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STATEMENT OF ENVIRONMENTAL EFFECTS

FOR

**DEMOLITION OF EXISTING BUILDINGS AND CONSTRUCTION OF A
SHOP TOP HOUSING DEVELOPMENT**

AT

1112 - 1116 BARRENJOEY ROAD, PALM BEACH

MADE TO

PITTWATER COUNCIL

ON BEHALF OF

ANASTASOPOULOS FAMILY

FEBRUARY 2010

REF: 078924.1S

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1 0 EXECUTIVE SUMMARY

The development proposed in this Development Application (DA) is for Shop Top Housing (STH) at 1112 – 1116 Barrenjoey Road, Palm Beach comprising 5 residential units, ground floor commercial space, an ancillary kiosk and 1 level of basement car parking. The site is zoned 3(c) Neighbourhood Business under the provisions of Pittwater Local Environmental Plan 1993 (PLEP), which permits STH with development consent.

The site is constrained by its steep sloping topography, its proximity to local heritage items and its location as a transition point where the land use zoning changes from business to low density residential. The site has been subject to previous STH proposals, which were refused by Pittwater Council (Council).

The proposal in this DA has competently responded to all of the site's constraints and those previous issues raised by Council and resident objections with some of the key design features including

- Provision of a generous front setback of the main bulk and scale of the building so that it does not dominate the streetscape,
- Provision a generous front building line to Barrenjoey Road that is dominated by deep soil landscaping that will enable canopy tree planting to assist in screening the built form,
- A reduction in site excavation to minimise the amount of site disturbance,
- Reducing the residential density to 5 residential units (as opposed to 8 in the most recent application on the site DAN0088/04) at a rate of 1 unit per 275m² of site area, which is significantly below the 1 unit per 150m² permitted,
- A predominant commercial use at the ground floor level as opposed to more intensive retail and/or restaurant uses in order to address those previous concerns regarding noise and to reduce the car parking spaces required for the development, and
- Compliance with all built form controls, with the exception of a minor non compliance with respect to the side building line on the northern side of the site

The proposal is consistent with the desired future character of the Palm Beach Locality and would be a positive contribution to the neighbourhood business zone. The proposal is therefore recommended to the Council for approval.

2 0 INTRODUCTION

This Statement of Environmental Effects (SEE) accompanies a DA that seeks Council's consent for the demolition of the existing buildings and the construction of STH proposal at 1112 - 1116 Barrenjoey Road Palm Beach. This DA is made by the Anastasopoulos Family, who have been the owners of the site since 1981.

This SEE -

- Describes the site and surrounding area,
- Details the nature of the proposed development, and
- Undertakes an assessment of the proposal under the heads of consideration in Section 79C(1) of the Environmental Planning and Assessment Act, 1979

The site is zoned 3(c) Neighbourhood Business under the provisions of the PLEP. The site is specifically identified for the purposes of accommodating STH development on Council's Multi-Unit Housing Map. The proposal is therefore permissible with the consent of Council.

Over the last 10 years there have been a number of DAs submitted for development of the site. The most recent application (DA N0088/04) submitted to Council was also for a STH development with two levels of basement car parking.

The Council refused DAN0088/04 on the 7 April, 2005 for reasons including non compliance with building lines, geotechnical matters, car parking and traffic impacts.

Many of the issues relating to the previous applications were a result of the site's physical and land use zoning constraints. The site is physically constrained particularly with respect to its steep sloping topography, whilst the front of the site is subject to flooding. The site is also located at the interface where the land use zoning changes from a business to low density residential (2(a) Residential "A").

The site constraints, Council and resident issues previously raised have created a new focus for and formed the basis of the proposed STH development that is presented in this DA.

Some of the major amendments to this proposal include

- A significant reduction in residential density from 8 to 5 units,
- A reduction in the building height so that it is at or below the maximum 8.5m limit,
- Removal of the proposed retail/restaurant use (except for small kiosk) in favour of a commercially orientated development that would reduce those noise levels and odour concerns previously raised by adjoining residents,
- A reduction in the levels of site disturbance,
- Relocation of the driveway entry so as to not require removal of the existing bus stop located at the southern end of the site's frontage to Barrenjoey Road,
- A reduction in the number of car parking spaces and traffic movements from the site as a result of the reducing the residential density and the provision of commercial as opposed to retail/restaurant floor space,

- A significant increase in the front building line to Barrenjoey Road in excess of the minimum 3.5m requirement that would also accommodate substantial deep soil landscaped area,
- A significant increase in the amount of deep soil landscaping generally across the site and within all building setback areas, and
- Compliance with the built form controls, with the exception of a minor variation in the northern boundary to accommodate a fire stair from the car parking area that has no visual or amenity impacts

All of the positive amendments made to the proposal in response to those issues previously raised by adjoining and nearby property owners and Council have been specifically addressed to provide a balanced approach to the site's physical constraints as well as its legal right to accommodate business and multi unit housing uses under the PLEP

The conclusion is reached that the proposal is acceptable with regard to all relevant planning issues and is recommended to Council for approval

3.0 SITE AND SURROUNDING AREA

3.1 The Site

The site is legally identified as Lot 21, DP 571298 and is located at 1112 - 1116 Barrenjoey Road, Palm Beach. The site is located at the northern end of the Palm Beach business zone and has an east-west orientation with frontage to Barrenjoey Road (see **Plans 1 & 2**)

The site is generally irregular in shape and comprises a total area of 1362m². The land slopes significantly from the rear boundary down to Barrenjoey Road and has an average cross-fall of approximately 37%

Vegetation occurs predominantly within the centre and at the rear of the site as well as adjacent to the existing car parking area. Although a number of these trees would require removal in order to facilitate the proposed development on this site, the DA proposes adequate replacement planting.

The existing development on the site comprises 3 commercial buildings, 2 of which accommodate cafes and the other a clothing store, an unsealed car parking area, and a 2 storey, timber clad dwelling at the rear of the site. A copy of the survey plan illustrating the locations of the site's existing development is provided in **Annexure 1**.

The front of the site is affected by estuarine flooding and therefore any development upon it is subject to an Estuarine Planning Level (EPL), which is 2.2m AHD.

3.2 The Surrounding Area

The surrounding area is characterised by mix of business and residential development. As previously mentioned, the site represents the northern end of the Palm Beach business zone.

Immediately to the south of the site is Barrenjoey House, which is a two storey sandstone building. Barrenjoey House is listed as a heritage item of local significance under the Pittwater Local Environmental Plan 1993 (PLEP 1993)

Adjoining the site to the north and at the rear (east) are 2 storey residential dwellings. The existing dwelling adjoining the site to the north is used for Holiday lettings and is known as the 'Ferry House'. Those dwellings located at the rear of the site on Palm Beach Road are located at a level significantly higher than the site and enjoy views predominantly to the west and north-west to Pittwater. The property at Lot 7B, DP 13374, No 21 Palm Beach Road ("Winten") located to the rear of the site is also listed as an item of local heritage significance.

The site is located opposite Palm Beach Park, a public car park and the Palm Beach Ferry wharf and enjoys filtered view of Pittwater and its western foreshores. The Norfolk Pine trees in Palm Beach Park are listed as having local heritage significance.

The overall context of the site is illustrated by those photos of the locality in **Annexure 1**

4 0 THE PROPOSAL

The proposed development seeks approval for

- The demolition of the existing buildings,
- Construction of a new shop top housing building comprising 1 level of basement car parking, a public podium, commercial floor space and a kiosk at the ground floor level, and 3 levels comprising 5 residential units,
- A new driveway crossing, and
- Side boundary fences

The proposed development is illustrated on the plans and elevations prepared by Lesiuk Architects Pty Ltd, which accompany the DA. Each level of the proposed new dwelling will comprise the following

Basement & Access

The basement level will accommodate 22 car parking spaces, bin storage, a lift, toilet and a fire stair. A new cross over and associated driveway will be provided at the northern end of the site's Barrenjoey Road frontage that would replace the existing driveway adjacent to the southern boundary.

