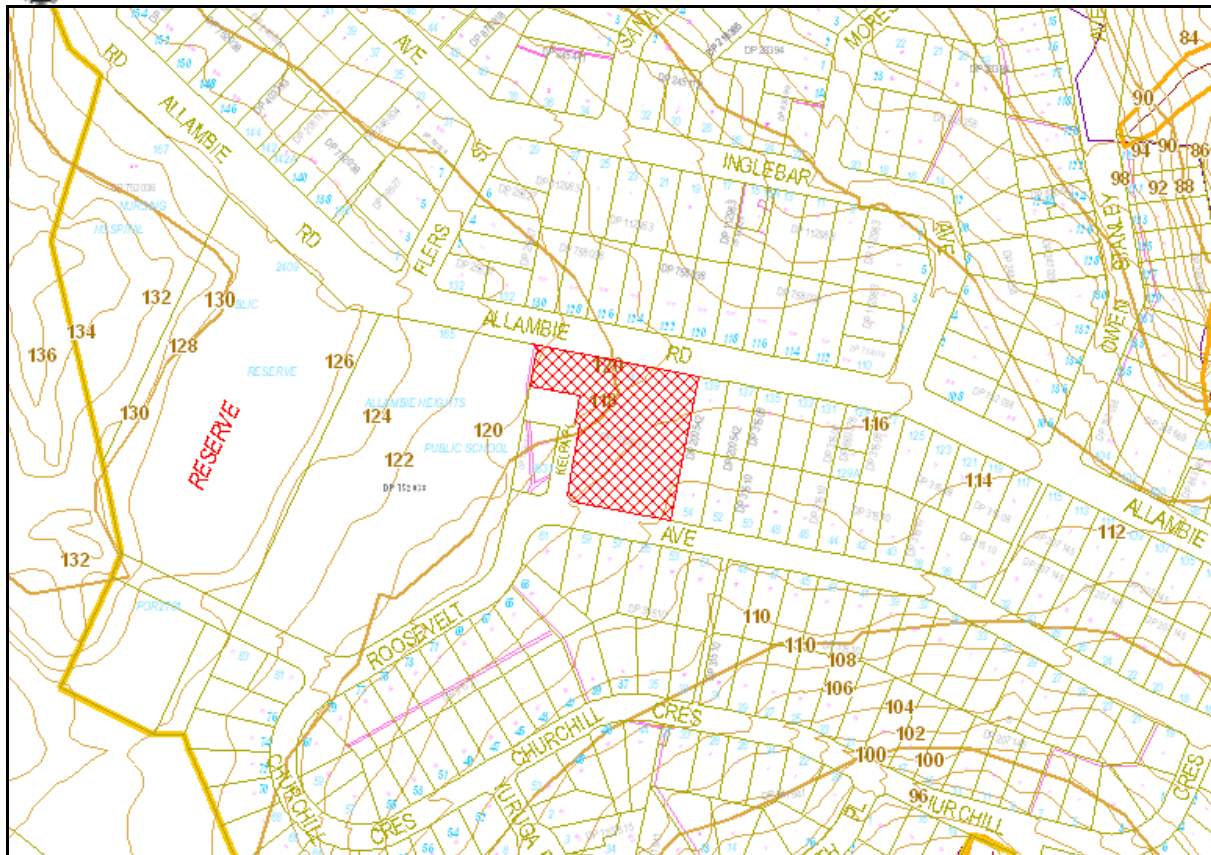


**3.1****141 Allambie Road, Allambie Heights – Construction of an Underground Carpark and Reconfiguration of the Ground Level Carpark****DEVELOPMENT APPLICATION ASSESSMENT REPORT**

<b>Assessment Officer:</b>	Ryan Cole
<b>Address / Property Description:</b>	Lot 2617 in DP 752038, No. 141 Allambie Road, Allambie Heights
<b>Proposal:</b>	Construction of an underground carpark, and reconfiguration of the ground level carpark.
<b>Development Application No:</b>	<b>DA2008/0948</b>
<b>Plans Reference:</b>	Drawing 53908.01 Issue A prepared by HSA Architects
<b>Applicant:</b>	G B Jones Pty Ltd
<b>Owner:</b>	G B Jones Pty Ltd
<b>Application Lodged:</b>	30/06/2008
<b>Amended Plans:</b>	NO
<b>Locality:</b>	G3 Manly Lagoon Suburbs
<b>Category:</b>	Category 2- other buildings that are not prohibited or in Category 1 or 3.
<b>Clause 20 Variations:</b>	N/A
<b>Land and Environment Court Action:</b>	NO
<b>Referred to ADP:</b>	YES- more than 2 unresolved submissions received in response to the notification of this application.
<b>Referred to WDAP:</b>	NO
<b>SUMMARY</b>	
<b>Submissions:</b>	Six (6) submissions
<b>Submission Issues:</b>	Overdevelopment, potential flooding, accumulative impact, carparking provision, traffic safety, disabled and trolley access, safety and security, management of site, noise and air emission and visual impact of ventilation duct, construction management, notification process
<b>Assessment Issues:</b>	Potentially contaminated land, streetscape, construction management, safety and security, tree removal, traffic access, carpark design, stormwater management, site analysis.
<b>Recommendation:</b>	Refusal
<b>Attachments:</b>	Plans

## LOCALITY PLAN (not to scale)



**Subject Site:** Lot 2617 in DP 752038, No. 141 Allambie Road, Allambie Heights

**Notified Residences:** Under the provisions of the Warringah Development Control Plan the subject application has been notified to the adjoining property owners and occupiers. As such, there were 33 notification letters sent.

### SITE DESCRIPTION

The site has a registered title of Lot 2617 in DP 752038, and is commonly known as No.141 Allambie Road, Allambie Heights.

The site is irregular in shape. It has a northern frontage to Allambie Road and a southern frontage to Roosevelt Avenue, and accesses from both streets. It abuts residential allotments to the east, and Allambie Heights and Kelpa Place to the west.

The site is identified a local retail centre under WLEP 2000. The site is currently occupied by 24 shops with a total gross floor space of 2568.4 square metres, and has three (3) carpark areas accommodating a total of 74 carparking spaces (14 spaces located along Allambie Road and 60 spaces within the subject carpark area).

In particular, this application relates to the main carpark area to the eastern portion of the site that accommodates 60 carparking spaces. The subject carpark has accesses to both Allambie Road and Roosevelt Avenue. It abuts residential allotments to the east and shops to the west.

## PROPOSAL IN DETAIL

This application seeks consent for the construction of an underground carpark beneath the existing ground level main carpark, and the reconfiguration of the ground level carpark, as follows:

### Underground Carpark

- Include 35 carparking spaces, a turning bay and a mechanical plant room.
- A vehicular ramp along the eastern perimeter of the carpark leading to and from Roosevelt Avenue.
- Two stairs along the western perimeter of the carpark, one towards the north fronting Allambie Road and another centrally located.

### Ground Level

- Include 49 carparking spaces (including 2 spaces for persons with a disability)
- Realignment of kerb
- Removal of trees
- A ventilation vent on the northwestern corner of the site above the mechanical plant room.
- Two exit stair structures along the western perimeter of the carpark, one towards the north fronting Allambie Road and another centrally located.

## AMENDMENTS TO THE PLAN

There are no amended plans for this application.

