

REPORT TO APPLICATION DETERMINATION PANEL

Meeting held on 26 February 2016

68 A Queenscliff Road Queenscliff - Alterations and Additions to an existing Shop Top Housing Development and Strata Subdivision of low rental dwellings under SEPP (Affordable Rental Housing) 2009

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2015/1079
Responsible Officer:	Kevin Short
Land to be developed (Address):	Lot A DP 961049, 68 A Queenscliff Road QUEENSCLIFF NSW 2096
Proposed Development:	Alterations and Additions to an existing Shop Top Housing Development and Strata Subdivision of low rental dwellings under SEPP (Affordable Rental Housing) 2009
Zoning:	LEP - Land zoned B1 Neighbourhood Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Warringah Council Application Determination Panel
Land and Environment Court Action:	No
Owner:	Christine Coultis
Applicant:	Classic Plans
Application lodged:	03/11/2015
Application Type:	Local
State Reporting Category:	Mixed
Notified:	20/11/2015 to 08/12/2015
Advertised:	21/11/2015
Submissions:	5
Recommendation:	Approval
Estimated Cost of Works:	\$ 899,880.00

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 all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (upto the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings

Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - C3(A) Bicycle Parking and End of Trip Facilities

Warringah Development Control Plan - D7 Views

Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot A DP 961049 , 68 A Queenscliff Road QUEENSCLIFF NSW 2096
Detailed Site Description:	The subject site is generally rectangular, has double street frontage to Queenscliff Road (primary) and Bridge Street (secondary) and a total area of 315.3m². A three storey shop top housing development occupies the site. The subject site adjoins a one and two storey dwelling house to the south and a three storey apartment building adjoins the site to the west. Surrounding development comprises a mixture of modern and traditional style dwelling houses and apartment style buildings within landscape settings. Queenscliff Beach is located approximately 120m downslope from the property. The land is identified as Land Slip Risk Map-Area B under WLEP 2011 and has a fall of approximately 0.4m across the width of the Queenscliff Road frontage of the site and falls of 1.6m over the entire frontage of the land to Bridge Road representing a gradient of approximately 13%. Vehicle access to the site is provided from Queenscliff Road.

Map:



SITE HISTORY

Pre-lodgement Meeting (PLM2013/0083)

This pre-lodgement meeting was held between the Applicant and representatives and Council staff 24 July 2013 to discuss the proposed development. The PLM meeting notes are attached.

Development Consent No.2001/1528

Development consent for Installation of external windows and timber deck to existing shop premises was approved 2 January 2002.

Development Consent No.85/432

Development consent for Takeaway food shop with ancillary seating was approved 24 September 1985.

The consent provides the following restrictions on the premises:

- Maximum number of seating: 12;
- Hours of operation: 7.30am to 8.30pm;
- Use of premises: take away food shop.

Development Consent No.1985/413

Development consent for a Shop, hairdresser's salon and four flats was approved 24 September 1985.

Land Use Consent No.65/61

Land Use Consent No. 65/61 for Two shops, two professional suites and one residence was approved 8 April 1965.

PROPOSED DEVELOPMENT IN DETAIL

Development consent is sought for alterations and additions to the existing three storey shop top housing development and strata subdivision of low-rental dwellings under SEPP (Affordable Rental Housing) 2009.

The development includes alterations and additions to the existing shop top housing development, including the following;

Ground Floor Level (RL 26.75)

- Extension of the existing takeaway food and drink premises front to the Bridge Road alignment;
- Raising of the level of the existing outdoor deck 190mm to match the floor level of the takeaway food and drink premises and a new metal awning over the takeaway food and drink premises deck;
- New retaining walls to provide for landscape planter adjacent southern and western boundary;
- New garbage bin storage area with frontage and access from Queenscliff Road;
- Revised driveway and parking arrangement to increase (covered hardstand) parking spaces from 3 to 5, including 2 x stacked spaces;
- New driveway grade and cross-over with access from Queenscliff Road;
- Reconstruction of rear access paths for disabled access; and
- No change to approved hours of operation and maximum number of seats for the takeaway food and drink premises is proposed (details provided under the Site History section of the report).

First Floor Level (RL 30.59)

- Extension of existing building to the west and alterations and additions to provide 2 x 2 bedroom units with balconies (north facing) and living/kitchen areas.

Second Story Level (RL 33.155)

- Extension of existing building to the west and alterations and additions to provide 2 x 2 bedroom units with balconies (north facing) and living areas; and
- Flat metal roof (*Kliplok*) addition to new building section to underside of existing roof.

External materials and Finishes

- Aluminum framed glass windows, doors and balustrades, flat metal roof addition and aluminium cladded external walls.

Stormwater

- Stormwater from new roofed areas and concrete areas will be collected and piped to existing stormwater infrastructure to Bridge Street.

Strata Subdivision

Strata subdivision of the building into six (6) lots, comprising four (4) units and two (2) shops.

Allocation of five (5) car parking spaces (2 x spaces to Lot 3, 2 x spaces to Lot 5 and 1 x space to Lot 6).

The existing shop top housing comprises the following;

- Ground floor level takeaway food and drink premises and business premises (hairdressing salon);
- Four (4) x 1 bedroom upper floor units with external (north) facing balconies; and
- Three (3) parking spaces.

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 A.

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)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<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. <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. <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. No additional information was requested. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application. <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 matter has been addressed via a condition of consent. <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 clause is not relevant to this application. <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. <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.

Section 79C 'Matters for Consideration'	Comments
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	(i) 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. (ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) 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 5 submission/s from:

Name:	Address:
Mr Antonios Kanis	5/24 Bennett Street NEUTRL BAY NSW 2089
Graeme Leslie Piper	2 / 19 Greycliffe Street QUEENSCLIFF NSW 2096
Paul Robert Corbitt	2 / 55 Queenscliff Road QUEENSCLIFF NSW 2096
Lisa Birch	5 / 55 Queenscliff Road QUEENSCLIFF NSW 2096
Matthew Charles Hill	6 / 55 Queenscliff Road QUEENSCLIFF NSW 2096

The following issues were raised in the submission from the owners of No.2/55 Queenscliff Road and have been addressed below:

- View loss
- Excessive building height and bulk and scale
- Adverse amenity impacts on adjoining properties, including visual outlook impacts and noise, odour and smell impacts from the takeaway food and drink premises
- Setbacks of the balconies and roof overhang should be increased
- Adverse traffic impacts

The matters raised within the submissions are addressed as follows:

- View loss

Comment:

The issue of view loss has been addressed in detail elsewhere in this report in the section on WDCP Clause D7 – Views. In summary, the assessment has found that the development will maintain the reasonable sharing of views between properties, including the properties to the north, Nos.55 and 53 Queenscliff Road. In this regard, the development was deemed as being consistent with the planning principles outlined within the Land and Environment Court Case Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140.

Based on the above, the concerns relating to view loss impacts do not carry determining weight and do not warrant the refusal or redesign of the application.

- Excessive building height and bulk and scale

Comment:

This matter has been addressed in detail in this report under the section on State Environmental Planning Policy No. 65 - Design Quality for Residential Flat Development (SEPP), WLEP 2011 and WDCP Controls.

In summary, the assessment has found that the development complies with the requirements of the Design Quality Principles and Apartment Design Code of the SEPP. The proposal will provide a shop top housing development of superior architectural design than that of the existing building. The resultant built form is articulated with recessive building elements, varying roof forms, appropriately considered façade fenestration, materials and finishes.

Whilst the height of the building exceeds the maximum 8.5m building height requirement, the variation to the building height is supported on merit under a *4.6 Exceptions to development standards* of WLEP 2011 given that no unreasonable impacts result to surrounding amenity and streetscape.

The development satisfies the Roof, Building Bulk and Material and Finishes design controls of WDCP.

As such, the development is considered to be satisfactory by providing a bulk and scale commensurate with that of the existing surrounding development of the locality and will provide a satisfactory streetscape outcome.

Based on the above, the concerns relating to height, bulk and scale do not carry determining weight and do not warrant the refusal or redesign of the application.

- Adverse amenity impacts on adjoining properties, including visual outlook impacts and noise (from the takeaway food and drink premises), odour impacts from the takeaway food and drink premises.

Comment:

In relation to visual outlook impacts, the resultant built form is articulated with recessive building elements, varying roof forms, appropriately considered façade fenestration, materials and finishes. In this regard, the proposal will not generate unacceptable visual outlook impacts on adjoining properties.

