

DEVELOPMENT ASSESSMENT REPORT

Reporting Officer:	Malcolm Ryan - Director Strategic and Development Services for Warringah Council
Address / Property Description:	Lot 1 in DP 1136022, No. 2 Mooramba Road, Dee Why; and Lot 2 in DP 1136022, No. 10 Painters Parade, Dee Why
Development Application No:	DA2010/1839
Description of Development:	Demolition works and construction of residential flat buildings and associated basement car park including landscape/site works
Application Lodged:	08/11/2010
Plans Reference:	DA06, DA11, DA12,DA13, DA14,DA15, DA16,DA17, DA20,DA21, DA30, DA31, DA35, DA36, DA40, DA41, DA50,DA55, DA70, 10-074 L01(F), 10-074 L02(D),10-074 L03(D), 10-074 L04(D), HDA01/P2, HDA02/P2, HDA03/P2, HDA04/P2, HDA05/P2,
Amended Plans:	10-074 L01(G), 10-074 L02(E), 10-074 L03(E), 10-074 L04(E), HDA01/P3, HDA02/P3, HDA03/P3, HDA04/P3, HDA05/P3, HDA06/P1
Applicant:	Dee Why Property Development Pty Ltd
Owner:	Dee Why Property Development Pty Ltd
Locality:	E2 Dee Why Lagoon Suburbs (10 Painters Parade); and E20 Mooramba West (2 Mooramba Road)
Category:	E2 Dee Why Lagoon Suburbs: - Category 1 (Car parking ancillary to housing) E20 Mooramba West: - Category 1 (Housing)
Draft WLEP 2009 Permissible or Prohibited Land use:	R2 Low Density Residential: – Prohibited (Car parking) R3 Medium Density Residential: - Permitted with Consent (Residential Flat Building)
Variations to Controls (Cl.20/Cl.18(3)):	E2: - Rear Setback E20: - Building Height (Storey's) and - Side Setback
Referred to ADP or WDAP:	No
Referred to JRPP:	Yes (10 February 2011)
Land and Environment Court Action:	No
SUMMARY	
Submissions:	Two (2) individual submissions
Submission Issues:	Construction management; Land use compatibility; and Car parking
Recommendation:	Approval
Attachments:	Site plan; elevations

LOCALITY PLAN (not to scale)



Subject Site:

Lot 1 in DP 1136022, No. 2 Mooramba Road, Dee Why; and
Lot 2 in DP 1136022, No. 10 Painters Parade, Dee Why

Public Exhibition:

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan. As a result, the application was notified to 150 adjoining land owners and occupiers for a minimum period of 21 calendar days commencing on 19 November 2010 and being finalised on 14 December 2010. Furthermore, the application has been advertised within the Manly Daily on 20 November 2010 and a notice was placed upon the site.

SITE DESCRIPTION

The subject site consists of two allotments individually known as Lot 1, DP 1136022, No. 2 Mooramba Road, Dee Why; and Lot 2, DP 1136022, No. 10 Painters Parade, Dee Why.

Lot 1, DP 1136022, No. 2 Mooramba Road, Dee Why is irregular in shape and has an area of 6,233m². Lot 2, DP 1136022, No. 10 Painters Parade, Dee Why is regular in shape and has an area of 925m². The site has a total area of 7,158m².

The site is a split zoning. Specifically, Lot 1, DP 1136022, No. 2 Mooramba Road, Dee Why is zoned E20 Mooramba West under WLEP 2000 and proposed R3 Medium Density Residential under Draft WLEP 2009. Lot 2, DP 1136022, No. 10 Painters Parade, Dee Why is zoned E2 Dee Why Lagoon Suburbs under WLEP 2000 and proposed R2 Low Density Residential under Draft WLEP 2009.

The site has its primary street frontage to Mooramba Road and its secondary street frontage to May Road. The site also has a frontage onto Painters Parade but, due to topographical constraints, this frontage is inaccessible in its current state.

The site has varying topographical features, particularly relating to slope. The majority of the lot fronting Mooramba Road and May Road is generally flat with an approximate 8.7% slope falling from the southern-western corner of the site to the north-eastern corner of the site. Whilst the western section of the site nearest to Painters Parade, has a slope of up to 21.2% (6.0 metres over a distance of 28 metres).

Vegetation is limited to the western part of the site nearest to Painters Parade, with no significant landscaping being located on the remainder of the site. The existing vegetation is low lying and is not considered to be of any environmental or aesthetic significance.

The site is currently occupied by a former motor show room with an associated open-air car yard, mechanical workshops and offices. The show room and associated buildings have been left vacant since approximately 2008 and are gradually becoming dilapidated and subject to vandalism. The site is subsequently fenced off from access.

The site is surrounded by a mix of development due to its proximity to the commercial strip of Pittwater Road and the neighbouring residential area. Residential development of varying age, bulk and scale is located immediately to the north, south and west of the site while commercial development, including a service station is located immediately to the east on the corner of Pittwater Road and Mooramba Road.

SITE HISTORY

DA2003/1033

Lodged on 15 August 2003 for a street-wall residential flat building to accommodate 77 dwellings (within two (2) separate structures) in addition to the construction of a three-storey dwelling house on the portion of land fronting Painters Parade. The development included subdivision and landscape works.

The application was refused by Council 13 June 2006.

S82A Review of DA2003/1033

Lodged on 3 October 2006 for reconsideration of the determination made against DA2003/1033.

The application was refused on 13 February 2007.

Rezoning

Lodged on 22 October 2003 to rezone part of the rear of the subject site from E2 to E20.

The application was approved and gazetted by the Minister for Planning on 23 September 2005 (refer to Amendment 14 of Warringah LEP 2000).

DA2006/0781

Lodged on 14 August 2006 for the consolidation of Lots 8-12 & 17-19 in DP 8062 and Lots C & D in DP 396584 to create a single allotment with an area of 7134.22m² (this lot is now known as Lot 1 DP 1136022 and is the subject site of this application)

The application was approved on 17 January 2007.

DA2008/0029

Lodged on 11 January 2008 for the demolition of existing buildings and for the construction of residential flat building comprising 70 units, 116 car parking spaces and strata subdivision.

The application was granted approval as Deferred Commencement on 4 September 2008.

MOD2009/0253

Lodged on 4 September 2009 to extend the deferred commencement timeframe to a period of two (2) years.

The application was approved on 30 September 2009.

MOD2010/0159

Lodged on 12 July 2010 to modification a condition relating to stormwater drainage.

The application was approved on 23 August 2010.

DA2010/1511

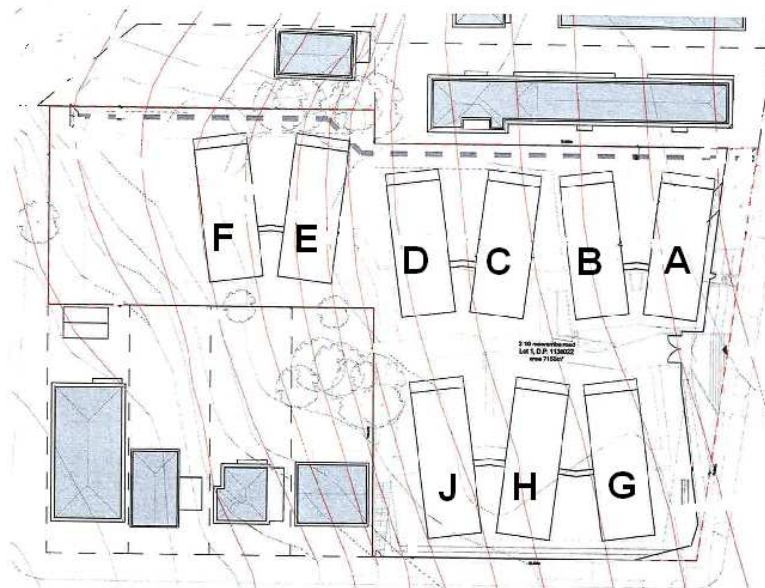
Lodged on 11 January 2008 for demolition works, construction of a new residential flat building, the provision of 116 dwellings including one (1) level of basement car parking for 174 vehicles.

