

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| <b>Application Number:</b> | DA2017/0318 |
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|-------------------------------------------|---------------------------------------------------------------------|
| <b>Responsible Officer:</b>               | Luke Perry                                                          |
| <b>Land to be developed (Address):</b>    | Lot 12 DP 1229780, 18 Howard Avenue DEE WHY NSW 2099                |
| <b>Proposed Development:</b>              | Demolition works and construction of a shop top housing development |
| <b>Zoning:</b>                            | LEP - Land zoned B4 Mixed Use                                       |
| <b>Development Permissible:</b>           | Yes                                                                 |
| <b>Existing Use Rights:</b>               | No                                                                  |
| <b>Consent Authority:</b>                 | Northern Beaches Development Assessment Panel – Central             |
| <b>Land and Environment Court Action:</b> | No                                                                  |
| <b>Owner:</b>                             | NMMH Pty Limited                                                    |
| <b>Applicant:</b>                         | Humel Architects Pty Ltd                                            |

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| <b>Application lodged:</b>       | 10/04/2017                   |
| <b>Integrated Development:</b>   | No                           |
| <b>Concurrence Required:</b>     | No                           |
| <b>State Reporting Category:</b> | Residential - New multi unit |
| <b>Notified:</b>                 | 25/08/2017 to 11/09/2017     |
| <b>Advertised:</b>               | 29/04/2017                   |
| <b>Submissions Received:</b>     | 2                            |
| <b>Recommendation:</b>           | Approval                     |

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| <b>Estimated Cost of Works:</b> | \$ 6,016,250.74 |
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### 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 Development Control Plan - Area 2 Howard Avenue

Warringah Development Control Plan - Appendix 1 Car Parking Requirements

## SITE DESCRIPTION

|                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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| <b>Property Description:</b>      | Lot 12 DP 1229780 , 18 Howard Avenue DEE WHY NSW 2099                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>Detailed Site Description:</b> | <p>The subject site is located on the northern side of Howard Avenue and is approximately 110m east of the Pittwater Road and Howard Avenue junction. The site is upon land zoned for B4 Mixed Use development.</p> <p>The site is rectangular in shape and has a surveyed area of 766.8m<sup>2</sup> comprised of a 15.24m street frontage and a depth of 50.32m.</p> <p>Presently the site accommodates an older style one and two storey brick building which operates as the Legacy office.</p> <p>South of the site and across Howard Avenue is a large parcel of land (comprised of several allotments) which is identified as the Dee Why Town Centre and is bound by Pittwater Road, Howard Avenue and Oaks Avenue. Notably, a large mixed-use development is presently under construction and will achieve a total height of 15-17 storeys.</p> <p>The subject site is a nominated site within the Dee Why Town Centre Masterplan (DYTC) and located within Area 2 as defined in Part G of Warringah Development Control Plan 2011 (WDCP 2011).</p> <p>Other surrounding developments consist of shop-top housing, residential flat buildings and mixed-use developments of varying age, size and construction.</p> <p>The allotment has no topographical features and has nil</p> |

landscaping.

Map:



## SITE HISTORY

Development Application No. 2015/0641

This application for Demolition works and Construction of a Mixed Use Development (Shop Top Housing) was lodged on 13 July 2015.

Following a preliminary assessment of the application Council wrote to the applicant raising a number of fundamental issues with the application that would not allow council to support it in its current form. The applicant was requested to withdraw the application.

These issues related to a number of non compliance with relevant controls under SEPP 65, WLEP 2011 and WDCP 2011. A number of these issues related to the area of Council land located at the front of the site which pushed the building footprint towards the rear of the site . The letter encouraged the applicant to make attempts to purchase this parcel of land which would alleviate a number of fundamental concerns. with the application in its current form.

The applicant subsequently withdrew the application by letter dated 2 October 2015.

Pre Lodgement Meeting (PLM2013/0131)

This pre lodgement meeting was held to discuss the Construction of a Shop Top Housing Development.

The concluding comments of the meeting notes provided the following advice:

*'The proposal is generally consistent with the relevant controls, with the exception of the carparking requirements and number of storeys under the WDCP.*

*As stated within the notes, you are encouraged to investigate vehicular access through the adjoining property to the north, amalgamation with the adjoining sites to the east and purchase of the land adjoining to the south from Council to facilitate building up to the relevant build-to line and provide a continuous footpath awning.*

*The non-compliance with the storeys component of the building height control is generally supported due to the heights for this site contained in the new DYTC Masterplan, however, based on the carparking analysis for the number of residential units and the proposed restaurant, the number of units and/or storeys is to be reduced to address the parking deficiency or the mix altered to demonstrate a complying outcome.'*

## **PROPOSED DEVELOPMENT IN DETAIL**

The application seeks consent for demolition works and the construction of a shop top housing development comprising a ground floor retail tenancy and 26 apartments.

Specifically the works involve:

### Lower Ground Floor

- 15 car spaces;
- Residential and Retail waste rooms;
- Residential storage areas;
- Bulky good storage room; and
- Plant room.

### Ground Floor

- Retail premises (42.85m<sup>2</sup>);
- 11 car spaces (3 visitor spaces, 2 retail spaces and 6 residential spaces);
- Residential storage;
- Bicycle parking;
- Lift and stairwell access/egress; and
- Plant and services.

### Level 1

- 13 car spaces;
- Lift/stairwell access/egress;
- Residential storage areas; and
- 2 x 1 bedroom apartments and balconies,

### Level 2

- 8 x 1 bedroom apartments (4 apartments are split level apartments over level 2 and level 3) and balconies/terraces;
- Lift/stairwell access/egress; and
- Landscaping works.

### Level 3

- 4 x 1 bedroom apartments and balconies;
- Lift/stairwell access/egress; and
- Landscaping works.

### Level 4

- 2 x 2 bedroom apartments and balconies;
- 1 x 1 bedroom apartment and balcony; and

- Lift/stairwell access/egress.

#### Level 5

- 2 x 2 bedroom apartments and balconies;
- 1 x 1 bedroom apartment and balcony; and
- Lift/stairwell access/egress.

#### Level 6

- 2 x 2 bedroom apartments and balconies;
- 1 x 1 bedroom apartment and balcony; and
- Lift/stairwell access/egress.

#### Level 7

- 2 x 2 bedroom apartments and balconies;
- 1 x 1 bedroom apartment and balcony; and
- Lift/stairwell access/egress.

#### Roof Level

Lift overrun.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

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

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

| <b>Section 79C 'Matters for Consideration'</b>                                                                           | <b>Comments</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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| Section 79C (1) (a)(i) – Provisions of any environmental planning instrument                                             | See discussion on “Environmental Planning Instruments” in this report.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument                                      | None applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Section 79C (1) (a)(iii) – Provisions of any development control plan                                                    | Warringah Development Control Plan applies to this proposal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Section 79C (1) (a)(iia) – Provisions of any planning agreement                                                          | None applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted. .</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, Council requested additional information and has therefore</p> |

| Section 79C 'Matters for Consideration'                                                                                                                                           | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                                                                                                                                                                                   | <p>considered the number of days taken in this assessment in light of this clause within the Regulations.</p> <p>Additional information in the form of an updated Geotechnical Report and Integrated development fees was requested by letter dated 19 April 2017.</p> <p>The applicant submitted a Geotechnical Report on 15 May 2017. The Applicant advised that the Geotechnical Report concluded that the development did not constitute integrated development (de-watering) and therefore no integrated development fees are required.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This matter may be addressed via a condition of consent.</p> |
| Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p><b>Environmental Impacts</b></p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p><b>Social Impacts</b></p> <p>The proposed development will not have a detrimental social impact in the locality considering the character of the</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

| Section 79C 'Matters for Consideration'                                               | Comments                                                                                                                                                                                      |
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|                                                                                       | proposal.<br><br><b>Economic Impact</b><br>The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use. |
| Section 79C (1) (c) – the suitability of the site for the development                 | The site is considered suitable for the proposed development.                                                                                                                                 |
| Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Public Exhibition” in this report.                                                                                                                                         |
| Section 79C (1) (e) – the public interest                                             | No matters have arisen in this assessment that would justify the refusal of the application in the public interest.                                                                           |

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

| Name:                               | Address:                                                |
|-------------------------------------|---------------------------------------------------------|
| Ms Geanette Margaret Harris         | 201 / 910 Pittwater Road DEE WHY NSW 2099               |
| Macken Strategic Planning Solutions | Level 2, 276-278 Abercrombie Street DARLINGTON NSW 2008 |

The following issues were raised in the submissions and each have been addressed below:

- **Building Height**
- **Amalgamation of sites**
- **Deep soil planting/communal open space**
- **Inconsistency with the zone**
- **Vehicle and pedestrian hazards**
- **Noise**
- **Devaluation of property**

The matters raised within the submissions are addressed as follows:

### Building Height

Concern is raised that the proposed development does not comply with Council's height limit and should be modified to compliance.

Comment:

The matter of non compliance with the Height of Buildings Development Standard is addressed in detail elsewhere in this report (refer to Clause 4.6 Exceptions to Development Standards under the Warringah Local Environmental Plan section).

In summary, the assessment of this application has found that the development achieves consistency with the underlying objectives of Clause 4.3 and Clause 4.6 of WLEP 2011 and that there is sufficient environmental planning grounds to justify and support the variation in this instance.

This matter does not warrant refusal of the application.

### **Amalgamation of sites**

Concern is raised that the site is too small to be redeveloped and consideration should be given to amalgamating with adjacent properties.

Comment:

This matter has been discussed with the applicant throughout the course of this application and previous pre lodgement meetings. Subsequently the applicant wrote to the owners of adjoining properties seeking to commence discussions regarding to the amalgamation of these sites for redevelopment. Evidence of these letters has been submitted with the application. The applicant has advised that to date no response has been received from adjoining property owners regarding amalgamation and therefore the application for redevelopment of No. 18 Howard Avenue only has been made.

Notwithstanding the above, the assessment of this report has found the proposal to generally comply with the requirements of all relevant planning controls and achieve consistency with the underlying objectives of SEPP 65, WLEP 2011 and WDCP 2011.

Further, the remaining adjoining allotments are able to be consolidated and/or developed individually in such a manner as to provide development that provides areas and dimensions that allow for such developments to be developed in accordance with the WLEP 2011, relevant planning controls and consistent with surrounding developments and development envisaged for the DYTC.

This matter does not warrant refusal of the application.

### **Deep soil planting/communal open space**

Concerns area raised that there is insufficient deep soil planting and communal open space provided.

Comment:

The proposal is located within a dense urban environment and therefore opportunities for deep soil planting are limited as is the provision of meaningful communal open space. The assessment of this application has found that the development provides adequate areas of private open space to serve the future dwelling occupants. Further the subject site is located within close walking distance to public recreation areas within the Dee Why Town Centre (DYTC) that will further act to serve the outdoor recreational and open space needs of the future dwelling occupants.

This matter does not warrant refusal of the application.

### **Inconsistency with the zone**

Concern is raised that the proposal is not shop top housing but rather a residential flat building in accordance with the Land and Environment Court's decision in *'Hrsto v Canterbury City Council (No 2) [2014] NSWLEC 121'*.

#### Comment:

The LEC's decision in *'Hrsto v Canterbury City Council (No 2) [2014] NSWLEC 121'* contemplated a development application where residential accommodation or housing was proposed on the ground floor of the development as well as retail/commercial uses.