The development is not intensifying the operation of the existing uses, being a takeaway food and drink premises and business premises (hairdressing salon), in terms of seating numbers and hours of operation. In this regard, noise generated from the takeaway food and drink premises is expected to remain satisfactory. Also, the proposal seeks to provide an acoustic (glazed) barrier along the southern edge of the outdoor seating area which will reduce noise impacts more so than the current situation.

Also, the takeaway food and drink premises is required to comply with relevant Australian Standards for the design and fit out, including mechanical ventilation. Council records do not show that the takeaway food and drink premises is non-compliant with these requirements. In this regard, noise generated from the takeaway food and drink premises is expected to remain satisfactory.

As such, the concerns relating to adverse amenity impacts do not carry determining weight and do not warrant the refusal or redesign of the application

- Setbacks of the balconies and roof overhang should be increased

Comment:

The setbacks of the development comply with the requirements of the WDCP controls (ie. nil setbacks). Like other commercial developments within the Warringah locality, the takeaway food and drink premises awning does protrude over and above the footpath. No concern is raised by Council Road Assets section in this regard. These building elements are recessive and provide satisfactory articulation to the built form.

Based on the above, the concerns relating to the setbacks of the building do not carry determining weight and do not warrant the refusal or redesign of the application

- Adverse traffic impacts

Comment

The existing development provides three (3) on-site residential parking spaces and the business premises rely on on-street parking.

As detailed under the WDCP C3 Parking Facilities section of the report, the proposal will provide five (5) on-site residential parking spaces which satisfies on merit the car parking requirements of the control.

The development is not intensifying the operation of the existing retail/business premises, being a takeaway food and drink premises and business premises (hairdressing salon), and therefore the existing on-street parking demand will be maintained.

Based on the above, the concerns relating to adverse traffic impacts do not carry determining weight and do not warrant the refusal or redesign 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.	
Development Engineers	No objection to approval and subject to conditions as recommended.	
Environmental Investigations (Industrial)		
	Is the proposal for an industrial use?	YES
	Was sufficient documentation provided	YES

Internal Referral Body	Comments
	appropriate for referral?
	Are the reports undertaken by a suitably qualified consultant? YES
	Have you reviewed the Statement of Environmental Effects, and consider ongoing use, such as: - Processes with emphasis on potential pollution (air, noise, water and land) - Hazardous Materials, liquids stored on site - Waste storage, disposal. - Mechanical ventilation YES
	Have you Consider impact of noise, hours of operation, location to nearest residential, location of equipment, times of deliveries, noise management plans, acoustic reports etc. YES
	If the proposal is a scheduled premises have you recommended that the DAO refer the proposal to OEH? NO
	General Comments The DA does not appear to intensify the use and an addition of a clear acoustic barrier should minimize noise from the outdoor area
	Recommendation APPROVAL - subject to conditions
	Comments completed by: James Montgomery Date: 16/11/15
Landscape Officer	No objections to the proposed works.
Road Reserve	No objections to the proposal.
Traffic Engineer	The proposed alternations and additions to the existing Shop Top Housing at 68A Queenscliff Rd, Queenscliff includes the provision of additional 2 parking spaces in stacked arrangement. It is also proposed to narrow down the exiting driveway to 4.5m. Having regard to the proposed stacked parking spaces, the width of the driveway is to be minimum 6m to accommodate the outer car when moving to get the inner car out of the car park. The proposed access driveway arrangement will also create a 3.5m kerbline between the driveways and adjacent driveway which would result in cars parking between the driveways protruding the access driveways. Having the driveway widened to 6m, this matter will be also rectified. No objection is raised on the proposed on traffic grounds subject to the provision of 6m wide access driveway.

Internal Referral Body	Comments
	<u>Planner Comment</u> A suitable condition is included in the Recommendation requiring the driveway to be widened to 6m
Waste Officer	Waste services has no issues with the development subject to the conditions of consent

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 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 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 alterations and additions to an existing shop top housing development containing four (4) self-contained dwellings, two (2) commercial ground floor premises and three (3) covered car parking spaces.

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

Warringah 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 zoned B1 Neighbourhood Centre and is surrounded by a mixture of traditional and modern apartment style buildings interspersed by two storey dwelling houses within landscape settings. Shop top housing development is permissible development within the zone. A shop top housing development was constructed on the site during the mid 1960's (Land Use Consent No.65/61) and has since been modified.

This development seeks to alter and add to the existing shop top housing development and provide a superior architectural design that is articulated with recessive building elements, varying roof forms, appropriately considered façade fenestration, materials and finishes. The three storey height and scale of the building will also be maintained. The resultant built form will provide an improved standard of design that addresses public streets and spaces and integrates with the landscape and topography. As such, the development will complement and respond to the key prominence and natural qualities of the Queenscliff coastal headland and its relationship to the surrounding public spaces including nearby

beaches and the parklands surrounding Manly Lagoon.

The existing development has also provided low cost accommodation for a considerable period of time. Low cost accommodation cannot continue to financially support remedial and upgrading of the building. These works require the housing stock to be returned to the general housing market.

The owner will burden two (2) of the four (4) units for a period of three (3) years to be maintained as low cost rental accommodation; will assist the relocation of all residents by extending the required period to vacate to one hundred and twenty (120) days and; provide monetary contribution to the programs of Housing NSW to assist to mitigate any adverse social or economic effects of the proposal.

Suitable conditions are included in the Recommendation to this effect.

burdening two (2) of the four (4) units for a period of three (3) years to be maintained as low cost rental accommodation

Based on the above, the proposal responds to the context with a renovated shop top housing development consistent with the planning intent for the subject site and the locality and therefore satisfies the objective of 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:

As detailed above, the development will provide a superior architectural design that is articulated with recessive building elements, varying roof forms, appropriately considered façade fenestration, materials and finishes. The three storey height and scale of the building will also be maintained.

Whilst departing from the 8.5m height limit applicable, new building works are contained below the relative height of the existing building on the site. The proposal provides for modest but improved residential floor plan layouts and a minor extension to the ground floor retail component. The proposed built form is consistent with the setback requirements in Councils DCP, which allow for a nil setback to the street alignments and merit setbacks on side and rear boundaries.

As such, the resultant built form will provide an improved standard of design that complements adjoining and surrounding development and addresses public streets and spaces and integrates with the landscape and topography.

The proposed development will maintain the neighbourhood centre character of the existing building whilst providing for a more contemporary presentation of the development to the streetscape with an appropriate prominence to the street corner.

Based on the above, the development satisfies the objective of 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:

No specific housing density controls apply to the development therefore the appropriateness of the density proposed is largely determined through a consideration of the compliance of the proposal with other relevant planning controls.

The development is not increasing the number of existing residential units, being four (4). In summary, the development seeks to upgrade and improve the existing building in terms of external appearance and internal layout.

The new building components do not comply with the 8.5m height limit applicable. However, the new building works are contained below the relative height of the existing building and the areas of non-compliance are on merit under a WLEP 2011 - 4.6 Exceptions to development standards given the lack of consequences in terms of surrounding amenity and streetscape, including view loss.

The proposed development is subject to merit assessment for front and side setbacks and supported on the basis that a superior architectural designed building in conjunction with improved internal amenity for residential unit will be provided, including appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy and the provision of car parking (from 3 spaces to 5 spaces).

Further, the site will continue to be serviced by a reasonable level of infrastructure, public transport, community facilities and environmental quality.

Based on the above, 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.

Based on the above, the development satisfies this Principle.

Comment:

The development is environmentally sensitive as it will provide a more sustainable design with improved energy efficiency. The resultant built form will comprise the following;

- Dual or triple aspect to all units to achieve excellent solar access and cross ventilation;
- Living areas with balconies with a northern orientation to maximise solar access;
- All unit face north;
- Improved shading devices; and
- Energy consumption as recommended by BASIX Certificates for each unit.

Based on the above, the development 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:

The landscape setting of the site will be improved by the development with landscape planters being provided within the western portion of the site. These landscaped areas will assist to visually soften the bulk and scale of the building, including the carparking area.

Based on the above, the development 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:

The proposed dwelling has been assessed as being consistent with the requirements of the following WDCP controls:

- D6 Access to Sunlight;
- D7 Views; and
- D8 Privacy.

Having regard to the above, the proposal will have an acceptable impact on the amenity of adjoining properties, including visual outlook impact, disruption of views, loss of privacy and loss of solar access.

The modifications and addition to the floor plans of each unit, including external balconies and windows, will vastly improve the internal amenity of all units in terms of access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage.

Based on the above, the development satisfies this Principle.