Ground Floor

The first floor level will comprise

- An a public podium, which is elevated approximately 0.9m above the footpath level adjacent to Barrenjoey Road,
- 6 commercial units comprising a total Gross Lettable Area (GLA) of 326m²
- A Kiosk located in the south western corner of the podium level comprising a total GLA of 21m²,
- Lift foyer and access,
- Disabled Access Ramp,
- Shade structure/pergola,
- Retaining walls, and
- Driveway

First Floor

The proposed first floor level will accommodate

- 2 x 3 bedroom units and associated balconies, and
- Lift foyer and access

Second Floor

- 2 x 3 bedroom units and associated balconies, and
- Lift foyer and access

Third Floor

- 1 x 3 bedroom unit and
- Lift Access

5 0 DESIGN RESPONSE TO PREVIOUS OBJECTIONS

The previous STH proposal (DAN0088/04) refused on the site was the subject of submissions primarily from the immediate adjoining property owners. The main issues identified in these submissions and how this proposal has responded to them is described as follows

Noise / Aural Privacy

The proposal only includes commercial floor space at the ground floor level with the exception of the small kiosk, which is located away from adjoining residential properties

The commercially orientated development would reduce the intensity of the site's usage in comparison to retail/restaurant uses and, therefore, would minimise adverse noise impacts upon existing residences within the locality

Landslip Risk

The extensive slope on this site makes it difficult to accommodate a development that limits building bulk and scale and retains views without excavation. The excavation proposed as part of this DA enables the height of the proposal to be retained within the 8.5m height limit and maintain view sharing to those properties at the rear of the site

The extent of excavation in comparison to the previous proposal has been reduced significantly as part of this DA. This is a result of lowering the residential density from 8 to 5 units and the provision of commercial uses at the ground floor level, which has reduced the number of car parking spaces required for the proposal. The reduction in car parking has, therefore, eliminated the need for a second basement level and the associated excavation

Property Damage

The excavation proposed as part of the DA is adequately setback from adjoining property boundaries. As with any major DA, a condition would be imposed to ensure the applicant undertook dilapidation reports for each of the adjoining properties in order to resolve any damage disputes that may arise during and post construction of the proposal

Traffic and Car Parking Impacts

The driveway has been relocated to the other side of the site to avoid the need to move the existing bus stop. The number of car parking spaces required has been reduced as a result in the significant reduction of the residential density from 8 to 5 units and the inclusion of commercial floor space

As detailed in the traffic and parking report accompanying the DA, the level of vehicle movement to and from the site would have no adverse impacts on car parking or the local traffic network

Stormwater and Local Flooding

The site is affected by estuarine flooding. An Estuarine Planning Level (EPL) has been established for the site by an appropriately qualified geotechnical engineer. The proposal has been designed with regard to the EPL, which is reflected by the raised ground floor/podium level. The entry to the driveway serving the basement car park has also been raised to prevent potential flooding.

Flora and Fauna Impact

Although the proposal does involve removal of existing trees and vegetation on the site, the potential impacts on flora and fauna has not been an issue previously raised by Council in its assessment of other DAs for the site or in the pre DA meeting with respect to this proposal.

A number of trees in question have already been removed from the site, which were approved for removal by Council under relevant Tree Preservation Orders.

The DA proposes extensive landscaping, including new canopy trees that would significantly enhance the site's contribution to the natural environment and continue to encourage local fauna to use and pass through the site.

Building Height

A site with a slope in excess of 30% may permit a building height of up to 10m. The proposal in this DA has been retained at or below the maximum 8.5m height limit.

View Loss

View sharing is retained by the proposed development. As detailed in part 6.2.1 of this SEE, an assessment of the impact of the proposal upon the views enjoyed by those existing properties at the rear of the site on Palm Beach Road has been determined as being negligible.

Visual Privacy

The proposal would not result in any adverse visual privacy impacts on adjoining properties given the extensive setbacks and landscape screening proposed, the use of louvred privacy screens on windows in the side and rear elevations and the orientation of all internal and external living areas towards the site's street frontage. All side and rear setbacks of the proposal would not be easily accessible by the public or the future occupants of the site.

External Materials and Finishes

The proposed external materials and finishes have been chosen to not dominate the landscape and to reflect the sea side character of the locality, via the use of a dark colour palette and the timber louvres and shutters.

Proposed Commercial/Retail Uses

With the exception of the Kiosk, the proposal now only includes commercial floor space at the ground floor/podium level. The car parking requirements for retail/restaurant make development of the site for these uses unfeasible as a result of the amount of excavation and associated engineering works that would be required to accommodate 2 basement car parking levels.

The benefits of the commercial use will be (in conjunction with the reduction in the number of residential units) a minimisation in the intensity of the site's usage and the associated environmental impacts like noise and increased traffic generation.

Proposed Landscaping

The extent landscaping provided on the site has been greatly increased as part of this DA. This improvement is aided by the generous front setback being provided, which comprises a large deep soil landscaping zone. The side and rear setbacks are also predominantly deep soil landscape areas that would enable substantial vegetation to be provided. These features will aid in reducing building bulk as well as mitigate potential visual privacy impacts.

The landscape plan now provides 80% locally indigenous plant species to ensure greater consistency with the natural surrounding bushland.

Archaeological Issues

The Council has not identified in its assessments of the DAs relating to the site, that the land holds archaeological significance. This issue would be best addressed by Council applying its standard conditions that if in the event that potential important features were revealed during construction that it is dealt with appropriately by experts at this point in time.

Heritage Impacts on Barrenjoey House

As detailed in the Heritage Impact Statement (HIS) (see **Annexure 2**), which accompanies the DA, concludes

In conclusion, the proposed works described above do not adversely affect the identified heritage significance of the heritage items in the vicinity of the property. The heritage item adjacent to the site on the southern side Barrenjoey House will retain prominence on Barrenjoey Road. The heritage item to the east, Winten, at 21 Palm Beach Road will retain its prominent position on the west facing hillside and will not be obscured when viewed from Pittwater Park and Pittwater. The Norfolk Island Pine trees on the western side of Barrenjoey Road opposite the site will not be affected by the proposal and will act as screening to the development when viewed from Pittwater.

The proposed new development is stepped in plan form and elevation which reduces the scale and bulk of the building on the street frontage and ensures that Barrenjoey House retains prominence on the street. The form and detail of the design, as well as the materials and colours are highly compatible with the character of the area.

I would recommend the heritage aspects of this application be approved.

Bushfire

The previous DA on the site was assessed by the Warringah/Pittwater Rural Fire Service. Standard conditions were recommended for the development, which are anticipated to be unvaried with respect to this proposal.

6 0 ASSESSMENT UNDER THE HEADS OF CONSIDERATION IN SECTION 79C(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

The likely impact of the proposal is considered in the context of the heads of consideration set out in Section 79C(1) of the Environmental Planning and Assessment Act, 1979 (Act)

- (a) *the provisions of -*
 - (i) *any environmental planning instrument and*
 - (ii) *any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and*
 - (iii) *any development control plan and*
 - (iv) *any matters prescribed by the regulations that apply to the land to which the development application relates*
- (b) *the likely impacts of that development including environmental impacts on both the natural and built environments and social and economic impacts in the locality*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations'*
- (e) *the public interest*

6 1 SECTION 79C(1)(A) PLANNING INSTRUMENTS/REGULATIONS

6 1 1 State Environmental Planning Policy (Building Sustainability Index BASIX) 2004 (SEPP BASIX)

SEPP BASIX was introduced to establish sustainable residential development. The policy was also developed to ensure that BASIX was applied consistently across NSW.

This proposal has been assessed by accredited BASIX assessor. Subsequently, a BASIX certificate (see **Annexure 3**) outlining the applicant's commitments for the proposal has been issued and accompanies the DA.

6 1 2 State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)

As part of the DA assessment process, SEPP 55 requires Council to have regard for whether a site is potentially contaminated and if so, what if any, remediation is required to make the site suitable to accommodate its proposed use.

