

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2024/0597
----------------------------	-------------

<b>Responsible Officer:</b>	Adam Croft
<b>Land to be developed (Address):</b>	Lot 10 DP 8172, 21 Oaks Avenue DEE WHY NSW 2099
<b>Proposed Development:</b>	Demolition works and construction of Shop top Housing
<b>Zoning:</b>	Warringah LEP2011 - Land zoned MU1 Mixed Use
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Applicant:</b>	Cite Developments No.2 Pty Ltd

<b>Application Lodged:</b>	15/05/2024
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - New multi unit
<b>Notified:</b>	04/12/2024 to 23/01/2025
<b>Advertised:</b>	04/12/2024
<b>Submissions Received:</b>	12
<b>Clause 4.6 Variation:</b>	4.3 Height of buildings: 1.21%
<b>Recommendation:</b>	Refusal

<b>Estimated Cost of Works:</b>	\$ 9,883,800.00
---------------------------------	-----------------

### EXECUTIVE SUMMARY

This development application seeks consent for demolition works and the construction of a seven storey shop top housing development comprising two basement levels, three podium levels and two separate residential towers rising four storeys above the podium. The proposal contains 22 residential apartments and 3 commercial tenancies.

The proposal development is Nominated Integrated Development under Section 90(2) of the Water Management Act 2000 as the excavation works for the basement level would intercept the water table.

The application is reported to the Northern Beaches Local Planning Panel (NBLPP) because the development is over 4 storeys in height and subject to Chapter 4 of State Environmental Planning Policy (Housing) 2021 (formerly SEPP 65), the development attracted more than 10 submissions by way of objection, and the development involves a 50% variation to Clause 7.6A - Podium Heights of

the Warringah Local Environmental Plan 2011. As the development falls within these categories, the application must be determined by the NBLPP in accordance with the State Government Local Planning Panel Directions.

The key concerns raised within the public submissions pertain to the bulk and scale of the development, traffic impacts and amenity impacts upon surrounding residential and commercial buildings. A number of the concerns raised within the submissions are concurred with and warrant refusal of the application.

The application was referred to the Design and Sustainability Advisory Panel (DSAP). The DSAP raised fundamental concerns in relation to the configuration of the building that provides two separate residential towers above the podium level, as opposed to a single building typology. This arrangement results in an undesirable built form and public domain outcome, poor internal amenity for the southern tower and the central courtyard and adverse amenity impacts to the residential flat buildings adjoining the site to the south. The assessment concurs with many of the concerns raised in the DSAP meeting.

The assessment has concluded that the proposed development is unsatisfactory in relation to the design quality principles for residential apartment development under State Environmental Planning Policy (Housing) 2021 and is inconsistent with several planning controls for the Dee Why Town Centre under the Warringah Local Environmental Plan 2011 (WLEP) and Warringah Development Control Plan 2011 (WDCP) as they pertain to building heights, design excellence, streetscape activation, retail floor space, site amalgamation and traffic/parking.

In addition to the merit issues raised throughout the assessment, it was identified that the proposed development does not provide sufficient retail floor space in accordance with Clause 7.12 of the WLEP, which is a development standard. As the applicant has not provided a written request pursuant to Clause 4.6 of the WLEP to justify a variation to this development standard, the NBLPP as the consent authority has no power to grant consent to the application. Similarly, the development exceeds the 24m building height standard under Clause 4.3 of the WLEP (specifically in relation to the lift overrun) and Clause 4.6(8A) of the WLEP does not permit the application of Clause 4.6 of the WLEP to vary a development standard. This jurisdictional matter also precludes the granting of consent.

In summary, the depth of the site is not considered sufficient to accommodate the proposed building typology. The northern tower setback does not comply with the WDCP control, the internal separation distance between the towers does not comply with the ADG control and there is a minor breach of the ADG separation distance control to the south. These non-compliances would create significant amenity impacts internally within the site and to adjoining residential flat buildings to the south, particularly if the two-tower arrangement is replicated on adjoining properties to the east and west. The development proposes too many apartments with inadequate internal building separation to alleviate the amenity impacts. In order for this site to be developed in isolation in an orderly and economic manner, a reduction to the overall height, bulk, scale and density and a re-consideration of the two-tower building typology is required.

The proposal is considered to be an overdevelopment of the site and would create an undesirable precedent that would be contrary to the expectations of the community. Therefore, the development is not considered to be in the public interest.

Accordingly, it is recommended that the NBLPP **refuse** the application for the reasons attached to this report.

## PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for demolition works and the construction of a shop top housing development with at-grade and basement car parking.

Specifically, the development proposes:

- Demolition of existing structures.
- Excavation, site preparation and stormwater works.
- New vehicle crossing and driveway.
- Construction of a seven storey shop top housing development comprising of:
  - 3 car parking levels (including ground floor) accommodating 18 residential spaces (including 2 disabled spaces), 4 visitor spaces, 6 commercial spaces and services, storage and bin rooms;
  - 3 commercial tenancies at the ground and first floor levels;
  - 22 residential apartments over six levels (4 x studio, 6 x 1 bedroom, 10 x 2 bedroom & 2 x 3 bedroom);
  - Ground floor landscaping to the rear (south) of the building;
  - Level 03 communal open space area; and
  - a pedestrian bridge connecting both towers.

The proposed built form comprises two towers over a three-storey podium with a central courtyard and bridges linking the front and rear towers at levels 04-06. The below images illustrate the general character, design and external appearance of the proposal.



**Figure 1. View from Oaks Avenue frontage (looking west).**



**Figure 2. View of central courtyard (looking east).**

## AMENDED PLANS

Following lodgement, amendments were made to the proposal including:

- Podium reduced from 4 storeys to 3 storeys;
- Northern tower setback increased from 12.5m to 12.9m;
- Southern tower rear setbacks increased to min. 7.5m;
- Rear tower lift deleted, central bridge introduced and courtyard depth increased;
- Basement parking reconfigured;
- Ground floor retail tenancy enlarged from 42m<sup>2</sup> to 50m<sup>2</sup>, circulation and services areas reconfigured;
- Level 1 commercial tenancies and residential units reconfigured;
- Central courtyard raised from Level 2 to Level 3 and reconfigured; and
- Residential apartment mix and configurations altered to result in the description above.

The amended proposal was re-notified in accordance with the Northern Beaches Community Participation Plan.

## ASSESSMENT INTRODUCTION



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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## **SUMMARY OF ASSESSMENT ISSUES**

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings

Warringah Local Environmental Plan 2011 - Zone MU1 Mixed Use

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings

Warringah Local Environmental Plan 2011 - 5.21 Flood planning

Warringah Local Environmental Plan 2011 - 6.2 Earthworks

Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land

Warringah Local Environmental Plan 2011 - 7.3 Objectives for development within Dee Why Town Centre

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

Warringah Local Environmental Plan 2011 - 7.5 Design excellence within Dee Why Town Centre

Warringah Local Environmental Plan 2011 - 7.6A Podium heights

Warringah Local Environmental Plan 2011 - 7.12 Provisions promoting retail activity

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

Warringah Development Control Plan - C2 Traffic, Access and Safety

Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - C4 Stormwater

Warringah Development Control Plan - C9 Waste Management

Warringah Development Control Plan - D2 Private Open Space

Warringah Development Control Plan - D3 Noise

Warringah Development Control Plan - D6 Access to Sunlight

Warringah Development Control Plan - D7 Views

Warringah Development Control Plan - D14 Site Facilities

Warringah Development Control Plan - D18 Accessibility and Adaptability

Warringah Development Control Plan - 3 Desired Character for the Dee Why Town Centre

Warringah Development Control Plan - 4 Streetscape and Public Domain

Warringah Development Control Plan - 5 Design and Architectural Diversity

Warringah Development Control Plan - 6 Site amalgamation

Warringah Development Control Plan - 7 Traffic and Parking

Warringah Development Control Plan - 9 Sustainability

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 10 DP 8172 , 21 Oaks Avenue DEE WHY NSW 2099
<b>Detailed Site Description:</b>	<p>The subject site consists of one allotment located on the southern side of Oaks Avenue.</p> <p>The site is regular in shape with a frontage of 15.24m along Oaks Avenue and a depth of 50.585m. The site has a surveyed area of 770.9m<sup>2</sup>.</p> <p>The site is located within the MU1 Mixed Use zone and accommodates a two-storey brick commercial building.</p> <p>The site slopes approximately 900mm from rear (south) to front (north)</p> <p>The site contains three significant trees within the rear setback. A concrete drainage channel and associated drainage easement run east-west through the site adjacent to the rear boundary.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>The development is located within the Dee Why Town Centre. Adjoining and surrounding development is characterised by a mix of commercial and residential uses. The immediately adjoining properties to the east and west accommodate two-storey commercial buildings. "Key Site B" (Lighthouse development) is located across Oaks Avenue to the north). "Key Site C" is located to the east of the site along Oaks Avenue. Land to the south comprises medium density residential development.</p>

Map:



## SITE HISTORY

The land has been used for commercial purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

### PLM2022/0226

A Pre-lodgement meeting for the construction of a Shop Top Housing Development was held on 8 March 2023. In summary, the PLM notes advised that Council was not supportive of the proposal due to the lack of site amalgamation, public domain impacts and inconsistency with numerous planning controls contained in the WLEP, WDCP and the ADG.

The PLM proposal was also referred to Council's Design and Sustainability Advisory Panel. The Panel's advice included a total of 10 recommendations in relation to strategic context, scale and built form, amenity and access and car parking. The Panel considered it premature to make recommendations relating to landscape, aesthetics and sustainability given the fundamental issues identified. The Panel report concluded, in part, that:

*"The Panel does not support the proposal in its current form, overall planning strategy or mix of uses. The many non-compliances have not been justified.*

*At the same time the Panel recognises that the current planning controls, including car parking rates are not likely to achieve the desired outcome for this part of Oaks Avenue.*

*The Panel strongly recommends further discussion with Council to determine a way forward or wait for the sites to be amalgamated as anticipated by all previous planning.*

*In lieu of a larger amalgamated site, demonstrate how future adjacent developments' basement carpark can be accessed using the car ramp from this proposal thereby maximising the retail frontages to Oaks Avenue in the future and reducing the number of driveways in Oaks Avenue."*

### PLM2023/0087

A further Pre-lodgement meeting for the construction of a Shop Top Housing Development was held on 7 September 2023. In summary, the PLM notes advised that Council was not supportive of the proposal due to the proposed breach of the building height standard (discussed further in this report)

and numerous other planning controls, the adverse streetscape and public domain impacts and the poor amenity outcomes for surrounding residents and future occupants of the development.

The PLM proposal was also referred to Council's Design and Sustainability Advisory Panel. The Panel's advice included a total of 32 recommendations in relation to strategic context, scale and built form, access and car parking, landscape, amenity, aesthetics and sustainability, and concluded that:

*"An updated design should be developed that sets a positive and sustainable precedent for future adjacent development, overcoming the potentially detrimental knock-on impacts of non-agglomerated development in this location. Preserving the quality of the public domain and achieving excellent amenity for existing and future residents and workforce should be the foremost consideration for future iterations.*

*The Panel does not support the proposal in its current form. A complete redesign that addresses the issues noted above is required. Any breaching of the setback and height controls would need to be supported by an analysis of the benefits compared to a complying scheme. Noting that it may not be technically possible to breach some controls.*

*The Panel refer the applicant to the Apartment Design Guide for aspects related to amenity and internal planning of apartments."*

The changes made to the proposal prior to and following lodgement of the development application **have not** adequately resolved the issues raised in relation to the pre-lodgement application.

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

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 (WDCP) applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 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 could be addressed via a condition of consent if the application is approved.</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</p>



Section 4.15 Matters for Consideration	Comments
	<p>submitted.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to amended documentation to address the urban design / built form, residential amenity, vehicular circulation, vehicular access, engineering design and waste management issues raised during the assessment. The additional information has not satisfactorily addressed the issues raised by Council.</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. These matters could be addressed via a condition of consent if the application is approved.</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). These matters could be addressed via a condition of consent if the application is approved.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</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). These matters could be addressed via a condition of consent if the application is approved.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Environmental Planning Instruments and WDCP sections in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable to accommodate for a shop top housing development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (e) – the public interest	<p>This assessment has concluded that the proposal is contrary to various statutory and policy requirements within State Environmental Planning Policy (Housing) 2021 (Housing SEPP), the Warringah Local Environmental Plan 2011 (WLEP) and the WDCP.</p> <p>In this regard, the proposed development would create an undesirable precedent, such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the public interest.</p> <p>This matter forms a recommended reason for refusal.</p>

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 04/12/2024 to 23/01/2025 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 12 submission/s from:

Name:	Address:
Mr Benjamin Luke Sheppard	23 / 110 Lawrence Street FRESHWATER NSW 2096
Nick Vozella	Address Unknown
The Owners Of Strata Plan 87761	30 Pacific Parade DEE WHY NSW 2099
Withheld	FRENCHS FOREST NSW 2086
Rhiannon Nevin-Dolan	273 / 16 Oaks Avenue DEE WHY NSW 2099
Nick Pearson	Address Unknown
Richard Winckles	577 / 16 Oaks Avenue DEE WHY NSW 2099
Lydia Jane Saunders	560 / 28 Oaks Avenue DEE WHY NSW 2099
Wyndham Fitzgerald Cramer	257 / 28 Oaks Avenue DEE WHY NSW 2099
Miss Maja Naumovska	21 / 47 Pacific Parade DEE WHY NSW 2099
Ms Shirley Hedy Taylor	259 / 28 Oaks Avenue DEE WHY NSW 2099
Stephan Alexander Mang Mrs Bethan Elin Mang	256 / 28 Oaks Avenue DEE WHY NSW 2099

Following the public exhibition periods, a total of 11 individual submissions by way of objection were received. One submission in support of the development was received.

The concerns raised in the submissions are addressed as follows:

- **Height, scale & density**

The submissions raised concerns that the proposed height, scale and density of the proposal are excessive and would give rise to unacceptable amenity and traffic impacts.

Comment:

It is agreed that the scale and density of the proposal are excessive in relation to the site area and contribute to overshadowing of properties to the south and inappropriate public domain outcomes. The proposed scale and density are not supported and are reflected in the reasons for refusal.

- **Amenity impacts**

The submissions raised concerns that the proposal would cause adverse impacts to various surrounding properties in relation to overshadowing, privacy and outlook.

Comment:

Overshadowing

A detailed assessment of the submitted shadow diagrams is undertaken against the relevant WDCP and ADG controls in this report and is summarised as follows. When considered in isolation, the proposal maintains adequate sunlight access to all adjoining properties in accordance with the controls. However, it is considered necessary to take into account the cumulative overshadowing impacts in the event that each of the adjoining properties (Nos. 19 and 23 Oaks Avenue) are development in a similar manner, essentially as demonstrated in the submitted shadow diagrams. When the cumulative impact is considered, the resulting overshadowing of 30 Pacific Parade to the south is significant and does not comply with the WDCP or ADG controls. This matter is included as a reason for refusal.

The proposal will not unreasonably impact sunlight access or natural light to Nos. 15, 16 or 28 Oaks Avenue given the separation distances and their relative positions to the north and west of the subject site. This matter does not warrant refusal of the application.

