 Pittwater Road: 16m and 24m (to the west, along Pittwater Road)	16m and 24m	-	Yes
<b>Clause 4.4 Floor Space Ratio</b> 	FSR Zone 'V2' (in red): 3.2:1 (3,168m <sup>2</sup> )	4.27:1 (4222.1m <sup>2</sup> )	33%	<b>No</b>
	FSR Zone 'T' (in pink): 2.4:1 (16,320m <sup>2</sup> )	2.24:1 (15,262.4m <sup>2</sup> )	-	Yes
	Total: 19,488m <sup>2</sup>	Total: 19,484m <sup>2</sup>		
<b>Clause 6.7 Residential flat buildings in Zone B4 Mixed Use Zone</b>	<i>Development consent must not be granted to a residential flat</i>	21 units on ground floor	-	<b>No</b>

	<i>building in Zone B4 Mixed Use with a dwelling at the ground floor level.</i>			
<b>Clause 7.6A Podium heights</b>	Max. number of podium storeys to Delmar Parade: 2 storeys	4 storeys	200%	<b>No</b>
	Max. number of podium storeys to Pittwater Road: 3 storeys	7 storeys	233%	<b>No</b>
<b>Clause 7.12 (2)(c) Provisions promoting retail activity</b>	<i>(c) Buildings will have at least two floor levels (including the ground floor level) of employment generating space</i>	Partial employment generating space provided: 778.1m <sup>2</sup>	-	<b>No</b>

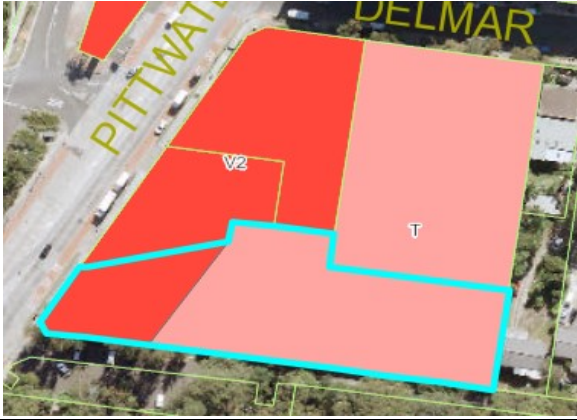
#### Compliance Assessment

<b>Clause</b>	<b>Compliance with Requirements</b>
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
4.4 Floor space ratio	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
5.21 Flood planning	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes
6.7 Residential flat buildings in Zone B4 Mixed Use	No
7.3 Objectives for development within Dee Why Town Centre	Yes
7.4 Development must be consistent with objectives for development and design excellence	Yes
7.5 Design excellence within Dee Why Town Centre	Yes
7.6A Podium heights	No
7.10 Allowance for external ancillary plant and roof access	Yes
7.12 Provisions promoting retail activity	No
7.13 Mobility, traffic management and parking	Yes

#### Detailed Assessment

#### **4.6 Exceptions to development standards**

## SUMMARY OF NON-COMPLIANCES

Standard	Requirement	Proposed	% Variation	Complies
<b>Clause 4.4 Floor Space Ratio</b> 	FSR Zone 'V2' (in red): 3.2:1 (3,168m <sup>2</sup> )	4.27:1 (4222.1m <sup>2</sup> )	33%	<b>No</b>
	FSR Zone 'T' (in pink): 2.4:1 (16,320m <sup>2</sup> )	2.24:1 (15,262.4m <sup>2</sup> )	-	Yes
<b>Clause 6.7 Residential flat buildings in Zone B4 Mixed Use Zone</b>	<i>Development consent must not be granted to a residential flat building in Zone B4 Mixed Use with a dwelling at the ground floor level.</i>	21 units on ground floor	-	<b>No</b>
<b>Clause 7.6A Podium heights</b>	Max. number of podium storeys to Delmar Parade: 2 storeys	4 storeys	200%	<b>No</b>
	Max. number of podium storeys to Pittwater Road: 3 storeys	7 storeys	233%	<b>No</b>
<b>Clause 7.12 (2)(c) Provisions promoting retail activity</b>	<i>(c) Buildings will have at least two floor levels (including the ground floor level) of employment generating space</i>	Partial employment generating space provided: 819.9m <sup>2</sup>	-	<b>No</b>

The Development Application involves total of four (4) Clause 4.6 Variation Requests with relation to the proposed floor space ratio (cl.4.4), podium height (cl.7.6A), use of the ground floor for residential purposes (cl.6.7), and not using the ground and first floor as employment generating space (cl.7.12(c)).

### Assessment of Request to Vary a Development Standard

The following assessment of the request to vary the above listed development standards 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:**

Clauses 4.4, 6.7, 7.6A and 7.12(c) of the WLEP 2011 are development standards and are 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 standards, 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*
- (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.*

**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 development standards and the objectives of the B4 Mixed Use zone. An assessment against these objectives is provided below.

**Objectives of Development Standard**

**(i) Floor Space Ratio**

The site has two FSR controls applying as shown in the above graphic, with *FSR Zone 'V2'* (in red) allowing an FSR of 3.2:1 along the Pittwater Road frontage, and *FSR Zone 'T'* allowing a lower FSR of 2.4:1 across the rest of the site. The development exceeds the prescribed FSR in the Zone V2 on

Pittwater Road by 33% (or 1,054m<sup>2</sup>), but complies with the FSR limits in Zone T. Were the two FSR controls were combined across the site, the total area of floor space across the whole development is lesser than the maximum allowable.

In seeking to justify the variation, the applicant's written request has put forward the following arguments (summarised):

- *The development as a whole has a density less than the maximum allowable under the controls (when considered holistically).*
- *The development appropriately distributes more density to the Pittwater Road building, resulting in a lesser floor area to the interface adjoining the R2 Low Density Residential zone.*
- *The variation to the FSR standard does not manifest itself in any different in bulk and scale of the development compared to that envisaged under the planning controls. The variation is not perceptible.*
- *The increased density and floor space along the Pittwater Road frontage is consistent with other developments along the corridor.*
- *Requiring strict compliance would necessitate the redeployment of floorspace elsewhere on the site which may have worse outcome than the proposal.*

Comment:

The grounds put forward by the applicant are compelling, particularly when having regard to the overall compliance achieved across the site as a whole. It is concurred with, that concentrating density and floorspace along the Pittwater Road corridor is favourable compared to providing that floorspace adjacent to the R2 zone, where impacts are likely to be greater. It is also concurred with, that the variation does not manifest in any increased or unreasonable bulk and scale, and that the proportions and design of the building are consistent with what could readily be expected to be built on the site.

The variation sought is not a grab for additional floorspace or yield, as compliance is achieved across the subject site overall, but rather the variation derives from seeking to deliver a superior urban planning outcome within the Town Centre, and this approach is sound and supported.

The underlying objectives of the standard, pursuant to Clause 4.4 – 'Floor Space Ratio' of the WLEP 2011 are:

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

*(a) to limit the intensity of development and associated traffic generation so that they are commensurate with the capacity of existing and planned infrastructure, including transport infrastructure.*

Comment:

The conclusions of this assessment might have been different if the site was configured in an alternate way. However, given the fact that the proposal seeks to amalgamate two large lots with two different FSRs, it is concluded that the impacts on infrastructure are negligible. The variation is not attributable to any additional car parking or infrastructure works commensurate to what would be required under a compliant scheme. The total floorspace provided by the development is lesser than what is allowable under the controls (albeit only by a minor amount). The proposal has been reviewed by Transport for NSW and Council's Traffic and Engineering departments, who are satisfied that, subject to appropriate conditions, that the impacts of the development on existing and planned infrastructure can be appropriately mitigated or managed.

*(b) to provide sufficient floor space to meet anticipated development needs for the foreseeable future.*

Comment:

The proposal provides a compliant degree of communal floor space (being more than 25% of the total site area) and every apartment is compliant with the dimensional standards prescribed under the ADG. The proposal does not provide the required commercial floor space, however this is assessed below under clause 7.12 *Provisions promoting retail activity* and is well founded and supported. On balance, the development provides sufficient floorspace to meet the anticipated needs for the foreseeable future.

*(c) to ensure that buildings, by virtue of their bulk and scale, are consistent with the desired character of the locality.*

Comment:

With regards to the physical built form standards, the development is largely compliant. Any non-compliances are non-discernible from the public domain (with the exception of the podium height control to Pittwater Road, which is discussed in detail below). The applicant has detailed in their environmental planning grounds, that a compliant development would necessitate the redistribution of floorspace further east within the site which, when viewed from the adjoining R2 zone, would contribute to additional bulk and scale and loss of eastern buffer, and would likely detract from the level of amenity afforded to nearby residential receivers..

The proportions of the building are consistent with the character and proportions of the Dee Why Town Centre, and the variation sought does not detract from the developments ability to meet this objective.

*(d) to manage the visual impact of development when viewed from public spaces.*

Comment:

The development is primarily visible from three public vantage points, being Pittwater Road, Delmar Parade, and Stony Range Reserve. From Delmar Parade, the visual impact of the non-compliance is negligible (since this portion of the building is below the allowable FSR limit). From Pittwater Road and Stony Range Reserve, the viewable portions of the development would have a floor area above what is expected by the controls, however that does not manifest into any unreasonable bulk or scale or other impacts (again, noting that there is also a variation to the podium height control). The development as a whole will improve the visual amenity of the area when viewed from the public domain, as it would transform a dated and underdeveloped commercial/industrial site into a new integrated mixed development which is architecturally designed 'bookend' to the Town Centre, of proportions as envisaged by the planning controls.

*(e) to maximise solar access and amenity for public areas.*

Comment:

For the reasons described above, and having regard to the solar access assessment under the ADG section of this report, the variations sought to the FSR control are not considered detrimental to the solar access and amenity for public areas.

For the reasons detailed above, the development is found to meet the objectives of the development standard notwithstanding the variation proposed, and the variation is supported by sufficient environmental planning grounds as outlined by the applicant in the written Clause 4.6 Request.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has 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 satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

**(ii) Residential Flat Buildings in Zone B4 Mixed Use**

Clause 6.7 does not have accompanying objectives, rather it provides a singular requirement that:

- *Development consent must not be granted to a residential flat building in Zone B4 Mixed Use with a dwelling at the ground level.*

In their clause 4.6 Variation Request, the Applicant spells out why clause 6.7 is a Development Standard and not a prohibition, and this assessment adopts that position (which is consistent with previous decisions in the Dee Why Town Centre). The Applicant's summary of why clause 6.7 is a Development Standard and not a prohibition is extracted below:

*"The provision in Clause 6.7 is considered to be a development standard and not a prohibition in accordance with the two step test as set out in the judgement of Strathfield Municipal Council v Poynting [2001] NSWCA 270 (Poynting). In particular, the two step test is:*

*(a) Firstly, a consideration of whether the proposed development is prohibited under any circumstances — when it is read both in context of the WLEP and as a whole.*

*(b) Secondly, if it is not so prohibited, a consideration of whether clause 6.7 of WLEP specifies a requirement — or fixes a standard — in relation to an aspect of the proposed development.*

*In relation to the first test, in considering cl 6.7 of the WLEP "as a part of the environmental planning instrument as a whole" (Poynting at [94]), there is no complete prohibition of the development of a residential flat building in the B4 Mixed Use Zone. Accordingly, the proposed development with a dwelling on the ground floor passes the 'first step' in the Poynting two-step test. In relation to the second test, clause 6.7 of WLEP does fix a standard that there should not be a ground floor dwelling. Accordingly, the requirement of clause 6.7 of the WLEP is a development standard." (Source: Clause 4.6 Variation Request - clause 6.7 - Amended, by Sutherland & Associates Planning).*

The ground level of the building is split across two different levels, given the changes in slope over the site, thus the ground level for Delmar Parade is depicted on the 'Ground Floor Plan' and the ground level for Pittwater Road is depicted on the 'Level 1 Plan'.

On the Ground Floor Level the building, it provides four (4) commercial tenancies; one (1) communal living space for occupants including a co-working space; three (3) 'live-work' apartments, twenty-one (21) apartments on the 'Ground Floor Level', and nine (9) apartments on the ground level interface of

'Level 1'.

