

AGENDA

NORTHERN BEACHES INDEPENDENT ASSESSMENT PANEL MEETING

Notice is hereby given that a Meeting of the Northern Beaches Independent Assessment Panel will be held in the Council Chambers, Civic Centre, Dee Why on

WEDNESDAY 8 NOVEMBER 2017

Beginning at 1.00 PM for the purpose of considering and determining matters included in this agenda.



Peter Robinson
Executive Manager Development Assessment

Panel Members

Lesley Finn	Chair (Environmental Law)
Chris Gee	Urban Design Expert
Marcus Sainsbury	Environmental Expert
Paula Morel	Community Representative

Quorum

A quorum is three Panel members

Conflict of Interest

Any Panel Member who has a conflict of Interest must not be present at the site inspection and leave the Chamber during any discussion of the relevant Item and must not take part in any discussion or voting of this Item.

Agenda for a Meeting of the Northern Beaches Independent Assessment Panel

to be held on Wednesday 8 November 2017

in the Council Chambers, Civic Centre, Dee Why

Commencing at 1.00 PM

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2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES INDEPENDENT ASSESSMENT PANEL HELD 13 SEPTEMBER 2017

RECOMMENDATION

That the Panel note that the Minutes of the Northern Beaches Independent Assessment Panel held 13 September 2017 were adopted by the Chairperson and have been posted on Council's website.

3.0 NORTHERN BEACHES INDEPENDENT ASSESSMENT PANEL REPORTS

ITEM 3.1 N0116/06/S96/7 - 20 JUBILEE AVENUE, WARRIEWOOD -
SECTION 96(1A) MODIFICATION TO CONSENT N0116/06
WHICH APPROVED THE CONSTRUCTION OF AN
ADMINISTRATION AND PACKAGING FACILITY FOR
BLACKMORES LIMITED

REPORTING OFFICER Tyson Ek-Moller
TRIM FILE REF 2017/422788
ATTACHMENTS 1 Assessment Report

PURPOSE

To refer the attached application for determination as required under adopted delegations of Council.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Independent Assessment Panel, as the consent authority, **approve** Application No. N0116/06/S96/7 for Section 96(1A) Modification to Consent N0116/06 which approved the construction of an administration and packaging facility for Blackmores Limited on land at Lot 20 DP 1141261, 20 Jubilee Avenue, Warriewood, for the reasons outlined in the Assessment Report.

SUBJECT: N0116/06/S96/7 – Section 96(1A) Modification to Consent N0116/06 relating to 20 Jubilee Avenue, Warriewood (Lot 20, DP 1141261) which approved the construction of an administration and packaging facility for Blackmores Limited

Determination Level: Independent Assessment Panel (IAP)

**SUMMARY OF RECOMMENDATION
APPROVAL TO MODIFY CONSENT**

REPORT PREPARED BY:	Peter Robinson
APPLICATION SUBMITTED ON:	1 June 2017
APPLICATION SUBMITTED BY:	Pierre Le Bas Turnbull Planning International Pty Ltd Suite 2301/4 Daydream Street WARRIEWOOD NSW 2102
OWNER:	Blackmores Limited

1.0 PROPOSAL

A Section 96(1A) modification application has been lodged to modify Development Consent N0116/06, which approved the construction of an administration and packaging facility for Blackmores Limited.

The applicant proposes to delete condition no. B45 which current reads as follows:

"The concrete truck manoeuvring apron on the southern side of the building and adjacent to Jubilee Avenue is not to be used for any loading/unloading activities."

The applicant proposes the following new condition no. B45:

"All production and dispatch activity, including insertion of products into containers and then into boxes and placing these boxes onto pallets for dispatch, is to take place within the building envelope (i.e. within the confines of the existing building). Loading and unloading of goods delivered to the premises by truck, may take place on the hardstand area of the premises (i.e. outside of the building envelope), but subject always to compliance with the noise management plan and condition/s of consent relating to acoustic management. The existing hardstand area behind the building setback and adjacent to the building may be used to load and unload only those trucks which cannot use the docks internal to the building, due to their design (side loading)."

No other changes (including modifications to other conditions and/or approved plans) are sought by the applicant.

2.0 SITE AND SURROUNDINGS

The subject site is rectangular in shape, with an area of 25,210 m² with 2 street frontages with all access from Jubilee Avenue, and a rear boundary to Mona Vale Road. The site contains a large

warehouse and distribution centre (originally approved by Development Application No. N0116/06 and since modified), which also includes the following:

- Administrative offices;
- A large loading area (which includes reversing docks within the southeast corner of the warehouse and a large open hardstand area within the front setback);
- Multiple car parking areas (mostly situated towards the side and rear of the site); and
- Landscaped areas (mostly within the front, rear and western setbacks).



Figure 1: Aerial photograph of the subject site; the site is outlined by the yellow border, while the location of the hardstand area (the subject of this application) has been outlined by the red border (Source: Nearmap 2017).



Figure 2: Photograph of the hardstand area at the front of the site.

The subject site forms part of the Warriewood Valley Locality, and is located within the Stage 1 release area which primarily contains industrial and commercial land uses.

The development and associated uses was approved in 2006 by Development Application No. N0116/06 and was subject to a number of modifications to the consent (refer to the background section of this report).

The subject site is within a B7 Business Park zone. The front and side boundaries within the same B7 zone, though the rear boundary adjoins an SP2 Infrastructure (Classified Road; Mona Vale Road) zone. The site is in close proximity to a large number of other zone boundaries which are as follows:

- An IN2 Light Industrial zone is located to the southeast, south and southwest of the site, and is located approximately 20m from the subject site at its nearest point;
- Further SP2 Infrastructure zones are located approximately 135m northwest (a cemetery), 265m northwest (electricity supply infrastructure) and 300m northwest (a cemetery) of the subject site;
- R2 Low Density Residential zones are located around the site and are approximately 55m north, 100m east, and 140m southeast of the subject site at their nearest respective points;
- R3 Medium Density Residential zones are located approximately 145m southeast and 415m south of the subject site;
- RE1 Public Recreation zones are located approximately 45m north, 185m north, 305m east and 295m south of the subject site; and
- E4 Environmental Living zones are located approximately 120m southeast and 225m east of the subject site; and

As is reflected by the large number of zone boundaries that are close to the subject site, there are a wide range of development types within the surrounding area. Most development is consistent with the zones in which they are located (e.g. business/industrial type structures within business and industrial zones, low scale residential development within R2 zones, etc.). Notable exceptions include Pittwater RSL and associated recreational facilities which adjoin the subject site's eastern boundary, and multiple takeaway food and drink premises that adjoin the subject site's northwest boundary. Despite being within an IN2 zone, the site immediately to the southwest (diagonally opposite Jubilee Avenue) contains residue residential development.

The subject site is flood affected and Class 5 Acid Sulphate soils, and is affected by biodiversity considerations (heathland vegetation). The site contains a number of easements, though the rear of the site is not affected by land reservation considerations. The site does not contain a heritage item and is not within a heritage conservation area.

A number of site inspections were undertaken by the assessing officer, which confirmed that the layout of the site is consistent with the proposed plans, and no significant issues were identified.

3.0 BACKGROUND

3.1 Site background:

Date	Details
26/05/1998	Development Application No.HA4/0059/98 approved for the construction of a factory complex comprising of 36 industrial units with associated car parking and landscaping.
23/10/2001	Development Application No.N0833/01 approved for the filling of a dam (Note: While this application affected the subject site, the historic address associated with this application is 86 Mona Vale Road, Mona Vale).
17/12/2003	Development Application No.N0636/03 refused. The application was a SEPP 5 application proposing 82 residential units, a community building and 150 car parking spaces.
16/09/2005	Development Application No.N0550/05 approved for demolition works (Note: While this application affected the subject site, the historic address associated with this application is 86 Mona Vale Road, Mona Vale).
08/06/2006	Development Application No. N0116/06 approved for a warehouse and distribution centre with associated administration offices, car parking and landscaping.

24/08/2006	Section 96 Modification Application N0116/06/s96/1 approved. The approval related to a change of conditions regarding operating/business hours and vehicular deliveries.
22/09/2006	Development Application No. N0502/06 approved for a kitchen facility for use by onsite staff.
22/11/2006	Section 96 Modification Application N0116/06/s96/2 approved. The approval related to the deletion of a mezzanine area and internal changes to Level 1 of the building at the southern end of the site.
22/05/2007	Section 96 Modification Application N0116/06/s96/3 refused. The application proposed changes to conditions of consent relating to S94 contributions. An appeal before the NSW Land and Environment Court was discontinued on 28/02/2008.
16/06/2008	Section 96 Modification Application N0116/06/s96/4 approved for modifications to conditions regarding construction vehicle access to the site.
15/06/2009	Section 96 Modification Application N0116/06/s96/5 approved for modifications to the roof of the building (cooling towers and ducts).
15/09/2010	Development Application No. N0213/10 approved for the installation of a sewer mining and water recycling treatment facility (i.e. a blackwater system).
23/08/2016	Development Application No. N0456/15 withdrawn. The application proposed the construction of an awning structure over an existing hardstand loading area and associated signage.
24/10/2016	Section 96 Modification Application No. N0116/06/S96/6 approved for operational changes to the site. NOTE: This application included the approval of additional/modified conditions that are the subject of the current modification application before Council.
01/06/2016	Subject Section 96 Modification Application N0116/06/s96/7 lodged.

3.2 Application background:

Date	Details
01/06/2017	Subject Section 96 Modification Application lodged.
05/06/2017 15/06/2017 19/06/2017	Site inspection undertaken.
30/06/2017	Request for additional information sent to the applicant.
08/08/2017	Additional information received.
27/09/2017	Request for additional information sent to the applicant.
11/10/2017	Additional information received.

4.0 NOTIFICATION

4.1 Public notification:

The subject application was notified for 14 days from 8 June 2017 to 22 June 2017 in accordance with Council's notification policy; notification processes included the despatch of letters to surrounding property owners and the erection of a notification sign at the subject site. In response, four (4) submissions containing six (6) signatures were received, including an Acoustic Peer Review from an acoustic engineer commissioned by a neighbour. All submissions objected to the proposal.

4.2 Addresses of objectors:

The addresses of objectors were as follows:

- 185 Warriewood Road,
Warriewood
(19 Jubilee Avenue,
Warriewood)
- 188 Warriewood Road,
Warriewood
- 184 Warriewood Road,
Warriewood
- 6 Foley Street, Mona Vale



Figure 3 (right): The location of the subject site (outlined by the yellow boundary) and sites from which submissions were received (outlined by the green boundaries)

4.3 Issues raised by submissions

Issues raised within submissions are as follows:

- The modification of the condition (i.e. consent condition no. B45) as proposed would not comply with acoustic controls and would not be in the spirit of compliance.
- Would it not be possible to modify the loading bays to move storage off the hardstand area to reduce noise and unsightly storage?
- Compliance has been largely ignored since operations commenced in 2009. It would be in everyone's interest to modify the building for more effective use of the facilities.
- The site is poorly designed. Blackmores have outgrown the facility and instead of conducting truck loading operations within a purpose built enclosed area, such activities occur within the open hardstand area which creates noise that annoys neighbours.
- The Blackmores facility has failed to meet the noise limits of the original consent and would continue to fail the design criteria upon which the development was required to be built.
 - Both the applicant and Council have failed to comprehend the operation of the Industrial Noise Policy, the Industrial Noise Policy and its compatibility with the Warriewood Valley Stage 12 Release Planning noise criteria that was incorporated into the DCP;
 - The contents in the applicant's acoustic assessment do not follow the requirements of the INP; and
 - Operations at the site exceed the criteria set out by the DCP and the INP and therefore do not satisfy the noise requirements of the original consent.
- Pharmicare (i.e. the business operating on the adjacent site at 18 Jubilee Avenue, Warriewood) are able to run a similar business on their site without noise and visual pollution issues.
- Loud noise can be heard all day from the site, including dropping/banging of pallets on the concrete apron, continuous forklift reversing beepers, sounds associated with dropping of rubbish, the electrically controlled eastern gate, truck horns and truck-caused traffic issues.

- While factors have changed since the consent of DA N0116/06, that does not justify the variation of consent conditions.
- The information submitted by the applicant does not accurately map the logger locations, which were not seen at the identified locations (e.g. there was no logger at the boundary of 15 and 19 Jubilee Avenue).
- Items are stored outside on 40 degree days contrary to the Therapeutic Goods Administration Requirements.
- Trucks miss the entrance to the site and are required to undertake dangerous manoeuvres to enter the site.
- Council's removal of compliance officers, Appendix 4 from Pittwater 21 Development Control Plan and the replacement of less the stringent Industrial Noise Policy is of concern. Local residents were not notified of changes to Pittwater 21 Development Control Plan.
- Residential and industrial areas do not mix, and operations on the site should be located within a "total industrial" area.
- There is a history of Blackmores not satisfying consent conditions and a history of Council not enforcing non-compliances.

4.4 Response to submissions

Most issues raised in submissions relate to noise generation and associated impacts; comments regarding the Acoustic Peer Review are provided below. Council's Environmental Health, comments relating to noise are provided within Part 6 of this report.

Issues relating to the removal of Appendix 4 of the DCP have been raised and addressed in previous modifications for the site. The previous response reads as follows:

"Appendix 4 was deliberately removed following a review of P21 DCP. P21 DCP controls are continually reviewed to reflect contemporary standards, best practice and current legislative requirements. The repeal of Appendix 4 as part of Amendment 16 was necessary as the majority of the provisions contained within Appendix 4 were outdated, inconsistent with contemporary legislation and, in part, state agency guidelines such as the Environment Protection Authority's (EPA) Industrial Noise Policy."

Later submissions also included a peer review of the applicant's acoustic assessment (prepared by The Acoustic Group, Report Ref. 47.5222.R2:MSC); this document was reviewed by Council's Environmental Health team. An outline of points made by the report and relevant responses by are as follows:

Issue	Response
Statements within the report	
The noise levels in the original DA did not meet the requirements for the DCP condition that is now revoked.	An assessment of the proposed operations has been undertaken against the relevant noise criteria, the Industrial Noise Policy.
It would appear that both Council and Acoustic Dynamics have failed to comprehend the matter set out in the EPA's INP in terms of considering the number of industrial premises in the Warriewood Valley.	As can be seen from the aerial photos, the area is not in transition but largely developed, with the exception of 2 sites opposite in Jubilee Ave. The criteria in the Industrial Noise Policy (section 2.2.4 Assessment in developing areas) for is no longer relevant to this location.
It is highly likely that the staff of Acoustic Dynamics were not aware of the development of the Environmental Noise Control Manual (ENCM)	The ENCM is no longer relevant. An extract from the EPA Noise Guide for Local Government 2013 reads as follows: <i>"The Environmental Noise Control Manual previously published by the EPA does not contain current information on noise management and should not be used or relied upon. It has been superseded by the above policy documents and this Guide. Current noise policies are available at</i>

	www.epa.nsw.gov.au/noise/index.htm
I am advised that Council have suggested that the INP is out of date and not relevant for the subject site. I disagree with such a suggestion. It must be noted that the INP is still the policy document used by the EPA.	There is no evidence that Council views the INP as being outdated or irrelevant to the site. Council relies on the INP to assess noise impact from development.
There was a draft INP dated September 2015 issued for public comment, being an updated to the INP. The draft INP issued in 2015 included similar assessment procedures to the current INP but with some suggested changes in the procedure of addressing noise from existing industrial premises, including the consideration of sleep disturbance (which is not identified in the INP). Acoustic Dynamics have not referred to the draft INP.	An extract from the Draft Industrial Noise Guideline reads as follows: <i>"The Draft Industrial Noise Guideline is educational and advisory in nature. It is not a statutory document but may be referenced in instruments in relation to the assessment and management of industrial noise sources when finalised. The NSW Environment Protection Authority will use this guideline, when finalised to inform its decision-making on the environmental regulation and management of noise from industrial sources. Where there is inconsistency between this guideline and the requirements of an environment protection licence or other instrument, the provisions of a licence or other instrument prevail."</i>
As the Council and Acoustic Dynamics have failed to comprehend the INP document and its compatibility with the Warriewood Stage 1 Release Planning noise criteria, which was adopted into a DCP, the following history lesson is required to place the latest attempt by Council to downgrade the acoustic criteria for Blackmores...	The DCP was amended to remove more stringent noise criteria and rely solely on the INP. Development within the locality has largely occurred and therefore criteria in the INP for 'developing areas' is not relevant.
Acoustic Assessment	
Section 2.2.1 of the Acoustic report seems to imply that criteria used for the assessment purposes present obtain from the EPA Industrial Noise Policy document and relying upon unattended noise measurements that determined the noise criteria set out in table 2.1	An extract from the EPA Noise Guide for Local Government 2013 reads as follows: <i>"Noise loggers can be left unattended for long periods while they measure and record sound levels.</i> <i>Unattended monitoring is most often used to characterise background noise levels with greater reliability due to the longer duration of measurements, such as over one week."</i>
The noise monitoring was carried out at the time of major roadworks in the area that caused a change in the normal traffic flow and would lead to atypical traffic operation near the subject site and therefore result in inaccurate ambient background levels.	1.8 km away road works to McPherson St (closure to through traffic) has been occurring since January 2017. This may affect local traffic flows in Jubilee Ave as vehicles may choose Jubilee Ave and one of several alternate routes. No traffic counts have been undertaken by Council.
In Table 2.1 the acoustic report has classified the two residential assessment locations as being in a Suburban area and provided acceptable noise levels extracted from Table 2.1 of the INP	The residential properties should have been classified as "Urban/Industrial interface" not 'suburban' under INP. The criteria for Urban/Industrial interface is less stringent than the Suburban criteria and the proposal comply with both.
Acoustic Dynamics advises that the noise environment has changed in the 9 years since the initial acoustic report undertaken by Acoustic Logic and the Original DA conditions. In addition to Table 2.1 not providing amenity noise targets (in accordance with the INP), I question the intrusive noise targets as there are no previous background levels as stated, "Acoustic Dynamics has conservatively undertaken the assessment of the development based on both the previous background noise levels in the car background noise levels and relevant criteria established from these."	The assessment of the acoustic report dated 27 August 2017 considers the current background level.
A relevant question is whether the Council has taken the position that Warriewood Valley is no longer a developing area and is now developed.	As can be seen from the aerial photos, the area is not in transition but largely developed, with the exception of 2 sites opposite in Jubilee Ave. It is Council's position that the locality is no longer developing.

<p>Concluding comments:</p> <ul style="list-style-type: none"> The Blackmores facility gives rise to noise that exceeds the Council's development consent issued for the subject site, The Blackmores facility exceeds the criteria set out in the original document identified as DCP 9 (and the replacement DCP 21) and exceeds the criteria derived from the EPA's Industrial Noise Policy. The Blackmores premises does not satisfy the noise criteria in the condition of consent. <p>If one considers, for the purpose of this exercise, the noise from Blackmores was broadband and free from tonal or impulsive characteristics that it would be not unreasonable to consider for simplification that the old L₁₀ level maybe equivalent to the LAeq level.</p>	<p>The submitted report by The Acoustic Group continually states that the Blackmores sites does not comply with the Council's noise criteria. Appendix 4 of the DCP was revoked prior to the submission of this modification; the Acoustic report dated 4 August 2017 is therefore not required to meet this criteria. Regardless, compliance with the EPA INP has been met.</p> <p>Consideration has been undertaken in regards to the characteristics of the area. Environmental Health is satisfied that the proposed use of the hardstand area will not create intrusive noise; there is however a significant issue of reversing trucks and the potential additional vehicles specifically between the 6pm – 10pm periods which may have the likelihood of being considered as offensive noise; Council's Environmental Health team has therefore recommended conditions (refer to Part 6 of this report)) to address this concern.</p>
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Other issues:

Apart from noise-related concerns, a number of other issues were raised by submissions as indicated within Part 4.3 of this report. Responses to these issues are included within the following table:

Issue	Response
Would it not be possible to modify the loading bays to move storage off the hardstand area to reduce noise and unsightly storage?	An assessment of the proposed operations has been undertaken against the relevant noise criteria, the Industrial Noise Policy.
Compliance has been largely ignored since operations commenced in 2009. It would be in everyone's interest to modify the building for more effective use of the facilities.	Earlier compliance actions relate to previous site activities, which the applicant is seeking to modify to address current planning and environmental provisions. There is no obligation for the applicant to provide alternative designs if it can be demonstrated that changes to the onsite activities would obtain the same outcomes.
The site is poorly designed. Blackmores have outgrown the facility and instead of conducting truck loading operations within a purpose built enclosed area, such activities occur within the open hardstand area which creates noise that annoys neighbours.	The subject modification application relates to the use of a portion of the site, and not to identify whether activities on the site have outgrown the facilities as approved. The proposal does not seek to intensify existing site activities; the Statement of Environment Effects also indicates that amongst other things, the site owners have leased warehouse space elsewhere in Sydney to reduce the number of movements to/from the subject site and associated impacts (i.e. noise).
Pharmacare (i.e. the business operating on the adjacent site at 18 Jubilee Avenue, Warriewood) are able to run a similar business on their site without noise and visual pollution issues.	It is noted that both submissions have drawn reference to an adjoining site (18 Jubilee Avenue) which also contains a complex consisting of offices and a warehouse and distribution centre. Despite some similarities, a direct comparison of the two sites is not appropriate due to the following reasons: Both sites were subject to separate assessments and subsequently determined on individual merits; 18 Jubilee Avenue is a corner allotment while the subject site has only one accessible frontage; and 18 Jubilee Avenue is further away from the residential areas/the objectors' sites than the subject site. It is therefore expected that the subsequent site design, layout, traffic management capabilities, operational activities and associated issues would therefore vary significantly, and a

	comparison of the two sites is not possible.
While factors have changed since the consent of DA N0116/06, that does not justify the variation of consent conditions.	Section 96 of the Environmental Planning and Assessment Act 1979 enables an applicant to seek changes to conditions imposed by a development consent, provided that it can be demonstrated that the provisions of the Act would be satisfied. An assessment of the proposed changes indicate that the proposed modifications would be in accordance with Section 96(1A) of the Act; refer to Part 6.1 of this report.
Items are stored outside on 40 degree days contrary to the Therapeutic Goods Administration Requirements.	Any decision by the site operator to externally store items that may not be in accordance with TGA requirements is not a matter that is capable of being considered in accordance with Section 79 of the Environmental Planning and Assessment Act 1979.
Trucks miss the entrance to the site and are required to undertake dangerous manoeuvres to enter the site.	As noted during site inspections and as included by recommended conditions below, wayfinding signage has been erected at the site to direct vehicles to onsite delivery and dispatch facilities. Aside from installing signage to prevent heavy vehicles missing the site entrances, it would not be possible to condition any future actions (legal or otherwise) by individual motorists within the public road reserve; such traffic compliance matters would require action by NSW Police.
Council's removal of compliance officers, Appendix 4 from Pittwater 21 Development Control Plan and the replacement of less the stringent Industrial Noise Policy is of concern. Local residents were not notified of changes to Pittwater 21 Development Control Plan.	Circumstances surrounding individual staff members within Council are not a matter that is capable of being considered in accordance with Section 79 of the Environmental Planning and Assessment Act 1979. The removal of Appendix 4 from Pittwater 21 DCP is addressed above.
Residential and industrial areas do not mix, and operations on the site should be located within a "total industrial" area.	The original development was permissible within the 3(e) (Office Business "E") zone Pursuant to Pittwater Local Environment Plan 1993. Since the approval of Development Consent N0116/06, the zoning of the site has changed to a B7 Business Park zone; while the use of the site is permissible with consent within the B7 zone, the subject modification application does not propose to change the use of the development.

5.0 REFERRALS

5.1 Internal Referrals:

The subject application was referred to Council's Environmental Health team for comment; refer to detailed comments within Parts 4 and 6 of this report.

5.2 External Referrals:

None required.

6.0 SECTION 96 MATTERS OF CONSIDERATION

6.1 Environmental Planning and Assessment Act 1979

Section 95 - Lapsing of Consent

Has the consent lapsed?

No. Consent No. N0116/06 was determined on 8 June 2006 and works commenced in 2008. Development under this consent has continually operated since this time.

Section 96 – Modification of consents – generally**Section 96(1A) Modification - Modifications involving minimal environmental impact**

The proposal has been considered in accordance with Section 96(1A) of the Environmental Planning & Assessment Act 1979.

Section 96(1A) of the Environmental Planning & Assessment Act 1979 states the following;

“A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with:*
 - (i.) the regulations, if the regulations so require, or*
 - (ii.) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1), (2) and (5) do not apply to such a modification.

An assessment of Section 96(1A) of the Act is as follows:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*

Comment:

As indicated below (refer to 6.4A of this report), a review by Council's Environmental Health team have indicated that subject to conditions, activities on the site would satisfy the requirements of the Industrial Noise Policy; the proposed modifications would not result in the generation of intrusive noise, and conditions are recommended to prevent the generation of offensive noise.

Given the proposed conditions the proposal would satisfy the requirement of minimal environmental impact.

- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

Comment:

The most recent modification of consent, N0116/06/S96/6 (dated 11 May 2017), resulted in condition B45 being inserted into the consent to prohibit the use of the hardstand area for the loading/unloading of vehicles. The original consent plans from 2006 contained notations on the hardstand area stating 'Truck Loading Area'. Council's stamp on the plans contained the words "Note: These plans must be read in conjunction with the conditions of development consent". There were no explicit conditions that amended the notations on the approved plans or documents referenced in conditions of consent which removed or countermanded the notations.

There is some ambiguity in the Statement of Environmental Effects, Noise Management Plans and Acoustic reports from earlier applications as to the differences between *dispatch, picking and staging activities, unloading and loading*. However these documents are not directly referenced in conditions of consent, but are referenced as information on which the consent has been based.

The applicant seeks to modify the recent condition to remove the prohibition of the loading and unloading of trucks within this space.

The proposed modification would only apply to the operations of one component of a development that contains a variety of uses (i.e. warehousing/distribution, office activities, ancillary staff uses, etc.). With regard to the above, it is considered that the proposed modifications to consent condition B45, would not be demonstrably different to the requirements of the original consent and the subject modification application would not significantly modify the use of the site. The proposal is therefore considered to be substantially the same as the development for which the consent was originally granted.

- (c) *it has notified the application in accordance with:*
(iii.) *the regulations, if the regulations so require, or*
(iv.) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Comment:

The application has been notified in accordance with Council's notification policy; refer to Part 4 of this report.

- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Comment:

Submissions objecting to the proposal have been considered by this assessment; refer to Parts 4 and 6 of this report.

Section 147 - Disclosure of political donations and gifts

None disclosed

6.2 State Environmental Planning Policies (SEPPs)

Due to the nature of the proposed changes, there are no SEPPs that are applicable to the subject modification application.

6.3 Pittwater Local Environment Plan 2014

Permissibility and zone objectives

The development (as originally approved) was permissible within, and was found to satisfy the objectives of, the then 3(e) zone. The zoning has since changed to reflect standard instrument zoning and the requirements of Pittwater Local Environment Plan 2014, however the development would continue to satisfy the more contemporary objectives of the B7 zone, which for reference are as follows:

- *To provide a range of office and light industrial uses.*
- *To encourage employment opportunities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To provide healthy, attractive, functional and safe business areas.*

Assessment of LEP standards and requirements

There are no provisions within PLEP 2014 that are applicable to the subject modification application.

6.4 Pittwater 21 Development Control Plan:

Tables of Compliance:

T - Can the proposal satisfy the technical requirements of the control? Y – Yes
O - Can the proposal achieve the control outcomes? N – No
N - Is the control free from objection? N/A or Not applicable

Refer below to a table of compliance for applicable controls under the DCP.

Clause	Numerical Standard	Numerical Proposal	T	O	N
Pittwater Local Environmental Plan 2014					
C3.7 Pollution Control		Refer to assessment below.	Y	Y	N
C3.13 Industrial Development Adjoining Residential Land		Not applicable, as the subject site does not adjoin land zoned for residential. Land opposite the site on Jubilee Ave contain residue residential dwellings and is zoned B7 and IN2.	-	-	-

Note: Apart from those outlined above, there are no specific controls which relate to the use of the hardstand area as proposed by the applicant. This element of the proposal is discussed within Part 6.1 of this report.

6.4A Detailed discussion of issues associated with Pittwater 21 Development Control Plan:

C3.7 Pollution Control

The controls for Part C3.7 of the DCP are as follows:

- Industrial premises must be designed, constructed, maintained and operated in a proper and efficient manner to prevent air, water, land or noise pollution.
- Development and business operation must comply with the Protection of the Environment Operations Act, 1997, and any relevant legislation.
- Development and business operation must comply with the Environment Protection Authority's NSW Industrial Noise Policy, January 2000.

Requirements regarding air, water and/or land pollution would not apply to the subject modification application as they have been addressed by earlier conditions of consent and compliance with such matters would not be altered by the subject application.

As indicated by submissions, activities associated with delivery/dispatch of materials have the potential to generate noise. Due to the subject site's proximity to a number of residential receivers, issue has been raised with regard to the proposed change to conditions for the use of the hardstand area (i.e. unloading/dispatch activities, waste collection, etc.) and associated noise impacts.

The subject application has been referred to Council's Environmental Health team, which has provided the following summary of the submitted information:

We have been asked to review and comment on the additional information sent to Council to address noise related issues for Section 96 Modification Application No. N0116/06/S96/7 - 20 Jubilee Avenues, Warriewood.

Specific noise issues were recently requested to be addressed by the applicant.

These matters are basically addressed (indirectly) in the Acoustic report and we were able to deduce results, generally favourable to the application.

Environmental Health has reviewed the Acoustic Assessment prepared by Acoustic Dynamics titled Acoustic Assessment Hard Standing Loading & Unloading Activities Blackmores Warriewood Campus, NSW dated 4 August 2017 document No. 3726R005.RH.170731. The assessment was undertaken to assess the noise emissions associated with the hardstand loading and unloading area.

The assessment had undertaken long term unattended Acoustic testing from 20-28 July 2017 to determine background noise of the area; this was determined from 2 sites:

- Background noise assessment taken from Location A – 19 Jubilee Ave (Council details as 15 Jubilee)
- Background noise assessment taken from Location B – 186 Warriewood Road

The actual noise assessments were taken from:

- Noise measurement taken from: 19 Jubilee Ave
- Noise measurement taken from 185 Warriewood Road
- Noise measurement taken from 192 Warriewood Road

Noise assessment of the site operations was undertaken using CadanA to assess the maximum noise emissions.

Acoustic Dynamics advises that the noise sources associated with mechanical plant and the uses of administration and staff facilities do not affect the noise environment at the residential receivers.

The report provided by the acoustic consultant's details that the use of the hardstand area is as follows:

- The use of hard standing area between:
 - 7am -10pm Monday – Saturday
 - 8am -10pm – Sunday and public holidays
- Forklifts to have broadband reversing alarms after 5pm on the hardstand surface
- The hardstand shall be vacated after 10pm to ensure the night time period is not encroached upon.
- An assessment of the noise generated from maximum operation complies with intrusive noise as detailed in the Industrial Noise Policy (INP) under residential suburban receiver classification.

It was noted that the noise barrier previously suggested in the previous acoustic report dated 27 April 2016 is no longer recommended due to compliance with the Industrial Noise Policy criteria and the previous recommendations by Council based on the DCP9 (no longer current) is no longer a requirement.

Environmental Health response:

- *The noise generated from maximum operation from the property complies with intrusive noise as detailed in the INP under residential suburban receiver. However there is no detail of how noise from the trucks' reverse alarms is going to be addressed, especially between the 6pm -10pm periods. It does mention that the scenario (for the predicted noise measurement) "The arrival, manoeuvring and departure of one (1) truck and three (3) trucks with engines idling while in the hard standing area fronting Jubilee Ave (within a 15 min period) (includes discharge of air brakes).*

- Furthermore, it is not clear on the total number of trucks that will use the hardstand area between 6pm -10pm. The concern here is the number of trucks operating during this period and the noise generated from the reverse alarms which is likely to create offensive noise. The Protection of the Environment Operations Act 1997 states that Offensive noise is defined in part "by reason of its strength, nature, duration, character or quality, or the time at which it is emitted
- The scenario in the report does not address any additional trucks/external operators such as couriers that would use the hard standing area. Will the additional trucks and reverse alarms likely cause offensive noise or increase the intrusive noise level specifically between 6pm-10pm?
- As a result of the above I contacted the acoustic consultant from Acoustic Dynamics 30 August 2017 where clarification was provided and is as follows:
 - Truck reverse alarm noise was taken into consideration in the scenarios detailed in the report
 - The number of trucks that will operate between the periods of 6pm-10pm is still unclear, however the scenarios provided is a worst case scenario to show it still demonstrate compliance with the INP.

Additional information was sought from the applicant to address the following:

1. Why acoustic barriers are not proposed when the erection of such structures were previously to reduce noise emissions "from the development to within acceptable and complying requirements of the INP at the residential boundary";
2. Clarification of the total number of trucks that would use the hardstand area between 6:00pm-10:00pm, and the subsequent concern that the number of trucks and associated reversing signals would create offensive noise; and
3. Whether additional trucks associated with external operators (e.g. couriers) would use the hardstand area and whether they would cause offensive noise and/or would increase the intrusive noise level, particularly between 6:00pm and 10:00pm.

Subsequent information submitted by the applicant was assessed by Environmental Health, which provided the following advice:

"The noise barrier was previously recommended in the acoustic report dated 27 April 2016 as Council had previously requested to meet the requirements outlines in the DCP9.

The requirements detailed in this DCP were a lot more stringent then the Industrial Noise Policy requiring the noise barrier to be installed to meet these requirements.

The noise reading required detailed in this DCP is to meet the LA10 guidelines. LA10 as defined under the Noise Guide for Local Governments states that:

"The A-weighted sound pressure level that is exceeded for 10% of the time over which a given sound is measured".

The report dated 27 April 2016 the noise results showed that the noise generated from the property will meet the INP guidelines, however not the Council DCP 9 criteria.

DCP 9 was revoked after the acoustic report dated 27 April 2017 was withdrawn and is no longer a requirement. The acoustic report dated 4 August 2017 was only required compliance with the INP.

Environmental Health has recommended a condition that may cover the LA¹⁰ measurements as detailed in the previous acoustic report (see below).

In response to issues two and three, Council's Environmental Health officer provided the following response:

Environmental Health had contacted Acoustic consultant from Acoustic Dynamics 30 August 2017 where clarification was provided for the above matters, Environmental Health was satisfied with the response:

- *Truck reverse alarm noise was taken into consideration in the scenarios detailed in the report*
- *The number of trucks that will operate between the periods of 6pm-10pm is still unclear, however the scenarios provided is a worst case scenario to show it still demonstrate compliance with the INP.*

Furthermore, Environmental Health has recommended addition conditions to manage the concerns.

Concluding comments from Council's Environmental Health officer are as follows:

As detailed in Environmental Health comments for Acoustic report dated 4 August 2017 sent to the Planning team on 15 September 2017 Environmental Health is satisfied that the proposed use of the hardstand area will not create intrusive noise.

In saying that Environmental Health was concerned with the reversing trucks and the potential additional vehicles specifically between the 6pm – 10pm periods which may have the likelihood of being considered as offensive noise, Environmental Health has recommended conditions that may address these matters.

Environmental Health is satisfied that the proposed use of the hardstand area will not create intrusive noise; however, there is a significant issue of reversing trucks and the potential additional vehicles specifically between the 6pm – 10pm periods which may have the likelihood of being considered as offensive noise and recommended the following conditions to address this:

Noise management proposed by applicant

Details and recommendations made by the consultant in the acoustic report titled Acoustic Assessment Hard Standing Loading & Unloading Activities Blackmores Warriewood Campus, NSW dated 4 August 2017 document No. 3726R005.RH.170731 must be implemented in order to achieve compliance including but not limited to:

- *Hardstand area shall be used in accordance with the times outlined in acoustic report*
- *Broadband reversing alarms to be used on forklifts after 5pm*
- *Use of western driveway by staff between 10pm -7am to reduce traffic noise*
- *Trucks shall cease the use of horn (only in the case of emergency /hazard)*
- *Entry and exit of trucks shall be on the west of the property (away from Foley Street/Warriewood road*
- *Signage shall be provided at the entry and exit of the hard standing area and well as for staff to ensure noise reduction actives are maintained*
- *Contact shall be made to companies to ensure requirements are kept*
- *CCTV shall also be implemented to ensure this is maintained*
- *Create a Noise Management Plan to ensure offensive noise as defined under the Protection of the Environment Operations Act 1997 is not created.*

Reason: To ensure compliance with legislation and to protect public health and amenity

Additional Noise Management

- *No access to site for vehicles not under the control of Blackmores management after 6pm.*

- All trucks entering the site after 6pm to have reversing alarms and frequency of delivery as detailed in the scenario of the report dated 4 August 2017 document No. 3726R005.RH.170731 which has assessed them as non-intrusive.
- Where frequency of truck movements and or reversing alarms does not meet the acoustic criteria assessed or complaints are received about "offensive noise" being generated, action is to be taken by the applicant to review any potential nuisance and implement any additional assessment and measures necessary to prevent the occurrence of offensive noise.

Reason: To ensure offensive noise is not generated

On-going use - Offensive Noise

The ongoing use of the premises/property must not give rise to 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act 1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.

