

REPORT TO APPLICATION DETERMINATION PANEL

Meeting held on 22 September 2016

20 The Strand Dee Why - Alterations and additions to an existing Shop-top Housing Development

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2016/0356
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Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot CP SP 21583, 20 The Strand DEE WHY NSW 2099
Proposed Development:	Alterations and additions to an existing Shop-top Housing Development
Zoning:	LEP - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	The Owners Sp 21583
Applicant:	Geoffrey David Bruce

Application lodged:	15/04/2016
Application Type:	Local
State Reporting Category:	Mixed
Notified:	10/05/2016 to 25/05/2016
Advertised:	Not Advertised, in accordance with A.7 of WDCP
Submissions:	1
Recommendation:	Approval

Estimated Cost of Works:	\$ 460,121.00
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ASSESSMENT INTRODUCTION

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

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- 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 Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - F1 Local and Neighbourhood Centres

SITE DESCRIPTION

Property Description:	Lot CP SP 21583 , 20 The Strand DEE WHY NSW 2099
Detailed Site Description:	<p>The site has an area of 768.8 square metres (sqm) with a width of 16.86 metres (m) and a length of 45.72 m. The property is located on the north-west corner Howard Avenue and The Strand.</p> <p>The subject site is currently developed for shop top housing and consists of three (3) ground floor restaurant premises with six (6) residential apartments within the two (2) floors above. A carparking area exists on the western part the site with a shared 4.57m wide formalised right-of-way along the western boundary also used to access the rear of No.22 and No.24 The Strand.</p> <p>The surrounding development consists of various mixed use (shop-top) buildings to the immediate north and south, residential flat buildings to the west and the Dee Why beach (reserve) to the east. Development activity in the precinct is dominated by an active street front with refurbished pedestrian areas along the Strand, restaurant / café uses at ground level and apartment style housing above, in a coastal beachfront setting.</p>

Map:



SITE HISTORY

Consent No. 72/118

This application sought approval for six (6) flats and three (3) shops (being a renewal of Consent No 71/126 which had expired). The development included three (3) shops at the ground floor having frontage to The Strand, with car parking for 11 vehicles located to the rear. Six (6) two bedroom units occupy the two floors above the shops/car parking area

The car parking area comprised of six (6) garage spaces and five (5) open sealed spaces. Strata Plan No 21583 was made on 21 May 1984 and allocates car parking as follows:

- one garaged space per dwelling unit (6 spaces);
- one space per shop (3 spaces);
- one open space for visitor use (1 space).

Consent was issued on 5 July 1972.

Development Application No.DA2002/0939

Lodged on 28 June 2002 for a cafe fit-out to Lot 9 (Shop 3 currently operating as the Seachange Cafe).

The application sought approval for the fit-out of an existing ground floor cafe fronting The Strand to operate as a cafe in the following manner:

- (a) Number of Seats - 40 (20 inside and 20 outside).
- (b) Hours of Operation - 9.30am to 9.30pm, 7 days a week.
- (c) Predominantly sit down service.
- (d) Menu is characterised by light meals, snacks and beverages.
- (e) New mechanical exhaust system and flue.
- (f) New kitchen, counter, storeroom and furniture.
- (g) New bi-fold doors to shop front.

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The application was approved on 23 August 2002 subject to conditions, including a requirement that the seating capacity (including both internal and external areas) was not to exceed 40 persons.

Development Application No.DA2004/739

Lodged on 11 June 2004 for a shop refurbishment of an existing take-away cold food and coffee outlet (being Lot 7, Shop 1 currently operating as the Chill Bar).

The application was approved on 30 December 2005 subject to conditions including a requirement that the seating capacity (including both internal and external areas) was not to exceed 20 seats.

Development Application No.DA2013/1317

Lodged on 1 November 2013 for the use of Lot 8 (Shop 2 currently operating as the Sea Bar) as a restaurant.

The application sought consent for:

- An increase in the approved number of seats from 20 to 55 (seating in outdoor/footpath dining areas leased from Council by the owners are included in the 55 seat total for the tenancy).
- Minor internal works to the tenancy.
- The addition of female toilet facilities and an additional urinal in the male toilet. These toilet facilities are shared between Lot 7, Lot 8 and Lot 9 at 20 The Strand.

The application was approved on 17 January 2014.

Pre-lodgement Meeting No.PLM2014/0123

This pre-lodgement meeting was held on 11 November 2014 to discuss a proposal for alterations and additions for the existing shop top housing. The PLM recommended an increase in the width of the western setback from 4.57m to 6.0m to facilitate two-way traffic flow and to maintain a high level of traffic/pedestrian safety.

Development Application No.2015/0766

This development application for alterations and additions for the existing shop top housing was refused by Council (ADP) on 22 December 2015 for reasons of traffic, access and safety, and inadequate waste management facilities. In this regard, the proposal was deemed to be inconsistent with the DCP objectives.