The application was withdrawn on 10 November 2010.

PROPOSED DEVELOPMENT

The applicant proposes to demolish all existing on-site structures relating to the motor showroom and construct nine (9) residential flat buildings over a common basement car park. The development includes landscape works and the retention of the residual allotment

facing Painters Parade (Lot 2, No. 10 Painters Parade). The illustration below is provided to assist in identifying the proposed buildings within the development.



Modified by the author from Plan No. DA05 – Site Analysis 2 by JAA Studio

The development includes the following:

Basement (RL 27.110)

- Extends below all of Lot 1 and part of Lot 2.
- Access is gained from Mooramba Road via a 6.0m wide crossover and driveway.
- Car parking is provided for 152 vehicles:
 - 128 residential spaces (including 3 spaces for disabled residents).
 - 24 visitor spaces (including 1 space for disabled visitors).
- 936m³ total storage area (8m³/apartment).
- 25,380Ls total garbage disposal bins.
- 56 bicycle parking spaces.

Building A (RL 29.960 – RL 39.260)

- 6 x two north-facing bedroom apartments.
- 3 x one south-facing bedroom apartments.

Building B (RL 29.960 – RL 42.310)

- 8 x two north-facing bedroom apartments.
- 4 x one south-facing bedroom apartments.

Building C (RL 30.810 – RL 43.160)

- 8 x two north-facing bedroom apartments.
- 4 x one south-facing bedroom apartments.

Building D (RL 30.810 – RL 43.160)

- 8 x two north-facing bedroom apartments.

- 4 x one south-facing bedroom apartments.

Building E (RL 30.810 – RL 46.210)

- 10 x two north-facing bedroom apartments.
- 5 x one south-facing bedroom apartments.

Building F (RL 33.860 – RL 49.260)

- 1 x three bedroom apartment/penthouse.
- 8 x two north-facing bedroom apartments.
- 4 x one south-facing bedroom apartments.

Building G (RL 30.810 – RL 40.110)

- 12 x one bedroom apartments.

Building H (RL 30.810 – RL 43.160)

- 16 x one bedroom apartments.

Note: There is no Building I.

Building J (RL 30.180 – RL 43.160)

- 16 x one bedroom apartments.

Landscaping

- Total approximately 47.9% (3,431m²):
 - Lot 1: 40.2% (2,506m²).
 - Lot 2: 100% (925m²).

The buildings are arranged around the site in a regular 'zig-zag' formation although each building is offset to each other at an angle of approximately 15° resulting in a building separation of between 2.5m to 10.0m. Each pair of buildings is connected by glass-enclosed bridge walkways at the upper levels.

Each building is externally finished in timber cladding.

AMENDMENTS TO THE SUBJECT APPLICATION

The applicant has provided amended landscape plans (see Plan Nos. 10-074 L01(G) – Landscape Plan; 10-074 L02(E) – Landscape Sections; 10-074 L03(E) – Landscape Sections; and 10-074 L04(E) – Landscape Details) which proposed a slightly modified scheme, in conjunction with revisions to the stormwater and drainage plans (see Plan Nos. HDA01/P3 – Street Location Plan; HDA02/P3 – Catchment Plan; HDA03/P3 – Carpark Plan; HDA04/P3 – Level 1 Plan; and HDA05/P3 – Stormwater Details) to enhance overland stormwater detention and flow. An additional stormwater and drainage plan has also been provided (see Plan No. HDA06/P1 – Tank and Easement Sections).

Under s2.4 of Warringah DCP, re-notification/advertising is not required as the amendments differ in only minor respects to that previously notified/advertised and do not cause any greater environmental impact.

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979;
- b) Environmental Planning and Assessment Regulation 2000;
- c) Contaminated Lands Management Act 1997;
- d) State Environmental Planning Policy No. 55 – Remediation of Land;
- e) State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development;
- f) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- g) State Environmental Planning Policy (Infrastructure) 2007;
- h) Warringah Local Environmental Plan 2000;
- i) Draft Warringah Local Environmental Plan 2009;
- j) WDCP No.1 - Exhibition and Notification; and
- k) Section 94A Development Contributions Plan.

PUBLIC EXHIBITION

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan. As a result, the application was notified to 150 adjoining land owners and occupiers for a minimum period of 21 calendar days commencing on 19 November 2010 and ending on 14 December 2010. Furthermore, the application was advertised in the Manly Daily on 20 November 2010 and a notice was placed upon the site.

As a result of the public exhibition process two (2) submissions were received from:

Submission	Address
Planning Ingenuity (On behalf of Corin Pty Ltd)	C/- United Service Station, 625 Pittwater Road, Dee Why
James Weir	34/14-18 Mooramba Road, Dee Why

The matters raised within the submissions are as follows:

Construction management

The submission expresses concern that access to the service station will be impeded by construction related traffic during the construction period of the development potentially resulting in a loss of business. The submission notes that the application lacks a Construction Management Plan and requests that a Plan be developed in consultation with the proprietors of the United Service Station to ensure that minimal traffic conflict occurs.

Comment

The United Service Station is located within a triangular allotment on the corner of Pittwater Road and Mooramba Road. Because of the location and shape of that property, the service station has the benefit of dual (or 'through') access from both road frontages, the most likely being access from Pittwater Road with egress onto Mooramba Road. In this regard, it is considered to be unlikely that access to the service station will be adversely impeded during the construction phase of the development.

Notwithstanding, the provision of a Construction Management Plan would be recommended as a condition of consent. The Plan would be required to provide details on the following matters:

- The method of access to, and egress from, the site for construction vehicles including access routes through the Council area and the location and type of any temporary vehicular crossings for the purpose of minimising traffic congestion and noise in the area;
- The phases of construction work on the site, the expected duration of each phase, the order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- The manner in which adjoining property owners will be advised of the timeframes for completion of each phase of development/construction process, the proposed method of loading and unloading excavation and construction machinery, the location and operation of any on site crane; and
- The location of any Construction Zone (if required) as approved by Council's Traffic Committee, including a copy of that approval.

It is not considered to be necessary to undertake a formalised consultation process between the developer and the proprietor of the service station in the development of the Plan.

This matter does not have a determining outcome.

Land use compatibility

The submission raises concern that the proximity of a residential development to the service station could result in a potential for perceived conflict on the part of the future residents of the development.

The submission requests that a caveat or appropriate note be included on the Title via a condition of consent advising future owners and occupiers of the operation of the service station.

Comment

Despite the compatibility between the previous use (motor showroom) and the service station, the potential for the redevelopment of the property for residential purposes has remained a continual possibility dependent upon the eventual closure and abandonment of the showroom.

The future occupation of apartments within the subject development would be a result of individual buyer/occupier research, choice and budget. The proximity of the service station to the development would be an obvious deciding factor in whether to purchase or rent a specific apartment or not. Whilst it is acknowledged that the proximity of the service station to the development is not ideal, the concern over potential land use conflict is considered to be over-emphasised in that it fails to account for the due diligence of the potential buyer/occupier.

It is considered unreasonable to impose a condition requiring a caveat, or any other encumbrance, to be included in the Title which advises future owners and occupiers of the operation of the service station as this would unnecessarily burden the development should the service station be sold in the future and redeveloped as a land use which would be more consistent with the requirements of WLEP 2000 and/or the Draft WLEP 2009.

This matter does not have a determining outcome.

Car parking

The submission questions the provision of on-site car parking and raises concern that the development will induce on-street car parking which will result in congestion and a degradation to traffic safety.

Comment

The provision of car parking (both occupants and visitor) has been addressed elsewhere in this report and has been found to comply with the car parking requirements of Schedule 17 of WLEP 2000.

On-street car parking is not a matter for consideration of this application as it is legal for car owners to park on the street subject to compliance with the parking and traffic regulations and signs.

Notwithstanding, Council's Traffic Engineer and the Roads and Traffic Authority (RTA) have reviewed the application which includes a *Traffic and Parking Impact Report* prepared by ML Traffic Engineers and dated September 2010 and have individually raised no objection to the development subject to conditions.