## APPLICATION HISTORY

Following a preliminary assessment of the application, a request for additional information was sent to the applicant on 14 July 2008. The details requested included the following:

- Geotechnical Engineers Report addressing ground conditions, the location of the groundwater table, evidence of contamination and impact on adjoining properties.
- Construction / Traffic Management Plan addressing:-
  - fencing of the construction site.
  - stockpiling of excavation material.
  - storage / parking of construction vehicles / trucks / machinery.
  - parking of construction workers vehicles.
  - sediment and erosion control.
  - dust minimisation.
  - construction vehicle access to and from the site during excavation and construction works.
  - the need for a work zone adjacent to the site frontage.
- An Arborist Report addressing trees to be removed and the impact on existing trees to be retained and protection of existing trees to be retained.
- A detailed Landscape Plan showing existing and proposed new planting. The plan is to address the potential for incorporating new landscaping beds within the carparking area to break-up the contiguous expanse of hardsurface to improve visual amenity. Also, the plan is to address the loss of landscaped area on the western side of the entry to the carpark from Allambie Rd, and screening and softening of the exit stair structure (with roof covering ) from the basement carpark.
- More detailed architectural plans for the exit stair structure from the basement carpark, and the mechanical exhaust duct and a photomontage or artist impression is to be provided showing the structures when viewed from Allambie Rd.

- A Safety and Security Report is to be provided addressing the provision of adequate safety and security for customers and shop owners using the carpark, including:-
  - a) suitable closing times
  - b) means of securing the carpark
  - c) adequate lighting
  - d) signage
  - e) Management Plan to prevent vandalism, graffiti and anti-social behavior causing adverse impacts on nearby residential amenity, cleaning and litter removal.
- Lighting strategy - details of how safety lighting is to be provided for customers / shop owners using the above ground carpark after dark. Any lighting is to be detailed in terms of location, design, illumination intensity and light spill. Lighting is to be low level to minimize impacts on adjoining and nearby properties.

As a direct result of the letter Council advised the applicant that *"If Council has not received this information to its satisfaction within 21 days, your Application will be determined on the basis of information presently before Council. Should you require additional time in which to provide this information, you are requested to seek an extension in writing."*

Since the date of the above-mentioned letter Council has received no response from the applicant.

As such Pursuant to Clause 50 & 54 of the Environmental Planning and Assessment Regulation 2000 the application is recommended for REFUSAL as the requested information has not been submitted to Council, and therefore Council is unable to provide an assessment of the application to be carried out under Section 79C and other relevant provisions of the Environmental Planning and Assessment Act 1979 and other associated legislation.

## STATUTORY CONTROLS

1. Environmental Planning and Assessment Act 1979
2. Environmental Planning and Assessment Regulations 2000
3. State Environmental Planning Policy No.55- Remediation of Land
4. State Environmental Planning Policy- Infrastructure
5. Warringah Local Environment Plan 2000
6. Warringah Development Control Plan
7. s94A Development Contributions Plan

## REFERRALS

### Catchment Management

Council's Catchment Management Unit has reviewed the proposal and provided the following comments:

*Stormwater Concept Plan is required to address the following:*

- *Provide details of junction of new pipework to existing infrastructure and proposed location*
- *Existing drainage network within Grigor Place should be accessed rather than connecting to pit in Roosevelt Place. To this end, the applicant is to confirm location of the pipes to determine the most efficient tap in location to avoid unnecessary excavation and disruption*
- *Pre and Post dilapidation reports will be required on the existing pipe infrastructure if approval is granted to ascertain any impacts caused by the works.*
- *Proposed levels to match with those indicated on other plans.*

*It is noted that the entry/exit portal is on the down slope of Grigor Pl, negating significant flood potential for the underground carpark in normal weather conditions. This however, assumes access in and out off Roosevelt Ave.*

*If this is not considered appropriate from a traffic point of view and the portal is required to address Allambie Road, additional information would be required addressing the entry of water and subsequent removal during storm events.*

*Detailed conditions can be provided following receipt of information outlined above.*

Accordingly, subject to the above, the proposed development fails to satisfy the requirements under Clause 76 Management of Stormwater and raises unresolved issues relating to potential flooding of the basement traffic access under the General Principles of Development Control (WLEP 2000) and is therefore recommended for refusal on this basis.

## **Development Engineers**

Council's Development Engineer has reviewed the proposal and provided the following comments:

*"Reference is made to Council's "Building Over or Adjacent to Constructed Council Drainage system and Easements" Policy, PAS-PL 130 and Onsite Stormwater Detention Technical Specification which are applicable for this development. The proposal was reviewed by Council's Development Engineers and the following details are to be submitted to Council for further assessment:*

- 1. The Applicant is to submit a stormwater drainage plan incorporating an Onsite Stormwater Detention System (OSD) in accordance with Council's OSD Technical Specification which is now available on Warringah Council's website.*
- 2. The Applicant proposes to discharge stormwater runoff from the driveway ramp area into Council's existing pit in Roosevelt Avenue by connecting a 200mm wide trench grate located in the driveway ramp to Council's pit via a 100mm uPVC pipeline (located under the public footpath area). The top of the trench grate level is RL 112.50m AHD, which is lower than the top of kerb level of Council's pit (RL112.64m AHD) in Roosevelt Avenue. Council's roadway drainage system is designed such that the maximum design water level in the roadway does not exceed the top of kerb level. In this regard, the stormwater surface level in the roadway can rise to RL 112.64m AHD and this may result in the proposed basement being inundated by stormwater runoff from the roadway. This is not acceptable to Council. The proposal to provide a 100mm uPVC pipeline under the public footpath area is also not acceptable to Council.*
- 3. Council's records indicate that Council's stormwater drainage infrastructure traverses the development site. In this regard, the Applicant is required to confirm the locations and dimensions of Council's pits and pipelines with respect to the proposed development.*
- 4. The Applicant is required to undertake an analysis on the capacity of Council's pipeline. If the existing pipeline is not designed for the 1 in 20 year ARI then the drainage system will need to be upgraded by the Applicant to the 1 in 20 year ARI capacity under the requirements of Section 3.3 of the above Policy.*
- 5. An overland flowpath through the subject site is to be provided for all storms in excess of the 1 in 20 year ARI, up to and including the 1 in 100 year ARI, in accordance with Section 3.3 of the above Policy. Basement entry levels, ventilation openings and other potential water entry points are to have a minimum 500mm freeboard above the 1 in 100 year ARI water surface level.*



6. *An easement to drain stormwater benefiting Council is to be provided over Council's pipeline. The minimum width of the easement to drain stormwater is to be in accordance with Section 3.4 of the above Policy."*

Accordingly, subject to the above, the proposed development fails to satisfy the requirements under Clause 76 Management of Stormwater, has failed to provide adequate information to determine if the development will result in flooding impacts in the basement or impacts upon Council's Stormwater Infrastructure lines under the General Principles of Development Control (WLEP 2000) and is therefore recommended for refusal on this basis.

### **Landscape Assessment**

Council's Landscape Assessment Officer has reviewed the proposal and provided the following comments:

*Several concerns are raised in regard to the proposal.*

*The kerb on the south eastern corner at Roosevelt Avenue is proposed to be altered to accommodate the basement access ramp. There are large Eucalypts at this location which would be adversely affected by the kerb realignment, severing structural roots within the critical root zone.*

*It is considered that the trees contribute significantly to the local amenity of the area on a site which contains very few trees.*

*The stormwater concept plan also indicates new pipes located precisely where the trees are at present.*

*In order to accommodate the trees, excavation work must not encroach within 6 metres of the trunks. Removal of the trees is not supported given their size, local landscape significance and location on the site relative to the developed area.*

*Two large Eucalypts are also located at the north eastern corner of the site to Allambie Road. The plans indicate removal of one of these trees. No objection would be raised to the removal of this tree as it is the smaller of the two, providing the other large tree can be retained. It is a significant landscape feature on Allambie Road.*

*The excavation required for the proposed carpark would adversely affect the tree to be retained, severing structural roots within the critical root zone. As excavation is proposed on two sides of the tree, a minimum distance of 8 metres from excavation is required to be maintained around the tree.*

*It is recommended that the plans be amended to provide for retention of the trees referred to above and that an Arborist's report confirming excavation distances from the tree and tree protection measures be provided.*

*Concern is also raised in terms of the proposed exit stairs and exhaust outlet at the north west corner to Allambie Road. In design terms, their location creates a tight pedestrian space in the nib on Grigor Place.*

*Relocation away from this high pedestrian zone is recommended to facilitate better public access, openness and streetscape appeal on the Allambie Road frontage.*

*It is recommended that amended plans be provided addressing the issues raised above.*

### **Comment:**

In summary, the proposed removal of some trees is not supported and their protection will prevent the construction work of the proposal from taking place. Accordingly, a substantial re-design of the proposed development is necessary to address the issues. Also, Council has requested an Arborist Report be prepared by the applicant, addressing the trees to be removed and those to be retained, that has not been received.