In the absence of specific underlying objectives for Clause 6.7, or an explanation as to the specific purpose of the clause, the variation requested is to be considered against the underlying objectives of the Dee Why Town Centre as a whole, as they are stated in Clause 7.3 of the WLEP 2011 (Note: matters in these objectives that are specific to other sites have been struck through for relevance to the discussion):

*(a) to create an attractive living centre that sustains the social, economic and environmental needs of its community and visitors,*

*(b) to ensure a balance between the provision of high quality housing with a mix of retail, business, employment, civic, cultural and recreational facilities,*

*(c) to ensure that development is consistent with the role of Dee Why as a major centre for the sub-region,*

~~*(d) to create a built environment on Site A and Site B that has unified and consistent building form that includes—*~~

~~*(i) definition of street edges by the establishment of podiums to create walls of 3 and 4 storeys in height, and*~~

~~*(ii) above podium level elements that step back to achieve adequate levels of natural sunlight and high levels of amenity to occupiers of the buildings, surrounding development and the adjacent public domain, and*~~

~~*(iii) 2 iconic slimline towers in the western part of the centre (Site B) and one smaller tower in the eastern part of the centre (Site A) that will largely provide for a transition in height from west to east, and*~~

~~*(iv) mid-rise elements that reflect the simple clarity of design displayed by the tower and podium elements,*~~

*(e) to ensure that taller buildings that are distributed across the Dee Why Town Centre from west to east provide a coordinated, modulated and varied skyline and that the towers are spatially separated to provide useable public spaces, including a Town Square,*

*(f) to achieve a pattern of development that reflects the underlying urban form in Dee Why with predominantly east-west orientated buildings and high levels of visual and physical permeability,*

~~*(g) to achieve good sunlight penetration to public spaces and Oaks Avenue,*~~

*(h) to ensure that development responds to the surrounding natural environment and protects the scenic qualities of Dee Why and its views and vistas,*

*(i) to establish ground floor levels that are occupied by retail uses that—*

*(i) are highly active, accessible to the street and create a lively ambience, and*

*(ii) provide a mix of retail shops, cafes and restaurants at the edges of street, pedestrian areas and open spaces, and*

*(iii) are at the same level as the footpaths and provide opportunities for a generous promenade and distinctive street tree planting for shade and shelter,*

*(j) to accommodate additional employment opportunities, service functions and space for business, consistent with the role of Dee Why as a major centre, by providing at least 2 levels (including the*



ground floor) of development for non-residential purposes,

*(k) to ensure that signage associated with the new development is of high quality, is innovative, coordinated and minimised to avoid visual clutter and will complement the overall urban design, streetscape and architectural quality and amenity of the Dee Why Town Centre,*

*(l) to ensure that development within the Dee Why Town Centre is designed to take account of, and be compatible with, the hydrological conditions associated with the Dee Why Lagoon South Catchment,*

*(m) to ensure that development within the Dee Why Town Centre positively contributes to the visual quality and pedestrian comfort of the public domain and provides a seamless integration between public and private spaces,*

*(n) to achieve a consistent built form character that features podiums that define street edges, and to reduce the visual scale of built form, except on land on Site A or Site B,*

*(o) to ensure that development is designed with consideration of transport infrastructure,*

*(p) to ensure that development within the Dee Why Town Centre is designed to contribute to the provision of a network of green spaces, natural systems and semi-natural systems, including parks, waterways, bushland and private gardens that are strategically planned, designed and managed to support a good quality of life in an urban environment.*

In seeking to justify the variation, the applicant's written request has put forward the following arguments (summarised):

- *The proposal achieves an engaged and activated street edge for the entire width of both street frontages. The entirety of both street frontages is proposed to contain commercial tenancies capable of accommodating retail shops, cafes or restaurants that will contribute positively to a lively streetscape.*
- *The context of this site is different to the rest of the town centre in that it is the southernmost lot within the mapped town centre and adjoins R2 zoned land. The site is the only site within the Town Centre that shares a boundary with R2 zoned land. The site is largely disconnected from the commercial core of the centre. The site does not benefit from significant site frontage widths or any through site links which are critical to the success of employment floor space. The depth of the site means that there is very limited exposure and new commercial tenancies beyond the street frontages would not succeed. On this market comment, the applicant provides "there are profoundly more attractive commercial office offerings with intrinsically better attributes closer to the centre of Dee Why which will always attract tenants in preference to the subject site and development."*
- *There has been a major structural change in employment floor space demand as a result of COVID-19.*
- *The variation sought does not result in any unreasonable or adverse impacts on the streetscape or neighbouring amenity.*
- *It is considered that the restriction on ground floor residential uses is more specifically intended to apply to key identified sites within the Dee Why Town Centre, noting that Clause 7.12(2) reinforces that there is to be no ground floor residential use on Sites A, B, C, D or E (which this site is not).*
- *If the variation is not permitted, the redevelopment of the site will not be feasible as ground floor commercial tenancies across the entire site will not be able to be leased on commercially viable terms. This would prevent the sustainable redevelopment of the site in a manner which can deliver much needed additional housing choice in an ideal location and the achievement of an activated and engaged ground floor plane, which area all benefits associated with the subject proposal.*



Comment:

The applicant asserts that the key principles behind the requirement for no ground floor dwellings are:

- *to achieve engaged and activated street edges; and*
- *to provide for employment floor space consistent with the role of Dee Why as a major centre.*

The interpretation and summary of the underlying purpose of the objectives is agreed with.

The site is the southernmost lot in the Town Centre and, if the Meriton '*Lighthouse*' development is to be taken as the core of the centre (Key Site B), then the subject site is the farthest away from the core. This geographical disconnect from the core is further exacerbated by the fact that all of the 'Key Sites' within the Dee Why Town Centre are centred around the Lighthouse development and the B-Line bus stops. The distance from the subject site to the core is around 600m and is separated by four (4) roads being Delmar Parade, Sturdee Parade, Pacific Parade and Oaks Avenue. The location of the site is not conducive to walkability from the core, because of the significant distance and the number of roads that need to be crossed.

The Key Sites are afforded (in instances), bonus Height and FSR beyond the standard planning controls, which emphasises their importance as a critical site to reinforce the role of Dee Why as a Major Centre. The subject site is not recognised in the WLEP 2011 as being significant in any special manner and accordingly is not afforded any uplift by the controls.

Beyond the geographical factors of the site which render it disconnected from the core, there are a number of internal constraints which are problematic in the sites ability to achieve an entire ground and first floor of employment generating space. The site has a depth of more than double its street frontage (i.e., 100m N-S by 52m to Delmar Parade; and 130m E-W by 25m to Pittwater Road). The two largest interfaces of the site are to R2 zoned land to the east, and the Stony Range Reserve to the south, both of which are not conducive to having an 'active interface' given the conflicting and sensitive nature of those land uses.

Providing an active commercial interface and facade alongside the eastern edge of the site would have deleterious effects on the visual and acoustic amenity of the neighbouring detached dwelling houses, and providing similar to the south could jeopardise the peaceful and tranquil nature of the flora reserve (by an increase in comings and goings of staff and patrons, illumination and noise). The site has maximised its retail frontage to the street edges of Pittwater Road and Delmar Parade as much as what is deemed to practically possible (whilst noting the need to provide resident access, driveways, boosters and the like).

The four (4) tenancies provided for on the Ground Floor Level are all reasonably sized to enable a wide range of future retail/commercial occupancies. The frontages of these tenancies are reasonably level to the adjacent footpath, noting that these is a slight difference in part to provide accessible ramping. The development further provides three (3) units at the ground level that are proposed initially as residential, but have been designed to be capable of conversion into a business premises in the future should there be a demand for such.

Were strict compliance to be enforced, then there would be a number of retail tenancies internal of the site with no street frontage, limited servicing opportunities, and that would not be visible from the public domain. The design of the building with a central courtyard would also prove problematic if such requirement were to be enforced, as it would require residents, tenants and patrons to share the same space, and such could give rise to visual and acoustic privacy issues and concerns arising from

CPTED.

The provision of larger and deeper commercial floorplates on this site presents practical and logistic problems due to the significant depth of the site. The division of the ground floor into multiple tenancies would create a rabbit warren of passageways and arcades to facilitate a functional and serviceable configuration. Moreover, such an outcome would compromise the amenity of future residents, who would have no significant ground plane communal landscaped areas, no private residential arrival and passage through a central court, and would be confined to use of the roof top terrace for daily activities and enjoyment of the property.

Therefore, the location, size and design of the commercial floor space proposed within the development is appropriate for the site and locality, with regards to its relationship to residential units within the building, the adjoining R2 zoned dwelling houses, and the adjoining heritage listed reserve. The design still provides the maximum possible active street frontage to both roads notwithstanding the fact that the site is geographically isolated.

The current housing climate in Australia, but particularly Sydney and the Northern Beaches is also a relevant consideration. There is a proven, demonstrable and immediate demand for new housing in accessible and quality locations, and a lack of supply is an issue in local terms. The subject site is a prime location for additional apartment style housing, due to its proximity to public transport, recreational spaces, restaurants and a nightlife economy, business areas, and industrial areas to the south in Brookvale. The 'ground floor level' (being that split across two (2) levels, provides 59 bedrooms, each capable of accommodating a double bed. Were this variation to be permitted, and each of these rooms occupied by a couple, the ground floor of building could safely and comfortably house 118 persons which in and of itself is a significant contribution to respond to the housing need in the area and to Council's housing targets, and to potential new employees within the local area.

*Priority 1* within the *Northern Beaches Local Housing Strategy* is to provide new housing to accommodate 22,963 new residents in 12,000 new dwellings within the next 12-13 years. The analysis done within that strategy, identifies that even with planned future densities, there is a shortfall in the volume of housing required (by 275 dwellings). This proposal could contribute significantly to filling this shortfall.

In consideration of the above, the proposal is considered to meet the objectives of the clause and the underlying objectives of the zone (detailed below). Enforcing strict compliance is unreasonable, given the geographic isolation and potential amenity impacts it may cause, and unnecessary given that the objectives are achieved.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has 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 satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

**(iii) Provisions Promoting Retail Activity**

Clause 7.12(2)(c) states that "*buildings will have at least two floors (including the ground floor level) of*

employment generating space)". As described above, the proposal does not achieve this.

In seeking to justify the variation, the applicant's written request had put forward the following arguments (summarised):

- *The entirety of both street frontages contain commercial tenancies that are capable of accommodating shops, cafes or restaurants which will contribute to a positive street activate and promotes retail activity, thus employment floorspace.*
- *The site is disconnected from the town centre (refer to earlier discussions in this report).*
- *The applicant argues that the control intends to apply to key sites within the town centre, specifically noting that the proceeding subclauses only apply to the Key Sites.*
- *The variation does not result in any unreasonable or adverse impacts.*

Comment:

The applicant raises an interesting question with regards to the structuring of cl 7.12 (2) and whether it is applicable to this development. This doubt arises from each clause ending with an 'and' which, in some circumstances, means that the control is to be read as one - rather than deconstructing it and enforcing parts where it is applicable. Notwithstanding this, a cl 4.6 Variation Request has been submitted and assessed as follows. For the readers benefit, cl 7.12 (2) is copied below:

*(2) Development consent must not be granted to development in the Dee Why Town Centre unless the consent authority is satisfied that—*

*(a) the ground floor level of buildings on Site A, Site B, Site C, Site D or Site E will not be used for any of the following (other than the provision of access to any of the following)—*

*(i) residential accommodation,*

*(ii) medical centres,*

*(iii) office premises, **and***

*(b) the first floor level of buildings on Sites A and B will not be used for residential accommodation (other than the provision of access to such accommodation), **and***

*(c) buildings will have at least two floor levels (including the ground floor level) of employment generating space, **and***

*(d) development on the ground floor level of buildings in the Dee Why Town Centre will contribute to an active street life in accordance with the document titled Our Greater Sydney 2056 North District Plan published by the Greater Sydney Commission in March 2018. [emphasis added]*

The above argument/interpretation of the control is more compelling when considering the development potential of the majority of the site, specifically in that the majority of it has a 16m (or five (5) storey) height limit. The control would require that 40% (i.e., two (2) levels) to be dedicated to employment generating space which is not achieved by any contemporary building within the town centre and would have a significant impost on the viability of a project, particularly noting the sites location on the outskirts of the Town Centre.