Design changes and additional information has been provided to address the reasons for refusal of DA2015/0766 under the current application considered by this assessment.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the following works:

Ground Floor (RL 6.470)

- Enclose the existing outdoor seating area to the front boundary in the following manner:
- Erect glazed walls to the eastern side wall of each of the three restaurant/cafe uses (total 55 sqm);
- Install bi-fold doors to each of the three restaurant/cafe uses.
- Enclose the open carparking area at the western side of the building in the following manner:
- Construct new walls along the northern, southern and western side of the carpark (the

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western wall will be constructed to a setback of 4.57m from the western boundary to honour the ROW which extends across the entire width of the site);

- Install a panel lift garage door in the western wall (facing the ROW) and to permit vehicle access to the garage and bin rooms;
- Reconfigure the parking spaces allocated to Lots 7 and 9;
- Replace the visitor parking space an allocated parking space to Lot 8;
- Reconfigure internal walls to provide for additional storage, services and amenities to the restaurant/cafe uses; and
- Provide bin storage rooms (commercial and residential) adjacent to the inside of the proposed western wall.

First Floor (RL 9.520)

- Extend the existing balconies to Apartment 1 and 2 towards the front boundary facing The Strand;
- Extend the western terrace with landscape screening on the roof above the new carparking / garage area below;
- Provide a new balcony to Apartment 2 within the northern side setback;
- Install new exhaust ducts to service the restaurant/cafe use below; and
- Acoustic wall at the northern side boundary between the exhaust ducts.

Second Floor (RL 12.270)

- Install new exhaust ducts to service the restaurant/cafe use below;
- Replace window with sliding to for Apartment 4;
- Acoustic wall at the northern side boundary between the exhaust ducts; and
- Install new glazed balustrades to the existing balconies of Apartments 4, 5 & 6.

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>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</p>

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Section 79C 'Matters for Consideration'	Comments
	<p>within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter may be addressed by a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter may be addressed by a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter may be addressed by a condition of consent.</p>
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(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.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 79C (1) (c) – the suitability of the site for the development	Subject to conditions, 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	The public interest is addressed by conditions to ensure the proposal satisfied the objectives of the planning controls including adequate access and safety.

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 1 submission/s from:

Name:	Address:

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Name:	Address:
Tomasy Pty Ltd	Level 1, 1073 Pittwater Road COLLAROY NSW 2097

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

- Location of vents/ wall openings.
- Exhaust ducting system.
- Bin storage.
- Access laneway width.

The matters raised within the submissions are addressed as follows:

- *Concern that there are ventilation wall openings located on the boundary wall for the carpark (garage space Lot 7 and Lot 9).*

Comment:

The subject vents are for ventilation from the garage space behind where there is also plant within the garage, as shown on the plans. The vents do not meet BCA requirements and the mechanised plant, located within the two garages (Lot 7 and Lot 9), partly encroaches within the minimum parking dimensions required under AS2890. Therefore, a condition is recommended the vent openings be deleted and the plant equipment relocated to a suitable alternative location within the new store room at the south-western corner of the building.

Therefore, this issue does not have determining weight and is addressed by conditions.

- *Concern that there have been previous amenity problems with the operation of the exhaust risers shown at the back of Lot 9 and the proposal will retain the ducts too close to the boundary servicing the commercial shops at Lot 8 (Sea Bar) and Lot 9 (Seachange Café).*

Comment:

The exhaust duct risers are to be refitted and extended with the chimney shaft to be enclosed by masonry surroundings, up to roof level, providing fire and noise protection. The new outlet is proposed to be just above RL15.2 and beside the northern boundary. However, it is preferred to have commercial exhaust outlets at least 6.0m from a common boundary to maintain amenity and satisfy current standards that comply with AS1668. In this case, it is recommended the outlet opening for both ducts are to be fitted with a "return" element taking the outlets in a south direction across the roof, so the vent opening is at least 6.0m away from the boundary (across the roof) and pointing away from No.22 The Strand.

Therefore, this issue does not have determining weight and is addressed by conditions.

- *Concern that the bin storage area is currently in the open and unsightly and the proposed additions to the building must ensure the bins are stored in the bin rooms to prevent noise, reduce odour and prevent interference with the laneway access.*

Comment:

The proposal includes two (2) separate bin storage rooms, one for commercial waste and one for residential waste. The rooms will be enclosed with ventilation grilles for natural air flow and fitted to comply with Council's Waste Policy to ensure suitable fit-out for hygiene, operational use and bin access. The current outdoor bin storage is inadequate and conditions are included to ensure the internal new bin rooms are constructed to comply with

servicing requirements for waste collection and servicing.

Therefore, this issue does not have determining weight and is addressed by conditions.