Accordingly, subject to the above, the proposed development fails to satisfy the requirements under Clause 56 Retaining unique environmental features and Clause 58 Protection of Existing Flora as the development has failed to take into consideration distinctive environmental features on the site and nearby lands under the General Principles of Development Control (WLEP 2000) and is therefore recommended for refusal on this basis.

### **Traffic Management**

Council's Traffic Management Team has reviewed the proposal and raised the following matters:

1. *The need for the provision of the additional car parking spaces considering there is no increase in retail floor areas.*
2. *Car parking provision for the shopping centre as a whole should be in accordance with those recommended by the RTA and in Council's LEP.*
3. *The location of the entry/exit ramp to the proposed basement car park would create conflicting traffic movements at the intersection of Grigor Place and Roosevelt Avenue and the ramp.*
4. *The design of the entry/exit ramp to the proposed basement car park does not comply with AS 2890.1-2004. South bound cars on Grigor Place would need to cross into the north bound lane of Grigor Place to make a left turn into the ramp. Cars would need to stop on the intersection of Grigor Place and Roosevelt Avenue when encountering a vehicle exiting the ramp. This arrangement is not considered satisfactory.*
5. *The proposed staircase on the corner of Grigor Place and Allambie Road could impact on sight distance at this corner.*

#### *Comment:*

The proposal will result in a total carparking provisions which remains short (proposed 98 spaces in total) of the minimum requirement (154 spaces, req. 6.1sp. per 100sqm (2568.4sqm GFA)), see Schedule 17 in this report. Therefore, the proposed additional carparking spaces on the site is not unreasonable in an attempt to meet the car parking space requirements of WLEP 2000.

Notwithstanding the net increase in the number of car parking spaces the design of the proposal is unsatisfactory with regard to potential traffic conflicts at intersections, pedestrian and vehicle movements (more detail see C169 WLEP 2000 assessment) and a failure to comply with AS2890..

Accordingly, subject to the above, the proposed development fails to satisfy the requirements under Clause 72 Traffic Access and safety and Clause 73 Onsite Loading and unloading under the General Principles of Development Control (WLEP 2000) and is therefore recommended for refusal on this basis.

### **NOTIFICATION & SUBMISSIONS RECEIVED**

This application was notified by letter dated 18/07/2008 to 33 properties. Five submissions were received in response to the notification of this application, from the followings:

<b>Submission Received</b>	<b>Address</b>
Confidential	Note: submission lodged prior to policy change in consideration of confidential submissions – submission still available to be viewed under s12 LG Act 1993 under a request to view Council Files.
G Thiermann	116 Allambie Road, Allambie Heights
W F Buckley	122 Allambie Road, Allambie Heights
T & J Ryding	124 Allambie Road, Allambie Heights
A Lucas	118 Allambie Road, Allambie Heights
E Hall	52 Roosevelt Avenue, Allambie Heights

The submissions have raised the following concerns and each is addressed below:

## Underground Carpark Area

1. **The proposal for an underground carpark itself is not financially sound, and is not necessary unless there are plans to redevelop the site. A master plan for the site as a whole should be prepared to provide more information for a full assessment of the development.**

**Comment:**

Development applications are assessed against Section 79C of EPA ACT 1979, see the table in this report. The legislation makes no provisions for a consent authority to assess a development beyond what is proposed in an application nor is it Council's role to consider the economic viability of a proposal. Whilst it is acknowledged that a 'Masterplan' or the full redevelopment of the site *maybe* be a desirable outcome from a community perspective this is a matter beyond the scope of Council's consideration of this application. Therefore, no further information in relation to the future of the site is required, and no further consideration of this concern is required.

2. **The subject local retail centre is not a major shopping centre for the area, as opposed to the Warringah Mall, that currently adequately services the surrounding area. The proposal is considered an overdevelopment of the centre and would reduce the amenity enjoyed by the adjoining residents.**

**Comment:**

The proposal at the local retail centre is discussed elsewhere in this report, see Clause 39-Local Retail Centre in this report. It is considered that the proposal will have a negative visual impact on the streetscape and is not satisfactory in addressing the Clause and is not consistent with the Desired Future Character and integration into the surrounding locality which the statement requires consistency with the Clause. Accordingly, the inconsistencies have been included in the reasons for refusal.

3. **The plans prepared for this application do not clearly show if the proposal relates to the underground only, and if it includes any columns and signages and the like above ground. Also, the plans do not clearly indicate the finishing of the structures.**

**Comment:**

The plans prepared for this application indicate underground works, exit stair structure and ventilation duct above ground level. The proposed above ground structures are assessed against the building height control and the general principles of development controls, and are found to be consistent. Accordingly, this concern is not considered to have a determining weight.

4. **The underground carpark is potentially subject to flooding and thereby potentially impose damage on the neighbouring properties.**

**Comment:**

Council's Catchment Management Unit has reviewed the proposal and advised the following:

*It is noted that the entry/exit portal is on the down slope of Grigor PI, negating significant flood potential for the underground carpark in normal weather conditions. This however, assumes access in and out off Roosevelt Ave.*

Accordingly, the proposal is not likely to result in flooding and the concern is not considered to have a determining weight.



5. **The proposal will result in an increase in traffic and thereby the risk of traffic accidents. In particular, the part of the Allambie Road that the carpark fronts is a school zone.**

**Comment:**

The proposal will result in a total carparking provisions which remains short of the minimum requirement, see Schedule 17 in this report furthermore there is no proposed increase in commercial floor space to create an additional demand to the site – it is however considered that the location of the proposed entry and exit point to the basement will increase traffic flows onto Roosevelt Avenue. Therefore, the additional carparking spaces on the site not considered unreasonable. Therefore, the proposal is not considered to have a determining weight.

However, Council's Traffic Management Unit has reviewed the proposal and raised the following matters:

- *The location of the entry/exit ramp to the proposed basement car park would create conflicting traffic movements at the intersection of Grigor Place and Roosevelt Avenue and the ramp.*
- *The design of the entry/exit ramp to the proposed basement car park does not comply with AS 2890.1-2004. South bound cars on Grigor Place would need to cross into the north bound lane of Grigor Place to make a left turn into the ramp. Cars would need to stop on the intersection of Grigor Place and Roosevelt Avenue when encountering a vehicle exiting the ramp. This arrangement is not considered satisfactory.*

Accordingly, the proposal is not satisfactory in its traffic access and safety and the issue is included in the reasons for refusal.