The site has a history of only being used for commercial office, retail and restaurant uses and, therefore, is unlikely to be contaminated. This assessment is confirmed by Council's assessment of previous DAs for the site, which have not been required to be accompanied by a stage 1 and 2 investigation report or a remedial action plan.

6.1.3 State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development

The NSW Government outlines that State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development (SEPP 65) aims to improve design quality of residential flat buildings of three or more storeys and containing 4 or more self contained dwellings. The Policy recognises that the design quality of residential flat development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.

SEPP 65 contains ten Design Quality Principles, which form the basis for achieving good design. The Design Quality Principles provide a guide for evaluating the merits of development proposals.

SEPP 65 and Design Quality Principles are implemented through the following items:

- Environmental Planning and Assessment Regulation 2000 includes a number of specific provisions to complement SEPP 65 to raise the design quality of residential flat development,
- Residential Flat Design Code - a tool for improving the design of residential flats,
- Residential Flat Design Pattern Book - a resource of ideas and precedents to guide better design of residential flat development in NSW.

SEPP 65 requires that a registered architect is to verify the design, construction certification and occupation certification of residential flat development. A SEPP 65 review and a Design Verification Statement prepared by Lesiuk Architects accompany the DA.

Clause 5 in Schedule 1 of the Environmental Planning and Assessment Regulation 2000 also requires an SEE, amongst other things to provide

an explanation of the design in terms of the design quality principles set out in Part 2 of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development

The following provides an assessment of the proposal with respect to the 10 design quality principles:

1 Context

There is an eclectic mix of built form within the Palm Beach locality. Within close proximity to the site there are 2 and 3 storey dwellings and business premises as well as residential flat buildings (in Palm Beach Road).

There is also three distinctive bands of development on the western escarpment adjacent to Barrenjoey Road, these being at the street level, middle and upper levels of the slope

The height of the proposal is 4 storeys. Although this height is greater than those existing buildings immediately adjoining the site, the development would still remain in context within the locality as its height and bulk have been nestled into the slope and setback significantly from the street frontage.

This siting of the building bulk away from the site's frontage also respects its location as a transition from a business to a residential land use zone where the front building line requirement changes dramatically from 3.5m to 10m respectively. By demolishing the existing commercial buildings on the site that currently have a nil setback to Barrenjoey Road and setting the bulk of the new proposal back 10m from the site's frontage, the potential visual impacts upon the adjoining dwelling at 1120 Barrenjoey Road would be reduced.

The desired future character for land (including the site) within the Palm Beach Locality includes

Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance, and

The design scale and treatment of future development within the commercial centres will reflect a 'seaside-village' character through building design, signage and landscaping and will reflect principles of good urban design. Landscaping will be incorporated into the building design. Outdoor cafe seating will be encouraged.

The design of the building nestles into the slope of the site and steps down towards its Barrenjoey Road frontage. In comparison to the previous STH development (N0088/04) refused on the site, this proposal has significantly reduced the site disturbance by proposing only 1 level of basement car parking.

The materials and finishes proposed would consist of lightweight fixtures including stained timber blinds, timber louvres, metal roofing and natural 'earth' tones. The combination of these features provides the proposal with those coastal elements envisaged for development within this locality.

Given all of the above reasons, the proposal would remain in context with the existing development and the desired future character of the locality.

2 Scale

The scale of the building has been positioned in response to the change in land use zoning adjoining the site and to maintain views to and from Barrenjoey House within the streetscape.

Given the slope of the site, the height of the proposal may extend up to a maximum of 10m above the natural ground level in accordance with PDCCP. The proposal has a building height of 8.5m that is consistent with the predominant building height within the Palm Beach locality.

The front building line of the podium ranges from 1.6m to 8m and provides an expanse of deep soil landscaped area that would allow for substantial planting to assist in reducing the bulk and scale of the proposal

Given the proposal complies with the built form controls the scale of the development would be consistent with that envisaged for the locality and is acceptable

3 Built Form

The built form has responded to the site constraints including slope, zone transition and proximity to items of heritage significance. This has been reflected particularly in the generous front building line the proposal would have to Barrenjoey Road, reduced site disturbance, and a built form that steps down with the site's topography

The height of the building would ensure retention of views enjoyed by existing properties located at the rear of the site. The building height and bulk would also be reduced by the provision of landscaping that would be accommodated in the deep soil zone within the front building line

The proposal also contributes significantly to the public domain by providing a generous public podium area that would enable local residents and visitors to utilise this area as a meeting point or waiting area for the bus or ferry services

The internal amenity provided, particularly to the residential units, would be of a high standard. The unit depth and distance between openings in the external walls would ensure excellent natural cross ventilation and ample penetration of natural light. The provision of shading devices to account for the site's exposure to the western sun would also assist in maintaining a high level of residential amenity

4 Density

The PDCP permits a maximum of 1 dwelling per 150m² of site area for STH. The application proposes a density of 1 dwelling per 272m² of site area and therefore, is well below the maximum density permitted for the site

The level of density proposed meets the objectives of the site's business zoning in terms of providing housing variety in areas with existing infrastructure like public transport, whilst sympathetically responding to the existing constraints. The result may be best described as a balanced outcome for the site

5 Resource, Energy, Water Efficiency

The DA is supported by a BASIX assessment outlining the applicant commitments. As previously discussed, the internal layout of the proposed unit in terms of unit depth and distance between openings would assist in natural heating and cooling of the building

The site's front, side and rear setbacks are provided with a high level of deep soil landscaping zones to facilitate canopy vegetation that would assist in cooling the building and reducing stormwater run off from the site

The building design also incorporates a number of shading devices to control sunlight penetration within the building. This is particularly important in terms of internal occupant comfort given the building would be exposed to the western sun during the summer months

In summary, the proposal has focussed on emphasising sustainable development features and concepts within the design and site planning and, therefore, more than satisfies this design quality principle

6 Landscape

Although the proposal would involve the removal of some existing vegetation on the site, the design has ensured generous areas for deep soil landscaping that would facilitate canopy tree planting. By comparison to the previous STH development refused on the site, an emphasis has been placed on providing more of soft landscaping interface with the Barrenjoey Road frontage

The benefit of increasing the landscaping within the site's frontage also softens the transition between business and residential zoned land to the north. Other benefits of the proposed landscaping design includes minimising stormwater run off, providing visual privacy to adjoining properties and reducing the building bulk and scale

Given those reasons detailed above, the landscape design provides an appropriate response to the loss of vegetation on the site, complements the proposed building design and assists in reducing the visual impact of the building bulk when viewed within the streetscape or from adjoining properties

7 Amenity

The matters regarding internal amenity, unit layout and outlook have been dealt with in the with respect to other design quality principles above mentioned

With respect to visual and aural privacy, the adjoining property located to the north at 1120 Barrenjoey Road is the property most likely to be impacted upon by the proposal in this regard. However, in the first instance it should be noted that the site already accommodates business uses with a high levels of visitation. As the proposal is to residential and commercial (as opposed to retail/restaurants) uses, environmental issues like the level of noise generated would also be maintained to an acceptable level

The public podium level is also well setback from the common boundary with 1120 Barrenjoey Road, which is facilitated by the proposed driveway access. A privacy screen has also been provided along the top of the retaining wall serving the proposed driveway to mitigate viewing into the front yard of this adjoining property

The southern elevation at the first floor level of the dwelling at 1120 Barrenjoey Road, consists of 4 windows, which are orientated across the common boundary with the site. Two of these windows appear to serve a principal internal living area.

In response to those windows above mentioned, the residential component of the proposal has minimised the number windows in its northern elevation and are fitted with privacy screens.

Furthermore, the sill levels of all windows in the northern elevation of the proposal are such that their outlook would be either onto the roof or below the level of the windows in the southern elevation of the dwelling at 1120 Barrenjoey Road.