- *Concern that the access laneway will not be maintained at a width of 6.0m to assist vehicle access for other properties along the back of the site. The shared laneway width should be extended in width and conditions also applied to ensure it is maintained and kept in a better state of repair.*

Comment:

The site has an existing legal right-of-way at the back of the building providing shared access to the site and the rear of properties to the north (No.22 and No.24 The Strand). The existing carparking area at the rear of the site is fenced-in and the proposal seeks to build upon this area, extending the building, with covered garage parking and storage rooms to service the development. The existing right of way is 4.57 metres wide and will remain in place. A consent authority cannot force the widening of the existing right of way by a condition of consent as this is deemed to be unreasonable (inconsistent with "the Newbury Test") in that it is deemed to be conferring a benefit to another private property owner at the imposition of the applicant. Such a circumstance has been detailed in *Dogild Pty Ltd v Warringah Council [2008] NSWLEC 53* relating to shop top housing and rear land access at No.9 The Strand, Dee Why.

The routine maintenance of the right-of-way agreement is a matter for the parties that share the right of way to address, as this is not public land, and is not used as a public access way either.

Therefore, this issue does not have determining weight and conditions cannot be imposed to impose right-of-way width changes or force additional maintenance to an existing private right-of-way agreement.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p><u>Building Referral Comment:</u></p> <p><i>"The current fire safety provisions contained within the building are inadequate."</i></p> <p><u>Further Building Referral Comment:</u></p> <p><i>"A further review of the proposal and site has been completed to determine if Council should be seeking to upgrade fire safety aspects of the building in accordance with s94 of the EP&A Regulations as the current fire safety provisions contained within the building are considered inadequate."</i></p>

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Internal Referral Body	Comments
	<p><i>It is recommended that the application proceeds only on the basis of a condition being applied for a Building Code of Australia (BCA) upgrade report being submitted with the Construction Certificate and works as recommended being implemented to the building."</i></p> <p>No objection to approval subject to conditions.</p>
Development Engineers	<p>The proposed development will not require on-site stormwater detention (OSD) and connection of stormwater to the existing system is satisfactory.</p> <p>The existing crossing is wider than required with the proposed alterations to the building. A condition to re-construct and reinstate the crossing has been provided.</p> <p>No objection to approval, subject to conditions as recommended.</p>
Landscape Officer	No objection to approval and no conditions.
Natural Environment (Flood)	The subject property is outside the adopted Flood Planning Level extent. No flood related development controls applied. No objection and no conditions are recommended.
Traffic Engineer	<p><u>Traffic Engineering Comment:</u></p> <ol style="list-style-type: none"> <p><i>"Reviewing the SEE report, Traffic and Parking report and the Plans provided by the applicant, there are inconsistencies in the proposal indicated in the reports and the plans in regards to the location of the Bins and Storage Area and the additions and alterations to the floor area. The plans show a "Bin and Storage Area" located where the Traffic and Parking report proposes an access driveway onto Howard Avenue. The SEE report also proposes additions and alterations to the commercial area which requires the provision of additional parking spaces while the Traffic and Parking report indicates that there is no changes proposed on the existing floor area.</i></p> <p><i>The inconsistencies are to be rectified by the applicant to enable us to assess the Development Application. The following traffic engineering comments provided the proposal indicated in both the Traffic and Parking report and the plans:</i></p> <p><i>It is highlighted in the Traffic and Parking report that: "The site will continue to be serviced from the ROW with goods delivery / garbage collection etc. carried out through the new panel lift access doors. The proposal would not change the existing circumstances where service vehicles stand within the ROW for deliveries / waste collection."</i></p> <p><i>At the present time the service vehicles can manoeuvre in to the car parking area from the ROW as there is effectively no</i></p>