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:

All units are accessible through the existing entrance lobby providing access to each floor level, including a private intercom system.

Passive surveillance of common areas within the development and the public domain surrounding the site will be improved by the proposed development.

Based on the above, the development 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 proposal includes the renovation of the building to provide for 4 x 2 bedroom units (in place of 4 x 1 bedroom "low cost accommodation" units) as such contributing to a mix that appropriately responds to the social context.

Whilst the proposed strata subdivision of the development will change the type of accommodation from low cost housing to general market stock housing, the off-set of housing will be adequately compensated by the owner by;

- Burdening two (2) of the four (4) units for a period of three (3) years to be maintained as low cost rental accommodation;
- Assist the relocation of all residents by extending the required period to vacate to one hundred and twenty (120) days; and
- Provide monetary contribution to the programs of Housing NSW.

Based on the above, the development responds to social context by providing housing and facilities to suit the existing and future housing mix.

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 aesthetics of the proposal are considered to be compatible with more modern and contemporary developments in the area. A variety of textures and colours have been incorporated into the design of the proposal. An improved landscape setting will also be provided.

As such, the design of the building and the proposed landscaping will respond to the environment and its context by visually providing a substantially improved architectural balance between the proposed

built form and the provision of vegetation.

Based on the above, the development 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?	Satisfactory. The existing development does not relate well to its context, being the Queenscliff Headland and beach side character of the area, and is not sited appropriately. The development is an appropriate built form for the subject site, given that the building includes a high level of articulation to break-up continuous wall planes and to provide visual relief to bulk and scale. The design standard and streetscape presentation is considered to be consistent with the contemporary design of other new buildings in the Queenscliff locality and surrounding area. Additionally, the modifications to the existing floor layout and balconies will provide an improved and high level of amenity to all

		apartments, including adequate private open space and outlook from the upper floor levels.												
Orientation	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	Satisfactory. The development will improve the the presentation of the built form to the streetscape and site and increase solar access within the development.												
Public Domain Interface	Does the development transition well between the private and public domain without compromising safety and security? Is the amenity of the public domain retained and enhanced?	Satisfactory. The development will improve												
Communal and Public Open Space	Appropriate communal open space is to be provided as follows: 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)	Satisfactory. No communal space provided under the existing development.												
Deep Soil Zones	Deep soil zones are to meet the following minimum requirements: <table border="1"> <thead> <tr> <th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr> </thead> <tbody> <tr> <td>Less than 650m²</td><td>-</td><td rowspan="4">7%</td></tr> <tr> <td>650m² – 1,500m²</td><td>3m</td></tr> <tr> <td>Greater than 1,500m²</td><td>6m</td></tr> <tr> <td>Greater than 1,500m² with significant existing tree cover</td><td>6m</td></tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m 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	Satisfactory. New landscaped open spaces are proposed within the western portion of the site which to improve the landscape setting of the site.
Site area	Minimum dimensions	Deep soil zone (% of site area)												
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	Minimum required separation distances from buildings to the side and rear boundaries are as follows: <table border="1"> <tr> <td></td><td></td><td></td></tr> </table>				Satisfactory. The addition to the western elevation of the									

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

Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.

Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.

existing building is located 7.5m and 7.5m from the external wall and balcony, respectively, of the apartment building located on the adjoining property to the west, No.70 Queenscliff Road.

The addition to the southern elevation of the existing building will maintain 4.0m spatial separation from the dwelling house located on the adjoining property to the south, No.21A Bridge Road.

The addition to the western elevation of the existing building will provide a 2.63m to 3.15m setback to the western side boundary and 3.185m to the southern side boundary.

The spatial separation between buildings is considered acceptable for the following reasons:

- The development complies with the nil setback requirement for the site (B6 Merit Assessment of Side Boundary Setbacks of WDCP);
- The redevelopment of the existing building is considered modest and the new additions to the building are located with

		adequate spatial separation to adjoining buildings so that visual outlook impacts are minimised and a sense of enclosure avoided; • Close and direct overlooking between properties is provided; and • A condition has been included in the Recommendation for the south elevation kitchen windows to be high sill or obscure.
Pedestrian Access and entries	Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify? Large sites are to provide pedestrian links for access to streets and connection to destinations.	Satisfactory. Access to the building is clearly defined at the northern elevation of the building and will be enhanced by the cantilevered first floor extensions.
Vehicle Access	Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?	Satisfactory. The revised parking arrangement will provide for five (5) car spaces in a stacked configuration. Given the low number of movements anticipated from the proposed development this arrangement will ensure acceptable safety and minimise conflicts between pedestrians. Also, landscaping within the western portion of the site, and adjacent to the carpark area, will

		complement the streetscape.
Bicycle and Car Parking	For development in the following locations: - 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 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. The car parking needs for a development must be provided off street. Parking and facilities are provided for other modes of transport. Visual and environmental impacts are minimised.	Satisfactory. The revised parking arrangement will increase the number of parking spaces by two (2) from three (3) spaces to five (5) spaces. This is deemed acceptable on merit against the car parking requirements of WDCP (C3 Parking Facilities). The site is close to public transport networks, which will assist residents who do not have vehicles. A condition is included in the Recommendation for for Bicycle parking facilities to be provided in accordance with the requirements of WDCP C3(A) Bicycle Parking and End of Trip Facilities (ie. 5 bicycle spaces).
Part 4 Designing the Building		
Amenity		
Solar and Daylight Access	To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space: - 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. - A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter	All units complies with the criteria.
Natural Ventilation	The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by: 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	All units complies with the criteria.

	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.													
Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table><tr><th colspan="2">Minimum ceiling height</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor 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></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	Satisfactory. Existing floor to ceiling heights, being 2.4m residential units and 2.7m commercial premises, are being maintained by the development. Notwithstanding, internal amenity will be vastly improved by the development for the residential units.
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													
Apartment Size and Layout	Apartments are required to have the following minimum internal areas: <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> The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each. Every habitable room must have a window in an	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	Satisfactory. Unit 1: 60.1m² Unit 2: 68m² Unit 3: 61.8m² Unit 4: 68m². The shortfall in minimal internal area is considered acceptable given the development comprises a modest addition to the existing building, including the conversion of 4 x 1 bedroom units of poor internal amenity to 4 x 2 bedroom units with a high level of internal amenity.		
Apartment type	Minimum internal area													
Studio	35m ²													
1 bedroom	50m ²													
2 bedroom	70m ²													
3 bedroom	90m ²													

	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. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window. Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space). Bedrooms have a minimum dimension of 3m (excluding wardrobe space). Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Also, the conversion of the smaller units to one (1) bedroom units would represent an under utilisation of space .															
Private Open Space and Balconies	All apartments are required to have primary balconies as follows: <table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>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>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table> 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.	Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	All units comply with the criteria.
Dwelling Type	Minimum Area	Minimum Depth															
Studio apartments	4m ²	-															
1 bedroom apartments	8m ²	2m															
2 bedroom apartments	10m ²	2m															
3+ bedroom apartments	12m ²	2.4m															
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	The entry satisfies this criteria.															
Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table><tr><th>Dwelling Type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>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>	Dwelling Type	Storage size volume	Studio apartments	4m ²	1 bedroom apartments	6m ²	2 bedroom apartments	8m ²	3+ bedroom apartments	10m ²	Satisfactory. Whilst the units do not provide the 8m³ recommended under the guide for two (2) bedroom units opportunities for internal storage is greatly improved over the existing situation and					
Dwelling Type	Storage size volume																
Studio apartments	4m ²																
1 bedroom apartments	6m ²																
2 bedroom apartments	8m ²																
3+ bedroom apartments	10m ²																

	At least 50% of the required storage is to be located within the apartment.	acceptable in the circumstances.
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.	Satisfactory. The development is not intensifying the operation of the existing uses, being a takeaway food and drink premises and hairdressing salon, in terms of seating numbers and hours of operation. In this regard, noise generated from these premises is expected to remain satisfactory. Also, the proposal seeks to provide an acoustic (glazed) barrier along the southern edge of the outdoor seating area which will reduce noise impacts more so than the current situation. The carpark area contains five (5) parking spaces and is expected to be low use and should therefore not cause noise impacts on residential units.
Noise and Pollution	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	Satisfactory. As detailed above, noise and pollution impacts on adjoining (and within the building) are not expected to be generated. Also, the takeaway food and drink premises is required to comply with relevant Australian Standards for the design and fit out, including mechanical ventilation. Council records show that the takeaway food and drink premises is complying with these requirements is

		satisfactory. In this regard, noise generated from the takeaway food and drink premises is expected to remain satisfactory.
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.	Satisfactory. The proposal includes 4 x 2 bedroom units which is considered an appropriate apartment mix given the small scale of the development.
Facades	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	Satisfactory. The resultant built form will provide an improved standard of design that complements adjoining and surrounding development and addresses public streets and spaces and integrates with the landscape and topography. The proposed development will maintain the neighbourhood centre character of the existing building whilst providing for a more contemporary presentation of the development to the streetscape with an appropriate prominence to the street corner.
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 accommodation and open space.	Satisfactory. The roof form will respond well in relation to the building envelope to the street frontage and provide for adequate and improved weather protection for upper level balcony areas.
Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	Satisfactory. A landscape plan was not

submitted with the application.