Submissions also raised concerns with noise from the waste collection on site. There is potential for waste collection, after 6pm, to create offensive noise when combined with the additional evening use of the hardstand area for loading and unloading.

It is recommended that consent condition no. B40 be modified to restrict onsite waste collection from 7:00am to 6:00pm, Monday to Saturday. The deletion and replacement of this condition would also remove references to consent condition B41. Condition B41 was deleted by earlier modifications to the consent.

If onsite operations are undertaken in accordance with these (and previously imposed) conditions, it is likely that the site could operate in a manner that would satisfy both the controls and their associated outcomes.

6.0 CONCLUSION

Pursuant to Section 96(1A) of the *Environmental Planning and Assessment Act 1979*, the subject modification application seeks to modify a consent condition to allow the hardstand area at the front of the site to be used for loading and unloading purposes. As indicated within Part 4 of this report, a number of submissions have been received which object to the proposal based on potential impacts (mostly related to noise) that would be associated with the proposed changes to existing consent conditions.

The proposed development would not require any physical changes (disregarding wayfinding signage required by recommended conditions) that would affect surrounding properties. In response to submissions objecting to the proposal due to potential noise impacts, an assessment was undertaken by Council's Environmental Health team; this assessment found that subject to proposed and additional conditions, the proposed modifications would be capable of satisfying the requirements of the EPA's Industrial Noise Policy and would not significantly affect surrounding residential receivers.

Provided that both existing and recommended conditions are satisfied, the proposed modifications to the consent would be of minimal environmental impact and are therefore not expected to adversely affect adjoining properties, surrounding sites and/or the local environment. Further, the proposed modifications would be consistent with the original consent and are considered to be in the public interest.

With regard to the above, the subject modification application is recommended for approval.

7.0 RECOMMENDATION

That Council (Northern Beaches Independent Assessment Panel) as the consent authority approve the modification of Consent N0116/66/S96/7, of Development Consent N0116/66 for construction of an administration and packaging facility for Blackmores Limited, at 20 Jubilee Avenue, Warriewood (Lot 20, DP 1141261) as per the recommended modification below.

Consent Condition No. B40 is to be deleted and replaced as follows:

The hours of operation and business shall be as follows:

- Office operating hours: 7 days, 24 hours
- Packing and Despatch (internal) operating hours: - Monday to Sunday (3 shifts per day), 24 hours, 7 days
- Deliveries and dispatch: - 7.00am to 10.00pm, Monday to Saturday (no delivery, despatch, on Sundays)
- Waste collection: 7:00am to 6:00pm, Monday to Saturday (no waste collection on Sundays)

Consent Condition No. B43 is to be deleted and replaced as follows:

Details and recommendations made by the consultant in the acoustic report titled Acoustic Assessment Hard Standing Loading & Unloading Activities Blackmores Warriewood Campus, NSW dated 4 August 2017 document No. 3726R005.RH.170731 must be implemented in order to achieve compliance including but not limited to:

- Hardstand area shall be used in accordance with the times outlined in acoustic report
- Broadband reversing alarms to be used on forklifts after 5pm
- Use of western driveway by staff between 10pm -7am to reduce traffic noise
- Trucks shall cease the use of horn (only in the case of emergency /hazard)
- Entry and exit of trucks shall be on the west of the property (away from Foley Street/Warriewood road)
- Signage shall be provided at the entry and exit of the hard standing area and well as for staff to ensure noise reduction actives are maintained
- Contact shall be made to companies to ensure requirements are kept
- CCTV shall also be implemented to ensure this is maintained
- Create a Noise Management Plan to ensure offensive noise as defined under the Protection of the Environment Operations Act 1997 is not created.

Consent Condition No. B45 is to be deleted and replaced as follows:

"All production and dispatch activity, including insertion of products into containers and then into boxes and placing these boxes onto pallets for dispatch, is to take place within the building envelope (i.e. within the confines of the existing building). Loading and unloading of goods delivered to the premises by truck, may take place on the hardstand area of the premises (i.e. the existing hardstand area enclosed by fences at the front of the building) but in compliance with the noise management plan and conditions of consent relating to acoustic management. The existing hardstand area behind the front building setback may be used to side-load unload only those trucks which cannot use the internal loading docks and/or be rear-loaded.

Consent Condition No. B47 is to be added to read as follows:

Site operations are to incorporate the following measures:

- *No access to site for vehicles not under the control of Blackmores management after 6pm.*
- *All trucks entering the site after 6pm to have reversing alarms and frequency of delivery as detailed in the scenario of the report dated 4 August 2017 document No. 3726R005.RH.170731 which has assessed them as non-intrusive.*
- *Where frequency of truck movements and or reversing alarms do not meet the acoustic criteria assessed or complaints are received about "offensive noise" being generated, action is to be taken by the applicant to review any potential nuisance and implement any additional assessment and measures necessary to prevent the occurrence of offensive noise.*

Consent Condition No. B48 is to be added to read as follows:

The ongoing use of the premises/property must not give rise to 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act 1997.

Peter Robinson

**Executive Manager
DEVELOPMENT ASSESSMENT**

ITEM 3.2 **DA2017/0388 - 8 NARABANG WAY, BELROSE -
CONSTRUCTION OF A MIXED USE DEVELOPMENT INCLUDING
INDUSTRIAL UNITS, WAREHOUSE UNITS AND STORAGE
UNITS WITH ASSOCIATED OFFICES, CARETAKERS
RESIDENCE, CAR PARKING AND LANDSCAPING**

REPORTING OFFICER **Luke Perry**
TRIM FILE REF **2017/423240**
ATTACHMENTS **1 Assessment Report**
 2 Pre-Lodgement Notes
 3 Site Plan and Elevations

PURPOSE

To refer the attached application for determination as required under adopted delegations of Council.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Independent Assessment Panel, as the consent authority, **approve** Application No. DA2017/0388 for Construction of a mixed use development including industrial units, warehouse units and storage units with associated offices, caretakers residence, car parking and landscaping on land at Lot 907 DP 867091, 8 Narabang Way, Belrose, for the reasons outlined in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2017/0388
Responsible Officer:	Luke Perry
Land to be developed (Address):	Lot 907 DP 867091, 8 Narabang Way BELROSE NSW 2085
Proposed Development:	Construction of a mixed use development including industrial units, warehouse units and storage units with associated offices, caretakers residence, car parking and landscaping
Zoning:	LEP - Land zoned B7 Business Park LEP - Land zoned E2 Environmental Conservation LEP - Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011
Development Permissible:	Yes - Zone B7 Business Park Yes - Zone E2 Environmental Conservation
Existing Use Rights:	No
Consent Authority:	Northern Beaches Development Assessment Panel – Central
Land and Environment Court Action:	No
Owner:	Adrenaline Angling Pty Ltd
Applicant:	Adrenaline Angling Pty Ltd
Application lodged:	01/05/2017
Integrated Development:	No
Concurrence Required:	No
State Reporting Category:	Industrial
Notified:	12/05/2017 to 06/06/2017
Advertised:	13/05/2017
Submissions Received:	3
Recommendation:	Approval
Estimated Cost of Works:	\$ 9,773,859.70

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and



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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
Warringah Local Environmental Plan 2011 - Zone B7 Business Park
Warringah Development Control Plan - B4 Site Coverage
Warringah Development Control Plan - B5 Side Boundary Setbacks
Warringah Development Control Plan - Appendix 1 Car Parking Requirements

SITE DESCRIPTION

Property Description:	Lot 907 DP 867091 , 8 Narabang Way BELROSE NSW 2085
Detailed Site Description:	<p>The subject site consists of a single allotment located on the northern side of Narabang Way.</p> <p>The site is irregular in shape with a curved frontage of 45.22m along Narabang Way and a depth of up to 169m. The site has a surveyed area of 7237m².</p> <p>The site is located within the B7 Business Park and E2 Environmental Conservation zone and is currently a vacant lot containing vegetation. Towards to the rear of the site, approximately the rear quarter, land is zoned E2 Environmental Conservation.</p> <p>The site falls from the rear to the street frontage along Narabang Way approximately 23m.</p> <p>The site is currently heavily vegetated, bushfire prone and does not contain any threatened species.</p> <p>Detailed Description of Adjoining/Surrounding Development</p>



Adjoining and surrounding development is characterised by a mix of office, industrial and warehouse style development set within a landscaped, bushland setting.

Map:



SITE HISTORY

Planning Proposal (PEX2016/0004)

PEX2016/0004 was a planning proposal to rezone part of the land at 8, 10 and 12 Narabang Way, Belrose from E2 Environmental Conservation to B7 Business Park under the Warringah Local Environmental Plan 2011. The intended outcome of the planning proposal was to enable the redevelopment of No. 8 Narabang Way for 'office premises' and 'warehouse or distribution centre' land uses.

These uses are currently permitted with development consent in the B7 zone under WLEP 2011. The rezoning of part of Nos. 10 and 12 Narabang Way from E2 to B7 was undertaken in recognition that the land was developed, and therefore no longer met the objectives for the application of the E2 zone, being land with high ecological, scientific, cultural or aesthetic values.

On 24 March 2017, Warringah Local Environmental Plan 2011 (Amendment No 20) was published on the NSW Legislation website.

Pre Lodgement Meeting (PLM2015/0132)

This pre lodgement meeting was held to discuss the Construction of a mixed use development , use of premises as a warehouse storage and childcare on 17 December 2015.

The concluding comments of the meeting notes state:

'The proposal cannot be supported as it currently stands given the limited front setback, the nil side setbacks (increased in the sketch plan to an undefined distance), the traffic and truck movement



impacts and the urban design outcome.

Using the site for a childcare centre is not supported due to the traffic, parking and play area issues. This element should be removed from the development. The final development must be of an excellent design to improve the urban environment of the business park. Landscaped setbacks must be provided on both sides of the development as well as a compliant and well landscaped front setback.'

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the construction of a mixed use building comprising self storage units, industrial/warehouse units and ancillary office spaces, a caretakers residence, landscaping works and car parking.

The proposed caretakers residence is ancillary to the predominant use of the site as a self storage and warehousing.

Specifically the works involve:

Ground Floor

- 66 self storage units;
- Wash bay, kitchenette and bathroom; and
- Driveway access on the eastern side of the site.

First Floor

- 17 industrial/warehouse units and ancillary mezzanine offices;
- 26 car spaces; and
- Driveway access on the western side of the site.

Second Floor

- 17 industrial/warehouse units and ancillary mezzanine offices;
- 1 bedroom caretakers residence;
- 35 car spaces; and
- Driveway access on the western side of the site.

Site Works

- Landscaping around the perimeter of the site; and
- Signage located within the front setback area.

AMENDMENTS TO THE SUBJECT APPLICATION

Pursuant to s55 of the Environmental Planning and Assessment Regulation 2000, the applicant lodged amended plans that extended the ground floor self storage area towards the rear of the site providing an additional 10 self storage units.

In accordance with Clause A.7 of Warringah Development Control Plan 2011 (WDCP 2011), the amended plans were not required to be re notified as they did not materially change the development as originally proposed, contained within the building footprint as proposed and considered in the updated Geotechnical Report requested by Council.

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:

Section 79C 'Matters for Consideration'	Comments
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)(iiiia) – 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&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore 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 was requested by letter dated 4 May 2017.</p> <p>The applicant responded by submitting an updated Geotechnical Report on 24 May 2017.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&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>



Section 79C 'Matters for Consideration'	Comments
	<p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</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>Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 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 3 submission/s from:

Name:	Address:
Ann Elizabeth Sharp	77 Brighton Street CURL CURL NSW 2096
Barros Laboratories Pty Ltd	10 Narabang Way BELROSE NSW 2085
Gln Planning Pty Ltd	GPO Box 5013 SYDNEY NSW 2000

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

- **Building height**
- **Setbacks, site coverage and landscaped open space non compliance**
- **Parking, loading and maneuvering areas**
- **Future operations of self storage units**
- **Inconsistency with development type envisaged for the business park/character of the area**
- **Permissibility and construction within the restricted development area**
- **Overshadowing**
- **Privacy**
- **View loss**
- **Obstruction of view lines to adjoining buildings/signage/driveways**

The matters raised within the submissions are addressed as follows:

Building height

Concerns are raised in regards to the height of the building and non compliance with the height of buildings development standard.

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 the 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.

Setbacks, site coverage and landscaped open space on compliance

Concern is raised that the proposal does not comply with the minimum requirements of the front and side boundary setbacks, site coverage and landscaped open space controls under the WDCP 2011.

Comment:



The matters of non compliance with these controls are addressed in detail elsewhere within this report (refer to Clause B4 Site Coverage, Clause B5 Side Boundary Setbacks, Clause B7 Front Boundary Setbacks and Clause D1 Landscaped Open Space and Bushland Setting under the WDCP 2011 section of this report).

In summary, the assessment of this application has found the development to achieve consistency with the underlying objectives of each respective Clause under WDCP 2011 and the variations proposed supported in this instance. The building setback to the side boundaries has been increased as the height of the building increases which effectively articulates the side facades of the building reducing its visual bulk.

It should be noted that the proposal complies with the numerical requirements and underlying objectives of Clause D7 Front Boundary Setbacks and Clause D1 Landscaped Open Space and Bushland Setting and there are no variations proposed to either of these controls.

These matters do not warrant refusal of the application.

Parking, loading and maneuvering areas

Concerns are raised that no parking has been provided for the storage units and that the maneuvering areas proposed do not meet the minimum width requirements.

Comment:

The provision of parking and general access arrangements for the proposed development have been reviewed by Council's Traffic Engineer who raises no objections to the proposed development subject to conditions.

The proposed self storage units do not require the provision of on site car parking and no requirements are made for car parking within Appendix 1 Car parking requirements under WDCP 2011. Adequate aisle widths are provided within the self storage unit level of the development to allow vehicles to load and unload adjacent to each unit without obstructing internal vehicle movement. In addition to the above, car parking for the warehouse units is sufficient and has been provided in accordance with the requirements of Appendix 1 Car Requirements of WDCP 2011.

Further, 1 car space has been allocated to the caretakers residence who will oversee future on site operations.

The driveway ramps have been widened to adequately accommodate medium rigid vehicles and ensure adequate room is provided for maneuvering internally.

This matter does not warrant refusal of the application and is resolved by appropriate conditions of consent.

Future operation of self storage units

Concerns are raised that the proposed self storage units will be strata titled in the future and independently operated.

Comment:

The proposal seeks consent for the construction of a mixed use building and use of the ground floor of



the building as self storage units. The application does not propose strata subdivision.

Self storage units are defined under WLEP 2011 as:

'self-storage units means premises that consist of individual enclosed compartments for storing goods or materials (other than hazardous or offensive goods or materials).'

To ensure that the ground floor of the development is not used for any other purpose, without separate development consent, a condition has been included in the recommendation of this report restricting the use of the ground floor to 'self storage units' only.

This matter is resolved by conditions included in the recommendation of this report.

Inconsistency with development type envisaged for the business park/character of the area

Comment:

The proposed development incorporates land uses that are permitted with consent within the B7 Business Park zone and are consistent with that of existing development within the business park.

The assessment of this application has found the proposal to be consistent with the objectives of the BZ Business Park zone.

Further, the assessment of this application has found the development to be consistent with the underlying of the objectives of the relevant planning controls and is therefore recommended for approval subject to conditions.

Therefore the proposal is considered to be consistent with the type of development envisaged for the business park and consistent with the character of the existing business park.

This matter does not warrant refusal of the application.

Permissibility and construction within the restricted development area

Comment:

This matter is addressed in detail elsewhere within this report (refer to the 'Referrals - Natural Environment Unit (Biodiversity) section of this report).

In summary, the subject site is located on land zoned B7 Business Park and E2 Environmental Conservation under WLEP 2011. The latter land use zone is located at the rear of the subject site and extends in a east-west direction across a number of allotments located on the northern side of Narabang Way.

The subject site contains an area identified as 'restricted development area' as identified on the Survey Plan submitted with the application. The proposed building footprint extends into this area at the rear.

This 'restricted area' is a historical affectation placed on the land at the time of the original rezoning of the land for use as the 'Austlink business park'.

Over time development within the business park and along Narabang Way has encroached into the restricted area as individual development applications have been assessed on merit.



Subsequent translation of zoning for the land to the northern of the property as part of WLEP2011 identifies the restricted development areas as E2 – Environmental Conservation. This E2 area is proposed to be retained and managed as part of the current proposal.

The areas located at the rear of the building footprint that encroach into the restricted area have been considered as part of this assessment and do not give rise to any unreasonable environmental impacts, consistent with previous determinations of development in the area and are therefore supported.

This matter does not warrant refusal of the application.

Overshadowing

Concern is raised that the proposed development will have a high impact on overshadowing of the adjoining property to the east.

Comment:

The application is supported by shadow diagrams (refer to Drawing No. DA020 prepared by MSK Architects) which indicate that a reasonable level of solar access will be maintained for adjoining properties in accordance with the requirements and objectives of Clause D6 Access to Sunlight under WDCP 2011.

This matter does not warrant refusal of the application.

Privacy

Concerns is raised that the proposal will cause privacy issues into the main office area of the adjoining property to the east.

Comment:

The proposal has been designed having regard to maintaining a reasonable level of privacy between buildings. Windows located on the eastern elevation of the building serve the mezzanine office spaces of the warehouse units which are setback a minimum 5m from the side boundary. This physical separation between buildings ensures that no unreasonable overlooking occurs between buildings and a reasonable level of privacy is maintained.

This matter does not warrant refusal of the application.

View Loss

Concern is raised that the proposal result in a significant loss of views.

Comment:

This matter has been considered elsewhere within this report (refer to Clause D7 - 'Views' under WDCP 2011 section of this report)

In summary, the development has been found to be consistent with the planning principle established within the Land and Environment Court Case of *Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC 140* and the extent of the qualitative impact upon view sharing negligible and the proposal reasonable in this instance.



This matter does not warrant refusal of the application.

Obstruction of view lines to adjoining buildings/signage/driveways

Comment:

The proposed development is compliant with the minimum numerical requirements specified under Clause D7 Front Boundary Setbacks and provides varying setbacks to all levels of the building due to the curved boundary of the site.

In addition to the compliant front boundary setbacks, the setbacks to the side boundaries of the site, and in particular the setbacks to front of the building on the western elevation, are progressively increased as the building increases in height.

This allows for an increase in sight lines to and from adjoining properties to the south and south-west across and through the subject site. It is noted that the building walls of the adjoining development to the east is setback further than the minimum 6.5m front boundary setback required under WDCP 2011 and therefore any new and compliant development on the subject site will, to a certain extent, obstruct view lines of the adjoining development for road users travelling east along the top side of Narabang Way.

However given that the proposal complies with the minimum front boundary setback and setbacks to the eastern side boundary are progressively increased as the building increases in height, the proposal is not considered to unreasonably obstruct views to or from the property.

Further, given the large setback of the adjoining property to its front boundary there is ample room for business identification and directional signage to be provided within the front setback area to improve view lines to the property for road users.

This matter does not warrant 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	No objections subject to conditions to ensure compliance with the Building Code of Australia.
Development Engineers	Development Engineers have reviewed the proposal and raise no objections to the proposal subject to conditions. Conditions with regards to the dimensions of the proposed driveway will need to be completed in consultation with Council's Traffic Engineers.
Environmental Investigations (Industrial)	The application was referred to Council's Environmental Health team who provided the following comment: <i>'Environmental Health has reviewed the application Revised Geotechnical Assessment and there is no detail addressing how</i>

Internal Referral Body	Comments
	<p><i>offensive noise as defined under the Protection of the Environment Operations Act 1997 is going to be managed during excavation/demolition.</i></p> <p><i>Environmental Health is unable to undertake a full assessment of the application and recommends refusal , to correctly assess this application additional information to be provided to detail how noise is going to be managed (particularly to the surrounding sensitive receivers) during the proposed works.</i></p> <p><i>Should the application be considered for approval, conditions are recommended.'</i></p> <p><u>Assessment Officers comment:</u></p> <p>These matters have been adequately addressed by conditions included in the recommendation of this report.</p>
Landscape Officer	<p>The application was referred to Councils Landscape Officer who has provided the following comments:</p> <p><i>It is noted that there are requirements for landscaping that stem from the Bushfire Protection Assessment, Biodiversity Management Plan and Council's Biodiversity Section, as listed below.</i></p> <p><i>Consequently, some amendment to the Landscape Plan provided may be required to be made to ensure compliance with other documentation directing development over the site. Conditions have been included to ensure the landscape plan addresses these requirements.</i></p> <p><i>No objections in general terms to the proposed landscaping subject to conditions as recommended.</i></p> <p>Biodiversity Requirements CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE <i>All native plants used in the landscaping for this development must be grown from local provenance seed and cuttings.</i></p> <p><i>No Grevillea or Banksia hybrids are to be used in the landscaping for this development.</i></p> <p><i>Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.</i></p> <p><i>Reason: To ensure compliance with the requirements of the Threatened Species Conservation Act 1995 (DACNEC02)</i></p> <p>Bushfire Protection Assessment Requirements <i>Recommendation 1 – The entire site is to be managed as an APZ. Fuel management within the APZs will be maintained by regular maintenance of the landscaped areas.</i></p>

Internal Referral Body	Comments
	<p><i>Landscaping is to comply with Appendix 5 of PBP and, given the high bushfire risk posed to the site, should comply with the following:</i></p> <ul style="list-style-type: none"> <i>• The northern landscape should not have continuous native vegetation in the form of shrubs and trees. This is to prevent the spread of wildfire from the protected E2 biodiversity corridor which could increase the facilities threat of bushfire.</i> <i>• Planting of trees and shrubs should not occur within 5m of the facility.</i> <i>• Planting is to be minimal using plants that are less flammable in preference to highly flammable species. Less flammable species include those that have a high moisture content, high levels of salt, low volatile oil content of leaves, smooth barks without 'ribbons' hanging from branches or trunks, dense crown and elevated branches (RFS Standards for Asset Protection Zones 2006).</i> <i>• Organic mulch should not be used, alternatives include non-flammable materials that will not easily ignite (e.g. scoria, pebbles, recycled crushed bricks).</i> <p>Biodiversity Management Plan Requirements</p> <p><i>Landscaping</i></p> <p><i>Specific landscaping targets are to be met in order to comply with the standards for APZs and to enhance fauna habitat.</i></p> <p><i>Trees, shrubs and ground covers are preferably selected from Appendix 1 – Recommended Planting List.</i></p> <p><i>Due to their potential fire risk, no Grevillea, Banksia or Lilly Pilly hybrids are to be used in the landscaping for this development.</i></p> <p><i>Planting is to be completed prior to occupation are subject to NSW Rural Fire Service maintenance requirements for bushfire safety protection.</i></p> <p><i>Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.</i></p>
Natural Environment (Biodiversity)	<p>The application was referred to Council's Natural Environment Unit (Biodiversity) who has provided the following comments:</p> <p>Recommendation</p> <p><i>Council's Natural Environment and Climate Change - biodiversity section raise no objections to the proposal, subject to conditions as recommended.</i></p> <p>Background</p> <p><i>Land within the Auslink business park was identified as regionally significant development for a business park by the State Government through Sydney Regional Environmental Plan (SREP) No. 15 – Terrey Hills. In 1988, the State Government rezoned Auslink for a business park and private golf course along with the dedication of 920 hectares</i></p>

Internal Referral Body	Comments
	<p>of land (east of Forest Way) to be placed under the control of National Parks and Wildlife Services (now Office of Environment & Heritage). The dedicated land now forms part of Garigal National Park covering a large proportion of the Deep Creek catchment. It is noted that adoption of the SREP was before commencement of the NSW Threatened Species Conservation Act 1995 (TSC Act) and the associated listing of threatened species and communities such as the Duffys Forest Endangered Ecological Community (EEC).</p> <p>Special provisions were contained in the SREP for Auslink, which included the identification of 'restricted development areas'. These areas were identified as restricted development areas on the land due to:</p> <ul style="list-style-type: none"> i. Unsuitability of the land for development because of the topography of the land; ii. The need to protect and conserve the natural features of the land; and iii. The need to preserve Aboriginal relics situated on the land. <p>A portion of the subject property includes a 'restricted development area' to the north of the proposal and is likely to have been identified as unsuitable for development due to topography. Subsequent translation of zoning for the land to the northern of the property as part of WLEP2011 identifies the restricted development areas as E2 – Environmental Conservation. This E2 area is proposed to be retained and managed as part of the current proposal.</p> <p>Native Vegetation – Mapping of Duffys Forest Endangered Ecological Community</p> <p>Subsequent to the identification of the restricted development areas, Smith and Smith Ecological Consultants (1997) surveyed the land within Auslink and identified several Lots (including the subject site, Lot 907) as containing Duffys Forest EEC as listed under the TSC Act. Previous studies have also identified the Duffys Forest EEC on the subject site, on the adjoining lots, and on nearby lots.</p> <p>Recent survey, data analysis and vegetation mapping (Travers Bushfire and Ecology, Keystone Ecological 2016) undertaken by the applicants consultants found that vegetation on site did not conform to the definition of the Duffys Forest EEC. In response, Council commissioned an independent assessment of the site to verify the presence or absence of the Duffys Forest EEC, including (but not limited to) the area which is the subject to the current development proposal. Outcomes of Council's investigations found that vegetation on the subject site does not conform to the Duffys Forest EEC. It is noted that vegetation in the areas at the north of the E2 zone does conform to the Duffys Forest EEC, but would not be impacted by the current development proposal.</p> <p>Despite not forming part of the Duffys Forest EEC, the subject property includes intact remnant native vegetation that is in good condition and provides habitat for native fauna. Detailed assessment</p>

Internal Referral Body	Comments
	<p>of native flora and fauna has been undertaken by Travers Bushfire and Ecology (2017) whom have addressed necessary 'Assessments of Significance' in relation to threatened species, populations or ecological communities, or their habitats (Section 5A EPA Act 1979).</p> <p>Conclusion A Biodiversity Management Plan (Travers Bushfire and Ecology 2017) has been submitted with the proposal with the intent of mitigating on site environmental impacts. Despite this, the current proposal will unavoidably result in increasing fragmentation and isolation of native vegetation and fauna habitats located north of the property.</p> <p>In recommending approval of the current proposal, Council's Senior Biodiversity Officer has considered the following:</p> <ul style="list-style-type: none"> • existing adjoining land uses and current B7 - Business Park zoning, • historic land exchanges (including large conservation outcomes) in relation to the establishment of the original Auslink business park, • previous assessment of the subject site including a Species Impact Statement, • previous concurrence to the Species Impact Statement received from the former NSW Department of Environment and Climate Change (now OEH), • resolution of contentions in relation to the occurrence of the Duffys Forest EEC and its absence from the development footprint, • consideration of the outcomes (approval) of NSW Land and Environment Court proceedings in relation to comparable industrial development on adjacent allotments, and • the current level of site assessment and proposed mitigation measures (now part of consent conditions).
Strategic Planning - Urban Design	<p>The application was referred to Council's Urban Designer who has provided the following comments:</p> <p><i>'The proposal sits well within the surrounding context and functions well as a warehouse. The height breach is similar to the surrounding developments being on a sloping site and will not impact negatively on the neighbouring developments. The proposal is acceptable in that respect.'</i></p>
Traffic Engineer	<p>The application was referred to Council's Traffic Engineer who has provided the following comments:</p> <p>Original comments: The proposed development is for 1,824m² storage units and 2,446m² of warehouse/industrial units, 942m² office space and a caretaker unit</p>

Internal Referral Body	Comments
	<p>of 73m².</p> <p>The provided traffic impact assessment report provided an estimate of the peak traffic generation of the development to be in the order of 40-45veh/hr. An application of the RMS traffic generation rates for the development would yield 60veh/hr.</p> <p>Whilst the overall impacts to the road network would not be not considered significant, there are concerns within the site as the internal ramp leading from the driveway to the industrial units and to the upper level units do not provide any ability for two way passing. The Australian Standards AS2890.1:2004 require a passing bay to be provided within the internal connecting roadway every 30m in a situation where peak movements exceed 30 vehicle movements. For development comprising of many warehouse type industrial units, the likely vehicle movements within the main ramp leading to the first floor and upper floor units would exceed 30 vehicle movements. During the pre-lodgement stage, comments were provided to the applicant that any vehicle circulation access way is to be provided to accommodate a two way traffic flow.</p> <p>The proposed eastern driveway would have approximately 9.3m layback width. This driveway is located 3m west of the adjacent driveway, and a car parked between the two driveways would create access issues for trucks and vehicles exiting the site. The applicant would be required to submit an application to the Northern Beaches Council for a full time No Parking zone commencing 3m west of the eastern driveway and ending 0.5m east of the adjacent single driveway of No. 10 Narabang Way. The signage work is to be installed after consent from the road authority and at no cost to Council.</p> <p>Considering that the application has not addressed the passing issue within the internal ramp raised during the pre-lodgement stage, the development is not supported in its current form.</p> <p>Revised comments: Revised plans provided by the applicant has shown a 6.1m width internal roadway leading to the industrial units. There are no objections raised to the proposal, and subject to below conditions.</p>

External Referral Body	Comments
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.
NSW Rural Fire Service – local branch (s79BA EPAA)	<p>The application was referred to the NSW Rural Fire Service in accordance with s79AB of the Environmental Planning and Assessment Act 1979.</p> <p>The NSW RFS responded by letter dated 28 July 2017 raising no objections to the proposed development subject to conditions which have been included in the recommendation of this report.</p>
Aboriginal Heritage	The application was referred to the Aboriginal Heritage Office (AHO)



External Referral Body	Comments
	<p>who have provided the following comments:</p> <p><i>'Reference is made to the proposed development at the above area and Aboriginal heritage.</i></p> <p><i>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites. The area was previously subject to Aboriginal heritage assessment, including a review in 1999 by Mary Dallas Consulting Archaeologists, and no sites or potential areas were identified.</i></p> <p><i>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</i></p> <p><i>Should any Aboriginal sites be uncovered during earthworks, works should cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council should be contacted.'</i></p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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



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?	Zone B7 : Yes Zone E2 : 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:	11m	14.51m to 17.5m	39.1% to 59%	No (See discussion under Clause 4.6)

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes



Detailed Assessment

Zone B7 Business Park

The proposal includes the construction of a "caretakers residence". A caretakers residence is not defined in WLEP 2011 and is hence an "in-nominate" land use.

The caretakers residence therefore falls into the land use definition of *"Any other development not specified in item 2 or 4"*, which renders the land use as permissible with consent.

The caretakers residence is proposed as being 'ancillary; to the dominant land use proposed as self-storage units and warehouse units. *Planning Circular PS13-001 'How to characterise development'* deals with the issue and characterisation of 'ancillary development'.

The Planning Circular defines an ancillary use as:

'An ancillary use is a use that is subordinate or subservient to the dominant purpose. The concept is important when a development involves multiple components on the same land.'

To put it simply:

- *if a component serves the dominant purpose, it is ancillary to that dominant purpose;*
- *if a component serves its own purpose, it is not a component of the dominant purpose but an independent use on the same land. It is a dominant use in its own right. In such circumstances, the development could be described as a mixed use development.'*

The caretakers residence servers the dominant purpose (warehouse and self storage) and will act to provide an onsite presence after hours and assist in overseeing the operation and maintenance of the development as a whole.

The entire development is therefore permissible with consent. To ensure the caretakers facility does not become an independent use, a condition is recommended to ensure that this dwelling is not used as a standalone residence or dwelling.

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:	14.51m to 17.5m
Proposed:	11m
Is the planning control in question a development standard?	YES
Is the non-compliance with the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	39.1% to 59%

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:

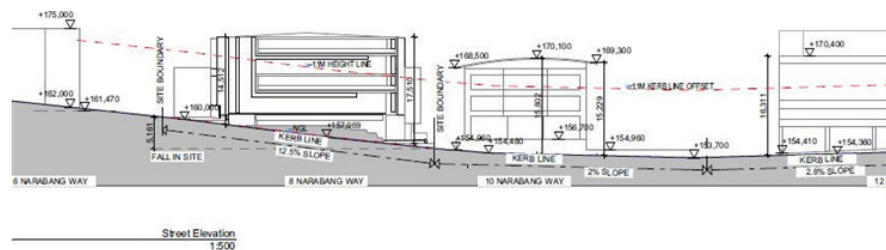
a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

Comment:

The proposed development is located within an existing Business Park where surrounding and nearby development vary in height and scale. The height of surrounding and nearby development provide an overall height of buildings that exceeds the maximum 11m prescribed for the business park.

The majority of recently approved and existing development within the business park breach the numerical requirements of Clause 4.3. The topographical constraints of the area are a major contributing factor to breaches of the development standard in this locality.

The subject site is located on the northern side of Narabang Way and is one of the last vacant lots in existence within the business park. Development to the east and west of the subject site vary in height between 15.8m to 16.3m to the east and upto 13.5m to the west. The figure below indicates the height of development immediately to the east and west of the subject site relative to the proposed building height.



As illustrated above, the proposal will fit comfortably within the context of surrounding and nearby development and provides a street facing building facade that will add to the visual interest of the street consistent with other development along the northern side of Narabang Way.



The proposal satisfies this objective.

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

Comment:

The development will not cause any unreasonable visual impact, disruption of views, loss of privacy or solar access to surrounding and nearby development.

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

Comment:

The development does not have an adverse impact on the scenic quality of Warringah's coastal and bush environments. The site is currently vacant and heavily vegetated. The proposed development will remove part of the existing vegetation however the rear portion of the site, zoned E2 Environmental Conservation, will be maintained as bushland which will effectively minimise the adverse impact of the development of the Warringah bush environment.

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

Comment:

The development provides appropriate setbacks and areas of landscaping to effectively manage the visual impact of the development when viewed from public spaces such as reserves and roads. The development is not located within proximity to any public parks or community centres. The existing business park is adjoined by the Garigal National Park to the south and south-west. The development will provide a consistent visual appearance of buildings when viewed from the

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 B7 Business Park zone.

The underlying objectives of the B7 Business Park zone

- *To provide a range of office and light industrial uses.*

Comment

The proposal will introduce a new office and industrial use to the existing Business Park.

- *To encourage employment opportunities.*



Comment:

The proposal will be employment generating for the local area providing new employment opportunities within the existing Business Park.

- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*

Comment:

The proposed development provides a mix of uses on site that are permissible within the B7 Business Park zone. The proposed land uses (warehousing and self storage) may provide services or facilities that will cater for or meet the day to day needs of workers in the area.

- *To create business park employment environments of high visual quality that relate favourably in architectural and landscape treatment to neighbouring land uses and to the natural environment.*

Comment:

The proposed development represents a building of high visual quality that will relate favourably to the landscape and architectural elements surrounding and nearby development. The rear portion of the site is to be maintained as bushland and vegetation which relates favourably to the surrounding natural environment.

- *To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of adjoining or nearby residential land uses.*

Comment:

The proposed use of the site for warehousing and self storage units is consistent with other land uses within the established Business Park which have been operating without conflict for some time. The use complements surrounding and adjoining land uses. There are no residential land uses within the vicinity of the site and therefore the development satisfies this objective.

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 is consistent with this control as it provides an appropriate degree in flexibility in applying the Height of Buildings Development Standard to the development.

(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. In summary, the written request states the following reasons as justification for the contravention of the development standard:

- *The height and scale of the building are consistent with the height and scale of surrounding and nearby development as depicted on plan DA019(03)*
- *The non-compliant building height will not give rise to any adverse amenity impacts in terms of visual impact, view loss, privacy loss or unacceptable overshadowing. The photomontage at Figure 7 below demonstrates that the development is of high architectural design, as it presents to the street, with the building siting below the height of the surrounding tree canopy. The grey and green tones adopted will enable the building will blend into the vegetated escarpment which forms a backdrop to the site with the visually interesting front building facade ensuring that it will contribute positively in a streetscape context.*
- *The accompanying shadow diagrams (plan DA020(01)) and view loss analysis (plan DA021(01)) demonstrate that the non-compliant building height will not give rise to any unacceptable overshadowing or view loss impacts with all views currently available across the front boundaries of both adjoining properties preserved.*
- *Given the nature of the uses proposed there will be no adverse visual or aural privacy impacts on adjoining development.*
- *The accompanying landscape plan prepared by Concept Landscape Architects demonstrates that sufficient landscaped setbacks have been provided around the perimeter of the development to establish dense native plantings including canopy trees to soften and screen the building form as viewed in the round. The bushland at the rear of the site is preserved. Accordingly, the development minimises any adverse impact on the scenic quality of Warringah's coastal and bush environments.*



- *We have formed the highly considered opinion that the design quality of the front building façade coupled with the landscaped setback maintained to Narabang Way and the ability to soften and screen the development as viewed from the public domain ensures that the building height will not give rise to any adverse streetscape or visual amenity impacts.*
- *Having regard to the clause 4.6 variation provisions we have formed the considered opinion:*
 - (a) that the contextually responsive development is consistent with the zone objectives, and*
 - (b) that the contextually responsive development is consistent with the objectives of the height of buildings standard, and*
 - (c) that there are sufficient environmental planning grounds to justify contravening the development standard, and*
 - (d) that having regard to (a), (b) and (c) above that compliance with the building height development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (e) that given the developments ability to comply with the zone and height of buildings standard objectives that approval would not be antipathetic to the public interest, and*
 - (g) that contravention of the development standard does not raise any matter of significance for State or regional environmental planning.'*

The assessment of this application has considered the justification provided within the applicants written request and concurs with the reasons provided. Further, the assessment of this application has deemed that the development achieves consistency with the underlying objectives of Clause 4.3 of WLEP 2011 and with the objectives of the B7 Business Park Zone.