Internal Referral Body	Comments
	<p><i>obstructions however, with the proposed door and walls along the edge of the ROW and the proposed enclosed car park with the height clearance of 2.2m, the service vehicle access will be restricted. The ROW will have insufficient width to allow a service vehicle to park and allow another vehicle to pass once a wall is constructed on the boundary. There will also be restricted sight distance for a service vehicle exiting the car park area when accessing the ROW.</i></p> <p><i>The largest existing service vehicle is to be able to turn in and out of the car park entry from the ROW and park wholly within the site, to ensure that there is no obstruction to the ROW. All vehicles are to enter and exit the ROW in forward direction.</i></p> <p>3. <i>The proposal use of the access driveway in Howard Avenue as indicated in the Traffic and Parking report raise a pedestrian safety concern. The existing building has its walls on the boundary with no provision of setback resulting in the vehicles exiting the driveway directly in to the footpath. The proposed walls to be constructed on both sides of the driveway will further restrict the sight distance to the pedestrians on the footpath in Howard Avenue. This raised a pedestrian concern particularly at area which a high pedestrian activity area. Therefore, the proposed utilisation of the access driveway in Howard Avenue is not supported.</i></p> <p><i>The construction of walls along the edge of the ROW will restrict sight distance to pedestrians for vehicles exiting the ROW. As this area is a high pedestrian activity area then a sight triangle in accordance with AS2890.1 is required to be provided.</i></p> <p>4. <i>The proposed rear setback effectively reduces the width of the laneway between Howard Avenue and the adjacent mixed use properties to the north to a single lane thereby creating a congested access/egress point which has the potential to promote on-street queuing and vehicle and pedestrian conflict. It is considered that the right of way should provide for a width of 6m to enable two way traffic flow. This would also assist service vehicles to manoeuvre in and out of the car parking area for this development.</i></p> <p><i>It is to be considered by the Development Assessment Officer that the proposed increase of the commercial floor space (proposed in the SEE report) and the re-configuration of the car parking area will reduce the existing provision of on-site car parking further. Any further reduction to existing car parking is not supported in an area where car parking is already at a premium.</i></p> <ul style="list-style-type: none"> <i>In view of foregoing, the proposal is not supported on traffic</i>

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Internal Referral Body	Comments
	<p><i>grounds. "</i></p> <p><u>Planning Comment:</u></p> <p>1. The traffic and parking report has included the previous plans from DA2015/0766. The new architectural plans show the new layout being proposed for the alterations and additions to the building. The access has been changed to only have an entry from the shared right of way and provide bin and storage rooms at the western side of the extended garage area.</p> <p>2. The issue of service vehicle / deliveries to the site is managed by the vehicles now being able to enter the internal garage aisle and unload or service the storage rooms from behind the automatic panel lift door. Therefore, this will avoid parking in the shared right-of-way. Each garage car space has its own security grille and a new commercial entrance is being provided for deliveries to the back of the commercial tenancies within the building for practicality and ease of servicing access. Access to the garage area is managed by an electronic security control for authorised vehicles (this is addressed by condition). Vehicles are able to reverse into the shared right of way and exit to Howard Avenue in a forward direction. A parabolic mirror is recommended to be provided opposite the garage opening to assist safety for entry to the shared right-of-way.</p> <p>3. Conditions are included to ensure compliant sight lines in accordance with current Australian Standard AS2890 for traffic and pedestrian safety.</p> <p>4. Any conditions requiring the clearance distance across the right of way to be extended to 6.0m are not considered to be reasonable as this imposes a private benefit to others against the subject property owner/s. This circumstance was addressed by Bignold J in <i>Dogild Pty Ltd v Warringah Council [2008] NSWLEC 53</i>, where a condition imposed to require an access change to the shared right of way affecting No.9 The Strand, Dee Why was deemed to fail the "Newbury Test". The work to the existing shop front area involves improvements for weather protection and practicality of the approved dining area. As the front dining area is already approved by Council no conditions are recommended for additional parking.</p> <p>In summary, the above matters raised by Council's traffic engineer have been addressed by reference to the plans and conditions to address those matters. Recommended conditions are considered to meet the "Newbury Test".</p>
Waste Officer	<p><u>Waste Referral Comment:</u></p> <p><i>"It is not clear on the plan if 'Bin and Storage Area' is dedicated space</i></p>

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Internal Referral Body	Comments
	<p><i>for residential waste bins. If this is the case, the proposal is unacceptable. The plan must clearly identify the space as a residential waste bin storage area. The area must not be shared with storage area. There must be a separate and dedicated space for bulky household waste (4 cubic metres per 10 dwellings).</i></p> <p><i>The door at the rear of the proposed room must be secured and only accessible by occupants. The door on the front of the bin room must be a sliding or roller door due to its location. A door swinging is unacceptable as the door could be obstructed on the inside and prevent it from being opened."</i></p> <p><u>Planning Comment:</u> The site has two waste bin rooms (one for commercial and one for residential). The bin room with the access door to Howard Avenue is for the residential Units to enable the bins to be transferred to the kerb for Council's collection service, if required. A condition is included that an internal dividing wall be provided to isolate four (4) cubic metres for waste bulky items and that a compliant door location be provided, for ease of access to the bin room.</p>

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated.

Council records indicate that the subject site has been used for residential/ commercial (shop top housing) 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 continued residential/ commercial land use.

SEPP 65 - Design Quality of Residential Apartment Development

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

(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

- (a) the development consists of any of the following:
 - (i) the erection of a new building,
 - (ii) the substantial redevelopment or the substantial refurbishment of an existing building,
 - (iii) the conversion of an existing building, and
- (b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and
- (c) the building concerned contains at least 4 or more dwellings.