This matter does not have a determining outcome.

MEDIATION

Has mediation been requested by the objectors?	No
Has the applicant agreed to mediation?	No
Has mediation been conducted?	No

LAND AND ENVIRONMENT COURT ACTION

There are no Land and Environment Court actions pending on this application.

REFERRALS

External

Roads and Traffic Authority (RTA)

The RTA has not raised any objection to the application subject to conditions which have been included in the recommendation of this report.

Energy Australia

Energy Australia has not raised any objection to the application subject to conditions which have been included in the recommendation of this report.

Aboriginal Heritage Office

The Aboriginal Heritage Office notes that the proposed development area has been subject to extensive disturbance and that no Aboriginal sites are recorded in the current development area.

However, the Office does advise that if areas of in situ sandstone outcrop are proposed for impact (such as overhangs over 1m in height or platforms over 2m²), the Office recommends a preliminary inspection by a qualified Aboriginal heritage professional.

An inspection of the site reveals that a rock outcrop is located within the southern half of No. 10 Painters Parade. The outcrop exceeds the dimensions stipulated by the Office and is therefore subject to a preliminary inspection by a qualified Aboriginal heritage professional.

The site has been further inspected by Mary Dallas Archaeologists with regards to the comments made by the Aboriginal Heritage Office. In their report *Due Diligence Aboriginal Cultural Heritage* dated 14 January 2011 Mary Dallas Archaeologists advise that the site does not contain any evidence of past Aboriginal visitation or use. Subsequently, the development will not impact upon any documented Aboriginal archaeological sites or features.

Internal

Development Engineer

Council's Development Engineer has not raised any objection to the application subject to conditions which have been included in the recommendation of this report.

Natural Environment Unit

Council's Natural Environment Unit has not raised any objection to the application subject to the conditions imposed by Council's Development Engineer which have been included in the recommendation of this report.

Environmental Health

Council's Environmental Health Officer has not raised any objection to the application subject to conditions which have been included in the recommendation of this report with the exception to the following:

The Environmental Health Officer included a deferred commencement condition which states:

Prior to the issue of the development consent, provide Council with details verifying the currency of the Stage 2 Detailed Investigation (Report No 10095/1-AB) prepared by Geotechnique Pty Ltd on 12 January 2005 in accordance with the Contaminated Lands Management Act 1997, SEPP 55 and "Sampling Design Guidelines for Contaminated Sites", 1995 NSW EPA.

The condition was referred to the applicant as advice. The applicant has provided the following response:

The circumstances of contamination potential have not changed since the study accompanying the last DA was prepared, and there has been no relevant legislative change since the study was prepared. The site is known to have potential low level contamination and there is a widely established body of knowledge as to how such sites are remediated. The implementation and auditing of an RAP will ensure its remediation in accordance with relevant legislative requirements.

The applicant has provided an *Additional Environmental Site Investigation and Remedial Action Plan* (RAP) prepared by Environmental Investigation Services and dated December

2007 (Ref: E21637F-RPT). As part of the scope of work, the report undertook a review of earlier Stage 1 and Stage 2 investigation reports prepared by Geotechnique Pty Ltd which identified an asbestos contamination 'hotspot' and a petroleum contamination 'hotspot' on the site. The RAP subsequently undertakes an additional assessment of these hotspots to identify the extent of asbestos and petroleum hydrocarbon contamination and to provide a strategy for remediation acceptable to the proposed residential land use in accordance with the *Contaminated Lands Management Act, 1997*, *State Environmental Planning Policy No. 55 – Remediation of Land* and the *Guidelines for Consultants Reporting on Contaminated Sites NSW DECC (EPA), 1997*.

The report concludes that *"the site can be made suitable for the proposed residential development provided that the remediation measures outlined in the RAP are successfully implemented."*

Whilst it is noted that the report refers to an earlier development proposal (DA2008/0029), the layout and extent of development occurring at the excavated basement level, and the location of the identified contamination 'hotspots', remains the same although the currently proposed depth of excavation is marginally shallower by 0.4m.

Appropriate conditions will be included in the recommendation of this report which impose requirements to notify Council of any new contamination evidence revealed during demolition and excavation works and which require the validation of any contamination identified in the *Stage 2 Detailed Investigation* which certifies that remediation was undertaken in accordance with the Contaminated Land Management Act 1997 and the site is suitable for the proposed development with regard to contamination.

Therefore, given that there has been no physical change to the condition or use of the site since the preparation of the RAP and that the extent of the development below ground level remains the same as previously proposed, the applicant's response (as provided above) is concurred with in that the request to verify the currency of the earlier *Stage 2 Detailed Investigation* as prepared by Geotechnique Pty Ltd is considered to be unnecessary in this particular instance.

Traffic Engineer

Council's Traffic Engineer has not raised any objection to the application subject to conditions which have been included in the recommendation of this report.

Landscape Officer

Council's Landscape Officer has not raised any objection to the application subject to conditions which have been included in the recommendation of this report.

Waste Management

Council's Waste Management Officer has not raised any objections to the application. Notwithstanding, appropriate conditions have been imposed which require the development to comply with Council's Policy No. PL 850 – Waste.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 79C of 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	See discussion on “Draft Environmental Planning Instruments” in this report.
Section 79C(1)(a)(iii) – Provisions of any development control plan	The application was advertised and notified in accordance with Warringah Development Control Plan No. 1.
Section 79C(1)(a)(iiia) – Provisions of any planning agreement	None applicable.
Section 79C(1)(a)(iv) – Provisions of the regulations	<p>The EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter may be addressed via a condition of consent.</p> <p><u>Clause 92</u> of the EPA Regulations 2000 requires the consent authority to consider <i>AS 2601 - 1991: The Demolition of Structures</i>. This matter may be addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EPA Regulations 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted.</p> <p><u>Clause 143A</u> of the EPA Regulations 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a CC. This matter may be addressed via a condition of consent.</p>
Section 79C(1)(b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the residential character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the proposed land use.</p>
Section 79C(1)(c) – the suitability of the site for the development	The site is considered to be suitable for the proposed development subject to successful remediation which may be satisfactorily addressed via the imposition of appropriate conditions.
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 various controls contained within WLEP 2000

Section 79C 'Matters for Consideration'	Comments
	<p>provide the community with a level of certainty as to the scale and intensity of future development and the form and character of development that is in keeping with the desired future character envisaged for the two localities.</p> <p>The development is considered to be consistent with the desired future character of the E2 Dee Why Lagoon Suburbs locality and E20 Mooramba West locality. The development also complies with the Built Form Controls (variations to the Building Height, Rear Setback and Side Setback Built Form Controls are supported) and is consistent with the General Principles of Development Control subject to conditions.</p> <p>As the proposed development complies with the various controls which apply to the site, the development is considered to be consistent with the scale and intensity of development that the community can reasonably expect to be provided on this site and within the respective localities.</p> <p>Therefore, the proposal is considered to be in the public interest.</p>

In summary, the proposal has been considered against the relevant matters for consideration under Section 79C of the EP&A Act 1979. 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 any conditions contained within the Recommendation.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

R3 Medium Density Residential

Definition: Residential Flat Building

Land Use Zone: R3 Medium Density Residential

Permissible or Prohibited: Permitted with consent

Additional Permitted used for particular land – Refer to Schedule 1: Not Applicable

Principal Development Standards:

Development Standard	Permitted	Proposed	Complies	Clause 4.6 Exception to Development Standards
Minimum Subdivision Lot Size:	The proposed development does not seek to subdivide the land.	NA	NA	N/A
Rural Subdivision:	Not applicable to the proposed development	NA	NA	NA
No Strata Plan or	The subject site is not within	NA	NA	NA

Development Standard	Permitted	Proposed	Complies	Clause 4.6 Exception to Development Standards
Community Title Subdivisions in certain rural and environmental zones:	rural or environmental zones.			
Height of Buildings:	11.0m*	10.4m - 17.0m	No	Supported

***Note:** The building height development standard in the Draft WLEP 2009 is taken from the *existing* ground level as opposed to the *natural* ground level stipulated in WLEP 2000.