The non compliance will not result in any unreasonable environmental impact and will sit comfortably within its context.

It is therefore considered that compliance with the development standard is unreasonable and unnecessary in this instance and that there is sufficient environmental planning grounds to justify contravening the development standard.

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

(a) the consent authority is satisfied that:

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

Comment:

The applicants written request (contained within the Statement of Environmental Effects prepared by Boston Blyth Fleming 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 B7 Business Park 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

Built Form Control	Requirement	Proposed	% Variation*	Complies
B2 Site Coverage	33.3% of site area (2388.21m ²)	49.1% (3559.64m ²)	49% (1171.43m ²)	No
B5 Side Boundary Setbacks	East - 5m	Ground Floor - 3.53m to 5.25m First Floor - 2.3m to 8m Second Floor - 2.3m to 8m	29.4% (1.47m) 54% (2.7m) 54% (2.7m)	No No No
	West - 5m	Ground Floor - 5m First Floor - 7.98m Second Floor - 0.33m to car parking area 7.98m to building walls	N/A N/A 93.4% (4.67) N/A	Yes Yes No Yes
B7 Front Boundary Setbacks	6.5m	Ground Floor - 6.54m First Floor - 6.54m Second Floor - 6.54mm	N/A	Yes
B9 Rear Boundary Setbacks	Merit Assessment	48.11m to 50.69m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	33.3% of site area	35.6% (2577.4m ²)	N/A	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: 38/40 x 100 = 95 then 100 - 95 = 5% variation)



Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B4 Site Coverage	No	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	Yes	Yes
Front Boundary Setbacks - B7	Yes	Yes
B10 Merit assessment of rear boundary setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking 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
D1 Landscaped Open Space and Bushland Setting	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
D23 Signs	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conservation Habitat	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E5 Native Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes
Appendix 1 Car Parking Requirements	Yes	Yes



Detailed Assessment

B4 Site Coverage

Description of non-compliance

The total building footprint(s) must not cover more than 33.3% of the site area.

The proposed building footprint covers 49.1% (3559.64m²) of the site area, which represents a variation of 49%(1171.43m²).

Merit consideration

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

- *To provide opportunities for the provision of landscaping and the enhancement of existing native vegetation.*

Comment:

Notwithstanding the numerical non compliance with the requirements of this control, the proposal is compliant with the numerical requirements of Clause D1 Landscaped Open Space and Bushland Setting (33.3% of total site area as landscaped open space). Therefore there is adequate provision for landscaping provided on site which includes the retention of existing native vegetation at the rear of the site. The Landscape Plan submitted with the application indicates that areas of substantial landscaping are proposed around the perimeter of the site in addition to the substantial landscape area maintained to the rear of the site.

- *To minimise the bulk and scale of development*

Comment:

The proposed development will constitute the initial development of the site on Narabang Way. The site is one of the last remaining allotment along Narabang Way that has not been developed. Narabang Way comprises a mix of commercial buildings that vary in bulk and scale. The proposal is consistent with the overall bulk and scale of buildings within the Business Park and along Narabang Way and will fit comfortably within its context.

The perceivable bulk and scale of the proposed building has been effectively minimised by maintaining compliant boundary setbacks to the front and side boundaries (with the exception of minor stair encroachments to the side boundary) to the extent that when viewed from adjoining properties and the street, the development will be consistent with that of surrounding development within the Business Park.

Further, the provision of landscaped areas within the front and side boundary setback areas will further assist to minimise the bulk and scale of the development when viewed from the street and public spaces.



- *To reduce the stormwater runoff, preventing soil erosion and siltation of the natural drainage network.*

Comment:

The application has been reviewed by Council's Development Engineers who are satisfied that appropriate provisions have been made to effectively manage stormwater run off on site.

- *To limit impervious areas and encourage natural drainage into the sub-surface.*

Comment:

The development provides adequate provisions to effectively drain water generated by impervious areas on site.

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.

B5 Side Boundary Setbacks

Description of non-compliance

The control requires development to be setback a minimum of 5m from a side boundary.

The proposed setbacks are as follows:

- Ground Floor - 3.53m to 5.25m - variation of 29.4% (1.47m)
- First Floor - 2.3m to 5.01m - variation of 54% (2.7m)
- Second Floor - 2.3m to 5.01m - variation of 54% (2.7m)

Merit consideration

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

- *To provide opportunities for deep soil landscape areas.*

Comment:

The proposal is compliant with the numerical requirements of Clause D1 Landscaped Open Space and Bushland Setting (33.3% of total site are to be landscaped) and therefore the proposal provides adequate opportunities for deep soil landscaping. Further, substantial areas of deep soil landscaping is proposed along the side boundaries of the site.



- *To ensure that development does not become visually dominant.*

Comment:

The development will not become visually dominant when viewed from the adjoining properties or the street. The breach is minor and relates to stairwells and an open car space which are not habitable areas of the building and are not readily view-able from the street. Areas of deep soil landscaping are proposed along the side boundaries of the site which will further act to soften the visual appearance of the building when viewed from adjoining properties.

- *To ensure that the scale and bulk of buildings is minimised.*

Comment:

The variation proposed is minor and relates to a number of stairwells and an open car space area of the development. The primary building walls of the development are setback a minimum 5m from the side boundaries of the site ensuring that the scale and bulk of the building is minimised when viewed from the street or adjoining properties. In addition to the physical separation achieved between the building and the side boundaries, areas of deep soil landscaping are proposed within the side boundary setback areas which will further act to soften the visual bulk and scale of the building.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

Comment:

Adequate physical separation is provided between the proposed building and adjoining buildings (>10m) to ensure a reasonable level of privacy, amenity and solar access is maintained.

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

Comment:

The development allows for a reasonable sharing of views to and from public and private properties.

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.

Appendix 1 Car Parking Requirements

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)



Self storage	N/A - no rate specified	N/A	N/A	N/A
Warehouse or distribution centre	1.3 spaces per 100 m ² GFA (including up to 20% of floor area as office premises space component. Office premises component above 20% determined at office premises rate).	GFA - 3121.17m ² = 41 spaces GFA of Office premises above 20% - 267.7m ² = 7 spaces	57 spaces + 2 accessible spaces	+ 9 spaces
Caretakers residence	N/A - no rate specified	N/A	2 spaces	+ 2 spaces
Total		48 spaces	61 spaces	+ 13 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.

There is no car parking rate specified for self storage units or a caretakers residence. There are no spaces proposed to serve the self storage units and 2 spaces proposed to serve the caretakers residence. Given the nature and operation of the self storage units and the presence of an on site manager (caretaker) the provision of no car parking is acceptable given that there is adequate aisle width internally to allow vehicles to park alongside of the each self storage to load and unload without obstructing other vehicles. The provision of 2 car spaces for the 1 bedroom caretakers residence is also deemed acceptable.

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 \$ 9,773,860		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 92,852
Section 94A Planning and Administration	0.05%	\$ 4,887
Total	1%	\$ 97,739

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 DA2017/0388 for Construction of a mixed use development including industrial units, warehouse units and storage units with associated offices, caretakers residence, car



parking and landscaping on land at Lot 907 DP 867091, 8 Narabang Way, BELROSE, 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
DA001, Rev.08 - Site Plan	23 March 2017	MSK Architects - JF/GS
DA003, Rev.11 - Ground Floor	17 March 2017	MSK Architects - JF/GS
DA004, Rev.11 - First Floor	7 September 2017	MSK Architects - JF/GS
DA005, Rev.10 - First Floor Mez	23 March 2017	MSK Architects - JF/GS
DA006, Rev.10 - Second Floor	23 March 2017	MSK Architects - JF/GS
DA007, Rev.11 - Second Floor Mez	23 March 2017	MSK Architects - JF/GS
DA008, Rev.06 - Roof Plan	23 March 2017	MSK Architects - JF/GS
DA009, Rev.08 - Sections AA / BB	15 May 2017	MSK Architects - JF/GS
DA010, Rev.07 - Sections CC / DD	17 May 2017	MSK Architects - JF/GS
DA011, Rev.08 - Sections EE / FF	17 May 2017	MSK Architects - JF/GS
DA012, Rev.07 - Elevations South / West	23 March 2017	MSK Architects - JF/GS
DA013, Rev.07 - Elevations North / East	23 March 2017	MSK Architects - JF/GS

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Report 85968.00.R.001.Rev0	23 May 2017	Douglas Partners
Access Report 17130 - Rev 1.1 (Final)	27 April 2017	CodePerformance
Building Code of Australia Report Rev.163350 D	13 April 2017	Private Building Certifiers



Biodiversity Management Plan A17010BioMP	27 April 2017	Travers Bushfire & Ecology
Bushfire Protection Assessment A17038	28 April 2017	Travers Bushfire & Ecology
Flora & Fauna Assessment A17010F	27 April 2017	Travers Bushfire & Ecology
Aboriginal Heritage Assessment - 8 Narabang Way, Belrose	9 June 2016	Mary Dallas - MD CA

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

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
LPDA 17 - 285, page.2 - Rev.A Landscape Plan	18 April 2017	Conzept Landscape Architects MSK Architects

Waste Management Plan		
Drawing No.	Dated	Prepared By
Waste Management Plan - 8 Narabang Way, Belrose NSW 2085	1 May 2017	Adrenaline Angling Pty Ltd

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. Compliance with Other Department, Authority or Service Requirements

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

Other Department, Authority or Service	eServices Reference	Dated
NSW Rural Fire Service	Referral - RFS - 8 Narabang Way Belrose	28 July 2017

(NOTE: For a copy of the above referenced document/s, please see Council's 'E-Services' system at www.warringah.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's. (DACPLB02)

3. Occupancy

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed



on the approved plans for any land use of the site beyond the definition of a self storage units (ground floor), warehouse or distribution centre (first and second floors).

Self storage units is defined as:

"self-storage units means premises that consist of individual enclosed compartments for storing goods or materials (other than hazardous or offensive goods or materials)."

A warehouse or distribution centre is defined as:

"warehouse or distribution centre means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made."

(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)

4. Prescribed Conditions

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

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

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

- (i) showing the name, address and telephone number of the Principal 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)

5. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

(b) 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

(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 sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

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

(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

6. 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 \$9,773,859.70		
Contributions	Levy	Payable



	Rate	
Total Section 94A Levy	0.95%	\$ 92,851.67
Section 94A Planning and Administration	0.05%	\$ 4,886.93
Total	1%	\$ 97,738.60

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.

7. **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).

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

8. **Works Bonds**

(a) Construction, Excavation and Associated Works Bond (Crossing/Kerb)

A Bond of \$10000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter and any footpath works required as part of this consent.

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

A Bond of \$5000 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.

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).

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

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

9. **On-site Stormwater Detention Compliance Certification**

Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Warringah Council's "On-site Stormwater Detention Technical Specification" and the concept drawing by Northrop, drawing number NL161562 drawing no. DA00 to DA05, revision C dated 20 June 2017.

Drainage plans must address the following:

1. Grated trench drains are to be constructed across the driveways along the southern property boundary. Grated trench drains are to be located wholly within the property and to discharge stormwater to drainage system in Narabang Way.
2. Suitable measures must be provided to prevent stormwater backwater from Narabang Way surcharging within the ground floor level of the building.
3. An engineering longitudinal section through the outlet pipe from the OSD tank to the connection into the Council system is required to show all design flows, all utility services that may cross the line and a hydraulic grade line. Note: It is the responsibility of the Applicant to provide full details of all relevant services that may conflict with the proposed OSD system(s) and stormwater lines. The exact locations of any crossings or connections are to be shown. All costs related to the re-location of any utility services to accommodate the stormwater pipeline are to be borne by the developer.
4. Whole of the building roof and western driveway areas are to drain to the OSD tank.

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

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development. (DACENC03)

10. **Vehicle Crossings and Footpath Application Formwork Inspection**

An application for street levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway and footpath construction and must be paid.

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

Reason: To facilitate suitable vehicular access to private property. (DACENC12)

11. **Vehicle Driveway Gradients**

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility.



Access levels across the road reserve are to comply with the allocated vehicle profile detailed in Council's Minor Works Policy.

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

Reason: To ensure suitable vehicular access to private property. (DACENC13)

12. **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.

13. **Noise and Vibration Management Plan**

Prior to the issue of the Construction Certificate, a Noise and Vibration Management Plan is to be prepared by a suitably qualified person addressing the likely noise and vibration from demolition, excavation and construction of the proposed development. The management plan must be provided to Council or the Principal Certifying Authority prior to the issue of the Construction Certificate.

The Plan is to identify amelioration measures to ensure the noise and vibration levels will be compliant with the relevant legislation and Australian Standards. The report must itemise equipment to be used for excavation works which are likely to generate excessive noise and/or vibration. The Plan shall address, but is not limited to, the following matters:

- Identification of activities carried out and associated noise sources
- Identification of potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment
- A prediction as to the level of noise impact likely to affect the nearest noise sensitive receiver as well as determination of appropriate noise and vibration objectives for each receiver
- A representative background noise measurement (LA90, 15 minute) should be submitted, assessed in the vicinity of any potentially affected receiver location
- Confirmation of noise and vibration monitoring, reporting and response procedures to be undertaken during the main stages of work
- Assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles
- Description of specific mitigation treatments, management methods and procedures to be implemented to control noise and vibration during construction



- Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- Procedures for notifying residents of construction activities likely to affect their amenity through noise and vibration
- Contingency plans to be implemented in the event of non-compliances and/or noise complaints. A register should be kept of complaints received, and the action taken to remediate the issue.

Reason: To protect acoustic amenity of surrounding properties and the public.
(DACHPCPC6)

14. **Tree protection**

- (a) Existing trees which must be retained
 - i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
 - ii) Trees located on adjoining land
- (b) Tree protection
 - i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
 - ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.
 - iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
 - iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
 - v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAC01)

15. **Landscape plan compliance**

- i) Landscape Plans are to be amended as required to comply with the approved Bushfire Protection Assessment, Biodiversity Management Plan and biodiversity landscape requirements as conditioned in this consent.
- ii) Any amendments to the Landscape Plan resulting from i) above are to be submitted to the Principal Certifying Authority for approval prior to issue of a Construction Certificate.

Reason: Environmental compliance(DACLACPC1)

16. **Landscaping**

All native plants used in the landscaping for this development must be grown from local provenance seed and cuttings.

No Grevillea or Banksia hybrids are to be used in the landscaping for this development.



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

Reason: To ensure compliance with the requirements of the Threatened Species Conservation Act 1995 (DACNEC02)

17. Project Ecologist

A Project Ecologist is to be employed for the duration of the approved works to ensure all bushland protection measures are carried out according to the conditions of consent.

The Project Ecologist will provide certification that all recommendations and conditions relating to the Biodiversity Management Plan - REF: A17010 BioMP (Travers Bushfire & Ecology - April 2017) and Flora and Fauna Assessment - REF: A17010F (Travers Bushfire & Ecology - April 2017) are carried out. The Project Ecologist will ensure that all conditions relating to the biodiversity management of the property are fully implemented. The Project Ecologist is to be a vegetation management specialist and to have at least 4 years experience in the management of native bushland in the Sydney region.

Reason: To ensure bushland management. (DACNEC07)

18. Sediment and Erosion Control Plan

A Sediment and Erosion Control Plan is to be prepared for the development in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

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

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site. (DACNECPCC1)

19. 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

**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)

20. **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)

21. **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 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)

22. **Biodiversity requirements**

All native plants used in the landscaping for this development must be grown from local provenance seed and cuttings.

No Grevillea or Banksia hybrids are to be used in the landscaping for this development.

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

Reason: To ensure compliance with the requirements of the Threatened Species Conservation Act 1995.



23. **Bushfire Protection Assessment Requirements**

The entire site is to be managed as an APZ. Fuel management within the APZs will be maintained by regular maintenance of the landscaped areas.

Landscaping is to comply with Appendix 5 of PBP and, given the high bushfire risk posed to the site, should comply with the following:

- The northern landscape should not have continuous native vegetation in the form of shrubs and trees. This is to prevent the spread of wildfire from the protected E2 biodiversity corridor which could increase the facilities threat of bushfire.
- Planting of trees and shrubs should not occur within 5m of the facility.
- Planting is to be minimal using plants that are less flammable in preference to highly flammable species. Less flammable species include those that have a high moisture content, high levels of salt, low volatile oil content of leaves, smooth barks without 'ribbons' hanging from branches or trunks, dense crown and elevated branches (RFS Standards for Asset Protection Zones 2006).
- Organic mulch should not be used, alternatives include non-flammable materials that will not easily ignite (e.g. scoria, pebbles, recycled crushed bricks).

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

Reason: To ensure compliance with the bushfire protection requirements.

24. **Biodiversity Management Plan Requirements - Landscaping**

Specific landscaping targets are to be met in order to comply with the standards for APZs and to enhance fauna habitat.

Trees, shrubs and ground covers are preferably selected from Appendix 1 – Recommended Planting List.

Due to their potential fire risk, no Grevillea, Banksia or Lilly Pilly hybrids are to be used in the landscaping for this development.

Planting is to be completed prior to occupation are subject to NSW Rural Fire Service maintenance requirements for bushfire safety protection.

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

Reason: To ensure compliance with the landscaping requirements of the bushfire protection assessment.

25. **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;
- (j) The location and operation of any on site crane;

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

26. **Dilapidation Survey**

A photographic survey of adjoining properties (No. 6 Narabang Way and No. 10 Narabang Way) 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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

27. **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)

28. **Implementation of Noise and Vibration Plan**

The Noise and Vibration Plan must be fully implemented prior to commencement of works and all recommendations complied with during demolition, excavation and construction of the proposed development

Reason: To protect acoustic amenity of surrounding properties and the public. (DACHPDPC6)

29. **Bushland Protection Fencing**

Prior to the commencement of any onsite building works or commencement of vegetation clearance/modification, the boundary between the Environmental Conservation Zone and the development is to be surveyed and marked clearly on the ground.

As a minimum, a temporary 2.0 metre steel mesh fence is to be erected on the surveyed boundary between the Environmental Conservation Zone and the construction area for the duration of construction work.

Permanent site fencing is to be erected on this surveyed alignment.

No clearance of native vegetation within the Environmental Conservation Zone is permitted at any time for fence construction.

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

Reason: To ensure that the vegetation in the restricted development area is protected during and after construction. (DACNED01)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

30. **Vehicle Crossings**

The provision of two vehicle crossing 6 metres wide in accordance with Warringah Council Drawing No A4-3330/1 Normal and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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



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

31. Footpath Construction

The applicant shall construct a 1.5 metre wide footpath for the full frontage of Narabang Way. 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) 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

Two laybacks 6 metres wide (excluding the wings) are 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. 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.

35. 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. (DACLAEO3)

36. **Protection of rock and sites of significance**

a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

b) Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features (DACLAEOG1)

37. **Fauna and Tree Hollow re-location**

During any vegetation clearance for Asset Protection Zones and construction works the Project Ecologist is to be present to re-locate any displaced fauna that may be disturbed during this activity.

Tree hollows are to be salvaged from trees within the development area and placed within the Conservation Areas within the Lot. This is to be done by a qualified and experienced Arborist, under the direction of the Project Ecologist.

Details prepared by the project ecologist in writing demonstrating compliance is to be submitted to the Principal Certifying Authority.

Reason: To ensure bushland management in accordance with Local Habitat Strategy 2007. (DACNEE01)

38. **Weeds**

No noxious or environmental weeds, as listed on the Northern Beaches Council - Warringah website are to be imported on to the site.

Any noxious weeds or environmental weeds on the site are to be managed continuously, in accordance with the Noxious Weeds Act 1993.

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

Reason: To ensure bushland and riparian management. (DACNEE02)

39. **Biodiversity Management Plan**

The Biodiversity Management Plan prepared by Travers Bushfire and Ecology - REF: A17010 BioMP (April 2017) is to be fully implemented and maintained at all times.

All vegetation management works are to be undertaken in accordance with the Biodiversity



Management Plan.

Management works are to be implemented by a suitably qualified bush regeneration company.

The project ecologist is provide details demonstrating compliance to Council and the Certifying Authority.

Reason: To promote the long-term sustainability of ecosystem functions. (DACNEEDW1)

40. **Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed as per Sediment and Erosion Control Plan and in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site. (DACNEEDW2)

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

41. **Authorisation of Legal Documentation Required for On-site Stormwater Detention**

The original completed request forms (Department of Lands standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works.

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

Reason: To create encumbrances on the land. (DACENF01)

42. **Registration of Encumbrances for On-site Stormwater Detention**

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To identify encumbrances on land. (DACENF02)

43. **Restriction as to User for On-site Stormwater Detention**

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements, (available from 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 restriction.

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



prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure modification to the on-site stormwater detention structure is not carried without Council's approval. (DACENF04)

44. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person.

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

Note: The following Standards and Codes applied at the time of determination:

- (a) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003 - Plumbing and drainage - Stormwater drainage
- (b) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003/Amdt 1 - 2006 - Plumbing and drainage - Stormwater drainage
- (c) National Plumbing and Drainage Code.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)

45. On-Site Stormwater Detention Compliance Certification

Upon completion of the on-site stormwater detention (OSD) system, 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 OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in 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)

46. Positive Covenant for On-site Stormwater Detention

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. 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 Warringah Council's delegate prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such covenant.

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 ongoing maintenance of the on-site stormwater detention system. (DACENF12)

47. Creation of Positive Covenant and Restriction as a User

Where any conditions of this Consent require the creation of a positive covenant and/or



restriction as a user, the original completed request forms, (Department of Lands standard forms 13PC and/or 13RPA), shall be submitted to Warringah Council for authorisation.

A certified copy of the documents shall be provided to Warringah Council after final approval and registration has been affected by the "Department of Lands".

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

Reason: To identify encumbrances on land. (DACENF14)

48. **Acoustic report**

Prior to the issue of the Occupational Certificate an acoustic report undertaken by a suitable qualified person shall be submitted to assess the impact likely to affect the nearest noise sensitive receivers during the proposed works and the on-going use. Any recommendations made by the consultant must be implemented in order to achieve compliance with this condition.

Reason: To protect acoustic amenity of surrounding properties and the public (DACHPFPOC6)

49. **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)

50. **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)

51. **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.

52. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

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

Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000. (DACPLF07)

53. **Truck Turning Area**

The truck turning area within the car park must be signposted as 'No Parking, truck turning area' at all times. Trucks larger than a small rigid vehicle (SRV) is not permitted onsite.

Details demonstrating compliance must be submitted to the certifier prior to the issue of an interim/final occupation certificate.

Reason: to ensure trucks are able to enter and exit in a forward direction. (DACTRFPOC1)

54. **Internal parking areas**

All parking areas, dimensions, disabled parking spaces, aisle width, and height are to comply with Australian Standards AS2890.1:2004.

Details demonstrating compliance must be submitted to the certifier prior to the issue of an interim/final occupation certificate.

Reason: To ensure compliance with Australian Standards. (DACTRFPOC2)

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

55. **Noise Impact on Surrounding Areas**

The on-going use of premise shall not exceed more than 5dB (A) above the background level when measured from within any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy and any appropriate legislation to prevent *offensive noise*.

Reason: To ensure that noise generated from the premise does not create offensive noise (DACHPGOG5)



56. **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

57. **Implementation of Biodiversity Management Plan**

The Biodiversity Management Plan prepared by Travers Bushfire and Ecology - REF: A17010 BioMP (April 2017) is to be fully implemented and maintained at all times for a minimum duration of 3 years post construction.

All vegetation management works are to be undertaken in accordance with the Biodiversity Management Plan.

Management works are to be implemented by a suitably qualified bush regeneration company.

Monitoring of the progress of weed removal, plant growth and natural regeneration is to be undertaken by a qualified ecologist on an annual basis for three (3) years .

The project ecologist is provide written certification of compliance to Council and the Certifying Authority on an annual basis.

Reason: To promote the long-term sustainability of ecosystem functions. (DACNEGOG1)

58. **Allocation of Spaces**

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

- 2 - Caretakers residence
- 57- Warehouse units
- 2- Spaces for persons with a disability

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)

59. **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)

60. **Hours of Operation**

The hours of operation are to be restricted to 6am to 9pm (inclusive).

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

61. **No Illumination**

No consent is given or implied for any form of illumination or floodlighting to any sign or building or other external areas other than that approved.

Reason: To ensure appropriate forms of illumination that are consistent with Council's controls, and do not interfere with amenity of nearby properties. (DACPLG13)

62. **Loading Within Site**

All loading and unloading operations shall be carried out wholly within the confines of the site and within the approved loading areas, at all times.

Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian safety and amenity. (DACPLG20)

63. **Caretakers Residence**

The Caretakers Residence is only for the use of employees involved in the maintenance of the premises and the immediate family. The residence is not be used as a "dwelling" independent of the light industrial / warehouse units.

Reason: To ensure the approved development is consistent with the land use planning objectives of Council.

64. **No Parking zone in Narabang Way**

The applicant would be required to submit an application to the Northern Beaches Council for a full time No Parking zone commencing 3m west of the eastern driveway and ending 0.5m east of the adjacent single driveway of No. 10 Narabang Way. The request is subject to approval from the Northern Beaches Local Traffic Committee which meets monthly. All signage work is to be installed after consent from the road authority and at no cost to Council.

Reason: To reduce conflicts between trucks and on-street parked vehicles in Narabang Way. (DACTRFPOC3)

Application No: PLM2015/0132

Meeting Date: 17 December 2015

Property Address: 8 Narabang Way BELROSE

Proposal: Construction of a mixed use development , use of premises as a warehouse storage and childcare

Attendees for Council: Steve Findlay – Planning Assessment Manager
Daniel Milliken – Senior Planner
James Montgomery – Environmental Investigations Officer
Rezvan Saket – Traffic Engineer
Paul David – Senior Development Engineer
Brendan Smith – Senior Environment Officer - Biodiversity

Attendees for applicant: Bill Ryder
Greg Smith
Greg Boston
Claudio Minns

DESCRIPTION OF PROPOSAL:

- A mixed use development consisting of warehouse, office, self-storage and a possible childcare centre. The development also proposed driveways along both sides and parking at the front and to the rear.
- A concept sketch was submitted after the pre-lodgement meeting incorporating increased side setbacks. Limited measurements were given and so these notes will be commenting on the original design subject to the increased side setbacks shown in the sketch.

Note: The following notes are based on the original plans submitted for the prelodgement with the exception of the increased side setbacks shown on the concept sketch.

SPECIFIC ISSUES RAISED BY APPLICANT FOR DISCUSSION

Issue/s Raised	Councils Response
Front Setback and the use of the front as a play area for a childcare centre.	The front yard/front setback area must not be used as a play area for a childcare centre. The front setback is to be free of structures and well landscaped so as to help screen the bulk of the development.
Height Limit	An updated design for the building is necessary to achieve an excellent outcome for the business park zone. This amended design must be similar in height to neighbouring developments. A breach in the height limit can be supported provided the development is of an excellent urban design. A written request under Clause 4.6 of the WLEP 2011 will be required to vary the height limit.

Rear Setback	The rear setback of the development is consistent with what is envisaged for the site. However, as discussed, the rear parking and loading/unloading area may need to be reconfigured and the Species Impact Statement (SIS) will impact on the amount of vegetation to be cleared at the rear of the development.
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WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011 (WLEP 2011)

Zoning and Permissibility	
Definition of proposed development: (ref. WLEP 2011 Dictionary)	Warehouse or distribution centre, Self-storage units, Office premises.
Zone:	B7 Business Park E2 Environmental Conservation
Permitted with Consent or Prohibited:	Permitted with consent

Principal Development Standards:			
Standard	Permitted	Proposed	Comments
Height of Buildings: Note: Building heights are measured from existing ground level.	11m	Approximately 16.5m	Does not comply – The development must be compatible with the heights of the neighbouring and nearby buildings.

Note: The WLEP can be viewed following this link:

<https://eservices1.warringah.nsw.gov.au/ePlanning/live/pages/plan/book.aspx?exhibit=LEP>

WARRINGAH DEVELOPMENT CONTROL PLAN 2011 (WDCP 2011)

Part B: Built Form Controls			
Control	Requirement	Proposed	Comments
B4 Site Coverage	33.3%	The development covers approximately 63% of the site.	Does not comply – this level of non-compliance indicates an overdevelopment of the site. The objectives of this control will need to be addressed in the Statement of Environmental Effects to support a variation of this scale.
B5. Side Boundary Setbacks	5.0m	Driveways – approximately 2.0m Building –	The setbacks shown in the concept plan are acceptable. Full details should be

		approximately 5.0m	provided in the follow-up prelodgement meeting.
B7. Front Boundary Setbacks	6.5m	Minimum of approximately 4.5m	Does not comply – the development must achieve a 6.5m front setback in order to allow sufficient space for substantial landscaping.
B9 Rear Boundary Setback	Merit Assessment	Approximately 53m	The proposed rear setback is consistent with what would be expected on the site. However, this setback may need to be increased based on biodiversity impacts.

Other Relevant Controls within WDCP 2011

D9 Building Bulk

One of the objectives of the building bulk control is *“To encourage good design and innovative architecture to improve the urban environment.”*

The current design is conceptual in nature and the concept will be subject to extensive redesign. Council understands that an excellent urban design outcome will be achieved by the eventual proposal.

Note: The WDCP can be viewed by following this link:
<https://eservices1.warringah.nsw.gov.au/ePlanning/live/pages/plan/book.aspx?exhibit=DCP>

Referral Body Comments

Referral Body	Comments
Development Engineers	<p>The following pre lodgement comments are provided for the proposed development. These comments are only preliminary in nature and a detail assessment can only be provided upon a DA lodgement:-</p> <ol style="list-style-type: none"> Any basement areas shall be tanked and a pump out tank facility must be piped to the nearest Council's piped drainage system. The discharge must ensure that no occurrence of back flow from Council drainage system to the basement car park.

Referral Body Comments	
	<ol style="list-style-type: none"> Submission for a concept On-Site Detention Tank designed to Warringah Council's On-Site Stormwater Detention Technical Specification. Car parking and driveway arrangement for cars to comply with AS 2890.1. Submission of plans for Vehicular crossing and turning areas are to be designed for articulated vehicles in accordance with AS2890.2 Construction footpath fronting the entire site. (http://www.warringah.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/minorworksspecification20100527.pdf)
<p>Traffic Engineer</p> <p><u>Relevant WDCP Clause</u> <i>Clause C2 – Traffic, Access and Safety</i> <i>Clause C3 – Parking Facilities</i></p>	<p>A traffic report is to be provided addressing the implication of traffic generating from the development on surrounding road network , parking provision for each use, and the following:</p> <p><u>Child Care Centre:</u> The Child care centre is to provide a separate pedestrian access for the child care centre and address the safety of the pedestrian and vehicular access in conjunction with the proposed childcare Centre.</p> <p>The parking requirements are to be in compliance with Warringah DCP.</p> <p><u>Access Driveway:</u> The access driveways are to be designed to accommodate the manoeuvres of the largest trucks servicing the proposed warehouse and other uses. The swept paths are to be demonstrated.</p> <p><u>Loading Bay:</u> The provision of loading bays and associated swept paths in/out the loading bays and the driveways in forward direction is required.</p> <p><u>Parking Design:</u> The circulation access ways are to be designed to accommodate a two-way access. The car park and the driveways are to be designed in compliance with Australian Standards.</p> <p><u>Storage Units:</u></p>

Referral Body Comments	
	Parking requirements are to be provided based on a comparison analysis on the same use. The access ways are to accommodate adequate width so that traffic would be able to pass the parked vehicles.
Natural Environment – Biodiversity	Please see the detailed comments below:

Natural Environment – Biodiversity

General Comments

The subject property includes native vegetation and fauna habitat which represents a high degree of constraint to development. Previous surveys and reports in relation to the property have indicated that native vegetation on site is representative of the Endangered Ecological Community (EEC), Duffys Forest. Council considers the proposed development is likely to constitute a significant impact on the 'local occurrence' of this EEC. It is recommended that the applicant update relevant ecological studies in accordance with the current legislative framework and industry guidelines.

Control	Comment
E1. Private Property Tree Management	Any trees that require removal for the construction are to be shown on a landscaped plan submitted with the DA.
E2. Prescribed Vegetation	The proposed development including fire hazard Asset Protection Zones will require removal and or disturbance to prescribed vegetation. The proposed development is located within known and potential habitat for threatened species as listed under the NSW <i>Threatened Species Conservation Act 1995</i> . The proposal must address relevant objectives listed within Part E2 Prescribed Vegetation of the Warringah DCP 2011 (see also E3 below).
E3. Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conversation Habitat	Threatened species and communities that are known or have potential to occur in close vicinity of the proposal include (but are not limited to): Threatened Flora The site is considered to include potential habitat for <i>Tetratheca glandulosa</i> <i>Pimelea curviflora</i> <i>Grevillea caleyi</i> <i>Microtis angussi</i> <i>Epacris purpurascens</i> var. <i>purpurascens</i> Threatened Fauna Updated survey and assessment of threatened fauna on the subject land is required. Surveys must include (but not be limited to) the following species and methods; <ul style="list-style-type: none"> Southern Brown Bandicoot – remote infra-red camera deployment

	<ul style="list-style-type: none"> • Eastern Pygmy Possum – deployment and checking of nest boxes • Microbat species (hollow dependant species) – anabat deployment and roost tree hollow inspection <p>Endangered Ecological Communities (EEC) The endangered ecological community, Duffys Forest covers most of the subject property. Council considers the proposed development is likely to constitute a significant impact on the 'local occurrence' of this EEC.</p> <p>Recommendation Given the impacts on the natural environment, it is recommended that the applicant consider the OEH principles for the use of biodiversity offsets in NSW http://www.environment.nsw.gov.au/biodivoffsets/oehoffsetprincip.htm Warringah Council supports the use of the Biobanking Assessment Methodology. In lieu of a biobanking application, it is recommended that the applicant seek updated director generals requirements from the NSW Office of Environment and Heritage for preparation of an updated Species Impact Statement. The proposal must include an updated Flora and Fauna Assessment (Species Impact Statement) and Biodiversity Management Plan prepared in accordance with Council's guidelines available online. Any revised assessments of significance must be prepared in accordance with the assessment of significance guidelines published by the former NSW Department of Environment and Climate Change and Gazetted 25 January 2008. In accordance with the guidelines, the definition of the 'local occurrence' of an EEC is that which occurs within the study area. However, the local occurrence may include adjacent areas if the ecological community on the study area forms part of a larger contiguous area of that ecological community and the movement of individuals and exchange of genetic material across the boundary of the study area can be clearly demonstrated.</p>
<p>E4. Wildlife Corridors</p>	<p>The proposed subdivision would result in the removal or modification of native vegetation within a mapped Wildlife Corridor. The objectives and requirements of DCP Clause E4 – Wildlife Corridors must therefore be met including preparation of an updated Flora and Fauna Assessment (Species Impact Statement) and Biodiversity Management Plan.</p>

E5. Native Vegetation	The proposed subdivision would result in the removal or modification of mapped native vegetation. The objectives and requirements of DCP Clause E5 – Native Vegetation must therefore be met including preparation of an updated Flora and Fauna Assessment (Species Impact Statement) and Biodiversity Management Plan.
E6. Retaining unique environmental features	The subject site includes unique environmental features including; <ul style="list-style-type: none"> • Remnant bushland and trees; • Fauna habitat for rare and threatened species; • Rock outcrops. The proposal must address objectives and requirements of E6 in accordance with the Warringah DCP.
E7. Development on land adjoining public open space	N/A

Relevant Council Policies

You are advised of the following (but not limited to all) Council's policies available at www.warringah.nsw.gov.au:

- Applications for Development - Policy for the handling of unclear, non conforming, insufficient and Amended applications: PDS-POL 140
- Stormwater drainage for low level properties PDS-POL 135
- Vehicle access to all roadside development: LAP-PL 315
- Waste PL 850

Documentation to accompany the Development Application

- All information required to be submitted under Schedule 1 of the Environmental Planning and Assessment Regulation 2000;
- All information as required on the Development Application form checklist;
- Site Analysis;
- Site Survey (prepared by a registered Surveyor);
- Statement of Environmental Effects addressing:
 - Section 79C of EPA Act,
 - All relevant sections of WLEP 2011, including demonstrating consistency with the B7 Business Park zone and the non-compliance with the Height of Buildings Development Standard.
 - All relevant sections of WDCP 2011;
 - Other relevant Environmental Planning Instruments.
- Geo-technical report;
- Bushfire Report;
- Species Impact Statement;
- Access Report;
- BCA Report;
- Traffic and Parking Report;

Documentation to accompany the Development Application

- Crime Prevention Through Environmental Design (CPTED) assessment;
- Shadow diagrams;
- View analysis;
- Photo montages;
- Landscape Plan showing the layout of the landscaping within the site and the selection of species;
- Waste Management Plan;
- Stormwater Management Plan;
- Erosion and Sedimentation Plan;
- Colour and Materials Schedule;
- Lighting Plan (including Lux Diagrams) if necessary;
- Signage Plan (if required);
- Cost Summary Report, if the cost of works exceeds \$100,000. This report is to be in addition to the Estimated Cost of Work options in Part 2.3 of Council's Development Application Form
- Any other documentation covered in the referral comments above.