The development does not consist of the erection of a new building, the substantial redevelopment/refurbishment of the existing building or a conversion of the existing building. No significant change is proposed to the residential amenity or layout of the flats. The changes at the rear of the building involve enclosure of existing parking areas with roof terrace above. The changes to the shop facilities are minor and will improve existing waste bin storage, address BCA issues for selected safety issues, and enclose the approved seating area and provide addition outdoor terrace area for the existing flats. (This is consistent with the assessment previously made for DA2015/0766 for alterations to the subject building)

Therefore, the Policy does not apply in this particular instance and no further assessment under the Policy and/or the Apartment Design Guide has been conducted, and no Design Verification Statement is required.

SEPP (Building Sustainability Index: BASIX) 2004

BASIX certificates have been submitted with the application (see Certificate Nos. A224470_02, A224481_02 and A224494_02 each dated 14 April 2016, prepared by Romeo Computer Aided Design Pty Ltd)

The BASIX Certificates confirm that the development will meet the NSW government's requirements for sustainability.

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.

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- 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.

Other Infrastructure Service Authorities

The proposal was not required to be referred to the Roads and Maritime Service (RMS) and no other Service Authority referral issues are raised pursuant to the SEPP.

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	Permitted (Maximum)	Proposed	% Variation	Complies
4.3 Height of Buildings	13.0m	8.5m to 8.9m (No change to existing height)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Land Use Table	Yes
Part 4 Principal development standards	Yes
4.3 Height of buildings	Yes
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
Part 6 Additional Local Provisions	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

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Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B2 Number of storeys	3	3 (No change)	N/A	No change
B5 Side Boundary Setbacks	Merit Assessment	West: 4.57m	N/A	Yes
		North: No Change	N/A	No change
B7 Front Boundary Setbacks	Ground: Aligned to street First Floor: Aligned to street Second Floor: 4.0m	Ground: Nil	N/A	Yes
		First Floor: 5.0m (No change)	N/A	No change
		Second Floor: 5.0m (No change)	N/A	No change

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part B Built Form Controls	Yes	Yes
B2 Number of Storeys	Yes	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
Front Boundary Setbacks - B2	Yes	Yes
Land within 20m of either side of the intersection of The Strand and Howard Avenue, Dee Why	Yes	Yes
Part C Siting Factors	Yes	Yes
C2 Traffic, Access and Safety	No	No
C3 Parking Facilities	No	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Mixed Use Premises (Residential/Non-Residential)	Yes	Yes
Part D Design	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes

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Clause	Compliance with Requirements	Consistency Aims/Objectives
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
Part E The Natural Environment	Yes	Yes
E10 Landslip Risk	Yes	Yes
Part F Zones and Sensitive Areas	Yes	Yes
F1 Local and Neighbourhood Centres	Yes	Yes

Detailed Assessment

C3 Parking Facilities

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Approved (72/118)	Proposed	Difference (+/-)*
Residential: 1 Bedroom (Nil) 2 Bedroom (6) 3 Bedroom (Nil)	1 space/dwelling 1.2 spaces/ dwelling 1.5 spaces/dwelling	7.2 spaces	6 spaces	6 spaces	No change
Visitors	1 space/5 dwellings	1.2 spaces	1 space	Nil	- 1 space
Restaurants (GFA): Lot 7 (95.72 ²) Lot 8 (67.67m ²) Lot 9 (70.81m ²)	15 spaces/100m ² or 1 space/3 seats	35 spaces	1 space 1 space 1 space	3 spaces	No change
Total		43.4 spaces	10 spaces	9 spaces	- 1 space

Note: The numerical difference is drawn from a comparison between the approved development (72/118) and the current application.

By enclosing the outdoor seating areas, the development will increase the total gross floor area (as defined in the Warringah Local Environmental Plan 2011 dictionary) of the existing restaurants from 180.52m² to 234.20m² (+53.68m²). However, these areas are already approved for alfresco dining and are being used for the restaurant for

customer seating. Therefore, no change is proposed to seating which is already subject to conditions under DA2013/1317, DA2004/0739, and DA2002/0939.

The proposed increase of the commercial floor space and the re-configuration of the car parking area will reduce the existing provision of on-site visitor carparking further. It is noted that, despite discussing compliance against the Australian Standard AS/NZS 2890.1:2004, the Traffic Report submitted with the application does not provide any discussion of the provision of on-site car parking, nor any justification of the above-mentioned shortfall, against the provisions of Clause C3 and Appendix 1 in the WDCP 2011 (and as detailed in the Pre-Lodgement Notes dated 11 November 2014).

However, it is acknowledged that the reduction is minor and does not impact upon the overall operation of the residential and commercial uses within the building. It is also noted that the local area includes suitable public parking facilities in close proximity, during the operating hours of the restaurant/cafe uses which could accommodate any person visiting residents within the building.

Having regard to the above, this assessment finds that the proposed car parking provision is supported in this particular circumstance.