This report has already acknowledged that the site is disconnected from the core of the Town Centre, and adopts a similar position to the applicants written request, that if ground floor retail over the whole site would not be viable, then first floor commercial opportunities (offices, medical suites, professional suites and the like) would likely to be even less viable. This is reasonably evident by the absence of first floor commercial occupancies within the Town Centre. The current development on the site has a

leaning towards medical uses, and such could present opportunities for replacement on the site, however other developments, such as the Dee Why Hotel site (corner Pittwater Road and Sturdee Parade), which is closer to the Town Centre core, have assumed that role in more recent times. There is no evidence that a demand exists or is likely to exist for such commercial uses at this more peripheral location.

The applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

The applicant's written request has 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 satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

The underlying objective of the standard, pursuant to Clause 7.12 Provisions promoting retail activity of the WLEP 2011 are:

*(a) to promote retail activity on the ground and first floors of new buildings in the Dee Why Town Centre.*

Comment:

The building has an active retail frontage to both streets to enhance the wider public domain. The reasons supporting this Objective have been laid out in the above paragraphs and will therefore not be further reiterated.

*(b) to promote employment generating uses in addition to retail activity.*

Comment:

The disconnect of the site from the town centre is a relevant consideration against this Objective, but moreso the physical site constraints / attributes are. The site is the only parcel of land zoned B4 which directly adjoins the R2 zone. All other sites are either separated by roads and have a transitional R3 Medium Density Residential zone. It is a poor planning outcome to have first floor retail or employment generating space directly overlooking the garden of a detached dwelling (accepting that a residential to residential relationship is preferable).

**(iv) Podium Height**

Clause 7.6A states that development fronting Pittwater Road should have a maximum podium height of 3 storeys, and Delmar Parade should have a maximum podium height of 2 storeys.

The proposal instead provides a 4 storey podium, as part of the 5 storey building presenting to Delmar Parade, where the fifth floor is setback approximately 4m from the levels below. To Pittwater Road the proposal provides a 4 storey podium to its northern edge, where the site adjoins the Avis Site, and then a nil setback and no podium for the 7 storey element at the corner of Pittwater Road and the access to the Stony Range Reserve car park.

In seeking to justify the variation, the applicant's written request has put forward the following arguments (summarised):

- *The building is designed to achieve a consistent built form by matching the podium heights of nearby development.*
- *The southwestern corner of the site is a 'landmark location' that warrants a single unified vertical expression instead of a podium.*
- *The variation to the podium height standard does not detract from visual privacy or solar access.*
- *Enforcing strict compliance would result in an inconsistent urban design outcome and a complete lack of podium height cohesion.*

Comment:

The grounds put forward by the applicant are concurred with. The proposed podium heights are generally consistent with what exists on the corner at Np. 2 Delmar Parade and on other buildings in the Town Centre. There is a significant variation in podium heights within the Town Centre, particularly having regard to the immediate development to the north (No. 822 Pittwater Road), which presents as a sheer 9 storey building with no setbacks or podium. The southwestern corner of the site is the "Gateway" or "Landmark" to the southern entry to the Town Centre, and naturally lends itself to providing a sense of arrival through a different and stronger urban design expression. It is agreed that the variations proposed do not result in any adverse amenity impacts, beyond what a compliant scheme would provide. In fact, there is a sound basis and logic to the alternative approach taken for this corner of the site.

On that basis, it is considered that there are sufficient environmental planning grounds to justify the variation sought, subject to the underlying objectives of the standard being met.

The underlying objective of the standard, pursuant to Clause 7.6A Podium heights of the WLEP 2011 are:

*(a) to achieve a consistent built form character that features podiums that define the street edge, and to ensure upper level setbacks reduce the visual prominence of building height.*

Comment:

The proportions of the building along the western and southern edge of Pittwater Road are consistent with the adjoining shop-top housing development at No. 2 Delmar Parade. The podium height of these two buildings aligns at the transition point, which provides a defined street edge and urban design cohesion. This is juxtaposed to the significant vertical element on the site to the north of Delmar Parade, which displays an exaggerated visual prominence for its location.

To Pittwater Road, the height of the building is split into two elements, with the northern edge (adjoining the Avis Site) having a 4 storey podium consistent with No. 2 Delmar Parade and the frontage of the other part of the proposed development to Delmar Parade. The southern edge (where the building will present to Pittwater Road/Stony Range Reserve carpark entry), will have a no podium, and instead a 7 storey built form on a nil setback to the boundary.

The northern edge is accepted as being consistent with other podiums in the streetblock.

The proportions of the building and its street frontages are consistent with the established streetscape. On the northern side of Delmar Parade, there is a large and very planar flat faced building ranging from 4 to 9 storeys, which has a nil setback to the boundary and no podium. The adjoining and recently finished shop-top housing development at No. 2 Delmar Parade has a 4 storey podium, although the 5th level of the building is setback no further than the levels below. The 'podium height' to Delmar Parade is consistent with No. 2 Delmar Parade and provides a better street edge than the building to the north (822 Pittwater Road).

To Pittwater Road, the northern part of the building is also consistent with the podium height at No. 2 Delmar Parade and the nearby *Osprey* shop-top housing development on the western side of Pittwater Road. This podium height can reasonably be expected to be carried through the Avis Site, to maintain appropriate visual continuity. On the southwestern corner, the building has no podium for all 7 storeys, however this corner has been designed as a 'Gateway' into the Dee Why Town Centre (with the site being the southernmost lot in the overall Town Centre). The height and nil setback of the "tower" element helps to create visual prominence which is desirable on the prominent corner

*(b) to maximise building separation for the purposes of visual appearance, privacy and maintaining solar access to adjoining properties and the public domain.*

Comment:

There is considered to be no benefit to the amenity of adjacent properties, the environment or the wider streetscape in strictly enforcing compliance with the podium height controls. The building sits to the south of Delmar Parade and is already significantly overshadowed by the nearby building at No. 822 Pittwater Road and the adjoining building at No. 2 Delmar Parade.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has 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 satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

**Zone Objectives**

The underlying objectives of the B4 Mixed Use zone are:

- *To provide a mixture of compatible land uses.*

Comment:

The proposal provides a retail frontage to both streets with apartments comprising the rest of the building. Given the locational circumstances of the site (that is, its adjacency to a low density residential area) the arrangement and ratios of land uses proposed by the development are



appropriate and ensure that the building as a whole is compatible with adjacent land uses.

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

Comment:

The site is located some 600m from the main Town Centre core and the B-Line bus stop. If the definition of 'Accessible Location' from other planning instruments was adopted, then this site would not fall into the 'accessible' category (that being 400m from services). The building provides retail shops and future opportunities for conversions of apartments into business premises should such be necessary. Residents and their guests are able to walk or cycle between uses.

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

Comment:

The development would significantly uplift the current density of the site to reflect a pattern of buildings more consistent with town centre expectations. A primary role of major centres is employment space, however for reasons described already, this site does not naturally lend itself to accommodating significant employment generating floor space. Instead, the site provides housing opportunities within a town centre area.

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

Comment:

The building has active frontages that will contribute to vibrancy on the street, and spilling into the car park of the Stony Range Reserve. The scale of the building is not visually jarring unlike its neighbour to the north, and will be an interesting and safe environment.

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

Comment:

This matter has been discussed in detail already.

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

Comment:

The application amalgamates two large sites to provide superior development opportunities. The applicant has been unable to provide for greater amalgamation through acquisition of the Avis Site at No. 816 Pittwater Road, which would arguably provide a superior range of opportunities and better planning outcomes. The applicant has provided Council with market offers that were put forward to the owners of the Avis Site and their agents, which were accompanied by two

independent valuation reports. Both offers were in excess of market valuation and were rejected.

Notwithstanding, this scheme provides for one basement car park. The Avis site benefits from a right of way through the basement of 2 Delmar Parade which will ensure that they have below ground car parking if and when the site is developed.

#### Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the B4 Mixed Use zone.

#### **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 PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Development Standards is assumed by the Sydney North Planning Panel.

#### **7.4 Development must be consistent with objectives for development and design excellence**

Clause 7.4 *Development must be consistent with objectives for development and design excellence* requires that:

*(1) Development consent must not be granted to development on land in the Dee Why Town Centre unless the consent authority is satisfied that the development:*

*(a) is consistent with the objectives of this Part that are relevant to that development, and*

*(b) incorporates:*

*(i) stormwater management measures, including water sensitive urban design and ecologically sustainable development principles, and*

*(ii) innovative design solutions that minimise stormwater impacts, including stormwater quantity and quality impacts, on the Dee Why Lagoon system, and*

*(iii) finished floor levels and basement car park entry levels that include adequate freeboards to protect against the entry of stormwater from the Council's street drainage system, and*

*(iv) continuous colonnades or pedestrian awnings on those parts of any building that are on the edges of streets or public spaces.*

(2) *Development consent must not be granted to development on Site B, at the Howard Avenue frontage, unless the consent authority is satisfied that the development will be lined by trees of distinctive coastal indigenous species that provide landscape elements while not obscuring the views into and out of the Town Square from Pittwater Road or Howard Avenue.*

(3) *Development consent must not be granted to development involving the construction of a new building or external alterations to an existing building on land within the Dee Why Town Centre unless the consent authority is satisfied that the development exhibits design excellence.*

Comment:

Sub-clauses (1) and (3) above are relevant to this application. The development is consistent with the relevant objectives contained within cl 7.3 *Objectives for development within Dee Why Town Centre* as discussed elsewhere in this report. The proposal incorporates significant stormwater and flooding infrastructure to reduce impacts on the subject site and neighbouring properties in the event of a flooding event.

**Design Excellence**

Clause 7.5 - *Design excellence within Dee Why Town Centre*, provides the criterion to be considered when determining if a development exhibits design excellence. This assessment finds that the development will result in a substantial streetscape, roofscape, and landscape improvement over the existing situation on the subject site, and will appear as a visually attractive building within the immediate locality, context and setting. This conclusion is reached on the basis of the compatible building heights, compliant (and in some areas more than compliant) setbacks, the breakdown in the bulk and scale of the buildings through high levels of articulation and modulation, the variety of quality facade materials, and the incorporation of substantial landscaping at the ground plane, integrated planters on the building edges and roof top, to create a *biophilic building* and a *green-corridor* running alongside the eastern edge of the site. It is these positive aspects of the design and appearance of the development that contribute to the assessment that the overall development exhibits design excellence.

The development will improve the public domain and the entry experience into the Dee Why Town Centre from the south. Whilst exact materiality and detailing have not been provided (and are not required to be provided at DA stage), there is adequate information in the plans and related documentation, and special conditions, to ensure that the end product is consistent with what is envisaged by this concept development and in the assessment of its contribution to design excellence in the Town Centre.

The communal open space opportunities provided by the development are well located, laid out and proportioned, and incorporate adequate landscaping and recreational areas. The interface of the development to surrounding properties and the public domain is well resolved and responsive.

On balance, as discussed throughout this report, the development is considered to exhibit design excellence, and satisfies the provisions of clauses 7.4 and 7.5.