6. **The underground carpark is to be accessed via stairs, there are no ramps or lifts to accommodate shoppers with trolleys or disabled persons who are to access via the vehicular ramp that would increase the risk of traffic accident.**

**Comment:**

In this regard, consideration is given to Clause 69 of WLEP 2000 which stipulates:

*"The siting, design and construction of premises available to the public are to ensure an accessible continuous path of travel, so that all people can enter and use the premises. Such access is to comply with the requirements of the Disability Discrimination Act 1992 of the Commonwealth and with Australian Standard AS 1428.2—1992, Design for access and mobility—Enhanced and additional requirements—Buildings and facilities."*

Whilst two (2) carparking spaces have been provided at ground level, it is considered that the proposed car park is a public building which can and should be accessed by all persons, and that the development has failed to "...to ensure an accessible continuous path of travel, so that all people can enter and use the premises", whilst it is acknowledge that the development provides two (2) stairwells this provides limiting access points and has not provided less mobile person such as for seniors and persons with a disability, in addition, given the development is associated with a local retail centre, the car park has not taken provided access for parents with prams and shoppers with trolleys. The only ramped access point to enable parents with prams and shoppers with trolleys (though potentially too steep) is the driveway access point which would result in adverse pedestrian and traffic conflict.

Accordingly, the objection point is considered to be valid and the application is recommended for refusal on this basis.

- 7. The Statement of Environmental Effects and the plans prepared for this application do not clearly show the relationship of the proposal with Allambie Road. In particular, the existing roundabout which the entrance of the carpark fronts is not shown on the plans.**

**Comment:**

The Statement of Environmental Effects and plans prepared for this application indicates that the proposal only relates to the subject carparking area and makes no change to Allambie Road. Therefore, no further consideration of this concern is required.

- 8. There is no guarantee that the underground carpark area will be used by employees and will vacate the above ground spaces.**

**Comment:**

There are no regulations in place preventing employees from parking above ground, or vice versa customers from parking underground. In summary, the proposal will result in 24 additional carparking spaces on the site for both employees and customers and is acceptable. Accordingly, this concern is not considered to have determining weight.

### **Safety and security**

- 9. The proposal does not adequately address safety and security issues. The proposal does not clearly identify the hours of operation of the basement carpark, and it is considered that the operating hours should correspond to that of the shops but not the restaurants that opens til late. Also, it is considered that a 24 hour monitoring system would not provide adequate deterrent and the basement carpark is prone to anti-social behaviour.**

**Comment:**

Council has requested a Safety and Security Report and a Lighting Strategy be prepared by the applicant, addressing the provision of adequate safety and security for customers and shop owners using the carpark after dark. No such information has been received to demonstrate that the carpark is satisfactory in its safety and security. Accordingly, this issue has been included as a reason for refusal.

- 10. It is considered that on going management of the site is required, including lighting at the rear of shops where most shops are robbed, security patrols by local firms, cleaning of premises, clean drains to prevent flooding, lightings and cleaning of toilets, and refurbishment.**

**Comment:**

Council has requested a Safety and Security Report be prepared by the applicant that is to include a management plan to prevent vandalism, graffiti and anti-social behaviour causing adverse impacts on nearby residential amenity, cleaning and litter removal. No such information has been received in this regard. Accordingly, this issue has been included as a reason for refusal.

### **Ventilation Duct**

- 11. The ventilation duct would result in noise and air pollution emissions. In particular the proposed operating hours of the duct is not clear, and it is considered that the operating hours should correspond to that of the shops and not restaurants at the site. Also, the duct will have a negative visual impact on the street.**



**Comment:**

Relevant conditions in regards to noise level, operating hours, emission of air pollution and a relocation of the duct could adequately address the concern. Therefore, the concern is not considered to have determining weight.

**Construction**

- 12. The construction and excavation work for the proposal will result in noise, vibration and dust, and would potentially affect the foundation of the neighbouring properties.**

**Comment:**

Relevant conditions in regards to noise, vibration and dust associated with construction, and the structural adequacy of the neighbouring properties could adequately address the concern. Therefore, the concern is not considered to have determining weight.

- 13. The construction phase of the proposal will result in the loss of carparking provisions to cope with heavy vehicles movements, deliveries and traffic.**

**Comment:**

Council has requested a Construction/ Traffic Management Plan be prepared by the applicant. No such information has been received in this regard. Accordingly, this issue has been included as a reason for refusal.

- 14. The construction phase of the proposal will result in trade loss, which will affect staff wages and jobs.**

**Comment:**

Development applications are assessed against Section 79C of EPA ACT 1979, see the table in this report. Financial loss during construction phase, in particularly on land owned by the applicant, is not relevant to the assessment. Therefore, no further consideration of this concern is required.

- 15. The adjoining properties to the east are owned by the applicant and incorrectly representing the number of submissions received in response to the notification of this application.**

**Comment:**

This application is notified to the adjoining properties of the site in accordance with the Warringah Development Control Plan. Therefore, no further consideration of this concern is required.

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPA ACT 1979)**

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
<b>Section 79C (1) (a)(i) – Provisions of any environmental planning instrument</b>	See "Environmental Planning Instruments" in this report.  The proposal is found inconsistent or is provided with insufficient information to demonstrate consistencies with the relevant SEPP, and the General Principles of Development Controls contained in WLEP 2000. Accordingly, the inconsistencies have been included in the reasons for refusal.

Section 79C 'Matters for Consideration'	Comments
<b>Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument</b>	None applicable.
<b>Section 79C (1) (a)(iii) – Provisions of any development control plan</b>	This application was notified in accordance with the Warringah Development Control Plan.
<b>Section 79C (1) (a)(iia) - Provisions of any Planning Agreement or Draft Planning Agreement</b>	None applicable.
<b>Section 79C (1) (a)(iv) - Provisions of the regulations</b>	Clause 98 of the EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. Relevant conditions could adequately address the provisions.
<b>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</b>	<p>(i) Council's Landscape Assessment Officer has reviewed the proposal and does not support the removal of the tree on the site and a substantial re-design is necessary. Also, Council has requested an Arborist Report be prepared by the applicant addressing the trees to be removed and those to be retained that has not been received. Accordingly, the proposal is not satisfactory in addressing its impact on the natural environment.</p> <p>(ii) Council has requested additional information from the applicant, including architectural plans for the stair structure, ventilation duct and a photomontage/ artist impression of the development; and landscape plan showing existing and proposed new planting. No such information has been received. Therefore, the impact of the proposal on the built environment cannot be fully assessed and is not satisfactory in addressing this Section.</p> <p>(iii) Council has requested a safety and security report, and lighting strategy from the applicant that has not been received. Accordingly, the social impact of the proposal cannot be fully assessed and is not satisfactory in addressing this Section. Also, Council's Traffic Management Team has reviewed the proposal and is not in support of the proposal, in particular in its traffic access and safety and it is considered that equitable access has not been provided. Accordingly, the proposal is not satisfactory in addressing its social impact on the locality.</p> <p>(iv) The proposed underground carparking will potentially increase patronage. However, the increase is not anticipated of an extent capable of detracting from the surrounding local retail centres. Therefore, the proposal will not have a detrimental economic impact.</p>
<b>Section 79C (1) (c) – The suitability of the site for the development</b>	Council has requested additional information from the applicant, addressing the physical integrity and potential contamination of the land, that has not been received. Accordingly, the suitability of the site for the development cannot be established and the issue has been included in the reasons for refusal.
<b>Section 79C (1) (d) – Any submissions made in accordance with the EPA Act or EPA Regs</b>	Six (6) submissions were received in response to the notification of this application, see "Notification & Submissions" in this report. The submissions have raised concerns on safety and security, construction management which have been included in the reasons for refusal.
<b>Section 79C (1) (e) – The public interest</b>	In considering the public interest, the consent authority is to take a broad view of all relevant planning matters, looking at the development and seeing whether or not it will achieve the broader planning objectives detailed under relevant legislation, State Planning Policies and Local Planning Controls. In determining whether a development will or will not achieve the broader planning objective, a balance needs to be provided as to a wider public interest eg compliance with planning controls, better urban