This is not the case in the subject application. The residential component of the development is located on the floors above the ground floor retail premises. The ground floor is occupied by the retail premises, all functions relating to the retail premises (i.e. parking and bin/storage rooms) and car parking for residential apartments.

WLEP 2011 defines shop top housing as:

***'shop top housing means one or more dwellings located above ground floor retail premises or business premises.'***

As indicated on the architectural plans submitted with the development application, the residential component of the development is located on the floors above the ground floor retail premises and is therefore appropriately defined as 'shop top housing'

This matter does not warrant refusal of the application.

### **Vehicle and Pedestrian Hazards**

Concern is raised that the proposed development will be hazardous for pedestrians as there will be more vehicles going across the footpath.

#### Comment:

The application is supported by a Traffic Report (refer to 'Traffic and Parking Assessment Report' prepared by Varga Traffic Planning dated 3 April 2017) which provides an assessment of the application on traffic grounds. The Traffic Report has been reviewed by Council's Traffic Engineer who raises no objections to the proposed access arrangement and has deemed that the development is suitable for the site on traffic grounds subject to conditions included in the recommendation of this report.

The vehicle access arrangements are consistent with that of adjoining and nearby development.

This matter does not warrant refusal of the application.

### **Noise**

Concern is raised in relation to noise impacts from the construction of the proposed development.

Comment:

The demolition and construction works proposed as part of the application will be the subject of strict conditions relating to construction hours and limiting acoustic impacts on adjoining and surrounding properties.

Standard conditions of consent are included in the recommendation of this report restricting the hours of operation to:

*Building construction and delivery of material hours are restricted to:*

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

*Demolition and excavation works are restricted to:*

*8.00 am to 5.00 pm Monday to Friday only.*

In addition to these hours of operation a standard condition relating to reducing the noise impacts of the proposed development which limits noise at the property boundary to not reach more than 5dB(A) to ensure a reasonable level of acoustic privacy is maintained.

These matters are resolved by conditions included in the recommendation of this report.

### **Devaluation of property**

Concern is raised that the proposed development will result in a loss of value of adjoining properties.

Comment:

The valuation/devaluation of property is not a valid planning consideration under Section 79C of the Environmental Planning and Assessment Act, 1979.

This matter does not warrant the refusal of the application.

### **MEDIATION**

No requests for mediation have been made in relation to this application.

### **REFERRALS**

| Internal Referral Body                             | Comments                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Building Assessment - Fire and Disability upgrades | <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p><i><u>Note:</u> The proposed development may not comply with some requirements of the BCA. Issues such as this however may be determined at Construction Certificate stage.</i></p> |
|                                                    |                                                                                                                                                                                                                                                                                                                                                                                         |

| Internal Referral Body                       | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| Development Engineers                        | <p>The application has been referred to Council's Development Engineers for review who have provided the following comments:</p> <p><i>The proposal to pump out below ground water from the basement to the kerb is not permitted. As a result a piped connection to Council pit will be required. An amended stormwater plan would be required to collect all stormwater pipes and connected to Council pit and pipe drainage system in Howard Avenue. Accordingly a suitable condition has been recommended.</i></p> <p><i>The access is considered to be satisfactory.</i></p> <p><i>No Development Engineering objection is raised to the proposed development subject to conditions.'</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Environmental Investigations (Acid Sulphate) | <p>The application has been reviewed by Council's Environmental Health Team with regards to the impact on acid sulphate soils.</p> <p>No objections are raised to the proposed development subject to conditions.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Environmental Investigations (Industrial)    | <p>The application has been reviewed by Council's Environmental Investigations Team who raise no objections to the proposal subject to conditions.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Landscape Officer                            | <p>The proposal has been reviewed by Council's Landscape Officer who has provided the following comments:</p> <p><i>'It is noted that whilst the proposal only provides landscape planters to levels 2 and 3 on the northern side of the proposed development, no planters are proposed on the Howard Avenue frontage of the site.</i></p> <p><i>The proposal indicates no green elements on the Howard Street frontage and perpetuates the existing pattern of development . In view of the Dee Why Centre Masterplan and controls applicable to Howard Avenue, contribution by the development to the greening and softening of the town centre as a comfortable, interesting and safe human environment with building design that contributes to the life of public spaces could be greatly improved by the provision of green infrastructure integrated with the development.</i></p> <p><i>Opportunities exist for provision of balcony planters across the building facade and within roof top gardens, particularly above the fourth floor roof, that would improve environmental amenity for residents and the public spaces in general along what is described in the controls as the primary boulevard in the Dee Why Town Centre.</i></p> <p><i>However, if the proposal is to be approved in its current form, conditions have been recommended to ensure the landscaping as proposed to levels 2 and 3 is installed and maintained to appropriate standards.</i></p> <p><b>Area 2 Howard Avenue</b><br/> <i>Applies to the land shown as 'Area 2' on DCP Map Dee Why areas zoned B4 Mixed Use (excluding Dee Why Town Centre) under WLEP</i></p> |

| Internal Referral Body            | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                                   | <p>2009.</p> <p><i>Objectives</i></p> <ul style="list-style-type: none"> <li>• <i>To ensure that Howard Avenue is the primary boulevard in the Dee Why Town Centre and the focus of shopping and community activity.</i></li> <li>• <i>To encourage good design and innovative architecture.</i></li> <li>• <i>To encourage building design that will contribute to the life of public spaces by helping to define the streets and public spaces.</i></li> <li>• <i>To create an environment that is human in scale as well as comfortable, interesting and safe.</i></li> <li>• <i>To ensure shops and dwellings enjoy good access to natural light.</i></li> <li>• <i>To ensure buildings have an active street frontage.'</i></li> </ul> <p><u>Assessment Officers comment:</u></p> <p>The proposed roof form above the fourth floor of the development does not support landscape elements as it provides a 'pop-up' style roof form containing skylights that will provide light to the apartments below.</p> <p>Any landscaping proposed on the roof above the fourth floor would obstruct the view lines, access to sunlight and natural ventilation provided to the bedrooms of the apartments on the fifth floor as the roof rises above the finished floor level of the fifth floor.</p> <p>Further, the proposed building facade on Howard Avenue is well articulated and comprises a mix of building facade treatments to add visual interest and soften the visual appearance when viewed from the street and public spaces.</p> <p>In this regard, the proposal is recommended for approval subject to conditions in its current form and there is no requirement imposed for landscaping to be provided on the roof above the fourth floor.</p> |
| Natural Environment (Flood)       | <p>The proposed development is in general accordance with Clause 6.3 of the LEP and Part E11 of the DCP.</p> <p>There are no flood related objections to the development.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Strategic Planning - Urban Design | <p>The proposal has been reviewed by Council's Urban Designer who has provided the following comments:</p> <p><b><i>Urban Design Comments (21 September 2017)</i></b></p> <p><i>The proposal has responded to the urban design issues raised previously with the amended drawings and additional studies/ reports. The proposal is now acceptable in that respect.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Traffic Engineer                  | <p>The proposal has been reviewed by Council's Traffic Engineer who has provided the following comments:</p> <p><i>'The proposed development is for the demolition of the existing two-storey commercial building and constructing a new mixed use</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

| Internal Referral Body | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                        | <p><i>residential/retail development comprising 26 residential apartments and a retail shop with a floor area of 42.85m<sup>2</sup>.</i></p> <p><i>Off-street car parking is proposed for a total of 39 cars, including 2 enclosed single garages, in a three-level car parking area. Vehicular access to the car parking facilities is to be provided via a new entry/exit driveway located at the eastern end of the Howard Avenue site frontage which includes the provision of a passing bay.</i></p> <p><b>Traffic Generation</b></p> <p><i>The traffic report provided by the applicant indicates that the traffic generation resulting from the development will be around 12 vehicle trips in peak hour which would be less than the current vehicle trips generating by the existing retail/commercial uses. The proposed traffic generation is considered acceptable on traffic grounds.</i></p> <p><b>Parking Provision</b></p> <p><i>The proposed development makes provision for a total of 39 off-street parking spaces, comprising 31 residential spaces, 5 visitor spaces and 3 retail spaces, thereby resulting in a surplus of 3 residential spaces when assessed under the DCP requirements. This is satisfactory and acceptable.</i></p> <p><i>No objection is raised on the proposal on traffic grounds subject to the following conditions.'</i></p> |
| Waste Officer          | The application was referred to Council's Waste Officer who raises no objections to the proposal subject to conditions.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

| External Referral Body | Comments                                                                                                                                                                                             |
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| Ausgrid: (SEPP Infra.) | The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended. |

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

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

### **SEPP 55 - Remediation of Land**

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential/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 Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential/commercial land use.

### **SEPP 65 - Design Quality of Residential Apartment Development**

Clause 4 of State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment Development (SEPP 65) stipulates that:

- (1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:
- (a) the development consists of any of the following:
    - (i) the erection of a new building,
    - (ii) the substantial redevelopment or the substantial refurbishment of an existing building,
    - (iii) the conversion of an existing building, and
  - (b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and
  - (c) the building concerned contains at least 4 or more dwellings.

As previously outlined the proposed development is for the erection of a 8 storey residential flat 'housing' development plus basement car parking for the provisions of 26 self-contained dwellings.

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

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

Clause 28 of SEPP 65 requires:

- (2) In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):
- (a) the advice (if any) obtained from the design review panel, and
  - (b) the design quality of the development when evaluated in accordance with the design quality principles, and
  - (c) the Apartment Design Guide.

## DESIGN REVIEW PANEL

Northern Beaches Council does not have an appointed Design Review Panel.

## DESIGN QUALITY PRINCIPLES

### Principle 1: Context and Neighbourhood Character

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

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

#### Comment:

The subject site is contained within a defined area identified by the Dee Why Town Centre (DYTC) Masterplan and Part G of WDCP 2011.

The Masterplan defines the Town Centre and includes substantial areas referred to as Site A (Councils Howard/Oaks Avenue car park and adjoining sites) and Site B (the Meriton Site on the eastern side of Pittwater Road).

The local area is currently, and is expected to continue to in the future, undergo a substantial transition into what is envisaged for the area under the Dee Why Town Centre Masterplan.

The development is consistent with that of development envisaged for the subject site and the 'Area' as defined under Part G of WDCP 2011. Therefore the proposal is considered to appropriately respond and contribute to its context and be of a good design.

The development satisfies this principle.

### Principle 2: Built Form and Scale

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

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

#### Comment:

The proposed development is considered to be of good design in terms of its built form, including the combination of building setbacks, levels of articulation, stepped design, use of balconies, podium, recessing of the upper floors and strongly defined elements along the front facade and rear of the building.

In particular, the proposal provides a substantial setback from the rear of the site as it rises in height which

allows for appropriate amenity to be maintained for the proposed development and adjoining development.

The development satisfies this principle.

### **Principle 3: Density**

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

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

#### Comment:

WLEP 2011 does not include a density provision, the development proposes the provision of 26 apartments which translates to a residential density of 1 dwelling per 29.4m<sup>2</sup>.

Density is therefore gauged by how the development responds to the Design Quality Principles of SEPP 65, the Apartment Design Guide, the Desired Future Character of the area contained in the DYTC Masterplan and the relevant controls contained within the WLEP 2011 and the WDCP 2011.

This assessment has found that the development, as proposed achieves a satisfactory level of compliance and consistency with these controls with a variation to the overall height of the building, as prescribed under Clauses 4.3 and 4.6 of the WLEP 2011.

The development satisfies this principle.

### **Principle 4: Sustainability**

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

#### Comment:

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

The applicant has submitted a Waste Management Plan and a Construction Management Plan with the application. These documents detail the disposal and recycling of demolition and excavation materials, should the application be approved.