**7.13 Mobility, traffic management and parking**

Clause 7.13 - *Mobility, traffic management and parking*, requires that development consent is not to be granted unless the consent authority is satisfied that the development responds to the requirements of the clause, listed as follows:

(2) *Development consent must not be granted to the construction of new buildings in the Dee Why*

*Town Centre unless the consent authority is satisfied that—*

*(a) any development on Site A will be consistent with the establishment of a new north-south street, between Howard and Oaks Avenue, along the eastern side of Site A, shown on the Key Sites Map as the Proposed New Road, and*

*(b) any development on Site A for the purposes of the Proposed New Road will have a minimum width of 18 metres where it adjoins Lot 1, DP 526306 (St Kevin's Church) and 20 metres where it adjoins Strata Plan 1493, and*

*(c) (Repealed)*

*(d) the development will improve vehicle access and circulation within the Dee Why Town Centre and will reinforce the priority of pedestrian movements and networks to make the Dee Why Town Centre safe, enjoyable and attractive, and*

*(e) car parking will be provided principally underground and will accommodate the demand generated by the additional residential, retail and commercial uses, and*

*(f) (Repealed)*

*(g) if car parking adjoins a street frontage, the amenity of the adjoining and nearby uses is protected, and*

*(h) loading facilities and waste collection facilities are accommodated in a way that does not adversely impact on the visual amenity of the public domain, the amenity of adjoining or nearby residential properties or conflict with pedestrian access, and*

*(i) there will be minimal disruption to retail and commercial activity at street level because the proposed development—*

*(i) minimises the width of footpath crossings and vehicle entrances, and*

*(ii) ensures that loading facilities are substantially enclosed by occupied floor space, and*

*(iii) demonstrates high standards of civic design to portions of loading dock and car park entrances that are visible from the street.*

Comment:

The development amalgamates two large lots which presently have multiple driveway entries off Delmar Parade. The proposal provides one single point of vehicle access onto Delmar Parade to service the entire car park and loading dock. The driveway crossover and width is minimised as much as possible, as is deemed by Council's Traffic Engineers to be in the optimum location within the site. The development provides all car parking below ground level in two basement levels. The loading dock and waste collection bay is screened by the public domain and sits behind retail premises and the driveway ramp. The loading bay has been specifically designed to ensure that trucks can enter and exit the site in a forward direction without creating any conflicts to vehicles or pedestrians on the site.

It is noted that sub-clauses (a), (b), (c) and (f) do not apply to the proposal or have been repealed.

The vehicular entry sequence into the building is logical and best sited to serve the development and

minimise traffic and amenity impacts. The consent authority can be satisfied that the requirements of the clause are met.

## Warringah Development Control Plan

### Built Form Controls

Part G1(1) of the DCP confirms that the built form controls under Part B of the DCP are not applicable to development within the Dee Why Town Centre area.

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
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	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes
1 Introduction		Yes
2 About the Dee Why Town Centre	Yes	Yes
3 Desired Character for the Dee Why Town Centre	Yes	Yes
4 Streetscape and Public Domain	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
5 Design and Architectural Diversity	Yes	Yes
6 Site amalgamation	Yes	Yes
7 Traffic and Parking	Yes	Yes
8 Car Share	No	Yes
9 Sustainability	Yes	Yes
10 Water Sensitive Urban Design (WSUD)	Yes	Yes
11 Landscaping	Yes	Yes

### Detailed Assessment

#### **D6 Access to Sunlight**

Access to sunlight for residential properties is discussed under the ADG section of this report.

As noted within the Internal Referrals section of this report, Council's Heritage Officer is not supportive of the overshadowing of the adjacent Stony Range Flora Reserve. One of the requirements of Part D6 *Access to Sunlight* is:

- 1. *Development should avoid unreasonable overshadowing any public open space.*

#### Comment:

The proposal does overshadow parts of the reserve, as evident in the submitted shadow diagrams, however that extent of overshadowing is consistent with what is envisaged for this site given the planning controls and allowable building heights. To that extent, the authors of the WLEP 2011 must have had cognisance of the level of overshadowing that a building to the maximum height across the subject site would have on the reserve, and it is therefore considered that the impact is not 'unreasonable' and is entirely anticipated.

There is no metric to determine what an acceptable level of overshadowing is. It should be noted that there is a footpath running down the southern edge of the site, which forms part of the road reserve between the Stony Range Reserve and the subject site, measuring 7.5m in width. To the southern edge of the site (where the overshadowing impacts are the greatest), there is also at-grade bitumen carpark measuring approximately 13m in width. Therefore, the western half of the site, as it presents to the southern boundary, there is a 21m separation between the boundary and the reserve, and to the eastern half, there is a 7.5m separation.

The three-dimensional shadow diagrams by the project architects, *Rothelowman*, include a red outline to the south of the building, and that depicts the aforementioned car park and road reserve. The diagrams show that, in mid-winter, the northern edge of the Stony Range Reserve will be overshadowed by the development. In its totality, the extent of the Reserve overshadowed is reasonably minor. It is noted that the shadow diagrams are depicting the winter solstice, when the overshadowing would be at its worst.

In the absence of any metric to use, and noting that the height of the building and rear setback is compliant with the planning controls, the impacts to sunlight on the reserve in mid-winter are considered acceptable and reasonable.



## D7 Views

The proposal will change the outlook of neighbouring properties commensurate to their current outlook resultant of the increased building height. The height and proportions of the development are consistent with what can reasonably be expected to be developed on the site pursuant to the planning controls.

The residential dwellings on the western side of Pittwater Road, which range from street-front to mid-slope to higher up on the hillside/ridge, are orientated towards the subject site and some, which are more elevated, have views to Long Reef Headland and the Norfolk Island Pines on Dee Why Beach. The properties that do have those available views will not be adversely impacted by the proposed development based on the restricted heights on this site and the positioning of the 24m high building elements further to the south, adjoining the Stoney Range Reserve, which has a hillside backdrop to the east of the subject site.

It is noted that no submissions were received from any of those properties.

Whilst the outlook from certain properties will change, that change is not considered to be adverse or detrimental to the amenity of adjoining and nearby residential properties. To this extent, the proposal is assessed as having no discernable impacts on view sharing.

## 6 Site amalgamation

Part G1(6) *Site Amalgamation* requires:

- 1. Development should not result in the isolation of land adjacent to the development site, preventing the reasonable development of that land.*
- 2. Development that would result in an isolated lot must be supported by documentary evidence to demonstrate that a genuine and reasonable attempt has been made to purchase an isolated lot adjacent to the development site, based on a fair market value. This is to include at least one recent independent valuation by a licensed valuer and a written offer to cover reasonable expenses likely to be incurred by the owner of the isolated lot during the sale of the property.*
- 3. Where amalgamation of an isolated lot adjacent to the development site is not feasible, applicants will be required to:*
  - a. Demonstrate that an orderly and economic use and development of the separate sites can be achieved;*
  - b. Provide a building envelope for the adjacent isolated lot, indicating height, setbacks, resultant site coverage (building and basement), sufficient to understand the relationship between the application and the adjacent isolated lot;*
  - c. Detail the likely impacts of development on the adjacent isolated lot in terms of solar access, visual privacy, building separation, streetscape and vehicular access.*

### Comment:

The owners of the Avis Site (816 Pittwater Road) have objected to the proposal in part due their assertion that site will be an " *isolated site*" if this current scheme were to be approved and proceed,

and if it that comes to pass, that any such approval and development of the subject site would prejudice the developability of their site.

Similar concerns were raised during the assessment process for the DA on No. 2 Delmar Parade, whereby the original developers of that site (subsequently bought by Landmark, the developer of subject site) were unable to purchase or amalgamate with the Avis Site, despite genuine attempts to do so. To ensure that the site was not left isolated (as access can not be gained from Pittwater Road), a condition of consent was imposed requiring that a through-site-link be provided in the basement of No. 2 Delmar Parade via a formal right of way, to ensure that when the Avis Site is developed, they will have vehicular access from and to Delmar Parade. The SNPP supported this approach and approved the application, having been satisfied that it was not an "isolated site".

In this application, the applicant has provided Council with copies of their written offers to the owners of the Avis Site, including two independent valuation reports by experts in the field. The offers put forward were in excess of the value determined in the valuation reports.

The applicant contends that they have made all reasonable and genuine attempts to purchase the land to no avail, but that in any event, the matter of 'site isolation' thus requiring 'amalgamation' has already been resolved through the approval and construction of No. 2 Delmar Parade, which is legally required to provide vehicular access. All parties agree that a superior planning outcome would be achieved if the sites were to be developed in an integrated manner, however in this instance it has been demonstrated that genuine and reasonable attempts have been made to purchase the land.

The Avis Site remains capable of being developed in its own right. It is of a size comparable to other lots in the Town Centre, has a wide street frontage, an uninterrupted north-westerly aspect, and a secured vehicular access through the neighbouring basement. To that extent, the site is capable of being developed in isolation, and the project architect for this scheme (and a different architect for the scheme of No. 2 Delmar Parade) has provided schematics as to how the site could be reasonably developed.

The concern put forward by the objector is that, if the current proposal is to be approved and goes ahead, the future development of the Avis Site will be jeopardized, owing to the overshadowing of apartments in Building B of the proposed development, and the ADG building separation requirements for the Avis Site. Such is premised on the Avis Site maximizing their yield and floorspace. It is agreed that if the Avis Site was to be developed to its maximum capacity, that there would be impacts, however there are skillful ways that a building could be designed on the Avis Site to minimise those impacts (i.e., not developing to the maximum capacity; providing rooftop communal space to the southern half of the building one storey lower than the rest of the building, etc).

The potential impacts of a future and as yet undetermined building design are difficult to factor into the current assessment. What should be used is the evidence that is available to Council and the Panel, which is the applicants concept design. The owners of the Avis Site have not demonstrated that a reasonable development cannot be carried out on that land if the current DA is approved and built.

Therefore, the fact that the applicant has not achieved amalgamation with 816 Pittwater Road should not be grounds to refuse the current application, as the application satisfies the requirements of Part G1 (6) *Site Amalgamation*.

## **9 Sustainability**

Part G1(9) of the WDCP 2011 requires that the development must achieve a minimum 4 Star Green Star as built design rating.

SEPP (BASIX) 2004 clause 9 states:

**9 Development control plans do not apply to BASIX commitments**

*(1) The competing provisions of a development control plan under Division 3.6 of the Act, whenever made, are of no effect to the extent to which they aim:*

*(a) to reduce consumption of mains-supplied potable water, or reduce emissions of greenhouse gases, in the use of a building to which this Policy applies or in the use of the land on which such a building is situated, or*

*(b) to improve the thermal performance of a building to which this Policy applies.*

*(2) If the development concerned involves:*

*(a) the erection of a building for both residential and non-residential purposes, or*

*(b) the alteration, enlargement or extension of a building that is used for both residential and non-residential purposes, or*

*(c) the change of use of a building to both residential and non-residential purposes,*

*subclause (1) does not displace the competing provisions to the extent to which they apply to the part of the building that is intended to be used for non-residential purposes.*

The provisions of the SEPP (BASIX) prevail over the WDCP and therefore no further assessment on these matters is necessitated.

**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 consistent with the principles of Crime Prevention Through Environmental Design.

**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 2021;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is

considered to be:

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

## PLANNING CONCLUSIONS

The development of this commercial/industrial site for a mixed-use development presents as one of the big '*pieces of the puzzle*' in the redevelopment of the Dee Why Town Centre. It is a large amalgamated site, which has the potential to further the urban renewal and revitalisation of the Dee Why commercial area. It is also a significant opportunity to inject a sizable contribution of new dwellings into the Town Centre. The 219 apartment style dwellings proposed on this single site in a Major Centre on the Northern Beaches will assist in attaining the housing target set by State Government, as it represents 21% of the yearly target for the entirety of the local government area.

The site also has a number of significant constraints and limitations, from its peripheral geographical location within the Town Centre, to its flood affectation, the encumbrance of a major stormwater pipe and overland flow path, to sensitive interfaces with low density residential land and a heritage listed flora reserve. Even the shape and configuration of the site has presented challenges, and the notion of the proposal not including the adjoining Avis Site in the redevelopment, has raised issues and concerns, and has ultimately limited the opportunities to complete the redevelopment of this southern corner of the Town Centre.

More importantly from a planning perspective, the restrictions imposed by the planning controls which overlay this site under WLEP 2011, which stem largely from the Dee Why Town Centre Masterplan, have presented the biggest challenges, with Clause 4.6 for Building Height having been "turned off" for Dee Why Town Centre, the restrictions on residential floorspace on the ground floor level and the substantive requirements for employment generating commercial floorspace within the development. This complex set of planning constraints and expectations led to no less than four (4) Clause 4.6 variations being sought under this proposal, something which is unprecedented in such an application.