F1 Local and Neighbourhood Centres

Merit consideration:

The development is considered against the underlying Objectives of the Control as follows:

- *To encourage good design and innovative architecture.*

Comment:

No additional height or significant change is being made to the architectural style of the building. Practical alterations are being made to enclose the existing carparking spaces, provide better waste bin facilities and storage areas, improve the restaurant enclosure at the front and provide essential BCA improvements to the building.

- *To provide a safe and comfortable environment for pedestrians*

Comment:

The proposal will improve the safety of the existing carparking area by rationalising the garage spaces, providing dedicated rooms for bin storage and improving the dining areas along the street frontage. The removal of an existing visitor space from the rear of the site will not have an unreasonable impact on pedestrian safety since the site is close to a large public parking area and there is good pedestrian access along The Strand. The provision of a dedicated garage space for each Lot within the building reduces the need for that parking to be off-site. While a visitor space has been changed for the existing occupancy the proposal rationalises car parking for a balance of one (1) on-site car space being now available for every business tenancy and apartment within the building.

- *To provide a range of small-scale shops and business uses at street level with offices or low-rise shop-top housing to create places with a village-like atmosphere.*

Comment:

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The proposal will retain the existing approved dining areas and provide improved weather protection and functionality to the street front areas of the food and drink premises on the ground floor. The shop to housing will be subject to minor works and the extension to the ground floor garages and covered dining will enable the terraces above to be enlarged.

- *To enhance the established scale and pattern of development and the continuity of existing streetscapes.*

Comment:

The proposal does not increase the height of the building and does not alter the density of the development. Some minor changes are being proposed to the balcony areas and openings (including ground level dining area). Overall the building is still smaller and maintains the established pattern on development consistent with The Strand.

- *To enhance the public domain.*

Comment:

The proposal will not create any unreasonable impacts on the public domain, including carparking, overshadowing of the beachfront reserve or reduced pedestrian safety along the Strand or Howard Avenue.

Accordingly, this assessment finds that the proposal is supported.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

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

The following monetary contributions are applicable:

Warringah Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 460,121		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 4,371
Section 94A Planning and Administration	0.05%	\$ 230
Total	1%	\$ 4,601

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 DA2016/0356 for Alterations and additions to an existing Shop-top Housing Development on land at Lot CP SP 21583, 20 The Strand, DEE WHY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A-02 B Proposed Site plan	18.3.2016	Romeocad
A-03 B Proposed Ground Floor Plan	18.3.2016	Romeocad
A-04 B Proposed First Floor Plan	18.3.2016	Romeocad
A-05 B Proposed Second Floor Plan	18.3.2016	Romeocad

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A-06 B Proposed Roof Plan	18.3.2016	Romeocad
A-07 B Proposed North and East Elevations	18.3.2016	Romeocad
A-08 B Proposed South and West Elevations	18.3.2016	Romeocad
A-09 B Proposed Sections	18.3.2016	Romeocad

Engineering Plans		
Drawing No.	Dated	Prepared By
H-01 B Concept Hydraulics Plan	18.3.2016	Romeocad

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Reports A224470_02, A224481_02 and A224494_02	14.4. 2016	Romeo Computer Aided Design Pty Ltd

- b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.
- c) No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.
- d) The development is to be undertaken generally in accordance with the following:

Waste Management Plan		
Drawing No.	Dated	Prepared By
A-11 B Erosion and Sediment Control and Waste Plan	18.3.2016	Romeocad
Waste Management Plan - No.20 The Strand, Dee Why	7.8.2015	Vaughan Milligan Development Consulting

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:

- a) The vent openings shown in the northern wall for "Lot 9 Garage" and "Lot 7 Garage" are not approved and are to be deleted from the plans.
- b) The "commercial plant equipment" shown in any garage parking space to be relocated to an approved storage room and fitted to not any obstruct waste bin servicing requirements.
- c) The landscape planter box shown on the southern side of the garage entry is to ensure

compliance with AS2890 sight distances and be fitted with automatic watering devices and appropriate planting for the covered area.

d) The southern wall and door opening for "bin & storage area" adjacent "Lot 8 Garage" is to be set-in 1.1 metres (m) from the Howard Avenue boundary to enable the door to open outwards, within the property boundary, and prevent any obstructions or steps at the doorway access.

e) The "bin & storage area" adjacent "Lot 8 Garage" is to include an internal dividing wall for four (4) cubic metres of storage to be available for bulky waste residential items.

f) A parabolic mirror is to be provided opposite the garage opening to the shared right-of-way to assist visual safety in entering the right-of-way.

g) The outlet opening for the roof top ducts servicing Lot 8 and 9 are to be fitted with a "return" element taking the outlets in a south direction across the roof, so the vent opening is at least 6.0m away from the northern boundary, pointing away from No.22 The Strand.