Privacy

The proposal, as amended, would not unreasonably impact the privacy of any surrounding properties. The proposed building setbacks to the north, south, east and west comply with the separation distances specified in the ADG, with the exception of the Level 4 south-facing bathrooms. It is considered that suitable privacy measures could be provided to mitigate privacy impacts resulting from those bathrooms. This matter does not warrant refusal of the application.

Outlook

The proposed building, with the exception of the lift overrun, complies with the building height standard and the applicable built form controls allow for development to both side boundaries

(where blank walls are proposed). It is understood that the available outlook from Nos. 16 and 28 Oaks Avenue comprises district views to the south over the subject site. Given that any impact resulting from the proposed development would occur directly through the developable envelope of the site, such impact would not be unacceptable in the medium-to-high density context of the site. This matter does not warrant refusal of the application.

- **Traffic congestion & car parking provision**

The submissions raised concerns that the proposed development would cause traffic congestion and impact availability of on-street car parking.

Comment:

Council's Traffic Engineer advises that the proposal raises no concerns in relation to traffic generation relative to the existing commercial development, and that sufficient resident, visitor and commercial car parking spaces are provided. Despite the sufficient number of parking spaces provided, the proposed configuration is unacceptable and this is included as a reason for refusal.

- **Construction impacts**

The submissions raised concerns that the construction works associated with the proposal would adversely impact the amenity of surrounding properties.

Comment:

Were the application recommended for approval, conditions would be imposed where possible to minimise the disturbance caused to surrounding properties. Such conditions would include the approval of and compliance with demolition and construction traffic management plans, preparation of a construction management plan and adherence to standards including construction hours and dust, vibration and noise suppression. This matter does not warrant refusal of the application.

The matters raised within the submissions have been appropriately addressed above. In summary, a number of the concerns raised are concurred with and form part of the recommended reasons for refusal.

## REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p><b><i>Not Supported (Based on DA as lodged)</i></b></p> <p>The application was referred to the DSAP for consideration and comment.</p> <p>The DSAP raised a number of issues with the design of the development and did not support the proposal. The Panel made a total of 22 recommendations to improve the design quality, contextual fit, amenity, landscape outcome and sustainability of the proposal.</p> <p>The applicant has sought to respond to the DSAP recommendations</p>



Internal Referral Body	Comments
	<p>through the amended proposal.</p> <p>Each of the Panel's recommendations are listed below with commentary from the assessing planner.</p> <p><b><u>Strategic context, urban context: surrounding area character</u></b></p> <p><b><i>1. This proposal is likely to become a precedent project because its configuration of setbacks and open space will likely inform future adjacent development which will need to replicate its urban form. Therefore any development on this site will need to achieve design excellence.</i></b></p> <p><u>Comment:</u> It is agreed that the built form siting and configuration of the development is likely to be replicated for future developments on the southern side of Oaks Avenue. Due to the proliferation of non-compliances and unacceptable amenity outcomes the proposal fails to demonstrate design excellence, which is a precondition to the granting of consent.</p> <p><b><i>2. The configuration of built form needs to be tested for urban form, privacy and solar considerations in the context of adjacent future development. The building configurations should demonstrate that the objectives of appropriately scaled open space, solar access and natural cross ventilation can be achieved when adjacent sites have been developed. This includes the solar testing of future development in the MU1 zone to the south.</i></b></p> <p><u>Comment:</u> While the submitted documentation includes an analysis of alternate built form configurations, the dual tower built form and density of development proposed are not considered feasible on this single-width allotment. This position is supported by the resulting tower setback non-compliance, inadequate privacy separation distances and . It is also noted that the replication of the proposed built form along the southern side of Oaks Avenue would result in non-compliant overshadowing of numerous properties to the south fronting Pacific Parade.</p> <p><b><i>3. Undertake a residential visual amenity assessment on views to be experienced within the courtyard space based on replication of the typology to adjoining undeveloped sites, to demonstrate the effects of the development on Residential Visual Amenity are not of such nature and/or magnitude that it potentially affects 'living conditions' or residential amenity.</i></b></p> <p><u>Comment:</u> The amended plan set includes 3D renders of the central communal courtyard, but does not include any analysis on the views/outlook available from the courtyard area. In the absence of any such analysis, it is expected that the replication of the proposed building typology on adjoining sites would create a canyon-like space, deeper</p>

Internal Referral Body	Comments
	<p>than it is wide, between the front and rear towers with little or no sunlight. The lack of amenity within the central courtyard would be exacerbated by the bridge structure introduced in the amended proposal and by the privacy screening surrounding the communal space. Furthermore, the position of the proposed communal space does not allow adequate privacy for the primary private open space areas of units 11 or 12, which are located immediately adjacent, and would also likely cause adverse acoustic privacy impacts to rooms opening onto the courtyard. In summary, the communal courtyard space is not afforded adequate amenity and will adversely impact the amenity of most or all units within the development and is unacceptable.</p> <p><b><u>Scale, built form and articulation</u></b></p> <p><b><i>4. Provide an upper-level setback of minimum 4m to the tower element. This will reduce the kerb setback from 16m required by (DCPG1(5)) to 13.9m.</i></b></p> <p><b><u>Comment:</u></b> The tower element is set back 3m from the podium below, providing a 12.9m setback from the kerb. This tower setback is significantly less than the 16m control and is not supported as assessed against the objectives of the control.</p> <p><b><i>5. Demonstrate that the solar objectives of ADG 4A can be achieved by modelling duplicated courtyard typologies to adjacent sites. (Consider a reduction of one storey to the north building to provide communal open space with good solar access, resolve current upper-level building separation amenity impacts, improve urban form in public domain for a 4-storey street wall, and improve solar access to south buildings on subject site and future adjoining sites).</i></b></p> <p><b><u>Comment:</u></b> The revised solar analysis demonstrates that the amended development achieves a compliant level of solar access to units within the development. The recommendation to relocate the communal open space to the top of the northern tower has not been taken up and the separation distances at Levels 4, 5 and 6 remain non-compliant. The podium/street wall has been reduced to 3 storeys as requested by Council. The proposed development in isolation would not result in non-compliant overshadowing of properties to the south fronting Pacific Parade, however the replication of the proposed built form on adjoining properties to the east and west would result in the removal of effectively all direct sunlight to the north-facing units to the south of the site.</p> <p><b><i>6. Building separations need to comply fully with the ADG to deliver appropriate visual privacy and built form outcomes when the typology is replicated.</i></b></p> <p><b><i>a. Remove intrusions of elements such as stairwells within the 12m separation in the courtyard space between buildings.</i></b></p> <p><b><i>b. Ensure the Level 4 setback from the rear boundary to</i></b></p>

Internal Referral Body	Comments
	<p><b><i>balconies areas and habitable rooms is 9m or is designed prevent overlooking equivalent to a 9m setback.</i></b>  <u>Comment:</u>  The amended proposal does not comply with the ADG separation distance requirements between the northern and southern towers. The amended proposal largely removes the building elements protruding into the courtyard/void. However, the introduction of the central bridge structure largely negates the removal of those protruding elements.  The proposed rear setbacks, as amended, largely comply with the ADG separation distance requirements.</p> <p><b><i>7. Given the that the development makes for provision for a shared driveway and basement access in the future, the street level planning should be configured to enable the waiting bay to be an interim facility that is designed to be incorporated into a consolidated retail space to improve the design quality of the interface with the public domain.</i></b>  <u>Comment:</u>  The amended proposal maintains the residential and Level 1 commercial entry adjacent to the waiting bay. This configuration does not enable the waiting bay to be incorporated into the retail space in the future. The inadequate retail area/frontage and inappropriate building entry sequence do not create a quality public domain interface and are not supported.</p> <p><b><u>Access, vehicular movement and car parking</u></b></p> <p><b><i>8. Redesign access in accordance with the design guidance set out ADG 3G-1 and ADG 3G-2 and in particular “where street frontage is limited and multiple buildings are located on the site, a primary street address should be provided with clear sight lines and pathways to secondary building entries.” Consider extending the second lift to ground floor level and providing a single gallery space to service both lifts.</i></b>  <u>Comment:</u>  The proposed building entry has not been substantially amended and remains unacceptable in relation to 3G of the ADG. The lift within the southern tower has been removed from the proposal , which is now accessed via the northern lift and central bridge structure.</p> <p><b><i>9. Residential bin storage and removal needs to be adjacent to the commercial waste area and not serviced for loading through the residential foyer.</i></b>  <u>Comment:</u>  The proposed residential bin room located and servicing/access has not been resolved and is not supported.</p> <p><b><u>Landscape</u></b></p> <p><b><i>10. The scheme requires reworking to consider the amenity of</i></b></p>

Internal Referral Body	Comments
	<p><b><i>residents and visitors centred around the central communal open space. This is pivotal to the amenity within the dwellings in terms of outlook, solar access and privacy, access between the two blocks, as well as the provision of external communal space.</i></b></p> <p><u>Comment:</u> The amenity impacts resulting from the siting of the built form and central courtyard have not been resolved and are not supported, as detailed in response to recommendation 3 above.</p> <p><b><i>11. The fire stair and accessible WC (if possible) should be removed from the communal open space.</i></b></p> <p><u>Comment:</u> The first stair (rear) and accessible WC have been removed as recommended, however the design remains unacceptable as detailed in response to recommendation 3 above.</p> <p><b><i>12. The raising of the communal open space, or provision on the rooftop is required to achieve amenity including solar access. Either option is likely to result in a reduction of yield and the resolution of this should prioritise best provision of amenity for residents.</i></b></p> <p><u>Comment:</u> This recommendation has not been taken up.</p> <p><u><b>Amenity</b></u></p> <p><b><i>13. Consider replacing the Level 1 South facing apartments with commercial space to increase daytime activation of the Dee Why Town Centre and resolve current apartment accessibility and amenity issues</i></b></p> <p><u>Comment:</u> This recommendation has not been taken up. Instead, the layout of Level 1 has been 'flipped' so that the residential units face north and the commercial tenancies are located to the rear. While this solution improves the amenity of the residential units and somewhat resolves access issues, the provision of employment generating space on the site remains non-compliant with the development standard at Clause 7.12 of the WLEP. It is noted that no Clause 4.6 request is submitted in relation to this development standard and there is therefore no power to grant consent to the development application.</p> <p><b><i>14. Windows should be provided in common circulation spaces and should be adjacent to the stair or lift core.</i></b></p> <p><u>Comment:</u> The revised circulation scheme does not enable the provision windows or daylight to the stair and lift core.</p> <p><b><i>15. If a single lift to car park areas is proposed access to the south building, the carpark lifts must enable transfer to the south lift at ground level from an entry lobby designed as set</i></b></p>



Internal Referral Body	Comments
	<p><b><i>out in Recommendation 8 above.</i></b></p> <p><u>Comment:</u> This recommendation has not been taken up as a central bridge structure has been incorporated to connect the north and south towers at each level.</p> <p><b><i>16. The security line on the street for the residential / commercial entry should be at the front building line.</i></b></p> <p><u>Comment:</u> This recommendation has not been taken up and the building entry sequence is unacceptable.</p> <p><b><u>Façade treatment/Aesthetics</u></b></p> <p><b><i>17. Brick forms should have deeper reveals to window openings</i></b></p> <p><u>Comment:</u> This recommendation does not appear to have been taken up.</p> <p><b><i>18. North facing windows should have appropriate sun control devices.</i></b></p> <p><u>Comment:</u> Vertical batten screens are provided to various north-facing windows at the tower levels. However, no screens are proposed at the podium levels.</p> <p><b><i>19. Design upper level north façade screening according to functional needs</i></b></p> <p><u>Comment:</u> No details are provided as to the operability of the tower level batten screens and it is assumed that they are fixed.</p> <p><b><u>Sustainability</u></b></p> <p><b><i>20. Provide EV charging connections</i></b></p> <p><u>Comment:</u> The proposal does not include any EV chargers or appear to indicate provisions for future installation, contrary to the requirements of G1(7) of the WDCP.</p> <p><b><i>21. Remove gas and replace with electrified services – induction cooktops and heat pump hot water systems</i></b></p> <p><u>Comment:</u> An amended BASIX Certificate has not been submitted with the amended proposal and it is assumed that this recommendation has not been taken up.</p> <p><b><i>22. Improve the northern sunlight access</i></b></p> <p><u>Comment:</u> The amended proposal results in an overall improvement in solar access relative to the previous design, but still fails to achieve the level required by the ADG.</p>

Internal Referral Body	Comments
	<p>The above recommendations made by the DSAP in relation to sustainability exceed the requirements of SEPP Sustainable Buildings, which apply to the development. It is noted that Clause 1.5 of the SEPP makes clear that the requirements of the SEPP prevail in the event of an inconsistency. The proposal complies with the applicable SEPP Sustainable Buildings requirements and the incorporation of recommendations 20-22 is at the applicant's discretion.</p> <p><b><u>Conclusion</u></b></p> <p>The comments and recommendations provided by the DSAP were based on the original design of the proposal at the time of lodgement of the DA, which has since been amended in response to respond to the Panel recommendations and additional matters raised by Council. Despite the various improvements made in the amended proposal, the development's overall level of non-compliance with the applicable built form and amenity controls along with the impacts to the surrounding properties and public domain are unacceptable. The extent of these issues is such that the proposal is not found to exhibit design excellence or achieve an outcome commensurate with those envisaged by the WLEP, WDCP, SEPP Housing or the ADG.</p>
Environmental Health (Contaminated Lands)	<p><b><i>Supported - Subject to Conditions</i></b></p> <p><b>General Comments</b></p> <p>This application is seeking consent for a shop top housing development at 21 Oaks Avenue, Dee Why. The development includes the demolition of the existing structures and the construction of a shop top housing development of 22 apartments, 2 office suites above a ground floor retail tenancy and parking for 28 vehicles over 3 levels.</p> <p>There will be two levels of basement parking.</p> <p>A Preliminary Site Investigation was undertaken by eiaustralia dated 24 January 2024, reference number E26229.E01_Rev2. The report states the following:</p> <p><i>It was concluded that there is a potential for contamination to exist on the site and the associated risks to human and environmental receptors is considered to be low to moderate. I consider that the site can be made suitable for the proposed use, subject to recommendations.</i></p> <p>Environmental Health recommends approval subject to conditions.</p>
Environmental Health (Industrial)	<p><b><i>Supported - subject to recommended conditions</i></b></p> <p><b>General Comments</b></p> <p>This application is seeking consent for a shop top housing</p>