The proposal incorporates passive solar design and insulation within the building and includes the use of operable louvre screens in certain areas.

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

targets and has obtained a pass for thermal comfort.

The proposal satisfies this principle.

### **Principle 5: Landscape**

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

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

#### Comment:

There is no minimum landscaped open space provision required for such development within this zone. This is due to the dense urban environment and envisaged character of development in DYTIC. Therefore, due to the urban context within which this site is located, landscaping has not been provided nor could be provided at ground level.

Small areas of landscaping are incorporated on the Level 2 terrace areas at the rear of the development and through the middle courtyard area of the development on Levels 3 and 4. However, these areas are not significant and are purely for aesthetic purposes.

Notwithstanding the above, the Deep Soil Zones guideline under the Apartment Design Guide requires a minimum of 7% of the open space area of a site should be a deep soil zone. The proposal meets this minimum requirement.

The development provides for an On-Site Stormwater Detention tank within the basement car park level. Council's Development Engineers have indicated in their referral response that the design of the tank is capable of satisfying the requirements of Clause C4 – 'Stormwater' under the WDCP 2011 subject to conditions.

In this regard, the development is capable of satisfying the provision of integrated stormwater treatment measures within the design of the development.

The proposal satisfies this principle.

### **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:

**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 application was not accompanied by a formal Crime Risk Assessment.

Generally, the development provides secure access which is separated from all vehicular access points. All apartments provide balconies and windows which provides passive surveillance over Howard Avenue and properties to the north and west.

The proposal satisfies this principle.

**Principle 8: Housing Diversity and Social Interaction**

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

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

Comment:

The provision of a mix of apartment sizes in this location is considered reasonable due to the site's close proximity to major bus interchanges, commercial facilities and opportunities within the DYTC and being within walking distance to the beach and public amenities and facilities and the future Dee Why Town Centre redevelopment.

The proposal satisfies this principle.

**Principle 9: Aesthetics**

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

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

Comment:

The proposed development exhibits a high standard of architecture and overall aesthetics, which would contribute positively to the streetscape of DYTC.

The building provides a modern and contemporary form with a well-considered use of physical and material articulation and modulation to provide a front facade that will contribute to the Howard Avenue streetscape.

The proposal satisfies this principle.

## APARTMENT DESIGN GUIDE

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

| Development Control                  | Criteria / Guideline                                                           | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|--------------------------------------|--------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Part 3 Siting the Development</b> |                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Site Analysis</b>                 | Does the development relate well to its context and is it sited appropriately? | <p><b>Consistent</b></p> <p>The development is located directly north of a precinct identified as the Dee Why Town Centre which is bound by Howard Avenue, Oaks Avenue and Pittwater Road.</p> <p>The site is within an area undergoing significant growth and development to cater for the growing population and real estate demand within the vicinity.</p> <p>Accordingly, the proposed development is considered to be sited appropriately in context to the town centre and maintains the reasonable development rights of surrounding allotments.</p> <p>The proposed development is a reasonable expectation of what was envisaged for the site through the Dee Why Town Centre</p> |

|                                       |                                                                                                                                                                                                                                                                                                                                                                                            | Masterplan.                                                                                                                                                                                                                                                                                                                                                                                                                                         |                    |                                 |                             |   |    |                                                                                                                                                                                                                                 |
|---------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|---------------------------------|-----------------------------|---|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <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>Consistent</b></p> <p>The proposed development responds to the Howard Avenue streetscape and the site to optimise solar access internally to the proposed apartments and to neighbouring properties allowing for a reasonable level of solar access to be maintained</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>Consistent</b></p> <p>The development provides an appropriate transition between the public and private domain maintaining safety and security.</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>The development does not include any areas of communal open space. Adequate areas of open space is provided for each unit in the form of balconies and courtyard's which comply with the requirements of the RFDC and the WDCP 2011.</p> <p>Further, there are a number of public recreation spaces located within walking distance to the development that will act to satisfy the outdoor recreational needs of future dwelling occupants.</p> |                    |                                 |                             |   |    |                                                                                                                                                                                                                                 |
| <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>7%</td></tr> </tbody> </table>                                                                                    | Site area                                                                                                                                                                                                                                                                                                                                                                                                                                           | Minimum dimensions | Deep soil zone (% of site area) | Less than 650m <sup>2</sup> | - | 7% | <p>The proposal includes 58.16m<sup>2</sup> of deep soil zones in the form of planter boxes throughout the building which equates to 7.6% of the total site area.</p> <p>While the proposal meets the minimum percentage of</p> |
| Site area                             | Minimum dimensions                                                                                                                                                                                                                                                                                                                                                                         | Deep soil zone (% of site area)                                                                                                                                                                                                                                                                                                                                                                                                                     |                    |                                 |                             |   |    |                                                                                                                                                                                                                                 |
| Less than 650m <sup>2</sup>           | -                                                                                                                                                                                                                                                                                                                                                                                          | 7%                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                    |                                 |                             |   |    |                                                                                                                                                                                                                                 |

|                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                         |                               |                                  |                       |                                                                       |    |                                                                                                                                                                                                                                                                                                    |    |      |                       |     |    |                                                                                            |
|-----------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|----------------------------------|-----------------------|-----------------------------------------------------------------------|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|------|-----------------------|-----|----|--------------------------------------------------------------------------------------------|
|                                                                       | <table><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></table>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 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 | the site are to be a deep soil zone, these areas do not meet the minimum dimension requirement of 3m. Notwithstanding, given the site's located within a dense urban environment and within the DYTC the provision of deep soil landscaped zones is considered to be appropriate in this instance. |    |      |                       |     |    |                                                                                            |
| 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><tr><td>Building height</td><td>Habitable rooms and balconies</td><td>Non-habitable rooms</td></tr><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></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 | <b>Consistent</b><br>The proposal complies with the minimum building separation distances. |
| 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                                                                                                                                                                                                      |                               |                                  |                       |                                                                       |    |                                                                                                                                                                                                                                                                                                    |    |      |                       |     |    |                                                                                            |
| <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>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>Consistent</b><br>The pedestrian entryway is located through the centre of the building adjacent to the driveway and retail premises making it easily identifiable and addressing the public domain. |                               |                                  |                       |                                                                       |    |                                                                                                                                                                                                                                                                                                    |    |      |                       |     |    |                                                                                            |
| <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>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>Consistent</b><br>Council's Traffic Engineer has reviewed the proposed                                                                                                                               |                               |                                  |                       |                                                                       |    |                                                                                                                                                                                                                                                                                                    |    |      |                       |     |    |                                                                                            |

|                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                |
|--------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <p>traffic and vehicle access and raises no objections to the proposal, subject to conditions.</p> <p>The vehicle access point is considered to be the most suitable upon the site to minimise conflicts between pedestrians and vehicles.</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>Consistent</b></p> <p>The proposal provides adequate provisions for bicycle and car parking in accordance with requirements of WDCP 2011</p>                                                                                             |
| <b>Part 4 Designing the Building</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                |
| <b>Amenity</b>                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                |
| <b>Solar and Daylight Access</b>     | <p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> <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> <li>A maximum of 15% of apartments in a building receive no direct sunlight between</li> </ul>                                                                                                                                                                                                                                                                                                                                              | <p><b>Consistent</b></p> <p>At least 70% of the proposed apartments living rooms and private open spaces receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid winter.</p>                                                   |

|                                | 9 am and 3 pm at mid winter                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                             |                       |                 |      |                                                                                                                               |      |                         |                                                                                                                        |              |                                                                                                                        |                                |                                                                                                                        |                                                                                                                                      |
|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|-----------------------|-----------------|------|-------------------------------------------------------------------------------------------------------------------------------|------|-------------------------|------------------------------------------------------------------------------------------------------------------------|--------------|------------------------------------------------------------------------------------------------------------------------|--------------------------------|------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| Natural Ventilation            | <p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:</p> <ul style="list-style-type: none"><li>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</li><li>Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.</li></ul>                                                                                                                                                                    | <p><b>Consistent</b></p> <p>66% of the proposed apartments are natural cross-ventilated</p> |                       |                 |      |                                                                                                                               |      |                         |                                                                                                                        |              |                                                                                                                        |                                |                                                                                                                        |                                                                                                                                      |
| Ceiling Heights                | <p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table><tr><th colspan="2">Minimum ceiling height</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor<br/><br/>2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>2.7m for main living area floor<br/><br/>2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>If located in mixed used areas</td><td>2.7m for main living area floor<br/><br/>2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr></table> | Minimum ceiling height                                                                      |                       | Habitable rooms | 2.7m | Non-habitable                                                                                                                 | 2.4m | For 2 storey apartments | 2.7m for main living area floor<br><br>2.4m for second floor, where its area does not exceed 50% of the apartment area | Attic spaces | 2.7m for main living area floor<br><br>2.4m for second floor, where its area does not exceed 50% of the apartment area | If located in mixed used areas | 2.7m for main living area floor<br><br>2.4m for second floor, where its area does not exceed 50% of the apartment area | <p><b>Consistent</b></p> <p>The development provides a satisfactory minimum finished floor to finished ceiling level throughout.</p> |
| Minimum ceiling height         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                             |                       |                 |      |                                                                                                                               |      |                         |                                                                                                                        |              |                                                                                                                        |                                |                                                                                                                        |                                                                                                                                      |
| Habitable rooms                | 2.7m                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                             |                       |                 |      |                                                                                                                               |      |                         |                                                                                                                        |              |                                                                                                                        |                                |                                                                                                                        |                                                                                                                                      |
| Non-habitable                  | 2.4m                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                             |                       |                 |      |                                                                                                                               |      |                         |                                                                                                                        |              |                                                                                                                        |                                |                                                                                                                        |                                                                                                                                      |
| For 2 storey apartments        | 2.7m for main living area floor<br><br>2.4m for second floor, where its area does not exceed 50% of the apartment area                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                             |                       |                 |      |                                                                                                                               |      |                         |                                                                                                                        |              |                                                                                                                        |                                |                                                                                                                        |                                                                                                                                      |
| Attic spaces                   | 2.7m for main living area floor<br><br>2.4m for second floor, where its area does not exceed 50% of the apartment area                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                             |                       |                 |      |                                                                                                                               |      |                         |                                                                                                                        |              |                                                                                                                        |                                |                                                                                                                        |                                                                                                                                      |
| If located in mixed used areas | 2.7m for main living area floor<br><br>2.4m for second floor, where its area does not exceed 50% of the apartment area                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                             |                       |                 |      |                                                                                                                               |      |                         |                                                                                                                        |              |                                                                                                                        |                                |                                                                                                                        |                                                                                                                                      |
| 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></td><td></td></tr></table>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Apartment type                                                                              | Minimum internal area |                 |      | <p><b>Consistent</b></p> <p>The proposed apartments satisfy the minimum dimensions and areas specified for internal areas</p> |      |                         |                                                                                                                        |              |                                                                                                                        |                                |                                                                                                                        |                                                                                                                                      |
| Apartment type                 | Minimum internal area                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                             |                       |                 |      |                                                                                                                               |      |                         |                                                                                                                        |              |                                                                                                                        |                                |                                                                                                                        |                                                                                                                                      |
|                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                             |                       |                 |      |                                                                                                                               |      |                         |                                                                                                                        |              |                                                                                                                        |                                |                                                                                                                        |                                                                                                                                      |