Variations to the Building Height Development Standard

The site is located within the R3 (Medium Density Residential) zone and is subject to a Building Height Control of 11.0m (as taken from the existing ground level).

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 Draft WLEP 2009. The following provides an assessment of the variation against relevant objectives.

1. Is the planning control in question a development standard?

The prescribed height limitation pursuant to Clause 4.3 of Draft WLEP 2009 is a development standard.

2. What are the underlying objectives of the development standard?

The underlying objectives of the standard, pursuant to Clause 4.3(1) – ‘Height of Buildings’ of the Draft WLEP 2009 are as follows:

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

- (a) *to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality that may be identified in any development control plan made by the Council.*

Comment:

The development has been found to be consistent with the Desired Future Character statement of the locality as identified under the Warringah Local Environmental Plan 2000.

The proposed building height has been found to be compatible with the building heights of surrounding development and in accordance with the provisions of the Building Height Built Form Control, subject to a variation under Clause 20 of WLEP 2000.

The design and scale of the development is consistent with other, more traditional, linear-style walk-up residential flat buildings in the immediate area.

The development satisfies this objective.

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

Comment:

The development has been designed to respond to the topography of the site and the area. In this way, the buildings gradually step up the site from Mooramba Road.

The development does present an overlooking opportunity into the neighbouring properties at No. 12 Mooramba Road and at No. 4 May Road. In both cases it is noted that the development includes privacy screens to address this concern.

The shadow diagrams provided by the applicant indicate that the development will not result in significant overshadowing over the neighbouring properties. The plan indicates that the shadows cast by the development are consistent with the provisions of Clause 62 of the General Principles of Development Control which requires that *sunlight, to at least 50% of the principle private open spaces, is not to be reduced to less than 2 hours between 9am and 3pm on June 21.*

A view analysis has been provided (see Plan No. A-006) which indicates that the development will not obstruct views from neighbouring properties. In this regard, the development is consistent with the provisions of Clause 61 of the General Principles of Development Control which requires that *development is to allow for the reasonable sharing of views.*

The development satisfies this objective.

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

Comment:

The development is located within the densely urbanised area of Dee Why and does not have any impact upon the scenic quality of Warringah's coastal and bush environments.

The development satisfies this objective.

3. What are the underlying objectives of the zone?

In assessing the developments non-compliance with the building height, consideration must be given to its consistency with the objectives within the zone.

R3 (Medium Density Residential) zone

The objectives of this clause are:

To provide for the housing needs of the community within a medium density residential environment.

Comment:

The development provides a mix of apartment sizes which will cater for the housing needs of the community within the medium density zone.

The development satisfies this objective.

To provide a variety of housing types within a medium density residential environment.

Comment:

The development proposes a variety of housing types which consists of 68 one bedroom apartments, 48 two bedroom apartments and one (1) three bedroom apartment (117 apartments in total).

The development satisfies this objective.

To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Comment:

The development is located within close proximity to facilities and services which meet the day to day needs of residents such as Dee Why Beach, shopping and services, and high frequency public transport routes (such as Pittwater Road).

The development satisfies this objective.

To ensure that medium density residential environments are characterised by landscaped settings that are harmonious with the natural environment of Warringah.

Comment:

The development incorporates landscaping within the site and around the perimeter of the site. The landscape design which incorporates densely landscaped street frontages and side setbacks, includes native species together with the retention of the large trees along Mooramba Road and May Road. The residual allotment facing Painters Parade will remain open and landscaped.

The level of landscaping proposed on the site is considered to be a significant visual improvement on the existing situation specifically and on the streetscape generally. In a wider context, the proposed landscaping is considered to be harmonious with the natural environment of Warringah. In a localised context, the proposed landscaping establishes a new benchmark for future development in Mooramba Road and within the locality as a whole.

The development satisfies this objective.

To ensure that medium density residential environments are of a high visual quality in their presentation to public streets and spaces.

Comment:

The development presents a highly articulated, contemporary built forms surrounded by dense landscaping.

The visual effect is generally positive in that it provides an upgrade to the standard of ageing residential development within the locality and a benchmark for future development in the area.

The proposal is consistent with the objectives of both Clause 4.3 - Height of Buildings and the R3 Zone of the Draft Warringah Local Environmental Plan 2009.

4. Is the variation to the development standard consistent with the objectives of Clause 4.6 of the Draft WLEP 2009?

The objectives of Clause 4.6 – ‘Development Standards’ of the Draft WLEP 2009 seek:

- *to provide an appropriate degree of flexibility in applying certain development standards to particular development; and*
- *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

In this regard, sub-clause 4.6(4) requires that:

(4) *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 statement which adequately addresses the variation to the Building Height Built Form Control under Clause 20 under WLEP 2000.

(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, and*

Comment:

It has been found that the development is in the public interest as it achieves consistency with the Objectives of the R3 (Medium Density Residential) zone.

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

Comment:

Concurrence is not required from the Director-General due to the Draft Warringah Local Environmental Plan awaiting gazettal.

5. Is the variation well founded?

The variation to the building height development standard is considered to be well founded in that the proposed non-compliance is consistent with 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 Draft WLEP 2009, as set out above.

6. Is compliance with the standard unreasonable or unnecessary in the circumstances of the case?

On the basis of the above comments, it is considered that the variation to the building height development standard is well founded and that compliance is unreasonable and unnecessary in the particular circumstances of the case.

R2 Low Density Residential

Definition: Car parking (associated with a Residential Flat Building)

Land Use Zone: R2 Low Density Residential

Permissible or Prohibited: Prohibited

Additional Permitted used for particular land – Refer to Schedule 1: Not Applicable

Principal Development Standards:

Development Standard	Permitted	Proposed	Complies	Clause 4.6 Exception to Development Standards
Minimum Subdivision Lot Size:	The proposed development does not seek to subdivide the land.	N/A	N/A	N/A
Rural Subdivision:	Not applicable to the proposed development	N/A	N/A	N/A
No Strata Plan or Community Title Subdivisions in certain rural and environmental zones:	The subject site is not within rural or environmental zones.	N/A	N/A	N/A
Height of Buildings:	8.5m	-2.8m to -7.2m (basement)	Yes	N/A

The proposed basement car park extends within the R2 Low Density Residential zone and, as such is classified as a prohibited use because it is not directly related to a permitted land use of the site. As such, an assessment of the use against the objectives of the Draft WLEP 2009 and the objectives of the zone are provided as follows:

Objective	Comment	Consistent
Clause 1.2(2)(d) - residential development		
(i) <i>protect and enhance the residential use and amenity of existing residential environments</i>	The development proposes to excavate the site to construct the basement then backfill to reinstate the original ground level to include landscaping. No further development is proposed on the site thereby preserving the amenity of adjacent land.	Yes
(ii) <i>promote development that is compatible with neighbouring development in terms of bulk, scale and appearance.</i>	The development, in this part of the locality, involves the excavation of the land to construct a basement car park which will be situated between -2.8m to 7.2m below the existing ground level. The land will be refilled to conceal the car park and restore the property to appear as a vacant allotment. The reinstatement of the topographical state of the allotment will permit future above-ground development to occur which will be compatible with the bulk, scale and appearance of neighbouring residential development.	Yes
(iii) <i>increase the availability and variety of dwellings to enable population growth</i>	The car park use is directly associated to a residential use which proposes a variety of	Yes