Internal Referral Body	Comments
	<p>development at 21 Oaks Avenue, Dee Why. The development includes the demolition of the existing structures and the construction of a shop top housing development of 22 apartments, 2 office suites above a ground floor retail tenancy and parking for 28 vehicles over 3 levels.</p> <p>There will be two levels of basement parking,</p> <p>Residential units are located directly behind 21 Oaks Avenue.</p> <p>The background noise level of the area would general be busy with many commercial/retail businesses mixed within residential properties. The proposed development within this area would not be out of context.</p> <p>An acoustic assessment was prepared by Acoustic Dynamics dated 21 December 2023. The acoustic report determines noise emission from the development, once operational, are predicted to comply with the relevant noise emission criteria.</p> <p>A Construction Noise and Vibration Management Plan has also been provided by Acoustic dynamics dated 21 December 2023.</p> <p>Environmental Health recommends approval subject to conditions.</p>
Landscape Officer	<p><b><i>Supported - Subject to Conditions</i></b></p> <p>The development application is assessed by Council's Landscape Referral against the following relevant landscape controls and policies:</p> <ul style="list-style-type: none"> <li>• Chapter 4 of State Environmental Planning Policy (Housing) 2021, including: (a) Clause 147(1)(a) requires the proposal to be assessed against the nine design quality principles contained in the Apartment Design Guide (ADG) and specifically for Landscape Referral, Principle 5 - Landscape; and (b) Clause 147(1)(b) requires the consent authority to take into consideration the Apartment Design Guide - 3E Deep soil zones, 4O Landscape design, and 4P Planting on structures.</li> <li>• Warringah Development Control Plan (WDGP), Part G1 Dee Why Town Centre, part 11 Landscaping.</li> </ul> <p>Updated comments 04/12/2024: Landscape Referral note the amended plans including the Landscape Plans. Deep soil zone comments remain for assessment by the Assessing Planning Officer. On structure planting on Level 3 is indicated however no dimensions are documented and to satisfy ADG on structure soil depth requirements a condition for 800mm shall be imposed to the common open space area. The concern remains regarding the selection of tall trees either side of the drainage channel, and particularly the selected Casuarina glauca</p>

Internal Referral Body	Comments
	<p>which have aggressive root systems able to interfere with the drainage channel structure and the building structure, and conditions shall be imposed for deletion of this species and replacement with a smaller native tree.</p> <p>Subject to conditions, Landscape Referral are able to support the landscape setting outcomes.</p> <p>Previous comments 18/07/2024: Landscape Plans are submitted with the development application in accordance with Council's DA Lodgement requirements.</p> <p>Under ADG, 3E Deep soil zones, a minimum of 7% deep soil is required with a minimum dimension of 3 metres, whilst WDCP part 11 requires a minimum 20% of the site area to be provided as landscaped area, which may be located on balconies, ground, podium and roof top levels or green walls of buildings. The proposed development documents indicate 7.96% deep soil area at the rear of the property, and 21.23% landscaped area at the rear, in the central courtyard, level 2 podium and level 4 planters. It is unknown if the existing concrete channel at the rear is calculated as part of the deep soil area. Regardless the 3 metre minimum requirement under ADG is not achieved and this matter shall be determined by the Assessing Planning Officer.</p> <p>On structure planting to level 2 and level 4 shall conform to the minimum soil depth requirements of ADG, 4P Planting on structures. Landscape Referral raise no concerns with the proposal for on structure landscape treatment including the common open space setting.</p> <p>Concern is raised that the proposed extensive planting of trees at the rear of the property, specifically the nominated <i>Casuarina glauca</i> along the rear boundary, will form a solid vegetation buffer that will cast dense shadow onto adjoining residential properties, in consideration that the species are located close apart and are able to reach 20 metres in good conditions. In review of the proposed building shadows tree species along the rear should reach no more than 15 metres in height and be planted to not cast dense shadows onto adjoining residential properties</p>
NECC (Development Engineering)	<p><b><i>Not Supported</i></b></p> <p><b>9/12/2024</b></p> <p><b><u>Development Engineering 2nd Referral Comments.</u></b></p> <p><b>Stormwater</b></p>



Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>The stormwater issue raised by Council's Development Engineer first referral hasn't been addressed. On the amended plans, the proposed vehicular crossover still conflicts to Council's existing stormwater lintel pit. Detailed design of relocation of Council's stormwater lintel pit shall be provided on the stormwater plans or the site access design shall be amended.</li> </ul> <p><b>Site Access and Parking</b></p> <ul style="list-style-type: none"> <li>In the updated Ausgrid referral letter, it still does not grant consent for the proposed alterations to the existing electric car charging station.</li> <li>Provision of low planter boxes from the proposed building to the front site boundary or to the edge of the seating area next door in front of 19 Oaks Avenue Dee Why, whichever is shorter, hasn't been considered and investigated.</li> </ul> <p><b>16/07/2024</b></p> <p><b><u>Development Engineering 1st Referral Comments.</u></b></p> <p><b><u>Council's Development Engineer does not support this proposal due to the proposed stormwater and site access &amp; parking design.</u></b></p> <p><b>Stormwater</b></p> <p>An OSD system is not provided as the site is affected by flood issues. Stormwater from the proposed development is to be directed to an existing Council's kerb inlet pit in the street. The existing kerb inlet pit grate and invert levels have been verified on the survey plan.</p> <p>Gravity discharge has been provided from the tank to the boundary pit, then to the existing kerb inlet pit.</p> <p>It is likely that the basement shall be fully tanked due to the groundwater table. Stormwater from no driveway area is directed to the basement pump-out system. The details of the pump-out system shall be in accordance with AS/NZS 3500.3:2015.</p> <p><b><u>Council's Development Engineer cannot support the proposed stormwater design due to the follows.</u></b></p> <ul style="list-style-type: none"> <li>The proposed vehicular crossover conflicts to Council's existing stormwater lintel pit. Detailed design of relocation of Council's stormwater lintel pit shall be provided on the</li> </ul>

Internal Referral Body	Comments
	<p>stormwater plans or the site access design shall be amended.</p> <p><b>Stormwater Assets</b></p> <p>Council's stormwater assets at the rear have been located on the survey plan with relevant easement, which is generally satisfactory.</p> <p><b>Flooding</b></p> <p>Council's flooding team provided comments not supporting the current proposal. Details please refer to Council's flooding team's comments.</p> <p><b>Geotechnical Investigation</b></p> <p>A geotechnical report has been prepared by eiaustralia, dated 6 May 2024. The groundwater table has not been determined due to the site constraints.</p> <p>Following the demolition of the existing building, detailed geotechnical and environmental assessments should be carried out to assess the localised groundwater level and quality.</p> <p>Based on the limited in-house information available for the area, the depth to groundwater is inferred to be between 4 to 6m BEGL, which is above the excavation level. There is likelihood that the basement will intersect the groundwater table. Should the basement level 02 encounters the groundwater table, the basement must be fully tanked. The basement will be conditioned to be fully tanked as the basement is likely to be above the groundwater level. If after further geotechnical investigation, it is not the case, then a Mod can be lodged to amend the conditions.</p> <p>WaterNSW has provided approval documents dated 16 July 2024.</p> <p><b>Site Access and Parking</b></p> <p>Two levels of basement parking are proposed. The plans depict generally compliant driveway gradients, which is satisfactory. The maximum driveway gradient is 23% with maximum 12.5% transition gradients for a minimum 2m. A maximum 5% gradient has been provided for the first 6m into the property.</p> <p><b><u>Council's Development Engineer cannot support the proposed site access and parking design due to the follows.</u></b></p> <ul style="list-style-type: none"> <li>The proposed vehicular crossover conflicts to an existing electric car charging station. Ausgrid does not support this proposal due to its alterations to the electric car charging</li> </ul>

Internal Referral Body	Comments
	<p>station with details extracted from the Ausgrid referral letter <i>'Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24-hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid. For further details refer to Ausgrid's Network Standard 143.'</i></p> <ul style="list-style-type: none"> <li>Low planter boxes along both sides of the driveway are recommended to be provided for pedestrian safety consideration subject to Council's landscape officer's approval. The extent of the low planter boxes shall be from the proposed building to the front site boundary or to the edge of the seating area next door in front of 19 Oaks Avenue Dee Why, whichever is shorter. Satisfactory sight distances shall be provided in the traffic and parking report.</li> </ul> <p><b><u>Note to Planner: A right of carriageway may be required to be created burdening the subject site prior to the issue of the Occupation Certificate, which can be conditioned.</u></b></p> <p><b><u>Note to Planner: When the traffic engineer's referral letter will be completed, please inform Development Engineer to determine whether any update on the referral comments is necessary.</u></b></p>
NECC (Flooding)	<p><b><i>Not Supported</i></b></p> <p>The proposal seeks consent for the demolition of existing site structures and the construction of a six-storey shop top housing development with a two level basement garage.</p> <p>The site is impacted by the High and Medium Flood Risk Precincts, 1% AEP flood extent, PMF flood extent, H1- H5 PMF flood hazard extent and a floodway which flows through a council drainage channel (easement) which runs adjacent to the southern boundary. The flood planning level relevant to the the northern entry points of the site varies from 17.88m AHD at the north western corner to 17.70m AHD at the northeastern corner. The flood planning level relevant to the southern entry points of the new development is 18.62m AHD.</p> <p>The proposed ground floor retail floor level is below the required FPL, extends more than 5m from the front of the building, is greater than 30m<sup>2</sup> and has no direct internal access to areas above the FPL. This is not supported and does not demonstrate compliance with condition C7 (b - d) from Section E11 of the Warringah DCP 2011.</p> <p>Council is not satisfied that the proposal is compliant with Section E11 - Flood Prone Land from the Warringah DCP 2011 and Clause 5.21 of the Warringah LEP 2011</p>

Internal Referral Body	Comments
NECC (Riparian Lands and Creeks)	<p><b>Updated referral</b> Amended plans have been reviewed. No additional comments or conditions required.</p> <p><b>Previous referral dated 14/06/2024</b> This application was assessed in consideration of:  <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Northern Beaches Water Management for Development Policy; and</li> <li>• Relevant LEP and DCP clauses.</li> </ul> The proposal is for demolition and construction of shop top housing. The site is within the Dee Why Town Centre, part of the catchment for Dee Why Lagoon.  There are no watercourses within or abutting the site, but stormwater from the proposal will drain to Dee Why Lagoon. Dee Why Lagoon is a declared a Wildlife Refuge that contains several threatened ecological communities listed under the NSW Biodiversity Conservation Act 2016. It is important that stormwater runoff from the site is appropriately managed both during construction and for the life of the development to avoid harm to the lagoon.  Details of water management will be addressed in the Water Management referral. On review, no objections regarding riparian lands and creeks provided conditions are adhered to.</p>
NECC (Water Management)	<p><b>Supported - Subject to Conditions</b></p> <p><b>Updated referral</b> Amended material has been provided. No objections regarding water quality management. Please take particular note of the WaterNSW General Terms of Approval (GTA) Condition GT0120-00001 that essentially requires tanking of below-ground levels that may be impacted by the water table for the life of the building.</p> <p><b>Previous referral dated 26/07/2024</b> Supported This application was assessed in consideration of:  <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Northern Beaches Water Management for Development Policy (WMD Policy); and</li> <li>• Relevant LEP and DCP clauses</li> </ul> The proposal is for demolition and construction of a Shop Top Housing.  Dewatering  Excavation for the proposal is expected to encounter groundwater. Further, excavation for the proposal is expected to intercept the groundwater table. As such, referral had to be made to WaterNSW and this made the development Integrated Development. WaterNSW issued General Terms of Approval (GTA), dated 16 July 2024, in response to the referral. The GTA issued by WaterNSW do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to WaterNSW for a Water Supply Work approval after consent has been issued by Council and</p>

Internal Referral Body	Comments
	<p>before the commencement of any work or activity.</p> <p>Temporary construction dewatering is subject to approval from Council and WaterNSW. The Council dewatering permit application must be made prior to construction and must include a Dewatering Management Plan and any supporting documentation. The Council permit will indicate the required water quality, point of discharge and maximum flow rate.</p> <p>Sediment and erosion control</p> <p>Sediment must be managed appropriately during construction. The importance of successful management at this location is heightened by the sensitivity of the downstream environment, Dee Why Wildlife Refuge.</p> <p>Water Management</p> <p>On review of the water management strategy proposed, no objections regarding water management.</p>
Traffic Engineer	<p><b><i>Not Supported</i></b></p> <p><b>Referral Comments 3/1/25</b></p> <p>This development application involves the demolition of the existing structures to facilitate the construction of a shop-top housing development, comprising 1 retail tenancy, 2 commercial office and 22 residential apartments (10 x 1-bedroom units, 10 x 2-bedroom units and 2 x 3-bedroom unit) across seven building levels.</p> <p>An amended Traffic and Parking Assessment (TPA) has been prepared by Terraflow Pty Ltd (dated 20th November 2024), with respect to access, parking, and traffic generation impacting the road network. There are minor changes to the new proposal with respect to traffic and parking. Access to the site is unchanged and the traffic generation for the amended proposal remains the same. The development retains the same three adaptable units, however the number of Silver Level Liveable (SLL) dwellings has reduced from five to two.</p> <p>Council raised a number of concerns regarding the previous proposals design, car park layout and allocation of spaces. It appears that the Applicant has not read the referral comments or chosen to ignore any of the suggestions as the new proposal provides essentially the same number of parking spaces and car park layout. The TPA also does not address any of the issues raised providing only minor updates to the calculations due to the new mix of apartments and retail/commercial areas. Furthermore, the swept path analysis included in the TPA is based on the old Architectural Plans, Revision A; and not the latest amended plans Revision B.</p> <p><b>Parking</b></p>



Internal Referral Body	Comments
	<p>The TPA states that the development will be served by a 3-level basement carpark containing a total of 28 off-street car parking spaces, comprising 18 resident spaces, 4 visitor spaces, 2 retail tenant spaces and 4 commercial tenant spaces. A total of 29 bicycle parking spaces is proposed, comprising 21 spaces within the residents storage rooms, 6 bicycle racks on Basement 2, and 2 on the Ground Level. There is a shortfall of one commercial parking space however the overall number of parking spaces provided is considered acceptable due to the site constraints.</p> <p>The Architectural Plans show that Units 9 and 13 are Silver Level Liveable (SLL) dwellings, and Units 4, 7 and 8 are Adaptable dwellings. The Basements 02 + 01 plan, Drawing No.A 03, Revision B; shows that four spaces (Resident 1, Resident 2, Resident 12 and Resident 13) marked for SLL. It appears that the number of spaces provided were based on the previous proposal as the amended development only provides three SLL dwellings. SLL parking spaces must be at least 3.2m wide. The Resident 2 space would not be suitable for SLL due to the adjacent access ramp.</p> <p>Council previously indicated that residents with parking spaces allocated on the southern end of Basement Level 1 did not have safe and convenient access to the lift on the same floor level, as the current location of the parking space and plant/pump room prevents a central connected path. It was suggested that the area containing the stairway and plant/pump room be reconfigured with the hatched area provided between the existing parking spaces to provide access to the lift. The amended plans does not show any changes to the Basement Level 1 layout. It is unacceptable that residents assigned a designated SLL space be required to walk up along the ramp to connect to the other side of the lift as there is no safe pedestrian path. It would also be unreasonable that a SLL resident use the stairway as the only safe access from Basement Level 1 to the Ground Floor to access the lift. In this instance it is preferable that all the SLL and adaptable parking spaces be located on Basement Level 2, where safer access can be provided for parking spaces from both sides due to the central connecting path to the lift. The Resident 18 space can be reallocated as the required third SLL parking space, as the 1m blind aisle extension provides the minimum 3.2m width. The Resident 14 space has an overall width of 3.6m between the column and the eastern wall. In order to provide the necessary third adaptable parking space, the column will need to be relocated 0.2m westwards to provide the required minimum 3.8m width. The hatched area between Resident 12 and 13 spaces will need to be reduced to 1.33m wide to accommodate the changes. Both Resident 12 and 13 spaces could still be acceptable width for the SLL requirements.</p> <p>With respect to the above issues and previous concerns raised, the following revisions should be undertaken to the allocation and parking facilities:</p>