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

Reason: To ensure development minimises unreasonable impacts in accordance WDCP and to address compliance issues Council Policies. (DACPLB02)

3. **Prescribed Conditions**

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

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

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

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

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

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

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

B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

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

Reason: Legislative Requirement (DACPLB09)

4. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

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

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

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

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

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

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

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

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

(k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

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

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

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

(m) Any Regulated System (e.g. air-handling system, hot water system, a humidifying

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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 unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

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

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

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

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

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches Council Section 94A Development Contribution Plan

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

The following monetary contributions are applicable:

Northern Beaches Council Section 94 Development Contributions Plan	
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Contribution based on a total development cost of \$ 460,121.00		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 4,371.15
Section 94A Planning and Administration	0.05%	\$ 230.06
Total	1%	\$ 4,601.21

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

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

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

6. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

7. **Stormwater Disposal**

Engineering Plans certified by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the kerb in Howard Avenue.

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

issue of the Construction Certificate.

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

8. **Dilapidation Survey**

A pre-construction / demolition Dilapidation Report is to be prepared by a suitably qualified person to record and address potential dilapidation risk to adjacent land of No.22 The Strand, Dee Why. The report is to also record the condition of public assets / infrastructure within the road reserve in front of the site. A photographic survey of adjoining private properties (as relevant) detailing the physical condition of those properties, both internally and externally (as appropriate), including such items as access / driveway areas, walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to Council/Accredited Certifier prior to the issue of a Construction Certificate. This survey is to be prepared by an appropriately qualified person.

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

If damage is identified by the appropriately qualified person which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible and prior to a final Occupation Certificate being issued. All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent. In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant MUST DEMONSTRATE, in writing, to the satisfaction of Council/Accredited Certifier that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

The pre-construction / demolition dilapidation report must be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible. Council's Guidelines are available at <http://www.warringah.nsw.gov.au>

Reason: Protection of Council's Infrastructure (DACPLCPCC1)

9. **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 4674 Design, construction and fit out of food premises
- (h) 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)

10. **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)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

11. **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)

12. **Construction Management Plan**

A construction management plan is to be prepared to address site access during works, delivery of construction materials and procedures to minimise any unreasonable impacts on adjacent land; including (but not limited to), maintaining access along the property shared right of way, methods to minimise noise disturbances and dust impacts, traffic management and ensuring any required use of Council's footpath area has the appropriate authorisation / permits prior to commencement.

Details demonstrating compliance with this condition is to be submitted to the Certifying Authority prior to commencement.

Reason: To manage the construction process to minimise unreasonable impacts on adjacent public and private land (DACTRDPC2)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. **Stormwater Pipeline Construction**

Where connection to Council's nearest stormwater drainage system is required, being Howard Avenue, the applicant shall construct the pipeline in accordance with Council's specification for engineering works (see www.warringah.nsw.gov.au) and shall reconstruct all affected kerb and gutter, bitumen reinstatements, adjust all vehicular crossings for paths, grass verges and household stormwater connections to suit the kerb and gutter levels. All works shall be undertaken at the applicant's cost, and upon completion certified by an appropriately qualified and practicing Civil Engineer.

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

Reason: To ensure compliance of drainage works with Council's specification for engineering works. (DACENE03)

14. **Vehicle Crossings**

The provision of one vehicle crossing 4.5 metres wide in accordance with Warringah Council Drawing No A4-3330/1 N 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)

15. **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. (Final design details subject to existing layback required for No.110 Howard Avenue within Council's road reserve).

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

16. **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)

17. **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)

18. **Waste/Recycling Requirements (Materials)**

During demolition and/or construction the following materials are to be separated for recycling – timber – bricks – tiles – plasterboard – metal – concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.
(DACWTE02)

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

19. **Fire Safety Upgrade**

A fire audit report of the building from an appropriately qualified **Accredited Certifier*** is to be submitted with the Construction Certificate for review and implementation into the plans for construction purposes where any recommendations are made.

The report is to detail the extent to which the existing building does, or does not comply with the 'deemed-to-satisfy' provisions of Sections C, D, and E of the Building Code of Australia. Additionally the report is to provide recommendations with respect to the work (if any) required to ensure that the measures contained in the existing building, including any modifications to be made by the proposed development are appropriate to adequately:

- a) protect persons using the building and to facilitate their egress from the building in the event of fire, and
- b) restrict the spread of fire from the building to other buildings nearby.

Details demonstrating implementation of all required works are to be submitted to the Principal Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

*To be regarded as an "appropriately qualified **Accredited Certifier**" the certifier must hold the relevant level of accreditation that would enable the certifier to issue a construction certificate for the subject building.