Concluding Comments

These Minutes are in response to a pre-lodgement meeting held on 19 November 2015 to discuss a proposal for a mixed use development including warehouse, self-storage, office and childcare. The Minutes reference the plans submitted for the prelodgement meeting and a sketch plan sent via email after the meeting.

The proposal cannot be supported as it currently stands given the limited front setback, the nil side setbacks (increased in the sketch plan to an undefined distance), the traffic and truck movement impacts and the urban design outcome.

Using the site for a childcare centre is not supported due to the traffic, parking and play area issues. This element should be removed from the development.

The final development must be of an excellent design to improve the urban environment of the business park. Landscaped setbacks must be provided on both sides of the development as well as a compliant and well landscaped front setback.

Please contact Brendan Smith, Council's Biodiversity Officer for any further information in relation to the Species Impact Statement and other biodiversity related matters.

The development is integrated and will require concurrence. Your planning consultant will need to address these matters in the preparation of any application. Please make sure the correct cheques are provided at lodgement.

Given the number of issues and the information that still needs to be gathered to support this proposal (for example, the biodiversity studies), a second prelodgement meeting is strongly recommended prior to lodgement.

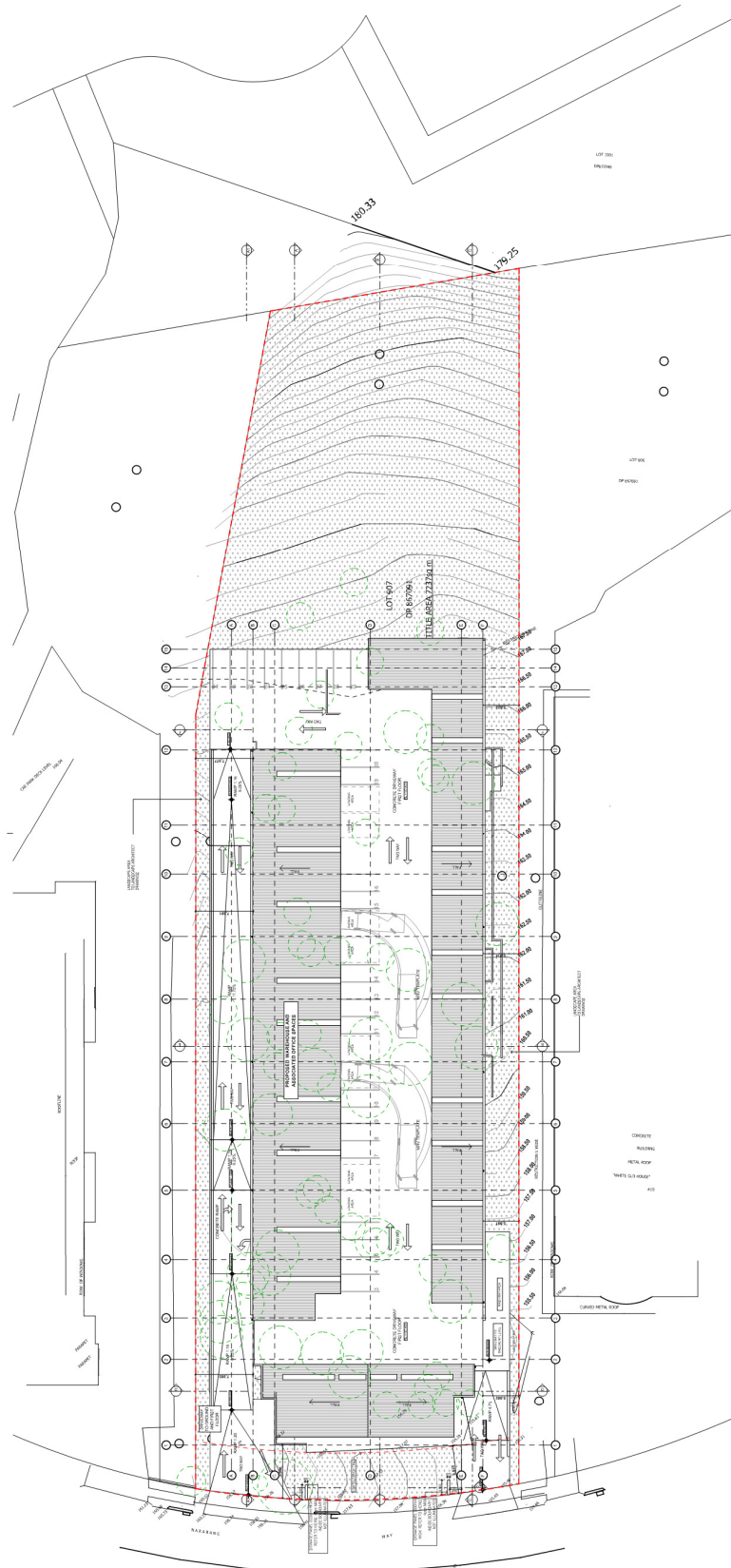
General Comments/Limitations of these notes

These notes are an account of the specific issues discussed and conclusions reached at the meeting. They are not a complete set of planning and related comments for the proposed development. A determination can only be made following the lodgement and full assessment of the development application.

General Comments/Limitations of these notes

In addition to the comments made within these notes, it is a requirement of the applicant to address ALL relevant pieces of legislation including (but not limited to) any SEPP, relevant Clauses of the WLEP 2011 and WDCP 2011 within the supporting documentation of a development application including the Statement of Environmental Effects.

You are advised to carefully review these notes. If there is an area of concern or non-compliance that cannot be supported, you are strongly advised to review and reconsider the appropriateness of the design of your development for your site and the adverse impacts that may arise as a result of your development prior to the lodgement of any development application.



1219 - 8 NARABANG WAY - BELROSE

DEVELOPMENT SUMMARY	
PROJECT NO.	7257-1
SITE ADDRESS	8 Narabang Way, Belrose NSW 2086
LOT	LOT 597 DP 867001
ZONING	E2 Environmental Conservation

REQUIREMENTS	
7.5.1	100%
HEIGHT LIMIT	11m
STREET FRONTAGE	15.5m
REAR SETBACK	10.5m
REAR SETBACK	10.5m
SITE COVERAGE	33.3%

DEVELOPMENT CONTROLS	
Maximum Floor Area	2,010 m ²
Maximum Floor Area	2,010 m ²
Maximum Floor Area	2,010 m ²

PARKING REQUIREMENTS	
Warehouse	41
Office	7
Car	1
Accessible	2
TOTAL	51

PARKING REQUIREMENTS CALCULATION	
UNIT	OFFICE MEZ. & OFFICE
WAREHOUSE	41
OFFICE	7
CAR	1
ACCESSIBLE	2
TOTAL	51

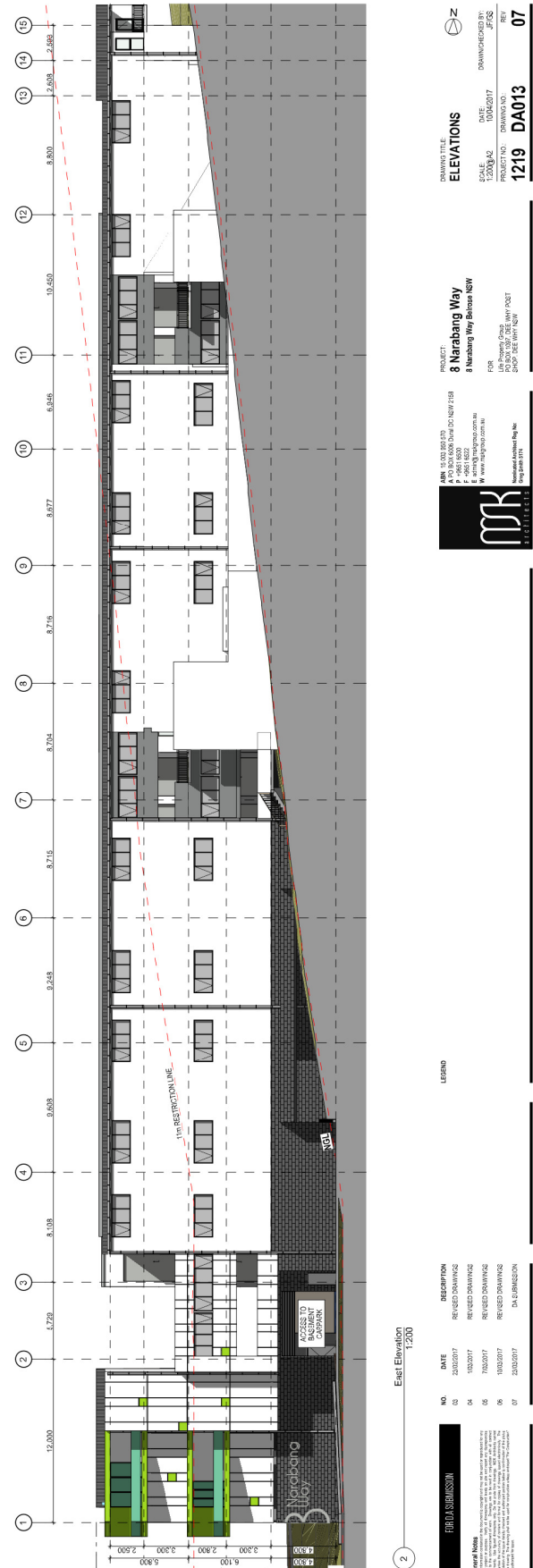
NO.	DATE	REVISION
01	23/03/2017	REVISED DRAWING
02	10/03/2017	REVISED DRAWING
03	10/03/2017	REVISED DRAWING
04	23/03/2017	DATE SUBMISSION

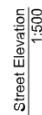
TREES SHOWN DASHED TO BE REMOVED

8 Narabang Way
8 Narabang Way Belrose NSW
FOR: [Name]
PROJECT NO. [Number]
DRAWING NO. [Number]
DATE: [Date]
DRAWN BY: [Name]
CHECKED BY: [Name]
REV: [Number]

1219 DA001
08







Street Elevation
1:500



5

FOR A SUBMISSION

DRAWING TITLE:
STREET ELEVATION

DRAWN/CHECKED BY:
JF/GS

SCALE:
③ A3

DATE:
10/04/2017

ITEM 3.3**DA2017/0318 - 18 HOWARD AVENUE, DEE WHY - DEMOLITION
WORKS AND CONSTRUCTION OF A SHOP TOP HOUSING
DEVELOPMENT****REPORTING OFFICER****TRIM FILE REF****2017/424573****ATTACHMENTS**

- 1 Assessment Report**
- 2 Pre-Lodgement Notes**
- 3 Site Plan and Elevations**

PURPOSE

To refer the attached application for determination as required under adopted delegations of Council.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Independent Assessment Panel, as the consent authority, **approve** Application No. 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, for the reasons outlined in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2017/0318
Responsible Officer:	Luke Perry
Land to be developed (Address):	Lot 12 DP 1229780, 18 Howard Avenue DEE WHY NSW 2099
Proposed Development:	Demolition works and construction of a shop top housing development
Zoning:	LEP - Land zoned B4 Mixed Use
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Development Assessment Panel – Central
Land and Environment Court Action:	No
Owner:	NMMH Pty Limited
Applicant:	Humel Architects Pty Ltd
Application lodged:	10/04/2017
Integrated Development:	No
Concurrence Required:	No
State Reporting Category:	Residential - New multi unit
Notified:	25/08/2017 to 11/09/2017
Advertised:	29/04/2017
Submissions Received:	3
Recommendation:	Approval
Estimated Cost of Works:	\$ 6,016,250.74

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

Property Description:	Lot 12 DP 1229780 , 18 Howard Avenue DEE WHY NSW 2099
Detailed Site Description:	<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 766.8m² 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 (WDCCP 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 (42.85m²);
- 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:

Section 79C 'Matters for Consideration'	Comments
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)(iiia) – 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&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted. .</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore</p>

Section 79C 'Matters for Consideration'	Comments
	<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&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&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&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&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This matter may be addressed via a condition of consent.</p>
Section 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>Environmental Impacts</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>Social Impacts</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
	proposal. Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
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 3 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
Fincob (Dee Why) Pty Limited	C/- Macken Strategic Planning Solutions Le 2 276-278 Abercrombie St 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>Note: The proposed development may not comply with some requirements of the BCA. Issues such as this however may be</i></p>

Internal Referral Body	Comments
	<i>determined at Construction Certificate stage.</i>
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>

Internal Referral Body	Comments
	<p>Area 2 Howard Avenue</p> <p><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 2009.</i></p> <p><i>Objectives</i></p> <ul style="list-style-type: none"> • To ensure that Howard Avenue is the primary boulevard in the Dee Why Town Centre and the focus of shopping and community activity. • To encourage good design and innovative architecture. • To encourage building design that will contribute to the life of public spaces by helping to define the streets and public spaces. • To create an environment that is human in scale as well as comfortable, interesting and safe. • To ensure shops and dwellings enjoy good access to natural light. • To ensure buildings have an active street frontage.' <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>Urban Design Comments (21 September 2017)</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>



Internal Referral Body	Comments
	<p><i>The proposed development is for the demolition of the existing two-storey commercial building and constructing a new mixed use residential/retail development comprising 26 residential apartments and a retail shop with a floor area of 42.85m².</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>Traffic Generation</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>Parking Provision</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
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 29.4m².

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 DYTIC.

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
Part 3 Siting the Development		
Site Analysis	Does the development relate well to its context and is it sited appropriately?	<p>Consistent</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</p>

		the site through the Dee Why Town Centre Masterplan.						
Orientation	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	<p>Consistent</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>						
Public Domain Interface	<p>Does the development transition well between the private and public domain without compromising safety and security?</p> <p>Is the amenity of the public domain retained and enhanced?</p>	<p>Consistent</p> <p>The development provides an appropriate transition between the public and private domain maintaining safety and security.</p>						
Communal and Public Open Space	<p>Appropriate communal open space is to be provided as follows:</p> <ol style="list-style-type: none"> 1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter) 	<p>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>						
Deep Soil Zones	<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></td><td></td><td></td></tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)				<p>The proposal includes 58.16m² of deep soil zones in the form of planter boxes throughout the building which equates to 7.6% of the total site area.</p>
Site area	Minimum dimensions	Deep soil zone (% of site area)						

	<table> <tr> <td>Less than 650m²</td><td>-</td><td>7%</td></tr> <tr> <td>650m² – 1,500m²</td><td>3m</td><td></td></tr> <tr> <td>Greater than 1,500m²</td><td>6m</td><td></td></tr> <tr> <td>Greater than 1,500m² with significant existing tree cover</td><td>6m</td><td></td></tr> </table>	Less than 650m ²	-	7%	650m ² – 1,500m ²	3m		Greater than 1,500m ²	6m		Greater than 1,500m ² with significant existing tree cover	6m		While the proposal meets the minimum percentage of 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.
Less than 650m ²	-	7%												
650m ² – 1,500m ²	3m													
Greater than 1,500m ²	6m													
Greater than 1,500m ² with significant existing tree cover	6m													
Visual Privacy	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></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>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>Consistent</p> <p>The proposal complies with the minimum building separation distances.</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												
Pedestrian Access and entries	<p>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>	<p>Consistent</p> <p>The 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.</p>												
Vehicle Access	<p>Are the vehicle access points designed and located to achieve safety, minimise conflicts between</p>	<p>Consistent</p>												

	pedestrians and vehicles and create high quality streetscapes?	<p>Council's Traffic Engineer has reviewed the proposed 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>
Bicycle and Car Parking	<p>For development in the following locations:</p> <ul style="list-style-type: none"> On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>	<p>Consistent</p> <p>The proposal provides adequate provisions for bicycle and car parking in accordance with requirements of WDCP 2011</p>
Part 4 Designing the Building		
Amenity		
Solar and Daylight Access	<p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter. 	<p>Consistent</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>

	<ul style="list-style-type: none">A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter													
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">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.Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.	<p>Consistent</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><thead><tr><th colspan="2">Minimum ceiling height</th></tr></thead><tbody><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>If located in mixed used areas</td><td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr></tbody></table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	2.7m for main living area floor 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 2.4m for second floor, where its area does not exceed 50% of the apartment area	<p>Consistent</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 2.4m for second floor, where its area does not exceed 50% of the apartment area													
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If located in mixed used areas	2.7m for main living area floor 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>	<p>Consistent</p> <p>The proposed apartments satisfy the minimum</p>												

	<table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></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">• 3.6m for studio and 1 bedroom apartments• 4m for 2 and 3 bedroom apartments <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	dimensions and areas specified for internal areas of the apartments.					
Apartment type	Minimum internal area																
Studio	35m ²																
1 bedroom	50m ²																
2 bedroom	70m ²																
3 bedroom	90m ²																
Private Open Space and Balconies	<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>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td></td><td></td><td></td></tr></table>	Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m				<p>Consistent</p> <p>Each apartment within the development has a satisfactory minimum balcony area.</p>
Dwelling Type	Minimum Area	Minimum Depth															
Studio apartments	4m ²	-															
1 bedroom apartments	8m ²	2m															
2 bedroom apartments	10m ²	2m															

	<table><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.</p>	3+ bedroom apartments	12m ²	2.4m								
3+ bedroom apartments	12m ²	2.4m										
Common Circulation and Spaces	<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>	Consistent <p>The maximum number of apartments accessible off of a single circulation core is eight (on the second floor).</p>										
Storage	<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>4m²</td></tr><tr><td>1 bedroom apartments</td><td>6m²</td></tr><tr><td>2 bedroom apartments</td><td>8m²</td></tr><tr><td>3+ bedroom apartments</td><td>10m²</td></tr></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 ²	1 bedroom apartments	6m ²	2 bedroom apartments	8m ²	3+ bedroom apartments	10m ²	Consistent <p>The development provides adequate storage areas for each residential apartment.</p>
Dwelling Type	Storage size volume											
Studio apartments	4m ²											
1 bedroom apartments	6m ²											
2 bedroom apartments	8m ²											
3+ bedroom apartments	10m ²											
Acoustic Privacy	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	Consistent <p>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</p>										
Noise and Pollution	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	Consistent <p>The design of the proposed development satisfactorily addresses and mitigates the potential impact of external noise and pollution</p>										
Configuration												
Apartment Mix	Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.	Consistent <p>The development provide a range of different size apartments which will</p>										

		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.																				
Facades	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	Consistent Council's Urban Designer has reviewed the proposal and raises no objections to the proposed design and façade treatment.																				
Roof Design	Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Test whether the roof space can be maximised for residential accomodation and open space.	Consistent The proposed roof design is consistent with that of nearby development.																				
Landscape Design	Was a landscape plan submitted and does it respond well to the existng site conditions and context.	Consistent The proposal includes areas of landscaping which is an improvement on the existing provision on site.																				
Planting on Structures	<div>When planting on structures the following are recommended as minimum standards for a range of plant sizes:</div> <table><tr><th>Plant type</th><th>Definition</th><th>Soil Volume</th><th>Soil Depth</th><th>Soil Area</th></tr><tr><td>Large Trees</td><td>12-18m high, up to 16m crown spread at maturity</td><td>150m³</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>35m³</td><td>1,000mm</td><td>6m x 6m or equivalent</td></tr><tr><td>Small trees</td><td>6-8m high, up to 4m crown</td><td>9m³</td><td>800mm</td><td>3.5m x 3.5m or equivalent</td></tr></table>	Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Large Trees	12-18m high, up to 16m crown spread at maturity	150m ³	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m ³	1,000mm	6m x 6m or equivalent	Small trees	6-8m high, up to 4m crown	9m ³	800mm	3.5m x 3.5m or equivalent	Consistent 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 ³	1,200mm	10m x 10m or equivalent																		
Medium Trees	8-12m high, up to 8m crown spread at maturity	35m ³	1,000mm	6m x 6m or equivalent																		
Small trees	6-8m high, up to 4m crown	9m ³	800mm	3.5m x 3.5m or equivalent																		

		spread at maturity			
	Shrubs			500-600mm	
	Ground Cover			300-450mm	
	Turf			200mm	
Universal Design	Developments are to achieve a benchmark of 20% of the total apartments incorporating the Livable Housing Guideline's silver level universal design features.				Consistent The proposal satisfies this guideline.
Adaptive Reuse	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.				Not Applicable 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.
Mixed Use	Can the development be accessed through public transport and does it positively contribute to the public domain? Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.				Consistent The development will be easily accessible through public transport along Pittwater Road to the west. The proposed ground floor retail premises will contribute positively to the public domain
Awnings and Signage	Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development. Signage must respond to the existing streetscape character and context.				Consistent 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
Performance					
Energy Efficiency	Have the requirements in the BASIX certificate been shown in the submitted plans?				Yes.
Water Management and Conservation	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.



Waste Management	Supply waste management plans as part of the development application demonstrating safe and convenient collection and storage of waste and recycling.	The proposal includes a waste management plan.
Building Maintenance	Incorporates a design and material selection that ensures the longevity and sustainability of the building.	Consistent 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
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	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 it's 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 Council's 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



Clause	Compliance with Requirements	Consistency Aims/Objectives
Area 2 Howard Avenue	No	Yes
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. 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. 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. To date these attempts have been unsuccessful and therefore site amalgamation is not proposed. Notwithstanding the above car

	<p>parking is provided below ground, on the ground 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"> • above the topmost storey (including plant and equipment rooms, lofts etc): 30% of the area of the ground floor floorplate; • topmost storey: 50% of the area of the ground floor floorplate; • second topmost storey: 70% of the area of the ground floor floorplate <p>The minimum floor to ceiling heights are as follows:</p> <ul style="list-style-type: none"> • ground floor storey: 3.6 metres; • upper storeys: 2.7 metres 	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"> • 4.5 metres from the kerb on the northern side of Howard Avenue; • 8 metres from the kerb on the southern side of Howard Avenue, except: • 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. 	<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>For storeys above the fourth storey, build-to lines have been set at:</p> <ul style="list-style-type: none"> • 12.5 metres from the kerb on the northern side of Howard Avenue; • 16 metres from the kerb on the southern side of Howard Avenue, except: • 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 	<p>The proposed building has been built to the 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 kerblines 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"> • 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. • 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. • 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. 	<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</p>	<p>The ground floor of the development is built to</p>



the build-to lines is not essential.	the front boundary of the site, which has a 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. 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 18 x 1 bedroom apartments	1 space per 1 bedroom dwelling	18 spaces 9.6 spaces	31 spaces - residential spaces	N/A



8 x 2 bedroom apartments	1.2 spaces per 2 bedroom dwelling	5.2 spaces	5 visitors spaces	
Residential visitors	1 space per 5 dwellings			
Retail premises	1 space per 16.4m ² GLFA	2.6 spaces	3 spaces	N/A
Total		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 Howard Avenue, Dee Why	7 April 2017	Taylor Consulting
Fire Safety Strategy Report 2017/156 R1.3	31 March 2017	Stephen Grubits & Associates Pty Ltd
Accessibility Capability Statement 17089-R1.0	31 March 2017	CodePerformance
Acoustic Advice Regarding Mixed Use Development 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

(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 sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

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



Government.

(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).

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).

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. (DACENC05)

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

**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 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 disabled 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). (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 Austrian 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)

Application No: PLM2013/0131

Meeting Date: 20 November 2013

Property Address: 18 Howard Avenue DEE WHY NSW 2099

Proposal: Construction of a Shop Top Housing Development

Attendees for Council:

- Steve Findlay – Development Assessment Manager
- David Auster – Development Assessment Officer
- Dominic Chung – Senior Urban Designer
- Ken Hind – Traffic Engineer
- Duncan Howley – Environment Officer – Floodplain Management
- Ray Creer – Waste Services Officer
- Sean Khoo – Development Engineer

Attendees for applicant:

- James Smith
- Ben Hummel
- Denis Smith

General Comments:

All applications are assessed on individual merit, however a failure to comply with Council or a State Planning controls will generally indicate an over development of the site and may result in adverse impacts upon adjoining and nearby land and the streetscape.

You are advised to carefully read these notes. If there is an area of concern or non-compliance, you are strongly advised to review and reconsider the appropriateness of the design of your development for your site and the adverse impacts that may arise as a result of your development prior to the lodgement of any development application.

Council will seek to ensure that the development of land meets all provisions of all legislation and the relevant Environmental Planning Instrument/s, in addition to providing appropriate levels of amenity to surrounding and nearby lands.

Failure to achieve this may ultimately lead to the refusal of any application lodged without notice.

Warringah Local Environmental Plan 2011 (WLEP 2011)

Consideration of proposal against Warringah Local Environment Plan 2011

The fundamentals	
Definition of proposed development: (ref. WLEP 2011 Dictionary)	Shop top housing
Zone:	B4 Mixed Use
Permitted with Consent or Prohibited:	Permitted with consent

Objectives of the Zone
<p>The proposal is considered to be inconsistent/consistent with the objectives of the zone for the following reasons:</p> <ul style="list-style-type: none"> <p><i>To provide a mixture of compatible land uses.</i> <u>Comment:</u> The proposal provides for housing and a shop/restaurant, and is compatible with existing similar developments in the area in terms of land use. The development satisfies this objective.</p> <p><i>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.</i> <u>Comment:</u> The site is within close walking distance to the main Dee Why bus interchange, and the proposed development is well located with regard to this objective.</p> <p><i>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.</i> <u>Comment:</u> The proposal is generally in accordance with this objective. Importantly, Council would consider selling the land in front of the site up to the build-to line, in order to facilitate built form in accordance with the requirements of clause G1 <i>Dee Why Mixed Use Area</i> of the Warringah DCP 2011.</p> <p><i>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.</i> <u>Comment:</u> The building design at the ground level generally achieves this objective, however, Council's Urban Designer has made the following comment: "<i>The footpath awning design over driveway to car park is not desirable and could potentially be hazardous.</i>" Council would likely be in favour of selling the land in front of the site to the owners of the subject site to allow for building right up to the required building line. However, this is not a prerequisite for the development to proceed with the current site. You should also investigate the possibility of gaining driveway access through the adjoining property to the north (1-5 Dee Why Parade), to allow for a more attractive, safe and active streetscape on Howard Avenue by eliminating the driveway access from Howard Avenue.</p> <p><i>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.</i> <u>Comment:</u> The proposal is in accordance with this objective, having a shop/restaurant on the</p>

Objectives of the Zone
<p>ground floor and housing above.</p> <ul style="list-style-type: none"> To encourage site amalgamations to facilitate new development and to facilitate the provision of car parking below ground. <p><u>Comment:</u> The applicant must attempt to amalgamate with the adjoining sites to the east (20 and 22 Howard Avenue). If these attempts are unsuccessful evidence must be provided with any future development application of genuine attempts to amalgamate. Please see The NSW Land and Environment Courts Planning Principle on Consolidation.</p>

Principal Development Standards:			
Standard	Permitted	Proposed	Comment
Minimum subdivision lot size:	N/A	N/A	N/A
Rural Subdivision:	N/A	N/A	N/A
No Strata Plan or Community Title Subdivisions in certain rural and environmental zones:	N/A	N/A	N/A
Height of Buildings: Note: Building heights under WLEP 2011 are taken from existing ground level.	24m	Generally 24m with a small non-compliance caused by the lift overrun.	The location of the lift overrun will not be readily visible from the public domain and will not have any significant negative impacts on the area. The breach is considered acceptable, however a Clause 4.6 Variation will be required to accompany the DA.

Part 5 Miscellaneous Provisions	
Provision	Comment
5.1 Relevant acquisition authority	N/A
5.1A Development on land intended to be acquired for a public purpose	N/A
5.2 Classification and reclassification of public land	N/A
5.3 Development near zone boundaries	N/A
5.4 Controls relating to miscellaneous permissible uses	N/A
5.5 Development within the coastal zone	N/A
5.6 Architectural roof features	Not adopted
5.7 Development below mean high water mark	N/A

5.8 Conversion of fire alarms	N/A
5.9 Preservation of trees and vegetation	N/A
5.10 Heritage conservation	N/A
5.11 Bush fire hazard reduction	N/A
5.12 Infrastructure development and use of existing buildings of the Crown	N/A
5.13 Eco-tourist facilities	N/A

Part 6 Relevant Additional Local Provisions	
Provision	Comment
6.1 Acid Sulfate Soils	N/A
6.2 Earthworks	The application must be accompanied by a geotechnical report and detail how excavated material will be disposed of and how adjoining properties will be protected.
6.3 Flood Planning	<p>Council's Natural Environment Unit (NEU) has provided the following comments:</p> <ul style="list-style-type: none"> • A flood risk assessment report must be submitted with the Development Application – the guidelines for undertaking this are available on the Council website. • All development shall be designed to withstand the hydraulic forces of the 1 in 100 year flood event. • All development shall be constructed of flood compatible materials up to the Flood Planning Level of 14.7m AHD. • The restaurant/retail at the front of the development must be set at the Flood Planning Level of 14.7m AHD. The ramp down to the basement carparking/garbage store/bicycle parking must be set with a crest at the Flood Planning Level of 14.7m AHD.
6.4 Development on Sloping Land	Given the depth of excavation in close proximity to neighbouring buildings, a geotechnical report will be required to be provided with the application including recommendations for safe excavation and construction.
6.5 Coastline Hazards	N/A
6.6 Erection of dwelling houses in Zone E3 Environmental Management	N/A
6.7 Residential Flat Buildings in Zone B4 Mixed Use	N/A
6.8 Subdivision of Certain Land	N/A
6.9 Location of Sex Services Premises	N/A

Relevant Schedules	
Schedule	Comment
Schedule 1 Additional permitted uses	N/A
Schedule 2 Exempt development	N/A
Schedule 3 Complying development	N/A

Relevant Schedules	
Schedule 4 Classification and reclassification of public land	N/A
Schedule 5 Environmental heritage	N/A

Other Relevant WLEP 2011 Clauses

Warringah Development Control Plan 2011 (WDCP 2011)

Consideration of proposal against Warringah Development Control Plan 2011

Warringah Development Control Plan			
Part B: Built Form Controls			
Control	Requirement	Proposed	Comment
B1. Wall height	N/A	N/A	N/A
B2. Number of storeys	N/A	N/A	N/A
B3. Side Boundary Envelope	N/A	N/A	N/A
B4. Site Coverage	N/A	N/A	N/A
B5 & B6. Side Boundary Setbacks	N/A	N/A	N/A
B7 & B8. Front Boundary Setbacks (Albert Street)	N/A	N/A	N/A
B9 & B10. Rear Boundary Setbacks	N/A	N/A	N/A
B11. Foreshore Building Setback	N/A	N/A	N/A
B12. National Parks Setback	N/A	N/A	N/A
B13. Coastal Cliffs Setback	N/A	N/A	N/A
B14. Main Roads Setback	N/A	N/A	N/A
B15. Minimum Floor to Ceiling Height	Ground floor 3.6m Upper floors 2.7m	Ground floor retail 3.6m Upper floors 2.7m other than parking levels. Parking levels 2.4 and 2.5m.	The proposed variations to the carparking areas are acceptable.
Part C: Siting Factors			
Control	Comment		
C1. Subdivision	N/A http://www.warringah.nsw.gov.au/publications/documents/2281518_LAPPL310_Common_Vehicular_Access_to_Multip.pdf		
C2. Traffic, Access and Safety	Council's Traffic Management Officer has provided the following comments:		

Warringah Development Control Plan	
	<p><i>The applicant will need to provide adequate justification for the use of the public car parking for the restaurant. This would need to be assessed through parking occupancy surveys for the operating times of the restaurant, as part of the traffic report.</i></p> <p><i>The deficiency in bicycle parking is significant and if this is to be accepted, justification for this shortfall is required. the provision of bicycle parking should conform to AS2890.3.</i></p> <p>Additionally Council's Urban Designer has stated that the car park access from Howard avenue is undesirable. The applicants should investigate the possibility of gaining access through the adjacent property to the rear from Dee Why Parade.</p>
C3. Parking Facilities	<p>The proposal falls short of the required number of parking spaces. Council's Traffic Management Officer has provided the following comments:</p> <p><i>The applicant will need to provide adequate justification for the use of the public car parking for the restaurant. This would need to be assessed through parking occupancy surveys for the operating times of the restaurant, as part of the traffic report.</i></p> <p><i>The deficiency in bicycle parking is significant and if this is to be accepted, justification for this shortfall is required. the provision of bicycle parking should conform to AS2890.3.</i></p>
C4. Stormwater	<p>Council's Stormwater Engineer provided the following comments:</p> <ul style="list-style-type: none"> • <i>OSD proposal to have OSD tank located underneath the car park area on first level is acceptable, provided unimpeded access to the tank is achieved.</i> • <i>Stormwater discharge to Howard Avenue kerb and gutter is acceptable – easement for drainage is not required over the footpath.</i>
C5. Erosion and Sedimentation	<p>Appropriate measures will need to be implemented during demolition and construction to prevent erosion and sedimentation.</p>
C6. Building over or adjacent to Constructed Council Drainage Easements	<p>N/A</p>
C7. Excavation and Landfill	<p>Excavation of the site must be carried out in a safe manner in accordance with the control. The application must include a geotechnical report given the depth of excavation adjacent to neighbouring buildings.</p>
C8. Demolition and Construction	<p>The application must include a Waste Management Plan, Construction Management Plan (including Construction Traffic Management) demonstrating that the demolition and construction will be carried</p>

Warringah Development Control Plan	
	out in accordance with the control.
C9. Waste Management	The current proposal is unacceptable with regard to the location and design of the bin room. The bin room must be within 6.5m of the front boundary. Separate bin rooms must be provided for the residential and retail components of the development. A bulky goods waste storage room must also be provided, although it is not necessary for this room to be within 6.5m of the front boundary.
Part D: Design	
Control	Comment
D1. Landscaped Open Space and Bushland Setting	N/A
D2. Private Open Space	Private open space to be provided in accordance with the Residential Flat Design Code (RFDC).
D3. Noise	The application should demonstrate that the upper level parking does not create a noise nuisance in the area or for the proposed dwellings above.
D4. Electromagnetic Radiation	N/A
D5. Orientation and Energy Efficiency	The dwellings will need to achieve the solar access and ventilation requirements of the RFDC.
D6. Access to Sunlight	Shadow diagrams must be provided with the application to demonstrate no unreasonable overshadowing will be caused.
D7. Views	Potential view loss will be assessed if submissions are received. As the proposal is generally within the building height control it is unlikely any unreasonable view loss will be caused given the built form controls applicable to the site.
D8. Privacy	The application should demonstrate that a reasonable level of privacy to residential neighbours is maintained, and between the proposed new apartments.
D9. Building Bulk	The building is generally within the applicable built form controls and is not considered to result in an unreasonable bulk and scale.
D10. Building Colours and Materials	Details should be included in the application. Colours and materials should be sympathetic to the surrounding natural and built environment.
D11. Roofs	The location of the lift overrun close to the middle of the building is unlikely to detract from the appearance of the roof.
D12. Glare and Reflection	The proposal should utilise non-reflective materials and colours to minimise glare and reflection.
D13. Front Fences and Front Walls	N/A
D14. Site Facilities	Necessary site facility locations should be shown on the plans including bin rooms and mail boxes.
D15. Side and Rear Fences	N/A
D16. Swimming Pools and Spa Pools	N/A
D17. Tennis Courts	N/A
D18. Accessibility	The application must provide accessible paths to the retail component of the development. Development is to comply with Australian Standard AS1428.2.
D19. Site Consolidation in the R3 and IN1 Zone	N/A
D20. Safety and Security	The casual surveillance provided by the

Warringah Development Control Plan	
	development of the road area is likely to improve safety and security in the area.
D21. Provision and Location of Utility Services	The plans provided must show the location of utility services.
D22. Conservation of Energy and Water	N/A
D23. Signs	Any proposed signage for the retail component of the development should be included in the application and meet the requirements of the control.
Part E: The Natural Environment	
Control	Comment
E1. Private Property Tree Management	N/A
E2. Prescribed Vegetation	N/A
E3. Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conversation Habitat	N/A
E4. Wildlife Corridors	N/A
E5. Native Vegetation	N/A
E6. Retaining unique environmental features	N/A
E7. Development on land adjoining public open space	N/A
E8. Waterways and Riparian Lands	N/A
E9. Coastline Hazard	N/A
E10. Landslip Risk	The site is in Area A on the landslip risk map, which would not usually generate the requirement for a geotechnical report. However given the proposed depth of excavation adjacent to adjoining buildings, a geotechnical report is required to be provided including recommendations for safe excavation and construction without impacts on the adjoining buildings.
E11. Flood Prone Land	<p>Council's NEU provided the following comments:</p> <ul style="list-style-type: none"> • <i>A flood risk assessment report must be submitted with the Development Application – the guidelines for undertaking this are available on the Council website.</i> • <i>All development shall be designed to withstand the hydraulic forces of the 1 in 100 year flood event.</i> • <i>All development shall be constructed of flood compatible materials up to the Flood Planning Level of 14.7m AHD.</i> • <i>The restaurant/retail at the front of the development must be set at the Flood Planning Level of 14.7m AHD. The ramp down to the basement carparking/garbage store/bicycle parking must be set with a crest at the Flood Planning Level of 14.7m AHD.</i>

Warringah Development Control Plan	
Part F: Zones and Sensitive Areas	
Control	Control
F1. Local and Neighbourhood Retail Centres	N/A
F2. Brookvale Brickworks	N/A
F3. SP1 Special Activities	N/A
F4. Infrastructure Zone	N/A
Part G: Special Area Controls	
Control	Control
G1. Dee Why Mixed Use Area	<p>The proposal is generally consistent with the requirements of the control, with the exception of the number of storeys, which is limited to 6. Given that the development will not provide sufficient parking to achieve the requirements of Appendix 1 of the WDCP, the number of storeys should be reduced.</p> <p>As stated above, the application should demonstrate that genuine attempts have been made to amalgamate with the sites to the east, and that vehicular access via the adjoining property to the north has been investigated.</p> <p>The applicant is also encouraged to consider the possibility of purchasing the land to south of the site from Council in order to allow development up to the build-to line.</p> <p>The proposed above ground parking is not compliant with the requirements, but is consistent with the adjoining development to the west. Appropriate screening of the parking level and noise attenuation measures must be implemented.</p> <p>Council's Urban Designer provided the following comments:</p> <ul style="list-style-type: none"> <i>Car park access from Howard Ave is not desirable as it compromises continuous footpath/awning design. Investigate right-of-carriageway entry from neighbouring properties from the back.</i> <i>Footpath awning design over driveway to car park is not desirable and could potentially be hazardous.</i> <i>Proposed car parking floors above-ground could be a nuisance noise source to surrounding residents.</i> <i>The site slopes down from Howard Avenue so building height-line should reflect that in building section drawing.</i>
G2. R3 Medium Density Residential bound by Sturdee Parade, Pacific Parade and land zoned B4 Mixed Use	N/A
G3. Belrose Corridor	N/A

Warringah Development Control Plan	
G4. Warringah Mall	N/A
G5. Freshwater Village	N/A

Other Relevant Controls within WDCP 2011

Appendix 1 – Car Parking Requirements

Other Relevant Environmental Planning Instruments/SEPPs

You are advised that the following Environmental Planning Instruments apply to the development:

- SEPP No. 55 – Remediation of Land; - A Phase 1 Site Contamination Assessment must be submitted with the application.
- SEPP No. 64 – Advertising and Signage (if required);
- SEPP No. 65 – Design Quality of Residential Flat Development (including the Residential Flat Design Code);
- SEPP (Infrastructure) 2007; and
- Warringah Local Environment Plan 2011.