Internal Referral Body	Comments
	<p><b>GROUND</b></p> <ul style="list-style-type: none"> <li>• RETAIL 2 changed to VISITOR</li> <li>• COMM. 1 changed to VISITOR</li> <li>• COMM. 2 changed to VISITOR</li> <li>• COMM. 3 changed to VISITOR/DELIVERIES</li> <li>• Two electric vehicle charging points to be provided within the Visitor parking spaces.</li> <li>• Installation of traffic signal system at the access driveway entry to allow safe movement and passing of vehicles between the Ground Level and Basement Levels.</li> <li>• The roller door and Exit door shown on the Ground Floor Plan is situated too close to the marked Waiting Bay and should be relocated further south into the building to facilitate better entry access for vehicles using the Waiting Bay.</li> <li>• Parking on the Ground Floor level should be rear to wall so that Visitors exiting the spaces can sight other vehicles entering/exiting the car park.</li> </ul> <p><b>BASEMENT 01</b></p> <ul style="list-style-type: none"> <li>• VISITOR 4 changed to RETAIL 2</li> <li>• VISITOR 3 changed to COMM. 1</li> <li>• VISITOR 2 changed to COMM. 2</li> <li>• VISITOR 1 changed to COMM. 3</li> <li>• PASSING BAY changed to COMM. 4</li> <li>• PASSING BAY changed to COMM. 4</li> <li>• Installation of roller door or boom gate to separate resident parking</li> <li>• COMM. 4 changed to PASSING BAY</li> <li>• RESIDENT 1 (SILVER) changed to RESIDENT 1</li> <li>• RESIDENT 2 (SILVER) changed to RESIDENT 2</li> </ul> <p><b>BASEMENT 02</b></p> <ul style="list-style-type: none"> <li>• RESIDENT 18 changed to RESIDENT 7</li> <li>• RESIDENT 17 changed to RESIDENT 8</li> <li>• RESIDENT 16 changed to RESIDENT 9 (ADAPTABLE)</li> <li>• RESIDENT 15 changed to RESIDENT 10 (ADAPTABLE)</li> <li>• RESIDENT 7 changed to RESIDENT 11</li> <li>• RESIDENT 8 changed to RESIDENT 12</li> <li>• RESIDENT 9 changed to RESIDENT 13</li> <li>• RESIDENT 10 changed to RESIDENT 14</li> <li>• RESIDENT 11 changed to RESIDENT 15</li> <li>• RESIDENT 12 (SILVER) changed to RESIDENT 16 (SILVER).</li> <li>• RESIDENT 13 (SILVER) changed to RESIDENT 17 (SILVER).</li> <li>• RESIDENT 14 (SILVER) changed to RESIDENT 18 (ADAPTABLE). Provide a 3.8m wide adaptable space by reducing hatched area between parking spaces to 1.33m, and relocating column and parking westwards.</li> </ul>

Internal Referral Body	Comments
	<p>All parking spaces suitable for Adaptable dwellings and SLL must be designated to the corresponding dwelling type. The Adaptable Parking spaces must be allocated to the Adaptable Units 4, 7 and 8. Similarly, the SLL parking spaces must be allocated to the SLL Units 9 and 13.</p> <p>A Carpark Management Plan (CMP) would be required to detail the access requirements which would need to be communicated to all residents as well as both retail and commercial tenants.</p> <p>The Applicant has not demonstrated how the demolition and construction works for the development can be undertaken wholly within the site without adversely impacting the road network. A Construction Traffic Management Plan is required to provide details indicating how the development will be constructed.</p> <p>The proposal is not acceptable in its current form and could only be supported subject to the above changes and provision of the additional information.</p> <p>.</p> <p><b>Referral Comments 1/8/24</b></p> <p>This development application involves the demolition of the existing structures to facilitate the construction of a shop-top housing development, comprising 1 retail tenancy, 2 office suites and 22 apartments (2 x studios, 5 x 1-bedroom units, 14 x 2-bedroom units and 1 x 3-bedroom unit) across seven building levels.</p> <p>A Traffic and Parking Assessment (TPA) has been prepared by Terrafic Pty Ltd (dated 12th March 2024), with respect to access, parking, and traffic generation impacting the road network. There are a few numerical discrepancies between the TPA, Statement of Environmental (SoEE) and Architectural Plans. The Transport Network section has reviewed and provided comments on the TPA, with any calculations based on the actual details shown on the Architectural Plans (Revision A) when there are inconsistencies, excluding the Carparking Calculation table shown on Drawing No.A04 Revision A, which carries over the numerical errors and calculations from the TPA.</p> <p><b>Traffic Generation</b></p> <p>The future traffic generation has been assessed in accordance with Roads and Maritime Services (RMS) 'Guide to Traffic Generating Developments 2002'. The TPA states that the proposed development generates 12 vehicle trips during the weekday peak</p>

Internal Referral Body	Comments
	<p>hours. The existing retail/commercial site generates 29 vehicle trips during the weekday peak hours. The proposed development would generate 17 vehicles less compared to the existing site, and it is considered to not have any unacceptable traffic implications.</p> <p><b>Access</b></p> <p>Vehicular access to the proposed development is provided via a 5.5m wide two-way driveway located off Oaks Avenue adjacent to the western site boundary. A Waiting Bay is provided at the entrance of the access driveway (within 8m of the property boundary), with a corresponding Waiting Area located in the basement at the bottom of the ramp. The accessway narrows to a single lane into the site with the basement levels accessed by single lane ramps (minimum 3.6m with 2 x 300mm wide kerbs).</p> <p>Designated passing bays have been provided on the Ground Level and Basement Level 1 to enable vehicles to pass within the car park, with convex mirrors installed to facilitate sight lines to oncoming vehicles. The TPA states that passing bays are not required on the lower levels as these will be reserved for resident parking only, however a traffic signal arrangement could be provided in the resident carpark if deemed necessary by Council. Transport Network would require the addition of a traffic signal system to allow safe movement and passing of vehicles between the Basement Level 1 and Basement Level 2 due to the site constraints.</p> <p>The swept path analysis demonstrates that there is insufficient space within the parking aisles for vehicles to pass, and the provision of passing bays is required to allow vehicles to enter and exit the car park. The vehicle turning paths provided appear to prioritise vehicles entering the car park and requires the exiting vehicle to pull into the passing bay to allow the entering vehicle to pass. A Carpark Management Plan (CMP) would be required to detail the access requirements which would need to be communicated to all residents as well as both retail and commercial tenants. Visitors are unlikely to be familiar with the required protocol and therefore the 4 visitor spaces should be located for convenient access at the bottom of the access ramp (currently allocated to 1 retail space and 3 commercial spaces).</p> <p>Part G1 of the WDCP encourages site amalgamation for the Dee Why Town Centre to enable integrated carparking and service provision using shared driveways. New developments should also provide for service deliveries. The Statement of Environmental Effects mentions that attempts to acquire and consolidate with the adjoining properties at No's 17-19 and 23 Oaks Avenue have been formally rejected. The development has however shown on plan A24(A), provisions for a shared driveway and basement access arrangement to facilitate access to the basement level of any future</p>

Internal Referral Body	Comments
	<p>development on these adjoining properties. The TPA states that delivery vehicles will temporarily park on-street in the vicinity of the site, as per the current arrangement. The provision of an on-site delivery bay for use of light vans and utes would better serve the requirements for the development, however in this instance where the site constraints does not allow for a designated loading/delivery bay to be provided, a suitable multi-purpose visitor/delivery space would be considered. The parking space (currently marked 'COMM. 3') adjacent to the passing bay on the Ground Floor plan, could be reassigned 'Visitor/Deliveries'.</p> <p>The Architectural Plans shows a roller door located at entrance of the access driveway, however all visitor, retail, and commercial spaces must be publicly accessible. The WDCP also requires that security arrangements must be in place to ensure residential car parking areas cannot be accessed by the public, and therefore additional provisions would be required within the basement car park.</p> <p>The WDCP provides design requirements for the Streetscape and Public Domain for developments in the Dee Why Town Centre, with considerations for retail activation and pedestrian connections. The development is setback in excess of 8m from Oaks Avenue, and there are concerns regarding pedestrian and vehicle conflict due to the provision of the new driveway access to the site. The TPA proposes to install a 2.5m long fence on the footpath to satisfy the intent of the pedestrian sight line requirements in the Australian Standard AS/NZS2890.1:2004. The Development Engineering team has however recommended the use of low planter boxes along both sides of the driveway (between the building and the property boundary) to improve pedestrian safety. These measures would be supported by Transport Network, to provide a clearer separation between the driveway and adjacent areas which could be used for future outdoor dining, however any proposed landscaping must not exceed a height of 1m and is subject to approval from Council's landscape officer.</p> <p><b>Parking</b></p> <p>The development site is located in the Dee Why Town Centre, which has special area controls to provide adequate on-site parking for a mix of development and vehicle types, and to encourage the use of sustainable transport. The Warringah Development Control Plan (WDCP) 2011 specifies parking rates for residents, visitor, retail and commercial parking, as well as bicycle parking. The TPA states that the development will be served by a 3-level basement carpark containing a total of 28 off-street car parking spaces, comprising 18 resident spaces, 4 visitor spaces, 2 retail tenant spaces and 4 commercial tenant spaces. Resident bicycle parking is proposed within the individual resident storage rooms and an additional 9 bicycle racks are to be provided across the basement levels.</p>



Internal Referral Body	Comments
	<p>The number of required parking spaces have been provided in accordance with the WDCP, however the dimensions of some spaces do not meet the relevant guidelines. The Architectural Plans show that Units 4, 18 and 19 are Silver Level Liveable (SLL) dwellings, and Units 2, 16 and 20 are Adaptable dwellings. The width requirements for SLL spaces are 3.2m and Adaptable spaces 3.8m. There are some design issues with the proposed car park layout and allocation of spaces. The parking spaces should be reallocated to provide for the necessary dimensional requirements and to facilitate better access for users. A total of 18 resident spaces are proposed for the 22 units, with all 1-bedroom units proposed as SLL or Adaptable dwellings. To ensure the necessary space requirements are provided for the SLL and Adaptable spaces, 2 studios (Unit 01 and 03) and 2 of the 2-bedroom units (Unit 06 and 07) will not have assigned parking spaces. The residents with parking spaces allocated on Basement Level 1 do not have convenient access to the lift on the same floor level, as the current location of the parking space and plant/pump room prevents a central connected path. These residents must use the stairway from Basement Level 1 to the Ground Floor to access the lift, as there is no safe pedestrian path along the ramps connecting the two levels. If possible the area containing the stairway and plant/pump room should be reconfigured with the hatched area provided between the existing parking spaces to provide access to the lift.</p> <p>With respect to the above issues, the following revisions should be undertaken to the allocation and parking facilities:</p> <p><b>GROUND</b></p> <ul style="list-style-type: none"> <li>· RETAIL 3 changed to VISITOR</li> <li>· COMM. 1 changed to VISITOR</li> <li>· COMM. 2 changed to VISITOR</li> <li>· COMM. 3 changed to VISITOR/DELIVERIES</li> </ul> <p><b>BASEMENT 01</b></p> <ul style="list-style-type: none"> <li>· VISITOR 4 changed to RETAIL 2</li> <li>· VISITOR 3 changed to COMM. 1</li> <li>· VISITOR 2 changed to COMM. 2</li> <li>· VISITOR 1 changed to COMM. 3</li> <li>· PASSING BAY changed to COMM. 4</li> <li>· RESIDENT 1 (SILVER) changed to UNIT 02 (ADAPTABLE)</li> </ul>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>· RESIDENT 2 (SILVER) changed to UNIT 05</li> <li>· COMM. 4 changed to PASSING BAY</li> <li>· RESIDENT 3 changed to UNIT 08</li> <li>· RESIDENT 4 changed to UNIT 09</li> <li>· RESIDENT 5 changed to UNIT 10</li> <li>· RESIDENT 6 changed to UNIT 11</li> <li>· Installation of roller door or similar security arrangement at the bottom of ramp to separate resident parking</li> <li>· Installation of Waiting Area located in the resident parking aisle at the bottom of the ramp</li> </ul> <p>BASEMENT 02</p> <ul style="list-style-type: none"> <li>· RESIDENT 18 changed to UNIT 12</li> <li>· RESIDENT 17 changed to UNIT 13</li> <li>· RESIDENT 16 changed to UNIT 16 (ADAPTABLE)</li> <li>· RESIDENT 15 changed to UNIT 20 (ADAPTABLE)</li> <li>· RESIDENT 12 (SILVER) changed to UNIT 18 (SILVER)</li> <li>· RESIDENT 13 (SILVER) changed to UNIT 19 (SILVER)</li> <li>· RESIDENT 14 (SILVER) changed to UNIT 04 (SILVER)</li> <li>· RESIDENT 7 changed to UNIT 14</li> <li>· RESIDENT 8 changed to UNIT 15</li> <li>· RESIDENT 9 changed to UNIT 17</li> <li>· RESIDENT 10 changed to UNIT 21</li> <li>· RESIDENT 11 changed to UNIT 22</li> <li>· Installation of traffic signal system to allow safe movement and passing of vehicles between the Basement Level 1 and Basement Level 2</li> </ul> <p>The WDCP also requires that new mixed-use developments should be designed with a minimum of 2 electric vehicle charging points.</p> <p>The proposal is not acceptable due to concerns regarding the provisions for access and parking. Amended plans are required to</p>

Internal Referral Body	Comments
	<p>address the above issues including any additional swept path plans to demonstrate access within the car park. A Construction Traffic Management Plan has not been provided and there are no details indicating how the development will be constructed. The site is located within a designated High Pedestrian Activity Area in the Dee Why Town Centre with associated traffic volumes. All construction vehicles must enter and exit the site in a forward direction. The Applicant must demonstrate how the demolition and construction works for the development can be undertaken wholly within the site without adversely impacting the road network. The proposal is not acceptable in its current form and it is requested that the additional information be provided prior to further review.</p>
Waste Officer	<p><b><i>Not Supported</i></b></p> <p>Waste Management Assessment Unsupported - the proposal is unacceptable</p> <p>The issues raised by the assessing officer on 22/5/2024 have not been addressed to date 9/12/2024 and there is no change in the amended plans showing any consideration of waste issues.</p> <p><u>Residential Bin Room</u> The size of the residential bin room is insufficient to contain the required number of bins. This room will need to be enlarged to contain 19 x 240 litre bins. The location of the residential bin room complies with Council requirements</p> <p><u>Residential Bulky Goods Room</u> There is no bulky goods room shown on the plans. A room with a capacity of 10 cu metres/ floor area of 5 sq metres is to be provided. The room must be square or rectangular in shape. Access to the room must be via a 1200mm wide door that opens outwards.</p> <p><u>Commercial Bin Room</u> The commercial bin room contains 4 x 240 litre bins. This is insufficient for the number of, and proposed use, of these units.  The ground floor commercial unit (retail RET 01) appears as a 28 seat café/eat in dining establishment on the proposal.</p>