Objective	Comment	Consistent
<i>without having adverse effects on the character and amenity of the Warringah area.</i>	<p>housing types which consists of 68 one bedroom apartments, 48 two bedroom apartments and One (1) three bedroom apartment.</p> <p>The general character of Dee Why is undergoing significant transition evidenced by the recent construction of Dee Why Grand. The development compliments this transition by providing a mix of apartment sizes which vary in affordability. This mix suits the social evolution of the community as purchasers will choose to buy because of the proximity of the site to Dee Why Beach, accessibility to shopping and services, and the high frequency public transport route along Pittwater Road.</p>	
Clause 1.2(2)(e) - non-residential development		
(i) <i>ensure that non-residential development does not have an adverse effect on the amenity of residential properties and public places.</i>	The development proposes to excavate the site to construct the basement then backfill to reinstate the original ground level to include landscaping. No further development is proposed on the site thereby preserving the amenity of adjacent land.	Yes
(ii) <i>maintain a diversity of employment, services, cultural and recreational facilities.</i>	The development is directly associated to a residential land use.	N/A
Clause 1.2(2)(f) - environmental quality		
(i) <i>achieve development outcomes of quality urban design.</i>	<p>The car park use is directly associated to a residential use which, because of its contemporary design, is considered to be consistent with the desired future character of the area as it positively contributes towards the future built form and architectural identity of the area.</p> <p>The development provides a muted range of natural colours and finishes which are complimentary to the streetscape. This, in conjunction with landscape architecture, responds well to the environment and context and contributes towards the desired future character of the Locality.</p>	Yes
(ii) <i>encourage development that demonstrates efficient and sustainable use of energy and resources.</i>	<p>The car park use is directly associated to a residential use which is subject to SEPP (BASIX) 2004. A BASIX certificate has been submitted with the application (see Certificate No. 344681M dated 5 November 2010). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 87271246 dated 5 November 2010).</p> <p>The BASIX Certificate indicates that the development will achieve the required targets for residential flat buildings.</p>	Yes
(iii) <i>achieve land use relationships that promote the efficient use of infrastructure.</i>	<p>The development achieves a land use relationship with two areas of infrastructure:</p> <p><u>RTA</u> The development proposes a new crossover towards the northern boundary</p>	Yes Subject to conditions

Objective	Comment	Consistent
	<p>onto Mooramba Road which is an unclassified road but serves as a connecting road to Pittwater Road. The crossover is located approximately 85.5m from Pittwater Road (as measured along the alignment of the connecting road). As such, the development triggers a requirement to refer the application to the RTA under Column 3 of Schedule 3.</p> <p>The RTA has not raised any objection to the application subject to conditions which have been included in the recommendations of this report.</p> <p><u>Energy Australia</u> The development is located within 5m from an Energy Australia power line which extends across the frontage of Francis Street. The application was referred to Energy Australia who advise that the development will comply with statutory clearances from Energy Australia electrical mains. Consequently, Energy Australia raise no objection to the development subject to conditions that are included in the recommendations of this report.</p>	
(iii) <i>ensure that development does not have an adverse effect on streetscapes and vistas, public places, areas visible from navigable waters or the natural environment.</i>	<p>The development does not have any adverse impact on view sharing. The proposal complies with the overall Building Height Built Form Control and views across the site to the north-east will be substantially maintained by the proposal. The proposal is consistent with the Planning Principle – <i>Tenacity v Warringah Council</i>.</p> <p>The site is not visible from navigable waters or the natural environment.</p>	Yes
(iv) <i>protect, conserve and manage biodiversity and the natural environment.</i>	<p>The site does not accommodate any identified threatened species which would require assessment, conservation and protection under the <i>Threatened Species Conservation Act, 1995</i>. Notwithstanding, the application was referred to Council's Natural Environment Unit who did not raise any objection to the proposal.</p>	Yes
(v) <i>manage environmental constraints to development including acid sulphate soils.</i>	<p>The applicant has provided an <i>Additional Environmental Site Investigation and Remedial Action Plan</i> (RAP) prepared by Environmental Investigation Services and dated December 2007 (Ref: E21637F-RPT).</p> <p>The report concludes that <i>the site can be made suitable for the proposed residential development provided that the remediation measures outlined in the RAP are successfully implemented.</i></p> <p>In this regard it is considered that the site, as remediated, will pose no risk of contamination and therefore, no further consideration is required under Clause 7</p>	Yes Subject to conditions

Objective	Comment	Consistent
	<p>(1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use subject to conditions provided in the RAP.</p> <p>The site is not located within an identified acid sulphate soil area.</p>	
(vi) <i>slip risk, flood and tidal inundation, coastal erosion and biodiversity.</i>	The site is not subject to slip risk, flood and tidal inundation, coastal erosion and biodiversity.	N/A
Clause 1.2(2)(g) - environmental heritage.		
<i>recognise, protect and conserve items and areas of natural, indigenous and built heritage that contribute to the environmental and cultural heritage of Warringah.</i>	<p>The Aboriginal Heritage Office notes that the proposed development area has been subject to extensive disturbance and that no Aboriginal sites are recorded in the current development area.</p> <p>However, the Office does advise that if areas of in situ sandstone outcrop are proposed for impact (such as overhangs over 1m in height or platforms over 2m²), the Office recommends a preliminary inspection by a qualified Aboriginal heritage professional.</p> <p>An inspection of the site reveals that a rock outcrop is located within the southern half of No. 10 Painters Parade. The outcrop exceeds the dimensions stipulated by the Office and is therefore subject to a preliminary inspection by a qualified Aboriginal heritage professional.</p>	Yes
Clause 1.2(2)(h) - community well being		
(i) <i>ensure good management of public assets and promote opportunities for social, cultural and community activities.</i>	<p>The development has been designed to satisfy Council's OSD and stormwater asset provisions. In this regard, Council's Development Engineer has raised no objection subject to conditions.</p> <p>The residential development associated with the car park will increase the volume of residents to the area which will have a flow-on effect towards the provision of social, cultural and community activities in the area.</p>	Yes Subject to conditions
(ii) <i>ensure that the social and economic effects of development are appropriate.</i>	<p>As identified under Section 79C(1)(b) of the EP&A Act, 1979 the development is considered to be appropriate for the following reasons:</p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report.</p> <p>The proposed development will not have a detrimental social impact in the locality considering the residential character of the proposal.</p> <p>The proposed development will not have a</p>	Yes

Objective	Comment	Consistent
	detrimental economic impact on the locality considering the residential nature of the proposed land use.	
R2 Low Density Residential zone objectives		
<i>To provide for the housing needs of the community within a low density residential environment.</i>	The car park use is directly associated to a residential use but does not include any above ground residential development within the R2 Low Density Residential zone. It is envisaged that the residual lot will remain vacant until such time as a development application may be lodged. In this regard, any future above-ground development application will be considered in context to its low density surrounds as guided by the relevant planning instruments and policies.	Yes
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	The development associated with the car park will increase the volume of residents to the area which will have a flow-on effect towards the provision of facilities and services to meet day to day needs.	Yes
<i>To ensure that low density residential environments are characterised by landscaped settings that are harmonious with the natural environment of Warringah.</i>	The car park use is directly associated to a residential use but does not include any above ground residential development within the R2 Low Density Residential zone. It is envisaged that the residual lot will remain vacant and landscaped until such time as a development application may be lodged. In this regard, any future above-ground development application will be considered in context to its low density residential environment within a landscaped setting, as guided by the relevant planning instruments and policies.	Yes

Given the above considerations, the ancillary part of the development which is located within the R2 Low Density Residential is supported.

ENVIRONMENTAL PLANNING INSTRUMENTS

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 344681M dated 5 November 2010). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 87271246 dated 5 November 2010).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	20	30

All required BASIX commitments have been noted on the application plans. Furthermore, a condition of consent has been imposed requiring compliance with the requirements of the applicable BASIX Certificate.

State Environmental Planning Policy (Infrastructure) 2007

Roads and Traffic Authority (RTA)

The development proposes the construction of residential flat buildings which collectively accommodate 117 apartments.

Schedule 3 of the SEPP requires that the following residential flat developments are referred to the RTA as Traffic Generating Development:

Purpose of Development	Size or Capacity (Site with access to any road)	Size or Capacity
		Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road
Residential flat building	300 or more dwellings	75 or more dwellings

The development proposes a new crossover towards the northern boundary onto Mooramba Road which is an unclassified road but serves as a connecting road to Pittwater Road. The crossover is located approximately 85.5m from Pittwater Road (as measured along the alignment of the connecting road). As such, the development triggers a requirement to refer the application to the RTA under Column 3 of Schedule 3.