Despite all these challenges, the applicant was determined to see the site realise its potential, and set on a long and protracted path of consultation and engagement with Council, receiving feedback via the DSAP and the Pre-DA process, and has been through a number of significant redesigns in relation to the size, scale and configuration of the scheme, even including the addition of another lot (812 Pittwater Road) into the development site, and ultimately put forward a scheme which is responsive to all those matters, is generally well resolved, and has addressed the infrastructure and servicing requirements and impacts on neighbouring properties and the public domain.

Admittedly, the application has a significant number of significant variations as detailed and assessed throughout this report, primarily being the shortfall in employment generating commercial floorspace and provision of residential apartments on a sizeable area of the ground floor level of the development. Notwithstanding these variations, the proposal still represents a potential positive addition to the Dee Why Town Centre and to the Northern Beaches area generally.

The height, scale, proportions, massing, setbacks and envelopes of the buildings are generally consistent with the built form and character outcomes envisaged by the planning controls. The scheme is generally synonymous with what could reasonably be expected on this site within the Town Centre. During the design feedback stages, there were requests for additional physical breakdown of the size

and scale of the two buildings, particularly Building A on the eastern part of the site, which is a long and continuous form, but the applicant elected to pursue a greater setback on that edge and more building articulation and deep soil landscaping. Whilst the outcome is not as ideal as contemplated, the improvements and refinements were substantive enough to gain the support of the assessment officers.

However, the revisions to the scheme do not fully embrace all of the recommendations of the DSAP and initial issues raised by the SNPP. So, the final review and formulation of a recommendation on this project was an "on balance" exercise, seeking to weigh up the non-compliances with the planning controls with the merits of the scheme and the benefits of the development. The benefits were found to outweigh the shortcomings, particularly in terms of urban renewal, improvements to streetscape, public domain and housing supply. The loss of employment floorspace is not seen as being crucial and fatal to the proposal on this particular site. Owing to its peripheral location in the Town Centre and the questionable logic of providing a significant quantum of retail and commercial floorspace in this geographically disconnected location in the commercial area of Dee Why, the decision to allow more residential floorspace is a sound and reasoned approach. Hence, the applicants arguments put forward in the application are supported.

Whilst the final detailing of the building and its materiality is not bedded down under this application, there is sufficient information submitted by the project architects to be confident that the buildings and associated landscaping will provide a positive contribution to the streetscapes and public domain in this section of the Town Centre, and will be satisfactory in terms of views and outlooks from residential properties and the Stony Range Reserve. Special conditions have been imposed to ensure the integrity and quality of finishes and landscaping is maintained to construction stage.

A significant attribute of the proposal is the provision of the 12.0m wide landscaped strip on the eastern side of the site, which acts as a *green corridor* (and overland flow path) and will ameliorate the impacts on the low density area immediately to the east and will visually connect Delmar Parade with the Reserve to the rear, as well as replace some of the tree canopy on the site. The landscaped central court on the western side and roof top terraces will also afford a good level of amenity for future occupants and reduce the heat island effect.

The application has demonstrated that the subject site is capable of being developed generally in accordance with the planning controls, achieve good planning outcomes and does not prejudice the redevelopment of the adjoining Avis Site.

This assessment report and its recommendation is the culmination of over three years of consultation and ongoing discussions between Council and the applicant on this strategically significant site within the Town Centre.

On balance, the assessment concludes with the recommendation that the SNPP, as the consent authority should **APPROVE** the application, subject to special and standard conditions.

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

## **RECOMMENDATION**

THAT Sydney North Planning Panel as the consent authority grant Development Consent to DA2022/0145 for Demolition works and construction of a mixed-use development comprising a residential flat building and shop top housing, basement parking, lot consolidation and torrens title subdivision on land at Lot CP SP 32072, 812 Pittwater Road, DEE WHY, Lot CP SP 32071, 4 Delmar Parade, DEE WHY, subject to the conditions outlined in Attachment 1.



northern  
beaches  
council



## ATTACHMENT 1

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
TP00.02 C - Demolition Plan		Rothelowman
TP00.04 D - Site Plan	3 March 2023	Rothelowman
TP00.07 D - Bulk Excavation Diagram	3 March 2023	Rothelowman
TP01.01 E - Basement 2	3 March 2023	Rothelowman
TP01.02 E - Basement 1	3 March 2023	Rothelowman
TP01.03 G - Ground	29 March 2023	Rothelowman
TP01.04 E - Level 1	3 March 2023	Rothelowman
TP01.05 E - Level 2	3 March 2023	Rothelowman
TP01.06 D - Level 3	3 March 2023	Rothelowman
TP01.07 D - Level 4	3 March 2023	Rothelowman
TP01.08 D - Level 5	3 March 2023	Rothelowman
TP01.09 D - Level 6	3 March 2023	Rothelowman
TP01.10 D - Level 7	3 March 2023	Rothelowman
TP01.11 D - Level 8	3 March 2023	Rothelowman
TP02.05 E - Site Elevations	29 March 2023	Rothelowman
TP02.06 E - Site Elevations	29 March 2023	Rothelowman
TP03.01 D - Sections	3 March 2023	Rothelowman
TP03.02 D - Sections 2	3 March 2023	Rothelowman
TP06.01 D - GFA Plans	3 March 2023	Rothelowman
TP06.03 D - Deep Soil	3 March 2023	Rothelowman
TP06.04 D - Communal / Landscape Plan	3 March 2023	Rothelowman
TP06.21 D - Storage Schedule	3 March 2023	Rothelowman
TP06.31 D - Adaptable Plans	3 March 2023	Rothelowman
TP06.32 D - Adaptable Plans	3 March 2023	Rothelowman
TP06.33 D - Adaptable Plans & LHA Schedule	3 March 2023	Rothelowman

**Reports / Documentation – All recommendations and requirements contained within:**

<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>

Arborist Report (ref: 2021-1061)	December 2021	Dr Treegood
BASIX Certificate no. 1250181M_03	24 March 2023	Senica Consultancy Group
Building Code of Australia Design Compliance Report (ref: MSA2246_BCA_DA_01)	25 November 2021	Matt Shuter + Associates
Crime Risk Assessment and Security Management Plan	December 2021	Sutherland & Associates Planning
DA Noise Assessment	25 November 2021	Acoustic Dynamics
Detailed Site Investigation (ref: 21325 Final R1 DSI)	4 May 2022	Geosyntec Consultants
Dewatering Management Plan (ref: 21181RP01 v1)	7 June 2022	Reditus Consulting
Heritage Impact Statement (ref: P0035218 v 02)	26 November 2021	Urbis
Geotechnical Investigation (ref: 6561-G1)	25 November 2021	AssetGeoEnviro
Flood Study Report (ref: 20210067-R01 rev. D)	23 March 2023	S&G Consultants Pty Ltd
NatHERS Certificate no. #HR-6DIV8O-03	24 November 2022	Senica Consultancy Group
NCC Part J Energy Efficiency Report (ref: PJ21/11115 vD)	5 December 2022	Senica Consultancy Group
Preliminary Site Investigation (ref: 21181RP01 v2)	1 December 2021	Reditus Consulting
Statement of Compliance - Access for People with a Disability (ref: 220076)	3 December 2021	Accessible Building Solutions
Traffic Reponse to RFIS (ref: 21205)	6 March 2023	The Transport Planning Partnership
Water Sensitive Urban Design Strategy Report (ref: 20210067-R02 rev. E)	2 December 2022	S&G Consultants Pty Ltd

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

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

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
LDA-100 E - Existing Tree Plan	6 March 2023	Ground Ink
LDA-101 E - Landscape Master Plan	6 March 2023	Ground Ink
LDA-102 E - Landscape Plan 1	6 March 2023	Ground Ink
LDA-103 E - Landscape Plan 2	6 March 2023	Ground Ink
LDA-104 E - Landscape Plan 3	6 March 2023	Ground Ink
LDA-105 E - Level 5 Landscape Plan	6 March 2023	Ground Ink

LDA-201 E - Landscape Sections	6 March 2023	Ground Ink
LDA-301 E - Level 1 Indicative Tree Plan	6 March 2023	Ground Ink
LDA-302 E - Level 1 Indicative Planting Plan	6 March 2023	Ground Ink
LDA-303 E - Level 1 Indicative Plant Palette	6 March 2023	Ground Ink
LDA-304 E - Level 5 Indicative Planting Plan & Palette	6 March 2023	Ground Ink
LDA-401 E - Landscape Details	6 March 2023	Ground Ink

<b>Waste Management Plan</b>		
<b>Report Title</b>	<b>Dated</b>	<b>Prepared By</b>
Site Waste Management Plan (SW21/09721)	3 March 2023	Senica Consultancy Group

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

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

**2. Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

<b>Other Department, Authority or Service</b>	<b>EDMS Reference</b>	<b>Dated</b>
Ausgrid	Ausgrid Referral Response	Undated
WaterNSW	WaterNSW Referral Response (Integrated Development Referral - General Terms of Approval)	3 April 2023

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

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

**3. No Approval for Commercial Tenancy Use**

Nothing in this consent shall authorise the use of the commercial tenancies nor any operating hours. The fit-out, use and hours of those shall be the subject of a new Development Application unless authorised by another instrument.

Reason: To ensure compliance with the terms of this consent.

**4. Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

## 5. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

- (k) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished
- The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2018
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
  - (4) Swimming pools and spas must be registered with the Division of Local Government.

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



## FEES / CHARGES / CONTRIBUTIONS

### 6. **Security Bond**

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

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

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

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

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

### 7. **Dee Why Town Centre 7.11 Contributions Plan**

The applicant must pay a monetary contribution to Council of \$3,179,625.40. This contribution is calculated at the date of this consent, in accordance with Dee Why Town Centre Contributions Plan (as amended).

The monetary contributions is based on a residential contribution for 219 additional dwellings comprising: 86 1-bedroom dwellings, 91 2-bedroom dwellings, and 42 3-bedroom dwellings.

A credit for the existing approved non-residential development has been accounted for in this monetary contribution.

The total amount payable will be adjusted at the time of payment in accordance with the Dee Why Town Centre Contributions Plan (as amended). Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate.

The Applicant may negotiate with Council for the direct provision of other facilities and services, and/or the dedication of land in lieu of the monetary contribution above (or any portion of that monetary contribution) through a Planning Agreement between Council and the Applicant in accordance the Dee Why Town Centre Contributions Plan (as amended) and Council's Planning Agreement Policy. The Planning Agreement between the Applicant and Council must be finalised, formally signed and in place prior to the payment of the monetary contribution.

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

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

8. **Construction, Excavation and Associated Works Security Bond (Road works)**  
The applicant is to lodge a bond with Council of \$150,000 as security against any damage or failure to complete the reconstruction of road pavement/ footpath and kerb and gutter works as part of this consent.

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

Reason: Protection of Council's infrastructure.

9. **Construction, Excavation and Associated Works Bond (Drainage works)**  
The applicant is to lodge a bond of \$200,000 as security against any damage or failure to complete the construction of the the upgraded /diverted Council stormwater drainage works as part of this consent.

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

Reason: Protection of Council's infrastructure.

10. **Construction, Excavation and Associated Works (Security Bond)**  
A bond of \$100,000 as security against damage to Council's roads fronting the site caused by the transport and disposal of materials and equipment to and from the site.

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

Reason: Protection of Council's infrastructure.

11. **Construction, Excavation and Associated Works Bond (Maintenance for Civil Works)**  
The developer/applicant must lodge with Council a maintenance bond of \$100,000 for the construction of rediverted Council stormwater line running through the site and within Delmar Parade and road/footpath reconstruction works. The maintenance bond will only be refunded upon completion of the six month maintenance period, if work has been completed in accordance with the approved plans and to the satisfaction of Council. The maintenance bond is to be paid prior to Council issuing practical completion.

Reason: To ensure adequate protection of Council infrastructure.

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

12. **On Slab Landscape Works**
- a) Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided.
  - b) Landscape treatment details shall also be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic

irrigation, services connections, and maintenance activity schedule.

c) The following soil depths are required to support landscaping as proposed:

- i) 300mm for lawn
- ii) 600mm for shrubs
- iii) 1m for small trees

d) Design certification shall be submitted to the Certifying Authority by a qualified Structural Engineer that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

e) A maintenance activity schedule shall incorporate an on-going maintenance plan that shall be submitted to the Certifying Authority outlining a program to monitor and replenish soil levels as a result of soil shrinkage over time.