The balconies provide for each unit on the northern side of the site are also provided with timber louvred privacy screens. In addition, these balconies are also well setback from the common boundary with 1120 Barrenjoey Road. The outdoor landscaped terraces areas at the ground level are also not accessible from within the units and are intended to be used to accommodate landscaping only.

Given all of the above reasons, the proposal would not result in any adverse visual or aural privacy impacts, whilst also maintaining a high level of amenity for the site's future occupants.

8 Safety and Security

The design provides excellent passive surveillance of the public podium and street from the proposed residential and commercial units. Access to the sides and rear of the building foot print would be severely restricted by the changes in levels as well as the extensive landscaping to be provided. Each of the proposed residential units however would also be provided with opportunities to survey the side and rear boundaries of the site.

The residential foyer at the podium level would be well lit during the evenings and access to the car parking area would only be permitted with a security pass outside normal business hours.

The design of the private and public domain areas on the site would, therefore, be more than satisfactory with respect to future occupant and visitor safety.

9 Social Dimensions

The site's business zoning under the PLEP encourages the provision of residential unit development. The proposal would be consistent with older and more recent medium density housing developments within the Palm Beach business zone. Providing medium density housing in this location is supported by its access to existing public transport within close proximity to the site.

The commercial units proposed would also assist in generating job opportunities within the local area.

10 Aesthetics

As previously outlined, the external materials are a reflection of the sites coastal context, which is emphasised by the use of timber screens and louvres. The dark external colours proposed for the rendered building facades would ensure it does not dominate the escarpment or the landscape.

6.1.4 Pittwater Local Environmental Plan 1993 (PLEP 1993)

The site is zoned 3(c) (NEIGHBOURHOOD BUSINESS "C") under the provisions of the PLEP 1993. Clause 210 (2) in the PLEP 1993 permits shop top housing in the 3 (c) zone with the consent of Council.

Clause 36 of PLEP requires the Council to have regard for the potential impact of a proposal that is within the vicinity of a heritage item. In this instance, Barrenjoey House, which is an item of local significance, is located to the south of the site. Other items of local heritage significance include the dwelling "Winton" at 21 Palm Beach Road and the Norfolk Pine trees located opposite the site in Palm Beach Park. A heritage impact assessment (see **Annexure 2**) of the proposal with respect to these heritage items is detailed in the report prepared by NBRS + Partners which accompanies the DA. This report concludes that

In conclusion the proposed works described above do not adversely affect the identified heritage significance of the heritage items in the vicinity of the property. The heritage item adjacent to the site on the southern side, Barrenjoey House will retain prominence on Barrenjoey Road. The heritage item to the east Winton, at 21 Palm Beach Road will retain its prominent position on the west facing hillside and will not be obscured when viewed from Pittwater Park and Pittwater. The Norfolk Island Pine trees on the western side of Barrenjoey Road, opposite the site will not be affected by the proposal and will act as screening to the development when viewed from Pittwater.

The proposed new development is stepped in plan form and elevation, which reduces the scale and bulk of the building on the street frontage, and ensures that Barrenjoey House retains prominence on the street. The form and detail of the design, as well as the materials and colours, are highly compatible with the character of the area.

I would recommend the heritage aspects of this application be approved.

6 2 SECTION 79(A)(II) DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

There are no draft environmental planning instruments required to be considered in relation to this development application

6 3 DEVELOPMENT CONTROL PLANS AND POLICY GUIDELINES

6 3 1 Pittwater 21 Development Control Plan

Table 1 below provides a summary assessment of the proposal with respect to the relevant numerical development controls in the Pittwater 21 Development Control Plan (PDCP)

Table 1 – Compliance Table – Development Controls - PDCP

DCP Controls	Control	Proposed	Compliance
Density	Maximum of 1 dwelling/150m ² site area	1 dwelling/272m ²	Yes
	25% GLA Commercial/Retail	29%	Yes
Building Height	8.5m above NGL	8.5m	Yes Yes
Front Building Line	3.5m or established, which ever is the greater	1.6m-8m	No
Side and Rear Building Line			
South (Adjoins a Split Zoning)	0m(front-business) & 3m(rear-residential)	2m & 3m	Yes Yes
North	3m	1.5m-5.5m	No
Rear	6.5m	6.5m	Yes
Car Parking			
Residential	2 per 2 or more dwellings 1 per 3 dwellings	10 2	
Visitor			
Commercial	2.5 per 100m ² (GLA)	9	
Retail	1 per 30m ² (GLA)	1	
Bicycle	4 spaces	4	
Motorcycle	1 space	1	
Total	22 Car Spaces 4 Bicycle Spaces 1 Motorcycle Space	22 Spaces 4 Bicycle 1 Motorcycle	Yes Yes Yes

Private Open Space	Minimum 15% of unit floor area	Minimum 27%	Yes
	Minimum Usable Area 10m ² with a 2.4m width	>10m ² & 2.4m wide	Yes
Minimum Landscaped Area	272m ²	303m ²	Yes
Solar Access	The main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st		Yes
	Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows)		Yes
Fences			
Front Fences	None Permitted	None	Yes
Side & Rear Fences	Max 1.8m with 150mmx150mm openings every 5m	Max 1.8m	Yes

The following sections in this part of the SEE provide an assessment of the proposal against the key planning considerations and controls in the PDCP

Heritage

The site is located adjacent to Barrenjoey House, which is a building of local heritage significance. Other heritage items within the vicinity of the site include the dwelling at 21 Palm Beach Road and the Norfolk Pine trees opposite the site in Palm Beach Park.

Control B1.2 in PDCP requires the applicant to demonstrate that a proposal within the vicinity of a heritage item will not detract or have adverse impacts upon their significance.

The DA has been supported by a heritage impact assessment prepared by NBRS + Partners (see **Annexure 2**) The conclusions of this heritage impact are detailed above in section 6.1.4 of this SEE

Hazards

The site is identified as being affected by the following natural hazards

- Landslip,
- Class 5 Acid Sulphate Soil risk,
- Bushfire Prone Land,
- Potentially Contaminated Land,
- Estuarine Hazard, and
- Category 3 Flood Hazard

Control B1.3 in PDCP requires development to comply with the Geotechnical Risk Management Policy for Pittwater to ensure protection of people, the natural environment and infrastructure and assets The DA is accompanied by a Geotechnical Engineers report prepared by Douglas Partners, dated October 2009 (see **Annexure 4**)

It should also be noted that the design forming part of this DA has significantly revised the extent of cut and fill previously proposed as part of DA N0088/04 by eliminating the need for a second level of basement car parking This is a direct response to reducing the level of site disturbance and mitigating the concerns raised previously in submissions by local residence

Control B3.2 in PDCP requires development to be constructed to manage the risks of potential bushfire To achieve the objectives of this control, development is to meet the requirements of Planning for Bushfire Protection (2006)

The DA is accompanied by a Bushfire Hazard Assessment Report (see **Annexure 5**) which concludes that

The Bushfire Attack Category was determined to be 'Low for the proposed building It is my opinion that this is a true reflection of the bushfire threat to the subject property However given the requirements under the Building Code of Australia for this type of building it will be constructed to better than Level 1 construction under AS3959 -1999 in any case

The site is identified as being Class 5 with respect to Acid Sulphate Soil risk Class 5 is defined as involving

'Works within 500 metres of adjacent Class 1, 2, 3 or 4 land which are likely to lower the watertable below 1 metre AHD on adjacent Class 1, 2, 3 or 4 land

Control B3 5 in PDCP require that any works on the site as described above must not be carried out unless it has been determined whether acid sulphate soils are present and whether the proposed works are likely to disturb these soils. The site is located within 500mm of a Class 3 Acid Sulphate soil zone. The Geotechnical Engineers report prepared by Douglas Partners has investigated the site for Acid Sulphate soils and has determined that

The results indicate no significant change of pH which could be ascribed to acid sulphate soils within the test depth range. The results are consistent with the mapping indicated on the Broken Bay Acid Sulphate Soil Risk map which indicates that there is no known occurrence of acid sulphate soils (ASS)

Development controls B3 8 and B3 22 in PDCP relate to estuarine and flooding hazards. In accordance with Council's property information advice, the site does have an estuarine flooding affectation therefore control B3 8 is applicable in this instance.