However, architectural drawings show the provision of new planter boxes within the western portion of the site and new plantings within the front northern setback of the site.

The landscaping design is severely limited by the constraints of the existing development on the site however the proposed landscaping will assist to address the Queenscliff Road frontage and interface with surrounding properties.

Planting on Structures

When planting on structures the following are recommended as minimum standards for a range of plant sizes:

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 spread at maturity	9m ³	800mm	3.5m x 3.5m or equivalent
Shrubs			500-600mm	
Ground Cover			300-450mm	
Turf			200mm	

Refer to comments above.

Universal Design

Developments are to achieve a benchmark of 20%

The incorporation of

	of the total apartments incorporating the Livable Housing Guideline's silver level universal design features.	universal design features is limited by the constraints of the existing building on the site.
Adaptive Reuse	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.	N/A
Mixed Use	Can the development be accessed through public transport and does it positively contribute to the public domain? Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.	Satisfactory. The proposal represents a desirable renovation of the existing shop top housing development on the site to provide for an improved activation of the street frontages including provision for disabled access to the existing takeaway food and drink premises.
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.	Satisfactory. The new awnings complement the building design and contribute to the identity of the development.
Performance		
Energy Efficiency	Have the requirements in the BASIX certificate been shown in the submitted plans?	Satisfactory. A BASIX certificate was submitted for each unit.
Water Management and Conservation	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	Satisfactory. A BASIX certificate was submitted for each unit to satisfy this criteria.
Waste Management	Supply waste management plans as part of the development application demonstrating safe and convenient collection and storage of waste and recycling.	Satisfactory. The waste management storage area is to be provided adjacent the street frontage within an enclosure with adequate presence within the streetscape. as required by councils' waste management This will replace an informal storage of bins

		on the site visible from the streetscape. Waste Management is provided in accordance with Council's requirements.
Building Maintenance	Incorporates a design and material selection that ensures the longevity and sustainability of the building.	Satisfactory. The renovated building will be constructed with materials that require minimal maintenance.

SEPP (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime.

Rental figures provided by the applicant indicate that all of the four units have been leased below the medium rent rate within the past 24 months prior to lodging this development application. On this basis, the building is categorised as a low rental building, and is subject to provisions contained under Part 3 of State Environmental Planning Policy (SEPP) (Affordable Rental Housing) 2009.

A detailed assessment against Part 3 of the SEPP is provided below.

Part 3 Retention of existing affordable rental housing

cl. 47 Interpretation

(1) In this Part:
comparable accommodation means accommodation that is comparable with the accommodation provided within the premises the subject of a development application to which this Part applies in that:

- (a) it is similar in location because it is in the same or a neighbouring suburb, and
- (b) it is at the same rental level, or is not more than 5 per cent higher than that level, and
- (c) it is available for occupation at the date of lodgment of the development application, and
- (d) in the case of residential flat buildings, comprises dwellings with the same number of bedrooms as the dwellings in the premises the subject of the development application.

guidelines means the Guidelines for the Retention of Existing Affordable Rental Housing, approved by the Director-General and published in the Gazette.

low-rental dwelling means a dwelling that (at any time in the 24 month period prior to the lodgment of a development application to which this Part applies) was let at a rental not exceeding the median rental level for that time (as specified in the Rent and Sales Report) in relation to a dwelling of the same type, having the same number of bedrooms and located in the same local government area.

low-rental residential building means a building used as a residential flat building containing a low-rental

dwelling or as a boarding house and includes a building:

- (a) that, at the time of lodgment of a development application to which this Part applies, is lawfully used as a residential flat building containing a low-rental dwelling or as a boarding house, irrespective of the purpose for which the building may have been erected, or
- (b) that was used as a residential flat building containing a low-rental dwelling or as a boarding house but that use has been changed unlawfully to another use, or
- (c) that is vacant, but the last significant use of which was as a residential flat building containing a low-rental dwelling or as a boarding house.

Rent and Sales Report means the Rent and Sales Report published by the Department of Human Services or a publication issued in place of that publication by or on behalf of the Government.

(2) In this Part, a very low income household, low income household or moderate income household is taken to include a household that occupies a low-rental dwelling or a boarding room in a boarding house.

Comment:

The applicant has provided satisfactory documentation to demonstrate the rental levels for the apartment building are below the applicable median levels and that the subject building constitutes a low rental residential building for the purposes of this policy.

In the Warringah Local government area, the annual median weekly rents for one (1) bedroom units were:

Year 1: 1st April 2013 to 31st March 2014 = \$410.00

Year 2: 1st April 2014 to 31st March 2015 = \$430.00

The rental levels in the building for the corresponding periods were:

- Unit 1 Year 1 - \$260 per week, Year 2 - \$260 per week
- Unit 2 Year 1 - \$240 per week, Year 2 - \$240 per week
- Unit 3 Year 1 - \$260 per week, Year 2 - \$260 per week
- Unit 4 Year 1 - \$270 per week, Year 2 - \$270 per week

Comment:

As detailed above, rental levels from the leased units leased were below the applicable median levels and therefore the subject building constitutes a low rental residential building for the purposes of this policy.

Clause 49 provides that:

49 Buildings to which Part applies

(1) This Part applies only to those buildings that were low-rental residential buildings as at 28 January 2000, and does not apply to any building that becomes a low-rental residential building after that date.

(2) This Part does not apply to a building:

- (a) that has been approved for subdivision under the Strata Schemes (Freehold Development)*
- (b) to which State Environmental Planning Policy (Housing for Seniors or People with a Disability)*
- (c) owned by, or under the care, control and management of, a social housing provider.*

Comment:

The existing building on the site was constructed in the late 1960's and has been lawfully occupied since that time.

Clause 50 states:

50 Reduction of availability of affordable housing

(1) A person must not do any of the following in relation to a building to which this Part applies except with development consent:

- (a) demolish the building,*
- (b) alter or add to the structure or fabric of the inside or outside of the building,*
- (c) change the use of the building to another use (including, in particular, a change of use to be a boarding house),*
- (d) if the building is a residential flat building, strata subdivide the building.*

(2) In determining a development application referred to in subclause (1), the consent authority is to take into account the guidelines and each of the following:

- (a) whether there is likely to be a reduction in affordable housing on the land to which the application relates,*
- (b) whether there is available sufficient comparable accommodation to satisfy the demand for affordable housing on the land to which the application relates,*
- (c) whether the development is likely to cause adverse social and economic effects on the general community,*
- (d) whether adequate arrangements have been made to assist the residents (if any) of the building to relocate,*
- (e) the extent to which the development contributes to any cumulative loss of affordable housing on the land to which the application relates,*
- (f) the structural soundness of the building, the extent to which the building complies with any relevant building and the compliance of the building with the fire safety requirements,*
- (g) whether the imposition of a condition requiring the payment of a monetary contribution for the development is likely to be financially viable,*
- (h) in the case of a boarding house, the financial viability of the continued use of the boarding house.*

(3) For the purposes of subclause (2) (b), sufficient comparable accommodation is conclusively taken to be not available if the average vacancy rate in private rental accommodation for Sydney as published monthly by the Real Estate Institute of New South Wales is, for the 3 months immediately preceding the date of lodgement of the development application, less than 3 per cent.

(4) For the purposes of subclause (2) (h), the continued use of a boarding house is financially viable if the rental yield of the boarding house determined under clause 51 (5) not less than 6 per cent.

Comment:

Assessment of the matters raised under Clause 50(2) of the policy as relevant to the submitted application are as follows:

(a) whether there is likely to be a reduction in affordable housing on the land to which the application relates,

Comment:

The Applicant has provided the following assessment:

According to the Affordable Rental Housing SEPP Online Assessment tool, the owner occupancy rate in Queenscliff is 45%.

According to the assessment tool, the proposed alterations and additions and strata subdivision of the building will result in an estimated loss of 1.8 bedrooms to the rental market.