Section 79C 'Matters for Consideration'	Comments
	<p>design, employment generation, more appropriate community access to facilities, increase retail turn over etc against a sectionalise public interest which will look at the immediate effects of the development upon a local community such as construction impacts, a reduction in amenity, potential for increased traffic flows, character of the development against the existing built form surrounding the site etc.</p> <p>In this regard, Council has previously determined through its strategic planning and gazettal of WLEP 2000 that this site is suitable for commercial development through the site being situated within a 'Local Retail Centre' and the land uses permissible within Local Retail Centres.</p> <p>Separating the existing built form to the car parking situation, the submitted documentation provides for a large number of inconsistencies with the established Environmental Planning Instruments which include issues with traffic, pedestrian conflict, removal of vegetation, stormwater management etc. As a result of this and whilst the proposal will increase the number of off street car parking spaces the overall design of the development is not consistent with the broader public interest given the areas of inconsistencies.</p> <p>When viewing the proposed development from the sectionalise public interest view point, the concerns raised by the residents generally pertain potential loss of amenity increase traffic whilst identifying some of the areas of inconsistencies with the planning controls etc</p> <p>In balancing the wider public interest against the sectionalise public interest, it is considered that the site is not suitable for the proposed development in its current form.</p> <p>Accordingly, the proposal is considered to be inconsistent with the greater and sectionalised public interest.</p>

## State Environmental Planning Policies

### **State Environmental Planning Policy No.55- Remediation of Land**

Clause 7(1)(a) of State Environmental Planning Policy No. 55 – Remediation of Land provides that a consent authority must not consent to the carrying out of any development on land unless;

- It has considered whether the land is contaminated, and
- If the land is contaminated, it is satisfied that the land is suitable in its contaminated state for the purpose for which the development is proposed to be carried out, and
- If the land requires remediation to be made suitable for the development proposed to be carried out, it is satisfied that the land will be remediated before the development is carried out.

The subject part of the site has been used as a carpark area for a period of time. Council has requested the applicant to address the potential contamination of land. No such information has been received in this regard. It is likely that if this information was provided, appropriate conditions could be imposed to ensure that the site is suitable for the proposed use. Given that insufficient information has been submitted to properly determine the extent of contamination on the site and the necessary conditions which would need to be imposed if the application was recommended for approval, the proposal has not demonstrated consistency with this SEPP and the issue has been included in the reasons for refusal.



### **State Environmental Planning Policy- Infrastructure 2007**

This application does not require a referral to the energy supply authority, as the proposed work does not consist of the following:

- the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,
- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or immediately adjacent to an electricity substation, or within 5m of an exposed overhead electricity power line,
- development involving or requiring the placement of power lines underground

### **Warringah Local Environmental Plan 2000**

#### **Desired Future Character**

The subject site is located in the G3 Manly Lagoon Suburbs Locality under Warringah Local Environmental Plan 2000. The Desired Future Character Statement for this locality is as follows:

*“The Manly Lagoon Suburbs locality will remain characterised by detached style housing with a pocket of apartment style development in landscaped settings interspersed by a range of complementary and compatible uses. The development of further apartment buildings will be confined to the “medium density areas” shown on the map. Substantial regional parklands and bushland will remain significant elements of the locality.*

*Future development will maintain the visual pattern and predominant scale of existing detached houses in the locality. The street will be characterised by landscaped front gardens and consistent building setbacks. Unless exemptions are made to the housing density standard in this locality statement, any subdivision of land is to be consistent with the predominant pattern, size and configuration of existing allotments in the locality.*

*The relationship of the locality with the surrounding bushland will be reinforced by protecting the enhancing the spread of indigenous tree canopy and preserving remnants of the natural landscape such as rock outcrops, bushland and natural watercourses. The use of materials that blend with the colours and textures of the natural landscape will be encouraged. Development on hillsides, or in the vicinity of ridgetops, will integrate with the natural landscape and topography.*

*The locality will continue to be served by the existing local retail centres in the areas shown on the map. Future development in these centres will be in accordance with the general principles of development control provided in clause 39.”*

The proposed underground carpark is identified as Category 2 development in this locality, being buildings that are not prohibited or in Category 1 or 3. It is considered that the proposal is consistent with the DFC Statement, for the following reasons:

- The proposal beneath the existing carpark area will not affect the detached style housing in landscaped settings of the locality.
- The underground carpark associated with a local retail centre will continue its complementary and compatible use for the locality.
- The proposal in the urban context will not have a detrimental impact on the surrounding bushland in the spread of indigenous tree canopy and natural landscape.
- The proposal underground will not have a visual impact on the natural landscape and topography.

The subject site, being a local retail centre, is against Clause 39 in this report. The proposal in its current form is not satisfactory in its visual impact on the streetscape and its impact on the safety of pedestrians, and is not consistent with Clause 39 with particular regard to the requirements as follows:

- *“...provide a safe and comfortable environment for pedestrians...”*
- *“Development is to integrate with the established pattern of the centre and the continuity of existing streetscapes is to be maintained.”*
- *“Development that adjoins residential land is not to reduce the amenity enjoyed by adjoining occupants.”*

in that:

- the development will result in additional traffic to Roosevelt Avenue,
- the location of the entry/exit ramp to the proposed basement car park would create conflicting traffic movements at the intersection of Grigor Place and Roosevelt Avenue and the ramp
- the development would result in a reduction in visual amenity through the removal of significant trees.
- the development will result in pedestrian and vehicle conflict, in addition to not providing equitable access, and issues associate with safety and security of persons using the parking facility.

As such, the proposal is not consistent with the requirements of Clause 39 and given Clause 39 is called up under the G3 Desired Future Character Statement, the development results in inconsistency and pursuant to Clause 12 of WLEP 2000 the application cannot be approved and is subsequently recommended for refusal on this basis.

### **Built Form Controls for Locality G3 Manly Lagoon Suburbs**

Pursuant to Clause 39- Local Retail Centres, the building height in local retail centres is to accord with the height limit for the applicable locality, and other built form controls set out in a locality statement are not to be considered. Accordingly, the compliance of the proposal with the building height control of the locality is as follows:

Built Form Standard	Required	Proposed	Compliance
Maximum Building Height	8.5 metres	Ventilation duct: 3.1 metres Exit stair structure: 2.2 metres	YES
Building Height: Natural ground to upper ceiling	7.2 metres	Exit stair structure: 1.9 metres	YES

### **GENERAL PRINCIPLES OF DEVELOPMENT CONTROL**

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development:

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	NO	No Comment	N/A
CL39 Local retail centres	YES	The Clause provides that local retail centres are to incorporate a range of small scale shops and business uses at street scale. The proposal will result 24 additional on-site carparking spaces (98 in total), that however remains short of the minimum requirement (154 spaces). It is not considered a significant intensification of the existing use and will not detract from the intended scale of the centre. Also, the underground carpark will not detract from the existing atmosphere of the centre.	NO