Relevant Council Policies

You are advised of the following (but not limited to all) Council's policies available at www.warringah.nsw.gov.au:

- Applications for Development - Policy for the handling of unclear, non conforming, insufficient and Amended applications: PDS-POL 140
- Stormwater drainage for low level properties PDS-POL 135
- Building over or adjacent to constructed Council drainage systems and easements: PAS-PL 130
- Common vehicular access to multiple properties: LAP-PL 310
- Development Applications relating to trading hours under the Liquor Act 1982: LAP-PL 610
- Vehicle access to all roadside development: LAP-PL 315
- Waste PL 850

Required Documentation

- All information required to be submitted under Schedule 1 of the Environmental Planning and Assessment Regulation 2000;
- All information as required on the Development Application form checklist;
- Site Analysis (prepared in accordance with Schedule 8 of WLEP 2000);
- Site Survey (prepared by a registered Surveyor);
- Statement of Environmental Effects addressing:
 - Section 79C of EPA Act,
 - all relevant sections of WLEP 2011, including demonstrating consistency with the zone and the compliance with the Height of Buildings Development Standard.
 - All relevant sections of WDCP 2011;
 - other relevant Environmental Planning Instruments.
 - Dee Why Town Centre Masterplan.
- Geo-technical report;
- Construction Traffic Management Plan (including Traffic Management);
- Preliminary Site Contamination Assessment;
- Phase 1 Site Contamination Assessment;

Required Documentation
<ul style="list-style-type: none"> • Access Report; • Preliminary BCA Report; • Traffic and Parking Report; • Crime Prevention Through Environmental Design (CPTED) assessment; • SEPP 65 Design Verification Statement from a qualified designer; • RFDC Report - Full assessment against the Rules of Thumb; • Shadow diagrams; • View analysis; • Photomontages (when viewed from Howard Avenue and the rear of the site); • Waste Management Plan (excavation ,demolition, construction and operational); • Stormwater Management Plan; • Erosion and Sedimentation Plan; • Colour and Materials Schedule; • Lighting Plan if necessary; • Signage Plan (if signage proposed); • Cost Summary Report (This report is to be in addition to the Estimated Cost of Work options in Part 2.3 of Council's Development Application Form).
Concluding Comments
<p>These Minutes are in response to a pre-lodgement meeting held on 21 November 2013 to discuss a shop-top housing development at Lot 2 in DP 502637, No. 18 Howard Avenue. The Minutes reference preliminary plans prepared by Humel Architects dated 21.10.2013.</p> <p>The proposal is generally consistent with the relevant controls, with the exception of the carparking requirements and number of storeys under the WDCP.</p> <p>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.</p> <p>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.</p> <p>Based upon the above comments you are advised to satisfactorily address the matters raised in these minutes prior to lodging a development application.</p>
Other Matters
<ul style="list-style-type: none"> • Requirement to Submit Correct, Clear and Accurate Information at Lodgement <p>You are advised, that if an application is unclear, non-conforming or provides insufficient information, or if Council requests additional information in accordance with Clause 54 of the EPA Regulations 2000 and it is not provided within the specified time frame, a development application may be rejected or refused without notice.</p> <p>The time to discuss and amend your design is prior to lodgement of your Development Application, as there will be no opportunity to do so during the assessment process.</p> <ul style="list-style-type: none"> • Privacy and Personal Information <p>You are advised that Council is legally obliged to make Development Applications and supporting documents available for public inspection – see section 12 of the Local Government Act 1993. We do this at the Customer Service Centre and by placing copies of the applications and supporting documents on the Council website.</p>

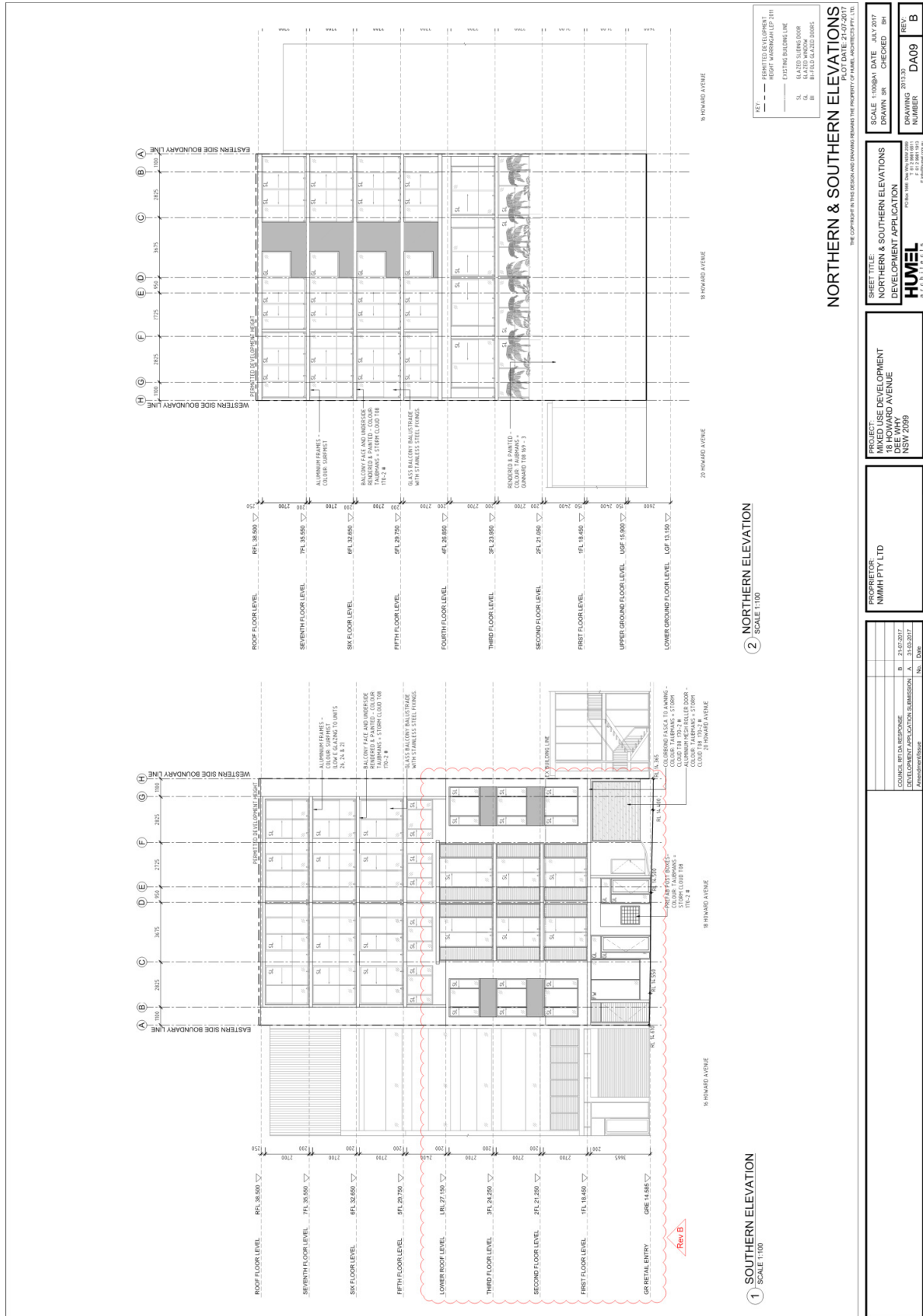
Other Matters

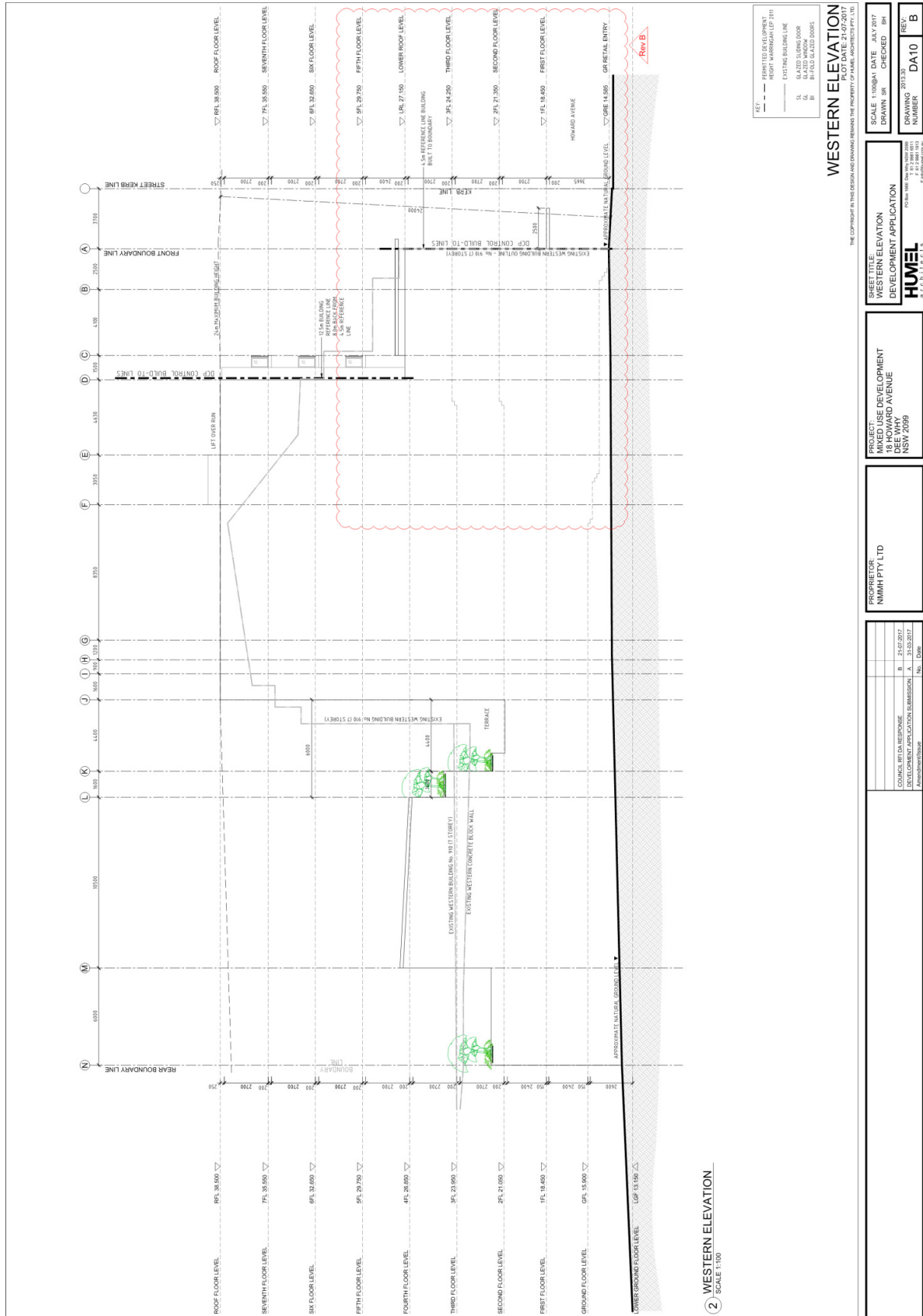
Should this proposal result in a development application being lodged these notes will form part of the development application documentation that will appear on Council's website – DA's online.
www.warringah.nsw.gov.au

- **Monitoring DA progress after lodgement**

Once lodged you can monitor the progress of your application through Council's website – DA's online.
www.warringah.nsw.gov.au









ITEM 3.4 **DA0181/2012 - 69 PITTWATER ROAD, MANLY - SECTION 96(2)
TO MODIFY APPROVED DEMOLITION OF THE EXISTING
BUILDINGS, CONSTRUCTION OF A MIXED USE
DEVELOPMENT - PART 4**

REPORTING OFFICER **Claire Downie**
TRIM FILE REF **2017/422704**
ATTACHMENTS **1 Assessment Report**
 2 Site Plan and Elevations

PURPOSE

To refer the attached application for determination as required under adopted delegations of Council.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Independent Assessment Panel, as the consent authority, **approve** Application No. DA0181/2012 for Section 96(2) to modify approved Demolition of the existing buildings, construction of a mixed use development – Part 4 on land at Lots A and B DP 307310 and Lot 1 DP 368360, 69 Pittwater Road, Manly, for the reasons outlined in the Assessment Report.



Northern Beaches Independent Assessment Panel Report

2017/366063

DA #	181/2012
Site Address	69 Pittwater Road, Manly Lots A and B 307310 and Lot 1 DP 368360
Proposal	Section 96 (2) to modify approved Demolition of the existing buildings, construction of a mixed use development – Part 4
Officer	Claire Downie

SUMMARY:

Application Lodged:

4 August 2017

Applicant:

Benson McCormack Architecture

Owner:

Makawi Manly Pty Ltd

Estimated Cost:

\$6,600,000

Zoning:

MLEP, 2013 – B2 Local Centre

Heritage:

Pittwater Road Conservation Area

NSW LEC:

The original application was subject of an appeal to the NSW Land and Environment Court, which was withdrawn after an agreement was reached in relation to the conditions of consent.

Notification:

9-25 August 2017

Submissions received:

Three

Site Inspected:

26 September 2017

LEP (4.6) Variations proposed:

Floor Space Ratio

DCP Variations proposed:

Nil

Recommendation:

Approval

Subject Property and surrounding area



The subject property is commonly known as 69 Pittwater Road, Manly and legally known as Lots A and B in DP 307310 and Lot 1 in DP 368360. The site is located on the western side of Pittwater Road. The property is irregular in shape and has a frontage of 28.895m to Pittwater Road, an average depth of 50.5m and an overall site area of 1,404m². The property is currently excavated.

1 of 38

B1, B2, B6, IN2 & SP3 Zones – S96

The adjacent property to the north, at 71 Pittwater Road, is developed with a three-storey residential flat building. The property to the south, at 61-63 Pittwater Road, is developed with a three-storey residential flat building. Development in this area of Pittwater Road consists of commercial premises and residential flat buildings.

Property Burdens and Constraints

There are no burdens or constraints that would preclude the proposed development.

Site History/Background

On 17 August 2012, the applicant lodged Development Application No. 181/2012 for demolition of the existing buildings, construction of two separate buildings (of three and five levels) for a mixed use development comprising of three commercial spaces, thirty six residential apartments and two-level basement car park with forty four spaces. On 2 October 2012, the applicant lodged an appeal with the NSW Land and Environment Court for deemed refusal.

On 9 October 2014, an Interim Heritage Order was issued by the Minister for Planning to prevent the demolition of the buildings on the site for a period of 12 months to afford statutory heritage protection while a study of the remains of the undercliff house occurred. Council was unaware of the undercliff house at the determination of the original application.

The application was forwarded to the former Manly Independent Assessment Panel on 18 October 2012 and approved. A Notice of Discontinuance in relation to the appeal was subsequently issued on 6 November 2016.

On 29 July 2015, the applicant lodged a Section 96(2) application (Part 2) for the modification of Development Consent No. 181/2012 involving stratum subdivision, extension to basement level to provide an additional ten car spaces and storage, additional balconies and internal reconfiguration. Council rejected the application as it was inconsistent with the Interim Heritage Order. The applicant's solicitor subsequently refuted Council's rejection of the application.

On 2 October 2015, the Minister for Planning notified Council that the remnants of the undercliff house did not meet the threshold for listing on the State Heritage Register, but recommended the site be considered of local heritage significance. The Interim Heritage Order expired on 8 October 2015, and Council subsequently accepted the Section 96(2) application (Part 2) on 13 October 2015. The application was approved by the former Manly Independent Assessment Panel on 17 March 2016.

The second application Section 96(2) application (Part 3) was lodged on 23 September 2016 and was for the modification of Development Consent No. 181/2012 involving changes to the basements, fire stairs, lift, walls, windows, entry stairs, balconies, landscaping, addition of air conditioning condensers, removal of awnings, increase walkway, increase in floor areas, internal reconfigurations, new balconies, new doors, new fire shutters, extension of screens, and slabs. Part 3 was approved by MIAP on 16 March 2017.

Description of proposed development

The current Section 96 application (Part 4) seeks consent for the following modifications:

- Removal of fire stair (resulting in additional 9.95sqm commercial floor space);
- Deletion of skylights;
- Changes to awnings;
- Amendments to balcony balustrades;
- Enclosure of balconies to Units 201A-205A (resulting in additional 51sqm of residential floor space);
- Deletion of solar panels and air conditioning condenser units.

Internal Referrals

Engineering Comments

Council's Engineer offered no objections to the proposal.

Building Comments

Council's Building Surveyor offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Heritage Comments

Council's Heritage Officer has commented on the proposal as follows:

"The application is a S.96, substantially the same as the originally approved DA. Therefore, it is fair to assess that impact of the current proposal will be closely similar to the impact of the previously approved DA. Based on the above, I have no objection to this proposal from heritage perspective and deem heritage conditions not required."

Waste Comments

Council's Waste Officer offered no objections to the proposal, subject to the imposition of conditions of consent.

External Referrals

No external referrals were considered necessary.

Planning Comments

Environmental Planning & Assessment Act 1979 – Section 79(C)(1)

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) *the provisions of:*
 - (i) *any environmental planning instrument, and*

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide (ADG)

SEPP 65 and the ADG apply to mixed use developments. The proposed amendments generally do not alter the approved development's compliance with SEPP 65 and the ADG. The exception to this is in relation to private open space, as detailed below:

Clause 4E of the ADG requires that one-bedroom apartments provide a primary balcony of 8m², with a minimum dimension of 2m. The dimensions of the balconies remain unchanged, but the balconies to Units 201A, 202A, 203A, 204A and 2015A are proposed to be enclosed in order to provide acoustic and pollutant protection. As such, the approved balconies would no longer be strictly open. As demonstrated by the Eastern Elevation, the relevant balconies are to be enclosed with sliding glass screens above the balustrades to a height of approximately 2.43m above finished floor level, with fixed open metal louvres above the glass screens to the full height of the balcony opening. Further, the glass screens are to be openable to a minimum of two thirds of the balcony width. In this way, while enclosable, the balcony spaces retain a constant source of air circulation (with the open fixed louvred) and are still able to be predominantly opened. As such, the balconies provide a reasonable outdoor space for the recreational use of residents, as per the definition of private open space contained within in the Apartment Design Guide.

State Environmental Planning Policy (Infrastructure) 2007

Clause 101 of the above SEPP applies, as the subject site has frontage to a classified road. The proposed modifications are not considered to modify the approved development's compliance with this SEPP.

Objectives of zone

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.

The proposed modifications to the approved development retains the retail premises at the ground floor in order to serve the needs of the people who live in, work in and visit the local area.

- To encourage employment opportunities in accessible locations.

The proposed modifications to the approved development retain the approved retail premises, which provide employment opportunities.

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

The subject site is located on the main bus route to, and within walking distance of, the Manly CBD and Manly ferry wharf.

Part 4 Principal development standards

The provisions of the Manly LEP 2013 have been referred to as part of the assessment:

4.	Principal Development Standards	Requirement	Approved	Proposed	Complies Yes/No	Comments
4.4	Floor Space Ratio	2:1 2,808m ²	2.005:1 2,816m ²	2.049:1 2,876.95m ²	No	See comment below.

4.6 Exceptions to development standards

Whilst the modification application will result in a floor space ratio that exceeds the maximum permitted by Clause 4.4 (Floor space ratio) of the MLEP 2013, the application does not strictly need to address the requirements of Clause 4.6. This application has been made under Section 96 of the Environmental Planning and Assessment (EP&A) Act 1979, which is a free standing provision which in itself authorises the development to be approved notwithstanding any breach of development standards. Section 96 is subject to its own stand-alone tests (such as substantially the same test and consideration of all relevant s.79C matters) and does not rely upon having a Clause 4.6 variation in order to determine the modification application.

Clause 4.6 regulates whether development consent may be granted, not whether an existing consent may be modified, and therefore does not apply to Section 96 modification applications. Notwithstanding that Clause 4.6 does not apply to Section 96 applications, the merits of the departure have been assessed below with regards to the objectives of the floor space ratio development standard.

Floor Space Ratio

The following assessment of the variation to Clause 4.4 – Floor space ratio development standard and is assessed taking into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

Requirement	2:1 (2,808sqm)
Proposed	2.049:1 (2,876.95sqm)
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	2.17% to development standard 2.16% to approved GFA

The proposal must satisfy the objectives of Clause 4.4 – Floor space ratio, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the MLEP 2013. The assessment is detailed as follows:

Is the planning control in question a development standard?

The prescribed floor space ratio limitation pursuant to Clause 4.4 – Floor space ratio of the MLEP 2013 is a development standard.

What are the underlying objectives of the development standard?

The underlying objectives of the standard, pursuant to Clause 4.4 – Floor space ratio of the MELP 2013 are:

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

- (a) *to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,*

Comment: The additional commercial gross floor area resulting from the proposed modifications to the approved development are internal only and do not add to the bulk of the building as viewed from the street. The first floor eastern balconies are proposed to be enclosed by screening, thereby increasing residential floor space. As the proposed screening is to be clear glazing, the visual bulk of the balconies is not unreasonably increased, retaining a consistent visual impact along the streetscape.

- (b) *to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,*

Comment: The additional gross floor area resulting from the proposed modifications to the approved development do not obscure any landscape or townscape features.

- (c) *to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,*

Comment: The additional gross floor area resulting from the proposed modifications to the approved development will not impact upon the visual relationship between new development and the existing character and landscape of the area.

- (d) *to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,*

Comment: The additional gross floor area resulting from the proposed modifications to the approved development do not impact upon the use or enjoyment of adjoining land or the public domain.

- (e) *to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.*

Comment: The additional gross floor area resulting from the proposed modifications to the approved development do not impact upon the viability of the B2 Local Centre zoning of the land.

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 B2 Local Centre zone.

The underlying objectives of the B2 Local Centre zone are as follows:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

The proposed modifications to the approved development retains the retail premises at the ground floor in order to serve the needs of the people who live in, work in and visit the local area.

- *To encourage employment opportunities in accessible locations.*

The proposed modifications to the approved development retain the approved retail premises, which provide employment opportunities.

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

The subject site is located on the main bus route to, and within walking distance of, the Manly CBD and Manly ferry wharf.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the MLEP 2013?

- (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.*

Comment: The proposed modifications to the approved development provide for an appropriate level of flexibility in applying the floor space ratio development standard

- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Comment: The proposed modifications allow for a better outcome in that surplus access points are removed and floor space is reinstated, without resulting in any additional unreasonable impacts.

- (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: Whilst the modification application will result in a floor space ratio that exceeds the maximum permitted by Clause 4.4 (Floor space ratio) of the MLEP 2013, the application does not strictly need to address the requirements of Clause 4.6. This application has been made under Section 96 of the Environmental Planning and Assessment (EP&A) Act 1979, which is a free standing provision which in itself authorises the development to be approved notwithstanding any breach of development standards. Section 96 is subject to its own stand-alone tests (such as substantially the same test and consideration of all relevant s.79C matters) and does not rely upon having a Clause 4.6 variation in order to determine the modification application.

Clause 4.6 regulates whether development consent may be granted, not whether an existing consent may be modified, and therefore does not apply to Section 96 modification applications. Notwithstanding that Clause 4.6 does not apply to Section 96 applications, the merits of the departure have been assessed below with regards to the objectives of the floor space ratio development standard.

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

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

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

Comment: As above, a written request is not required.

- (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 B2 Local Centre zone in the MLEP 2013.

(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 Floor Space Ratio Development Standard is assumed.

Part 5 Miscellaneous Provisions

There are no relevant miscellaneous provisions under Part 5 of the Manly LEP 2013 to consider as part of this assessment.

Part 6 Local Provisions

The provisions of the Manly LEP 2013 have been referred to as part of the assessment:

6.	Local Provisions	Applies	Complies	Comments
6.16	Gross floor area in Zone B2	Yes	Improvement on approved development	The proposed modifications increase the approved development's commercial floor space by 9.95sqm to a total of 171sqm, equating to 6% of the total gross floor area. While this is not compliant, the proposed modifications result in an improvement on the existing development in relation to Clause 6.16 of the Manly LEP 2013.

79C(1)(a)(ii) - any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and

There is no applicable Draft Planning Instrument.

79C(1)(a)(iii) - any development control plan, and

Manly Development Control Plan 2013:

The following is an assessment of the proposal's compliance with the standards of the Development Control Plan. Where a variation is proposed to the standards, an assessment is included in the Planning Comments.

Part 3 General Principles of Development

Issues	Consistent with principle	Inconsistent with principle
Streetscape	✓	
Heritage – In Vicinity	✓	
Landscaping Design	✓	
Landscape/Tree Preservation	✓	
Sunlight Access and Overshadowing	✓	
Privacy and Security	✓	
Maintenance of Views	✓	
Sustainability	✓	
Accessibility	✓	
Stormwater management	✓	
Waste Management	✓	
Mechanical Plant Equipment	✓	

Comment:

The Heritage, Landscaping Design, Landscape/Tree Preservation, Sunlight Access and Overshadowing, Privacy and Security, Maintenance of Views, Sustainability, Accessibility, Stormwater Management, Waste Management and Mechanical Plant objectives of the MDCP 2013 are not relevant in this case, as the proposed modifications to the approved development do not result in any further unreasonable impacts than that of the approved works.

3.1 Streetscapes and Townscapes

Streetscape

Objective 1) To minimise any negative visual impact of walls, fences and carparking on the street frontage.

The proposed modifications to the approved development do not alter the approved walls on the street frontage and do not introduce fencing or car parking on the street frontage.

Objective 2) To ensure development generally viewed from the street complements the identified streetscape.

The proposed modifications, including to the balustrades and awnings along the Pittwater Road frontage, are consistent with, and complementary to, the existing streetscape. The first floor eastern balconies are proposed to be enclosed by screening. However, as the proposed screening is to be clear glazing, the visual bulk of the balconies is not unreasonably increased, retaining a consistent visual impact along the streetscape.

Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate.

The proposed modifications do not alter the approved landscape arrangements and do not introduce fencing.

Part 4 - Development Controls

Site Area: 1,404m ²	Permitted/ Required	Approved	Proposed	Complies Yes/No
Awnings	3.5-4.5m above ground Setback min. 600mm from kerb	3.5m above ground Nil setback from kerb	3.5m above ground Nil setback from kerb	Yes – consistent with approval

Part 5 - Special Character Areas and Sites

Special Character Areas and Sites	Applicable	Not Applicable
Conservation Area	✓	
Foreshore Scenic Protection Area		✓
Threatened Species and Critical Habitat		✓
Flood Control Lots		✓
Riparian Land and Watercourses		✓
Road Widening		✓
Gurney Crescent and Clavering Road, Seaforth		✓

Comment:

The proposed development is consistent with the Special Character Areas and Sites objectives and provisions in relation to the Pittwater Road Conservation Area. The proposed development is not considered to have any unreasonable impact on the heritage significance of the area. In regards to the visual impact on the streetscape, the modifications will not result in any unreasonable changes to the appearance of the building. It is noted that Council's Heritage Advisor raised no objections to the proposal.

79C(1)(a)(iia)- any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
No planning agreement has been entered into in relation to the proposed modifications to the approved development.

79C(1)(a) (iv) - the regulations

The relevant prescribed regulations contained within the *Environmental Planning and Assessment Regulations 2000* are addressed through the imposition of suitable conditions.

79C(1)(a)(v) - any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)

There is no Coastal Zone Management Plan applicable for the Manly area.

79C(1) (b) - the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The proposed modifications to the approved development will not result in any unreasonable impact on the natural and built environments or any unreasonable social and economic impacts in the locality.

79C(1) (c) - the suitability of the site for the development,

The proposed modifications to the approved development are suitable for the site.

79C(1) (d) - any submissions made in accordance with this Act or the regulations

The application was notified to nearby and adjoining property owners in accordance with Section 2.3 of Council's Development Control Plan 2013 with three submissions received from the following objectors raising the following concerns:

Submission and Address	Main Issues raised in the submission
1. F. Wilson 110 Pittwater Road, Manly	<ul style="list-style-type: none"> Concerned about parking, traffic modelling and management, and location of bollards
2. B. Riordan 108 Pittwater Road, Manly	<ul style="list-style-type: none"> Concerned about increase to parking spaces, pedestrian and vehicular safety, and location of bollards

3. Confidential	<ul style="list-style-type: none"> • Concerned about balcony enclosures not being included in gross floor area calculations • Pittwater Road facade is flat and unarticulated • The portico element detracts from the building • Awnings do not appear to accommodate street trees • Air conditioning condensers have been removed, but bulky roof screens remain and would overshadow the photovoltaics.
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Comment:

Parking / Traffic – Modelling, Management and Safety / Bollards

No change is proposed to the approved parking, traffic and bollard arrangements as part of this modification application.

Balcony Enclosure / Calculation of FSR

The Assessing Officer has included the enclosure of the balconies in the calculation of floor space ratio. The non-compliance in relation to floor space ratio is acceptable for the reasons detailed in the section of this report relating to Part 4 of the Manly LEP 2013 – Principal Development Standards – Floor Space Ratio. The areas proposed to be enclosed will continue to be used for private open space, as winter gardens, as detailed in the section of this report relating to State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and the Apartment Design Guide.

Pittwater Road Facade

The Pittwater Road façade remains largely unchanged from the approved development, with minor changes to the awnings and first floor eastern balcony balustrades, and enclosure of the first floor eastern balconies. These modifications are considered acceptable for the reasons detail in the section of this report relating to Part 4 of the Manly DCP 2013 – General Principles of Development – Streetscape.

Awnings / Street Trees

The proposed modifications to the awnings allow for the retention of the existing street trees, as required by conditions of consent.

Air Conditioning Condensers / Roof Screening

The approved roof screening is to remain as it screens remaining photovoltaic panels and lift overrun.

79C(1) (e) - the public interest.

The proposed modifications to the approved development are in the public interest.

S94 Contribution towards provision or improvement of amenities or services

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. The Act reads as follows:

- (1) *If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:*
- the dedication of land free of cost, or*
 - the payment of a monetary contribution,*
- or both.*
- (2) *A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned.'*

Comments:

Condition No. ANS01 (2US01) originally required a Section 94 contribution of \$720,000, being \$20,000 for each new dwelling. A credit of \$204,014.45 was then applied in relation to existing commercial floor space and one existing dwelling on site.

The calculation of existing commercial floor space at the time of the original application is as follows:

- Existing floor space $864\text{m}^2 \times 25,082.70 = \$216,959.91$
- Proposed Commercial Floor Space 154.5m^2 plus car parking 60m^2 (4 spaces) = 214.5m^2
- $864\text{m}^2 - 214.5\text{m}^2 = 649.5\text{m}^2$

Commercial floor space contributions are calculated a rate per 100m^2 . At the time the credit was applied, the rate was \$25,082.7 per 100m^2 . As such, the credit for the previously existing commercial floor space is calculated as follows:

- $6.495 \times \$25,082.7 = \$162,912.15$

One dwelling existing on site at the time of the original application. The contribution calculation for the dwelling is $2.7 \times 3 = \$41,102.32$ as per Council Section 94 Policy. Whilst the Section 94 payment is capped by the State Government at \$20,000 the Council's stated Policy figure is \$41,102.32. A credit for \$41,102.32 was considered appropriate. As such, the total credit applied to the Section 94 contribution was as follows:

- Total commercial floor space credit plus total existing dwelling credit
- $\$162,912.15 + \$41,102.32 = \$204,014.45$.

The total S94 applicable was then \$515,985.55.

The proposed modifications under the current Section 96 application result in an additional 9.95sqm of commercial floor space. As such, additional contributions are required as follows:

- Current rate: $\$28,036.34 \times 100\text{m}^2$
- $\$28,036.34 / 100 = \280.3634 per 1m^2
- $\$280.3634 \times 9.95\text{m}^2 = \$2,789.62$

As such, an additional \$2,789.62 has been applied to Condition No. ANS02 (2US01), totalling \$518,775.17.

Section 96 (2) of the Environmental Planning and Assessment Act 1979

(2) Other modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and
- (c) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, or

- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1) and (1A) do not apply to such a modification.

- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.
- (4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.
- (5) **Threatened species**
Development consent of the kind referred to in section 79B (3), or in respect of which a biobanking statement has been issued under Part 7A of the Threatened Species Conservation Act 1995, is not to be modified unless:
 - (a) in the case of development referred to in section 79B (3)—the requirements of section 79B (3)–(7) have been complied with in relation to the proposed modification as if the application for the proposed modification were an application for development consent, or
 - (b) in the case of development in respect of which a biobanking statement has been issued under Part 7A of the Threatened Species Conservation Act 1995—the applicant has made an application for modification of the biobanking statement in relation to the proposal and a new biobanking statement has been issued or the consent authority is satisfied that the modification will have no impact on biodiversity values (within the meaning of that Act).

With regard to the above it is considered that the proposed modifications to the original consent, will result in substantially the same development for which consent was originally granted. The modifications requested were notified in accordance with Council's Manly DCP with three submissions received. All matters relating to the proposed modifications in terms of impact on have been considered. On balance, the proposed modifications are considered to be satisfactory for approval, subject to conditions.

CONCLUSION:

The application has been assessed having regard to Section 79C and Section 96 of the Environmental Planning and Assessment Act 1979, the Manly Local Environmental Plan 2013 and the Manly Development Control Plan 2013 and is considered to be satisfactory for approval, subject to conditions.

This report is referred to the Manager of Development Assessment for determination in accordance with the delegations granted by the General Manager.

RECOMMENDATION

That pursuant to Section 96(2) of the Environmental Planning and Assessment Act 1979, the proposed modification to Development Consent No. 181/2012 for approved Demolition of the existing buildings, construction of two (2) separate buildings consisting of a three (3) level and a five (5) level building for a mixed use development comprising of three (3) commercial spaces, thirty six (36) residential apartments and two (2) level basement car park with forty four (44) spaces – Part 4 at 69 Pittwater Road, Manly be **Approved** subject to:

The following Condition No. ANS01 (2US02) is to be amended as per Section 96(2) – Part 4:

ANS01 (2US01)

A Section 94 contribution is to be paid for the provision of or increase the demand for public amenities and public services as a consequence of the development in the area. The total contribution for this development of Demolition of the existing buildings, construction of two (2) separate buildings consisting of a three (3) level and a five (5) level building for a mixed use development comprising of three (3) commercial spaces, thirty six (36) residential apartments and two (2) level basement car park with forty four (44) spaces is \$518,775.17 being \$20,000.00 per additional dwelling and \$2,789.62 for additional commercial floor space, minus a credit of \$204,014.45 for existing commercial floor space and existing dwellings. This contribution shall be paid to Council prior to the release of the Construction Certificate. The s94 contribution to be paid is \$518,775.17.

Note: The Section 94 Contribution fees are indexed annually in accordance with movements in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.

Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from the development.

ANS02

Additional street planting as per specifications of existing street trees of 1 x Cupaniopsis anacardioides between existing tree to the south and power pole outside SM02 on Landscape Concept Plan. Plans to be amended for Construction Certificate.

Reason: To improve the streetscape.