Notwithstanding, the proposed strata subdivision of the building, it is the owner's intention that all four (4) units be returned to the rental market. Nonetheless, to offset the estimated loss of 1.8 bedrooms to the rental market, the owner is prepared to burden two (2) of the four (4) units with a caveat or similar restriction to the effect that they will be maintained available at rent levels not exceeding the median rental levels for the Warringah LGA for a period of three (3) years from the date of occupation of the building.

A condition to this effect is included in the Recommendation.

(b) whether there is available sufficient comparable accommodation to satisfy the demand for such accommodation,

According to the Real Estate Institute of NSW (REINSW) June 2015 Vacancy Rate Survey, the overall vacancy rate for Sydney rose by 0.2% to 2.1%.

Clause 50(3) of the SEPP provides that sufficient comparable accommodation is conclusively taken to be not available if, for the three months immediately preceding lodgement of the development application, the average vacancy rate for private rental accommodation in Sydney as published by the REINSW is less than 3%. The published rates for current and relevant previous quarters have been consistently less than 3%. In the terms of the Policy, therefore, sufficient comparable accommodation is taken to be not available.

(c) Adverse social and economic effects on the general community

As set out under (a) above, in accordance with the ARH SEPP guidelines and the DPI webtool, the proposal represents an assessable loss of 1.8 bedrooms of affordable housing.

In the absence of any alleviatory measures, potential adverse social and economic effects on the general community include less housing choice for lower-income households, loss of household diversity, increased rents, breakdown of established social networks and increased demand for publicly funded social housing, rental assistance and support services. It is intended that the potential for such impacts to be mitigated by the combination of actions outlined in this report.

(d) Arrangements to assist displaced residents to find alternative comparable accommodation

The minimum notice required to vacate an expired tenancy under the Residential Tenancies Act 2010 is now ninety (90) days. The owner is prepared to assist residents by extending this period to one hundred and twenty (120) days and financially assist each tenant with displacement costs in accordance with the ARH SEPP guidelines and DPI webtool. It is relevant to note that the owner has, since prior to the introduction of the ARH SEPP in 2000, been providing assistance to established residents in the form of rents well below market rates which have not increased for at least two (2) years. Furthermore, the owner is prepared to place a caveat or similar restriction on the titles of two (2) of the four (4) units limiting any rental to the median levels for the Warringah LGA within a three (3) year period post occupancy of the completed development.

A condition to this effect is included in the Recommendation.

(e) Contribution to cumulative loss of affordable housing in the area.

From the Housing NSW information it is evident that a very low percentage of total rental housing available to very low and low-income earners exists within the Warringah LGA compared to the Sydney SD and the NSW total.

The Housing NSW website provides access to tables based on Census, Rental Bond Board and Valuer General's data showing that as of the June 2015 quarter the percentage of rental housing in the Warringah Local Government Area affordable to those on very low incomes continues below 2%. Similar low rates exist within the LGAs surrounding the Warringah LGA. This overall availability is within a vacancy rate that has not risen above 3% in the Sydney region for since 2005.

Notwithstanding the limitations of the available data, the loss of the 1.8 bedrooms of affordable housing on the site would contribute to any cumulative loss in the Warringah Council area.

(f) Structural soundness of the building, fire safety compliance and cost of rectification.

The building appears to be generally sound; however, the current proposal represents an opportunity to upgrade the building to comply with the current provisions of the BCA inclusive in respect of fire safety compliance. Suitable conditions are included in the Recommendation requiring fire safety compliance.

(g) Adequacy of monetary contribution to mitigate reduction of affordable housing resulting.

Application of a monetary contribution calculated in accordance with the formula set out in clause 51 of the SEPP could be expected to substantially mitigate any adverse social or economic effects of the proposal. This contribution, in addition to the other alleviatory measures proposed, should adequately mitigate the reduction of affordable housing resulting from the development.

A condition to this effect is included in the Recommendation for a contribution of \$56 700.00.

(h) Financial viability of continued use as boarding house

Not applicable.

SEPP SUMMARY (by Applicant)

This consideration of the assessment criteria indicates:

(a) The proposal would result in the loss of 1.8 units of affordable housing currently available on the land.

(b) Because the private rental vacancy rate for Sydney is less than 3%, sufficient comparable accommodation is taken to be not available.

(c) In the absence of alleviatory measures the proposal has the potential to cause adverse social and economic effects on the general community and is likely to do so to some extent.

(d) The owner has already assisted established residents by maintaining their rents at levels well below market rate for a considerable period of time and is prepared to assist the relocation of all residents by extending the required period to vacate to one hundred and twenty (120) days and provide financial assistance.

(e) The proposal would likely contribute to cumulative loss in the Warringah LGA.

(f) The proposed development will facilitate upgrading of the building to comply with the current BCA including fire safety requirements.

(g) Application of the calculated monetary contribution to the programs of Housing NSW could be expected to substantially mitigate any adverse social or economic effects of the proposal. This in combination with an extended period to vacate for existing tenants, financial assistance, and a burdening by way of caveat or other similar restriction as to user on the title limiting the rental of two (2) of the four (4) units to the median rental levels for the Warringah LGA for a period of three (3) years, should adequately mitigate any adverse social or economic impacts associated with the proposed development.

Planner Comments

The assessment and conclusion provided by the Applicant is concurred with. Suitable conditions are included in the Recommendation to achieve the following:

- Extending the required period to vacate to one hundred and twenty (120) days and provide financial assistance to vacate;
- Application of the calculated monetary contribution in accordance with the SEPP (cl.51(2) The Affordable Housing Contribution); and
- Burdening by way of caveat or other similar restriction as to user on the title limiting the rental of two (2) of the four (4) units to the median rental levels for the Warringah LGA for a period of three (3) years.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted for each unit with the application, as detailed below;

Unit 1: A226451 dated 11 August 2015

Unit 2: A226452 dated 11 August 2015

Unit 3: A226453 dated 11 August 2015

Unit 4: A226454 dated 11 August 2015

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificates.

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:	8.5m	new building components: 8.5m to 10m existing building: 10.5m	up to 17.6% (1.5m) up to 23.5% (2.0m)	No No (existing)

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
2.6 Subdivision - consent requirements	N/A
4.2A Minimum subdivision lot size for strata subdivision of residential or tourist and visitor accommodation in certain zones	N/A
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
5.8 Conversion of fire alarms	Yes
Part 6 Additional Local Provisions	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 and is assessed taking into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

Requirement:	8.5m
Proposed:	varying heights from 8.5m to 10.5m
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	up to 23.5%

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 existing three storey shop top development has a maximum height of 10.5m. The alterations and additions to this building will have a maximum height of 10.0m. The new areas of non-compliance relate to the upper most southern portions of the additions and the new roof elements located beneath the existing roof (with exception of the roof above the front northern elevation of Unit 2 and 4 at the western side of site)

The site is located mid-slope of a south facing hillside and slopes down to the south at about 5°. The areas of non-compliance are a consequence of the slope of the site and location of the existing building as evident by the most significant areas of non-compliance being located at the southern portion of the building.

The new roof elements sit below the existing roof ridge and the new additions to the existing building maintain existing floor levels and improve the existing floor layout.

Overall, the proposal will provide a shop top housing development of superior architectural design and streetscape presentation than that of the existing building. The resultant built form is articulated with recessive building elements, varying roof forms, appropriately considered façade fenestration, materials and finishes.

Having regard to the above, the building will maintain a height and bulk that is compatible and consistent with surrounding development.

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

Comment:

As detailed above, the proposed dwelling is articulated with recessive building elements and appropriately considered façade fenestration, materials and finishes. Additionally, the proposed dwelling has been assessed as being consistent with the requirements of the following WDCP controls:

- D6 Access to Sunlight;
- D7 Views; and
- D8 Privacy.

Having regard to the above, the proposal will have an acceptable impact on the amenity of adjoining properties, including visual outlook impact, disruption of views, loss of privacy and loss of solar access.

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

Comment:

The landscape setting of the site will be improved by the development with landscape planters being provided within the western portion of the site. These landscaped areas will assist to visually soften the bulk and scale of the building.

Based on the above, the development will have an acceptable impact on the scenic quality of Warringah's coastal and bush environments.

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

Comment:

Having regard to the above, the visual impact of development when viewed from public places will be acceptable given the following:

- Provide a bulk and scale commensurate and compatible with that of the existing building;
- Surrounding development of the immediate and surrounding area have an acceptable impact on the scenic quality of Warringah's coastal and bush environments; and
- Provide a building of satisfactory architectural merit with an improved landscape setting.