General Principles	Applies	Comments	Complies
		<p>The ventilation duct adjacent to the exit stair structure fronting Allambie Road will emit noise and air pollution. However, a relocation of the duct could reduce the negative impact on the amenity of patrons and will continue the existing comfortable environment for pedestrians.</p> <p>The proposal includes reconfiguration of the ground level carpark which abuts residential allotments. However, the reconfiguration makes no changes to the setback and will essentially continue the existing relationship with the adjoining residential land however given the direction of the basement exit points this will increase traffic onto Roosevelt Avenue causing increased noise and traffic to the residential area and reducing the amenity furthermore the location of the entry/exit ramp to the proposed basement car park would create conflicting traffic movements at the intersection of Grigor Place and Roosevelt Avenue and the ramp.</p> <p>Council's Traffic Management Team has reviewed the proposal and raised the following matters:</p> <ul style="list-style-type: none"> <li><i>The location of the entry/exit ramp to the proposed basement car park would create conflicting traffic movements at the intersection of Grigor Place and Roosevelt Avenue and the ramp.</i></li> <li><i>The design of the entry/exit ramp to the proposed basement car park does not comply with AS 2890.1-2004. South bound cars on Grigor Place would need to cross into the north bound lane of Grigor Place to make a left turn into the ramp. Cars would need to stop on the intersection of Grigor Place and Roosevelt Avenue when encountering a vehicle exiting the ramp. This arrangement is not considered satisfactory.</i></li> <li><i>The proposed staircase on the corner of Grigor Place and Allambie Road could impact on sight distance at this corner.</i></li> </ul> <p>Accordingly, the proposal will result in an unsafe environment for vehicles and pedestrians, and is not satisfactory furthermore there is a number of issues associated with equitable access for a public building which is addressed elsewhere within this report. Specifically the development fails the requirements of Clause 39 to provide safe and comfortable environment for pedestrian.</p> <p>The Clause provides that development is to integrate with the established pattern of the centre and the continuity of existing streetscapes is to be maintained. The underground carpark will not affect the established pattern of the centre in so much of the location of the shops. However, the proposal is considered to have a negative visual impact on the streetscape and will cause pedestrian / vehicle conflict. Council has requested the applicant to address the potential for incorporating new landscaping beds within the carparking area to break up the contiguous expanse of hard surface to improve visual amenity, the loss of landscaped area on the western side of the entry to the carpark from Allambie Road, and screening and softening of the exist stair structure from the basement carpark. No such information has been received and therefore the proposal is not considered satisfactory in its visual impact on the streetscape. Accordingly, the issue has been included as a reason for refusal.</p> <p>In summary, the proposal is unsatisfactory in its relationship with the local retail centre and the adjoining residential land. However, it has not satisfactorily addressed its visual impact on the streetscape and its impact on pedestrian safety, and is not consistent with this Clause.</p>	
CL40 Housing for Older People and People with Disabilities	NO	No Comment	N/A
CL41 Brothels	NO	No Comment	N/A

General Principles	Applies	Comments	Complies
CL42 Construction Sites	YES	This Clause provides that the proposed construction site is not to unreasonably impact on the surrounding amenity, pedestrian or road safety, or the natural environment. Council has requested a Construction/ Traffic Management Plan in this regard and has not received any information in response. Therefore, there is insufficient information available to ensure that the proposal is consistent with this Clause and the inconsistency has been included as a reason for refusal.	NO
CL43 Noise	YES	<p>This Clause provides that noise from combined operation of all mechanical plant and equipment must not generate noise levels that exceed the ambient background noise by more than 5dB(A) when measured in accordance with the Environment Protection Authority guidelines. Relevant conditions could ensure that the construction work for the proposal, and the ventilation duct and mechanical plant room complies with the requirement.</p> <p>The proposal will result in a net increase of 24 on-site carparking spaces and part of which will be accommodated underground. The additional carparking spaces will potentially increase patronage that is however not considered inconsistent with the local retail centre. Accordingly, the proposal will not result in noise emission, which would unreasonably diminish the amenity of the area and will not result in noise intrusion, which would be unreasonable to surrounding residents, and is satisfactory in addressing this Clause.</p>	YES subject to condition
CL44 Pollutants	NO	No Comment	N/A
CL45 Hazardous Uses	NO	No Comment	N/A
CL46 Radiation Emission Levels	NO	No Comment	N/A
CL47 Flood Affected Land	NO	Note: The site is not mapped as flood prone however a failure in the design of the stormwater management for the development or a redesign in the access point could cause the basement area to flood. The application is being recommended for refusal for a failure to comply with Clause 75 – Management of Stormwater.	N/A
CL48 Potentially Contaminated Land	YES	The subject part of the site has been used as a carpark area for a period of time. Council has requested the applicant to address the potential contamination of land. No such information has been received and therefore insufficient information is available to demonstrate consistency with this Clause. This matter has been included in the reasons for refusal.	NO
CL49 Remediation of Contaminated Land	YES	There is insufficient information to establish if the site is contaminated. The proposal is found inconsistent with SEPP 55 and Clause 48 of WLEP 2000- Potentially Contaminated Land. Accordingly, no further consideration of this Clause is required at this stage.	N/A
CL49a Acid Sulfate Soils	NO	No Comment	N/A
CL50 Safety & Security	YES	<p>This Clause provides that development is to maintain and where possible enhance the safety and security of the locality. Council has requested a Safety and Security Report and Lighting Strategy from the applicant in this regard and a failure to provide adequate information has been included as a reason for refusal.</p> <p>Notwithstanding the failure of the applicant to provide a requested information the proposed development has been assessed against the four principles of Crime Prevention Through Environmental Design (CPTED) outlined in 'Crime prevention and the assessment of development applications – Guidelines under Section 79C of the Environmental Planning and Assessment Act</p>	NO

General Principles	Applies	Comments	Complies
		<p>1979' prepared by the former NSW Department of Urban Affairs and Planning.</p> <p>CPTED seeks to "reduce opportunities for crime by using design and place management principles that reduce the likelihood of essential crime ingredients (law, offender, victim or target, opportunity) from intersecting in time and space".</p> <p>These principles are territorial re-enforcement, surveillance, access control, and space/activity management. The following assessment details how the proposal seeks to address these principles.</p> <p><b>Territorial Re-enforcement</b></p> <p>The site has been designed to simply provide additional car parking to the site however will result in additional issues with safety and security. After a request for additional information regarding the development, concern is raised as to the ability to encourage territorial re-enforcement being 'a sense of ownership and responsibility for the proposed car parking area'. Whilst it is acknowledged that the over arching responsibility of the area including the maintenance is that of the land owner, in practical terms, the land owner will not always be present and the necessity for territorial re-enforcement is increased.</p> <p>It is arguable that this occurs for the above ground carparking area as the shops directly face onto the area, whilst potentially not being legally responsible for the area, the shop owners / workers would potentially (even unknowingly) watch over and even partially maintain the area adjacent to the shops and the car parking area as it is beneficial to their businesses and customers.</p> <p>It is however considered that this form of Territorial Re-enforcement will not occur to the proposed basement car park area as there is no direct linkage or visual nexus for the workers and the area, unless, as detailed under Access Control the area is security locked for the use of staff only.</p> <p><b>Surveillance</b></p> <p>The proposed development is considered to fail to provide good natural surveillance by ensuring clear sight lines from any public place – the area is segregated, and would provide little opportunity for anybody to see or prevent an incident (such as concealment or entrapment) from occurring in the space.</p> <p>Opportunities could be available for security lighting however given the single driveway access point and the proposed stairwells and access to the general public there is significant opportunities for concealment or entrapment.</p> <p><b>Access Control</b></p> <p>It is considered that effective access control has been achieved through the provision of physical and symbolic barriers to attract, channel and/or restrict the movement of people.</p> <p>The proposed carpark provides pedestrian access through two (2) separate stairwells and through a singular entry point.</p> <p>With regard to Basement Car parks, access control is essential to ensure safety of users, examples of this would be for residential buildings which provide security access for residents only (security gates and internal access) and large shopping centres which provide for numerous access points, monitored security systems and potential for onsite security and staff to monitor the car parking space.</p> <p>It would be considered that if this development were to be approved, access to the car park would need to be security gated for staff only with the provision of high quality lighting with a monitored security systems being highly recommended. Concern would be raised as to the potential level of safety for users of the car park, given the proposed access points, access to the areas by all persons, and significant lack of general casual surveillance of the area.</p>	