Reason: To ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

### 13. **Public Road Reserve Landscaping and Infrastructure**

a) A Section 139 Infrastructure Works on Council Roadway (made under the Roads Act 1993) application must be submitted to Council.

b) The Section 139 application must include the following details:

- i) Details of street tree planting as required under Conditions of Consent
- ii) Street trees shall be located following consideration of existing trees, existing underground utilities and street lighting. The street trees must be maintained for a period of 12 months following the issue of an occupation certificate. Any failure due to lack of maintenance will require replacement.
- iii) Grassed areas are to be turfed with Couch species (weed free), unless otherwise advised, and even grade to a maximum 4% grade.

c) Evidence of the approved Section 139 Infrastructure Works on Council Roadway (made under the Roads Act 1993) is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To enable the long term retention of the desired streetscape character.

### 14. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to Delmar Parade Council stormwater drainage system.

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

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

15. **Flooding**

In order to protect property and occupants from flood risk the following is required:

Flood Effects Caused by Development – A2

There is to be no filling of the land or any other reduction of the available flood storage which results in a net loss of storage below the 1% AEP flood level .

Building Components and Structural Soundness – B1

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

Building Components and Structural Soundness – B2

All new development must be designed to ensure structural integrity up to the Flood Planning Level (various levels), taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion.

Building Components and Structural Soundness – B3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level. All existing electrical equipment and power points located below the Flood Planning Level (various levels) must have residual current devices installed to cut electricity supply during flood events.

Floor Levels – C1

New floor levels within the development shall be set at or above the various Flood Planning Level. The Flood Planning Level is 27.84 at m AHD at the northern boundary and 32.20m AHD at the southern boundary.

Car parking – D6

All access, ventilation and any other potential water entry points, including entry ramp crests to the basement car park shall be at or above the Flood Planning Level. The Flood Planning Level is 27.84 at m AHD at the northern boundary and 32.20m AHD at the southern boundary. Along the eastern boundary, the Flood Planning Level varies from 32.2m AHD to 28.5m AHD. Therefore the barrier wall protecting the basement carpark driveway from the overland flow path must extend to a height of 28.5m AHD.

Fencing – F1

New fencing (including pool fencing, boundary fencing, balcony balustrades and accessway balustrades) shall be open to allow for the unimpeded movement of flood waters. It must be designed with a minimum of 50% open area from the natural ground level up to the 1% AEP flood level. Openings should be a minimum of 75mm x 75mm.

Storage of Goods – G1

Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level unless adequately protected from floodwaters in accordance with industry standards.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-

prone property and reduce public and private losses in accordance with Council and NSW Government policy.

16. **Traffic Management and Control**

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

17. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

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

Reason: Protection of the receiving environment.

18. **Detailed Design of Stormwater Treatment Measures - Major**

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the SGC Water Sensitive Urban Design Strategy Report (rev D), Stormwater Concept Design (rev D) and Council's Water Management for Development Policy.

The certificate shall be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment.

19. **Shoring of Council Property**

Should the proposal require shoring to support land owned or managed by Council, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings. Council approval is required if temporary rock anchors or other construction measures are to be used within Council Land.

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

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

20. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

Due to heavy traffic congestion throughout the town centre, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm. Truck movements must be agreed with Council's Traffic Engineer prior to submission of the CTMP.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of



- vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

21. **Basement 1 Loading Bay Access**

The basement 1 loading bay shall provide minimum dimensions for service in compliance with AS2890.2:2002 with regards to length, width and vertical clearance for access by a small rigid vehicle. Such vehicles are to be able to ingress and egress the loading bay with only one reverse manoeuvre. Plans showing compliance with the distances and the swept path diagrams are to be submitted to the Certifying Authority prior to the issue of a construction certificate.

Reason: To ensure compliance with Australian Standards.

22. **Waste and Service Vehicle Access (11m Waste Vehicle)**

Access to the on-site ground floor loading bay area including ramp grades, transitions and height clearance shall be designed for safe forward in and forward out access of 11m Council’s waste vehicle, as a minimum requirement. The height clearance required is 4.5m, measured from the floor level to any overhead structures such as pipes. Swept path diagrams must include details of the road including, kerb line, line marking, signs, traffic devices, power poles, other structures and neighbouring driveways. Plans showing the ramp grades, transitions and height clearance and swept path diagrams of 11m Council’s waste vehicle shall be submitted to and approved by an Certifying Authority prior to the issue of the Construction Certificate.

Reason: to ensure adequate service vehicle access.

23. **Removal of Redundant Driveways**

All redundant driveways shall be removed and reinstated to Council standard kerb and gutter. Suitably prepared plans shall be submitted to for an approval under and approved by Council prior to the issue of the Construction Certificate. All costs associated with the works shall be borne by the applicant.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approval.

Reason: To maximise on street car parking by removing driveways that are no longer needed in accordance with Council policy.

24. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- The plans shall be amended to detail that all planter boxes to the edges of all balconies (where they are shown on the architectural plans) shall have a minimum internal width of 400mm and a minimum soil depth of 600mm. Several of the species planted within the planter boxes shall be capable of reaching a minimum height of 500mm at maturity.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

25. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of a Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

26. **Building Code of Australia Fire Safety Requirements**

The Building Code of Australia fire safety measures for the building as detailed and recommended in the *Design Compliance Report* prepared by Max Shutter & Associates, dated 25 November 2021 (Report Ref No. MSA2246\_BCA\_DA\_01) including any associated fire engineering / performance solution are to be considered as part of the assessment of the Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

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

27. **Building Code of Australia Access**

Access and facilities to and within the building are to be provided for Persons with a Disability and are to comply with the Building Code of Australia and AS 1428.1. In this regard the recommendations contained within the *Statement of Compliance Report* prepared by Accessible Building Solutions dated 3 December 2021 are to be taken into consideration as part of the assessment of the Construction Certificate. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access throughout the building.

28. **On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's *Water Management for Development Policy* in accordance with the concept drainage plans prepared by SGC Engineering, drawing number SW202 -203 Rev E, SW300 Rev E, dated 17 March 2023. Detailed drainage plans are to be prepared by a degree qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register

(NPER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. Provide engineering details and calculations in accordance with the minimum information requirements as detailed in section 9.7.3 of Council's *Water Management for Development Policy*; and
- ii. Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

29. **Submission Roads Act Application for Civil Works in the Public Road**

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of of the footpath paving works, kerb and gutter reconstruction and half road reconstruction including 50mm AC overlay. The works which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1 and Councils Public Spaces Guidelines. The plan shall be prepared by a qualified civil engineer with NER or RPENG registration . The design must include the following information:

- 1) Typical footpath reconstruction cross-sections detailing a 150mm reinforced concrete based with Urbanstone pavers above.
- 2) Reinforced plain concrete vehicle crossing and full width kerb and gutter reconstruction.
- 3) Half road reconstruction in accordance with a geotechnical engineers design for the appropriate traffic loadings.
- 4)The provision of street tree planting in accordance with Councils Public Spaces Guidelines.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

30. **Tanking of Basement Level**

The basement area is to be permanently tanked. The Applicant is to submit structural details of the tanking, prepared by a suitably qualified Engineer. Where temporary dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Office of Environment and Heritage. The bore license must be obtained prior to commencement of dewatering works. All requirements of the NSW Office of Water are to be complied with and a copy of the approval must be submitted to the

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

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

31. **Structural Adequacy and Excavation Work**

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

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

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

Reason: To provide public and private safety.

32. **Shoring of Council's Road Reserve (Temporary road anchors)**

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.

Written approval from Council under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Council's road reserve. The Owner's approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

33. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

34. **Stormwater Drainage Application**

The applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of the rediverted and upgraded Council 1200mm RCP Stormwater line which runs from the rear boundary of the development to the northside kerb inlet pit in Delmar parade (SPP 17653). The drainage engineering plans are to be in accordance with the the concept drainage plans prepared by SGC Engineering, drawing number SW202 -203 Rev E, SW300 Rev E, dated 17/3/23.

1) Detailed drainage plans are to be prepared by a degree qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering. The civil design is to be in accordance with the approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1.

2) The Civil engineering plans are to be supported by a DRAINS model prepared in accordance with Australian Rainfall and Runoff 2019 and include hydraulic grade line analysis, sizing of all inlet pits and the sizing of the rear boundary catch drain/overland flow swale . A hydraulic report is to be prepared to support the DRAINS model detailing all modelling assumptions and summary of results. These are to include the pipe and overland flow volumes that are sent to the 1200mm RCP line and the flood void for all storms up to the 1/100 AEP.

3) Existing Council Pit SPP 17653 is to be reconstructed to accommodate the new 1200mm RCP stormwater line.

4) Service locaters are to be used to determine the exact levels of any services to avoid conflict with the new upgraded 1200mm RCP stormwater line in Delmar Parade. Any services including sewer are to be relocated by the applicant at their expense to avoid conflict with the upgraded 1200mm RCP .

5) Cross-sections are also to be provided at regular intervals including the rear overland flow swale/ flood void ,overland flow swale (eastern boundary) and overland flow path/driveway . Freeboards to all habitable floors and basement openings/stairs are to be a minimum of 500mm above the 1/100 AEP overland flow path top water level.

The form can be found on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au) > Council Forms > Stormwater Drainage Application Form.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and maintenance stormwater management and compliance with the BASIX requirements, arising from the development.

### 35. **Pre-Construction Stormwater Assets Dilapidation Report**

The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at: <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.t>

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

### 36. **Pre-commencement Dilapidation Report**

The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public property and public infrastructure

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

The pre-construction / demolition dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifying Authority prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

Reason: Protection of Council's infrastructure during construction.

**37. Compliance with Standards**

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

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

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

**38. Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

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

**39. Treatment of Facades to 816 Pittwater Road**

The facade treatment to 816 Pittwater Road, Dee Why, shall be designed in a manner consistent with the rest of the building and is not to present as a blank facade from any public or private space. The facades should incorporate materials, colours, and textures that are generally consistent with the rest of the building.

The final design shall be provided to Council for written approval from Council's Manager Development Assessment and is to be incorporated into the architectural plans prior to the issue of a Construction Certificate.

Reason: To ensure the building has no blank facades.

**40. External Glazing**

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

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



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

41. **Location of Air Conditioning Units**

The plans shall be updated to show the location of all air conditioning units, condensers and associated mechanical equipment. None of these elements are permitted to be placed or installed on the roof of the building, on the exterior of the building, or in any area nominated as landscaping.

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

Reason: To ensure consistency with the approved plans and to minimise impacts on neighbours.

42. **Right Turn Prevention Delmar Parade**

The applicant shall lodge plans to Council for Traffic Committee and Transport for NSW consideration for both:

- a) the adjustment of the existing AM peak (6am - 10am Monday-Friday) right turn ban from Pittwater Road into Delmar Parade to be expanded to also incorporate a PM peak right turn ban (3pm -7pm Monday-Friday) and
- b) the closure of the median on Pittwater Road at Delmar Parade to prevent right turns

The applicant shall be responsible for the cost of installation for whichever option is approved to prevent right turns at the Delmar Parade/Pittwater Road intersection.

Reason: To reduce delays associated with the right turns and ensure ongoing safety at the intersection.

43. **Waste and Recycling Requirements**

Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

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

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

44. **Project Arborist**

- a) A Project Arborist, with minimum AQF Level 5 in arboriculture, shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection

measures such as tree protection fencing, trunk and branch protection and ground protection.

b) The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works unless approved by the Project Arborist.

c) Existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by the Project Arborist.

d) All tree protection measures specified must:

- i) be in place before work commences on the site, and
- ii) be maintained in good condition during the construction period, and
- iii) remain in place for the duration of the construction works.

e) The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded including at commencement, during the works and at completion.