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 B1 Neighbourhood Centre zone.

The underlying objectives of the B1 Neighbourhood Centre zone

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*

Comment:

The existing approved (and proposed) shop top development comprises 4 x 1 bedroom units, a takeaway food and drink premises and hairdresser salon (business premises).

In summary, the proposal seeks to maintain these uses and increase the number of bedrooms within the units, from 4 x 1 bedroom units to 4 x 2 bedroom units.

In this regard, the development will continue to provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood

The proposal satisfies the Objective.

- To ensure that neighbourhood centres provide a village-like atmosphere and safety and comfort for pedestrians.

Comment:

In summary, the proposal will provide a shop top housing development of superior architectural design,

improved landscape setting and streetscape presentation than that of the existing building. The resultant built form is articulated with recessive building elements, varying roof forms, appropriately considered façade fenestration, materials and finishes.

As such, the development will improve the local neighbourhood centre, add to the village-like atmosphere and maintain safety and comfort for pedestrians.

The proposal satisfies the Objective.

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

Comment:

The proposal has been carefully designed to minimise amenity impacts on adjoining residential properties, including visual outlook impacts, view loss, overshadowing, noise and privacy.

Also, a condition has been included in the Recommendation for the south facing kitchen windows of the new additions to Unit 2 & 4 to be high sill or half glazed/obscure to prevent close and direct overlooking of the adjoining property to the south, No.21A Bridge Street.

The proposal satisfies the Objective.

Conclusion

Having regard to the above, the development is consistent with the underlying objectives of the B1 Neighbourhood Centre zone.

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.

Comment:

With exception of the building height, the development satisfies the relevant planning controls, principles and objectives of State Environmental Planning Policy No. 65 - Design Quality for Residential Flat Development (SEPP), WLEP 2011 and WDCP. In this regard, the proposal does not constitute an overdevelopment of the site and is viewed as a modest redevelopment of a traditional style building to that of a more modern style building.

As detailed previously, the areas of non-compliance are a consequence of the slope of the site and location and height of the existing building as evident by the most significant areas of non-compliance being located at the southern portion of the building.

The proposal will provide a shop top housing development of superior architectural design and streetscape presentation than that of the existing building.

Given the above, strict numerical compliance would unreasonably limit the redevelopment of the site.

On this basis, the development satisfies this objective.

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

Comment:

Enforcing compliance with the numerical standard in this instance would not achieve a better planning outcome as the non-complying building element is an integral part of the overall built form design which is satisfactorily articulated. Further, compliance with the numerical standard would not provide any tangible benefit to adjoining property owners in terms of amenity, including privacy and view sharing.

On this basis, the development satisfies this objective.

(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:

In accordance with the requirements described above, the Applicant has provided a written request to vary 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 Applicant has provided a written request to vary the development standard in a manner which is consistent with 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 B1 Neighbourhood Centre 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
B5 Side Boundary Setbacks	merit	west: 2.63m to 3.15m south: 3.1m to elevation nil to outdoor seating	N/A	Yes
B7 Front Boundary Setbacks	merit	Queenscliff Road (north): 2.52m Bridge Road (east): nil	N/A N/A	Yes Yes
B9 Rear Boundary Setbacks	merit	N/A (corner allotment)	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
Front Boundary Setbacks - B1	Yes	Yes
C1 Subdivision	N/A	N/A
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C3(A) Bicycle Parking and End of Trip Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Mixed Use Premises (Residential/Non-Residential)	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Private Property Tree Management	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E10 Landslip Risk	Yes	Yes
F1 Local and Neighbourhood Centres	Yes	Yes

Detailed Assessment

C3 Parking Facilities

No parking spaces are provided on site for the takeaway food and drink premises and business premises (hairdresser). The development is not intensifying the operation of these uses and therefore no on-site parking demand is generated.

The existing development (4 x 1 bedroom) provides three (3) on-site residential parking spaces. Under Appendix 1 WDCP the car parking requirements for the existing development (4 x 1 bedroom) is five (5) spaces, comprising four (4) residential spaces and one (1) visitor space.

Under Appendix 1 WDCP the car parking requirements for the proposed development (4 x 2 bedrooms) is five (5) spaces, comprising four (4) residential spaces and one (1) visitor space.

Based on the above, the development is not generating any additional on-site carparking demand.

Notwithstanding, the development is increasing the number of on-site spaces by two (2) spaces, from three (3) spaces to five (5) spaces.

In this regard, the development satisfies on merit the car parking requirements of the control.

C3(A) Bicycle Parking and End of Trip Facilities

Condition is included in the Recommendation for Bicycle parking facilities to be provided in accordance with the requirements of the control (ie. 3 bicycle spaces).

D7 Views

Submissions were received from the owners/residents of Unit 2, 5, 6 & 9 No.55 Queenscliff Road in relation to view loss from the development. The units are located on the opposite (north-west) side of Queenscliff Road.

The view loss assessment carried out below includes site inspections of Unit 5, 6 & 10 at No.55 Queenscliff Road and external site inspections of neighbouring and adjoining properties, including Nos.47, 53, 55 Queenscliff Road and No.12 Bridge Road. Queenscliff Road.

In summary, it is concluded that the proposal will not unreasonably affect the views of adjoining and surrounding properties. In determining the extent of potential view loss to the adjoining property, the four (4) steps within the planning principle outlined in the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, were considered and are discussed below:

- *To allow for the reasonable sharing of views.*

Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

1. Nature of the views affected

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

Comment to Principle 1:

The views available include distant panoramic views of water/land interface of Queenscliff, North Steyne, Manly Beach, Cabbage Tree Bay (and associated beaches/foreshores) and Shelly headland. These views are highly valued.

Partial distant views of North Head water/land interface are available.

District views of surrounding and adjoining suburbs are also available.

The view to be affected is a partial view of the Queenscliff Beach surf zone. The view is obtained between the apartment buildings located on the subject site and No.21A Bridge Street, and over the dwelling house located between these properties, No.21A Bridge Street . (see photos below).

View from Unit 5/55 Queenscliff Parade



View affected from Balcony (standing) at Unit 5/55 Queenscliff Parade (Level 1)



View from Balcony (standing) at Unit 10/55 Queenscliff Parade (Level 2)

2. What part of the affected property are the views obtained

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

Comment to Principle 2:

The views are obtained from internal and external living rooms across the front and side boundary in a sitting and standing position.

3. Extent of impact

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

Comment to Principle 3:

The view to be affected is over the front boundary and comprises a partial water view off Queenscliff Beach, including the surf zone. This view is available in a standing and sitting position from the front southern portion of internal living rooms and from the external deck.

The view is obtained between the apartment buildings located on the subject site and No.21 Greycliffe Street, and over the dwelling house located between these properties at No.21A Bridge Street (see photos above).

The apartment building at No.21 Bridge Street is undergoing remedial works and scaffolding and construction materials are currently wrapped around the building. The analysis of view sharing has accounted for this.

A nil to negligible impact on the remaining available views is expected from the development.

Therefore, the overall extent of the view loss is assessed as being minor.

4. Reasonableness of the proposal that is causing the impact

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

Comment to Principle 4:

The assessment of view loss caused by the development to surrounding properties is considered reasonable as the highly valued views are retained including distant panoramic views of water/land interface of Queenscliff, North Steyne, Manly Beach, Cabbage Tree Bay (and associated beaches/foreshores) and Shelly headland.

Further, the loss of the partial water view off Queenscliff Beach, including the surf zone is caused by the western portion of the northern elevation which complies with the 8.5m building height requirement. Also, this view is highly vulnerable given it is obtained between the apartment buildings located on the subject site and No.21 Greycliffe Street, and over the dwelling house located between these properties at No.21A Bridge Street. Should this dwelling house redevelop in the future, including an increase in building height, the partial view of water view of the Queenscliff Beach surf zone would be severely impacted on.

The development complies with the relevant planning controls under WDCP. The additions to the existing building are considered modest. Lowering the height or deleting a floor level of the additions to the western elevation to retain the view would not provide the same development potential of the site and amenity for its future residents.

In this regard, the development is considered an acceptable design response to site constraints, including its

steepness and the location and non-complying height of the existing building.

Accordingly, the development is reasonable and acceptable with regard to the requirements of view loss CL.69 of WLEP.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent / 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.

D8 Privacy

The new works are located and orientated away from adjoining properties with sufficient spatial separation to prevent close and direct overlooking between properties.