The following Condition No. ANS03 was deleted as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS03
DELETED

The following Condition No. ANS04 is to be amended as per Section 96(2) – Part 3 – determined on 16 March 2017:

ANS04

The height of the boundary fence/wall along the northern boundary shall be reduced to 1800mm. Plans are to be amended prior to issue of the Construction Certificate.

Reason: To reduce the height of the wall along the common boundary with No.71 Pittwater Road.

ANS05

A detailed Acid Sulphate Soils assessment is to be completed following demolition of the existing structures to determine if an Acid Sulphate Soils management plan is warranted. In the event that an Acid Sulphate Soils Management Plan is prepared compliance with the recommendations is to be adhered to throughout the construction of the development.

Reason: To reduce impacts of the development on the natural and built environment.

ANS06

- a) Any redundant driveways shall be removed and the kerb and gutter is reinstated to match the existing.

- b) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the Roads and Traffic Authority for approval prior to the commencement of any works.
Details should be forwarded to:
The Sydney Asset Management
Roads and Traffic Authority
PO Box 973
PARRAMATTA CBD 2124
A plan checking fee will be payable and a performance bond may be required before the RTA's approval is issued. With regard to the Civil Works requirement please contact the RTA's Project Engineer, External Works Ph. 88492114 or Fax 8849 2766.
- c) All works associated with the development shall be at no cost to the RTA.
- d) The applicant shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
- e) All vehicles are to enter and leave the site in a forward direction.
- f) The layout of the proposed car parking areas associated with the subject development, (including driveways, grades, turn paths, site distance requirements, aisle widths, aisle lengths and parking bay dimensions), should be in accordance with AS 2890.1 – 2004 and AS 2890.2 – 2002 for heavy vehicle usage.
- g) Any proposed landscaping and / or fencing must not restrict sight distance to pedestrian and cyclists.
- h) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter and site before stopping. A construction zone will not be permitted on Pittwater Road.

Reason: To comply with NSW Transport – Roads and Maritime Services requirements.

ANS07
DELETED

ANS08
Details of all batten screens to the North face of Block B demonstrating spacing and widths of battens, materials and colours shall be submitted prior to issue of the Construction Certificate.
Reason: To confirm performance of privacy measures with respect to No. 71 Pittwater Road and quality of natural light for occupants of North facing units of the subject development.

The following Condition No. ANS09 was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS09

A Heritage Interpretation Strategy is to be prepared for the site. The Interpretation Strategy should be prepared in accordance with the NSW Heritage Council's "Interpreting Heritage Places and Items Guidelines" document, and should be prepared by a suitably qualified consultant with experience in undertaking interpretation strategies. The recycling of building material in the new development provides only a small part of the interpretation program that would be appropriate to the site. The site is a private property with limited opportunity for public access. Any interpretation program should consider some form of interpretation at street front for on-site interpretation. A supplementary form of interpretation is off-site interpretation. This could be undertaken effectively through a web-based project, administered by a responsible authority, such as Manly Council.

Such a project would bring together technical specialists from appropriate fields, Council's Local Studies Section, as well as community members including local historical groups and individual community members that have shown an interest in the site. Consideration is also required to be given to the interpretation of any recovered archaeological remains.

The Interpretations strategy must be submitted to and approved by Manly Council's Heritage Advisor, prior to the issue of Construction Certificate. The recommendations are then to be implemented as part of the approved development.

Reason: To reveal the cultural significant aspects of the place as a historical record, and assist in the public understanding of the place.

The following Condition No. ANS10 (3MS01) was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS10 (3MS01)

Works in connection with any Section 96 modification are not to be commenced/carried out until a new Construction Certificate is issued.

Reason: The Environmental Planning and Assessment Act 1979 requires a new updated Construction Certificate to cover any or all approved Section 96 modifications involving changes in the design of the development.

The following Condition No. ANS11 was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS11

The Applicant is required to lodge an application with the NSW Heritage Office in accordance with s.139 and s.140 of the NSW Heritage Act 1977.

Reason: To ensure the identification and conservation of Manly's significant archaeological resources.

The following Condition No. ANS12 was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS12

An expanded excavation plan shall be prepared to mitigate any adverse impacts to potential archaeological remains during the works. This is to be submitted to and approved by both Council and the Heritage Division of OEH prior to the issue of any Construction Certificate.

Reason: To ensure the heritage significance of the site is not adversely affected and best practice for heritage conservation is undertaken

The following Condition No. ANS13 was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS13

This application does not include any external signage, therefore no consent is given and a separate development application must be lodged complete with details regarding illumination, is to be submitted to Council's satisfaction, at a future date. Any proposed signage and illumination is to be complementary to the surrounding character of the Conservation Area and Heritage items in the vicinity.

Reason: To ensure that the proposed signage is appropriate to the character and style of the Conservation area and Heritage items in the vicinity.

The following Condition No. ANS14 was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS14

A photographic archival record is to be made of all the existing buildings and structures (including the interiors and exterior and their setting), with specific reference to the Undercliff building remnants, in accordance with NSW Heritage Council Guidelines "photographic Recording of Heritage Items using Film or Digital Capture" prior to commencement of works or any demolition works and as revealed during works.

The record is to be in A4 format in an appropriate archival folder. Measured drawings of the Undercliff building remnants are to be included in the record. Two copies are to be submitted to Heritage Division of OEH and Council's satisfaction prior to the release of the Construction Certificate. Written confirmation that both the Heritage Division and Council reserves the right to use the photographs for their own purposes and genuine research purposes is also to be included. Of the two copies one is to be stored in Heritage Division library and the other in Manly Council's Library.

Reason: To provide a historic record of heritage significant works on the site for archival purposes.

The following Condition No. ANS15 was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS15

The reuse and recycling of significant elements such as Fireplaces, wall vents, ceiling roses, timber joinery and sandstone walling is required. The recycling is to occur, preferably on site and/or to suitable professional recycling yards specialising in the recycling of historic building materials. Removal and storage of these materials is to be carefully carried out by the workers and a specific stockpile area is to be designated and protected. A detailed plan for execution of the above requirements is to be submitted to and approved by Council's Heritage Advisor prior to issue of Construction Certificate.

Reason: To allow for preservation of cultural resources within the Manly Council area.

The following Condition No. ANS16 was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS16

The proposed works are to be carried out in a manner which minimises any unnecessary alteration, new penetrations/fixing or irreversible damage to the significant fabric. Particular care must be taken to minimise damage to the significant fabric of the building during the deconstruction of the remnant fabric which is intended for re-use on site.

A detailed plan regarding the deconstruction process is required. This plan will identify the work method involved with the intended deconstruction process and relocation within the new structure.

Reason: To ensure the heritage significance of the site is not adversely affected and best practice for heritage conservation is undertaken.

The following Condition No. ANS17 was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS17

A schedule of external colours is to be submitted to Council's satisfaction prior to the issue of any Construction Certificate. The external colour schemes of new buildings are to be in keeping with the character of the Conservation Area. The external colour scheme for surfaces intended for painting is to be based, where possible, on physical and documentary evidence in keeping with the architectural style and period of the Conservation Area.

Reason: To ensure the proposed colour scheme is appropriate to the type and style of the building and the surrounding area.

The following Condition No. ANS18 was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS18

Any archaeological artefacts found during the excavation work will need to be stored in perpetuity by the proponent. This may require the provision of a small dry room with shelving within the development. Consideration should also be given to methods of display, within the foyer of the building, of any artefacts found during the excavation works. A detailed plan for execution of the above requirements is to be submitted to and approved by Council's Heritage Advisor prior to issue of Occupation Certificate.

Reason: To reveal the cultural significant aspects of the place as a historical record, and assist in the public understanding of the place.

The following Condition No. ANS19 (2HT04) was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS19 (2HT04)

A Maintenance Plan specifically relating to recovered fabric for the site is to be prepared in accordance with the NSW Heritage Council's "Preparing a Maintenance Plan" document. This document should include a cyclical maintenance program, covering both annual and long term maintenance requirements. It must be submitted to and approved by Manly Council's Heritage Advisor prior to the issue of Construction Certificate.

Reason: To ensure the ongoing conservation and protection of Manly's significant heritage resources.

The following Condition No. ANS20 (2HT05) was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS20 (2HT05)

The applicant is to commission an experienced heritage consultant to work with the consultant team throughout the design development, contract documentation and construction stages of the project. The heritage consultant is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The heritage consultant is to be provided with full access to the site and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project.

Written details of the engagement of the experienced heritage consultant must be submitted to Council prior to issuing of any Construction Certificate for works on the site.

Reason: To ensure that all matters relating to significant fabric and spaces are resolved using best practice for heritage conservation.

The following Condition No. ANS21 (2HT06) was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS21 (2HT06)
DELETED

The following Condition No. ANS22 (4HT01) was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS22 (4HT01)

The proposed works are to be carried out in a manner which minimises any demolition, alteration, new penetrations/fixing or irreversible damage to the significant fabric of the existing buildings which are listed as heritage items in Schedule 5 – Environmental Heritage of the Manly Local Environmental Plan 2013. Particular care must be taken to minimise damage to the significant fabric of the building during the carrying out of the internal fit out and any electrical or plumbing works.

Reason: To ensure the heritage significance of the site is not adversely affected and best practice for heritage conservation is undertaken.

The following Condition No. ANS23 (4HT02) was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS23 (4HT02)

The applicant is to commission experienced tradespersons (as appropriate) skilled in traditional building and engineering trades to carry out the proposed scope of works.

Reason: To ensure all matters relating to significant fabric and spaces are undertaken using best practice for heritage conservation.

The following Condition No. ANS24 (4HT05) was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS24 (4HT05)

The applicant must obtain an Aboriginal Heritage Impact Permit (AHIP) from the Office of Environment and Heritage (issued under the part 6 of the National Parks and Wildlife Act 1974 - NPW Act) and comply with the conditions and requirements of the AHIP in the development program.

Should any historical relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the Office of Environment and Heritage should be informed in accordance with Section 146 of the Heritage Act 1977. Should any Aboriginal relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance of the area must stop immediately and the Office of Environment and Heritage is to be informed in accordance with Section 91 of the National Parks and Wildlife Act 1974.

Reason: To ensure the proper management and preservation of archaeological material.

The following Condition No. ANS25 (4HT06) was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS25 (4HT06)

Any cleaning of stone work is to be carried out by experienced people with the appropriate materials to ensure the stone work is not damaged.

Reason: To allow for preservation of cultural resources within the Manly Council area.

The following Condition No. ANS26 was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS26

DELETED

The following Condition No. ANS27 (7SD01) was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS27 (7SD01)

The Subdivision Certificate to enable the lodgement of the linen plan at Department of Lands must not be issued until the Principal Certifying Authority for Development Consent has issued the final Occupation Certificate in relation to that development.

Reason: To ensure the plans relate to the approved development.

The following Condition No. ANS28 (7US01) was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS28 (7US01)

All engineering works including the provision of services, drainage, driveways and earthworks, are to be completed prior to the issue of the Subdivision Certificate.

Reason: To ensure adequate access and services have been provided for the new lots.

The following Condition No. ANS29 (7US02) was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS29 (7US02)

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator; for details see the Sydney Water web site www.sydneywater.com.au or telephone 13 20 92.

Following application a 'Notice of Requirements' will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the linen plan/occupation of the development.

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

The following Condition No. ANS30 was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS30

An accessible entry path from the street and car parking area, and a continuous accessible pathway through the courtyard to the adaptable units is to be provided. Plans are to be amended accordingly, prior to the issue of any Construction Certificate.

Reason: To provide equitable and dignified access for all people in accordance with the disability discrimination legislation and to comply with the Disability (Access to Premises- Buildings) Standards 2010 and relevant Australian Standards.

The following Condition No. ANS31 was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS31

The bathroom layout of the adaptable units 101A & 102A shall be reconfigured in accordance with the Access to Premises Standards and the AS 1428.1. The drawings are to be amended to ensure storage space in the form of cupboards, shelving or an accessible vanity unit is provided in the adaptable units' bathrooms according to AS1428. Amended plans demonstrating compliance are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure Adaptable housing is achieved in accordance with disability antidiscrimination legislation, relevant Australian Standards, and the Manly Development Control Plan 2013, Amendment 7.

The following Condition No. ANS32 was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS32

A Stage 2 Detailed Investigation in accordance with the *Managing Land Contamination Planning Guidelines* is to be undertaken and a report prepared by suitably qualified contaminated land professional, after the demolition of the structures on the site. Construction and/or earthworks must not commence until a Stage 2 Detailed Investigation has been undertaken and a report submitted to Council. Should the Stage 2 Detailed Investigation not conclude that the site in its current condition is suitable for the proposed development, without further works being required, a Stage 3 Remedial Action Plan (RAP) prepared in accordance with the *Managing Land Contamination Planning Guidelines* will be required, outlining how the site will be remediated suitable for the proposed use.

Any proposed remediation works constitute Category 1 Remediation Works that required development consent and advertising for thirty (30) days. Following the remediation works, a Stage 4 Validation and Site Monitoring Report stating the site in its current condition is suitable for the proposed development without further works, will be required in accordance with *Managing Land Contamination Planning Guidelines*. A Notice of Completion for all remediation work in accordance with the *State Environmental Planning Policy No 55 (SEPP 55)* must be submitted to Council upon completion of remediation works.

Reason: To ensure potential contamination onsite is investigated and remediated for the proposed use in accordance with the Managing Land Contamination Planning Guidelines and SEPP 55

The following Condition No. ANS33 was added as per Section 96(2) – Part 2 – determined on 17 March 2016:

ANS33

A Site Audit in accordance with the Contaminated Lands Management Act 1997 is to be prepared for the Stage 2 Detailed Investigation and submitted to Council with the Stage 2 Detailed Investigation. If a Stage 3 Remedial Action Plan and Stage 4 Validation and Site Monitoring Report are required then a Site Audit in accordance with the Contaminated Lands Management Act 1997 is to be prepared considering these stages, and submitted to Council.

The Site Audit is to be prepared by an EPA accredited consultant and a site audit statement submitted to Council and the Accredited Certifier prior to the issue of any Occupation Certificate.

Reason: To ensure that potential contamination on the site is remediated in accordance with SEPP 55 and the Managing Land Contamination Planning Guidelines.

The following Condition No. ANS34 is to be added as per Section 96(2) – Part 3 – determined on 16 March 2017:

An Erosion and Sediment Management Plan which provides adequate measures for erosion and sediment control, must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier. The Erosion and Sediment Management Plan shall comply with the requirements for Erosion and Sediment Management plans contained with Clause 2.1.11 of the Manly Development Control Plan, 2013 and Manly Council's Guidelines for Sediment and Erosion Controls on Building Sites, 2005.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

The following Condition No. ANS35 (2PT05) is to be added as per Section 96(2) – Part 3 – determined on 16 March 2017:

ANS35 (2PT05)

Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required car parking spaces. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Drawings must be submitted with the Construction Certificate application.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

The following Condition No. ANS36 is to be added as per Section 96(2) – Part 3 – determined on 16 March 2017:

ANS36

Units 102B and 103B shall retain the sliding privacy screens on the balconies in accordance with the original approval.

Reason: To protect the privacy of adjoining neighbours.

GENERAL CONDITIONS

The following Condition No.1 is to be amended as per Section 96(2) Application – Part 4:

DA1

The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and reference documentation;

Drawings affixed with Council's 'Development Consent' stamp relating to Development Consent No. 181/2012:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
A-0101 Basement 2	Revision A dated August 2102	17/08/2012
A-0102 Basement 1	Revision A dated August 2102	17/08/2012
A-0103 Level 1	Revision A dated August 2102	17/08/2012
A-0104 Level 2	Revision A dated August 2102	17/08/2012
A-0105 Level 3	Revision A dated August 2102	17/08/2012
A-0106 Level 4	Revision A dated August 2102	17/08/2012
A-0107 Level 5	Revision A dated August 2102	17/08/2012
A-0108 Roof	Revision A dated August 2102	17/08/2012
A-0109 Basement Access Ramp	Revision A dated August 2102	17/08/2012
A-0201 Pittwater Road Elevation	Revision A dated August 2102	17/08/2012
A-0202 North Elevation	Revision A dated August 2102	17/08/2012
A-0203 South Elevation	Revision A dated August 2102	17/08/2012
A-0204 West Elevation	Revision A dated August 2102	17/08/2012
A-0205 Pittwater Road Study and Materials	Revision A dated August 2102	17/08/2012
A-0221 Section West	Revision A dated August 2102	17/08/2012
A-0222 Section East	Revision A dated August 2102	17/08/2012
A-0223 Section North	Revision A dated August 2102	17/08/2012
A-0224 Detailed Section Northern Boundary	Revision A dated August 2102	17/08/2012
A-0225 Detailed Sections Central Courtyard	Revision A dated August 2102	17/08/2012
LP01 Landscape Concept plan	Revision A dated 13/08/12	17/08/2012
LP02 North Elevation	Revision A dated 13/08/12	17/08/2012
LP03 Sectional Elevations	Revision A dated 13/08/12	17/08/2012
LP04 Schedule/Soil depth/Materials	Revision A dated 13/08/12	17/08/2012

Documentation affixed with Council's stamp relating to Development Consent No. 181/12

- Statement of Environmental Effects prepared by Glendenning Minto, dated August 2012 and received by Council on 17/08/12.
- Survey Plan by Warren Elridge & Associates, dated 10/12/10 and received by Council on 17/08/12.
- Stormwater Management Plan by ITM Design P/L dated 15/08/12 and received by Council on 17/08/12.
- Geotechnical Report by Douglas Partners dated April 2011(with accompanying review letter dated 17/08/12) and received by Council on 17/08/12.
- Heritage Assessment Report by NBRS&P-Heritage dated August 2012 and received by Council on 17/08/12.
- Accessibility Review by Accessible Building Solutions dated 16/08/12 and received by Council on 17/08/12.
- Traffic and Parking Assessment report by Varga Traffic Planning dated 16/08/12 and received by Council on 17/08/12.
- Design Verification Statement by Benson McCormack Architects dated August 12 and received by Council on 17/08/12.
- Preliminary Acid Sulphate Soils Assessment by Geo- Environmental Engineering (GEE) dated 16/08/12 and received by Council on 17/08/12.
- Basix Certificate 370550m_02 sated 10/08/12 and received by Council on 17/08/12.

Except as amended by:

Plans affixed with Council's stamp relating to this Section 96(2) Application - Part 2:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
A-0101 / Basement 2	Revision B / July 2015	29 July 2015
A-0102 / Basement 1	Revision B / July 2015	29 July 2015
A-0103 / Level 1	Revision B / July 2015	29 July 2015
A-0104 / Level 2	Revision B / July 2015	29 July 2015
A-0105 / Level 3	Revision B / July 2015	29 July 2015
A-0106 / Level 4	Revision B / July 2015	29 July 2015
A-0107 / Level 5	Revision B / July 2015	29 July 2015
A-0201 / East Elevation (Pittwater Rd)	Revision B / July 2015	29 July 2015
A-0202 / North Elevation	Revision B / July 2015	29 July 2015
A-0203 / South Elevation	Revision B / July 2015	29 July 2015
A-0204 / West Elevation	Revision B / July 2015	29 July 2015
A-0221 / Section West	Revision B / July 2015	29 July 2015
A-0222 Section East	Revision B / July 2015	29 July 2015
A-0223 Section North	Revision B / July 2015	29 July 2015
A-0224 Detailed Section Northern Boundary	Revision B / July 2015	29 July 2015
A-0225 Detailed Sections Central Courtyard	Revision B / July 2015	29 July 2015
Sheet 1 of 5 Sheets	Issue A / 13 July 2015	29 July 2015
Sheet 2 of 5 Sheets	Issue A / 13 July 2015	29 July 2015
Sheet 3 of 5 Sheets	Issue A / 13 July 2015	29 July 2015
Sheet 4 of 5 Sheets	Issue A / 13 July 2015	29 July 2015
Sheet 5 of 5 Sheets	Issue A / 13 July 2015	29 July 2015

Documentation affixed with Council's stamp relating to this Section 96(2) Application – Part 2:

- Heritage Response written by Robert Staas, dated 13 November 2015 and received by Council 24 November 2015
- Review of Architectural Drawings written by Scott Easton of Douglas Partners Pty Ltd, dated 7 December 2015 and received by Council 8 December 2015
- Preliminary Acid Sulfate Soil Assessment dated 7 December 2015 and received by Council 8 December 2015
- Design Verification Statement by Benson McCormack Architects dated December 2015 and received by Council 21 December 2015
- Phase 1 Environmental Site Assessment written by JBS&G dated 21 January 2016 and received by Council 27 January 2016

Except as amended by:

Plans affixed with Council's stamp relating to this Section 96(2) Application - Part 3 – determined on 16 March 2017:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
A-0101 Basement 2	Issue C September 2016	23 September 2016
A-0102 Basement 1	Issue C September 2016	23 September 2016
A-0103 Level 1	Issue C September 2016	23 September 2016
A-0104 Level 2	Issue C September 2016	23 September 2016
A-0105 Level 3	Issue C September 2016	23 September 2016
A-0106 Level 4	Issue C September 2016	23 September 2016
A-0107 Level 5	Issue C September 2016	23 September 2016
A-0108 Roof Plan	Issue C September 2016	23 September 2016
A-0201 East Elevation (Pittwater Rd)	Issue C September 2016	23 September 2016
A-0202 North Elevation	Issue C September 2016	23 September 2016
A-0203 South Elevation	Issue C September 2016	23 September 2016
A-0204 West Elevation	Issue C September 2016	23 September 2016
A-0221 Section West	Issue C September 2016	23 September 2016
A-0222 Section East	Issue C September 2016	23 September 2016
A-0223 Section North	Issue C September 2016	23 September 2016

Documentation affixed with Council's stamp relating to this Section 96(2) Application – Part 3:

- Statement of Environmental Effects prepared by Benson McCormack Architecture dated 21 September 2016 and received by Council on 23 September 2016
- Design Verification Statement prepared by Benson McCormack Architecture dated 21 September 2016 and received by Council on 23 September 2016
- Building Code of Australia Capability Statement prepared by Philip Chun Building Compliance dated 20 September 2016 and received by Council on 23 September 2016

Except as amended by:

Drawings affixed with Council's 'Development Consent' stamp relating to this Section 96(2) Application – Part 4:

Plan No. / Title	Issue/ Revision & Date	Prepared By
A-0103 Level 1	Issue D 30 June 2017	Benson McCormack Architecture
A-0104 Level 2	Issue D 30 June 2017	Benson McCormack Architecture
A-0105 Level 3	Issue D 30 June 2017	Benson McCormack Architecture
A-0106 Level 4	Issue D 30 June 2017	Benson McCormack Architecture
A-0108 Roof Plan	Issue D 30 June 2017	Benson McCormack Architecture
A-0201 East Elevation (Pittwater Rd)	Issue E 26 October 2017	Benson McCormack Architecture
A-0202 North Elevation	Issue D 30 June 2017	Benson McCormack Architecture
A-0203 South Elevation	Issue D 30 June 2017	Benson McCormack Architecture
A-0223 Section North	Issue D 30 June 2017	Benson McCormack Architecture

Reference Documentation relating to this Section 96(2) Application – Part 4:

- BASIX Certificate No. 716414M prepared by Victor Lin & Associates Pty Ltd dated 1 April 2016
- Fire Engineering Report prepared by i-Fire Engineers dated 13 June 2017

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council.

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

1 (2AP01)

Four (4) copies of architectural drawings consistent with the development consent and associated conditions are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

2 (2AP03)

Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act 1991 which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

Reason: To advise developers of their responsibilities and to protect the interests of adjoining owners.

3 (2CD01)

Pursuant to Section 97 of the Local Government Act, 1993, Council requires prior to the issue of Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit of \$40,000. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicants interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

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

4 (2CD02)

A Dilapidation Report is required for this development. A photographic survey of adjoining properties No. 63 and 71 Pittwater Road, Manly detailing the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other such items, is to be submitted to Council and the Accredited Certifier (where Council does not issue the Construction Certificate) prior to the issue of the Construction Certificate. This survey is to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining properties.

All costs incurred in achieving compliance with this condition must be borne by the person entitled to act on this Consent.

If access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate, in writing, to Council's satisfaction attempts have been made to obtain access and/or advise the affected property owner of the reason for the survey and these attempts have been unsuccessful. Written concurrence must be obtained from Council in such circumstances.

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 maintain proper records in relation to the proposed development.

5 (2CD05)

Detailed engineering drawings of all work must be submitted for approval by the Council/Accredited Certifier prior to the release of the Construction Certificate.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.

6 (2CD06)

Four (4) certified copies of the structural engineer's details for the proposed development; including but not limited to all reinforced concrete, structural steel support construction and any proposed retaining walls; must be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure construction of the new development is in accordance with the structural engineers design.

7 (2CD08)

A Geotechnical Survey, on the stability of the subject site, is to be prepared by a suitably qualified geotechnical engineer in accordance with the guidelines contained in the current Manly Development Control Plan for Landslip and Subsidence. All recommendations of the report are to be complied with during the construction process. The report is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To structural integrity is to be maintained.

8 (2CD09)

A Geotechnical Survey is to be prepared by a suitably qualified geotechnical engineer for the proposed excavation. The requirements for a Geotechnical Survey are contained within the Dictionary of the Manly Development Control Plan for the Residential Zone 2007 - Amendment 1.

All recommendations of the survey are to be complied with during the construction process. The survey is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure excavation is undertaken in an appropriate manner.

9 (2DS01)

A detailed stormwater management plan is to be prepared to fully comply with Council's Specification for On-site Stormwater Management 2003 and Specification for Stormwater Drainage 2003 and must be submitted to Council for approval prior to issue of the Construction Certificate. The stormwater management plan and designs are to be prepared by a suitably qualified engineer with experience in hydrology and hydraulics..

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that infrastructure reverting to Council's care and control is of an acceptable standard.

10 (2DS02)

A system of Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) is to be provided within the property in accordance with Council's Specification for On-site Stormwater Management 2003. The design and details must be submitted to Council and be approved by Council prior to the issue of the Construction Certificate. The stormwater management plan and designs must be prepared by a suitably qualified engineer with experience in hydrology and hydraulics.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure public infrastructure in Council's care and control is not overloaded.

11 (2DS04)

The basement car parking level is to be adequately protected from flooding. Details are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To prevent property damage and ensure adequate provision is made for the discharge of stormwater from the excavated parts of the site.

12 (2DS05)

Pump systems will only be permitted for the drainage of seepage waters from basement areas. In this case, pump systems should be inspected and serviced regularly. Hydraulic analyses carried out by suitable qualified hydraulic engineer, confirming suitability of pumps should be submitted to Council.

Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner which protects adjoining properties.

13 (2DS07)

The design of rainwater tanks must be in accordance with the following:

- Australian/New Zealand Standard AS/NZS 3500:2003,
- NSW Code of Practice Plumbing and Drainage, 2006 produced by Committee on Uniformity of Plumbing and Drainage Regulations in NSW (CUPDR).
- Council's rainwater tank policy.

Reason: To protect public health and amenity.

14 (2FP02)

Detailed drawings and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage) within existing roads, must be submitted to and approved by Council under the Roads Act 1993, before the issue of any Construction Certificate. Specific works include:

- 1) Full width vehicular crossings having a maximum width, at the back of layback, of 3.5m and in accordance with the current policy of Council and Specifications for the construction of vehicle crossings; and
- 2) Longitudinal sections for both sides of the vehicular crossing and driveway commencing at the centre line of the road carriageway must be provided for assessment. Gradients and transitions must be in accordance with Australian Standard AS 2890.1 – 2004, Part 1 – Off-Street Car Parking. The driveway profile submitted to Council must be to scale at 1:25 (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

Driveway to be designed to provide for existing or future footpaths across driveway, in accordance with Council's Specification for Civil Infrastructure Works, Developments & Subdivisions 2003 and Australian Standard AS 1428.1:2001 - Design for access and mobility.

Reason: To facilitate suitable vehicular access to private sites.

15 (2FP03)

No portion of the proposed building or works, as approved within the subject site, are to encroach upon any road reserve or other public land except as may be permitted by the Local Government Act 1993. This includes the opening and closing of gates and doors which must open and close within the subject site.

Reason: To ensure structures are contained within the site.

16 (2FP04)

The pedestrian footpaths and pavements in the streets surrounding the proposed development are to be constructed as per Manly Council Paving Design Guidelines as amended. The design details are to be submitted with the Construction Certificate application for approval by Council prior to the issue of the Construction Certificate.

Reason: To ensure appropriate quality of public infrastructure arising from the development works.

17 (2HT04)

Deleted.

18 (2HT05)

Any work to a site which is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the DECC.

Reason: To protect Aboriginal heritage.

Any heritage listed stone kerb, identified in the Manly Local Environmental Plan 1988 is to be protected from damage during construction. Details of the method of protection of the kerb are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate. Photographs of the kerb are to be submitted to Council prior to the commencement of any building work.

Reason: To allow for preservation of cultural resources within the Manly Council area.

The following Condition No. 20 (2HT07) was deleted as per Section 96(2) – Part 2 – determined on 17 March 2016:

20 (2HT07)

DELETED

21 (2MS01)

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including drawings and specifications must be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Manly Council Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Sediment Control Plan must incorporate and disclose:

- 1) all details of drainage to protect and drain the site during the construction processes,
- 2) all sediment control devices, barriers and the like,
- 3) sedimentation tanks, ponds or the like,
- 4) covering materials and methods, and
- 5) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing these design requirements have been met must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier prior to issuing of the Construction Certificate.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

22 (2PT01)
DELETED

23 (2PT02)
All driveways, car parking areas and pedestrian paths are to be surfaced and sealed. Details of treatment to these areas are to be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.
Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

24 (2PT03)
DELETED

25 (2WM01)
Details of waste management facilities are to be submitted with the application for a Construction Certificate in accordance with the Manly Development Control Plan for Waste Minimisation and Management 2000.
Reason: To ensure appropriate management of waste.

26 (2WM02)
A Waste Management Plan is to be submitted with the application prior to a Construction Certificate being issued in accordance with the Manly Development Control Plan for Waste Minimisation and Management 2000.

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. Weight dockets and receipts must be kept as evidence of approved methods of disposal and recycling. All demolition and excess construction materials are to be recycled where ever practicable. It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.
Reason: To plan for waste minimisation, recycling of building waste and on-going waste management.

27 (2WM03)
Garbage rooms or grease arrester rooms must be constructed of solid material: cement rendered and steel trowelled to a smooth even surface. The door to the garbage room is to be designed and constructed to ensure the room is vermin proof and can be opened from the inside at all times. The garbage room is to be ventilated to the external air by natural ventilation or an approved air handling exhaust system.
Reason: To keep garbage rooms in a clean and sanitary condition to protect public health.

28 (2WM04)
The building must include not less than two independently designated areas or garbage rooms for commercial and for residential occupants; to keep commercial waste and recycling separate to residential waste and recycling.
Reason: To ensure the appropriate separation and collection of waste generated by commercial and residential activities.

29 (2WM05)
All Multi Unit Dwellings (MUDs) must locate the waste storage and recycling area with convenient access to Council's usual collection point.

To assist the servicing of a Council provided bins. Council allocates a 240L general waste bin, a 240L paper recycling bin and a 240L co-mingled recycling bin to be shared by every 4 residential dwellings. Provision for an additional 240L vegetation bin should be included.

The storage area for MUDs of 17 or more dwellings must be accessible to Council Garbage Collectors unless bins requiring collection are normally be presented at kerbside. For residential MUDs with 16 or fewer dwellings, kerbside collection is usually required. Refer to Manly Council's Development Control Plan for Waste Minimisation and Management.

Reason: To ensure Multi Unit Dwelling developments allow sufficient space for waste bins.

30 (2WM06)

All Multi Unit Dwellings must provide a location for dry recycling systems (i.e. recycling of paper and recyclable containers) and services. Manly Council provides recycling services to all residential dwellings.

Reason: To provide of dry recycling systems as required by the Department of Environment and Climate Change (DECC).

31 (2WM07)

DELETED

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

32 (3BM01)

The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with Australian Standard AS 3740. Certification is to be provided to the Principal Certifying Authority from a licensed applicator prior to the fixing of any wall or floor tiles.

Reason: To prevent the penetration of dampness through walls and floors.

33 (3CD01)

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions.

34 (3CD02)

Demolition must be carried out by a registered demolition contractor. Documentary evidence of registration must be submitted to Council prior to the commencement of demolition work.

Reason: To ensure demolition is carried out in an appropriate manner that is non-disruptive to the locality and the public.

35 (3CD03)

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.

36 (3FP01)

The applicant must complete an application form and pay applicable fees for an application to Council for the construction of a Vehicular Crossing, for the design, specification and inspection by Council. Applications are to be made a minimum of two (2) working days prior to commencement of proposed works on Council's property.

Reason: To provide suitable vehicular access to private sites, without disruption to pedestrian and vehicular traffic.

37 (3LD01)

DELETED

38 (3LD02)

DELETED

39 (3PT01)

In accordance with the Roads Act 1993, written consent from Council must be obtained and must be in hand prior to any track equipped plant being taken in or onto any roadway, kerb & gutter, footway, nature strip, or other property under Council's control.

Reason: To ensure appropriate protection of public infrastructure and facilitate access for public and vehicular traffic.

40 (3PT02)

Applications for a construction zone on a local road require 28 days notice to Council indicating location and length. All construction zones require the approval of the Manly Traffic Committee.

Reason: To ensure Council and the Traffic Committee have sufficient time and information to assess the traffic and access implications of a proposed construction zone and to develop appropriate responses to those implications.

41 (3PT03)

DELETED

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

42 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

43 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 11) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.

- 12) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- 13) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- 14) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 15) Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 16) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- 17) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

44 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7.00am and 6.00pm, Monday to Friday and 7.00am to 1.00pm Saturday. No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

45 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

46 (4CD05)

Retaining walls being constructed in conjunction with excavations must be in accordance with structural engineer's details. Certification by a suitably qualified structural engineer that the constructed works comply with the structural detail must be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To ensure the structural adequacy of the retaining walls.

47 (4CD06)

DELETED

48 (4CD07)

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence.

All removal, repair or disturbance of or to asbestos material must comply with the following:

- The Occupational Health and Safety Act 2000,
- The Occupational Health and Safety Regulation 2001,
- The Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (1998)],
- The Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)] <http://www.nohsc.gov.au/>], and
- The Workcover NSW Guidelines for Licensed Asbestos Removal Contractors.

Note: The Code of Practice and Guide referred to above are known collectively as the Worksafe Code of Practice and Guidance Notes on Asbestos. They are specifically referenced in the Occupational Health and Safety Regulation 2001 under Clause 259. Under the Occupational Health and Safety Regulation 2001, the Worksafe Code of Practice and Guidance Notes on Asbestos are the minimum standards for asbestos removal work. Council does not control or regulate the Worksafe Code of Practice and Guidance Notes on Asbestos. Those involved with work to asbestos should be made aware of the requirements by visiting www.workcover.nsw.gov.au or one of Workcover NSW's offices for further advice.

Reason: To ensure the health of site workers and the public.

49 (4DS02)

Any de-watering from the excavation or construction site must comply with the Protection of the Environment Operations Act 1997 and the following:

- 1) Ground water or other water to be pumped from the site into Council's stormwater system must be sampled and analysed by a NATA accredited laboratory or Manly Council for compliance with ANZECC Water Quality Guidelines, and
- 2) if tested by NATA accredited laboratory, the certificate of analysis issued by the laboratory must be forwarded to Manly Council as the appropriate regulatory authority under the Protection of the Environment Operations Act 1997, prior to the commencement of de-watering activities; and
- 3) Council will grant approval to commence site de-watering to the stormwater based on the water quality results received, and
- 4) It is the responsibility of the applicant to ensure during de-watering activities, the capacity of the stormwater system is not exceeded, there are no issues associated with erosion or scouring due to the volume of water pumped; and turbidity readings must not at any time exceed the ANZECC recommended 50ppm (parts per million) for receiving waters.

Reason: To ensure compliance with legislation and to protect the surrounding natural environment.

50 (4DS03)

Rainwater tanks must be installed on residential properties by a suitably qualified and licensed plumber and in accordance with the following:

- Australian/New Zealand Standard AS/NZS 3500:2003,
- NSW Code of Practice Plumbing and Drainage, 2006 produced by Committee on Uniformity of Plumbing and Drainage Regulations in NSW (CUPDR).
- Council's rainwater tank policy

Reason: To protect public health and amenity.

51 (4FP01)

The existing footpath level and grade at the street alignment of the property must be maintained.

Reason: To ensure appropriate access and infrastructure protection.

52 (4FR01)

The building is to be erected in Type A construction for a Class 2, 6 and 7a building in accordance with the Fire Resistance Provisions of the Building Code of Australia.

Reason: To specify the standard of construction and the level of fire safety required by the Building Code of Australia.

53 (4HT03)

Where an approved driveway construction necessitates the removal of any part of any existing heritage listed stone kerb, the redundant stone kerb blocks are to be carefully removed, without damage, in whole blocks. These kerb blocks are to be delivered to Council's depot in Balgowlah. To arrange access to the depot and a suitable time for delivery contact Council's Works Superintendent on 9976 1455 between 8.00 a.m. and 4.00 p.m. Mon-Fri. The removal and delivery of the stone kerb blocks is to be undertaken at the expense of the owner/applicant.