- Note:
- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
  - ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

45. **Tree Removal Within the Road Reserve**

a) This consent approves the removal of the following trees within the road reserve as recommended in the Arboricultural Impact Assessment dated December 2021 prepared by Dr Treegood:

Trees numbered T61, T64, T65, T66, T68, T69, T71, T72, T73

b) Removal of the approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor. Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services Section prior to removal.

Reason: Public liability.

46. **No Access Through Adjoining Park/Reserves**

Access to the site through an adjoining park/reserve is prohibited without the written approval of the Council.

Reason: To ensure protection of council parks/reserves.

47. **Utilities Services**

Prior to the commencement of demolition works, written evidence of the following service

provider requirements must be provided to the Principal Certifier:

- a) a letter from Ausgrid demonstrating that satisfactory arrangements can be made for the installation and supply of electricity,
- b) a response from Sydney Water as to whether the proposed works subject to this consent would affect any Sydney Water infrastructure, and whether further requirements need to be met, and
- c) other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, the changes that are required to make the development satisfactory to them.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of demolition works.

Reason: To ensure relevant utility and service providers' requirements are provided to the Principal Certifier.

48. **Works on Land Owned or Managed By Council**

No works are to be carried out in the Stony Range Regional Botanic Garden.

Note: Separate approval from Council is required for access driveways, paths, stairs, connections to underground utilities (stormwater, gas, sewer, electricity, telecommunications etc.) and landscaping works on land owned or managed by Council.

Reason: To protect the land owned or managed by Council.

49. **Dilapidation Report of Land Owned or Managed by Council**

A Pre-Construction Dilapidation Report shall contain a survey of pre-existing land features including photographic record of the land under Council's care control and management adjoining the development, detailing the physical condition of items such as, but not exclusively limited to, physical assets such as crossovers, driveways, footpaths, utilities, furniture, play equipment, trees, gardens, lawn areas, bushland and any rock outcrops.

This Pre-Construction Dilapidation Report shall be submitted to Council and the Certifying Authority prior to commencement of works.

Any damage to these assets during the works must be replaced like for like to the satisfaction of Council and the Certifying Authority.

The applicant may be held liable to any damage to public infrastructures in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition. In this regard, where required, the damage deposit lodged by the applicant may be used by Council to repair such damage on Council's property.

Reason: Protection of Council's assets.

50. **Removal of Trees in Land Owned or Managed by Council**

Prior to the commencement of work:

- a) written notification is to be provided to Council giving a minimum of 7 days notice prior to undertaking the removal of any trees approved for removal,
- b) removal of approved trees is to be undertaken by a qualified Arborist with minimum

level 5 AQF qualifications with suitable public liability insurance.

Reason: Management of public environmental assets.

51. **Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane and a Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

Reason: To ensure Work zones are monitored and installed correctly.

52. **Road Occupancy Licence**

Prior to commencement of the associated works, the applicant shall obtain a Road Occupancy License from Transport Management Centre for any works that may impact on traffic flows.

Reason: Requirement of TMC for any works that impact on traffic flow.

53. **Demolition Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) shall be prepared by an suitably accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to commencing any demolition work.

Due to heavy traffic congestion throughout the area, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.

- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

The DTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Demolition Traffic Management Plan is submitted.

Reason: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

54. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Properties:

- 2 Delmar Parade, Dee Why
- 6 Delmar Parade, Dee Why
- 8 Delmar Parade, Dee Why
- 816 Pittwater Road, Dee Why

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works. If access is denied, then no dilapidation report is required.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

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

Any person or contractor undertaking works on public land must take out Public Risk Insurance

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

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

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

### 56. Protection of Rock and Sites of Significance

- a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.
- b) Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.
- c) Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

### 57. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected including:
  - i) all trees and vegetation located on adjoining properties,
  - ii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
  - i) tree protection shall be in accordance with the Arboricultural Impact Assessment dated December 2021 prepared by Dr Treegood and Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
  - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by the Project Arborist,
  - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with the Project Arborist,
  - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
  - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by the Project Arborist on site,
  - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with the Project Arborist including advice on root protection measures,
  - vii) should either or all of v), vi) and vii) occur during site establishment and construction works, the Project Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works



- undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
  - ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
  - x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
  - xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Certifying Authority must ensure that:

- c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites do not occur within the tree protection zone of any tree and any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained on the site during the construction is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking or removal of any tree(s) is prohibited.

Reason: Tree and vegetation protection.

#### 58. **Road Reserve**

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

Reason: Public safety.

#### 59. **Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

60. **Substitution of Stormwater Treatment Measures**

The substitution of an "equivalent" device for the stormwater treatment measure approved under the Development Consent must submitted to the Principal Certifying Authority for approval prior to installation.

Reason: To ensure stormwater is appropriately managed and in accordance with the Water Management for Development Policy.

61. **Dewatering Management**

Groundwater: A permit from Council is required for any dewatering of groundwater. An application for interference with an aquifer is required to the Natural Resources Access Regulator. Contact [catchment@northernbeaches.nsw.gov.au](mailto:catchment@northernbeaches.nsw.gov.au) for more information about permits.

The groundwater/tailwater to be discharged must be compliant with the General Terms of Approval/Controlled Activity permit issued by WaterNSW (if applicable), Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

All approvals, water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.

Reason: Protection of the receiving environment and groundwater resources.

62. **No Access Through Land Owned or Managed by Council**

Site access is not approved for delivery of materials nor construction of the development through the Stony Range Regional Botanic Garden.

Reason: Public safety, landscape amenity and tree protection.

63. **Storage of Materials on Land Owned or Managed by Council Prohibited**

The dumping or storage of building materials, spoil, vegetation, green waste or any other material in the Stony Range Regional Botanic Garden is prohibited.

Reason: Public safety and environmental protection.

64. **Implementation of Demolition Traffic Management Plan**

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

Reason: To ensure compliance and Council's ability to modify the approved Construction Traffic Management Plan where it is deemed unsuitable during the course of the project.

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

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

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

66. **Ongoing Management**

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

67. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)];
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

68. **Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

69. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the

applicant must lodge to the Principal Certifier, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

70. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

71. **Progress Certification (Road & Subdivision)**

The applicant shall provide compliance certification is to be provided by a NER or RPENG qualified civil engineer upon completion and/or as and when requested by the Council for the following stages of works:

(a) Laying of 1200mm Council stormwater pipes and construction of pits

(b) Proof Roll of Base and Sub-base

(c) Sub-grade trimmed and compacted \*\*

(d) Base-course laid and compacted \*\*

(e) Kerb and gutter construction

(f) Footpath full width concrete base slab and paving,

(g) Landscaping including street tree planting

(h) Clean-up of site, and of adjoining Council roadway and drainage system.

(\*\*To be tested by a recognised N.A.T.A. approved laboratory).

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

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

72. **Civil Works Supervision**

The Applicant shall ensure all civil works approved under the Section 138 Roads Act approval and Section 68 Local Government Act approval are supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Certifying Authority and/or Roads Authority.

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

**73. Footpath Construction**

The applicant shall reconstruct the existing concrete footpath to full paving with a concrete base the works shall be in accordance with the following:

- (a) All footpath works are to be constructed in accordance with Section 138 Road Act approval
- (b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Section 138 Road Act approval for footpath. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure compliance of footpath works with Council's specification for engineering works.

**74. Notification of Inspections (infrastructure works to be handed over to Council)**

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

- (a) Installation of Silt and Sediment control devices
- (b) Prior to backfilling of the upgraded 1200mm stormwater line (Delmar parade and the site)
- (c) Prior to pouring of stormwater kerb inlet pits in Demar Parade
- (d) Prior to pouring of kerb and gutter
- (e) Half Subgrade level / basecourse level / subbase
- (f) Sealing road pavement
- (g) Footpath concrete base slab prior to placement of Urbanstone paving.

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification.

Reason: To ensure new Council infrastructure is constructed in accordance with Auspec 1 Council's design and specification standards.

**75. Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

**76. Vehicle Crossings**

The Applicant is to construct one vehicle crossing 8 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ Normal and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

**77. Kerb and Gutter Construction**

The Applicant is to construct kerb and gutter and associated works along the entire frontage of the site in accordance with Northern Beaches Council Drawing No. A4 2276/A. Prior to the pouring of concrete, the works are to be inspected by Council and an approval issued.

The approval is to be submitted to the Principal Certifying Authority.

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

**78. Requirement to Notify about New Contamination Evidence**

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

Reason: To protect human health and the environment.

**79. Management of Site Contamination Issues**

At demolition and excavation stages details of documented compliance with the findings and recommendations contained within the Detailed Site Investigation report by Geosyntec Consultants (ref: 21325 Final R1 DSI) is to be supplied to the Certifying Authority (and a copy to Council for its records) at the appropriate stages and before building works commence and shall include:

1. A Hazardous buildings material survey (Hazmat) of existing site structures prior to demolition, as recommended in the REDITUS (2021) PSI.
2. Given the identification of asbestos within the fill material an Asbestos Management Plan (AMP) must be prepared to comply with the Work Health and Safety (WHS) Regulation 2017.
3. Additional inspections and sampling under the hardstand area once the buildings and concrete are removed to ascertain the extent of asbestos containing fibre cement fragments and fines across the site area.
4. Given the majority of the soil in the site will be required to facilitate the development, the compilation of a soil management plan after the additional sampling is completed.

Reason: To ensure that all contamination related issues are appropriately addressed.

**80. Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan titled dated 3 March 2023.

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



81. **Waste/Recycling Requirements (Materials)**

During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

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

82. **Required Tree Planting**

a) All trees shall be planted in accordance with the approved Landscape Plans

b) Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To maintain environmental amenity.

83. **Street Tree Planting**

a) Street trees shall be planted in accordance with the following:

- i) 13 x *Ceratopetalum apetalum* spaced evenly along the road reserve immediately south of the site, minimum pot size 200 litre and shall meet the requirements of Natspec - Specifying Trees and be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained including a four post and top and mid rail timber tree guard and watered until established.
- ii) 3 x *Livistona australis* (Cabbage Tree Palms), to provide a grove located in the road reserve at the entrance to Stony Range Regional Botanic Garden, adjacent to the south west corner of the of site. These palms are to be transplanted/advanced stock with minimum trunk height of 10m and maintained including a four post and top and mid rail timber tree guard and watered until established

b) Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To maintain environmental amenity.

84. **Required Screen Planting**

a) Screen planting shall be planted along the eastern and southern boundaries in accordance with the approved Landscape Plans.

b) Plants are to be installed at minimum 1 metre intervals and be of a minimum container size of 200mm at planting in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch.

c) Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To maintain environmental amenity.

85. **Landscape Completion**

a) Planting is to be implemented in accordance with the approved Landscape Plan, as amended by Conditions of Consent.

b) Prior to the issue of any Occupation Certificate details (from a qualified horticulturalist, landscape architect or landscape designer) shall be submitted to the Principal Certifying Authority certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

**86. Condition of Retained Vegetation - Project Arborist**

Prior to the issue of any Occupation Certificate a report prepared by the Project Arborist shall be submitted to the Certifying Authority assessing the health and impact on all existing trees required to be retained including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,
- c) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree protection.

**87. Stormwater Disposal**

The stormwater drainage upgrade works and diversion works of Councils existing stormwater system shall be certified as compliant with all relevant the approved Section 68 (local Government act) approval issued by Council by the design engineer . A compliance certificate is to be issued to Council prior to the issue of any Occupation Certificate.

Reason: To ensure the upgraded is compliant with the Section 68 approval and Councils Auspec One specification.

**88. Post-Construction Road Reserve Dilapidation Report (Major Development)**

The applicant must bear the cost of all restoration works to Council's road, footpath and drainage assets damaged during the course of this development.

A Post Construction Dilapidation Report after the completion of all building works is to demonstrate that there is no damage to Council infrastructure prior to the refund of any security deposits.

Reason: To ensure security against possible damage to Council property.

**89. Certification of Civil Works and Works as Executed Data on Council Land**

The Applicant shall submit a certification by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) that the completed works have been constructed in accordance with this consent and the approved Section 138 and/or Construction Certificate plans. Works as Executed data certified by a registered surveyor in relation to boundaries and/or relevant easements, prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Assets' in an approved format shall be submitted to the Principal Certifier for approval prior to the issue of the Occupation Certificate.