|                                         | <table><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 5m2 each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m2 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. 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> <p>Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space).</p> <p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"><li>• 3.6m for studio and 1 bedroom apartments</li><li>• 4m for 2 and 3 bedroom apartments</li></ul> <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p> | Studio        | 35m <sup>2</sup> | 1 bedroom     | 50m <sup>2</sup>  | 2 bedroom       | 70m <sup>2</sup> | 3 bedroom            | 90m <sup>2</sup> | of the apartments. |                      |                  |    |                       |                  |      |                                                                                                         |
|-----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|------------------|---------------|-------------------|-----------------|------------------|----------------------|------------------|--------------------|----------------------|------------------|----|-----------------------|------------------|------|---------------------------------------------------------------------------------------------------------|
| Studio                                  | 35m <sup>2</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |               |                  |               |                   |                 |                  |                      |                  |                    |                      |                  |    |                       |                  |      |                                                                                                         |
| 1 bedroom                               | 50m <sup>2</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |               |                  |               |                   |                 |                  |                      |                  |                    |                      |                  |    |                       |                  |      |                                                                                                         |
| 2 bedroom                               | 70m <sup>2</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |               |                  |               |                   |                 |                  |                      |                  |                    |                      |                  |    |                       |                  |      |                                                                                                         |
| 3 bedroom                               | 90m <sup>2</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |               |                  |               |                   |                 |                  |                      |                  |                    |                      |                  |    |                       |                  |      |                                                                                                         |
| <b>Private Open Space and Balconies</b> | <p>All apartments are required to have primary balconies as follows:</p> <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>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 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 | <b>Consistent</b> <p>Each apartment within the development has a satisfactory minimum balcony area.</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          |                  |               |                   |                 |                  |                      |                  |                    |                      |                  |    |                       |                  |      |                                                                                                         |

|                                      | 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>Common Circulation and Spaces</b> | <p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>                                                                                                                                                                                                                                                                                                                  | <b>Consistent</b><br><br>The maximum number of apartments accessible off of a single circulation core is eight (on the second floor).                                                                    |                     |                   |                 |                      |                 |                      |                 |                       |                  |                                                                                                          |
| <b>Storage</b>                       | <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <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> <p>At least 50% of the required storage is to be located within the apartment.</p> | 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> | <b>Consistent</b><br><br>The development provides adequate storage areas for each residential apartment. |
| 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>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                          |                     |                   |                 |                      |                 |                      |                 |                       |                  |                                                                                                          |
| <b>Acoustic Privacy</b>              | Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.                                                                                                                                                                                                                                                                                                | <b>Consistent</b><br><br>The application is supported by an Acoustic Report, which demonstrates that the proposed development will provide a satisfactory level of acoustic privacy for future occupants |                     |                   |                 |                      |                 |                      |                 |                       |                  |                                                                                                          |
| <b>Noise and Pollution</b>           | Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.                                                                                                                                                                                                                                                                                                                                                                                  | <b>Consistent</b><br><br>The design of the proposed development satisfactorily addresses and mitigates the potential impact of external noise and pollution                                              |                     |                   |                 |                      |                 |                      |                 |                       |                  |                                                                                                          |
| <b>Configuration</b>                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                          |                     |                   |                 |                      |                 |                      |                 |                       |                  |                                                                                                          |
| <b>Apartment Mix</b>                 | Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.                                                                                                                                                                                                                                                                                                           | <b>Consistent</b><br><br>The development provide a range of different size apartments which will contribute to catering for the market demand within the Dee Why Town Centre                             |                     |                   |                 |                      |                 |                      |                 |                       |                  |                                                                                                          |

|                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | vicinity. Many surrounding developments are similarly shop-top housing developments and also provide an apartment mix to serve the community needs. |            |                           |            |           |             |                                                 |                   |         |                         |              |                                               |                  |         |                       |             |                                              |                 |       |                           |        |  |  |      |  |                                                                                                                                                                                                                      |
|-------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|------------|---------------------------|------------|-----------|-------------|-------------------------------------------------|-------------------|---------|-------------------------|--------------|-----------------------------------------------|------------------|---------|-----------------------|-------------|----------------------------------------------|-----------------|-------|---------------------------|--------|--|--|------|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Facades</b>                | Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <b>Consistent</b><br>Council's Urban Designer has reviewed the proposal and raises no objections to the proposed design and façade treatment.       |            |                           |            |           |             |                                                 |                   |         |                         |              |                                               |                  |         |                       |             |                                              |                 |       |                           |        |  |  |      |  |                                                                                                                                                                                                                      |
| <b>Roof Design</b>            | Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features.<br>Test whether the roof space can be maximised for residential accomodation and open space.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>Consistent</b><br>The proposed roof design is consistent with that of nearby development.                                                        |            |                           |            |           |             |                                                 |                   |         |                         |              |                                               |                  |         |                       |             |                                              |                 |       |                           |        |  |  |      |  |                                                                                                                                                                                                                      |
| <b>Landscape Design</b>       | Was a landscape plan submitted and does it respond well to the exisitng site conditions and context.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <b>Consistent</b><br>The proposal includes areas of landscaping which is an improvement on the existing provision on site.                          |            |                           |            |           |             |                                                 |                   |         |                         |              |                                               |                  |         |                       |             |                                              |                 |       |                           |        |  |  |      |  |                                                                                                                                                                                                                      |
| <b>Planting on Structures</b> | <p>When planting on structures the following are recommended as minimum standards for a range of plant sizes:</p> <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 spread at maturity</td><td>9m<sup>3</sup></td><td>800mm</td><td>3.5m x 3.5m or equivalent</td></tr><tr><td>Shrubs</td><td></td><td></td><td>500-</td><td></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 spread at maturity | 9m <sup>3</sup> | 800mm | 3.5m x 3.5m or equivalent | Shrubs |  |  | 500- |  | <b>Consistent</b><br>The proposal has been reviewed by Council's Landscape Officer who raises no objections to the proposed landscape treatment subject to conditions included in the recommendation of this report. |
| Plant type                    | Definition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Soil Volume                                                                                                                                         | Soil Depth | Soil Area                 |            |           |             |                                                 |                   |         |                         |              |                                               |                  |         |                       |             |                                              |                 |       |                           |        |  |  |      |  |                                                                                                                                                                                                                      |
| Large Trees                   | 12-18m high, up to 16m crown spread at maturity                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 150m <sup>3</sup>                                                                                                                                   | 1,200mm    | 10m x 10m or equivalent   |            |           |             |                                                 |                   |         |                         |              |                                               |                  |         |                       |             |                                              |                 |       |                           |        |  |  |      |  |                                                                                                                                                                                                                      |
| Medium Trees                  | 8-12m high, up to 8m crown spread at maturity                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 35m <sup>3</sup>                                                                                                                                    | 1,000mm    | 6m x 6m or equivalent     |            |           |             |                                                 |                   |         |                         |              |                                               |                  |         |                       |             |                                              |                 |       |                           |        |  |  |      |  |                                                                                                                                                                                                                      |
| Small trees                   | 6-8m high, up to 4m crown spread at maturity                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 9m <sup>3</sup>                                                                                                                                     | 800mm      | 3.5m x 3.5m or equivalent |            |           |             |                                                 |                   |         |                         |              |                                               |                  |         |                       |             |                                              |                 |       |                           |        |  |  |      |  |                                                                                                                                                                                                                      |
| Shrubs                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                     | 500-       |                           |            |           |             |                                                 |                   |         |                         |              |                                               |                  |         |                       |             |                                              |                 |       |                           |        |  |  |      |  |                                                                                                                                                                                                                      |

|                                          |                                                                                                                                                                                                                                                                                         |  |  |           |  |                                                                                                                                                                                                                                  |
|------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|-----------|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                          |                                                                                                                                                                                                                                                                                         |  |  | 600mm     |  |                                                                                                                                                                                                                                  |
|                                          | Ground Cover                                                                                                                                                                                                                                                                            |  |  | 300-450mm |  |                                                                                                                                                                                                                                  |
|                                          | Turf                                                                                                                                                                                                                                                                                    |  |  | 200mm     |  |                                                                                                                                                                                                                                  |
|                                          |                                                                                                                                                                                                                                                                                         |  |  |           |  |                                                                                                                                                                                                                                  |
| <b>Universal Design</b>                  | Developments are to achieve a benchmark of 20% of the total apartments incorporating the Livable Housing Guideline's silver level universal design features.                                                                                                                            |  |  |           |  | <b>Consistent</b><br>The proposal satisfies this guideline.                                                                                                                                                                      |
| <b>Adaptive Reuse</b>                    | New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.                                                                                                                                                               |  |  |           |  | <b>Not Applicable</b><br>The development is for the construction of a new shop top housing development which will not incorporate any existing elements of buildings/features of the site.                                       |
| <b>Mixed Use</b>                         | Can the development be accessed through public transport and does it positively contribute to the public domain?<br><br>Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.                         |  |  |           |  | <b>Consistent</b><br>The development will be easily accessible through public transport along Pittwater Road to the west.<br><br>The proposed ground floor retail premises will contribute positively to the public domain       |
| <b>Awnings and Signage</b>               | 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.<br><br>Signage must respond to the existing streetscape character and context. |  |  |           |  | <b>Consistent</b><br>The proposal includes an awning along the street frontage which will provide an active street frontage consistent with and link with development to the west to provide a continuous covered pedestrian way |
| <b>Performance</b>                       |                                                                                                                                                                                                                                                                                         |  |  |           |  |                                                                                                                                                                                                                                  |
| <b>Energy Efficiency</b>                 | Have the requirements in the BASIX certificate been shown in the submitted plans?                                                                                                                                                                                                       |  |  |           |  | Yes.                                                                                                                                                                                                                             |
| <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?                                                                                                                          |  |  |           |  | Yes, adequate provisions for water management and conservation are proposed.                                                                                                                                                     |
| <b>Waste Management</b>                  | Supply waste management plans as part of the development application demonstrating safe and convenient collection and storage of waste and                                                                                                                                              |  |  |           |  | The proposal includes a waste management plan.                                                                                                                                                                                   |

|                             |                                                                                                             |                                                                                                                                                                                                                                                           |
|-----------------------------|-------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                             | recycling.                                                                                                  |                                                                                                                                                                                                                                                           |
| <b>Building Maintenance</b> | Incorporates a design and material selection that ensures the longevity and sustainability of the building. | <b>Consistent</b><br><br>The construction and facade materials selected for the development are of an adequate durability to ensure the longevity of the building provided reasonable building maintenance occurs for the duration of the buildings life. |

## STANDARDS THAT CANNOT BE USED TO REFUSE DEVELOPMENT CONSENT

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

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

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

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

### Comment:

The proposal satisfies the design criteria above and is recommended for approval subject to conditions

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

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

(3) To remove doubt:

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

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

Comment:

Adequate regard has been given to the matters raised under subclause (2) and the application is recommended for approval subject to conditions.