Reason: To allow for preservation of cultural resources within the Manly Council area.

54 (4HT04)

Should any historic relics be discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with Section 147 of the Heritage Act 1977.

Should any Aboriginal relics be discovered then all excavation or disturbance of the area is to stop immediately and the National Parks and Wildlife Service is to be informed in accordance with Section 91 of the National Parks and Wildlife Act 1974.

Reason: To ensure the proper management and preservation of historical artifacts.

55 (4LD01)

Landscaping is to be carried out in accordance with the approved Landscape Drawing;

LP01 Landscape Concept plan	Revision A dated 13/08/12	Received by Council 17/08/2012
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Reason: To ensure appropriate landscaping is carried out on the development site.

56 (4LD02)

DELETED

57 (4LD03)

DELETED

58 (4LD04)

The following precautions must be taken when working near trees to be retained:

- harmful or bulk materials or spoil must not be stored under or near trees,
- prevent damage to bark and root system,
- mechanical methods must not be used to excavate within root zones,
- topsoil from under the drip line must not be added and or removed,
- ground under the drip line must not be compacted, and
- trees must be watered in dry conditions.

Reason: This is to ensure no damage is caused to trees from various methods of possible damage.

59 (4LD05)

Trees and shrubs liable to damage (including, but not limited to street trees) are to be protected with suitable temporary enclosures for the duration of the works. These enclosures are to only be removed when directed by the Principal Certifying Authority.

The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground and spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.

Reason: To ensure protection of the trees on the site which could be damaged during any development works and to outline the type of protection.

60 (4LD06)

All disturbed surfaces on the land resulting from the building works authorised by this approval must be revegetated and stabilised to prevent erosion either on or adjacent to the land.

Reason: To prevent/contain erosion.

61 (4LD07)

DELETED

62 (4MS01)

Should you appoint Council as the Principal Certifying Authority (PCA) to undertake inspections during the course of construction, then the following inspection/certification are required:

- Silt control fences,
- Footing inspection - trench and steel,
- Reinforced concrete slab, x2
- Framework inspection, x2
- Wet area moisture barrier, x2
- Final inspection.

The cost of these inspections by Council is \$2,610. (being \$290 per inspection inclusive of GST). Payment of the above amount is required prior to the first inspection. Inspection appointments can be made by contacting the Environmental Services Division on 9976 1414.

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$160.

Reason: To ensure that the development is completed in accordance with the terms of the development consent and with the Building Code of Australia.

63 (4MS02)

In order to ensure compliance with approved drawings, a Survey Certificate, to Australian Height Datum, must be prepared by a registered surveyor as follows:

- a) at the completion of the first structural floor level indicating the level of that floor and the relationship of the building to the boundaries, and
- b) at the completed height of the building, prior to the placement of concrete in form work, or the laying of roofing materials, and
- c) at completion, the relationship of the building, and any projections thereto, to the boundaries.

Progress certifications in response to points (a) through (c) must be provided to the Principal Certifying Authority at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveal discrepancies between the approved drawings and the proposed works.

Reason: To ensure compliance with the development consent.

64 (4MS04)

The Sediment Control Plan is to be implemented from the commencement of works and maintained until completion of the development.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

65 (4PT01)

All requirements of the Local or Regional Traffic Advisory Committees are to be complied with.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner which respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community.

66 (4PT02)
DELETED

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

67 (5DS02)

A copy of the approved Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) drawing showing Works as Executed (WAE) details must be submitted to Council for approval prior to the issue of the Occupation Certificate. The WAE drawing is to be in accordance with Council's standards and Specification for Stormwater Drainage 2003 and Specification for On-site Stormwater Management 2003.

Reason: Compliance with the consent and Council standards and specifications.

68 (5DS03)

A restriction on the use of land and a positive covenant in respect of the installation and maintenance of onsite detention works is required to be imposed over the area of the site affected by onsite detention and/or pump system prior to the issue of the Occupation Certificate for the building and prior to the release of the trust fund deposit. The detailed information for a restriction on the use of land and a positive covenant is shown in Council's Specification for On-site Storm Water Management 2003.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

69 (5FP01)
DELETED

70 (5FP02)

The reconstruction and/or construction of footpath paving and any associated works along all areas of the site fronting Pittwater Road is required. These works are to be carried out prior to the issue of the Occupation Certificate by a licensed construction contractor, at the applicants expense and must be in accordance with Council's Specification for Civil Infrastructure Works and Paving Design Guide.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.

71 (5HT02)

Where there is an existing surplus vehicular crossing and/or kerb layback to be removed, the kerb and nature strip is to be reinstated prior to issue of the Occupation Certificate. If there is heritage listed stone kerb, as identified in the Manly Local Environmental Plan 1988, the kerb must be reinstated to Council's specification with stone to match the existing heritage listed kerb. Kerbing stones may be purchased from Council by contacting Council's Works Superintendent on 9976 1455 between 8.00am and 4.00pm Mon-Fri.

Reason: To allow for preservation of cultural resources within the Manly Council area.

72 (5LD01)

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Principal Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Drawing and a maintenance program has been established.

Reason: This is to ensure the landscaping is planted in accordance with the drawing and maintained appropriately

73 (5LD02)

Evidence of an agreement for the maintenance of all plants for a period of twelve (12) months from the date of practical completion of the building is to be provided to the Principal Certifying Authority prior to issue of the final Occupation Certificate.

Reason: To ensure landscaping will be appropriately maintained.

74 (5US01)

Any adjustment to a public utility service is to be carried out in compliance with its standards; where consent is required, with its concurrence; and with the full cost being borne by the applicant. Full documents of adjustments to any public utility service should be submitted to Council.

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

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

75 (6DS01)

The ongoing use and operation of the rainwater tank(s) must be maintained in accordance with:

- Sydney Water Guidelines for Rainwater Tanks on Residential Properties, 2003.
- Australian Government EnHealth Council publication Guidance on the use of Rainwater Tanks, 2004.

Reason: To protect public health and amenity.

76 (6FC01)

The erection of dividing fences under this consent does not affect the provisions of the Dividing Fences Act 1991. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Department of Lands. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. More than 85% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1 800 990 777 or at <http://www.cjc.nsw.gov.au/>.

Reason: To ensure the applicant is aware the Dividing Fences Act 1991 may be used to resolve disputes about dividing fences.

77 (6LP01)

No existing street trees can be removed without Council approval. Where such approval is granted, the trees must be replaced at full cost by the applicant with an advanced tree of a species nominated by Council's relevant officer.

Reason: To encourage the retention of street trees.

78 (6LP02)

No tree other than on land identified for the construction of buildings and works as shown on the building drawing can be felled, lopped, topped, ringbarked or otherwise wilfully destroyed or removed without the approval of Council.

Reason: To prevent the destruction of trees on other properties adjoining the development site.

79 (6LP03)

Landscaping is to be maintained in accordance with the approved Landscaping Drawing.

Reason: This is to ensure that landscaping is maintained appropriately.

80 (6LP04)

Leighton Green Cypress Cupressocyparis leylandii or any of its cultivars, must not be planted on the site for the life of the development. In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views, and loss of plant diversity.

81 (6MS02)

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

Reason: Statutory requirement, Environmental Planning and Assessment Act 1979.

82 (6NL01)

Glare from internal lighting is not permitted to extend beyond the limits of the building authorised by this approval.

Reason: To ensure there is no glare from internal lighting to neighbouring properties and land.

83 (6PT01)

The visitor parking is to be accessible at all times, and a sign post erected at the vehicular entry point(s) of the development indicating the location of the visitor parking.

Reason: To ensure visitors are not forced to park on public streets when visitor parking has been provided and is available within the development.

84 (6PT02)

Adequate vehicle parking as required by the Development Control Plan is to be available at all times for motor vehicles associated with the use of the land.

Reason: To ensure users of the land are not forced to park on public streets.

85 (6PT03)

Loading and unloading of vehicles and delivery of goods to the land must be carried out within the site. The car parking area shown on the approved drawings must be used for vehicle parking only. Any loading or unloading of materials of potential environmental damage must be appropriately bunded with adequate spill response equipment in place to ensure nil runoff from the site.

Reason: To ensure the safety and amenity of the general public using public streets, and to ensure the protection of the environment from spillage of materials.

86 (6PT04)

DELETED

87 (6WM02)

Waste collection from the premises must not occur between the hours of 10:00pm and 7:00am Monday to Sunday, without the prior approval of Council.

Reason: To minimise disruption to neighbouring properties.

88 (6WM03)

Waste bins used for commercial premises are to be left on public footpaths for the minimum time necessary for waste collection and then promptly removed. Lids should be closed to prevent littering.

Reason: To ensure waste and bins are promptly removed from public places following collection; to limit obstruction of footpaths or roads; and to minimise public amenity impacts.

89 (6WM04)

All non-recyclable waste from commercial premises must be presented for collection in a lidded receptacle. Waste receptacles are not to be stored in public spaces such as footpaths.

Reason: Public amenity and litter minimisation.

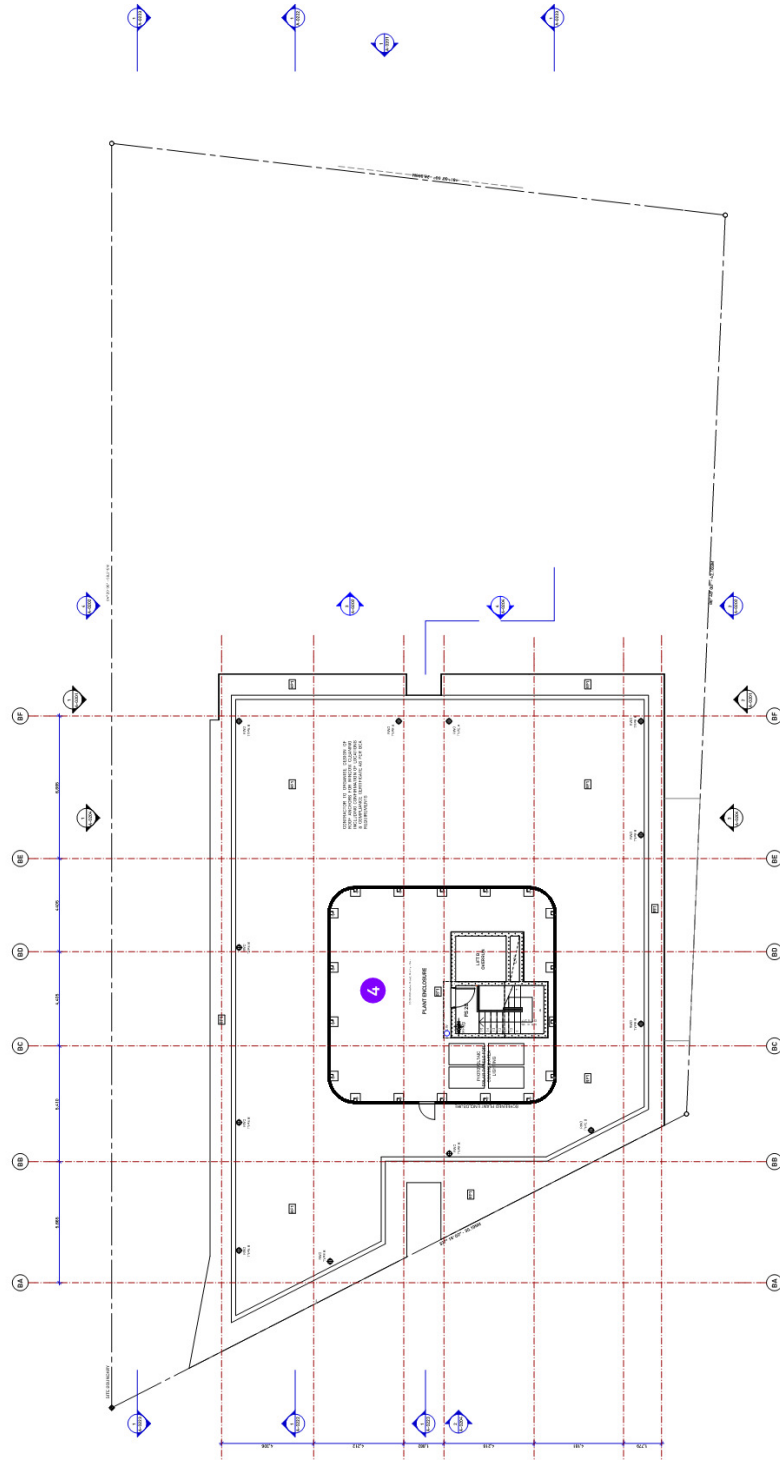
90 (6WM05)

No waste generated on site from any commercial operation is to be placed in public place bins. Commercial operators must maintain their commercial waste bins in an organised, clean and sanitary condition, preventing potential for litter from overflowing bins.

Reason: To communicate policy regarding illegal trade waste dumping in public bins; and maintenance of trade waste bins.

NOTES:
ALL STATUTORY SIGNAGE TO COMPLY WITH BCA. REFER SIGNAGE SCHEDULE FOR DETAILS.
ALL DRIVEWAYS, CAR PARKING AREAS AND PEDESTRIAN PATHS ARE TO BE SURFACED AND SEALED
ALL HABITABLE ROOMS TO COMPLY WITH THE BCA - PART F4
NATURAL LIGHT AND VENTILATION + FIRE ENGINEERING REPORT
ALL BUILDING COMPONENTS (INCLUDING EXTERNAL WALLS, DOORS, WINDOWS AND ROOF) ARE TO BE CONSTRUCTED AS PER RECOMMENDATIONS IN THE REPORT 20180679.171105A-RO-IP BY "ACOUSTIC LOGIC" DATED 11/05/2016.

COMMERCIAL & PUBLIC AREAS:
GLASS DOORS & FIXED PANELS SO LOCATED CAPABLE OF BEING MISTAKEN AS A DOORWAY OF UNIMPEDED PATH OR TRAVEL WILL BE PROVIDED A GRADE "A" SAFETY GLAZING IN ACCORDANCE WITH AS 1288-2006. "A" SAFETY GLAZING MATERIALS FOR USE IN BUILDINGS (HUMAN IMPACT) FOR OVERGLAZING AND GLAZING OF DOORS SHALL BE INSTALLED IN ACCORDANCE WITH TABLE 1A APPENDIX "A" OF AS1288 GLASS INSTALLATION CODE. A VISION BAND WILL BE INSTALLED AT 1M HIGH MEETING CLAUSE 6.6 OF AS1428.1-2009



PITTWATER ROAD

NOTES
This drawing is issued upon the condition it is to be used in accordance with the conditions of the contract and is not to be used for any other purpose without the written consent of Benson McCormack Architects.
DO NOT SCALE DRAWINGS.

REV	DATE	ISSUE
A	17.08.2012	DEVELOPMENT APPLICATION
B	23.07.2015	SRM2 APPLICATION - PART 2
C	23.08.2016	SRM2 APPLICATION - PART 3
D	30.06.2017	SRM2 APPLICATION

CLIENT
Makawil Manly Pty Ltd
PO Box 143
Croydon NSW 2132

PROJECT DETAILS
PITTWATER ROAD
65-69 Pittwater Road
Manly NSW 2095



SCALE
1:200 @ A3

PROJECT NO.
1009A

DRAWING NO.
A-0108

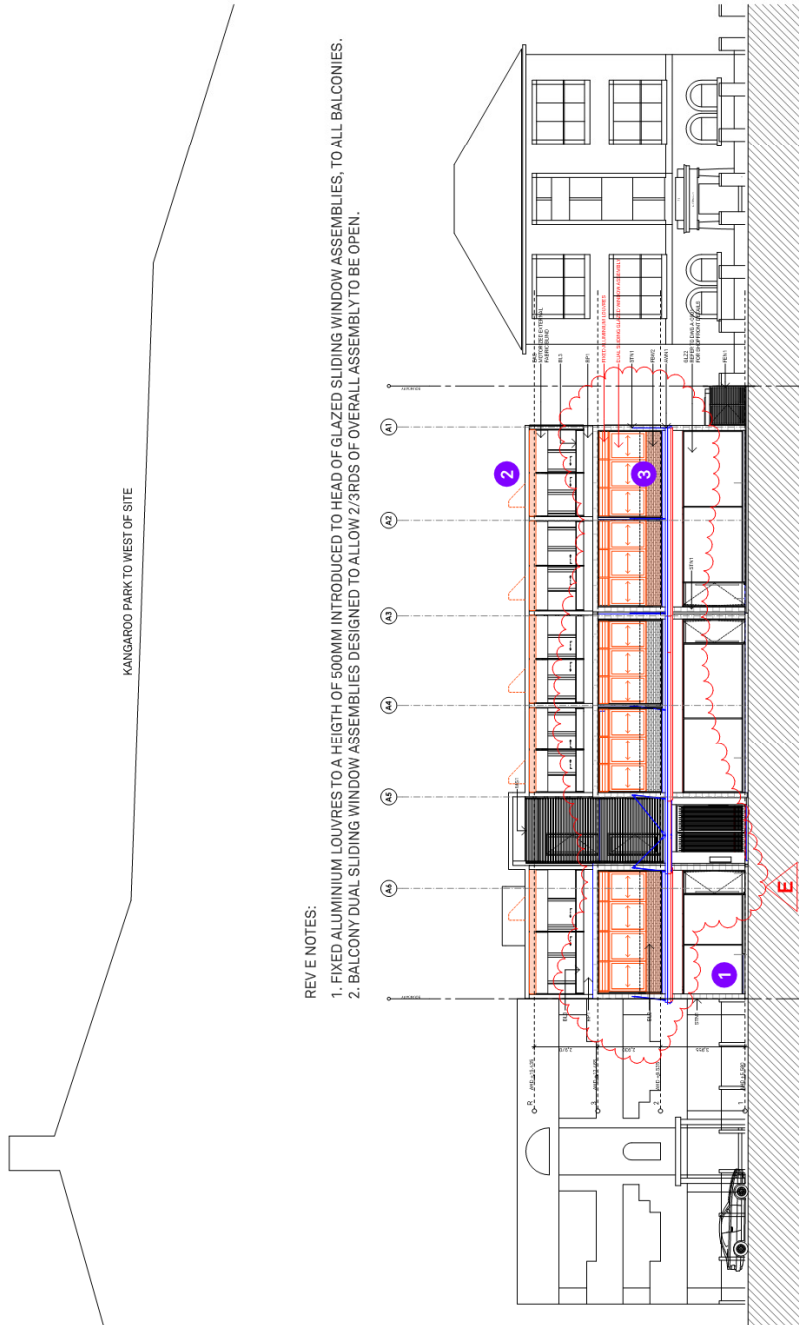
DRAWING
ROOF

ISSUE
D

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**BENSON
McCORMACK
ARCHITECTURE**

SECTION 96(2)



REV E NOTES:
1. FIXED ALUMINIUM LOUVRES TO A HEIGHT OF 500MM INTRODUCED TO HEAD OF GLAZED SLIDING WINDOW ASSEMBLIES, TO ALL BALCONIES.
2. BALCONY DUAL SLIDING WINDOW ASSEMBLIES DESIGNED TO ALLOW 2/3RDS OF OVERALL ASSEMBLY TO BE OPEN.

LEGEND	
AWN1	AWNING
AWN2	AWNING
BL1	BALUSTRADE - TYPE 1
BL2	BALUSTRADE - TYPE 2
BL3	BALUSTRADE - TYPE 3
EAS	EXTERNAL ADJUSTABLE FABRIC SCREEN
FRW1	FACE BRICKWORK - TYPE 1
FRW2	FACE BRICKWORK - TYPE 2
FRN	ALUMINIUM BATTENED FENCE
GL1	GLAZING - TYPE 1
GL2	GLAZING - TYPE 2
GL3	GLAZING - TYPE 3
MS1	METAL SCREEN - TYPE 1
MS1A	METAL SCREEN - TYPE 1A
MS1B	METAL SCREEN - TYPE 1B
MS1C	METAL SCREEN - TYPE 1C
MS2	METAL SCREEN - TYPE 2
MS3	METAL SCREEN - TYPE 3
MS4	METAL SCREEN - TYPE 4
RP1	ROOF FINISH - TYPE 1
RP2	ROOF FINISH - TYPE 2
RP3	RENDER AND PAINT FINISH - TYPE 1
RP4	RENDER AND PAINT FINISH - TYPE 2
STN1	STONE FACING - TYPE 1
STN2	STONE FACING - TYPE 2

PITTSWATER ROAD

NOTES	REV	DATE	ISSUE
This drawing is issued upon the condition it is to be used for the purpose of the application only and is not to be used for any other purpose without the written consent of Benson McCormack Architects.	A	17 Feb 2012	DEVELOPMENT APPLICATION
	B	23.07.2015	SM6(2) APPLICATION - PART 2
	C	23.08.2016	SM6(2) APPLICATION - PART 3
	D	26.09.2016	RENEWED SM6(2) APPLICATION
	E	26.10.2017	AS CLOUED

CLIENT	PROJECT DETAILS	PROJECT NORTH
Makewill Manly Pty Ltd PO Box 143 Croydon NSW 2132	PITTSWATER ROAD 65-69 Pittwater Road Manly NSW 2095	

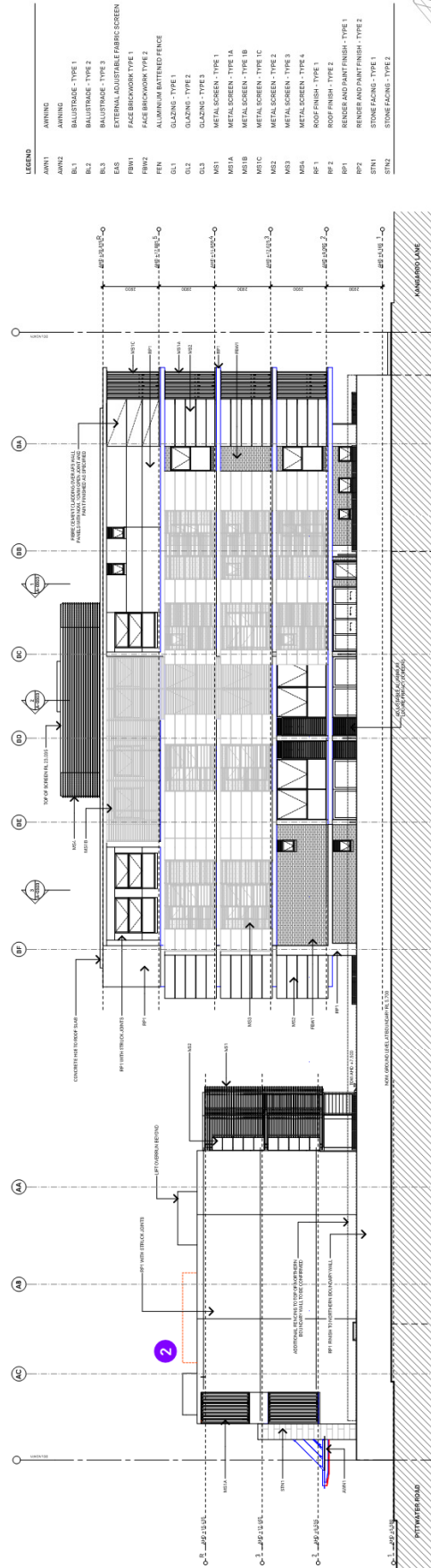
SCALE	PROJECT NO.	DRAWING NO.	DRAWING
1:200 @ A3	1009A	A-0201	EAST ELEVATION (PITTSWATER ROAD)

ISSUE	ARCHITECT
E	BENSON McCORMACK ARCHITECTURE

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SECTION 96(2)

BENSON
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PITTWATER ROAD

SECTION 96(2)

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ISSUE

D

DRAWING NO.
A-0202

NORTH ELEVATION

PROJECT NO.
1009A

SCALE
1:200 @ A3

PROJECT NORTH

PROJECT DETAILS

PITTWATER ROAD

65-69 Pittwater Road

Marrick NSW 2085

CLIENT

Makawil Manly Pty Ltd

PO Box 143

Croydon NSW 2132

ISSUE

DEVIL ORNAMENT APPLICATION

SRM2 APPLICATION - PART 2

SRM2 APPLICATION - PART 3

SRM2 APPLICATION

REV

DATE

17 JAN 2012

23 OCT 2015

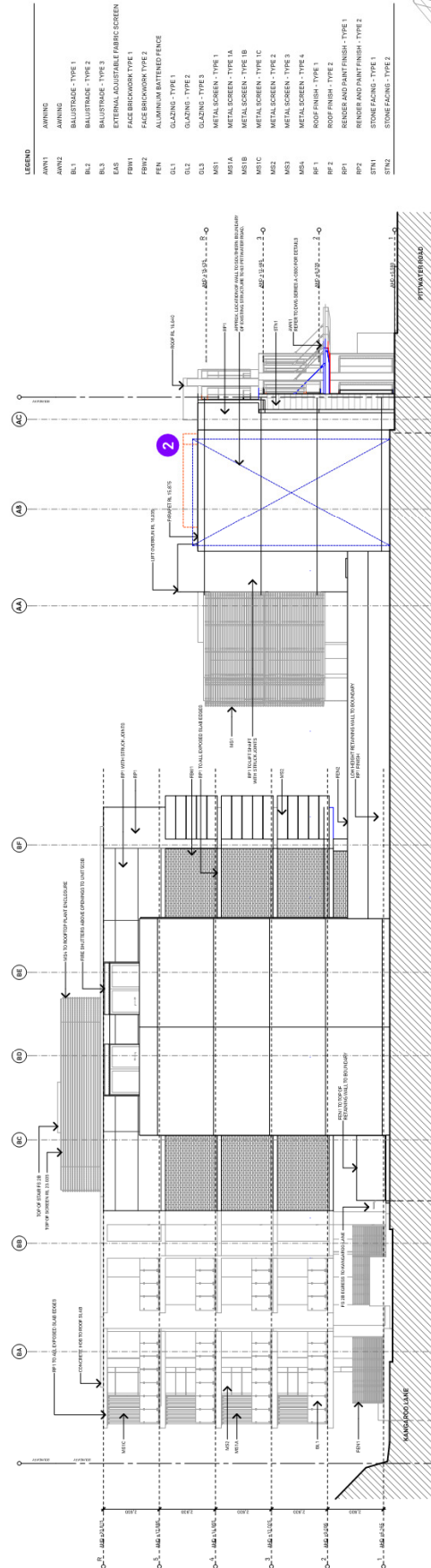
23 OCT 2016

30 OCT 2017

NOTES

This drawing is issued upon the condition it is to be used in accordance with the conditions of the contract and is not to be used for any other purpose without the written consent of Benson McCormack Architects.

DO NOT SCALE DRAWINGS.



PITTSBURGH

CLIENT Makewill Manly Pty Ltd
PO Box 143
Croydon NSW 2132

PROJECT DETAILS **PITTSBURGH**
65-69 Pittwater Road
Manly NSW 2095

SCALE 1:200 @ A3

PROJECT NO. 1009A

DRAWING NO. A-0203

DRAWING SOUTH ELEVATION

ISSUE D

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ITEM 3.5	DA0017/2017 - 21 ILUKA AVENUE, MANLY - SECTION 96 TO MODIFY APPROVED CONSTRUCTION OF TWO SEMI- DETACHED DWELLINGS AND TORRENS TITLE LAND SUBDIVISION – PART 3
REPORTING OFFICER	Claire Downie
TRIM FILE REF	2017/418903
ATTACHMENTS	1 Assessment Report 2 Site Plan and Elevations

PURPOSE

To refer the attached application for determination as required under adopted delegations of Council.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Independent Assessment Panel, as the consent authority, **approve** Application No. DA0017/2017 for Section 96 to modify approved Construction of two semi-detached dwellings and Torrens Title land subdivision – Part 3 on land at Lot 2 DP 1217919, 21 Iluka Avenue, Manly, for the reasons outlined in the Assessment Report.

NORTHERN BEACHES COUNCIL

northernbeaches.nsw.gov.au

Northern Beaches Independent Assessment Panel Report

2017/348299

DA No.	17/2017
Site Address	21 Iluka Avenue, Manly. Lot 2 DP 1217919.
Proposal	Section 96(1A) to modify approved Construction of two semi-detached dwellings and Torrens Title land subdivision – Part 3
Officer	Claire Downie

SUMMARY:

Application Lodged:	16 August 2017
Applicant:	Action Plans Building Designs
Owner:	C & W Derrin and E & L Miles
Estimated Cost:	\$925,705
Zoning:	MLEP, 2013 – R1 General Residential
Heritage:	Item 213 Sewerage Pumping Station No. 37
NSW LEC:	Not applicable
Notification:	17 August to 4 September 2017
Submissions received:	One
Site Inspected:	15 September 2017
LEP (4.6) Variations proposed:	Nil
DCP Variations proposed:	Setback Side
Recommendation:	Approval

Subject Property and surrounding area



The subject property is commonly known as 21 Iluka Avenue, Manly and legally known as Lot 2 in DP 1217919. The site is located on the southern side of Iluka Avenue, Manly. The property is irregular in shape and has a frontage of 15.125m to Iluka Avenue, an average depth of 37m and an overall site area of 523.8m². The property is currently vacant. The property is level.

The adjacent property to the east, at 19 Iluka Avenue, is developed with a one- and two- storey detached dwelling. The adjacent property to the west, at 254 Pittwater Road, is developed with a residential flat building. Development in this area of Iluka Avenue is developed with one- and two- storey detached dwellings and residential flat buildings.

Property Burdens and Constraints

There are no burdens or constraints that would preclude the proposed development.

Site History/Background

Relevant recent applications on the site include:

DA65/2016: Demolition of concrete slabs and material bay, removal of seven trees and carry out remediation works on the part of land. Approved by DAU on 4 May 2016.

DA17/2017: Construction of two semi-detached dwellings and Torrens Title land subdivision. Approved by NBIAP (Manly LEP) on 20 April 2017.

DA17/2017 – Part 2: Section 96 (1A) application, seeking consent for:

- Deletion of *Murraya paniculata* along the eastern side boundary and replacement with *Pandorea Pandorana* and *Bambusa textilis 'Gracilis'*; and
- Deletion of Condition No. ANS05A, which reads as follows:
“ANS05A
The living room, dining room and kitchen on the ground floor of proposed Lot 10 shall be set back a further 500mm.
Reason: To protect the amenity of neighbours.”

Refused by NBIAP on 9 August 2017 for the following reasons:

1. The proposed modifications sought to the development have not been properly justified and cannot be supported.
2. The development consent as granted on 20 April 2017 is reaffirmed.

Description of proposed development

The modification application seeks the following amendments:

- Deletion of *Murraya paniculata* along the eastern side boundary and replacement with *Pandorea Pandorana* and *Bambusa textilis 'Gracilis'*; and
- Deletion of Condition No. ANS05A, which reads as follows:
“ANS05A
The living room, dining room and kitchen on the ground floor of proposed Lot 10 shall be set back a further 500mm.
Reason: To protect the amenity of neighbours.”

ANS05A was not in the staff recommendation and was applied by the NBIAP of 20 April 2017 (Manly LEP). To address the concerns raised by NBIAP in relation to privacy, the applicant has proposed to replace windows W01 and W02 on the eastern elevation with highlight windows with a sill height of 1.6m above finished floor level.

Internal Referrals

Engineering Comments

Council's Engineer offered no objections to the proposal, subject to the imposition of original recommended conditions of consent.

Building Comments

Council's Building Surveyor offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

Landscaping Comments

Council's Landscaping Officer commented on the proposal as follows:

*"Landscape works shall be implemented in accordance with Landscape Plan L/01 and L/02, dated 9 May 2017, including installation of the proposed 'clumping only' bamboo privacy planting.
Details shall be submitted to the Principal Certifying Authority that only 'clumping' Bamboo as nominated on the landscape plans have been installed."*

Assessing Officer's Comments:

A suitable condition has been applied.

Heritage Comments

Council's Heritage Officer offered no objections to the proposal.

Waste Comments

Council's Waste Officer offered no objections to the proposal, subject to the imposition of original recommended conditions of consent.

External Referrals

No external referrals were considered necessary.

Planning Comments**Environmental Planning & Assessment Act 1979 – Section 79(C)(1)**

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) ***the provisions of:***
(i) ***any environmental planning instrument, and***

Manly Local Environmental Plan 2013

The subject site is located in Zone R1 General Residential under the Manly LEP 2013. The proposed development is permissible within the zone with consent. An assessment of the proposal against the objectives of the Zone is included below:

Zone R1 General Residential**Objectives of zone**

- *To provide for the housing needs of the community.*

The proposed modifications to the approved development retain the residential use of the site.

- *To provide for a variety of housing types and densities.*

The proposed modifications to the approved development retain the existing variety of housing types and densities in the locality.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Not applicable. The proposed modifications to the approved development retain the residential use of the site.

Part 4 Principal development standards

There are no relevant principal development standards under Part 4 of the Manly LEP 2013 to consider as part of this modification application.

4.6 Exceptions to development standards

No variations to the development standards are proposed as part of this modification application.

Part 5 Miscellaneous Provisions

The provisions of the Manly LEP 2013 have been referred to as part of the assessment:

5.	Miscellaneous Provisions	Applies	Complies	Comments
5.9	Preservation of trees or vegetation	Yes	Yes	The proposed modifications do not alter the approved development's compliance with Clause 5.9 of the Manly LEP 2013.
5.10	Heritage Conservation	Yes	Yes	The proposed modifications do not alter the approved development's compliance with Clause 5.10 of the Manly LEP 2013.

Part 6 Local Provisions

There are no relevant local provisions under Part 6 of the Manly LEP 2013 to consider as part of this modification application.

79C(1)(a)(ii) - any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and

There is no applicable Draft Planning Instrument.

79C(1)(a)(iii) - any development control plan, and

Manly Development Control Plan 2013:

The following is an assessment of the proposal's compliance with the standards of the Development Control Plan. Where a variation is proposed to the standards, an assessment is included in the Planning Comments.

Part 3 General Principles of Development

Issues	Consistent with controls	Inconsistent with controls
Streetscape	✓	
Heritage – In Vicinity	✓	
Landscaping Design	✓	
Landscape/Tree Preservation	✓	
Sunlight Access and Overshadowing	✓	
Privacy and Security	✓	
Maintenance of Views	✓	

Comment:

The Streetscape, Heritage, Sunlight Access and Overshadowing, and Maintenance of Views objectives of the MDCP 2013 are not relevant in this case, as the proposed modifications to the approved development do not alter the site's compliance with these objectives.

3.3.1 Landscaping Design

The proposal includes the replacement of *Murraya paniculata* along the eastern side boundary with *Pandorea Pandorana* and *Bambusa textilis* 'Gracilis'.

Objective 1) To encourage appropriate tree planting and maintenance of existing vegetation.
The proposed modifications to the approved development do not impact upon existing or approved trees or vegetation on site.

Objective 2) To retain and augment important landscape features and vegetation remnant populations of native flora and fauna.
The proposed modifications to the approved development do not impact upon important landscape features.

3.3.2 Landscape/Tree Preservation

Objective 1) To ensure that development protects and conserves the natural environment.
The proposed modifications to the approved development do not unreasonably alter the natural environment.

Objective 2) To protect and preserve urban bushland areas in recognition of their:

- value as part of the natural heritage;
- aesthetic value; and
- value as a recreational, educational and scientific resource.

The subject site is not located in an urban bushland area.

Objective 3) To protect and prevent clearing of remnant and or rehabilitated riparian land value as a recreational, educational and scientific resource.
The subject site is not located in a riparian land area.

3.4.2 Privacy and Security

The original application sought a ground floor eastern side setback of 900-944mm. The Northern Beaches Independent Assessment Panel (Manly LEP) approved the original application, subject to the following condition:

“ANS05A

The living room, dining room and kitchen on the ground floor of proposed Lot 10 shall be set back a further 500mm.

Reason: To protect the amenity of neighbours.”

The current modification application seeks the deletion of Condition No. ANS05A in order to reinstate the originally proposed 900-944mm eastern side setback to the ground floor. In order to address the concerns raised by NBIAP in relation to privacy, the applicant has proposed to replace windows W01 and W02 on the eastern elevation with highlight windows with a sill height of 1.6m above finished floor level.

Objective 1) To minimise loss of privacy to adjacent and nearby development by:

- appropriate design for privacy (both acoustical and visual) including screening between closely spaced buildings; and
- mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.

The proposed modification is acceptable in relation to privacy, in that the originally proposed side windows have been replaced with highlight windows with a sill height of 1.6m above finished floor level, which restrict viewing to the sky, rather than to adjacent properties. Further, the proposed decreased side setback is at the ground floor only and does not result in direct viewing between windows or outdoor living areas of adjacent buildings. Finally, proposed decreased side setback is adjacent to a side boundary fence, which further prevents direct viewing.

Objective 2) To increase privacy without compromising access to light and air. To balance outlook and views from habitable rooms and private open space.

The proposed modifications are appropriately designed for privacy without compromising access to light and air. The proposed modifications are balanced in that direct viewing is minimised, but the outlook from the relevant windows is still available.

Objective 3) To encourage awareness of neighbourhood security.

The proposed modifications do not impact upon the approved windows facing the street, which encourage awareness of neighbourhood security.