The RTA has not raised any objection to the application subject to conditions which have been included in the recommendations of this report.

Energy Australia

Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any development application 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 5m 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 5m of an overhead electricity power line.*

The development is located within 5m from an Energy Australia power line which extends across the frontage of Francis Street. The application was referred to Energy Australia who advise that the development will comply with statutory clearances from Energy Australia electrical mains. Consequently, Energy Australia raise no objection to the development subject to conditions that are included in the recommendation.

State Environmental Planning Policy No. 55 – Remediation of Land

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

The applicant has provided an *Additional Environmental Site Investigation and Remedial Action Plan* (RAP) prepared by Environmental Investigation Services and dated December 2007 (Ref: E21637F-RPT). As part of the scope of work, the report undertook a review of earlier Stage 1 and Stage 2 investigation reports prepared by Geotechnique Pty Ltd which identified an asbestos contamination 'hotspot' and a petroleum contamination 'hotspot' on

the site. The RAP subsequently undertakes an additional assessment of these hotspots to identify the extent of asbestos and petroleum hydrocarbon contamination and to provide a strategy for remediation acceptable to the proposed residential land use in accordance with the *Contaminated Lands Management Act, 1997*, *State Environmental Planning Policy No. 55 – Remediation of Land* and the *Guidelines for Consultants Reporting on Contaminated Sites NSW DECC (EPA), 1997*.

Whilst it is noted that the report refers to an earlier development proposal, the layout and extent of development occurring at the excavated basement level remains the same although the currently proposed depth of excavation is marginally shallower by 0.4m.

Because of the existence of structures over the site three open (3) areas were selected for investigation and identified as Remediation Areas A, B & C. Remediation Area A is located in the north-eastern corner of the site (under proposed Buildings A & B), Remediation Area B is located in the north-western part of the site (under proposed Buildings E & F), Remediation Area C is located within the centre of the site (under proposed Building C).

Remediation Area A was found to contain evidence of Asbestos contaminated material. Remediation Area B was found to contain Total Petroleum Hydrocarbons contaminated material while Remediation Area C contains an underground storage tank.

The report concludes that *the site can be made suitable for the proposed residential development provided that the remediation measures outlined in the RAP are successfully implemented*.

Council's Environmental Health Officer notes that the earlier Stage 2 investigation report prepared by Geotechnique Pty Ltd is not considered to be current and has sought to impose a deferred commencement condition requiring that the applicant provide details verifying the currency of the report in accordance with the Contaminated Lands Management Act, 1997, SEPP 55 and "Stamping Design Guidelines for Contaminated Sites", 1995 NSW EPA.

As discussed earlier in this report, it is noted that there has been no physical change to the condition or use of the site since the preparation of the RAP and that the extent of the development below ground level remains the same as previously proposed, the applicant's response (as provided above) is concurred with in that the request to verify the currency of the earlier *Stage 2 Detailed Investigation* as prepared by Geotechnique Pty Ltd is considered to be unnecessary in this particular instance.

Notwithstanding, appropriate conditions will be included in the recommendation of this report which impose requirements to notify Council of any new contamination evidence revealed during demolition and excavation works and which require the validation of any contamination identified in the *Stage 2 Detailed Investigation* which certifies that remediation was undertaken in accordance with the Contaminated Land Management Act 1997 and the site is suitable for the proposed development with regard to contamination.

State Environmental Planning Policy No. 65 – Design Quality for Residential Flat Development

SEPP 65 applies to new residential flat buildings, substantial redevelopment/refurbishment of existing residential flat buildings and conversion of an existing building to a residential flat building.

Clause 3 of SEPP 65 defines a residential flat building as:

"...a building that comprises or includes:

- (a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level); and
- (b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops), but does not include a Class 1a building or a Class 1b building under the Building Code of Australia. ”

The development consists of nine buildings of three or more storeys containing four or more self-contained dwellings. Therefore, the provisions of SEPP 65 are applicable to the assessment of this application.

Clause 50(1A) of the EPA Regulations 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted.

The SEPP requires the assessment of any development application for residential flat development against the 10 Principles contained in Clauses 9 - 18 and Council is required to consider the matters contained in the publication “Residential Flat Design Code (RFDC)”. As such, the following consideration has been given to the requirements of the SEPP and the RFDC.

The 10 Principles are addressed as follows:

Principle 1: Context

The provisions of SEPP 65 provide that:

“Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location’s current character or, in the case of precincts undergoing a transition, the Desired Future Character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area”.

Comment:

The site is highly visible and is therefore considered to function as a visual gateway into the Dee Why Town Centre which is undergoing significant transition as old housing stock is renewed.

The overall design of the development, which includes the layout and building height of buildings, is reminiscent of the typical built form of surrounding residential flat development but, due to the use of natural materials and dense landscaping, provides a contemporary upgrade to an otherwise ageing built environment.

In this regard, the overall contemporary design of the development is considered to be consistent with the desired future character of the area as it positively contributes towards the future built form, architectural identity of the area and to the visual approach into the Dee Why Town centre.

Principle 2: Scale

The provisions of SEPP 65 provide that:

“Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the Desired Future Character of the area”.

Comment:

The development is architecturally articulated through individual placement and landscaping to appropriately address the shape and topography of the site. The setbacks and building heights are commensurate to surrounding development and consistent with the desired future character of the area.

In this regard, the building bulk and height of the development is considered to be consistent with the desired future character of the area as it maintains a consistency in the built form and architectural identity of the locality.

Principle 3: Built Form

The provisions of SEPP 65 provide that:

“Good design achieves an appropriate built form for a site and the building’s purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.”

Comment:

The development satisfactorily achieves the appropriate built form for the site, which is highly constrained by irregular shape and topography. The development continues the existing building alignments along Mooramba Road and May Road and provides a highly articulated design.

The incorporation of landscaped frontages and the raised podium along Mooramba Road adequately defines the public domain and enhances the character of Mooramba Road and May Road.

Principle 4: Density

The provisions of SEPP 65 provide that:

“Good design has a density appropriate for a site and its context; in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality”.

Comment:

The Housing Density Built Form Control for the Locality states:

The maximum housing density within the locality will be determined by the way the design responds to the general principles of development control, the desired future character of the locality and the other built form controls.

The development responds well to the General Principles of Development Control, the Desired Future Character Statement and the Built Form Controls.

Principle 5: Resource, Energy and Water Efficiency.

The provisions of SEPP 65 provide that

“Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical and mechanical services, soil zones for vegetation and reuse of water”.

Comment:

The site does not accommodate any existing residential structures and therefore, the recycling of materials from demolition is not possible.

The buildings have been designed to achieve the commitment targets set by SEPP (BASIX) and satisfies the relevant environmental Primary Development Controls under the Residential Flat Design Code.

Additionally, the development proposes a surplus in deep soil landscaping which provides appropriate soil zones for the planting of native vegetation.

Principle 6: Landscape

The provisions of SEPP 65 provide that

“Good design recognises that together Landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site’s natural and cultural features in responsible and creative ways. It enhances the development’s natural environmental performance by co-ordinating water and soil management, solar access, microclimate, and tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character or Desired Future Character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours’ amenity and provide for practical establishment and long-term management.”

Comment:

Subject to a condition requiring an increase in soil depth within the internal communal open space areas, the development will provide 50.3% (3,600m²) deep soil landscaping (which is 10.3% (738m²) above the requirement under the Landscaped Open Space Built Form

Control). The deep soil landscaping is predominantly located around the perimeter of the building and within the communal open space areas throughout the centre of the site) which provides a high level of aesthetic value to the streetscape and to the internal appearance of the development.

The buildings have been graduated in height to reflect the natural built form of the site and facilitate efficient stormwater filtration and run-off.

Principle 7: Amenity

The provisions of SEPP 65 provide that:

“Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility”.

Comment:

The development maintains a satisfactory separation between the buildings within and adjacent to the site.

The design provides high levels of internal amenity to future residents, with the units ranging in size and the number of bedrooms. All units benefit from suitable building depths and orientation. Private recreation areas are provided in the form of balconies off the living areas and are supplemented by a large communal area in the centre of the site for the enjoyment and use of residents.