## SEPP (Infrastructure) 2007

Ausgrid

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

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

## Warringah Local Environment Plan 2011

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

Principal Development Standards

| Standard             | Requirement | Proposed | % Variation | Complies                       |
|----------------------|-------------|----------|-------------|--------------------------------|
| Height of Buildings: | 24m         | 24.75m   | 3.1%        | No (See Clause 4.6 discussion) |

Compliance Assessment

| Clause | Compliance with Requirements |
|--------|------------------------------|
|        |                              |

| Clause                                  | Compliance with Requirements              |
|-----------------------------------------|-------------------------------------------|
| 2.7 Demolition requires consent         | Yes                                       |
| 4.3 Height of buildings                 | No<br>(see detail under Clause 4.6 below) |
| 4.6 Exceptions to development standards | Yes                                       |
| 6.2 Earthworks                          | Yes                                       |
| 6.3 Flood planning                      | Yes                                       |
| 6.4 Development on sloping land         | Yes                                       |

#### Detailed Assessment

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

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard has taken into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

|                                                                                                        |           |
|--------------------------------------------------------------------------------------------------------|-----------|
| Requirement:                                                                                           | 24m       |
| Proposed:                                                                                              | 24.75m    |
| Is the planning control in question a development standard?                                            | YES       |
| Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation? | Numerical |
| If numerical enter a % variation to requirement                                                        | 3.1%      |

The liftshaft overrun proposed as a part of the development exceeds the maximum Height of Buildings permitted as per Cl. 4.3 by up to 750mm.

The proposal must satisfy the objectives of Clause 4.3 – Height of Buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the WLEP 2011. The assessment is detailed as follows:

#### **Is the planning control in question a development standard?**

The prescribed Height of buildings limitation pursuant to Clause 4.3 of the WLEP 2011 is a development standard.

#### **What are the underlying objectives of the development standard?**

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

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

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

Comment:

The proposed development is centrally located adjacent to the Dee Why Town Centre development which is presently under construction and achieves a total height of 15-17 storeys. Other surrounding developments are of a scale that are similar to that of the proposal. Despite the 750mm variation to the development standard, it is considered that the development is compatible with the height and scale of surrounding buildings as a result of the diversity in built form within the Dee Why vicinity.

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

Comment:

The liftshaft overrun which exceeds the maximum building height is a relatively minor element contrasted to the development as a whole. Cumulatively, the minimal height breach and the footprint of the liftshaft will itself give rise to any unreasonable visual impact, view loss, loss of privacy or loss of solar access.

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

Comment:

The development site is located within a dense urban landscape with numerous construction projects occurring of varying scale and magnitude. Accordingly, the site preserves no bushland or noteworthy features that enhance the natural or scenic quality of the area, and this development would not give rise to unreasonable impacts upon the existing distant natural vistas that are enjoyed from surrounding properties.

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

Comment:

The lift overrun exceeding the height limit is not considered to be readily visible from any public places given its height, minimal scale and central location of the encroachment. Accordingly, the breach will not give rise to any unreasonable visual impact when viewed from public places.

## **What are the underlying objectives of the zone?**

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the B4 Mixed Use zone.

### The underlying objectives of the B4 Mixed Use zone

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

Comment:

The proposed shop top housing development will provide a mixture of compatible land uses within the Dee Why Town Centre locality. The mixture of ground floor retail and residential accommodation is consistent with the desired future character of the area and with that of

recently approved development in the locality.

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

Comment:

The subject site is located within easy walking and cycling distance to a major public transport hub at the corner of Pittwater Road and Howard Avenue. The site will be easily accessed by the new 'B-Line' public transport infrastructure and other services servicing the Northern Beaches Local Government Area.

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

Comment:

The scale and intensity of the proposed development is consistent with that envisaged for the Dee Why Town Centre and includes a range of compatible land uses.

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

Comment:

The proposed development includes a ground floor retail premises that will create a active building front, contribute to the life of Howard Avenue and public spaces and create an environment that is appropriate to the human scale as well as being comfortable, interesting and safe.

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

Comment:

The proposal includes a retail premises on the ground floor and housing on the upper floors of the building.

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

Comment:

The proposal does not seek to amalgamate with any adjoining sites however the applicant without success has explored this. Notwithstanding, the proposal includes a level of car parking below ground level, at ground level and on the first floor. This arrangement is consistent with the

car parking arrangements of other developments of this size and an approach that has been adopted due to the topographical and hydrological constraints of the area.

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

(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 proposed variation to the development standard is consistent with objectives of this Clause as it provides an appropriate degree of flexibility in applying the Height of Buildings Development Standard to the development.

The variation proposed to the control is minor and relates to a localised and centralised addition to the roof in the form of a lift overrun.

In supporting the variation a better outcome for the development is achieved by allowing flexibility in this particular circumstance.

(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.

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

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

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

Comment:

The applicants written request outlines the reasons as to why compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development and is summarised follows:

*'A variation to the strict application of Council's Height of Building development standard is considered appropriate for the subject site at 18 Howard Avenue, Dee Why as detailed above.*

*The variation to the height of control is solely sought to accommodate required lift overrun to service the residential development, which has been raised above height control to achieve Apartment Design Guideline floor to ceiling standards for the proposed development. The lift overrun is setback from the site edges and present as 0.75m (750mm) above the height control, a minor variation which will not be significantly visible from the surrounding context.*

*The proposal meets the intent of Councils Height of Building control and the B4 Zone Objectives and in accordance with Clause 4.6, demonstrates that in the case, the development standard is unreasonable, given the associated benefits of the proposal.'*

As detailed throughout this Clause, the assessment of the proposed variation against the provisions of this Clause generally concurs with the reasons provided by the applicant.

The variation proposed to the Height of Buildings Development Standard is minor and does not result in unreasonable visual or physical impacts on surrounding and nearby development or when viewed from the public domain.

For these reasons the variation is supported in this instance.

(4) Development consent must not be granted for development that contravenes a development standard unless:

*(a) the consent authority is satisfied that:*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

Comment:

The applicants written request (prepared by Tomasy Pty Ltd and dated April 2017) has adequately addressed the matters required to be demonstrated by subclause (3).

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

Comment:

For reasons detailed above, the proposal is considered to be consistent with the objectives of the B4 Mixed Use zone in the WLEP 2011.

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

Comment:

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

## Warringah Development Control Plan

### Built Form Controls

The built form controls for this proposal are contained within Part G Special Area Controls - Area 2 Howard Avenue under Warringah Development Control Plan 2011.

### Compliance Assessment

| Clause                                           | Compliance with Requirements | Consistency Aims/Objectives |
|--------------------------------------------------|------------------------------|-----------------------------|
| A.5 Objectives                                   | Yes                          | Yes                         |
| C2 Traffic, Access and Safety                    | Yes                          | Yes                         |
| C3 Parking Facilities                            | Yes                          | Yes                         |
| C3(A) Bicycle Parking and End of Trip Facilities | Yes                          | Yes                         |
| C4 Stormwater                                    | Yes                          | Yes                         |
| C5 Erosion and Sedimentation                     | Yes                          | Yes                         |
| C7 Excavation and Landfill                       | Yes                          | Yes                         |
| C8 Demolition and Construction                   | Yes                          | Yes                         |
| C9 Waste Management                              | Yes                          | Yes                         |
| D2 Private Open Space                            | Yes                          | Yes                         |
| D3 Noise                                         | Yes                          | Yes                         |
| D6 Access to Sunlight                            | Yes                          | Yes                         |
| D7 Views                                         | Yes                          | Yes                         |
| D8 Privacy                                       | Yes                          | Yes                         |
| D9 Building Bulk                                 | Yes                          | Yes                         |
| D10 Building Colours and Materials               | Yes                          | Yes                         |
| D11 Roofs                                        | Yes                          | Yes                         |
| D12 Glare and Reflection                         | Yes                          | Yes                         |
| D14 Site Facilities                              | Yes                          | Yes                         |
| D18 Accessibility                                | Yes                          | Yes                         |
| D20 Safety and Security                          | Yes                          | Yes                         |
| D21 Provision and Location of Utility Services   | Yes                          | Yes                         |
| D22 Conservation of Energy and Water             | Yes                          | Yes                         |
| E10 Landslip Risk                                | Yes                          | Yes                         |
| G1 Dee Why Mixed Use Area                        | Yes                          | Yes                         |
| Area 2 Howard Avenue                             | No                           | Yes                         |

| Clause                              | Compliance with Requirements | Consistency Aims/Objectives |
|-------------------------------------|------------------------------|-----------------------------|
| Appendix 1 Car Parking Requirements | Yes                          | Yes                         |

### Detailed Assessment

#### **Area 2 Howard Avenue**

The site is located within Areas 2 under the WDCP 2011.

Note: Clause A.6 of the WDCP 2011 stipulates that, in the event of any inconsistency between Part G and Parts C, D and E, the requirements of Part G will prevail.

The following table provides an assessment of the development against the controls of Part G:

| Requirement                                                                                                                                                                                                                                                                                                     | Compliance/Comment                                                                                                                                                                                                                                                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Development is to have a 4 storey podium that adjoins the sidewalk and establishes a coherent parapet line along Howard Avenue. Above the parapet line additional storeys will be set back to maintain solar access to the sidewalks and ensure that the scale of buildings does not dominate public spaces. | Complies. The proposed building is built to the boundary up to the fourth storey. The storeys above the fourth floor are setback between 10.3m and 11.8m from the front boundary of the site.                                                                                                                                                                   |
| 2. Buildings are to be articulated in such a way that they are broken into smaller elements with strong vertical proportions and spaces are created between buildings at the upper levels to add interest to the skyline, reduce the mass of the building and facilitate the sharing of views and sunlight.     | Complies.<br><br>The proposed building is articulated in such a way that it provides significant building separation to adjoining buildings reducing the building mass and allowing for a reasonable sharing of views and access to sunlight.                                                                                                                   |
| 3. The overall height of buildings is to be such that long distance views of Long Reef Headland, the top of the escarpment to the west of Pittwater Road and the Norfolk Island Pines next to Dee Why Beach are preserved.                                                                                      | Complies.<br>The proposed building height does unreasonably not obstruct long distance views of Long Reef Headland, top of the escarpment west of Pittwater Road or the Norfolk Pines next to Dee Why Beach.                                                                                                                                                    |
| 4. Building layout and access are to be in accordance with the Build To Lines and Central Courts map (in this section) so that the spaces behind buildings combine to form central courts with limited vehicular access.                                                                                        | Complies.                                                                                                                                                                                                                                                                                                                                                       |
| 5. Site amalgamation will be encouraged to facilitate new development and enable all carparking to be provided below ground or behind buildings using shared driveways where possible.                                                                                                                          | The applicant has demonstrated that reasonable attempts have been made to seek potential amalgamation of the subject site with site immediately adjoining the subject site.<br><br>To date these attempts have been unsuccessful and therefore site amalgamation is not proposed. Notwithstanding the above car parking is provided below ground, on the ground |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>floor behind the retail premises and at the first floor behind the residential accommodation.</p> <p>The car parking areas are not visible from the public or neighbouring private domains and form an integrated and visually inoffensive element in the overall architecture of the development.</p>                                                                                                                                                                                                                                                                                  |
| 6. A public square will be created at the eastern end of the locality.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Not Applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 7. The maximum number of storeys permitted is 6.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <p>The application proposes a building that is 8 storeys in height. The Height of Buildings map under WLEP 2011 indicates a maximum height of 24m that allows for a building comprising more than 6 storeys.</p> <p>To this extent there is an inconsistency between the maximum height of buildings under WLEP 2011 and the maximum number of storeys prescribed under this part of the WDCP 2011.</p> <p>The height of the proposed development is consistent with that envisaged for the site under the Dee Why Town Centre Masterplan and is therefore supported in this instance.</p> |
| <p>8. The maximum area of the floorplate of the upper floors of buildings is to be as follows:</p> <ul style="list-style-type: none"> <li>• above the topmost storey (including plant and equipment rooms, lofts etc): 30% of the area of the ground floor floorplate;</li> <li>• topmost storey: 50% of the area of the ground floor floorplate;</li> <li>• second topmost storey: 70% of the area of the ground floor floorplate</li> </ul> <p>The minimum floor to ceiling heights are as follows:</p> <ul style="list-style-type: none"> <li>• ground floor storey: 3.6 metres;</li> <li>• upper storeys: 2.7 metres</li> </ul>                                                      | Not Applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p>9. Build-to lines have been established to ensure future development considers the streets and public spaces (Build To Lines and Central Courts map).</p> <p>For the first 4 storeys of buildings, build-to lines have been set at:</p> <ul style="list-style-type: none"> <li>• 4.5 metres from the kerb on the northern side of Howard Avenue;</li> <li>• 8 metres from the kerb on the southern side of Howard Avenue, except:</li> <li>• near the intersection of Howard Avenue and Pittwater Road as indicated on Map B, where the build-to line on either side of Howard Avenue is the front property boundary.</li> </ul> <p>For storeys above the fourth storey, build-to</p> | <p>Non-compliant</p> <p>The proposed building is non compliant with the build to lines for development on the northern side of Howard Avenue.</p> <p>The first four storeys of the development are setback 3.7m from the kerblines of Howard Avenue. This setback aligns with the front boundary of the site.</p> <p>The storeys above the fourth floor are setback between 10.3m and 11.8m from the kerblines of Howard Avenue.</p> <p>The proposed building has been built to the</p>                                                                                                    |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>lines have been set at:</p> <ul style="list-style-type: none"> <li>• 12.5 metres from the kerb on the northern side of Howard Avenue;</li> <li>• 16 metres from the kerb on the southern side of Howard Avenue, except:</li> <li>• near the intersection of Howard Avenue and Pittwater Road as indicated on the map, where the build-to line on either side of Howard Avenue is 8 metres</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>front boundary of the site for the first four storeys to maintain a consistent building alignment with the adjoining development to the west. To achieve compliance with the 4.5m setback from the kerbline would require the development to be setback a further 800mm creating an unnecessary break in the continuous street frontage of development on the northern side of Howard Avenue.</p> <p>The proposed setbacks are considered reasonable in this instance and achieve consistency with the underlying objectives and desired future character of the area.</p> |
| <p>10. Future development is to observe the build-to lines (Build To Lines and Central Courts map in this section)as follows:</p> <ul style="list-style-type: none"> <li>• Where a proposed building, or part of a proposed building, adjoins a 100% build-to line, the whole of the relevant building facades is to be built on this line. Variations of up to 300mm may be permitted to add visual interest and allow articulation of building facades.</li> <li>• Where a proposed building, or part of a proposed building, adjoins a 60-~80% build-to line, between 60% and 80% of the relevant building facades is to be built on this line. Variations of up to 300 mm may be permitted to add visual interest and allow articulation of building facades within the 60–80% component of the building. Variations of as much as 3 metres (back) and 300 mm (forward) will be permitted outside the 60-80% component.</li> <li>• Where a proposed building, or part of a proposed building, adjoins a 40- ~60% build-to line, between 40-60% of the relevant building facades is to be built on this line. Variations of up to 300 mm may be permitted to add visual interest and allow articulation of building faces within 40-60% component of the building. Variations of as much as 3 metres (back) and 300 mm (forward) will be permitted outside the 40-60% component.</li> </ul> | <p>Complies.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p>11. Light weight structures that do not add to the visual mass of the building, such as pergolas and balconies, may penetrate the build-to lines.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <p>Balconies on all floors above the ground floor penetrate the build to lines however these structures are lightweight and do not add to the visual mass of the building.</p>                                                                                                                                                                                                                                                                                                                                                                                                |
| <p>12. At ground floor level strict compliance with the build-to lines is not essential.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p>The ground floor of the development is built to the front boundary of the site, which has a</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

|                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                        | setback of 3.7m to the kerbline rather than 4.5m. This setback is consistent with development to the west and creates a continuous and active street frontage and is therefore supported.                                                                                                                                                                                                                                                                 |
| 13. Continuous footpath awnings must be provided over all footpaths.                                                                                                                                                                   | The proposal includes an awning over the footpath at the front of the site.                                                                                                                                                                                                                                                                                                                                                                               |
| 14. Where the Build To Lines and Central Courts map indicates a pedestrian link such a link is to be provided (or maintained). This map also indicates whether the link is to be an enclosed link (such as an arcade) or an open link. | Not Applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 15. Car parking facilities must be provided below ground or behind buildings in shared parking areas (Build To Lines and Central Courts map).                                                                                          | Car parking is proposed below ground, at ground level and on the first floor. Given the constraints of the site and topographical/hydrological constraints of the local area this is considered acceptable for a development of this scale.<br><br>Further, the car parking areas are not visible from the public or neighbouring private domains and form an integrated and visually inoffensive element in the overall architecture of the development. |
| 16. Ground level car parking facilities in the central courts must be provided with trees with a mature tree canopy cover of 70% over the area.                                                                                        | Not Applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                           |

#### Merit consideration

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

- *To ensure that Howard Avenue is the primary boulevard in the Dee Why Town Centre and the focus of shopping and community activity.*

#### Comment:

The proposal includes a retail premises on the ground floor which will ensure that the focus is on shopping and community activity along Howard Avenue.

- *To encourage good design and innovative architecture.*

#### Comment:

Council's Urban Designer has reviewed the design of the proposed development and raises no objections. The proposed building has been assessed against the provisions of SEPP 65 and achieves consistency with the underlying objectives of the SEPP and satisfies the requirements of the Apartment Design Guide. Therefore the proposal is considered to be of a

good design and architecture.

- *To encourage building design that will contribute to the life of public spaces by helping to define the streets and public spaces.*

Comment:

The proposal will contribute to the life of the Dee Why Town Centre by providing additional residential accommodation and street activation in the form of a ground floor retail premises. The development clearly defines Howard Avenue and the footpath along the front of the site by introducing a new retail premises at ground floor and continuous awning across the footpath at the front of the site.

- *To create an environment that is human in scale as well as comfortable, interesting and safe.*

Comment:

The proposal will create an environment that is human in scale, comfortable, interesting and safe for future occupants of the building and the general community within the Dee Why Town Centre.

- *To ensure shops and dwellings enjoy good access to natural light.*

Comment:

The proposal allows for a reasonable level of natural light to be provided to the residential accommodation and retail premises.

- *To ensure buildings have an active street frontage.*

Comment:

The proposed building includes a retail premises at ground floor which activates the street frontage along with the pedestrian entry to the building.

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

## Appendix 1 Car Parking Requirements

The development provides the following on-site car parking:

| Use                                                       | Appendix 1 Calculation                             | Required                | Provided                       | Difference (+/-) |
|-----------------------------------------------------------|----------------------------------------------------|-------------------------|--------------------------------|------------------|
| Residential<br>18 x 1 bedroom apartments<br>8 x 2 bedroom | 1 space per 1 bedroom dwelling<br>1.2 spaces per 2 | 18 spaces<br>9.6 spaces | 31 spaces - residential spaces | N/A              |

|                      |                                     |                                      |                   |            |
|----------------------|-------------------------------------|--------------------------------------|-------------------|------------|
| apartments           | bedroom dwelling                    | 5.2 spaces                           | 5 visitors spaces |            |
| Residential visitors | 1 space per 5 dwellings             |                                      |                   |            |
| Retail premises      | 1 space per 16.4m <sup>2</sup> GLFA | 2.6 spaces                           | 3 spaces          | N/A        |
| <b>Total</b>         |                                     | 36 spaces (35.4 spaces - rounded up) | 39 spaces         | + 3 spaces |

Clause C3 of WLEP 2011 requires that adequate off-street car parking is to be provided within the subject property boundaries in accordance with the use provisions of Appendix 1.

It is noted that the design of the residential apartments include the provision of a study. For the purposes of calculating the car parking requirements for the development the studies have not been included as bedrooms as the plans indicate that they are not capable of being used as a bedroom.

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

## THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

## CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

## POLICY CONTROLS

### Warringah Section 94A Development Contribution Plan

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

The following monetary contributions are applicable:

| Warringah Section 94 Development Contributions Plan            |           |           |
|----------------------------------------------------------------|-----------|-----------|
| Contribution based on a total development cost of \$ 6,016,251 |           |           |
| Contributions                                                  | Levy Rate | Payable   |
| Total Section 94A Levy                                         | 0.95%     | \$ 57,154 |
| Section 94A Planning and Administration                        | 0.05%     | \$ 3,008  |

|       |    |           |
|-------|----|-----------|
| Total | 1% | \$ 60,163 |
|-------|----|-----------|

## CONCLUSION

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

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

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

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

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

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

## RECOMMENDATION

THAT Northern Beaches Development Assessment Panel – Central as the consent authority grant Development Consent to DA2017/0318 for Demolition works and construction of a shop top housing development on land at Lot 12 DP 1229780, 18 Howard Avenue, DEE WHY, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

#### 1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

##### a) Approved Plans

**Architectural Plans - Endorsed with Council's stamp**

| Drawing No.                                        | Dated             | Prepared By             |
|----------------------------------------------------|-------------------|-------------------------|
| DA01, Rev.A - Site Plan   Ground Floor             | 31 March 2017     | HUMEL Architects   SR   |
| DA03, Rev.A - Demolition Plan                      | 31 March 2017     | HUMEL Architects   OO   |
| DA04, Rev.A - Lower Ground & Ground Floor          | 31 March 2017     | HUMEL Architects   SR   |
| DA05, Rev.B - First and Second (Podium) Floor Plan | 21 July 2017      | HUMEL Architects   SR   |
| DA06, Rev.B - Third & Fourth Floor Plan            | 21 July 2017      | HUMEL Architects   SR   |
| DA07, Rev.B - Fifth & Sixth Floor Plan             | 21 July 2017      | HUMEL Architects   SR   |
| DA08, Rev.B - Seventh Floor & Roof Plan            | 21 July 2017      | HUMEL Architects   SR   |
| DA09, Rev. B - Northern & Southern Elevations      | 21 July 2017      | HUMEL Architects   SR   |
| DA10, Rev.B - Western Elevation                    | 21 July 2017      | HUMEL Architects   SR   |
| DA11, Rev.B - Eastern Elevation                    | 31 September 2017 | HUMEL Architects   SR   |
| DA11.1, Rev.A - Internal Southern Elevation        | 21 July 2017      | HUMEL Architects   SR   |
| DA12, Rev.B - Section A-A                          | 21 July 2017      | HUMEL Architects   SR   |
| DA13, Rev.C - Section B-B                          | 27 October 2017   | HUMEL Architects   SR   |
| DA18, Rev.B - Services Diagram Zone                | 21 July 2017      | HUMEL Architects   SR   |
| L-01 Rev A Landscape Plan                          | 31/03/17          | Space Landscape Designs |

| Reports / Documentation – All recommendations and requirements contained within:    |               |                                    |
|-------------------------------------------------------------------------------------|---------------|------------------------------------|
| Report No. / Page No. / Section No.                                                 | Dated         | Prepared By                        |
| Waste Management Plan - 18 Howard Avenue, Dee Why                                   | 31 March 2017 | Oliver Oulsnam                     |
| Waste Management Plan - 18 Howard Avenue, Dee Why 2099                              | 31 March 2017 | HUMEL Architects                   |
| Construction Management Plan - 18 Howard Avenue Dee Why                             | 31 March 2017 | Oliver Oulsnam                     |
| Stage 1 Preliminary Site Investigation - PSI (Environmental)   EBG-02406.Stage1.PSI | 11 July 2014  | EBG Environmental Geoscience       |
| Geotechnical Site Investigation   2014-120.1                                        | May 2017      | Crozier - Geotechnical Consultants |
|                                                                                     |               |                                    |

|                                                                                |               |                                         |
|--------------------------------------------------------------------------------|---------------|-----------------------------------------|
| Flood Risk Management Plan - 18<br>Howard Avenue, Dee Why                      | 7 April 2017  | Taylor Consulting                       |
| Fire Safety Strategy Report   2017/156<br>R1.3                                 | 31 March 2017 | Stephen Grubits &<br>Associates Pty Ltd |
| Accessibility Capability Statement  <br>17089-R1.0                             | 31 March 2017 | CodePerformance                         |
| Acoustic Advice Regarding Mixed Use<br>Development  <br>20140714.2/0324A/R1/TT | 31 March 2017 | Acoustic Logic                          |

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

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

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

## 2. **Occupancy**

Nothing in this consent shall authorise the use of the ground floor retail tenancy as detailed on the approved plans for any land use of the site beyond the definition of a shop.