The Estuarine Planning Level (EPL) was determined by Jack Hodgson Consulting Pty Ltd and their report accompanies the DA (see **Annexure 6**). This report has determined the EPL (FPL) as being 2.2 AHD. The design of the proposal has been designed to the EPL, which is clearly indicated by the need to elevate the ground floor level to 3.1m AHD.

The issue of contaminated land has been discussed previously in this SEE in section 4.1.3. It should be noted that Council has determined with respect to previous DAs for the site that no remedial action was necessary. As the use of the site has not changed since the determination of these previous development proposals, a stage 2 investigation and a remedial action plan are required with respect to this DA.

Natural Environment

The proposal is located within the vicinity of wetlands therefore, control B4 14 in PDCP is applicable. The proposal incorporates an extensive drainage and stormwater management policy and a landscaping design that would maintain the site's status as being part of a wildlife corridor.

Both of the above mentioned features of the proposal would assist to ensure that impacts on the Pittwater ecosystem are minimised to a satisfactory level.

The proposal also includes the removal of the existing canopy vegetation from the site. An Aboreal report prepared by Urban Forestry Australia Pty Ltd dated June 2009 (see **Annexure 7**) has assessed each of the trees and has concluded

The majority of site is currently occupied by commercial buildings. The undeveloped area to the south east is highly disturbed, with a dense cover of noxious and undesirable weeds. Most native vegetation has been smothered by vines and out competed by larger weed tree species.

All existing trees and vegetation are proposed for removal.

There are no significant trees, indigenous or otherwise, within the site There are two (2) trees in neighbouring properties that are in close proximity to the site boundaries

Tree 7 is unlikely to be affected by the development proposal, however it will require consideration of its overhanging crown during the works to ensure it does not sustain injury, and protection of the excavated face adjacent to the tree to prevent root desiccation via drying out of the soil profile

Tree 10 is so obscured by vegetation and weeds that is impossible at this stage to determine any extent of root growth into the site However, based on observations of its canopy, we have prepared an appropriate TPZ This TPZ however may be required to be amended once a more detailed investigation of the tree is made possible

Arboricultural advice and supervision will be required at times during the project to ensure the trees are provided with the best possible protection from development impacts

A landscaped plan, with the benefit of an increased deep soil area within the proposed front building line also provides a comprehensive list of plant species with a minimum of 80% being locally native species

Water Management

The site is well serviced by a public sewer and, therefore, the proposed development will be connected accordingly Similarly, any stormwater that is collected and not reused on the site would be connected to the public drainage system in Barrenjoey Road Controls B5 2 and B5 11 in PDCP would, therefore, be satisfied

In accordance with development controls B5 8 and B5 10, the stormwater drainage system includes on site stormwater detention and the necessary screening mechanisms to ensure any potential water pollution sources are reduced A stormwater management plan accompanies this DA and is provided in **Annexure 9**

Access & Car Parking

The DA provides only 1 level of basement car parking, to accommodate the minimum number of car parking spaces in accordance with control B6 6 as detailed in the following table

Table 2 – Car Parking Assessment

Use	Required	Proposed
Residential		
1 Bedroom	0	0
2 or more Bedrooms	2x5=10 Spaces	10 Spaces
Visitor		
1 per 3 dwellings	5/3=2 Spaces	2 Spaces
Commercial		
2.5 per 100m ² (GLA)	344m ² /100 x 2.5=9 Spaces	9 Spaces
Retail		
1 per 30m ² (GLA)	21m ² /30=1 Spaces	1 Space
Total	22 Car Spaces	22 Car Spaces
Bicycle	4 Bicycle Spaces	4 Bicycle Spaces
Motorcycle	1 Motorcycle Space	1 Motorcycle Space

The driveway crossing and width, driveway gradient, aisle widths and car parking space dimensions all comply with the minimum requirements of the PDCP and Australian Standard-Parking Facilities Part 1 – Off-Street Carparking (AS2890.1). A Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd, dated 5 February 2010 (see Annexure 8) accompanies the DA and confirms that the proposal complies with the requirement of AS2890.1.

As illustrated on the plans for the basement car park, there are 8 spaces within a “stacked” arrangement. Each of the stacked spaces would be allocated so that they relate to the same dwelling. Under these circumstances, the PDCP advises that “stacked” car parking is acceptable.

Design Criteria for Residential Development

Landscaping

The proposal includes removing the existing trees from the site. Some of these trees on the site were approved for removal by Council and this action has subsequently already been undertaken by the owner.

The landscape plan provides more than 80% locally native species and 2 canopy trees can be accommodated within the front setback to Barrenjoey Road. This would assist in screening the proposed built form and provide shading for the public domain. The side and rear setbacks of the proposal would also be comprised predominantly of deep soil landscaping.

As previously mentioned, the front building setback would be characterised by deep soil landscaping. This feature provides more substantial landscape screening at the public domain interface than a planter box, which is the minimum requirement in PDCP. Planter boxes however have been provided at the upper levels of the building to assist, in conjunction with the proposed external materials and finishes, to reduce building bulk and scale.

The minimum landscaped area required for the site in accordance with PDCP is 272m². The proposal would provide a minimum of 303m², which is in excess of the requirements. Of this landscaped area a significant proportion would be comprised of deep soil landscaping. These deep soil zones, particularly within the side and rear building setbacks, would, apart from assisting with screening the built form, also minimise any visual privacy impacts upon existing adjoining development.

Given the above reasons, this proposal complies with the controls and meets the outcomes for development control C1.1 in PDCP.

Safety and Security

Visitors to the residential component of the building would only be able to access these levels via a security pass and/or via an intercom system. Lift access will be available to the public from the basement car park to the ground floor/podium level only.

All of the units, including the commercial areas, are all orientated so that they allow views of the public domain surrounding the building. Access to the sides and to the rear of the building would be limited by the extensive landscaping and the steep sloping nature of the site.

Given the ample amount of area being provided for public benefit at the podium level of the building, there is no need to require the provision of seating or landscaping upon public land thereby eliminating the potential to interfere with general public access.

As set out above, the proposal would be more than satisfactory in upholding the safety and security of the residents and general public and provides little opportunities for vandalism. The proposal therefore complies with development control C1.2 in PDCP.

View Sharing

One submission was raised with respect to view loss with regards to the previous STH proposal from the owners of 21A Palm Beach Road located at the rear of the site (east). The submission stated that

The roofline of the proposed complex would completely block our views of Pittwater from our lower balcony and pool entertainment area. The view from our upper balcony would be of a large heat reflective grey roof area blocking our view of the beach below."

Access to the adjoining property has not (at this stage) been undertaken to examine the view loss, therefore an assessment of the proposal using survey information however has been made as follows

The level of the lower balcony of the dwelling at 21A Palm Beach Road is at R L 17.40m, whilst the upper level balcony is at R L 19.35m. A pool area is located to the north of and adjacent to the dwelling at an R L of approximately 16.8m. The owner of this adjoining property has previously described that they enjoy views of Pittwater from the lower balcony and pool area. At the upper level balcony views of Snapperman Beach (adjacent to Palm Beach Park), Pittwater and its western foreshores are obtained.

The highest point of the proposal's roof line is R L 17.1m. Therefore, the views currently enjoyed by the adjoining property are likely to be impeded by the proposal from the pool area and surrounds. Views from the lower and upper floor balconies would be retained as well as those from adjacent internal living areas at the upper level.

When applying the four step process of the planning principle established in the NSW Land and Environment Court appeal of *Tenacity Consulting v Warringah [2004] NSWLEC 140* it demonstrates that the proposal would maintain a reasonable sharing of views to all neighbouring properties as detailed below:

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

The important views enjoyed from the lower and upper balconies and pool area at 21A Palm Beach Road includes Pittwater and its Western Foreshore and Escarpment. Views of Snapperman Beach are also enjoyed from the upper levels of the dwelling on this property.