General Principles	Applies	Comments	Complies
		In the absence of the additional information that was requested an assessment of the proposal (with the information currently before Council) using the Crime Prevention Through Environmental Design (CPTED) principles has found that the opportunities for crime have not been minimised and as such, it is considered that the proposal does not provide a safe environment for the site and its surroundings.	
CL51 Front Fences and Walls	NO	No Comment	N/A
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	NO	No Comment	N/A
CL53 Signs	NO	Note: Details of signage have not be provided.	N/A
CL54 Provision and Location of Utility Services	NO	The existing utility services provided to the site, including provision for the supply of water, gas, telecommunications and electricity and the management of sewage and drainage, are satisfactory. Accordingly, the proposal is satisfactory in addressing this Clause.	YES
CL55 Site Consolidation in 'Medium Density Areas'	NO	No Comment	N/A
CL56 Retaining Unique Environmental Features on Site	Yes	Council's Landscape Assessment Officer has reviewed the proposal and advised that the proposed removal of the trees is not supported and there protection will prevent the construction work of the proposal from taking place. Accordingly, a substantial re-design is necessary to address the issues. Also, Council has requested the applicant to address the trees to be removed and those to be retained that has not been received. Accordingly, the proposal is not satisfactory in addressing this Clause, and the issue has been included as a reason for refusal.	NO
CL57 Development on Sloping Land	NO	No Comment	N/A
CL58 Protection of Existing Flora	YES	Council's Landscape Assessment Officer has reviewed the proposal and advised that the proposed removal of the trees is not supported and there protection will prevent the construction work of the proposal from taking place. Accordingly, a substantial re-design is necessary to address the issues. Also, Council has requested the applicant to address the trees to be removed and those to be retained that has not been received. Accordingly, the proposal is not satisfactory in addressing this Clause, and the issue has been included as a reason for refusal.	NO
CL59 Koala Habitat Protection	NO	No Comment	N/A
CL60 Watercourses & Aquatic Habitats	NO	No Comment	N/A
CL61 Views	YES	The site is relatively flat and there are no important views available from the site. Also, the proposed above ground structures do not exceed the building height in the immediate vicinity. Accordingly, the proposal will continue a reasonable sharing of view and is considered satisfactory in addressing this Clause.	YES
CL62 Access to sunlight	YES	This application includes no above ground structures along boundary abutting the adjoining residential allotments. Accordingly, the proposal will not affect the existing sunlight to the surrounding properties and is satisfactory in addressing this Clause	YES

General Principles	Applies	Comments	Complies
CL63 Landscaped Open Space	Yes	No Comment	N/A
CL63A Rear Building Setback	NO	No Comment	N/A
CL64 Private open space	NO	No Comment	N/A
CL65 Privacy	YES	This application includes no above ground structures along the boundary abutting the adjoining residential allotments. The reconfiguration of the ground level carparking spaces will continue the existing use and will not create additional privacy issues, and is satisfactory in addressing this Clause.	YES
CL66 Building bulk	YES	The proposal is considered to have a negative visual impact on the streetscape. Council has requested the applicant to address the potential for incorporating new landscaping beds within the carparking area to break up the contiguous expanse of hard surface to improve visual amenity, the loss of landscaped area on the western side of the entry to the carpark from Allambie Road, and screening and softening of the exist stair structure from the basement carpark. No such information has been received and therefore the proposal is not considered satisfactory in its visual impact on the streetscape. Accordingly, the issue has been included as a reason for refusal.	NO
CL67 Roofs	YES	The proposed flat roof for the two exit stair structure is not an unreasonable design and will complement the local skyline. Accordingly, the proposal is considered satisfactory in addressing this Clause.	YES
CL68 Conservation of Energy and Water	NO	No Comment	N/A
CL69 Accessibility – Public and Semi-Public Buildings	YES	<p>In this regard, consideration is given to Clause 69 of WLEP 2000 which stipulates:</p> <p><i>“The siting, design and construction of premises available to the public are to ensure an accessible continuous path of travel, so that all people can enter and use the premises. Such access is to comply with the requirements of the <u>Disability Discrimination Act 1992</u> of the Commonwealth and with Australian Standard AS 1428.2—1992, Design for access and mobility—Enhanced and additional requirements—Buildings and facilities.”</i></p> <p>Whilst two (2) carparking spaces have been provided at ground level, it is considered that the proposed car park is a public building which can and should be accessed by all persons, and that the development has failed to “...to ensure an accessible continuous path of travel, so that all people can enter and use the premises”, whilst it is acknowledge that the development provides two (2) stairwells this provides limiting access points and has not provided less mobile person such as for seniors and persons with a disability, in addition, given the development is associated with a local retail centre, the car park has not taken provided access for parents with prams and shoppers with trolleys. The only ramped access point to enable parents with prams and shoppers with trolleys (though potentially too steep) is the driveway access point which would result in adverse pedestrian and traffic conflict.</p> <p>Accordingly, the objection point is considered to be valid and the application is recommended for refusal on this basis.</p>	NO
CL70 Site facilities	NO	No Comment	N/A

General Principles	Applies	Comments	Complies
CL71 Parking facilities (visual impact)	YES	<p>The reconfiguration of the ground level carpark is essentially a continuation in the existing situation, and the underground carpark is consistent with the requirement of this Clause to provide basement car parking however it is considered to result in an adverse impact on the streetscape through the removal of vegetation and a need to break up the hard surface area.</p> <p>Notwithstanding this, whilst basement parking is encouraged for large developments, the design must be appropriate, such that traffic access is safe, vehicle and pedestrian conflict is eliminated, safety and security to the area is provided, impact upon flora is minimised and adequate information for a development is provided.</p>	YES
CL72 Traffic access & safety	YES	Council's Traffic Management Team has reviewed the proposal and is not in support, see "Referral" in this report. Accordingly, the proposal is not satisfactory in addressing this Clause.	NO
CL73 On-site Loading and Unloading	YES	<p>The reconfiguration of the existing carparking spaces on ground level involves no on-site loading and unloading facilities. Whilst the existing development does not provide these facilities, given the proposed upgrade of the car parking area and the high volume of traffic using the site, On-site Loading and Unloading are considered to be required.</p> <p>No detail has been provided to ensure facilities for the loading and unloading of service, delivery and emergency vehicles are to be appropriate to the size and nature of the development in addition to being designed so that vehicles may enter and leave in a forward direction have been provided.</p> <p>As such the development is considered to fail to meet the requirements of Clause 73 and is recommended for refusal in this regard.</p>	NO
CL74 Provision of Carparking	YES	The proposal will result in 24 additional on-site carparking spaces and is an improvement to the existing situation. Therefore, albeit the proposal not complying with the minimum provision of Schedule 17, see in this report, the proposal is consistent with this Clause.	YES See Schedule 17.
CL75 Design of Carparking Areas	YES	<p>Council's Traffic Management Team has reviewed the proposal and is not in support, see "Referral" in this report. Accordingly, the proposal is not satisfactory in addressing this Clause.</p> <p><i>In this regard the location of the entry/exit ramp to the proposed basement car park would create conflicting traffic movements at the intersection of Grigor Place and Roosevelt Avenue and the ramp.</i></p> <p><i>The design of the entry/exit ramp to the proposed basement car park does not comply with AS 2890.1-2004. South bound cars on Grigor Place would need to cross into the north bound lane of Grigor Place to make a left turn into the ramp. Cars would need to stop on the intersection of Grigor Place and Roosevelt Avenue when encountering a vehicle exiting the ramp. This arrangement is not considered satisfactory. And the proposed staircase on the corner of Grigor Place and Allambie Road could impact on sight distance at this corner.</i></p> <p>Accordingly, the proposed development fails to satisfy the requirements of the control and is recommended for refusal on this basis.</p>	NO
CL76 Management of Stormwater	YES	Council's Catchment Management Unit and Development Engineers have reviewed the proposal and advised that a stormwater concept plan is required for the application.	NO

General Principles	Applies	Comments	Complies
		The additional information has not been requested from the application, given the substantial outstanding issues that are yet to be addressed by the applicant. Accordingly, application in its current form is not satisfactory in addressing this Clause and the issue has been included in the reasons for refusal.	
CL77 Landfill	NO	No Comment	N/A
CL78 Erosion & Sedimentation	YES	This Clause provides that development is to be sited and designed and related construction work carried out, so as to minimise the potential for soil erosion. Relevant conditions could ensure that the proposal is consistent with this Clause.	YES subject to condition
CL79 Heritage Control	NO	No Comment	N/A
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	NO	No Comment	N/A
CL81 Notice to Heritage Council	NO	No Comment	N/A
CL82 Development in the Vicinity of Heritage Items	NO	No Comment	N/A
CL83 Development of Known or Potential Archaeological Sites	NO	No Comment	N/A

## SCHEDULES

### Schedule 8 - Site analysis

This application includes no site analysis. It is considered that the proposal has not satisfactorily identified the geographical constraints in relation to the proposal, namely the existing vegetation, drainage and contaminated soils. In particular, Council's Landscape Assessment Officer does not support the proposed removal of trees and advised that a substantial redesign is necessary. Accordingly, the proposal is not satisfactory in addressing this Schedule.