A shop is defined as:

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

(development is defined by the Warringah Local Environment Plan 2011 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent. (DACPLB03)

## 3. **Prescribed Conditions**

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

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
  - A. the name and licence number of the principal contractor, and
  - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
  - A. the name of the owner-builder, and
  - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement (DACPLB09)

#### 4. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,

- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

(b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

(f) Where works are to be carried out to a Class 1a building, smoke alarms are to be installed throughout all new and existing portions of that Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.

(g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(h) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(j) All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

(k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during

construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(l) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(m) Any Regulated System (e.g. air-handling system, hot water system, a humidifying system, warm-water system, water-cooling system, cooling towers) as defined under the provisions of the Public Health Act 2010 installed onsite is required to be registered with Council prior to operating.

Note: Systems can be registered at [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au)

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

(1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

(4) Swimming pools and spas must be registered with the Division of Local Government.

(o) New solid fuel burning heaters or existing solid fuel heaters affected by building works must comply with the following:

- (1) AS 2918:2001 Domestic Solid Fuel Burning Appliances – Installation.
- (2) AS 4013:2014 Domestic Solid Fuel Burning Appliances – Method of Determination of Flue Gas Emissions.

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

## FEES / CHARGES / CONTRIBUTIONS

### 5. Policy Controls

Northern Beaches Council Section 94A Development Contribution Plan

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

The following monetary contributions are applicable:

| Northern Beaches Council Section 94 Development Contributions Plan |           |              |
|--------------------------------------------------------------------|-----------|--------------|
| Contribution based on a total development cost of \$ 6,016,250.74  |           |              |
| Contributions                                                      | Levy Rate | Payable      |
| Total Section 94A Levy                                             | 0.95%     | \$ 57,154.38 |
| Section 94A Planning and Administration                            | 0.05%     | \$ 3,008.13  |
| Total                                                              | 1%        | \$ 60,162.51 |

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

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

Reason: To provide for contributions in accordance with Northern Beaches Council's Development Contributions Plan.

### 6. Security Bond

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

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

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

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

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

## 7. **Works Bonds**

(a) Construction, Excavation and Associated Works Bond (Road)

A Bond of \$50,000.00 as security against any damage or failure to complete the construction of road pavement/shoulder reconstruction works as part of this consent.

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

A Bond of \$30,000.00 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

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

A Bond of \$3000.00 as security to ensure that there is no transmission of material, soil etc off the site and onto the public road and/or drainage systems.

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

A bond of \$3000.00 as security against damage to Council's road(s) fronting the site caused by the transport and disposal of materials and equipment to and from the site.

(e) Construction, Excavation and Associated Works Bond (Maintenance for civil works)

The developer/applicant must lodge with Council a Maintenance Bond of \$8,000.00 for the construction of road works. The Maintenance Bond will only be refunded on completion of the Maintenance Period, if work has been completed in accordance with the approved plans to the satisfaction of Council.

(Note: This bond may be refunded and replaced by the Maintenance Bond upon submission to Council of the final Compliance Certificate or Subdivision Certificate.)

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

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

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

Reason: To ensure adequate protection of Councils infrastructure. (DACENZ01)

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

### 8. **Stormwater Disposal**

Engineering Plans certified by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to Council's pit located in front of 22 Howard Avenue. Subsoil/basement water collected and pumped to the street gutter is not permitted.

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

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development. (DACENC06)

9. **Submission of an Application under S 138 Road Act 1993**

Engineering plans are to be submitted to Council for approval under the provisions of Section 138 and 139 of the Road Act 1993. The submission is to include four (4) copies of Civil Engineering plans for the design [and construction for the following list of works, and Council's specification for engineering works - AUS-SPEC #1 and or Council's Minor Works Policy.

1. Reconstruction of Kerb & Gutter for full frontage of the development site and up to Council pit located in front of 22 Howard Avenue.
2. Construction of 375 mm diameter pipe to be placed below the existing kerb & gutter from the site to Council pit, in order collect the stormwater and basement water and connect to Council's stormwater pit in Howard Avenue.
3. Construction of vehicular Crossing 6.0 meters wide.
4. Construction of full width footpath and shall be in accordance with Warringah Council's Public Space guidelines.
5. All streets cape works within the road reserve in Howard Avenue road reserve frontage are to be in accordance with the principles outlined in Council's Public Space Guidelines

An Application fee and additional fee associated with the assessment and approval of the plans is to be in accordance with Council's Fees and Charges. The developer/applicant must lodge with Council a security bond against any damage or failure to complete the construction of the slip lane, drainage pipeline and associated works as part of this consent is required.

Application form can be obtained from Council's Web Page.

<http://www.warringah.nsw.gov.au/sites/default/files/documents/pdf-forms/works-councilroadsapplication/works-be-approved-within-councils-roadwaysmay2014.pdf>

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

Reason: To ensure compliance with Council's specification for engineering works. (DACENC08)

10. **Waterproofing/Tanking of Basement Level**

The basement area is to be permanently tanked or waterproofed. Details of the waterproofing/ tanking are to be prepared by a suitably qualified Engineer.

Where dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Department of

Primary Industries - Water. The bore license must be obtained prior to commencement of dewatering works. All requirements of the NSW Department of Primary Industries - Water are to be complied with and a copy of the approval must be submitted to the Certifying Authority.

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

Reason: To prevent ingress of sub-surface flows into the basement area and to comply with State Government Requirements. (DACENC14)

**11. Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

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

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

Reason: Safety. (DACENC19)

**12. Shoring of Adjoining Property**

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

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

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land. (DACENCO5)

**13. Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with Parts C8 and C9 of the WDCP 2011 and Council's Waste Management Guidelines (that apply to land covered by the WLEP 2011).

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

**14. Soil and Water Management Plan**

A Soil and Water Management Plan shall be prepared and submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. The Soil and Water Management Plan shall be prepared and implemented by the person(s) supervising the works on site and must be in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004), and include:

- Planned stages of excavation and building;
- The slope of the land;
- Location of all pits, waterways and drains on and nearby the site;
- Location of washdown and storage of material areas;
- Proposed erosion and sediment controls and their location;
- Sediment control basin locations and volume;
- Covering materials and methods;
- A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

**Reason:** *To protect the environment from the effects of sedimentation and erosion from development sites.*  
(DACHPCPCC5)

15. **Dewatering**

Where dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore licence from the Department of Natural Resources (DNR). The bore licence must be obtained prior to commencement of dewatering works. All requirements of the DNR are to be complied with. A copy of the approval from the DNR must be submitted to the Principal Certifying Authority prior to commencement of construction works.

**Reason:** *Compliance with the requirements of Department of Sustainable Natural Resources.*

(DACHPCPCC2)

16. **Flood**

In order to protect occupants from flood inundation the following is required:

**a) Flood Protection**

All new building works and services shall be designed to withstand the hydraulic forces of the floodwaters up to the flood planning level of 15.2m AHD. Buoyancy, flowing water with debris, wave action, the flood compatibility of materials and waterproofing shall be addressed. Structural details for the construction are to be prepared by a suitably qualified Engineer.

**b) Habitable Rooms**

No approval is granted by this development consent for habitable rooms (as defined by the New South Wales Floodplain Development Manual) to be located under the flood planning level.

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

Reason: To protect the building from flooding in accordance with Council and NSW Government policy. (DACNEC09)

#### 17. **Compliance with Standards**

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

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

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

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

- (a) AS2601.2001 - Demolition of Structures\*\*
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings\*\*
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting\*\*
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) \*\*
- (e) AS 4970 - 2009 'Protection of trees on development sites'\*\*\*
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking\*\*
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities\*\*
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities\*\*
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking\*\*
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities\*\*
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set\*\*
- (l) AS 1428.1 - 2009\* Design for access and mobility - General requirements for access - New building work\*\*
- (m) AS 1428.2 - 1992\*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities\*\*
- (n) AS 4674 Design, construction and fit out of food premises
- (o) AS1668 The use of mechanical ventilation

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

\*\*Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to. (DACPLC02)

#### 18. **External Finishes to Roof**

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

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

19. **Sewer / Water Quickcheck**

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

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

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

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

20. **Construction Management Plan**

A Construction Management Plan shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

The plan shall detail:

- (a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion, noise and dust in the area, with no access across public parks or reserves being allowed;
- (b) The proposed phases of construction works on the site, and the expected duration of each construction phase;
- (c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- (d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process.
- (e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- (f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- (g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- (h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent;
- (i) Proposed protection for Council and adjoining properties; and
- (j) The location and operation of any on site crane;
- (h) The provision of a Traffic Management Plan to ensure traffic generated from the demolition and construction phase of the development is appropriately managed and the impact on Howard Avenue and adjoining streets is minimised ( the Plan is to detail truck routes to and from the subject site ensuring that the use of residential streets is minimised and no queuing or staging on Howard Avenue or Pittwater Road is to occur).

Reason: To ensure appropriate measures are in place during demolition and construction to minimise the impact on adjoining and nearby lands.

21. **Dilapidation Survey**

A photographic survey of adjoining properties (No. 910 Pittwater Road, No. 5 Dee Why Parade, No. 20 Howard Avenue and No. 22 Howard Avenue) detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to Council/Accredited Certifier prior to the issue of a Construction Certificate. This survey is to be prepared by an appropriately qualified person.

On completion of the excavation and building works and prior to occupation of the building, a certificate prepared by the appropriately qualified person to the effect that no damage has resulted to adjoining premises, is to be provided to the Principal Certifying Authority.

If damage is identified by the appropriately qualified person which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible and prior to a final Occupation Certificate being issued.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent. In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate, in writing, to the satisfaction of Council/Accredited Certifier that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

(Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible)

Reason: To provide a record of the existing condition of adjoining buildings prior to construction.

22. **Passing Bay / Traffic Control at Carpark Entrance**

There is not adequate inter-visibility between the vehicle on the passing bay and exiting vehicles on the ramp. The design of the passing bay is to provide adequate visibility through vehicles exiting the driveway for the vehicles waiting on the passing bay. Alternatively a traffic signal system is required to be provided at the entrance to the car park to ensure that entering vehicles have right of way.

Reason: to minimize traffic conflict on driveway (DACTRCPC1)

23. **Retail and Visitor Parking Spaces**

- (a) All retail parking spaces including the disable parking space is to be located on the ground level. The installation of any security roller shutter to the basement parking must be designed so as to not restrict the access of staff and customers to the allocated retail parking spaces
- (b) A sign, legible from the street, shall be permanently displayed to indicate the availability of parking spaces for the retail customers.
- (c) The installation of any security roller shutter for parking area shall not restrict access to any

designated visitor car parking spaces. Any visitor spaces located behind the security roller shutter requires the provision of an intercom system to enable visitor access into the basement parking area.