It should be noted that it is likely that the above mentioned views are also filtered by the large Norfolk Pine Trees located in Palm Beach Park opposite the site, adjacent to Snapperman Beach.

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

The adjoining property at 21A Palm Beach Road is a battle-axe block and therefore does not technically have a rear or front boundary. The dwelling on this adjoining property however, is orientated towards the views, which is to the west over the site. Given access to the site has not occurred, it is assumed that the views from each balcony level and the pool area are currently achieved in both standing and sitting positions.

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

As previously detailed, the highest point of the proposal, which is also the closest point to the common boundary with 21A Palm Beach Road, is R L 17.1m. The dwelling at 21A Palm Beach Road has an upper balcony level of R L 19.35m, lower balcony level of R L 17.18m and a pool level of approximately R L 16.8m.

The views of Pittwater and its Western Foreshores from the pool area will therefore be impeded by the proposal for persons sitting around the pool area. When standing, the views would be generally maintained. It is submitted that whilst the pool area is one of the primary outdoor living spaces (the others being the balconies attached to the dwelling), the views that would be impeded from this area can be enjoyed from the dwelling where occupants would spend the majority of their time on the site. The view loss from the pool would, therefore, be categorised as minor.

The views currently enjoyed from the lower level balcony would be retained when standing at this level. When seated however, some of the views are likely to be impeded given the reduction in view angle created by the highest point of the proposal being located to ward the rear of the site. However, as the views from the lower level balcony would be maintained to some degree, the view loss would be categorised as minor.

Views at the upper level balcony of Pittwater and the Western Foreshores would not be impeded by the proposal in either a standing or sitting position. It is also unlikely that views of Snapperman Beach to persons standing on the upper balcony would be impeded, however in a seated position there may be some impact. Views from the upper level balcony and adjacent to the primary internal living areas within the dwelling would remain generally unimpeded by the proposal resulting in a negligible impact.

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

The proposal complies with the 8.5m height control in PDCP. At the rear of the site, the built form could technically extend up to a maximum R.L. of 18.9m, which is approximately 1.8m above the current proposal. Given the slope of the site, there is also an argument that the proposal may extend up to 10m above the *natural ground level*. The proposal also complies with the rear and side building line controls with the exception of minor area of non-compliance on the northern boundary toward the bottom of the site where the proposed fire stair is located. The location of the proposed fire stair would have no impact on any views.

The proposal is also well below the maximum residential density permitted on the site, which is 1 unit per 150m² of site area. The density proposed is 1 unit per 275m². The density proposed in conjunction with building's general compliance with built form controls does not represent an overdevelopment of the site.

As the proposal is generally compliant with built form controls and the view loss from the adjoining property at 21A Palm Beach Road is predominantly minor, the development would maintain an equitable share of the scenic views.

Solar Access

As illustrated on the shadow diagrams, all of the private open space areas and windows serving the principal living areas of the proposed residential units would receive a minimum of 3 hours of sunlight during the Winter Solstice.

The site is orientated in an east-west direction and, therefore, would result in some overshadowing impact upon adjoining development to the south. Land immediately adjoining the site to the south at 1106 Barrenjoey Road has a split zoning between 3(c) Neighbourhood Business at the front of the property and 2(a) Residential "A" at the rear. The driveway access to 1106 Barrenjoey Road separates the site and the property accommodating Barrenjoey House at 1108 Barrenjoey Road.

The proposal would have no adverse impacts on 1106 Barrenjoey Road, as the associated dwelling on this property is located higher than the site and approximately 30m to the south. Some overshadowing of the property accommodating Barrenjoey House would occur, however, solar access is not a matter for consideration in the Palm Beach business zone in accordance with PDCP.

Existing residential development to the west of the site would have limited overshadowing by the proposal given the slope of the land and the fact the building would be lower than the principal living areas of these adjoining dwellings.

Given the above reasons, the proposal complies with the development controls in C1.4 and the relevant outcomes.

Privacy

- Visual

The only potential conflict with respect to visual privacy relates to the adjoining holiday apartment at number 1120 Barrenjoey Road to the north and 21A and 23 Palm Beach Road at the rear of the site

The eastern elevation at the rear of the site consists of windows serving bedrooms and the internal living areas of the proposed top floor penthouse unit. These windows however are located significantly below the level at the rear boundary of the site. In addition, the proposal includes a deep soil landscaped front setback. All of these factors ensure that there would be no opportunities for overlooking the private external or internal living areas of either 21A or 23 Palm Beach Road.

There are 8 windows in the southern elevation of adjoining holiday apartment to the north of the site at 1120 Barrenjoey Palm Beach Road. Four windows are located at both the ground and first floor levels of this property.

At least 2 of the windows at the first floor level at 1120 Barrenjoey Road serve internal living areas of this building. The window sill levels for 2 of the windows toward the front (west) of the building are at R L 7.3m, whilst the other 2 windows toward the rear (east) of the building have sills at R L 7.7m. All other windows appear to be either serving bathrooms or other secondary living spaces.

The windows at the ground floor level may also possibly serve bedrooms and bathrooms. These windows would be screened from the proposal by the fence located on the common boundary with the site.

The greatest potential for visual privacy impacts upon 1120 Barrenjoey Road relates to the two units on the northern side of levels 1 and 2 of the proposal, which have finished floor levels at R Ls of 6.35m and 9.35m respectively.

There are however, only two windows associated with the above-mentioned units proposed in the northern elevation of the building, with both of these serving main bedrooms.

To mitigate potential privacy impacts, the main bedroom windows on levels 1 and 2 and the northern ends the balconies on all levels of the building would be fitted with timber louvred privacy screens. Loss of privacy would also be reduced by the fact that the proposed window sill levels are off set from those windows at 1120 Barrenjoey Road. Moreover, extensive deep soil landscaping between the development and the common side boundary would also provide some privacy relief.

Given the above reasons the proposal would not result in any adverse visual privacy impacts upon any of the adjoining existing residential properties and therefore complies with development control C1.5 in PDCP.

- Acoustic

Development control C1 6 in PDCP requires the residential component of a proposal to be designed so that noise generated from within each dwelling and external noise sources have no adverse impacts on the amenity of the future occupants or on those residences surrounding the site

The businesses on the site will be predominantly commercial uses and, therefore, any noise generated would be minimal in comparison to the previous application on the site, which proposed predominantly retail/restaurant uses

There are also no common walls between any of the residential units in the proposal and their balconies are 9m apart, which would limit noise impacts. Bedrooms within each of the units are predominantly located at the rear and away from the public podium and Barrenjoey Road

The adjoining holiday apartment at 1120 Barrenjoey Road site is also the property that is most likely to be affected by any noise generated by the proposal. The proposed units may give rise to some noise but this would not be expected to be beyond those levels that would normally be expected from a residential development

The commercial uses proposed at the ground floor level would also generate minimal noise levels as compared with retail/restaurant uses that were previously proposed. The Kiosk would be the only retail/restaurant use and this is located on the opposite side of the site, 34m away from 1120 Barrenjoey Road

Given all of the above reasons, the proposal would have no adverse aural privacy impacts on the future occupants or adjoining development. The proposal, therefore, complies with the development control C1 6 in PDCP

Private Open Space

Each of the 5 units proposed are provided with generous balcony areas ranging from 45m² for all units on levels 1 and 2 up to 97m² for the penthouse. These areas represent more than 15% of their respective floor areas. Each of these private open space areas are located on the front (west) elevation of the building and have an uncompromised area of 10m² and a minimum width of 2.4m

Each of the proposed balconies would provide sufficient area for clothes drying and receive at least 3 hours of sunlight during the Winter Solstice

Given the above reasons, the proposal complies with development control C1 7 in PDCP

Accessibility

Development control C1 9 in PDCP requires at least 2 of the proposed units to be adaptable housing in accordance with Australian Standard *AS 4299-1995*. Both units at level 1 would be constructed to be adaptable in accordance with *AS 4299-1995*. Each of these units would be accessed via the proposed lift, which extends up from the basement car parking area.