Internal Referral Body	Comments
	<p>It is suggested that the entire ground floor commercial bin room (4 bins) be allocated to this commercial unit (retail RET 01).</p> <p>The other two commercial units would be required to store 2 x 240 litre bins each. The bins could be located within a designated area within each unit or stored in a separate room on the same level of the building as the unit.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p><b>Not Supported</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.</p> <p><u>Planning Comments</u></p> <p>An existing electrical substation is located in the position of the proposed driveway crossing. Further to the response received from Ausgrid, Council is advised that Ausgrid has made to the applicant an "Offer to Provide Design Related Services", which would require that the applicant, among other requirements, provide for the decommissioning and relocation the existing electrical substation and associated Jolt EV charging facility.</p> <p>Council's RFI letter raised this matter and advised that the relocation of the substation must be resolved as part of the amended proposal. The amended plans and supporting documentation do not include any details regarding the proposed new location of the substation. In the absence of such details, Council is unable to assess the appropriateness of a new substation location with regard to pedestrian movements along the Oaks Avenue footpath, vehicular access and sight lines, maintenance of the existing EV charging facility or public domain impacts.</p> <p>This matter has not been satisfactorily resolved and is included as a reason for refusal.</p>
Nominated Integrated Development - WaterNSW - Water Management Act 2000, s90(2) - Water management works approval to construct and use a specified water supply/drainage/flood work at a specified location	<p><b>Supported with conditions.</b></p> <p>The proposal was referred to WaterNSW under Section 90(2) of the Water Management Act 2000. WaterNSW raised no objections to the development, and provides General Terms of Approval (ref:IDAS1155300 dated 16 July 2024) as endorsed by the recommendation of this report.</p>

## 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)**

#### **Housing and Productivity Contribution**

*Part 2 Development for which contribution is require and determination of contribution, Division 2 Housing and productivity contribution amounts, Clause 7 Base component.*

This Clause details the base component amounts that apply to the calculation of the housing and productivity contribution, as set out in the following table:

Region	HPC class of development	Amount	HPC unit
Greater Sydney	Residential subdivision	\$12,000	new dwelling lot
	Residential strata subdivision	\$10,000	new strata dwelling lot
	Non-strata multi-dwelling development	\$10,000	new non-strata dwelling
	Commercial development	\$30	square metre of new GFA
	Industrial development	\$15	square metre of new GFA

#### Comment:

The proposal is for a new shop top housing development and is sited within the Greater Sydney region. As such, the applicable contribution is \$216,573.03. Payment of the contribution would be required as a condition of consent were the application recommended for approval.

#### **SEPP (Sustainable Buildings) 2022**

A BASIX certificate has been submitted with the application (see Certificate No. 1739157M dated 8 March 2024).

It is noted that the BASIX Certificate has not been revised to reflect the amended proposal.

This matter could be resolved and a condition imposed requiring compliance with the commitments indicated in the BASIX Certificate were the application recommended for approval.

#### **SEPP (Housing) 2021**



## Application of Chapter

Clause 144 of State Environmental Planning Policy (Housing) 2021 (SEPP Housing) stipulates that:

(1) This chapter applies to development only if:

(a) the development consists of:

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

(b) the building concerned is at least 3 or more storeys, not including underground car parking storeys, and

(c) the building contains at least 4 dwellings.

As previously outlined the proposed development is for the erection of a 7 storey residential apartment development comprising 22 self-contained dwellings. As per the provisions of Clause 144 outlining the application of the policy, the provisions of Chapter 4 SEPP Housing are applicable to the assessment of this application.

As previously outlined within this report Clause 29 of the Environmental Planning and Assessment Regulation 2021 requires the submission of a Design Verification Statement from the qualified designer at lodgement of the development application. This documentation has been submitted with the development application.

## Referral to design review panel for development applications

Clause 145 of SEPP Housing requires:

*(2) Before determining the development application, the consent authority must refer the application to the design review panel for the local government area in which the development will be carried out for advice on the quality of the design of the development).*

Comment: Northern Beaches Council has an appointed Design and Sustainability Advisory Panel (DSAP). Refer to the DSAP referral comments section within this report.

## Determination of development applications and modification applications for residential apartment development

Clause 147 of SEPP Housing requires that:

*(1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—*

- (a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*
- (b) the Apartment Design Guide,*
- (c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.*

Comment: The below part of the report makes an assessment against the design quality principles

contained within Schedule 9 (a) and the ADG below (b).

On assessment, the proposal is not found to meet the design quality principles of Schedule 9 for the reasons outlined below. The proposal does not appropriately respond to the design guidelines within the ADG or provide reasonable alternative solutions where strict compliance is not achieved.

The consent authority has considered the advice received from the DSAP and the applicant has amended the proposal in response to the DSAP advice. The DSAP was not supportive of the proposal as lodged and the amendments made to the proposal do not satisfactorily resolve the issues raised in the opinion of Council.

### **Non-discretionary development standards for residential apartment development**

Clause 148 of SEPP Housing contain non-discretionary development standards that, if complied with, prevent the consent authority from requiring more onerous standards for the matters (i.e 'must not refuse' standards).

The following are non-discretionary development standards under sub clause (2):

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

Comment: As noted in the below assessment, the proposal meets the minimum requirements of the ADG in relation to Parts 3J and 4C. The proposal does not fully comply with the minimum internal apartment sizes specified in Part 4D of the ADG as discussed in detail below. Although the application is not recommended for refusal specifically on the ground of the undersized units, the inability to comply with this requirement is symptomatic of the proposal's excessive density relative to the site area/dimensions.

## **DESIGN QUALITY PRINCIPLES - Schedule 9**

### **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 desired future character of the locality is set out by the planning controls contained within the Warringah LEP and DCP. The extensive and fundamental built form and amenity non-compliances

discussed in this report demonstrate that the proposal does not achieve the desired future character.

The proportion of the frontage occupied by the vehicular access and fire egress does not enable appropriate activation of the site frontage as expected and required within the Dee Why Town Centre. The proposed podium form is considered acceptable in the context, however, the non-compliant siting of the northern tower does not achieve the desired character.

The proposal is therefore inconsistent with Principle 1.

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

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

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

### Comment:

The appropriate level of bulk and scale is dictated by what is permissible under the applicable planning controls. The proposal complies with the FSR standard and the height is largely compliant (although the lift overrun exceeds the height standard, which is unable to be varied).

The proposed tower setback does not respond appropriately to the relevant WLEP and WDCP built form controls and therefore, the bulk and scale of the development is not commensurate with the desired character. The front and rear tower building typology contributes to the proposed built form and amenity non-compliances and results in an unacceptable planning outcome.

While the proposal complies with the FSR and height standards (generally), the proposed building bulk, scale and height are not considered to be achievable on a single-width site.

The proposal is therefore inconsistent with Principle 2.

## **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:

As there are no density-specific controls applicable to the site, the density is dictated by what can be accommodated within the prescribed controls. It is acknowledged that the proposal complies with the applicable FSR and height controls (generally). However, the proposal fails to provide:

- compliant internal separation distances between the northern and southern towers;
- communal open space that is of adequate dimensions, amenity and siting;
- resident access that is safe, convenient and of high amenity;
- well-designed vehicular access and car parking;
- compliant water management and waste management facilities;

- a design that responds to the flooding affectation of the site; or
- apartment and private open space dimensions in compliance with the ADG (which are not objected to in isolation, but are symptomatic of the proposal's excessive density).

The proposed density is only able to be achieved through a building typology which relies on significant variations to the WDCP tower setback control and ADG building separation distance requirements. The proposed density is considered to be excessive in relation to the site dimensions and the overall built form, services, facilities and amenity within the development are compromised as a result.

The proposal is therefore inconsistent with Principle 3.

#### **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 application as submitted was accompanied by the required documentation to ensure that the building achieves the relevant sustainability targets in relation to energy, water, and thermal performance. However, the amended proposal was not accompanied by a revised BASIX Certificate. The proposal achieves the solar access, natural ventilation and deep soil targets specified in the ADG.

Due to the lack of a revised BASIX Certificate, the proposal is not strictly consistent with Principle 4. However, this matter could be resolved if the application was to be recommended for approval.

#### **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 proposal provides a compliant deep soil area as required by the ADG adjacent to the rear boundary in addition to on-structure and rooftop planting. The proposed landscape design is acceptable in the context of the MU1 Mixed Use zone.

The proposal is therefore consistent with Principle 5.

## **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 proposal complies with the solar access and ventilation requirements. However, amenity concerns are raised in relation to the excessive depth of various apartments, the location of the proposed communal terrace and resident access and circulation.

As discussed in relation to Principle 3 above, the proposal's excessive density is considered to result in poor amenity outcomes for residents.

The proposal is therefore inconsistent with Principle 6.

## **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 proposal does not have adequate regard for the provisions of CPTED; the interface between the development and the public domain is not optimised and safe and secure access is not provided for residents.

The proposal is therefore inconsistent with Principle 7.

## **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:

Although the proposal does not include a minimum 20% 3 bedroom apartments as required by the WDCP, the unit mix is generally acceptable. The proposed communal open space is not of appropriate dimensions, amenity or siting for the number of units within the development.



The proposal is therefore inconsistent with Principle 8.

### Principle 9: Aesthetics

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

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

#### Comment:

The proposal incorporates a variety of suitable materials, colours and textures. The podium component of the building is considered to be of appropriate proportions and composition, however the non-compliant tower setback above fails to meet the desired character.

The proposal is therefore inconsistent with Principle 9.

### APARTMENT DESIGN GUIDE

The following table is an assessment against the criteria of the 'Apartment Design Guide' as required by SEPP Housing.

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>Inconsistent</b></p> <p>Despite being the product of thorough site analysis through 2 pre-lodgement meetings and DA lodgement, the proposal does not suitably designed in relation to the site or surrounding context.</p> <p>As described throughout this report, the proposal fails to comply with numerous controls within the ADG, WLEP and WDCP.</p>
<b>Orientation</b>	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	<p><b>Inconsistent</b></p> <p>The proposed communal open space area does not receive any direct sunlight as required by Objective 3D.</p> <p>While the proposal itself</p>

		<p>maintains a compliant level of solar access to adjoining properties to the south, the proposed dual tower building typology, if approved, is considered likely to be repeated on adjoining properties to the east and west. Such a scenario would result in a "wall" of rear towers that would block most or all of the direct sunlight to the north-facing units of several developments to the south, as demonstrated on the submitted solar analysis. On this basis, the proposal does not have adequate regard for Objectives 3A or 3B.</p>
<b>Public Domain Interface</b>	<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>Inconsistent</b></p> <p>The public domain interface is visually dominated by the proposed driveway entrance and residents are not afforded adequate safety and security.</p> <p>The safety and amenity of the public domain has not been adequately resolved with regard to the proposed vehicular entry (see Site Access and Parking comments in Development Engineering referral).</p>
<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>1. Communal open space has a minimum area equal to 25% of the site</li> <li>2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter)</li> </ol>	<p><b>Inconsistent</b></p> <p>The proposed 47m<sup>2</sup> communal terrace is equal to only 6.9% of the site area.</p> <p>The terrace is located at the podium level between the front and rear towers and will not receive any direct sunlight during the day. The location of the</p>

		terrace does not afford adequate amenity to users and will unreasonably impact the amenity of numerous units that have balconies, living rooms and bedrooms opening towards the courtyard.												
<b>Deep Soil Zones</b>	<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1"> <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 rowspan="4">7%</td></tr> <tr> <td>650m<sup>2</sup> – 1,500m<sup>2</sup></td><td>3m</td></tr> <tr> <td>Greater than 1,500m<sup>2</sup></td><td>6m</td></tr> <tr> <td>Greater than 1,500m<sup>2</sup> with significant existing tree cover</td><td>6m</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>Inconsistent - acceptable on merit.</b></p> <p>The proposal provides a deep soil area of 54.2m<sup>2</sup> (8%) adjacent to the rear boundary of the site. While the proposed deep soil areas do not meet the minimum 3m dimensions, this is largely due to the position of the existing concrete drainage channel within the rear setback of the site. As such, the reduced dimensions are acceptable in this case.</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"> <thead> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table> <p><b>Note:</b> Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p><b>Inconsistent</b></p> <p><u>30 Pacific Parade</u></p> <p>The proposal complies with the 6m separation requirement for the ground level to level 3. Levels 5 and 6 comply with the 9m separation requirement. However, Level 4 includes bathroom windows orientated to the south at a setback of 7.5m. Given the room use and the size of the windows, the setback is acceptable on merit; suitable privacy attenuation would be conditioned were the application recommended for approval.</p> <p><u>Internal</u></p>
Building height	Habitable rooms and balconies	Non-habitable rooms												
Up to 12m (4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												

		<p>Levels 4, 5 and 6 are non-compliant with the 18m combined internal separation requirement, with the distance between the front and rear towers being only 12m. View lines are available between balconies and living room and bedroom windows at each of these levels with no apparent privacy attenuation.</p> <p><u>Communal Open Space</u> The location of the proposed communal terrace is contrary to the design guidance at 3F-2. The communal terrace is located at the same level as and within 2.5m of the private balconies of the podium level units 9-12. Given the proximity, the proposed vertical batten privacy screening is not considered to sufficiently mitigate the privacy impacts.</p>
<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>Inconsistent</b> The proposed building entry is unacceptable in the following ways in relation to the design guidance:</p> <ul style="list-style-type: none"> <li>• Separate residential and commercial entries are not provided.</li> <li>• The security line is recessed 10.5m behind the facade via a narrow corridor.</li> <li>• Beyond the security line, the foyer is small with little natural light access and the lift protrudes into the</li> </ul>

		corridor between the door and the car park.
<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>Inconsistent</b></p> <p>The proposed vehicular access to the site is generally acceptable. However, the pedestrian safety concerns raised in the Development Engineering referral and the required relocation of the Ausgrid Substation at the front of the site have not been resolved.</p> <p>Within the site, various concerns were raised in relation to vehicular circulation by Council's Traffic section.</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>Visual and environmental impacts are minimised.</p>	<p><b>Inconsistent</b></p> <p>The proposed number of car spaces is acceptable to Council's Traffic section, however numerous concerns were raised in relation to the design of the car park and the allocation of spaces.</p> <p>The following concerns are also raised in relation to the design guidance:</p> <ul style="list-style-type: none"> <li>Residents parking at the southern end of Basement 1, including those of 2 Silver Level apartments, cannot access the lift from the car park and are required to use the staircase to reach the ground floor.</li> <li>The waiting area for the lift in Basements 1 and 2 is located directly</li> </ul>

		adjacent to the circulation aisle and is separated only by a bollard.						
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: <ul style="list-style-type: none"><li>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.</li></ul>	<b>Consistent</b> 81% (18/22) of the proposed apartments will receive the required 2 hours of solar access. It is noted that the submitted solar analysis demonstrates that the replication of the proposed front and rear tower form on the adjoining sites to the east and west would significantly diminish the total sunlight available to units in the rear tower.						
	<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>	<b>Consistent</b> 9.09% (2/22) of the proposed apartments will receive no direct sunlight access.						
Natural Ventilation	The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by: <ul style="list-style-type: none"><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></ul>	<b>Consistent</b> 63.6% (14/22) of the proposed apartments are cross-ventilated.						
	<ul style="list-style-type: none"><li>Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.</li></ul>	<b>Consistent</b> No apartments have a depth greater than 18m.						
Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table><tr><td colspan="2">Minimum ceiling height</td></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr></table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	<b>Consistent</b> The building design is satisfactory in this regard.
Minimum ceiling height								
Habitable rooms	2.7m							
Non-habitable	2.4m							