Part 4 - Development Controls

Site Area: 261.9m ² per lot	Permitted/ Required	DA Approved	Proposed	Complies Yes/No
East setback side	Ground Floor 1.26m	900mm-1.44m	900-944mm	No. See comment below.
	First Floor 2.24m	900mm-2.1m	900mm-2.1m	Approved – unchanged

Comment:

4.1.4 Setbacks (front, side and rear) and Building Separation

Clause 4.1.4.2 of the MDCP 2013 provides that setbacks between any part of a building and the side boundary must not be less than one third of the height of the adjacent external wall of the proposed building. The proposed eastern ground floor wall height is 3.81m, requiring a setback of 1.26m to the ground floor. The original application sought a ground floor eastern side setback of 900-944mm. The Northern Beaches Independent Assessment Panel (Manly LEP) approved the original application, subject to the following condition:

“ANS05A

The living room, dining room and kitchen on the ground floor of proposed Lot 10 shall be set back a further 500mm.

Reason: To protect the amenity of neighbours.”

The current modification application seeks the deletion of Condition No. ANS05A in order to reinstate the originally proposed 900-944mm eastern side setback to the ground floor.

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

The proposed modification to the eastern side setback does not impact upon the streetscape in relation to spatial proportions of the street, the street edge of the landscape character of the street, as the section of the ground floor proposed to be modified is not generally visible from the street frontage.

Objective 2) To ensure and enhance local amenity by:

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

The proposed amendments to the approved development provide adequate amenity in relation to privacy, access to light, sunshine and air movement, view-sharing and streetscape character as detailed in the section of this report relating to Part 3 of the Manly DCP 2013 – General Principles of Development. Further, the proposed ground floor eastern side setback is articulated with the inclusion of the alfresco deck. This reduces the visual impact of the building at the ground floor and provides adequate amenity for the property to the east.

Objective 3) *To promote flexibility in the siting of buildings.*

The proposed development is adequately sited in order to provide an appropriate level of amenity to the subject site, as well as adjacent sites.

Objective 4) *To enhance and maintain natural features by:*

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

The proposed development provides adequate landscaping and planting and does not unduly detract from the context of the site, as detailed in the section of this report relating to Part 3 of the Manly DCP 2013 – General Principles of Development. The subject site does not contain urban bushland.

Objective 5) *To assist in appropriate bush fire asset protection zones.*

Not applicable. The subject site is not located in a bush fire protection zone.

Part 5 - Special Character Areas and Sites

Special Character Areas and Sites	Applicable	Not Applicable
Conservation Area		✓
Foreshore Scenic Protection Area		✓
Threatened Species and Critical Habitat		✓
Flood Control Lots		✓
Riparian Land and Watercourses		✓
Road Widening		✓

79C(1)(a)(iia) - any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and

No planning agreement has been entered into in relation to the proposed modifications to the approved development.

79C(1)(a) (iv) - the regulations

The relevant prescribed regulations contained within the *Environmental Planning and Assessment Regulations 2000* are addressed through the imposition of suitable conditions.

79C(1)(a)(v) - any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)

There is no applicable Coastal Zone Management Plan.

79C(1) (b) - the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The proposed modifications to the approved development are not considered to have any unreasonable impact on the natural and built environments or any unreasonable social and economic impacts in the locality.

79C(1) (c) - the suitability of the site for the development,

The proposed modifications to the approved development are considered to be suitable for the site.

79C(1) (d) - any submissions made in accordance with this Act or the regulations

The application was notified to nearby and adjoining property owners in accordance with Council's Development Control Plan 2013 Section 2.2 with one submission received from the following objector raising the following concerns:

Submission and Address	Main Issues raised in the submission	Comments on submission
1. J. McCuaig 19 Iluka Avenue, Manly	<ul style="list-style-type: none"> Concerns relating to privacy and reduction of open space 	<ul style="list-style-type: none"> The proposed development is acceptable in relation to privacy for the reasons detailed in the section of this report relating to Part 3 of the Manly Development Control Plan – General Principles of Development – Privacy and Security. The proposed development does not result in a reduction in calculable open space, in accordance with the minimum dimensions required by Clause 4.1.5.1(b) of the Manly DCP 2013.

79C(1) (e) - the public interest.

The proposed modifications to the approved development are in the public interest.

S94 Contribution towards provision or improvement of amenities or services

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. The Act reads as follows:

- (1) *If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:*
- the dedication of land free of cost, or*
 - the payment of a monetary contribution, or both.*
- (2) *A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned.'*

Comments:

In this case, the proposed modification to the proposed modifications to the approved development will not require the provision of or increase the demand for public amenities and public services in the area. As such, the payment of a monetary contribution is not required.

Section 96(1A) of the Environmental Planning and Assessment Act 1979

(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- it is satisfied that the proposed modification is of minimal environmental impact, and

- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
- (c) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, or
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1), (2) and (5) do not apply to such a modification.

- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.
- (4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.

With regard to the above it is considered that the proposed modifications to the original consent, will result in substantially the same development for which consent was originally granted. The modifications requested were notified in accordance with Council's Manly DCP with one submission received. All matters relating to the proposed modifications in terms of impact on have been considered. On balance, the proposed modifications are considered to be satisfactory for approval, subject to conditions.

CONCLUSION:

The application has been assessed having regard to Section 79C and Section 96 of the Environmental Planning and Assessment Act 1979, the Manly Local Environmental Plan 2013 and the Manly Development Control Plan 2013 and is considered to be satisfactory for **approval**, subject to conditions.

RECOMMENDATION

That pursuant to Section 96(1A) of the Environmental Planning and Assessment Act 1979, the proposed modification to Development Consent No. 17/2017 to modify approved Construction of two semi-detached dwellings and Torrens Title land subdivision – Part 3 at 21 Iluka Avenue, Manly be **Approved** subject to:

GENERAL CONDITIONS

The following Condition No.1 is to be amended as per Section 96(1A) Application – Part 3:

- 1. The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and reference documentation;

Drawings affixed with Council's 'Development Consent' stamp relating to Development Consent No. 17/2017:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
DA02 Subdivision Plan	2 February 2017	3 February 2017
DA03 Site Analysis	2 February 2017	3 February 2017
DA05 Ground Floor Plan	2 February 2017	3 February 2017
DA06 First Floor Plan	2 February 2017	3 February 2017
DA07 North / East / Front Fence Elevation	2 February 2017	3 February 2017
DA08 South / West Elevation	2 February 2017	3 February 2017
DA09 Section Sheet 1	2 February 2017	3 February 2017
DA10 Section Sheet 2	2 February 2017	3 February 2017
DA11 Driveway Plan & Long Section	2 February 2017	3 February 2017
L/01 Proposed Landscape Plan	25 January 2017	3 February 2017

Reference Documentation affixed with Council's stamp relating to Development Consent No. 17/2017:

- Statement of Environmental Effects prepared by Particular Planning dated January 2017 and received by Council on 3 February 2017
- BASIX Certificate No. 785099S_03 dated 2 February 2017 and received by Council on 3 February 2017
- BASIX Certificate No. 785064S_05 dated 2 February 2017 and received by Council on 3 February 2017
- Flood Certificate prepared by Taylor Consultants dated 20 December 2017 and received by Council on 3 February 2017
- Heritage Impact Statement prepared by Action Plans Building Design dated January 2017 and received by Council on 3 February 2017
- Geotechnical Recommendations prepared by Morrow Geotechnics dated 8 December 2016 and received by Council on 3 February 2017

Except as amended by:

Drawings affixed with Council's 'Development Consent' stamp relating to this Section 96(1A) Application – Part 3:

Plan No. / Title	Issue/ Revision & Date	Prepared by
S96 – 01 Site / Roof Plan / Sediment Erosion & Waste Management	14 August 2017	Action Plans
S96 – 03 Proposed Ground Floor Plan	14 August 2017	Action Plans
S96 – 04 Proposed First Floor Plan	14 August 2017	Action Plans
S96 – 05 North / East Elevation	14 August 2017	Action Plans
S96 – 06 South / West Elevation	14 August 2017	Action Plans
S96 – 07 Sections	14 August 2017	Action Plans
L/01 Landscape Plan	9 May 2017	Action Plans
L/02 Landscape Plan	9 May 2017	Action Plans

Reference Documentation relating to Development Consent No. 17/2017:

- BASIX Certificate No. 785064S_09 dated 14 August 2017 prepared by Action Plans

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council.

2. 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)

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**ANS01**

An Erosion and Sediment Management Plan which provides adequate measures for erosion and sediment control, must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier. The Erosion and Sediment Management Plan shall comply with the requirements for Erosion and Sediment Management plans contained with Clause 2.1.11 of the Manly Development Control Plan, 2013 and Manly Council's Guidelines for Sediment and Erosion Controls on Building Sites, 2005.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

ANS02

The minimum finished floor levels of new habitable rooms shall be at or above the Flood Planning Level (FPL) of 3.64m AHD. Plans demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: In order for the proposed development to be compatible with the flood hazard and reduce the risks and cost of flooding to the area.

ANS03

The proposed *Livstona australis* trees are to be deleted from the planting schedule and replaced with a species that attains a mature height of 8m.

Reason: To ensure suitable planting species are used, as the *Livstona australis* trees are too large for the proposed lots.

ANS04

For each proposed dwelling, the ground floor rear deck and the roof above the ground floor rear deck are to be reduced to a depth of 2.5 metres from the external face of the rear wall. Plans demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that the built elements of the proposed building are sufficiently set back from the rear boundary to reduce the potential visual impact to the neighbouring heritage item.

ANS05

The privacy walls on the eastern and western elevations to the first floor rear balcony of proposed Lot 11 and the eastern elevation to the first floor rear balcony of proposed Lot 10 are to be reduced to a height of 1.65m above finished floor level. Plans demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To lighten the appearance of the rear walls, to reduce the dense appearance of the newer property when viewing the heritage item from Pittwater Road.

The following Condition No. ANS05A is to be deleted as per Section 96(1A) Application – Part 3:

**ANS05A
DELETED**

The following Condition No. ANS05B is to be added as per Section 96(1A) Application – Part 3:

ANS05B

Landscape works shall be implemented in accordance with Landscape Plan L/01 and L/02, dated 9 May 2017, including installation of the proposed 'clumping only' bamboo privacy planting. Details shall be submitted to the Certifying Authority that only 'clumping' Bamboo as nominated on the landscape plans have been installed.

Reason: To ensure compliance with the relevant landscape plans.

1 (2AP03)

Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act 1991 which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

Reason: To advise developers of their responsibilities and to protect the interests of adjoining owners.

2 (2CD01)

Pursuant to Section 97 of the Local Government Act, 1993, Council requires prior to the issue of Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit as per the current rates in Council's Fees and Charges. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicants interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

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

3 (2CD05)

Detailed engineering drawings of all work must be submitted for approval by the Council/Accredited Certifier prior to the release of the Construction Certificate.

Reason: To ensure the provision of public infrastructure of an appropriate quality arising from the development works to service the development.

4 (2DS01)

A detailed stormwater management plan is to be prepared to fully comply with Council's Specification for On-site Stormwater Management 2003 and Specification for Stormwater Drainage 2003 and must be submitted to Council prior to issue of the Construction Certificate. The stormwater management plan and designs are to be prepared by a suitably qualified engineer with experience in hydrology and hydraulics.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that infrastructure reverting to Council's care and control is of an acceptable standard.

5 (2DS02)

A Stormwater Management Plan (SWMP) in line with Council's stormwater management guidelines and signed off by a practising Chartered Professional Engineer on the National Professional Engineer's Register (NPER) at Engineers Australia is to be submitted to the Council/Accredited Certifier, prior to issue of the Construction Certificate. The SWMP is to include but is not limited to the following:

- Increase in the impervious area (m²)
- Impervious percentage (%) post development
- Demonstration of no-adverse flooding issues to the downstream and upstream properties
- Peak flow rate to street drainage system in a 1:100 Average Recurrence Interval (ARI) flood event
- Connection details and location of the outlet drainage pipe, if applicable.
- If it is an absorption trench zone (Zone 2 as per Storm Water Management guidelines), then the detail calculations along with the soil report to be submitted for review by demonstrating no-adverse drainage issues due to this development.
- Details of the Chartered Engineer including full name, signature and registration number is required.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure public infrastructure in Council's care and control is not overloaded.

6 (2DS07)

Detailed plans and specifications of the design of the rainwater tanks must be provided prior to the issue of the Construction Certificate complying with the requirements:-

- Australian/New Zealand Standard AS/NZS 3500:2003,
- NSW Code of Practice Plumbing and Drainage, 2006 produced by Committee on Uniformity of Plumbing and Drainage Regulations in NSW (CUPDR).
- Council's rainwater tank policy.

Reason: To protect public health and amenity.

7 (2FP02)

Detailed drawings and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage) within existing roads, must be submitted to and approved by Council under the Roads Act 1993, before the issue of any Construction Certificate. Specific works include:

- 1) Full width vehicular crossings having a maximum width, at the back of layback, and in accordance with the current policy of Council and Specifications for the construction of vehicle crossings; and
- 2) Longitudinal sections for both sides of the vehicular crossing and driveway commencing at the centre line of the road carriageway must be provided for assessment. Gradients and transitions must be in accordance with Australian Standard AS 2890.1 – 2004, Part 1 – Off-Street Car Parking. The driveway profile submitted to Council must be to scale at 1:25 (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

Driveway to be designed to provide for existing or future footpaths across driveway, in accordance with Council's Specification for Civil Infrastructure Works, Developments & Subdivisions 2003 and Australian Standard AS 1428.1:2001 - Design for access and mobility.

Reason: To facilitate suitable vehicular access to private sites.

8 (2FP03)

No portion of the proposed building or works, as approved within the subject site, are to encroach upon any road reserve or other public land except as may be permitted by the Local Government Act 1993. This includes the opening and closing of gates and doors which must open and close within the subject site.

Reason: To ensure structures are contained within the site.

9 (2HT07)

A schedule of external colours is to be submitted to Council's satisfaction prior to the issue of Construction Certificate. The external colour schemes of new buildings are to be in keeping with the original character of the heritage buildings on the site. On the heritage buildings the external colour scheme for surfaces intended for painting is to be based, where possible, on physical and documentary evidence in keeping with the architectural style and period of the buildings.

Reason: To ensure the proposed colour scheme is appropriate to the type and style of the building and the surrounding area

10 (2MS01)

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including drawings and specifications must be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Manly Council Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Sediment Control Plan must incorporate and disclose:

- 1) all details of drainage to protect and drain the site during the construction processes,
- 2) all sediment control devices, barriers and the like,
- 3) sedimentation tanks, ponds or the like,
- 4) covering materials and methods, and
- 5) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing these design requirements have been met must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier prior to issuing of the Construction Certificate.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

11 (2NL04)

Prior to the issue of the Construction Certificate, a Noise and Vibration Management Plan is to be prepared by a suitably qualified person addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to Council or the Principal Certifying Authority.

The Plan is to identify amelioration measures to ensure the noise and vibration levels will be compliance with the relevant legislation and Australian Standards. The report that itemises equipment to be used for excavation works. The Plan shall address, but not limited to, the following matters:

- Identification of activities carried out and associated noise sources
- Identification of potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment
- Determination of appropriate noise and vibration objectives for each identified sensitive receiver
- Noise and vibration monitoring, reporting and response procedures
- Assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles
- Description of specific mitigation treatments, management methods and procedures to be implemented to control noise and vibration during construction
- Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- Procedures for notifying residents of construction activities likely to affect their amenity through noise and vibration
- Contingency plans to be implemented in the event of non-compliances and/or noise complaints. A register should be kept of complaints received, and the action taken to remediate the issue.

Reason: To protect acoustic amenity of surrounding properties and the public.

12 (2PT01)

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

13 (2PT02)

All driveways, car parking areas and pedestrian paths are to be suitably surfaced. Details of the treatment to these areas are to be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

14 (2TC01)

Details of the method of termite protection which will provide whole of building protection, inclusive of structural and non-structural elements must be submitted to the Council / Accredited Certifier prior to issue of the Construction Certificate. Attention is drawn to the provisions of Australian Standard AS 3660.1 - 2000 Termite management – New building work, and to the Manly Code for the Protection of Buildings Against Termite Attack 1996.

Reason: To protect the building from possible termite damage.

15 (2US01)

A Section 94 contribution is to be paid for the provision of or increase the demand for public amenities and public services as a consequence of the development in the area. The total contribution for this development of construction of two semi-detached dwellings and Torrens Title land subdivision is \$20,000, being \$20,000.00 per additional dwelling. This contribution shall be paid to Council prior to the release of the Construction Certificate.

Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from the development.

16 (2WM02)

A Waste Management Plan is to be submitted with the application prior to a Construction Certificate being issued in accordance with the Manly Development Control Plan 2013.

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. Weight dockets and receipts must be kept as evidence of approved methods of disposal and recycling. All demolition and excess construction materials are to be recycled where ever practicable. It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.

Reason: To plan for waste minimisation, recycling of building waste and on-going waste management.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

17 (3CD01)

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions.

18 (3CD02)

Demolition must be carried out by a registered demolition contractor. Documentary evidence of registration must be submitted to Council prior to the commencement of demolition work.

Reason: To ensure demolition is carried out in an appropriate manner that is non-disruptive to the locality and the public.

19 (3CD03)

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.

20 (3FP01)

The applicant must complete an application form and pay applicable fees for an application to Council for the construction of a Vehicular Crossing, for the design, specification and inspection by Council. Applications are to be made a minimum of two (2) working days prior to commencement of proposed works on Council's property.

Reason: To provide suitable vehicular access to private sites, without disruption to pedestrian and vehicular traffic.

21 (3PT01)

In accordance with the Roads Act 1993, written consent from Council must be obtained and must be in hand prior to any track equipped plant being taken in or onto any roadway, kerb & gutter, footway, nature strip, or other property under Council's control.

Reason: To ensure appropriate protection of public infrastructure and facilitate access for public and vehicular traffic.

22 (3PT02)

Applications for a construction zone on a local road require 28 days notice to Council indicating location and length. All construction zones require the approval of the Manly Traffic Committee.

Reason: To ensure Council and the Traffic Committee have sufficient time and information to assess the traffic and access implications of a proposed construction zone and to develop appropriate responses to those implications.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

ANS06

The sediment and erosion control methods identified by Action Plans on 2 February 2017 are to be adopted by the development during demolition, excavation and construction.

Reason: to protect the environment from the effects of sedimentation and erosion from development sites.

ANS07

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

Reason: To protect public health and the environment.

ANS08

In the event of a pollution incident, the details of the incident must be recorded in a register including the remedial action taken. The appropriate authority must be notified of a pollution incident as soon as reasonably possible after the incident has occurred.

The Protection of the Environment Operations Act 1996 defines a pollution incident as an 'incident or set of circumstances during or as a consequence of which there is or is likely to be a leak, spill or other escape or deposit of a substance, as a result of which pollution has occurred, is occurring or is likely to occur. It includes an incident or set of circumstances in which a substance has been placed or disposed of on premises, but it does not include an incident or set of circumstances involving only the emission of any noise'

Reason: To ensure compliance with legislation and to protect public health and amenity.

ANS09

All new construction and services shall be designed and constructed to withstand flooding up to a minimum level of the FPL 3.64m AHD. This shall be in accordance with the requirements specified in the NSW Floodplain Development Manual. Buoyancy, flowing water with debris, wave action, the flood compatibility of materials, and waterproofing shall be addressed in accordance with the Manual.

Reason: In order for the proposed development to be compatible with the flood hazard and reduce the risks and cost of flooding to the area.

ANS10

All new construction, including but not limited to new fences and foundation system, must allow for the unimpeded flow of flood water into and through the site and must not reduce the flood storage of the site.

Reason: In order to not adversely affect flood behaviour resulting in detrimental increases in the potential flood affection of other development or properties.

23 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

24 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) All waste must be contained entirely within the site.
- 11) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 12) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 13) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- 14) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.

- 15) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 16) Building operations such as brick-cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 17) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- 18) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

25 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7.00am and 6.00pm, Monday to Friday and 7.00am to 1.00pm Saturday (including works undertaken by external contractors). No site works can be undertaken on Sundays or public holidays. Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

26 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

27 (4CD06)

All construction works must be strictly in accordance with the Reduced Levels (RLs) as shown on the approved drawings. A copy of approved drawings should be kept at site. Certification from a registered surveyor is to be submitted to the Principal Certifying Authority during construction to confirm floor and finished ridge levels.

Reason: To ensure compliance with the consent.

28 (4CD10)

Noise arising from the works must be controlled in accordance with the requirements of the Protection of the Environment Operations Act 1997 and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

Reason: To ensure compliance with legislation and to prevent disturbance to the surrounding community.

29 (4CD11)

The activity of rock-breaking associated with the development of the site, must only occur between the hours of:

- 9.00 AM – 5.00 PM on weekdays (Monday – Friday) only.

Rock-breaking activities must not occur on weekends or public holidays.

Adjoining properties must be notified in writing of the times and days in which rock-breaking activities will be carried out. Notices must be distributed at least seven (7) days before the activity is to occur.

Reason: To protect the acoustic amenity of neighbouring properties and the public.

30 (4DS03)

Rainwater tanks must be installed on residential properties by a suitably qualified and licensed plumber and in accordance with the following:

- Australian/New Zealand Standard AS/NZS 3500:2003,
- NSW Code of Practice Plumbing and Drainage, 2006 produced by Committee on Uniformity of Plumbing and Drainage Regulations in NSW (CUPDR).
- Council's rainwater tank policy

Reason: To protect public health and amenity.

31 (4FP01)

The existing footpath level and grade at the street alignment of the property must be maintained.

Reason: To ensure appropriate access and infrastructure protection.

32 (4HT04)

Should any potentially historic relics be discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Division of the NSW Department of Environment and Heritage should be informed in accordance with Section 146 of the Heritage Act 1977. "Relics" are any deposit, artefact, object or material evidence that relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and are of State or local heritage significance.

Should any potentially significant Aboriginal material be discovered on the site, all excavation or disturbance of the area is to stop immediately and the Heritage Division of the NSW Department of Environment and Heritage is to be informed in accordance with Section 91 of the National Parks and Wildlife Act 1974.

Reason: To ensure the proper management and preservation of potentially significant archaeological material.

33 (4HT08)

Should any concealed building remnants or architectural features, not previously noted in the DA documentation, be discovered during demolition or building works, all works are to cease immediately and Council's Heritage Advisor is to be contacted for advice.

Reason: To ensure the protection and conservation of Manly's significant heritage resources.

34 (4LD04)

The following precautions must be taken when working near trees to be retained:

- harmful or bulk materials or spoil must not be stored under or near trees,
- prevent damage to bark and root system,
- mechanical methods must not be used to excavate within root zones,
- topsoil from under the drip line must not be added and or removed,
- ground under the drip line must not be compacted, and
- trees must be watered in dry conditions.

Reason: This is to ensure no damage is caused to trees from various methods of possible damage.

35 (4LD06)

All disturbed surfaces on the land resulting from the building works authorised by this approval must be revegetated and stabilised to prevent erosion either on or adjacent to the land.

Reason: To prevent/contain erosion.

36 (4MS04)

An approved Erosion and Sediment Management plan is to be implemented from the commencement of works and maintained until completion of the development.

The design and controls addressed in the Sediment and erosion management plan must comply with the criteria identified in:

- Manly Development Control Plan 2013, Amendment 8, and
- Manly Councils Guidelines for Sediment and Erosion Controls on building sites, 2005, and
- The document "Managing Urban Stormwater: Soils and Construction" Volume 1, 2004.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

ANS11

All electrical equipment, wiring, and fuel lines shall be watertight below the Flood Planning Level (FPL) of 3.64m AHD and shall be certified upon completion by a Licensed Electrical Contractor. Copy of the certification to be provided prior to the issue of any Occupation Certificate.

Reason: In order for the proposed development to be compatible with the flood hazard and reduce the risks and cost of flooding to the area.

ANS12

Sewerage system to be constructed to prevent surcharge of sewerage during times of flooding up to the FPL of 3.64m AHD and shall be certified upon completion by a Licensed Plumber and Drainer. Certification to be provided prior to the issue of any Occupation Certificate.

Reason: In order for the proposed development to be compatible with the flood hazard and reduce the risks and cost of flooding to the area.

ANS13

The requirements of flood condition(s) shall be supervised during the works by a registered surveyor who shall certify compliance to Council's flood condition(s) prior to the issue of an Occupation Certificate.

Reason: To ensure the proposed development is to be compatible with the flood hazard and reduce the risks and cost of flooding to the area.

37 (5DS01)

Stormwater drainage from the proposed addition/extension must be disposed of to the existing drainage system. All work is to be carried out in accordance with Council standards and specifications for stormwater drainage. Work is to be completed prior to the issue of the Occupation Certificate.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure infrastructure reverting to Council's care and control is of an acceptable standard.

38 (5FP01)

All surplus vehicular crossings and/or kerb laybacks must be removed and the kerb and nature strip reinstated prior to issue of the Occupation Certificate.

Reason: To provide on-street parking, suitable vehicular access to private sites, and infrastructure protection.

39 (5FR01)

An automatic fire detection and alarm system must be installed in the proposed dwelling in accordance with the requirements of the Building Code of Australia.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

40 (5US01)

Any adjustment to a public utility service is to be carried out in compliance with its standards; where consent is required, with its concurrence; and with the full cost being borne by the applicant. Full documents of adjustments to any public utility service should be submitted to Council.

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

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

ANS14

Items susceptible to flood damage and goods that are likely to amplify the damages arising from flood events (including but not limited to pollutants and toxic chemicals) shall be stored as to not find their way into flood waters.

Reason: In order for the proposed development to be compatible with the flood hazard and reduce the risks to humans, the environment and cost of flooding to the area.

41 (6DS01)

The ongoing use and operation of the rainwater tank(s) must be maintained in accordance with:

- Sydney Water Guidelines for Rainwater Tanks on Residential Properties, 2003.
- Australian Government EnHealth Council publication Guidance on the use of Rainwater Tanks, 2004.

Reason: To protect public health and amenity.

42 (6FC01)

The erection of dividing fences under this consent does not affect the provisions of the Dividing Fences Act 1991. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Department of Lands. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. More than 85% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1 800 990 777 or at <http://www.cjc.nsw.gov.au/>.

Reason: To ensure the applicant is aware the Dividing Fences Act 1991 may be used to resolve disputes about dividing fences.

43 (6LP03)

Landscaping is to be maintained in accordance with the approved Landscaping Drawing.

Reason: This is to ensure that landscaping is maintained appropriately.

44 (6MS02)

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

Reason: Statutory requirement, Environmental Planning and Assessment Act 1979.

45 (6NL01)

Glare from internal lighting is not permitted to extend beyond the limits of the building authorised by this approval.

Reason: To ensure there is no glare from internal lighting to neighbouring properties and land.

46 (6NL03)

The ongoing use of the premises/property must not give rise to 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act 1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.

47 (6WM10)

The operation of the premises must be conducted in a manner that does not pollute waters as defined by the Protection of the Environment Operations Act, 1997.

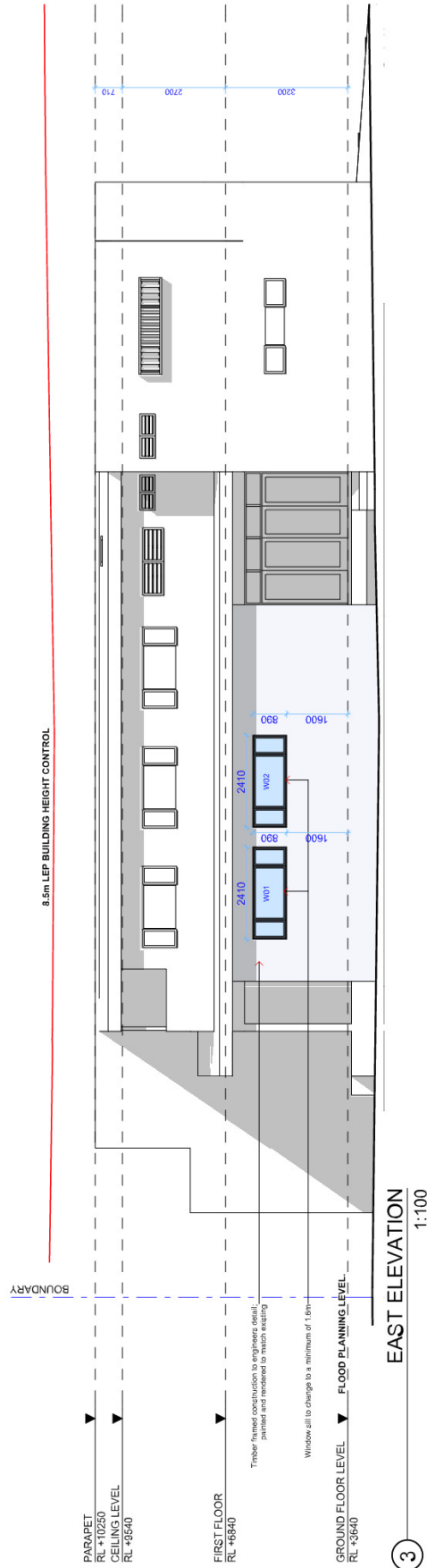
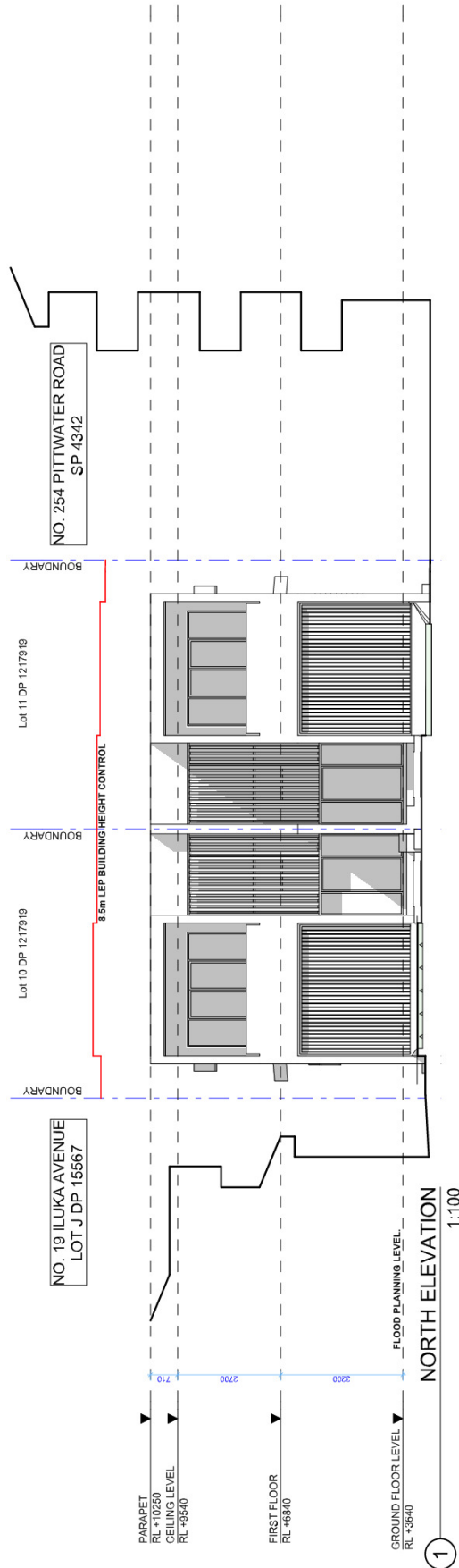
Reason: To ensure compliance with legislation and to protect public health and amenity.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF ANY SUBDIVISION CERTIFICATE

48 (7SD01)

The Subdivision Certificate to enable the lodgement of the linen plan at Department of Lands must not be issued until Principal Certifying Authority for Development Consent has issued the final Occupation Certificate in relation to that development.

Reason: Ensure the plans relate to the approved development.



NOTES

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ACTION PLANS

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LEGEND

TIMBER	TERRACOTTA ROOF TILES
GLASS	CONCRETE
BRICKWORK	TILES
METAL	EXISTING WALLS

CLIENT

DM HOLDINGS
PROJECT ADDRESS
21 Iluka Avenue Manly 2085

DRAWING NO.

S96 - 05

DRAWING NAME

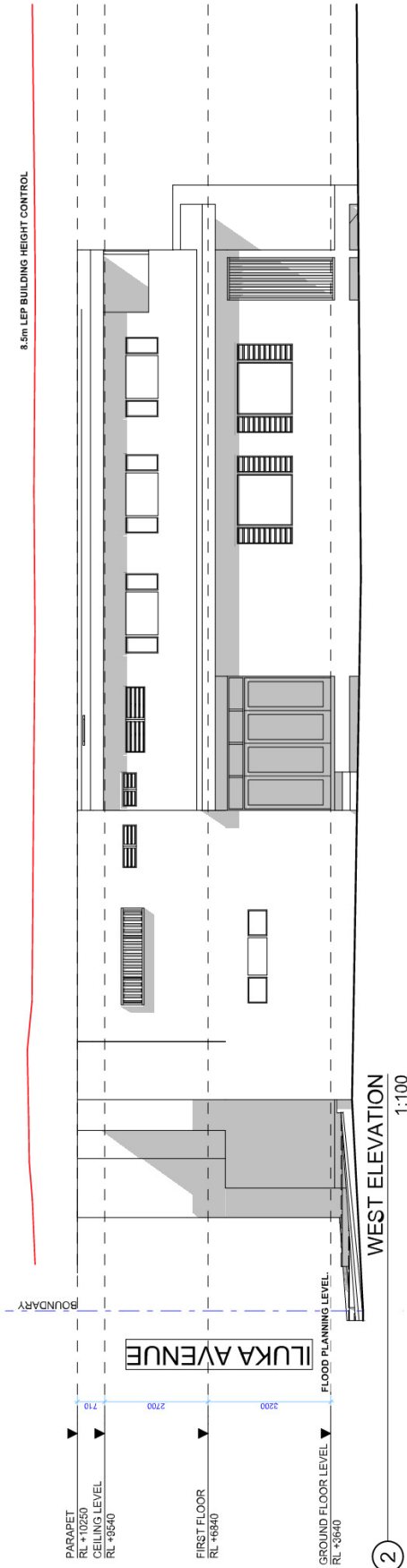
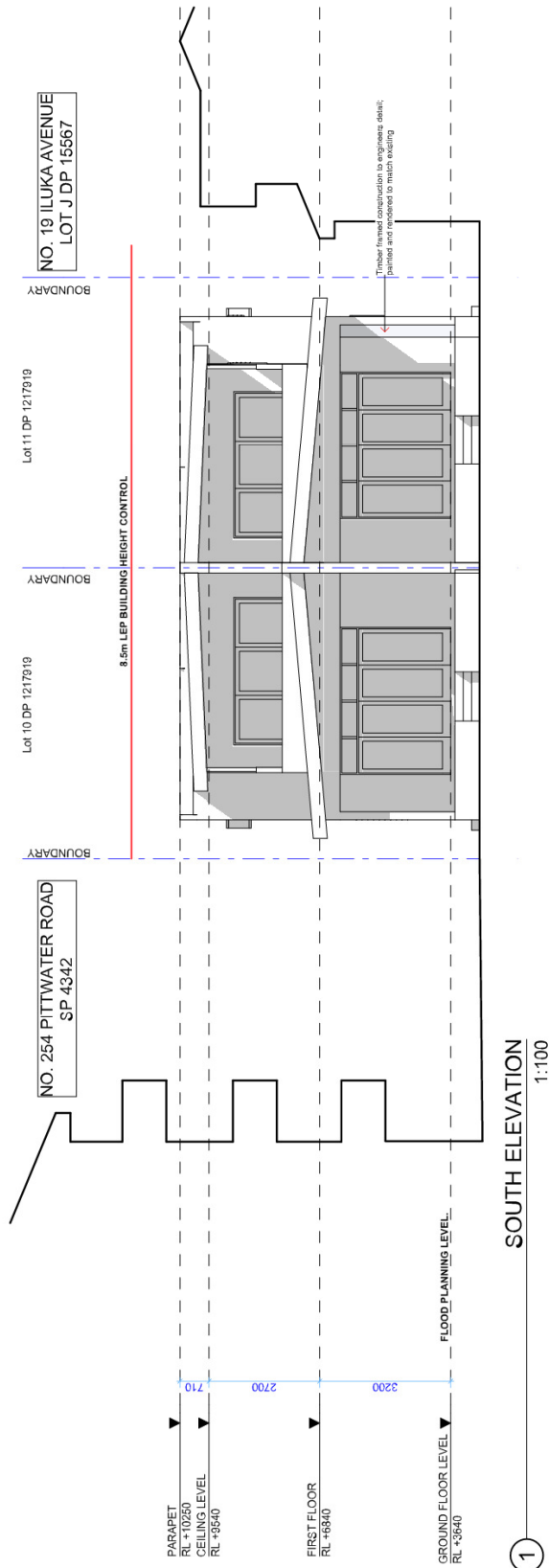
NORTH / EAST
ELEVATION

SCALE

1:100 @A3

DATE

Monday, August 14,
2017



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LEGEND

TIMBER
GLASS
BRICKWORK
METAL

TERRACOTTA ROOF TILES
CONCRETE
TILES
EXISTING WALLS

CLIENT
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PROJECT ADDRESS
21 Iluka Avenue Manly 2085

DRAWING NO.
S96 - 06

DATE
Monday, August 14, 2017

DRAWING NAME
SOUTH / WEST ELEVATION

SCALE
1:100 @A3