Waste & Recycling Facilities

A waste and recycling enclosure is proposed within the basement car parking level and has been positioned to ensure that it would be easily serviced and accessible by contractors and occupants of the site. The proposal would comply with development control C1 12 in PDCP.

Site Facilities

Apart from the waste and recycling area mentioned in the previous point, a minimum of 8m³ of storage area is also provided for each unit within the basement level. Letter boxes for both the commercial and business uses would be located adjacent to the foyer area accommodating the lift service.

The large balconies proposed for each of the units would be more than satisfactory to accommodate clothes racks for drying purposes and communal open space is more than compensated for (although not required for STH) upon the podium level.

Design Criteria for Business Development

A number of issues including landscaping, safety and security, waste and recycling and view sharing have been addressed in the previous sections of the SEE dealing with design criteria for residential development. The following issues are those specific only to the commercial component of the proposal.

Awnings

The proposal includes an awning and/or pergola structure that extends over the disabled access ramp to the podium, the adjacent footpath and the kiosk. Apart from providing protection from the elements, the structure provides some visual interest to the podium's interface with the streetscape by reducing the appearance of a void as a result of setting back the predominant built form 10m from the street frontage.

The awning is 2.5m to 2.7m above the footpath level, is setback 2.2m to 3.2m from the adjacent kerb on Barrenjoey Road and would be a steel structure with a glazed roof. Although the structure encroaches within the 3.5m setback requirement, it should be noted that the footpath width at this location is only 3.5m wide. Therefore, if numerical compliance were to be enforced in this location it would result no benefit to the public domain. The variation is, therefore, acceptable in this case.

Accessibility

The public podium at the ground floor level is required to be elevated given the site is affected by estuarine flooding. As a result, an access ramp for persons with disabilities is required up to the podium from the footpath adjacent to Barrenjoey Road. Once a person is at the podium level there is no change in levels.

Accessible public toilet facilities are proposed adjacent to the lift foyer in the centre and at the rear of the site at the ground floor level. An accessible female and male toilet would be provided.

An accessible car parking space is also proposed within the basement. Access to the podium level from the basement would be provided by the lift facility.

Given the inclusion of those features of the proposal above mentioned, it would comply with the requirements of the *AS1428 Design for Access and Mobility* and development control C2.6 in PDCP.

Protection of Residential Amenity

The residential amenity for the site's future occupants and those in adjoining dwellings in terms of aural privacy would be maintained to an acceptable level. The proposal is to be predominantly commercial in nature, with the exception of the small kiosk. The nature of commercial uses is likely to be offices and, therefore, one would expect a reasonably low level of noise generation. The kiosk will be mainly an ancillary service to the future commercial businesses and commuters, (particularly in the mornings) waiting for the bus services to arrive at the adjacent stop.

In terms of visual privacy, as the commercial units at the ground floor level and the kiosk are positioned away from the nearest adjoining dwelling at 1120 Barrenjoey Road, the opportunities for overlooking is reduced. Extensive landscaping would also be provided along the edge of the retaining wall between the podium level and the new driveway entry to minimise potential overlooking into the front yard of 1120 Barrenjoey Road.

Given the above reasons, the proposal would have minimal adverse amenity impacts on residential amenity both on and off the site. The proposal would therefore satisfy the controls and outcomes for development control C2.12 in PDCP.

Palm Beach Locality Controls

Character when viewed from a public place

The building bulk has been setback from the street frontage to provide an adequate level of separation to Barrenjoey House, as well as maintain the dominance of this heritage item within the streetscape.

The design also responds to the site's topography by stepping the building down the slope and providing an emphasis on lightweight building materials like timber shutters and louvres. The front facade of the building is also highly articulated, which is assisted by generous balcony depths and the compartmentation created by a centrally void. The height of the proposal is also at or below the 8.5m height control. All of the above design features provide an appropriate response to the site constraints whilst minimising building bulk and scale.

At the ground level adjacent to Barrenjoey Road, a generous area of deep soil landscaping is provided to assist with the site's integration with the low density residential zone to the north. The ability to plant substantial trees would also reduce building bulk when viewed from within the locality.

Entry to the site is identified via the awning structure detailed previously in this SEE. All car parking is provided within a basement level, which would not be viewed from within the streetscape.

For those reasons outlined above, the proposal therefore satisfies the outcomes of development control D21.1 and would provide a positive contribution to the Palm Beach Neighbourhood Business zone.

Scenic Protection – General

The site is located within a Category 1 Scenic Protection Area therefore, its development must aim to protect the visual quality of its position on the lower escarpment, achieve the desired future character of the locality and be a secondary element to the natural environment when viewed from waterways or reserves.

The site when viewed from Pittwater, primarily from the west and south west, is screened by the existing Norfolk Pine trees opposite the site in Palm Beach Park. Further to the north however, the proposal would be viewed more easily. In order to reduce the presence of the building within the landscape, the proposal includes the following features:

- Deep balconies and high level of façade articulation to create a shadowing effect that will reduce the bulk and scale of the building,
- A building height that would not extend above the existing tree canopy along the middle level of the western Palm Beach escarpment,
- The use of timber louvres, grey/green roof will assist the building to blend in with the site's natural backdrop,
- Deep soil landscape areas within all building setbacks on the site that would assist in screening the built form, and
- The use of dark coloured external materials and finishes on the building façade.

The proposal would also be consistent with the desired future character of the Palm Beach locality for reasons including:

- It provides multi-unit housing within a commercial centre that is close to existing public transport infrastructure and other services,

- The design, in particular, its materials and finishes, would enable the building to be sympathetic with the development position on the lower and middle levels of the escarpment,
- The bulk and scale of the building has been minimised through a high level of articulation in the building façade, including deep balconies,
- A significant amount of deep soil planting area is provided within all setbacks, particularly adjacent to Barrenjoey Road that would enable canopy tree planting in order to maintain and enhance the surrounding environment,
- The podium level provides public outdoor seating areas and shade, and
- The building steps down the slope in order to integrate with the natural land form

For those reasons detailed above, the proposal would satisfy development control C12 14 in PDCP

Height

Development control D12 4 in PDCP permits a maximum building height of 8.5m above the natural ground level. Where the site is affected by an estuarine, flood or coastal affectations, a maximum building height of 8m above the EPL requirement may be permitted. Furthermore, for sites with a slope in excess of 30% a maximum building height of 10m above the natural ground level may be permitted.

The site has an Estuarine Planning Level (EPL) of 2.2m AHD and also has a slope across the proposed building envelope in excess of 30%. A variation to the building height control up to 10m above the natural ground level may, therefore, be considered for this site.

The proposal however has a building height at or below the maximum 8.5m control. Maintaining this building height is a direct response to providing an equitable share of the views enjoyed over the site by those properties in Palm Beach Road, limiting the visual impact on Barrenjoey House and ensuring the building nestles into the escarpment.

Front Building Line

Development control D12 5 in PDCP requires a 3.5m or established line front building line (whichever is the greater) for buildings proposed on business zoned land. Variations are permitted to the front building line control where there is an established building line or an irregular shaped allotment.

The existing front building line for those commercial properties to the south of the site is nil (0m) to Barrenjoey Road. The front building line of the existing buildings on the site is also nil. However, the front building line at 1120 Barrenjoey Road, which adjoins the site to the north, is 10m.

The approach to the front building line for the proposal, therefore, is a direct response to the site's position as a transition in land use zoning from business to residential. This approach includes providing a 10m front building line for the bulk of the development. This setback reduces the visual impacts that the bulk and scale of the building particularly with respect to 1120 Barrenjoey Road. Furthermore, by setting the bulk of the building toward the rear, the acute view lines of those properties at the rear of the site are also retained to a greater degree.