### Schedule 17 - Carparking Provision

	Required	Proposed
<b>Shop</b>	6.1 spaces per 100 m <sup>2</sup> i.e. 154.08 spaces per 2568.4m <sup>2</sup>	98 spaces per 2568.4 m <sup>2</sup>

The proposal will result in 24 additional on-site carparking spaces on the site and is an improvement to the existing situation however still resulting in a net area of inconsistency of 57 spaces given the increase this is considered to be acceptable on merit and allowable pursuant to Clause 18(3) of WLEP 2000.

## POLICY CONTROLS

### Warringah Section 94A Development Contribution Plan 2006

Warringah Section 94A Development Contribution Plan 2006 is applicable to the proposal, as the value of work is greater than \$950,000.

<b>Warringah Section 94A Development Contributions Plan</b>			
Contribution based on total development cost of		\$	950,000.00
<b>Contribution - all parts Warringah</b>	<b>Levy Rate</b>	<b>Contribution Payable</b>	<b>Council Code</b>
Total S94A Levy	0.95%	\$9,025	Rams
S94A Planning and Administration	0.05%	\$475	Rams
Total	1.0%	\$9,500	

## **MEDIATION**

Mediation was not requested for this development application.

## **CONCLUSION**

The site has been inspected and the application assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, State Environmental Planning Policy No.55- Remediation of Land, Warringah Local Environmental Plan 2000 and the relevant codes and policies of Council.

The proposed underground carparking and the reconfiguration of the ground level carpark associated with the local retail centre is a complementary and compatible use. However, the proposal is considered to have a negative visual impact on the streetscape. There is no detailed landscape plan addressing the potential for incorporating new landscaping beds within the carparking area to break up the continuous expanse of hard surface to improve visual amenity or loading and unloading areas, the loss of landscaped area on the western side of the entry to the carpark from Allambie Road, and screening and softening of the existing stair structure from the basement carpark. Accordingly, the proposal is not satisfactory in addressing Clause 39 of WLEP2000- Local Retail Centre and thereby the Desired Future Character of the locality which the statement requires consistency with Clause 39.

The subject part of the site has been used as a carpark area for a period of time. Council has requested information from the applicant to address the potential contamination of land. No such information has been received in this regard. It is likely that if this information was provided, appropriate conditions could be imposed to ensure that the site is suitable for the proposed use. However, as insufficient information has been received to properly determine the extent of contamination on the site and the necessary conditions which would need to be imposed if the application was recommended for approval. Accordingly, the proposal has not demonstrated consistencies with SEPP 55- Remediation of Land and Clause 48 of WLEP 2000- Potentially Contaminated Land.

Council's Catchment Management Unit and Development Engineers have reviewed the proposal and advised that a stormwater concept plan is required. The additional information has not been requested from the applicant, given the substantial outstanding issues that are yet to be addressed by the applicant. Accordingly, the proposal in its current form is not satisfactory in addressing Clause 76 of WLEP 2000- Management of Stormwater and potential impacts on Council's Stormwater Infrastructure.

Council's Landscape Assessment Officer has reviewed the proposal and advised that the proposed removal of the tree is not supported and its protection will prevent the construction work of the proposal from taking place. Accordingly, a substantial re-design is necessary to address the issues. Also, Council has requested an Arborist Report be prepared by the applicant, addressing trees to be removed and those to be retained, that has not been received. Accordingly, the proposal is not satisfactory in addressing Clause 56 & 58 of WLEP 2000- Protection of Existing Fauna.



Council's Traffic Management Team has reviewed the proposal and advised that the ramp to the underground carpark will result in unsafe traffic movements and is non compliant with the relevant AS, and that the exit stair structures may block sightlines. Accordingly, a substantial re-design is necessary to address the issues. Accordingly, the proposal is not satisfactory in addressing Clause 72 and 75 of WLEP 2000- Traffic Access and Safety, and Design of Carparking Areas.

The applicant has not prepared a Construction/ Traffic Management Plan, Safety and Security Report and Lighting Strategy, in response to Council's request. The information is necessary to assess the impact of the proposal on the surrounding area during the construction work for the proposal, and the safety and security of the area. In this regard, the proposal has not satisfactorily addressed Clause 42 and 50 of WLEP 2000- Construction Site, and Safety and Security.

Five submissions were received in response to the notification of this application and have raised the concerns above which have been included as reasons for refusal.

In summary, there is insufficient information prepared for this application to demonstrate consistency with all relevant planning controls. The applicant has not satisfactorily demonstrated that the site is suitable for the proposed development nor that the development is in the public interest. Accordingly, the proposal is recommended for refusal.

### **RECOMMENDATION (REFUSAL)**

That the Development Application DA2008/0948 for an underground carpark underneath an existing carpark and reconfiguration of a ground level carpark, at Lot 2617, DP 752038, 141 Allambie Road, Allambie Heights be refused for the following reasons:

- 1) Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979, the proposal is not consistent with Clause 39 - Local Retail Centre and the Desired Future Character of the locality which the statement requires consistency with Clause 39, contained in Warringah Local Environmental Plan 2000.
- 2) Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979, the proposal is not satisfactory in addressing the following Clauses/ Schedules of the Warringah Local Environmental 2000:
  - Clause 42- Construction Site
  - Clause 50- Safety and Security
  - Clause 56- Retaining Unique Environmental Features onsite
  - Clause 58- Protection of Existing Flora
  - Clause 66- Building Bulk
  - Clause 69- Accessibility – Public and Semi Public Buildings
  - Clause 71- Parking Facilities
  - Clause 72- Traffic Access and Safety
  - Clause 73- Loading and Unloading
  - Clause 75- Design of Carparking Areas
  - Clause 76- Management of Stormwater
  - Schedule 8- Site Analysis
- 3) Pursuant to Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the proposal has not provided sufficient information to demonstrate consistency with State Environmental Planning Policy No.55- Remediation of Land and Clause 48 of the Warringah Local Environmental Plan 2000- Potentially Contaminated Land, nor that the site is suitable for the proposed development.

- 4) Pursuant to Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the proposal has not provided sufficient information and failed to provide information pursuant to Clause 50 & 54 of the Environmental Planning and Assessment Regulation 2000 with regard to providing:
- Geotechnical Engineers Report addressing ground conditions, the location of the groundwater table and impact on adjoining properties.
  - Construction / Traffic Management Plan
  - An Arborist Report addressing trees to be removed and the impact on existing trees to be retained and protection of existing trees to be retained.
  - A detailed Landscape Plan
  - More detailed architectural plans for the exit stair structure from the basement carpark, and the mechanical exhaust duct
  - A photomontage or artist impression is to be provided showing the structures when viewed from Allambie Road.
  - Safety and Security Report
  - Lighting strategy



Plans