	<table><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor  2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table>	For 2 storey apartments	2.7m for main living area floor  2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use					
For 2 storey apartments	2.7m for main living area floor  2.4m for second floor, where its area does not exceed 50% of the apartment area											
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope											
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use											
Apartment Size and Layout	<p>Apartments are required to have the following minimum internal areas:</p> <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><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></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>Inconsistent - acceptable on merit</b> Apartments 13, 14, 17, 18, 20 and 21 have internal areas up to 3m<sup>2</sup> less than the 70m<sup>2</sup> required for 2 bedroom apartments. In accordance with the design guidance, these units provide a usable and functional layout despite being undersized and are generally acceptable, noting that the living rooms and each of the bedrooms comply with the minimum required dimensions.</p> <p><b>Consistent</b> The requirement is achieved.</p> <p><b>Inconsistent</b> See below.</p> <p><b>Inconsistent</b> The proposed open plan studio apartments (1,3,4&amp;6) have a maximum habitable room depth of 10m in addition to study nooks that do not have a direct view line to a window. The windows to these apartments are recessed behind the</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>											

		balcony and the 3.75m living room widths are only slightly above the minimum requirement, resulting in deep, narrow layouts with minimal amenity afforded to the bedroom spaces. The proposed Level 2 adaptable units (7&8) also have study nooks with no view line to a window and do not receive any direct sunlight.															
	Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space).	<b>Consistent</b> The requirement is achieved.															
	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> The requirement is achieved.															
	Living rooms or combined living/dining rooms have a minimum width of: <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 requirement is achieved.															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	<b>Consistent</b> The requirement is achieved.															
	<b>Private Open Space and Balconies</b>	All apartments are required to have primary balconies as follows: <table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><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></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
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															
	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>Inconsistent - Acceptable on merit</b> The dimensions of the apartment 9-11 balconies at the podium level are 13m <sup>2</sup> -14m <sup>2</sup> and are suitably sized and accessible from the living															

		areas and master bedrooms.										
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	Consistent The requirement is achieved.										
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Consistent The requirement is achieved.										
Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table><tr><th>Dwelling Type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m<sup>2</sup></td></tr><tr><td>1 bedroom apartments</td><td>6m<sup>2</sup></td></tr><tr><td>2 bedroom apartments</td><td>8m<sup>2</sup></td></tr><tr><td>3+ bedroom apartments</td><td>10m<sup>2</sup></td></tr></table>	Dwelling Type	Storage size volume	Studio apartments	4m <sup>2</sup>	1 bedroom apartments	6m <sup>2</sup>	2 bedroom apartments	8m <sup>2</sup>	3+ bedroom apartments	10m <sup>2</sup>	Consistent The requirement is achieved.
	Dwelling Type	Storage size volume										
Studio apartments	4m <sup>2</sup>											
1 bedroom apartments	6m <sup>2</sup>											
2 bedroom apartments	8m <sup>2</sup>											
3+ bedroom apartments	10m <sup>2</sup>											
At least 50% of the required storage is to be located within the apartment.												
Acoustic Privacy	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	Consistent The requirement is achieved.										
Noise and Pollution	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	Inconsistent The proposed communal terrace is located in close proximity to private open space areas and living room and bedroom windows of multiple units. Concern is also raised regarding noise transmission from the communal terrace due to the proposed front and rear tower typology, which may be further exacerbated if this typology is repeated on adjoining sites.										
Configuration												
Apartment Mix	Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and	Consistent The building design is satisfactory in this regard.										

	into the future and in the suitable locations within the building.																					
Ground Floor Apartments	Do the ground floor apartments deliver amenity and safety for their residents?	N/A																				
Facades	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 facade design is well-articulated through the placement of windows and balconies and incorporates finishes that are suitable for the site context. It is noted that the tower setback is not supported, however this is addressed elsewhere in this report.																				
Roof Design	Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top.	<b>Consistent</b> The building design is satisfactory in this regard.																				
Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	<b>Consistent</b> The landscape design is satisfactory in this regard, subject to recommended conditions.																				
Planting on Structures	<div>When planting on structures the following are recommended as minimum standards for a range of plant sizes:</div> <table><tr><th>Plant type</th><th>Definition</th><th>Soil Volume</th><th>Soil Depth</th><th>Soil Area</th></tr><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</td><td>9m<sup>3</sup></td><td>800mm</td><td>3.5m x 3.5m or equivalent</td></tr></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	9m <sup>3</sup>	800mm	3.5m x 3.5m or equivalent	<b>Consistent</b> The landscape design is satisfactory in this regard, subject to recommended conditions.
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	9m <sup>3</sup>	800mm	3.5m x 3.5m or equivalent																		

		spread at maturity				
	Shrubs			500-600mm		
	Ground Cover			300-450mm		
	Turf			200mm		
Universal Design	Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features					<b>Consistent</b> The proposal provides 2 Silver Level Living apartments and 3 adaptable apartments, constituting 22.7%.
Adaptable Reuse	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.					N/A
Mixed Use	Can the development be accessed through public transport and does it positively contribute to the public domain?  Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.					<b>Inconsistent</b> The proposed building entry is unacceptable in the following ways in relation to the design guidance: <ul style="list-style-type: none"><li>The proportion of the ground floor occupied by the retail tenancy does not sufficiently activate the building frontage.</li><li>No separate residential entry is provided.</li><li>The residential and commercial car parking and service areas are not separated.</li><li>The security point at the building entry is inappropriately located.</li></ul>
Awnings and Signage	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.  Signage must respond to the existing streetscape character and context.					<b>Consistent</b> The building design is satisfactory in this regard and could be resolved through the imposition of conditions.

Performance		
<b>Energy Efficiency</b>	Have the requirements in the BASIX certificate been shown in the submitted plans?	<b>Inconsistent</b> The submitted plans are not BASIX stamped.
<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>Inconsistent</b> The proposal does not comply with Council's Water Management Policy as the proposed driveway conflicts with an existing Council stormwater intel pit.
<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>Inconsistent</b> The proposal does not comply with Council's Waste Management Policy.
<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> The material selection is satisfactory with regard to longevity and sustainability.

## Conclusion

The proposed development is not designed with adequate regard to the design quality principles of Chapter 4 within the SEPP Housing and the objectives of the ADG. This matter is included as a reason for refusal.

## 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. Refer to Planning Comments includes in response to



Ausgrid Referral.

## SEPP (Resilience and Hazards) 2021

### Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for commercial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1) (b) and (c) of this Chapter and the land is considered to be suitable for the commercial and residential land uses.

### 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?	
zone objectives of the LEP?	No

### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
4.3 Height of Buildings:	24m	Parapet: 23m Lift overrun: 24.29m	1.21%	No
4.4 Floor space ratio	3.4:1 2305.2m <sup>2</sup>	3.06:1 2076.9m <sup>2</sup>	N/A	Yes
7.6A Podium heights	2 storeys	3 storeys	50%	No

Note: The WLEP FSR map does not assign an FSR standard to the northern-most 6.095m of the site fronting Pittwater Road. Accordingly, the maximum permissible FSR for the development is based on a reduced site area of 678m<sup>2</sup> (the portion of the site which is assigned an FSR standard of 3.4:1).

### Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.4 Floor space ratio	Yes
4.6 Exceptions to development standards	No
5.21 Flood planning	No
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes
7.3 Objectives for development within Dee Why Town Centre	No

Clause	Compliance with Requirements
7.4 Development must be consistent with objectives for development and design excellence	No
7.5 Design excellence within Dee Why Town Centre	No
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	No

### Detailed Assessment

#### **Zone MU1 Mixed Use**

The development comprises a shop top housing development, which is a permitted land use within the MU1 Mixed Use zone.

However, the assessment has found that the proposal does not satisfy the objectives of the MU1 zone, as demonstrated in the assessment below.

- To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*

#### Comment:

The proposal does not include adequate provision of business or retail floor area to generate employment opportunities, as demonstrated by the substantial variation proposed to WLEP Clause 7.12.

Hence, this objective is not achieved.

- 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.*

#### Comment:

The inadequate proportion of the frontage and first two levels of the building occupied by retail/commercial uses fails to ensure an active street frontage or attract pedestrian traffic as intended by the applicable controls and this objective.

Hence, the development fails this objective.

- To minimise conflict between land uses within this zone and land uses within adjoining zones.*

#### Comment:

The proposed building siting and typology does not minimise conflicts between the subject development and residential uses in the adjoining R3 zone to the south.

Hence, the development fails this objective.

- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*

Comment:

The proposal does not satisfy this objective for the reasons discussed in relation to objectives 1 and 2 above.

- *To provide an active day and evening economy encouraging, where appropriate, weekend and night-time economy functions.*

Comment:

The proposal does not satisfy this objective for the reasons discussed in relation to objectives 1 and 2 above.

Conclusion

The proposal is found to be inconsistent with the objectives of the zone as assessed above. This matter forms a recommended reason for refusal.

### 4.3 Height of buildings

The application claims that the proposed building complies with the 24m height of buildings standard.

However, the proposed lift overrun (RL41.74) is calculated to have a maximum height of 24.29m above the existing ground level below (RL17.45 based on the existing floor level on the survey plan). The resulting maximum height of 24.29m represents a variation of 1.21% to the height standard.

Clause 4.6(8A) of the WLEP precludes the granting of development consent for a development that would contravene the building height standard on land in the Dee Why Town Centre.

Due to the proposed breach of the building height standard, there is no power for the consent authority to grant consent to the proposed development. This matter is included as a reason for refusal.

### 4.6 Exceptions to development standards

The application seeks consent to vary a development standard as follows:

Development standard:	7.6A Podium Heights
Requirement:	2 storeys
Proposed:	3 storeys
Percentage variation to requirement:	50%



**Figure 3. Photomontage illustrating the proposed podium height variation (Source: Clause 4.6 Variation Request)**

With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the development application is accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the WLEP 2011 (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:

*(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.*

Comment:

The objectives of this clause have been considered pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*.

Subclause (2) of this clause provides that:

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

Comment:

Clause 7.6A Podium heights is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:

*(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*

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

Comment:

Council is satisfied that the Applicant has demonstrated that compliance with Clause 7.6A Podium heights is unreasonable or unnecessary in the circumstances of this application because the proposal achieves the objectives of the standard, as assessed below:

*(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 proposed three-storey podium will reinforce the three-storey character on the southern side of Oaks Avenue which was introduced through the approval of the existing buildings at Nos. 7 and 11-13 to the west of the subject site. The continuation of this three-storey character will ensure a consistent built form and define the street edge.

With regard to the minimisation of visual prominence of through the upper level setbacks, it is noted that the proposed tower setback is not supported but this is addressed against the relevant WDCP control. The justification advanced in the Clause 4.6 request that the three-storey podium is supportable as it visually screens the tower form is not given any weight in this assessment as that is not the intended purpose of the podium.

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

Comment:

The visual appearance of the proposed podium is acceptable in the context of the streetscape. The separation distance between the proposed podium and the existing development on the northern side of Oaks Avenue is sufficient to maintain a reasonable level of privacy. The proposed podium will not cause adverse overshadowing of adjoining properties or the public domain as the site is located on the southern side of Oaks Avenue.

*(b) 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.’*

The Clause 4.6 Request argues, in part:

1. *"Enhanced streetscape and urban design outcomes  
I am of the considered opinion that approval of the 3 storey podium height better achieves the objective of the standard by providing a consistent and cohesive 3 and 4 storey podium/street edge along the southern and northern sides of Oaks Avenue. I also note that Council has applied the podium standard with a degree of flexibility within the Dee Why Town Centre as depicted on the site analysis plan A02(A) prepared by Gartner Trovato Architects an extract of which is below [not reproduced]. This includes 3 storey podium heights at No's 7 and 11-13 Oaks Avenue to the west of the subject site within the same street block.*
2. *Promotes the objectives of the EP&A Act  
In circumstances where the objectives of the standard are better achieved through approval of the variation sought such outcome will promote the orderly development of the land. The building is of high design quality with the variation facilitating a podium height that provides for contextual built form compatibility, consistent with Objective 1.3(g) of the Act."*

Comment:

The provision of a three-storey podium would be compatible with the existing developments referenced at Nos. 7 and 11-13 Oaks Avenue, which complied with the three-storey podium control applicable at the time of those approvals under the former Warringah LEP 2000. Strict enforcement of the current two-storey podium control would cause inconsistencies in the building height at the street edge whereas the proposed three-storey podium would reinforce the precedent created for future developments on the southern side of Oaks Avenue. Accordingly, the environmental planning grounds are accepted as sufficient.

It should be noted that the above acceptance of the environmental planning grounds and agreement that the podium height variation represents 'good design' strictly relate to the proposed podium design and not to the development as a whole.

**Public Interest:**

Matters relevant to public interest in respect of the development are considered in the relevant sections of this report as per Section 4.15(1)(e) of the EPA Act.

**Conclusion:**

Council is satisfied as to the matters set out in Clause 4.6 of the WLEP 2011.

The submitted Clause 4.6 written request in support of the proposed podium height variation is considered to be well founded having regard to the circumstances of the development. It is therefore considered appropriate to allow flexibility in the application of the development standard.

Notwithstanding the reasonableness of the proposed podium height variation, the proposed development **is not supported** and is recommended for **refusal** due to the other fundamental issues identified in this report.



## 5.21 Flood planning

The proposal is not supported by Council's Flooding section as the proposed ground floor retail tenancy does not comply with the relevant WLEP and WDCP flooding controls. This matter forms a recommended reason for refusal.

## 6.2 Earthworks

No objection is raised to the proposed excavation works, which extend to the northern, eastern and western building lines. If the application was recommended for approval, suitable conditions would be imposed in relation to excavation works and protection of adjoining structures.

Overall, the development satisfies the jurisdictional requirements under Clause 6.2 of the WLEP.

## 6.4 Development on sloping land

The submitted geotechnical assessment includes suitable recommendations in relation to site stability. Were the application recommended for approval, these recommendations would be incorporated into the conditions of consent.

## 7.3 Objectives for development within Dee Why Town Centre

For the reasons outlined in this report, the proposal is found to be **inconsistent** with the following objectives for the Dee Why Town Centre:

- (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,*
  - (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,*
- (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.*

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

### Merit Assessment

*(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.*

Comment:

The proposal is assessed as inconsistent with the objectives of Part 7 Dee Why Town Centre of the WLEP, contrary to (a) above.