The irregular shape of the site's front boundary also contributes to a varying front building line for the podium level to Barrenjoey Road. The front building line of the podium ranges from 0m (disabled access ramp) to 8m. Although a minor variation is proposed to the 3.5m front building line control, it is submitted as being acceptable in the circumstances of this case for the following reasons:

- The front building line proposed reflects the site's location as being a transition from the business zone where development has a nil setback and the residential zone that has a 10m front setback. The front building line, therefore, increases along the site's frontage towards the residential land to the north,
- The small area of non-compliance is located at the southern end of the site's frontage that would be screened in the streetscape by an existing bus stop,
- The non-compliance would not be inconsistent or look out of character given the nil front setbacks of existing buildings on the site, Barrenjoey House and the fish and chip shop to the south,
- The bulk of the development is setback 6.5m back further than what the control allows for, and
- The generous amount of deep soil landscaped area in the front setback would more than compensate for those encroachment within the 3.5m control.

Side and Rear Building Line

Development control D12.6 in PDCP sets out the minimum side and rear building lines. For development on business land, which adjoins residential zoned land, the minimum side and rear building line is 3m (other than driveways, fences and retaining walls).

The side building lines required for the proposal with respect to the site's northern and rear (eastern) boundaries is 3m. The majority of the building's northern elevation would be setback from between 3m and 5.5m. A minor variation however is proposed in respect of the proposed fire stairs from the basement level, which would be setback 1.5m from the northern boundary.

The proposed fire stair was in the same location on the site as part of the previous STH proposal (DAN0088/04) refused, however this was not an issue of concern.

Furthermore, the proposed setback would not create any adverse visual or amenity impacts on the adjoining property at 1120 Barrenjoey Road, in particular, those ground floor windows in the southern elevation.

The fire stair could be relocated to the podium area however this location was determined to have the least visual impact and would assist in retaining the deep soil landscaping area proposed at the front of the site

As previously mentioned the property immediately adjoining the site to the south at 1106 Barrenjoey Road has a split zoning. The front half of this adjoining property, represented by an access handle, separates the site from the Barrenjoey House at 1108 Barrenjoey Road and is Zoned 3 (c) Neighbourhood Business. Towards the rear of the site, the adjoining property is zoned 2(a) Residential "A". The side building line of the proposal may therefore be nil where it adjoins land is zoned 3(c) and 3m where the adjoining land is zoned 2(a).

The proposed side building line to the southern boundary ranges from between 2m to 4.2m. The proposal has a minimum side building line of 3m where the zoning on the adjoining property is 2(a). The proposal therefore complies with development control D12.6 in PDCP.

The rear setback of the building is 6.5m, which is 3m in excess of the control in PDCP. This rear setback, combined with the right-of-way located on those adjoining properties to the east would provide more than adequate spatial separation between the existing and proposed development.

6.4 THE REGULATIONS

Those regulation considerations applicable including demolition, compliance with the Building Code of Australia, compliance with the Home Building Act, PCA appointment, notice of commencement of works, sign on work sites, critical stage inspections and records of inspection may be addressed via appropriate conditions of development consent in the event of an approval being granted to the application.

6.5 ENVIRONMENTAL IMPACTS

6.5.1 Context and setting

The site is located at a transition where the land use zoning changes from business to low density residential. The site is also constrained by the fact that it slopes greater than 30% and the front of the site is subject to estuarine flooding.

In responding to the site's constraints, the built form proposes a generous front building line, a building height at or below the maximum permitted, substantial areas of deep soil landscaping and is generally compliant side and rear building lines. The result is a development that would not have adverse impacts on:

- the visual qualities adjacent heritage items or their settings,
- the visual qualities of the lower and middle slopes of the escarpment when viewed from Pittwater,
- private and public views, and
- the visual or aural privacy currently enjoyed by adjoining properties

6 5 2 Access, Transport and Traffic

The site is located adjacent to a bus stop that provides a regular limited stop service along the northern beaches peninsula to the city during morning and afternoon peak hours. The site is ideal to accommodate multi unit housing at the density proposed given the moderate level of existing public infrastructure available.

6 5 3 Waste

The development is provided with a waste disposal and collection area within the basement car park of the proposal that would be adequate for the day to day operations of both the residential and commercial uses on the site.

During construction, a management plan would be required. A construction management plan has been submitted as part of this DA (see **Annexure 9**).

6 5 4 Construction

The proposal does involve a high level of excavation as a result of the steep sloping nature of the site. The recommendations provided in the supporting geotechnical report should therefore be provided as conditions of approval.

Once the excavated areas are retained on the site, it is not envisaged that the construction of the development would be any worse than any other normal construction process that occurs on sloping land within the Pittwater Area. It is envisaged that construction of the proposal would take in the order of 12 to 18 months to complete.

A complaint and action register as well as a contact person would be provided for local residents as part of the construction management plan for the site.

6 5 5 Social and Economic Impacts

The proposal would provide a positive contribution to the Palm Beach commercial village. The architecture provides the 'sea-side village' character for the Palm Beach Locality. The proposal also provides an increase in the amount of commercial floor space available in the Palm Beach business zone that may result in additional employment opportunities.

Socially, the development offers a significant space to the public that would provide a meeting point and shelter from inclement weather. The proposed Kiosk would be greatly appreciated by those commuters and school children who catch the bus each school day from the stop located adjacent to the front of the site.

6 5 6 Noise

In order to mitigate the aural privacy issues raised by neighbouring residents with respect to the previous STH development for the site, this proposal has removed the retail/restaurant uses (except the small Kiosk) to predominantly commercial floor space only (except for the Kiosk).

The result would be a reduction in outdoor activity upon the public podium level, particularly during the evenings (due to lack of outdoor dining), and in turn there would be a reduction in the noise level below what would be determined as acceptable for the site within a business zone

6 6 SUITABILITY OF THE SITE

The proposal is consistent with and enhances the desired future character of the locality and townscape. The design provides a positive response to its constraints and presents a proposal that has minimal environmental impacts on adjoining properties and those in the wider locality. The site is therefore suitable for the proposed development.

6 7 THE PUBLIC INTEREST

The public interest is best served by proposed development being consistent with the relevant planning instruments and development control plans. As detailed in this SEE, the proposal will achieve the aims and objectives of the relevant planning instruments and controls. It therefore can be confidently submitted that the proposal is in the public interest.

7.0 CONCLUSION

The proposal involves the demolition of the existing buildings on the site, which accommodate commercial, retail and restaurant uses and the construction of a STH development comprising 5 units, commercial units and an ancillary Kiosk.

The site is zoned 3(c) Neighbourhood Business under the provisions of the PLEP, which permits with consent, the use of the site for STH purposes. The proposal includes only 2 minor variations from the built form controls within the PDCP, which relates to the front and northern side building lines. As detailed in this SEE these variations would have no adverse amenity or visual impacts.

The site is constrained by its steep sloping topography, its proximity to local heritage items and the fact that its location is a transition point where the land use zoning changes from business to low density residential. The design of the proposal has responded sympathetically to these constraints in by:

- Positioning the bulk of the built form so that it is consistent with the 10m setback required for residential development within the adjoining 2(a) residential zoned land to the north;
- Providing a large front building line to the podium level, which ranges from 0m to 8m to Barrenjoey Road;
- Providing large amount of deep soil planting within the front building line;
- Providing commercial uses as opposed to retail/restaurant uses as the business component of the development;
- Providing a building height at or below the maximum 8.5m height limit; and
- Providing external materials and finishes, which would encapsulate the 'sea-side' village character envisage for the desired future character of the Palm Beach Locality and not dominate its position within the landscape.

The proposal has also responded to those issues raised by Council and adjoining residents with respect to a previous STH development (DAN0088/04) for the site. This is achieved by significantly reducing the residential density from 8 to 5 units, reducing the extent of excavation and significantly increasing the extent of deep soil landscaping on the site.

It has therefore been established that the proposal is acceptable with respect to all relevant planning instruments and development control plans and is recommended to Council for approval.