Also, a condition has been included in the Recommendation for the south facing kitchen windows of the new additions to Unit 2 & 4 to be high sill or half glazed/obscure to prevent close and direct overlooking of the adjoining property to the south, No.21A Bridge Street.

Based on the above, the proposal satisfies the Objectives of the control.

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 \$ 899,880		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 8,549
Section 94A Planning and Administration	0.05%	\$ 450
Total	1%	\$ 8,999

Existing takeaway food and drink premises (hours of operation and seating numbers)

The application seeks to maintain the approved use of the existing takeaway food and drink premises in terms of hours of operation, maximum number of seating and the approved use.

As per the Site History section of the report, Development Consent No.85/432 provides the following restrictions on the premises;

- Maximum number of seating: 12;
- Hours of operation: 7.30am to 8.30pm; and
- Use of premises: takeaway food and drink premises.

Part of the development includes increasing the size of the seating deck located off the southern elevation of the existing takeaway food and drink premises. These works, albeit to a minor extent, will impact on the operation of the approved use in terms of improving the amenity and access to the outdoor seating area.

As the development does not propose to increase seating it is that appropriate to maintain the approved use of the existing premise, hours of operation and maximum seating numbers (as detailed above).

Conditions to this effect are provided in the Recommendation.

A new development application can be lodged to change the use of the existing premise, hours of operation and maximum seating numbers (as detailed above).

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 Council as the consent authority grant Development Consent to DA2015/1079 for Alterations and Additions to an existing Shop Top Housing Development and Strata Subdivision of low rental dwellings under SEPP (Affordable Rental Housing) 2009 on land at Lot A DP 961049, 68 A Queenscliff Road, QUEENSCLIFF, 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
Construction Management Plan 035/15 (sheet 1 of 2)	6/08/15	classic plans
Construction Management Plan 035/15 (sheet 2 of 2)	6/08/15	classic plans
Site Plan Plan 035/15 (sheet 1 of 9)	18/07/15	classic plans
Ground Floor Plan 035/15 (sheet 2 of 9)	6/08/15	classic plans
First Floor Plan 035/15 (sheet 3 of 9)	18/07/15	classic plans
Second Floor Plan 035/15 (sheet 4 of 9)	18/07/15	classic plans
Roof Plan 035/15 (sheet 5 of 9)	18/07/15	classic plans
South and West Elevation 035/15 (sheet 6 of 9)	18/07/15	classic plans
North, East and Section A-A (sheet 7 of 9)	18/07/15	classic plans
Colours and Samples Board	18/07/15	classic plans

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
DEMOLITION & WASTE MANAGEMENT PLAN	undated	classic plans
CONSTRUCTION NOISE MANAGEMENT PLAN	undated	unnamed
BUILDING CODE OF AUSTRALIA COMPLIANCE ASSESSMENT REPORT	21.09.15	AE&D Pty Ltd
DA Access Report	17 September 2015	WALL TO WALL DESIGN AND CONSULTING
PRELIMINARY GEOTECHNICAL ASSESSMENT	16 October 2013	JK Geotechnics

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.

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. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- The first and second floor level south facing Kitchen windows of Unit 2 and 4, as

shown on the approved plans, are to be either a high sill windows or the lower half of the windows are to be glazed and or obscured.

A high sill window refers to a window where the sill is located a minimum of 1.65m above the finished floor level.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts in accordance with WLEP2011 and WDCP. (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 Shop top housing, Take food and drink premises and Business premises (hairdresser).

Shop top housing is defined as;

"means one or more dwellings located above ground floor retail premises or business premises".

Note. Shop top housing is a type of residential accommodation—see the definition of that term in this Dictionary.

Takeaway food and drink premises is defined as:

"take away food and drink premises means premises that are predominantly used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises."

Note. Take away food and drink premises are a type of food and drink premises—see the definition of that term in this Dictionary.

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

Business premises (hairdresser) is defined as;

"means a building or place at or on which:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or*
- (b) a service is provided directly to members of the public on a regular basis, and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.*

Note. Business premises are a type of commercial premises—see the definition of that term in this 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 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 sewerred 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

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 \$ 899,880.00		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 8,548.86
Section 94A Planning and Administration	0.05%	\$ 449.94
Total	1%	\$ 8,998.80

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 Warringah's Development Contributions Plan.

7. **Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Councils 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 Councils infrastructure.

8. **Contributions for Affordable Rental Housing**

In accordance with Division 6A of the Environmental Planning and Assessment Act 1979 and Part 3 of State Environmental Planning Policy (Affordable Rental Housing) 2009, a contribution of (\$56 700) is required.

This amount has been calculated using the contribution formula specified in Clause 51 (3) of SEPP (ARH) 2009 as follows:

$$C = L \times R \times 0.05$$

Where	
C	Is the contribution payable
L	Is the total number of bedrooms in a low – rented dwelling and boarding rooms that will be will be lost by the proposed development = 1.8 bedrooms
R	Is the replacement cost calculated as the average value of the first quartile of scales of strata properties in the local government area in which the development is to take place, as specified in the 4 most recent editions of the Rent and Sales Report = \$630 000

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

Reason: Legislative Requirement. (DACTRCPPC2)

9. **Works Bonds**

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

A Bond of \$10,000 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.

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. (DACENZ01)

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

10. **Submission of Engineering Plans for Civil Works in the Public Road Reserve**
Engineering plans are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993. The submission is to include four (4) copies of Civil Engineering plans for the design and construction of the following (referred to as the "Works"):
- Construction of 1.5 m wide concrete footpath between the driveways of 70 and 68A Queenscliff Road
 - 4.5m wide driveway along the Queenscliff Road frontage
- The Works are to be generally in accordance with the Development Application and Council's specification for engineering works – AUS-SPEC #1 and Council's Minor Works Specification.
- The Fee Associated with the assessment and approval of the plans is to be in accordance with Council's Fees and Charges.
- 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.
- Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.
- Reason: Ensure engineering works are constructed in accordance with relevant standards. (DACENCPC1)
11. **Stormwater disposal**
A drainage plan indicating all details relevant to the collection and disposal of stormwater from the proposed buildings and paved areas is to be provided. Stormwater shall be conveyed from the site to Bridge Road.
- 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 disposal and stormwater management arising from the development. (DACENCPCC3)

12. **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)

13. **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)

14. **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)

15. **Width of Access Driveway**

The width of the access driveway is to be 6m to accommodate the vehicular movements resulting from the proposed stacked parking arrangement.

Reason: To accommodate a waiting area off the street and prevent queuing on the street as well as prevent vehicles parking between driveways blocking the access (DACTRCPC1)

16. **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

17. **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 \$10 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 Warringah 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)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

18. **Assistance to Tenants**

Prior to the commencement of works the applicant is required to provide written proof that the current tenants of Apartments 1, 2, 3 and 4 have been given a minimum of three (3) months notice of the termination of their leases.

At the same time, the contact details for local and surrounding Community Housing Providers are to be provided to the tenants to assist to find comparable and suitable accommodation.

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

Reason: To provide assistance to the existing tenants to find new accommodation.

(DACENE01)

19. **Vehicle Crossings**

The provision of one vehicle crossing 4.5 metres wide in accordance with Warringah Council Drawing No A4-3330/3 Normal Low 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)

20. **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)

21. **Layback Construction**

A layback 4.5 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)

22. **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)

23. **Installation and Maintenance of Sediment Control**

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Warringah Council Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACPLE02)

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

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan titled Report - Waste Management Plan (Council Ref: 2015/330465) and dated 6 November 2015.

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

25. **Fire Safety Upgrade**

The fire upgrading measures and works to upgrade the building as detailed and recommended in the Building Code of Australia Report referenced Project 6182 Revision 2 prepared by A E and D Group, dated 21/09/15.

The specified works are to be constructed/provided/implemented to the building with details demonstrating implementation being submitted to the Principal Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Reason: To ensure adequate provision is made for fire safety in the premises for building occupant safety. (DACBCF01)

26. **Deed of agreement with a local Community Housing Provider**

Prior to the release of an Occupation Certificate, evidence is to be submitted to the Principle Certifying Authority demonstrating that the owner has entered into a deed of agreement with a local Community Housing Provider to manage the rental of the two (2) units with rent not exceeding the median rental level for that time (as specified in the Rent and Sales Report as defined in State Environmental Planning Policy, Affordable Rental Housing 2009 for a period of three (3) years).

Reason: To mitigate any adverse social or economic impacts associated with the proposed development. (DACENF01)

27. **Reinstatement of Kerb**

All redundant laybacks and vehicular crossings in Bridge Road 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)

28. **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)

29. **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.