Reason: To ensure compliance of works with Council's specification for engineering works.

90. **Certification of Council Drainage Works and Works as Executed Data within Private Land**  
The Applicant shall submit certification by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) that the completed works have been constructed in accordance with this consent and the approved Section 68 approved plans. Works as Executed data (details overdrawn on a copy of the approved drainage plan) certified by a registered surveyor in relation to boundaries and/or relevant easements prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Stormwater Assets' within the subject site, shall be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To ensure compliance of drainage works with Council's specification for engineering works.

91. **Certification for the Installation of Stormwater Treatment Measures**  
A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the construction certificate documentation. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. Vegetated measures must exhibit an 80 percent survival rate of plantings.

The certificate shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

92. **Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures**  
A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater treatment measures, restricting any alteration to the measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification to the stormwater treatment measures is not carried out without Council's approval.

93. **Stormwater Treatment Measures Operation and Maintenance Plan**  
An Operation and Maintenance Plan is to be prepared to ensure the proposed stormwater treatment measures remain effective.

The Plan must be attached to the Positive Covenant (and the community or strata management statement if applicable) and contain the following:

1. Detail on the stormwater treatment measures:
  - a) Work as executed drawings
  - b) Intent of the stormwater treatment measures including modelled pollutant removal rates
  - c) Site detail showing catchment for each device
  - d) Vegetation species list associated with each type of vegetated stormwater treatment measure
  - e) Impervious area restrictions to maintain the water balance for the site
  - f) Funding arrangements for the maintenance of all stormwater treatment measures
  - g) Identification of maintenance and management responsibilities
  - h) Maintenance and emergency contact information
  
2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:
  - a) Activity description, and duration and frequency of visitsAdditionally for vegetated devices:
  - b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
  - c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure
  
3. Maintenance schedule and procedure - ongoing
  - a) Activity description, and duration and frequency of visits
  - b) Routine maintenance requirements
  - c) Work Health and Safety requirements
  - d) Waste management and disposal
  - e) Traffic control (if required)
  - f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
  - g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

94. **Works as Executed Drawings - Stormwater Treatment Measures**

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

95. **Removal of All Temporary Structures/Materials and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences/bunds are to be removed from the site.

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

Reason: To protect reserve amenity and public safety.

96. **Loading Dock Traffic Signal and access control system**

To prevent conflicting vehicle flows on the internal carpark and loading dock access ramps and avoid vehicles having to reverse up/ down the ramp, a traffic signal system must be installed to provide warning to vehicles entering and exiting the carpark when the loading dock is in use and designed to warn drivers of any conflicting service/delivery vehicle approaching.

The signal system must;

- be clearly visible from carpark ramp entrances,
- is to clearly indicate to an approaching car driver, by way of red light or wording, that a truck is exiting the loading dock,
- Incorporate an automated boomgate (or other means of access prevention) to manage movements to and from the loading dock and prevent parking in it other than by delivery/waste collection vehicles

Details, including the system operation, components and placement within the development, must be specified by a practising Traffic Engineer. This engineer is to submit a compliance certificate to the Principal Certifying Authority that the system has been installed and operating as designed, in accordance with the requirements of this condition, prior to the issue of any Occupation Certificate issued for the development.

Reason: To ensure no vehicle conflicts at the carpark ramp/loading bay junction.

97. **Loading Dock Management Plan**

A Loading Dock Management Plan shall be prepared by the applicant and submitted to and approved by the Principal Certifying Authority prior to the issue of any Occupation Certificate.

The Plan will need to demonstrate how the loading docks will be managed to ensure that there will be only one vehicle entering and exiting each loading docks in any period and how safe servicing arrangements including waste collection will be undertaken without interrupting general traffic. The Loading Dock management plan will also include information relating to measures to prevent unauthorised access to the main loading dock and outline the operation of an automated warning system for motorists entering/exiting the basement carpark that a vehicle is exiting the loading dock. The loading dock management plan will ensure and reinforce that vehicle queuing on public road(s) is not permitted.

Reason: to ensure the loading dock is managed appropriately and that tenants are aware of the conditions of use.

98. **Disabled Parking Spaces**

Where disabled parking spaces are provided they must be in accordance with AS2890.6:2009 including provision of shared zone bollards.

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

Reason: To ensure compliance with Australian Standards.

99. **Footpath Construction**

The footpath, in accordance to Council's standard specifications, shall be reconstructed along the full property frontage to Council's satisfaction. Details demonstrating compliance are to be

submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure that an acceptable level of pedestrian access to and from the property is available.

00. **Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

01. **Geotechnical Certification Prior to Occupation Certificate**

A Geotechnical Engineer or Engineering Geologist is to provide written confirmation that they have inspected the site during construction or reviewed information relating to the construction and that they are satisfied that development referred to in the development consent has been constructed in accordance with the intent of the Geotechnical Report referenced in Condition 1 of this consent.

Written certification is to be provided to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

02. **Allocation of Car Parking Spaces**

Car parking spaces shall be provided in accordance with the details provided on the approved stamped plans, made accessible and maintained at all times.

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

All car parking spaces marked for residential use are to for the use of residents of the development only.

Details demonstrating compliance are to be submitted to the certifying authority to the issue of an Occupation Certificate.

Reason: To ensure that adequate parking facilities to service the development are provided on the site.

03. **Restriction as to User for On-site Stormwater Detention**

A restriction as to user shall be created on the title over the on-site stormwater detention



system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements, (available from Northern Beaches Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

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

Reason: To ensure modification to the on-site stormwater detention structure is not carried without Council's approval.

04. **Certification of Structures Located Adjacent to Council Pipeline or Council Easement**  
All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; (in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification). Any proposed landscaping within a Council easement or over a drainage system is to consist of ground cover or turf only (no trees are permitted) - Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure

05. **Stormwater Drainage Easement - rediverted /upgraded 1200mm Stormwater Line**  
The Applicant shall lodge a drainage easement plan and 88B instrument with a Legal Documents Authorisation Application .

The Applicant shall create on the Title a Stormwater Drainage Easement of a width and with terms acceptable to council over the rediverted/upgraded 1200mm stormwater line within the site . The stormwater line is to be dedicated to Council in accordance with Councils Water Management for Development policy. Northern Beaches Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument.

The applicant shall submit to Council a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan) and hydraulic engineers' compliance certification stating the upgraded 1200mm stormwater line as been installed in accordance with the Section 68 Drainage approval .

Northern Beaches Council's delegate shall sign these documents prior to the submission to the NSW Land Registry Services. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

A copy of the certificate of title demonstrating the creation of the stormwater drainage easement is to be submitted to Council.

The applicant is responsible for all fees and charges with the creation of the stormwater drainage easement.

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

Reason: To comply with the stormwater drainage easement requirements of Councils Water Management for Development policy.

06. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

07. **Loading Dock Management Plan to be provided to Council**

A Loading Dock Management Plan - in accordance with the Site Waste Management Report dated 3 March 2023 is to be submitted to Council's Waste Management team for approval. The Loading Dock Management Plan must ensure that the loading dock is available for the exclusive use of Council's waste collection vehicles from 6.00am to 6.00pm on the scheduled days of collection each week.

The scheduled days of collection will be notified to the owners' corporation/building manager by Northern Beaches Council prior to the commencement of the service and on an ongoing basis as needed.. Council reserves the right to change the days of collection as required.

No items are to be stored in the loading dock and truck turning area.

Reason: To ensure efficient and safe access to provide waste management and removal services.

08. **Certification of DSI Recommendations**

Certification shall be provided from a suitably qualified professional that the findings and recommendations contained within the Detailed Site Investigation report by Geosyntec Consultants (ref: 21325 Final R1 DSI) have been fully complied, including any new discoveries, appropriate treatment and or removal with and documentation supplied to the Certifying Authority (and a copy to Council for its records).

This documentation includes :

1. A Hazardous buildings material survey (Hazmat) of existing site structures prior to demolition, as recommended in the REDITUS (2021) PSI.

2. An Asbestos Management Plan (AMP) must be prepared to comply with the Work Health and Safety (WHS) Regulation 2017. Documentation concerning the lawful disposal of any removed material.

3. Additional inspections and sampling under the hardstand area once the buildings and concrete are removed to ascertain the extent of asbestos containing fibre cement fragments and fines across the site area. Results of these inspections and any required actions being completed.

4. The compilation of a soil management plan after the additional sampling is completed.

Reason: To ensure that all contamination related issues were appropriately addressed during works.

09. **Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management.

10. **Garbage and Recycling Facilities**

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

Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

11. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

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

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

12. **Disabled Parking Spaces**

Where disabled parking spaces are provided they must be in accordance with AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards

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

The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

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

Reason: To ensure waste and recycling facilities are provided.

14. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

15. **Positive Covenant for Council and Contractor Indemnity**

A positive covenant shall be created on the title of the land prior to the issue of an Interim/Final Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

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

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

The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

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

Reason: To create encumbrances on the land.

17. **Neighbourhood Management Statement for Waste Services**

Where a development proposes the creation of a neighbourhood scheme, the Neighbourhood Management Statement shall include wording in relation to the provision of waste services in accordance with Appendix D of Northern Beaches Council Waste Management Guidelines

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

18. **Landscape Maintenance**

a) Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

b) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

Reason: To maintain local environmental amenity.

19. **Undesirable Trees**

a) Leighton Green Cypress *Cupressocyparis leylandii* or any of its cultivars, or any other Undesirable Trees identified by Council, must not be planted on the site for the life of the development.

b) In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views and loss of plant diversity.

20. **Maintenance of Stormwater Treatment Measures - Major**

Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Vegetated stormwater treatment measures must maintain an 80 percent survival rate of plantings and limit weed cover to no more than 10 percent of the total area of the stormwater treatment measure.

Where replacement cartridges or other necessary components for the system become unavailable, an alternative system is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

21. **Vehicle Parking**

The car parking area shown on the approved drawings must be used for vehicle parking only. Loading and unloading of vehicles and delivery of goods to the land must be carried out within the site. Any loading or unloading of materials of potential environmental damage must be appropriately bundled with adequate spill response equipment in place to ensure nil runoff from the site.

Reason: To ensure the safety and amenity of the general public using public streets, and to ensure the protection of the environment from spillage of materials.

22. **Delivery/service vehicles not to use Stony Range carpark**

Delivery and service vehicles associated with the completed development are not permitted to drive, stand or park in the Stony Range Botanic Gardens carpark. Deliveries to commercial/retail

or residential premises shall be undertaken within the Loading Docks provided on site

Reason: to ensure deliveries are undertaken within Loading Docks provided on site for that purpose and prevent use of public carparking which is not designed for use by trucks.

23. **Implementation of Loading Dock Management Plan**

All vehicle ingress and/or egress activities are to be undertaken in accordance with the approved Loading Dock Management Plan. Vehicle queuing on public road(s) is not permitted.

Reason: To allow for vehicular access.

24. **Landscaping and signage adjoining vehicular access**

The applicant must ensure that the planting or signage chosen for any land immediately adjacent to the driveway and adjacent to any driveway intersections must not exceed a height of 1m

Reason: To maintain unobstructed sight distance for motorists.

25. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

26. **Proposed Outdoor Dining Condition**

No outdoor dining is approved in this consent. Any proposed outdoor dining must be consistent with State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Any outdoor dining that is consistent with the SEPP shall be the subject of a separate Outdoor Dining Application to Council's Property team.

Reason: To ensure that outdoor dining is assessed and approved under the appropriate regulatory framework and legislation.

27. **Waste Management**

Waste storage management and collection are to be managed in accordance with the Waste Management Report dated 3 March 2023 and the Loading Dock Management Plan to be submitted and approved by Council prior to the issue of the Occupation Certificate

Reason: To ensure ongoing safe and efficient access for waste management services

28. **Commercial Waste and Recycling Storage**

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

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

29. **Noise from Air Conditioning Equipment**

Any mechanical equipment associated with the air conditioning units shall not produce noise that exceeds 5dBA above the background noise when measured from the nearest property



boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

30. **Parking Enclosures**

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

Reason: To ensure accessibility is maintained.