As assessed in the Flooding referral section of this report, the proposed retail tenancy finished floor level is located below the flood planning level and does not comply with the applicable controls, contrary to (b)(iii) above.

*(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.*

Comment:

N/A - The site is not located within Site B.

*(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:

Council is not satisfied that the development exhibits design excellence for the reasons discussed under the WLEP Clause 7.5 section of this report.

Based on the above assessment, the proposal is **inconsistent** with the provisions of the control and is not supported.

## **7.5 Design excellence within Dee Why Town Centre**

In accordance with WLEP Clauses 7.4 and 7.5, development consent must not be granted unless the consent authority considers that the development exhibits design excellence.

In determining whether development exhibits design excellence, the consent authority must have regard to the following matters:

- (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*

- (b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,*
- (c) whether the building meets sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security and resources, energy and water efficiency,*
- (d) whether satisfactory arrangements have been made to ensure that the proposed design is carried through to the completion of the development concerned,*
- (e) whether the configuration and design of communal access and communal recreational areas within the residential elements of development incorporate exemplary and innovative treatments and will promote a socially effective urban village atmosphere.*
- (f) whether the development connects with and provides a high quality interface with surrounding streets and public domain areas at the pedestrian level,*
- (g) whether the development contributes 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.*

Comment:

The proposed building materials and detailing are appropriate in the context of the development and town centre location. However, the inadequate tower setback and streetscape activation will not contribute to the improvement or quality of the public domain interface. The proposal does not achieve the applicable ADG principles in relation to visual and acoustic privacy or safety and security. The configuration and design of the communal areas fail to promote an appropriate social outcome.

Given the proposal's significant and critical non-compliances as assessed in this report, the design of the development is unsatisfactory in relation to matters (b), (c), (e) and (f) above. Accordingly, the proposal does not exhibit design excellence as required by Clauses 7.4 and 7.5.

## **7.6A Podium heights**

Clause (2)(d) of the control provides that:

- (2) Development consent may be granted to the erection of buildings on the following land with the following maximum podium heights—*
- (d) land not fronting Pittwater Road (except land on Site A or Site B)—2 storeys.*

Comment:

The proposed three-storey podium exceeds the maximum two-storey podium height permitted by the control.

Clause 7.6A is a development standard and a Clause 4.6 written request has been submitted in relation to the proposed variation. The variation and supporting written request are assessed in detail under Clause 4.6 in this report.

## **7.12 Provisions promoting retail activity**

Clause (2)(c) of the control provides that:

- "(2) Development consent must not be granted to development in the Dee Why Town Centre unless the consent authority is satisfied that:*
- (c) buildings will have at least two floor levels (including the ground floor level) of employment generating space, and"*

Comment:

At the ground floor level the proposed 50m<sup>2</sup> retail tenancy comprises 9% of the 566m<sup>2</sup> building floor plate. The remainder of the ground floor accommodates vehicular and pedestrian access, bin storage, services and circulation areas and five car parking spaces. At level 1 the proposed 320m<sup>2</sup> of commercial tenancies and associated bathroom facilities and storage comprise 57.6% of the floor plate. The proposed residential units 1-3 occupy a further 36.2% (201m<sup>2</sup>) of this level in lieu of a full two floors of employment generating space as required.

It is acknowledged that access, storage, services and facilities will occupy a proportion of the ground floor of shop top housing developments. However, the extent of car parking proposed at the ground floor level (as well as the limited width of the site) preclude the provision of adequate employment generating space at this level. Furthermore, the ability to provide employment generating space within the development is further diminished due to the inclusion of residential units at level 1.

Based on this assessment, the proposal fails to achieve the below objectives of the control:

- (a) *to promote retail activity on the ground and first floors of new buildings in the Dee Why Town Centre,*
- (b) *to promote employment generating uses in addition to retail activity.*

Clause 7.12 is a development standard and any variation to the provisions of the Clause must be accompanied by a written request to vary the standard, as a pre-condition to the granting of consent.

No Clause 4.6 written request has been submitted in relation to the proposed variation and although one was not specifically requested by Council, the variation was raised as a concern in Council's RFI letter issued to the Applicant.

In the absence of any written request, Council, or the NBLPP acting on behalf of Council, cannot grant consent to the proposed development. This matter is included as a reason for refusal.

### 7.13 Mobility, traffic management and parking

For the reasons discussed in this report in relation to access, car parking and waste collection, the proposal does not comply with the requirements of the control.

### Warringah Development Control Plan

#### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
G1(4) Kerb Setbacks	1. 8m	10.3m	N/A	Yes
G1(5) Housing	1. Min. 20% 3-bed units (5 units)	2	60%	No
	3. Min. 20% Silver Level (5 units)	2 (+ 3 adaptable)	N/A	Yes*
	4. Min. 10% Adaptable (3 units)	3	N/A	Yes*
G1(5) Tower Setbacks	1. Min. 16m	12.9m	19.4%	No
G1(11) Landscaping	2. Min. 20% 154.18m <sup>2</sup>	18.4% 142.2m <sup>2</sup>	7.8%	No

\*The application claims to provide 2 silver level units and 3 adaptable units. However, the application is not accompanied by an updated Access Assessment Report confirming that the amended proposal achieves compliance with the relevant requirements for silver level and adaptable units.

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
C2 Traffic, Access and Safety	No	No
C3 Parking Facilities	No	No
C4 Stormwater	No	No
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	No	No
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	No	No
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	No	No
D18 Accessibility and Adaptability	No	No
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	No	No
3 Desired Character for the Dee Why Town Centre	No	No
4 Streetscape and Public Domain	No	No
5 Design and Architectural Diversity	No	No
6 Site amalgamation	No	No
7 Traffic and Parking	No	No
9 Sustainability	No	Yes
10 Water Sensitive Urban Design (WSUD)	Yes	Yes
11 Landscaping	Yes	Yes

#### Detailed Assessment

## **C2 Traffic, Access and Safety**

The proposal does not comply with the following requirements of the control based on the detailed Traffic Engineer comments included in the Referrals section this report:

*1. Applicants shall demonstrate that the location of vehicular and pedestrian access meets the objectives.*

*6. Facilities for the loading and unloading of service, delivery and emergency vehicles are to be:*

- appropriate to the size and nature of the development;*
- screened from public view; and*
- designed so that vehicles may enter and leave in a forward direction.*

The inconsistency with the requirements and objectives of this control forms a recommended reason for refusal.

## **C3 Parking Facilities**

The proposal does not comply with the following requirements of the control based on the detailed Traffic Engineer comments included in the Referrals section this report:

*3. Carparking, other than for individual dwellings, shall:*

- Include adequate provision for manoeuvring and convenient access to individual spaces;*
- Incorporate unobstructed access to visitor parking spaces;*
- Minimum car parking dimensions are to be in accordance with AS/NZS 2890.1.*

*7. Where appropriate, car parking which meets the needs of people with physical disabilities must be provided in accordance with the relevant Australian Standard.*

The inconsistency with the requirements and objectives of this control forms a recommended reason for refusal.

## **C4 Stormwater**

The proposal does not comply with the Water Management for development Policy as the proposed vehicular crossing conflicts with an existing Council stormwater lintel pit, as assessed by Council's Development Engineering section. This matter is included as a reason for refusal of the application.

## **C9 Waste Management**

The proposal does not comply with the applicable requirements of the Waste Management Design Guidelines, as assessed by Council's Waste section. This matter is included as a reason for refusal of the application.

## **D2 Private Open Space**

The proposed private open space dimensions of each unit are acceptable in relation to the requirements of the ADG, which take precedence over the WDCP.

## **D3 Noise**



Were the application recommended for approval, a condition would be included to ensure compliance with this control.

## **D6 Access to Sunlight**

### **Requirements**

- 1. Development should avoid unreasonable overshadowing any public open space.*
- 2. At least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.*

### Comments:

The submitted solar analysis plans demonstrate that the proposal will not overshadow the public domain and will maintain a compliant level of solar access to adjoining properties in accordance with the control. Despite exhibiting compliance with this DCP control, the proposal is considered to be inconsistent with the ADG site analysis and orientation provisions in relating to the overshadowing of properties to the south, as discussed in the relevant section of this report.

## **D7 Views**

No significant view corridors are identified in the vicinity of the site and the proposal would not adversely impact any views or outlook from surrounding properties.

## **D14 Site Facilities**

The proposal does not comply with the following requirements of the control relating to waste storage and collection:

- Waste and recycling bin enclosures are to be durable, integrated with the building design and site landscaping, suitably screened from public places or streets and located for convenient access for collection.*
- Garbage areas are to be designed to avoid common problems such as smell, noise from collection vehicles and the visibility of containers.*

## **D18 Accessibility and Adaptability**

The proposal claims compliance with the relevant accessibility and adaptability requirements. However, evidence in the form of an updated Access Assessment Report confirming that the amended proposal achieves compliance has not been provided.

## **3 Desired Character for the Dee Why Town Centre**

Due to the various non-compliances proposed in relation to the applicable built form and amenity controls, and the inconsistency of the development with the WLEP Clause 7.3 Objectives for development within Dee Why Town Centre (which is discussed throughout this report), the development is not consistent with the desired future character of the Dee Why Town Centre. This matter forms a recommended reason for refusal.

## **4 Streetscape and Public Domain**

## **Requirements – General**

### *1. The public domain must be designed:*

- a. In accordance with the Warringah Public Spaces Design Guidelines or updated Policy and relevant Australian Standards;*
- b. To address Crime Prevention Through Environmental Design;*
- c. To incorporate spaces for outdoor seating and dining;*
- d. To address disability access;*
- e. Be suitably treated with paving, seating and landscaping;*
- f. Integrate stormwater and floodwater management;*
- g. Include canopy tree planting to provide shade, improve visual amenity, reduce the urban heat island effect and create a pleasant environment for pedestrians and cyclists.*

### Comment:

The proposed development is inconsistent with the CPTED principles, particularly with regard to the combined residential and retail entry and circulation and basement car parking design, contrary to requirement (b).

## **Requirements – Kerb Setbacks**

- 1. Development is to maintain minimum front building setbacks from the kerb as outlined in Figure 3.*
- 2. High quality facades must be provided and include modulation, articulation and may include planting on structures to create visual interest and contribute to the character of the area.*

### Comment:

The design detail of the building facade is generally acceptable, however the non-compliant tower setback results in insufficient articulation in relation to the podium form below and the limited proportion of the frontage occupied by the retail premises does not contribute to the visual interest and character of the streetscape. Accordingly, the proposal is contrary to requirement (2).

## **Requirements – Awnings**

### *1. Awnings must form an integral part of the architecture of the building and be designed:*

- a. Along the full extent of the street frontage of the building. ;*
- b. At a height to ensure suitable weather protection, having regard to site orientation. ;*
- c. At a height that ensures continuity in appearance with adjacent awnings and to relate to any distinctive features of the building;*
- d. To ensure:*
  - i. Any lighting fixtures are recessed into the awning;*
  - ii. All wiring and conduits are concealed;*
- e. To have a minimum width of 2.5 metres;*
- f. To provide minimum setbacks of:*
  - i. 1 metre from the face of the kerb to accommodate utility poles and vehicles in the kerbside lane;*
  - ii. 1.5 metres from the face of the kerb to accommodate existing and proposed street trees;*
- g. With a fascia depth not exceeding 700mm, with the preferred depth less than 350mm;*
- h. To be cantilevered and non-trafficable;*

- i. To be reflective of the topography of the land;*
- j. To slope away from the kerb to conceal gutters and downpipes*
- k. To be integrated within the building front façade;*
- l. To integrate with adjoining developments.*

2. *Cut out segments in awnings are not acceptable.*

Comment:

The proposed awning design generally satisfies the above matters. Were the application recommended for approval, conditions would be included to ensure compliance.

### **Requirements – Retail Activation**

- 1. Active uses must be provided adjacent to the public domain, including streets, open space, pedestrian accessways and laneways.*
- 2. Active frontages are to contribute to the liveliness and vitality of the area by maximising entries or display windows to shops and/or food and drink premises or other uses, customer service areas and activities which provide pedestrian interest and interaction and casual surveillance of the public domain.*
- 3. Large retail tenancies are to be bound by smaller retail tenancies to reduce continuous frontages of the same tenancy to the public domain (refer Figure 4).*
- 4. Internalised, enclosed shopping malls are discouraged.*
- 5. Where possible, retail premises and food and drink premises are to open onto the public domain.*
- 6. Active frontages are to maximise transparent glazing with a predominantly unobstructed view from the adjacent footpath to a depth of 6m within the building.*
- 7. Security grills, where provided, are to be fitted internally behind the shop front, fully retractable and at least 50% transparent when closed.*
- 8. Except where required by flood planning level provisions, ground floor uses are to be at the same level as the footpath at the entry to the individual tenancies.*

Comment:

The proposed retail tenancy is insufficient in relation to overall area and proportion of the frontage occupied, and is therefore unable to facilitate activation of the site frontage that would contribute to the liveliness and vitality of the streetscape, contrary to requirement (2) and various WLEP and WDCP controls as discussed in this report.

### **Conclusion**

Due to the non-compliances described above, the proposal fails to achieve acceptable visual and amenity outcomes for the public domain that would satisfy the objectives of the control.

## **5 Design and Architectural Diversity**

### **Requirements – Architectural Design**

- 1. New developments must be designed to avoid the use of blank walls fronting streets and the public domain. In circumstances where blank walls are unavoidable, they are to be designed in a manner that is consistent with the overall building form that contributes to the public domain and create visual interest.*
- 2. Corner sites must:*

- a. Adequately address both street frontages;*
- b. Combine architectural features, materials and landscape design to define corners.*

Comment:

Blank walls do not dominate the street frontage and the site is not a corner site.

**Requirements –Housing**

- 1. Housing in new developments must provide for a mix of 1, 2 and 3 bedroom dwellings. For developments with 10 or more dwellings, at least 20 percent of 3 bedroom dwellings must be provided.*
- 2. A mix of one and three bedroom apartments are to be located where accessibility is more easily achieved for disabled, elderly people or families with children.*
- 3. Developments achieve a benchmark of 20% of the total apartments incorporating the Livable Housing Guideline silver level universal design features.*
- 4. Where a development comprises at least 5 dwellings, 10% (rounded up to the next whole number) of dwellings shall be capable of being adapted (Class C) under AS 4299.*

Comment:

The proposal includes 2 x three bedroom dwellings whereas 4.4 are required. Additionally, the location of the 2 proposed three bedroom dwellings at Levels 5 and 6 of the rear tower require access via the north tower lift and the central bridge. The proposal indicates the provision of adequate Silver Level Living and Adaptable, however no access report is provided to confirm that these units comply with the relevant accessibility standards. Accordingly, the proposal does not comply with requirements (1) or (2) and provides insufficient information in relation to requirements (3) and (4).

**Requirements – Tower Setbacks**

- 1. Development is to maintain minimum tower setbacks from the kerb as outlined in Figure 5 [16 metres].*
- 2. An exception to the tower setbacks can be provided on building corners where they are given visual prominence through a change in articulation, materials or colour or roof expression.*

Comment:

The proposed 12.9m tower setback is non-compliant with the 16m control. This non-compliant tower setback results in insufficient articulation in relation to the podium form below and would be inconsistent with the desired character and built form outcome of the locality. Accordingly, the proposal does not comply with requirement (1).