Reason: Statutory requirement under Clause 93 and 94 of the Environmental Planning and Assessment Regulation 2000; and to ensure adequate provision is made for fire safety in the premises for building occupant safety. (DACBCF01)

20. **Reinstatement of Kerb**

The redundant layback and vehicular crossing in Howard Avenue shall be reinstated to conventional kerb and gutter and footpath paving 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)

21. **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)

22. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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 bushland management. (DACPLF01)

23. Garbage and Recycling Facilities

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

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

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

24. Unit Numbering for Multi Unit Buildings (Residential)

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

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

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

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

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

Details are to be submitted with any Interim/Final Occupation Certificate or Strata Subdivision Certificate certifying that the numbering has been implemented in accordance with this

condition and the Unit Numbering for Multi Unit Development Table.

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

25. Intercom

An intercom system / automated security control must be provided in a convenient location adjacent to the main carpark entry at the rear of the building allow easy and safe access for authorised vehicles (tenants, service deliveries, owners).

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

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

26. 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)

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

27. Allocation of Spaces

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

Six (6) - Residential

Three (3) - Commercial/shop

Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space allocated to a particular unit / tenancy shall be line marked and numbered or signposted to indicate the unit / tenancy to which it is allocated. Garage parking spaces are not be obstructed or used to store miscellaneous items preventing use for vehicle parking.

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

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

28. Commercial Waste and Recycling Storage

Commercial waste and recycling material/storage bins must be stored in a separate area (shown adjacent "Lot 9 Garage") to the residential waste and recycling material/storage bins

as shown on the approved plans.

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

29. **Delivery Hours**

No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

Reason: To protect ensure the acoustic amenity of surrounding properties. (DACPLG21)

30. **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**


31. **Subdivision Certificate Application**

Where Council is to be nominated as the certifying authority for completion of any Strata Subdivision Certificate application for the development, a final plan of strata subdivision prepared in accordance with the requirements of the *Conveyancing Act 1919* are to be submitted to Council. Nine copies of the final plan of subdivision are to be submitted. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks. The fee payable is to be in accordance with Council's fees and charges.

Reason: Statutory requirement of the Conveyancing Act 1919. (DACENH24)

NORTHERN BEACHES COUNCIL

































ATTACHMENT A

Notification Plan	Title	Date
 2016/127515	Plans - Notification	21/04/2016

ATTACHMENT B

No notification map.

ATTACHMENT C

Reference Number	Document	Date
 2016/127514	Plans - Survey	14/04/2016
 2016/127613	Report - Traffic and Parking Assessment	14/04/2016
 2016/127519	Report - Statement Of Environmental Effects	14/04/2016
 2016/127609	Report - Waste Management Plan	14/04/2016
 2016/127588	Report - Basix Certificate Unit 01	14/04/2016
 2016/127594	Report - Basix Certificate Unit 02	14/04/2016
 2016/127602	Report - Basix Certificate Unit 04	14/04/2016
 DA2016/0356	20 The Strand DEE WHY NSW 2099 - Development Application - Alterations and Additions	15/04/2016
 2016/117926	DA Acknowledgement Letter - Geoffrey David Bruce	15/04/2016
 2016/127515	Plans - Notification	21/04/2016
 2016/127467	Development Application Form	21/04/2016
 2016/127488	Applicant Details	21/04/2016
 2016/127551	Plans - External	21/04/2016
 2016/127569	Plans - Internal	21/04/2016
 2016/127578	Certification of Shadow Diagrams with Shadow Plans	21/04/2016
 2016/135165	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2016/0356 - 20 The Strand DEE WHY - TO	02/05/2016
 2016/135607	Waste Referral Response	02/05/2016
 2016/136102	ERROR DISMISS	02/05/2016
 2016/136115	Request further information	02/05/2016
 2016/136261	Referral to AUSGRID - SEPP - Infrastructure 2007	02/05/2016
 2016/138093	Building Assessment Referral Response	03/05/2016
 2016/139168	Photos for DA Referral and Fire Upgrade assessment – 20 The Strand Dee Why 03/05/2016	04/05/2016
 2016/139207	Photos for DA Referral and Fire Upgrade assessment – 20 The Strand Dee Why	04/05/2016
 2016/143423	SEA Map Notification	09/05/2016
 2016/143467	Notification Letter - 71 posted 10/05/2016	09/05/2016
 2016/145046	Owners consent development application - DA2016/0356 - 20 The Strand DEE WHY	10/05/2016
 2016/156774	Submission - Tomasy Pty Ltd	18/05/2016
 2016/172438	Development Engineering Referral Response	02/06/2016
 2016/172886	Traffic Engineer Referral Response	02/06/2016
 2016/173199	Natural Environment Referral Response - Flood	02/06/2016
 2016/180741	Landscape Referral Response	09/06/2016
 2016/307846	Building Assessment Referral Response	14/09/2016

PANEL PLANS

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