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

Reason: To ensure availability of parking spaces for visitors customers and ensure that customers are aware that parking is available (DACTRCPC2)

#### 24. **Waste and Recycling Requirements**

Details demonstrating compliance with Warringah Development Control Plan – Part C9 Waste Management, including the required Warringah Waste Management Plan, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with Warringah Development Control Plan – Part C9 Waste Management, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided. (DACWTC01)

### **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

#### 25. **Public Liability Insurance - Works on Public Land**

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

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land. (DACEND01)

#### 26. **Traffic Control on Access Ramps**

The car park ramps are proposed as single lane ramps to the two levels of the car park. The vehicle ramps should be provided with some form of traffic control through the provision of mirrors and 'Give Way' signs, or a traffic signal system, to provide priority for entering vehicles.

Reason: To minimize traffic conflict (DACTRCPC3)

#### 27. **Loading Area**

All loading and unloading activities relating to the development must be undertaken within the development site. The provision of on-site service vehicle area is required for both commercial and residential use. In this regard the car park is to be designed to accommodate the service vehicles in compliance with AS2890.2:2002. A small rigid trucks (SRV) or larger trucks depending on the type of retail use proposed with the headroom clearance of 3.5m will be required.

A swept path analysis demonstrating that trucks manoeuvring areas are adequate is to be provided. The applicant should consider providing the service vehicle areas to one location to minimise impact on car park vertical height requirements.

Reason: To accommodate a loading area for a small rigid vehicle in accordance with the relevant Australian Standard (DACTRCPC4)

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

### 28. **Progress Certification (Road & Subdivision)**

Written certification is to be provided by a suitably qualified engineer upon completion and/or as and when requested by the Certifying Authority for the following stages of works.

- (a) Silt and sediment control facilities
- (b) Laying of stormwater pipes and construction of pits
- (c) Sub-grade trimmed and compacted \*\*
- (d) Base-course laid and compacted \*\*
- (e) Kerb and gutter construction
- (f) Pavement
- (g) Landscaping and vegetation
- (h) Clean-up of site, and of adjoining Council roadway and drainage system.

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

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

Reason: To ensure compliance of civil works with Council's specification for engineering works (see [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au)). (DACENE02)

### 29. **Vehicle Crossings**

The provision of one vehicle crossing 6.0 metres wide in accordance with Warringah Council Drawing No A4-3330/1 and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property. (DACENE05)

### 30. **Civil Works Supervision**

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

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

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

### 31. **Footpath Construction**

The applicant shall construct a full width footpath and paving fronting the development site. The works shall be in accordance with the following:

- (a) All footpath works are to be constructed in accordance with Council's minor works policy.
- (b) Full width footpath construction in accordance with Warringah Council's Public Space

guidelines

(c) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Council's specification for footpath.

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

Reason: To ensure compliance of footpath works with Council's specification for engineering works. (DACENE07)

32. **Layback Construction**

A layback 6.0 metres wide (excluding the wings) is to be constructed in accordance with Warringah Council Drawing No A4-2276 and specifications.

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

33. **Maintenance of Road Reserve**

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

Reason: Public Safety. (DACENE09)

34. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Work control at Work Sites Manual. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works.

Reason: Public Safety. (DACENE11)

35. **Kerb and Gutter Construction**

The existing kerb and gutter along the frontage of the site and ancillary drainage works required is to be reconstructed as 150 mm kerb & gutter in accordance with Warringah Council Drawing No A4 2276/A and specifications.

Reason: To ensure compliance with of kerb and gutter works with Council's specification for engineering works.(DACENEDW1)

36. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

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

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

37. **Trees Condition**

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

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

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

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

Reason: Protection of Trees. (DACLA03)

**38. Enter and Exit in Forward Direction**

All vehicles are to be able to enter and exit the site in forward direction.

Reason: To Ensure Traffic Safety (DACTRCPC5)

**39. Pedestrian Visibility**

A clear sight distance to pedestrian is to be provided by provision of a clear 2m by 2.5m triangle at the property line, this is to ensure adequate visibility between vehicles leaving the car park and pedestrians on the frontage road footpath.

Reason: To comply with with Australian Standards AS2890.1:2004 (DACTRCPC7)

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

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided. (DACWTE01)

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

**41. Reinstatement of Kerb**

All redundant laybacks and vehicular crossings shall be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

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

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

**42. Pump out facility Compliance Certification**

Upon completion of the Pump out facility, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a

copy of the approved Pump out facility plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by NPER Civil Engineer Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

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

Reason: To ensure stormwater disposal is constructed to Council's satisfaction.  
(DACENF10)

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

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

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

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

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

44. **Certification of Road, Footpath Works and Works as Executed Data**

Submission to Council a Works as Executed plan overdrawn in red on a copy of Council's approved plan which shall be prepared and certified by a registered surveyor. A suitably qualified Civil Engineer working in civil works and an N.P.E.R. registered with Australian Institute of Engineers shall certify that the completed works have been constructed in accordance with this consent and the Council approved plans.

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

Reason: To ensure compliance of drainage works with Council's specification for engineering works. (DACENFPO1)

45. **Roof top plant**

Central plant for air-conditioning units, etc. must not be located on the roof as the maximum building height has been reached. Placement of air-conditioning condenser units on the balconies must be designed for and appropriately screened.

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

Reason: To ensure maximum building height of 24 metres will not be breached further except for top of lift overrun proposed at RL39.250 and air-conditioning condenser units are appropriately screened on balconies.

**46. Noise Impact of Plant where installed**

All sound producing plant, equipment, machinery or fittings associated with or forming part of the mechanical ventilation system and/or the refrigeration system, shall be sound insulated and/or isolated so that the noise emitted does not exceed 5 dB(A) above the background level (LA90) during the day when measured at the nearest affected residence. For assessment purposes, the above LAeq sound levels are to be adjusted in accordance with EPA Industrial Noise Policy guidelines for tonality, frequency weighting, and impulsive characteristics where necessary, at any time the plant is in operation, at the boundary of the site.

Note: The method of measurement of sound shall be carried out in accordance with Australian Standard 1055.1 - 1989.

A report and certification prepared by an appropriately qualified or accredited person shall be submitted to the Principal Council / Accredited Certifier demonstrating compliance with this condition prior to the occupation of the completed works.

**Reason:** *To ensure that noise generated from the development does not result in offensive noise to any other party.*  
(DACHPFPOC6)

**47. Required Planting**

- i) Landscaping shall be planted generally in accordance with the Landscape Plan Dwg No. L-01 Rev A dated 31/03/17 prepared by Space.
  - ii) The design of the above garage planters is to provide adequate soil volume and soil type for the establishment of proposed planting to maturity.
  - iii) The on-slab soil depth to the above garage planter area shall provide for a minimum of 900mm soil for the proposed planting. This depth excludes the depth required by drainage provisions..
  - iv) All planters and on-slab planting areas shall be waterproofed to all internal sides, and shall drain to the stormwater system.
  - v) All planters and on-slab planting areas shall be serviced by an automated irrigation system.
  - vi) Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.
- Reason: To maintain environmental amenity. (DACLAF01)

**48. Certification of Drainage Works and Works as Executed Data**

A suitably qualified Civil Engineer shall certify that the completed works have been constructed in accordance with this consent and the approved Construction Certificate plans. Works as Executed data certified by a registered surveyor prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Stormwater Assets' shall be submitted to the Council for approval prior to the issue of the Occupation Certificate.

Council's guidelines are available at

<https://www.warringah.nsw.gov.au/sites/default/files/documents/general-information/stormwater-and-development/guideline-preparing-works-executed-data-council-stormwater-assets.pdf>

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

Reason: To ensure compliance of drainage works with Council's specification for engineering works. (DACNEF12)

**49. Garbage and Recycling Facilities**

All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

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

Reason: To prevent pollution of the environment and to protect the amenity of the area. (DACPLF03)

**50. Unit Numbering for Multi Unit Developments (Residential, Commercial and Industrial)**

The units within the development are to be numbered in accordance with the Australia Post Address Guidelines (<http://auspost.com.au/media/documents/australia-post-addressing-standards-1999.pdf>).

In this regard, the numbering is to be as per the Unit Numbering for Multi Unit Development Table available on Council's website

(<https://www.warringah.nsw.gov.au/sites/default/files/documents/pdf-forms/unit-numbering-multi-unit-developments-residential-commercial-and-industrial-form/unit-numbering-multi-unit-developments-residential-commercial-and-industrial-form.pdf>).

External directional signage is to be erected on site at driveway entry points and on buildings and is to reflect the numbering in the table provided. Unit numbering signage is also required on stairway access doors and lobby entry doors.

It is essential that all signage throughout the complex is clear to assist emergency service providers in locating a destination within the development with ease and speed, in the event of an emergency.

Details are to be submitted with any Interim/Final Occupation Certificate or Strata Subdivision Certificate certifying that the numbering has been implemented in accordance with this condition and the Unit Numbering for Multi Unit Development Table.

Reason: To ensure consistent numbering for emergency services access. (DACPLF05)

**51. House / Building Number**

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

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

Reason: Proper identification of buildings. (DACPLF04)

**52. Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

**53. Intercom**

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

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

Reason: To ensure convenient access is available for visitors to the building. (DACPLF05)

**54. Allocation of Parking Spaces**

Each parking space is to be clearly signposted or linemarked.

Reason: To ensure allocation of parking spaces. (DACTRCPC8)

**55. Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with Warringah Development Control Plan – Part C9 Waste Management

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

Reason: To ensure waste and recycling facilities are provided. (DACWTF01)

**56. Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled. (DACWTF02)

**57. Positive Covenant for Waste Services**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to provide access to the waste storage facilities prior to the issue of an Interim/Final Occupation Certificate. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities (DACWTF03)

**58. Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (Department of Lands standard form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land. (DACWTF04)

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

59. **Maintenance period for civil works under the provisions of the Roads Act 1993 and Environmental Planning and Assessment Act 1979**  
A Maintenance Period of six (6) months shall apply to the footpath, kerb & gutter and drainage works located in, on or over a public road as approved under the provisions of Section 139 of the Roads Act 1993 and Section 80A of the Environmental Planning and Assessment Act 1979, after it has been completed and approved in writing by the appropriate Roads Authority. In that period the applicant shall be liable for any part of the work which fails to perform in the manner outlined in Roads Authority's specifications, or as would be reasonably be expected under the design conditions.

Reason: To ensure works are appropriately constructed and repaired where defective. (DACENG01)

60. **Landscape maintenance**  
i) Trees shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.  
ii) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan.

Reason: To maintain local environmental amenity

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

31 - Residential  
5- Residential - Visitors  
3- Retail

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

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

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

62. **Visitors Sign**

A sign, legible from the street, shall be permanently displayed to indicate that visitor parking is available on the site and the visitor car parking spaces shall be clearly marked as such.

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

**Reason:** To ensure that visitors are aware that parking is available on site and to identify those spaces to visitors. (DACPLG04)

63. **Hours of Operation**

The hours of operation are to be restricted to 7am to 7pm (inclusive).

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

**Reason:** Information to ensure that amenity of the surrounding locality is maintained. (DACPLG08)

64. **Commercial Waste and Recycling Storage**

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins as shown on the approved plans.

**Reason:** To ensure that commercial waste and residential waste is not mixed and is properly managed. (DACPLG19)