**Conclusion**

Due to the non-compliances described above, the proposal fails to achieve acceptable visual and amenity outcomes for the public domain that would satisfy the objectives of the control.

**6 Site amalgamation**

It is apparent that the subject site is unable to accommodate the yield and intensity of the proposed development in an orderly manner, as evidenced by the various built form and amenity breaches that are proposed.

While it may be feasible for 23 Oaks Avenue (eastern adjoining site) to be consolidated with 33 Oaks



Avenue (Key Site C), the Key Site includes provision for a proposed new road linking Oaks Avenue to Pacific Parade, the indicative position of this road is between 23 Oaks Avenue and the majority of 33 Oaks Avenue (refer to Figure 4).

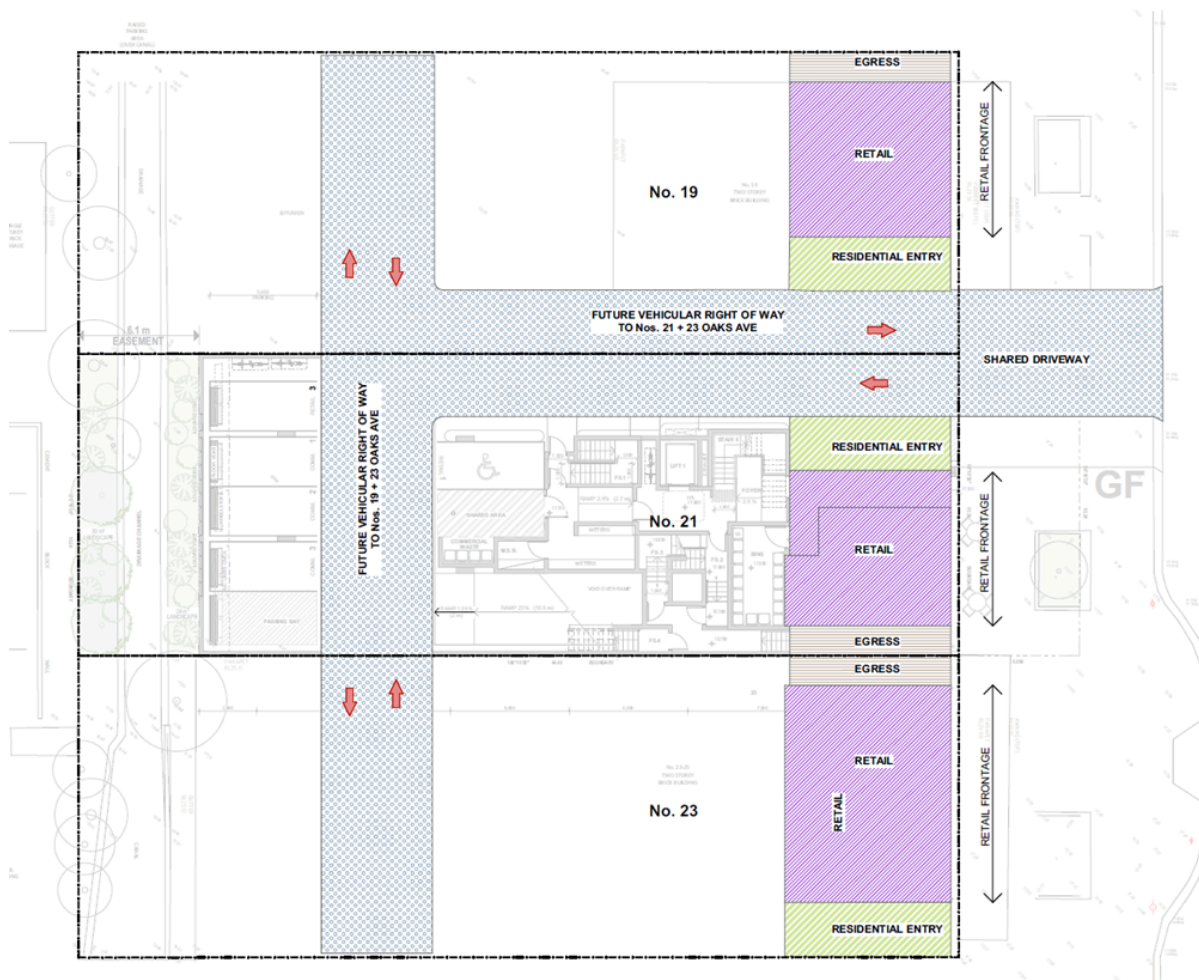


**Figure 4. Indicative position of road link between Oaks Avenue and Pacific Parade**

The road linkage may pose issues for the consolidation of the eastern adjoining site with Key Site C.

Additionally, it is also noted that the eastern adjoining site is unable to obtain vehicular access from Oaks Avenue due to the existing pedestrian crossing that is located directly in front of 23 Oaks Avenue. As such, vehicular access would need to be provided via the subject site if 23 Oaks Avenue were developed in isolation.

The applicant has provided a future staging plan to demonstrate how this would potentially occur (refer to Figure 5).



**Figure 5. Potential vehicular access staging plan (source: applicant's plans)**

However, the ground level parking layout plan has not incorporated a potential linkage point for future vehicular access to 23 Oaks Avenue.

Given the access constraints to 23 Oaks Avenue, and noting the several built form non-compliances and residential amenity impacts that would occur as a consequence of the subject site being developed in isolation, the assessment finds that the development is inconsistent with Part G1, Section 6 of the WDCP.

It is considered that amalgamation with one or more sites is required to facilitate an appropriate development outcome, or alternatively, a reduction in development intensity. Further, no evidence of genuine and reasonable attempts to purchase either adjoining lot has been provided with the application.

This matter forms a recommended reason for refusal.

## 7 Traffic and Parking

### Requirements – General

*1. Site amalgamation is encouraged to enable integrated carparking and service provision using shared driveways where possible.*

Comment:



As discussed throughout this report, amalgamation with one or more adjoining sites is considered necessary to enable the site to be development to the intensity proposed. It is noted that provision is made for shared vehicular access to future developments on the sites to the east and west. However, this does not resolve the remaining concerns relating to traffic and parking that are raised in this report.

*2. New developments are to be accompanied by a service delivery and loading dock plan.*

Comment:

No loading dock is proposed within the development and the application is not accompanied by a service delivery and loading dock plan.

*3. Car parking and vehicle access points shall incorporate the following design elements:*

- a. Recessed car park entries from the main building facade alignment;*
- b. Avoidance of large voids in the facade by providing security doors or decorative grills to car park entry;*
- c. Returning the facade finishes into the car park entry recess for the extent visible from the street;*
- d. Concealing all services, pipes and ducts.*

Comment:

The proposed car park entry is not opposed in principle, however the proposed roller door does not enable unobstructed access to the commercial and visitor parking spaces. Details of the finishes within the car parking entry recess have not been provided but this matter could be resolved were the application recommended for approval.

*4. Parking should be:*

- a. Provided underground;*
- b. Designed and located to optimise deep soil planting.*

Comment:

The proposal includes car parking at the rear of the ground floor level, which is contrary to the above requirement and limits the potential retail floor area of the development.

*5. Walking routes through large car parks are to be clearly delineated with appropriate markings, pedestrian crossings and signposting.*

Comment:

This matter could be resolved were the application recommended for approval. It is noted that the required walking routes through the car park are problematic as the 7 car spaces at the southern end of B1 (which include 1 commercial space and 2 Silver Level spaces) require residents/employees to use the stairs to access the ground floor and lift.

*6. Car parking areas should be designed and constructed so that electric vehicle charging points are either installed with the development or can be installed at a later time.*

*a. New retail, commercial or mixed use development, with a cost of works equal to or greater than \$5 million, must include publicly available electric vehicle charging points at the following rate:*

- i. 1 charge point per 30 spaces, and*
- ii. a minimum of 2 charging points being provided.*

*b. Car parking areas should be designed and constructed so that additional electric vehicle charging points can be installed.*

Comment:

The above control applies to the subject development and the minimum 2 charging points would be required. No charging points are proposed and it is unclear whether provision has been made for the future installation of charging points.

*7. Security arrangements must be in place to ensure residential car parking areas cannot be accessed by the public (e.g. retail parking to be separated from residential parking by security shutters).*

Comment:

A roller door is proposed at the ground floor entry to the car park. While this prevents access to the residential parking from the street, it does not separate the residential parking from the commercial parking and also prevents access to the visitor and commercial spaces.

Conclusion

Based on the above assessment, the proposal does not comply with requirements 1, 2, 4, 6 or 7 and does not satisfy the objectives of the control.

## 9 Sustainability

No evidence is provided with the application to demonstrate that the development achieves a minimum 4 Star, Green Star – Design and As Built rating in the Green Building Council of Australia rating system, as required by the control.

However, it is noted that Clause 1.5 of SEPP Sustainable Buildings makes clear that the requirements of the SEPP prevail in the event of an inconsistency with another planning instrument.

## THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

## CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

## 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, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

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

Council is satisfied that the Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify variation of the development standard contained within 7.6A Podium heights has adequately addressed and demonstrated that:

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

## **PLANNING CONCLUSION**

This development application seeks consent for demolition works and the construction of a seven storey shop top housing development that contains three podium levels and two separate four storey residential towers.

The assessment has concluded that the proposal is an overdevelopment of the site and that the two-tower building configuration would result in significant amenity impacts internally within the site and to the adjoining residential flat buildings to the south of the site, particularly if this building configuration is replicated on the adjoining properties to the east and west of the site.

In addition to the merit issues raised throughout the assessment, it was identified that the proposed development does not provide sufficient retail floor space in accordance with Clause 7.12 of the WLEP, which is a development standard. As the applicant has not provided a written request pursuant to Clause 4.6 of the WLEP to justify a variation to this development standard, the NBLPP as the consent authority has no authority to grant consent to the application. Similarly, the development exceeds the 24m building height standard under Clause 4.3 of the WLEP and Clause 4.6(8A) of the WLEP does not permit the application of Clause 4.6 of the WLEP to vary a development standard.

This jurisdictional matter also precludes consent from being granted.

The public exhibition of the application has resulted in 11 submissions by way of objection. The key concerns raised within the submissions relate to the bulk and scale of the development, the traffic impacts, off-site residential amenity impacts the surrounding residential buildings. A large number of the resident issues and concerns raised within the submissions are concurred with and warrant the refusal of the application.

The shortcomings and deficiencies in the design and sustainability aspects of the proposal are addressed in the advice and recommendations of the DSAP Report, which are concurred with.

It is recommended that the NBLPP **refuse** the application for the reasons set out within the assessment report.

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

## RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council, as the consent authority REFUSE Development Consent to Development Application No DA2024/0597 for the Demolition works and construction of Shop top Housing on land at Lot 10 DP 8172,21 Oaks Avenue, DEE WHY, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of State Environmental Planning Policy (Housing) 2021 (SEPP Housing).

### Particulars:

The proposal, due to the various non-compliances with the objectives of the ADG, fails to achieve the following Design Quality Principles at Schedule 9 SEPP Housing:

- *1: Context and Neighbourhood Character;*
  - *2: Built Form and Scale;*
  - *3: Density;*
  - *6: Amenity;*
  - *7: Safety;*
  - *8: Housing Diversity and Social Interaction; and*
  - *9: Aesthetics.*
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause Zone MU1 Mixed Use of the Warringah Local Environmental Plan 2011 (WLEP).

### Particulars:

The proposal fails to achieve consistency with the objectives of the zone as the development does not:

- include adequate retail and other employment generating floor area;
- sufficiently contribute to the activation of the public domain interface or the vibrancy of the Dee Why Town Centre; or

- minimise amenity impacts and subsequent land use conflicts at the interface of the R3 Medium Density Residential zone to the south.

3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.3 Height of buildings of the WLEP.

Particulars:

The proposal does not comply with the development standard at Clause 4.3 Height of buildings. The height of buildings standard is unable to be varied within the Dee Why Town Centre pursuant to Clause 4.6(8A) of the WLEP.

4. Pursuant to Sections 4.15(1)(a)(i) and 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 5.21 Flood Planning of the WLEP and E11 Flood Prone Land of the Warringah Development Control Plan 2011 (WDCP).

Particulars:

The proposed retail tenancy fails to comply with the following requirements in E11 (C7) of the WDCP that apply where the floor level is below the Flood Planning Level (FPL) within the first 5m from the street frontage:

- *(b) The maximum internal distance from the front of the building is 5 metres, which can only apply to one side of an individual premises, and*
- *(c) The maximum area for the floor area to be below the Flood Planning Level for an individual premises is 30 square metres, and*
- *(d) There is direct internal access between areas above and below the Flood Planning Level for each individual premises.*

5. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 7.4 Development must be consistent with objectives for development and design excellence of the WLEP.

Particulars:

The proposal is inconsistent with the Objectives for development within Dee Why Town Centre in Clause 7.3 of the WLEP and does not demonstrate design excellence as required by Clauses 7.4 and 7.5 of the WLEP.

Consistency with the objectives in Clause 7.3 and demonstration of design excellence are pre-conditions to the granting of consent pursuant to Clause 7.4(1)(a) and (3).

6. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of 7.12 Provisions promoting retail activity of the WLEP.

Particulars:

The proposal does not comply with the development standard at Clause 7.12 relating to the provision of employment generating floor space and no written variation request is submitted

pursuant to Clause 4.6 in support of the breach.

7. Pursuant to Sections 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 7.13 Mobility, traffic management and parking of the WLEP.

Particulars:

The proposed development does not comply with various requirements contained within the following sections of the WDCP:

- *C2 Traffic, Access and Safety*
- *C3 Parking Facilities*
- *G1(7) Traffic and Parking*

Specifically, the proposal does not incorporate adequate loading areas, facilitate safe and convenient circulation within parking areas or provide for satisfactory car parking dimensions and configuration.

8. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C4 Stormwater of the WDCP.

Particulars:

The proposed vehicular crossing location conflicts with an existing Council stormwater lintel pit within the road reserve.

9. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C9 Waste Management of the WDCP.

Particulars:

The proposal fails to comply with Council's Waste Management Design Guidelines in the following ways:

- The residential bin room is insufficient to accommodate the required number of bins.
- No bulky goods storage room is provided as required.
- The commercial bin room is insufficient to accommodate the required number of bins.

10. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Part G1 Dee Why Town Centre of the WDCP.

Particulars:

The proposed development does not comply with various requirements contained within the following sections of Part G1 Dee Why Town Centre:

- *3 Desired Character for the Dee Why Town Centre;*
- *4 Streetscape and Public Domain;*
- *5 Design and Architectural Diversity;*
- *6 Site amalgamation; and*
- *7 Traffic and Parking.*



The proposal's failure to comply with the requirements of these controls contributes to unacceptable outcomes in relation to the visual and built form of the development, amenity and activation of the public domain, the provision of high quality residential dwellings and safe and convenient car parking.

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**



The application is determined on //, under the delegated authority of:

**Thomas Burns, Acting Development Assessment Manager**

---

**Peter Robinson, Executive Manager Development Assessment**