The door swinging across the property boundary and onto public land is unacceptable. The applicant must ensure the door must swing outwards but onto their property boundary. It is recommended the applicant install a sliding door.

Council provides a wheel in/out service, as such the indication on the plan where the bins will be left for pick up is not necessary. It is recommended that the applicant widen the drive way to accommodate a path for the bins to be wheeled to the service/collection point (kerbside)

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)

30. **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/address-presentation-standard.pdf>).

In this regard, the numbering is to be as per the Unit Numbering for Multi Unit Development Table attached to this consent.

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)

31. **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)

32. **Undergrounding of Telecommunications Services**

Arrangements are to be made for the provision of underground telecommunications services to the building.

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

Reason: Provision of telecommunication facilities in a manner that facilitates the future underground provision of cable services. (DACPLF06)

33. 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)

34. Waste and Recycling Facilities Certificate of Compliance

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

The door swinging across the property boundary and onto public land is unacceptable. The applicant must ensure the door must swing outwards but onto their property boundary. It is recommended the applicant install a sliding door.

Council provides a wheel in/out service, as such the indication on the plan where the bins will be left for pick up is not necessary. It is recommended that the applicant widen the drive way to accommodate a path for the bins to be wheeled to the service/collection point (kerbside)

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)

35. 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)

36. 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)

37. **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

38. **Median Rental Level**

The rental of two (2) apartments must not at anytime, exceed the median rental level (as specified in the SEPP Affordable Rental Housing 2009) for a period of three (3) years from the date of occupancy of that unit.

Reason: To assist to mitigate any adverse social or economic effects of the proposal. (DACENGOG2)

39. **Amenity**

The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

Reason: To ensure the surrounding area and people within the neighbourhood are not affected adversely and to ensure compliance with the Protection of the Environment Operations Act 1997.
(DACHPGOG5)

40. **Noise Impact On Surrounding Area**

The use of the premises shall not cause a sound level in excess of 5 dB(A) at any time above the background noise level at any point along the site boundaries when measured in accordance with the Environment Protection Authority's Industrial Noise Policy.

Reason: To ensure compliance with acceptable levels of noise established under best practice guidelines.
(DACHPGOG5)

41. **Bicycle parking facilities**

Three (3) bicycle parking facilities are to be provided on-site and shall be designed and constructed in accordance with Australian Standard AS 2890.3 – Bicycle Parking Facilities.

One of the spaces is to be allocated for use by visitors and clearly marked and/or sign posted in this regard..

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 the adequate provision of bicycle parking spaces. (DACPLG04)

42. Hours of Operation

The hours of operation of the take away food and drink premises are to be restricted to the following;

Monday to Sunday: 7.30am to 8.30pm. (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)

43. Maximum Number of Seating

The maximum number of seats/patrons consuming food/drink on the premises is 12.

Reason: To protect the acoustic amenity of surrounding properties.(DACPLG18)

44. 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.

The door swinging across the property boundary and onto public land is unacceptable. The applicant must ensure the door must swing outwards but onto their property boundary. It is recommended the applicant install a sliding door.

Council provides a wheel in/out service, as such the indication on the plan where the bins will be left for pick up is not necessary. It is recommended that the applicant widen the drive way to accommodate a path for the bins to be wheeled to the service/collection point (kerbside)

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

45. Commercial Waste Collection

Waste and recyclable material, generated by this premises, must not be collected between the hours of 9pm and 8am on any day.

Reason: To ensure the acoustic amenity of surrounding properties. (DACPLG24)

**CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA
SUBDIVISION OR SUBDIVISION CERTIFICATE**

46. Positive Covenant to Maintain Two Units Below Median Rent Levels

Two (2) units in the proposed strata plan shall be retained in rental tenure on the open market for a period of 3 years from the registration of the strata plan.

Rent levels for the two (2) units shall not exceed applicable median rent levels for the Warringah Local government area as per the Rent and Sales Report published by the Department of Human Services or a publication issued in place of that publication by or on behalf of the Government.

This rent shall cover any additional facilities or benefits (such as car parking) provided to the

lessee of those units. No additional rent, fee or charge may be levied for any additional facilities or benefits provided to the lessee under the rental agreement.

A positive covenant shall be created under Section 88E of the Conveyancing Act, to give effect to the requirements above. Such a covenant shall not be revoked or modified without prior approval of Council. The covenant shall be submitted for Council's approval with the strata plan and shall be registered simultaneously with the strata plan.

Reason: To mitigate any adverse social or economic effects of the proposal. (DACENHPS1)

ATTACHMENT A

No notification plan recorded.

ATTACHMENT B

Notification Document	Title	Date
 2015/343758	Notification map	19/11/2015

ATTACHMENT C

Reference Number	Document	Date
 2015/330376	Report - Preliminary Geotechnical Assessment	16/10/2013
 2015/330333	Report BASIX Certificate - A226451 - Unit 1	11/08/2015
 2015/330340	Report BASIX Certificate - A226452 - Unit 2	11/08/2015
 2015/330347	Report BASIX Certificate - A226453 - Unit 3	11/08/2015
 2015/330360	Report BASIX Certificate - A226454 - Unit 4	11/08/2015
 2015/330382	Report - Access	17/09/2015
 2015/330386	Report - BCA Compliance Assessment	21/09/2015
 2015/330308	Report Statement of Environmental Effects	02/11/2015
 2015/330398	Report - Demolition and Waste Management Plan	02/11/2015
 DA2015/1079	68A Queenscliff Road QUEENSCLIFF NSW 2096 - Development Application - Subdivision	03/11/2015
 2015/325632	DA Acknowledgement Letter - Classic Plans	03/11/2015
 2015/330393	Report - Construction Noise Management Plan	06/11/2015
 2015/330486	Report - Waste Management Plan	06/11/2015
 2015/330319	Plans - Internal	06/11/2015
 2015/330326	Plan - Strata	06/11/2015
 2015/330322	Certification of Shadow Diagrams with Plans	06/11/2015
 2015/330316	Plans - External	06/11/2015
 2015/330281	Development Application Form	06/11/2015
 2015/330283	Applicant Details	06/11/2015
 2015/330285	Plans - Notification	06/11/2015
 2015/330289	Builders Quotation	06/11/2015
 2015/330291	Plans - Survey	06/11/2015
 2015/330311	Report - Design Verification Statement and Letter	06/11/2015
 2015/330465	Plans - Master Set	06/11/2015
 2015/334577	Environmental Investigations (Industrial) - Assessment Referral - DA2015/1079 - 68 A Queenscliff Road QUEENSCLIFF NSW 2096	11/11/2015
 2015/334862	Waste Referral Response	11/11/2015
 2015/338855	File Cover	13/11/2015
 2015/338865	Referral to AUSGRID - SEPP - Infrastructure 2007	13/11/2015
 2015/340049	Development Application Advertising Document - Classic Plans - Completed - Acknowledgement letter to applicant posted 20/11/2015	16/11/2015
 2015/343661	Environmental Investigations Referral Response - industrial use	18/11/2015
 2015/343758	Notification map	19/11/2015
 2015/345021	68a Queenscliff Road Advertising Site Signs	19/11/2015
 2015/348111	Building Assessment Referral Response	23/11/2015

	2015/351716	Waste Referral Response	26/11/2015
	2015/351876	Development Engineering Referral Response	26/11/2015
	2015/353346	Traffic Engineer Referral Response	27/11/2015
	2015/363891	Online Submission (1) - Piper (2/19)	08/12/2015
	2015/368627	Landscape Referral Response	11/12/2015
	2015/380993	Road Assets Referral Response	21/12/2015
	2016/004479	Submission (2) - Corbitt (2/55)	07/01/2016
	2016/008645	Submission (3) - Kanis (9/55)	11/01/2016
	2016/014655	Submission (4) - Birch (Unit 5/55)	15/01/2016
	2016/014677	Submission (5) - Hill (Unit 6/55)	15/01/2016
	2016/019165	Submission Acknowledgement Letter - Lisa Birch - SA2016/014655	21/01/2016
	2016/019167	Submission Acknowledgement Letter - Matthew Charles Hill - SA2016/014677	21/01/2016
	2016/054770	Multi Tenancy Form to be used for DAs - Classic Plans	19/02/2016
	2016/054779	DAO Checklist Development Panel Reports - Classic Plans	19/02/2016
	2016/054784	ADP Assessment Report (original)	19/02/2016

PANEL PLANS

No plans titled 'ADP Panel Plans' found in TRIM.