It is considered that the development satisfies the provisions with respect to solar access, privacy and amenity. The development includes balconies and/or openings to all units with room configurations and sizes which are conducive to efficient air flow and sunlight penetration.

Sufficient provision is made from the public domain and the basement car park for the access and egress of people with a mobility disability.

The street-level pedestrian entry into the site from Mooramba Road includes a partially stepped podium complimented by dense landscaping which provides a communally interactive zone and which provides an appropriate transition between the development and the public domain.

Principle 8: Safety and Security

The provisions of SEPP 65 provide that:

“Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for

desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.”

Comment:

The units in the development which face towards the street provide optimum passive surveillance. Internal security is achieved by providing lockable entry doors at street level and a gated car park entrance.

In this regard, the proposal is considered to adequately achieve safety and security for future occupants of the development providing good casual visual surveillance of the street and the private domain.

Principle 9: Social Dimensions

The provisions of SEPP 65 provide that:

“Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New developments should optimise the provisions of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community”.

Comment:

Dee Why is undergoing significant transition evidenced by the recent construction of Dee Why Grand. The development compliments this transition by providing a mix of apartment sizes which vary in affordability. This mix suits the social evolution of the community as purchasers will choose to buy because of the proximity of the site to Dee Why Beach, accessibility to shopping and services, and the high frequency public transport route along Pittwater Road.

Principle 10: Aesthetics

The provision of SEPP 65 provide that:

“Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the Desired Future Character of the area”.

Comment:

The development provides a muted range of natural colours and finishes which are complimentary to the streetscape. This, in conjunction with landscape architecture, responds well to the environment and context and contributes towards the desired future character of the Locality.

Residential Flat Design Code

The following table provides an assessment of the development against the provisions of the Residential Flat Design Code:


Primary Development Controls	Guideline	Consistent/Comments														
PART 01 LOCAL CONTEXT																
Floor Space Ratio	Where there is an existing floor space ratio (FSR), test height controls against it to ensure a good fit.	N/A														
Building Height	Test heights against the number of storeys and the minimum ceiling heights required for the desired building use.	Consistent Required: 3 x 2.6m floor-to-ceiling 3 x 0.3m concrete floor plates 1 x 0.4m concrete roof 3 x storeys = 9.1m Proposed: 9.4m														
Building Separation	Design and test building separation controls in plan and section. For buildings up to four storeys/12m: (a) 12m between habitable rooms/balconies; (b) 9.0m between habitable/balconies and non-habitable rooms; (c) 6.0m between non-habitable rooms. Note: The RFDC defines a habitable room as any room or area used for normal domestic activities, including living, dining, family, lounge, bedrooms, study, kitchen, sun room and play room	Consistent The tables below illustrate the areas of compliance & non-compliance with regards to building separation. External The table below is used to show the separation between the proposed buildings and the existing buildings on neighbouring properties. Balconies to habitable rooms <table><tr><td>Building A</td><td>9.0m – 9.6m</td></tr><tr><td>Building B</td><td>9.0m – 9.6m</td></tr><tr><td>Building C</td><td>7.5m – 9.6m</td></tr><tr><td>Building D</td><td>7.5m</td></tr><tr><td>Building E</td><td>11.0m</td></tr><tr><td>Building F</td><td>No direct impact</td></tr><tr><td>Building J</td><td>9.5m – 10.0m</td></tr></table> Note: Buildings A – D adjoin No. 12 Mooramba Road. Buildings E & F adjoin No. 9 Painters Parade. Building J adjoins No. 4 May Road. The building separation between Buildings C and D to the neighbouring building at No. 12 Mooramba Road is 7.5m. Whilst this distance is less than 9.0m it is noted that the proposed balconies are off-set to the existing balconies and windows of the rear units in the neighbouring building and, therefore, do not result in direct viewing. Notwithstanding, given the close proximity of the proposed balconies to the existing neighbouring balconies it is considered appropriate to install privacy screens to the north-	Building A	9.0m – 9.6m	Building B	9.0m – 9.6m	Building C	7.5m – 9.6m	Building D	7.5m	Building E	11.0m	Building F	No direct impact	Building J	9.5m – 10.0m
Building A	9.0m – 9.6m															
Building B	9.0m – 9.6m															
Building C	7.5m – 9.6m															
Building D	7.5m															
Building E	11.0m															
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Building J	9.5m – 10.0m															

Primary Development Controls	Guideline	Consistent/Comments																										
		<p>western corner of the balconies to Units C05, C08 & C11 and to the north-eastern corner of the balconies to Units D04, D07 & D10. A condition is imposed to address this.</p> <p><u>Internal</u> The tables below are used to show the separation between the balconies and habitable rooms of each proposed building within the site.</p> <p>Balconies to habitable rooms</p> <table><tr><td>Building A - G</td><td>12.0m</td></tr><tr><td>Building B - G</td><td>12.0m</td></tr><tr><td>Building B - H</td><td>12.0m</td></tr><tr><td>Building C - H</td><td>11.0m</td></tr><tr><td>Building C - J</td><td>12.0m</td></tr><tr><td>Building D - J</td><td>12.0m</td></tr></table> <p>The separation between balconies to habitable rooms is taken across the centre of the site. The separation is considered to be satisfactory.</p> <p>Habitable rooms to Habitable rooms</p> <table><tr><td>Building A - B</td><td>5.2m – 7.5m</td></tr><tr><td>Building B - C</td><td>4.4m – 6.8m</td></tr><tr><td>Building C - D</td><td>5.2m – 7.5m</td></tr><tr><td>Building D - E</td><td>8.5m</td></tr><tr><td>Building E - F</td><td>5.2m – 7.5m</td></tr><tr><td>Building G - H</td><td>3.8m – 8.0m</td></tr><tr><td>Building H - J</td><td>3.8m – 8.0m</td></tr></table> <p>It is noted that the windows to all habitable rooms incorporate operable privacy screening which enables the flexible maintenance of visual and acoustic privacy within the site ‘as required’.</p> <p>A condition has been imposed under consideration of ‘Balconies’ under the RFDC with requires the installation of 2.0m wide balconies to the internal south-facing units. This will reduce the building separation between buildings B, C, D, G, H & J from 12.0m to 10m.</p> <p>Whilst the condition for increased balcony space will reduce building separation, the provision of outdoor space for these units will not result in any adverse additional privacy (in this regard it is</p>	Building A - G	12.0m	Building B - G	12.0m	Building B - H	12.0m	Building C - H	11.0m	Building C - J	12.0m	Building D - J	12.0m	Building A - B	5.2m – 7.5m	Building B - C	4.4m – 6.8m	Building C - D	5.2m – 7.5m	Building D - E	8.5m	Building E - F	5.2m – 7.5m	Building G - H	3.8m – 8.0m	Building H - J	3.8m – 8.0m
Building A - G	12.0m																											
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Building G - H	3.8m – 8.0m																											
Building H - J	3.8m – 8.0m																											

Primary Development Controls	Guideline	Consistent/Comments
		<p>acknowledged that the building separation complies with CL 65 – Privacy under WLEP 2000), overshadowing or visual impacts.</p> <p>In this regard, the proposed separation is considered to be satisfactory.</p>
Street Setbacks	Identify the desired streetscape character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls.	<p>Consistent</p> <p><u>Mooramba Road</u> Proposed setback – 6.5m to 15.4m Predominant setback – 3.7m to 9.0m</p> <p><u>May Road</u> Proposed setback – 3.5m to 4.6m Predominant setback – 4.6m to 6.0m</p> <p>Note: The site is a corner allotment where May Road forms the secondary street frontage. The Front Setback Built Form Control under WLEP 2000 permits a secondary street frontage to achieve a setback of 3.5m.</p>
	Test street setbacks with building envelopes and street sections.	<p>Consistent</p> <p>The development is setback sufficiently from the primary and secondary street alignments to provide adequate vertical articulation. The layout of the development results in an open horizontal articulation which visually compliments the street section.</p>
	Test controls for their impact on the scale, proportion and shape of building facades	<p>Consistent</p> <p>The development exhibits a high level of articulation throughout the site due to the layout of the individual buildings which is in keeping with the relative scale, proportion and shape of building facades along Mooramba Road. The development respects the existing topography of the site resulting in a gradual stepped-down development thereby permitting the maintenance of a three story scale at the street. The overall scale of the development is considered to be appropriate given the unique character of the site.</p>

Primary Development Controls	Guideline	Consistent/Comments
Side & Rear setbacks	Relate side setbacks to existing streetscape patterns.	Consistent The northern side setbacks are commensurate to the existing setbacks along Mooramba Road (which accommodates residential flat buildings). The southern and western side setbacks are significantly greater than the prevailing 0.9m wide side setbacks along May Road which predominantly accommodates single dwelling houses.
Floor space ratio	Test the desired built form outcome against proposed floor space ratio to ensure consistency with building height- building footprint the three dimensional building envelope open space requirements.	N/A
PART 02 SITE DESIGN		
Deep Soil Zones	A minimum of 25% of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, Stormwater treatment measures must be integrated with the design of the residential flat building.	Consistent Subject to condition. The development will provide approximately 2,506m ² (40.2%) of deep soil zones of the site. A condition is to be imposed which requires the soil depth of all ground level planter boxes to be increased to 1m.
Open Space.	The area of communal open space required should generally be at least between 25% and 30% of the site area. Larger sites and brownfield sites may have potential for more than 30%.	Consistent The development provides approximately 51.4% (3,204m ²) of communal open space.
	Where developments are unable to achieve the recommended communal open space, such as those in dense urban areas, they must demonstrate that residential amenity is provided in the form of increased private open space and/or in a contribution to public open space.	N/A
	The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m ² ; the minimum preferred dimension in one direction is 4.0m. (see 'Balconies' for other private open space requirements).	Consistent Subject to condition. The applicant has provided a plan (see Plan No. DA12(1) – Ground Level) which indicates that the each unit at ground level achieves a minimum of 25m ² of private open space with a minimum dimension of 4.0m. However, the private open space areas of the south-facing ground floor apartments (Unit Nos. A03, B03, C03, D03 & E03) are poorly defined. In this regard a condition has been imposed which requires that the

Primary Development Controls	Guideline	Consistent/Comments
		<p>apartments in question achieve a minimum landscaped open space of 25m² each.</p> <p>It is noted that the private open space areas are unfenced to retain an open character of the on-site landscaping. This is considered to be a reasonable design outcome for the site as a whole but may be subject to a desire by future occupiers to fence individual courtyard areas.</p>
Planting on structures	<p>In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity. The following are recommended as minimum standards for a range of plant sizes:</p> <ul style="list-style-type: none"> • Large trees such as figs (canopy diameter of up to 16m at maturity) - minimum soil volume 150m³ - minimum soil depth 1.3m - minimum soil area 10m x 10m area or equivalent. • Medium trees (8.0m canopy diameter at maturity) - minimum soil volume 35m³ - minimum soil depth 1.0m - approximate soil area 6.0m x 6.0m or equivalent. • Small trees (4.0m canopy diameter at maturity) - minimum soil volume 9.0m³ - minimum soil depth 800mm - approximate soil area 3.5m x 3.5m or equivalent. • Shrubs - minimum soil depths 500-600mm • Ground cover - minimum soil depths 300-450mm • Turf- minimum soil depths 100-300mm • any subsurface drainage requirements are in addition to the minimum soil depths quoted above. 	<p>Consistent</p> <p>The central landscaped areas will have a minimum soil depth of 1.0m (subject to condition) which will permit the planting of ground cover, shrubs and small trees.</p> <p>The permitter of the site consists of deep soil beyond 1.3m which will permit the planting of ground cover, shrubs and large trees.</p> <p>The landscape plan submitted with application (see Drawing Nos. 10_074_L01(A1) to 10_074_L04(A1) dated 30/11/10) confirms that planting will occur in accordance with this control.</p>
Safety	Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.	<p>Consistent</p> <p>A Crime Risk Assessment has been provided.</p>
Visual amenity	Refer to Building Separation minimum standards	<p>Consistent</p> <p>The development is vertically and horizontally articulated through its use of the site configuration and sloping topography to guide the built form.</p> <p>Additionally, in conjunction with the above articulation, the development exhibits an acceptable degree of separation between neighbouring buildings.</p>
Pedestrian access	Identify the access requirements from the street or car parking area to the apartment entrance.	<p>Consistent</p> <p>The development provides level pedestrian access throughout the</p>

Primary Development Controls	Guideline	Consistent/Comments								
		property from the corner of Mooramba Road and May Road, and the basement car parking areas.								
	Follow the accessibility standard set out in AS 1428 (parts 1 and 2), as a minimum.	Consistent Subject to a standard condition.								
	Provide barrier free access to at least 20% of dwellings in the development.	Consistent 100% of apartments have barrier free access via a lift and bridges to all floors.								
Vehicle access	Generally limit the width of driveways to a maximum of 6.0m.	Consistent The development proposes a crossover width of 6.0m onto Mooramba Road.								
	Locate vehicle entries away from main pedestrian entries and on secondary frontages.	Consistent Driveway located on primary frontage due to the topography of the site.								
PART 03 BUILDING DESIGN										
Building Depth	The back of a kitchen should be no more than 8.0m from a window.	Consistent All apartments achieve a depth of up to 6.0m to the back of the kitchen from a window.								
Balconies	Provide primary balconies for all apartments with a minimum depth of 2.0m. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions.	Consistent Subject to condition. The development includes the following balcony provision (taken at upper floors only): <table border="1"><thead><tr><th>Balcony Width</th><th>No. of Units</th></tr></thead><tbody><tr><td>No balcony*</td><td>19 (16.2%)</td></tr><tr><td>1.0m**</td><td>16 (13.6%)</td></tr><tr><td>2.0m</td><td>55 (47.0%)</td></tr></tbody></table> <p>*Note: Does not include ground floor units which will be addressed via condition to increase private open space areas.</p> <p>**In consideration of Option C of the RFDC (refer to Figure 03.16.A under Building Design of the RFDC) the applicant has applied a design solution to apartments which do not achieve the defined 2.0m width by incorporating bi-fold doors/windows to the living rooms which effectively transform each living room into a balcony and provide the minimum dimensions when opened.</p> <p>In addition, the applicant has provided scaled plans which show that the alternative balcony depths provide adequate, useable space.</p> <p>Contextually, all apartments with a</p>	Balcony Width	No. of Units	No balcony*	19 (16.2%)	1.0m**	16 (13.6%)	2.0m	55 (47.0%)
	Balcony Width		No. of Units							
No balcony*	19 (16.2%)									
1.0m**	16 (13.6%)									
2.0m	55 (47.0%)									
Provide scale plans of balcony with furniture layout to confirm adequate, useable space when an alternate balcony depth is proposed.										

Primary Development Controls	Guideline	Consistent/Comments		
		<p>balcony depth of less than 2.0m are south-facing. In this regard, it is considered appropriate to enable the activation of useable floor space/outdoor private open space through the flexibility offered by the design solution rather than allocating defined indoor/outdoor areas which may not be fully utilised.</p> <p>Additionally, it is also considered that the provision of a variety of options offers greater choice to prospective purchasers by optimising the housing types available within the development.</p> <p>This is considered to be an appropriate solution for apartment Nos. E06, F03, G05, G06, H05, H06, J05, J06, E09, D06, G09, G10, H09, H10, J09, J10, E12, F09, H13, H14, J13, J14, E15 & F12 where the proximity of the outward facing apartments to the side setbacks limits the provision of dedicated balconies without major redesign and alteration of the overall architectural design of the development and contextually, the design is appropriate given the location of the units.</p> <p>In this regard, as this is an acceptable design solution to the afore-mentioned units under the RFDC the provisions of WLEP 2000 are overridden under CL 18(3) of the WLEP 2000.</p> <p>The variation is considered to be appropriate in this instance.</p> <p>However, the solution is not considered to be appropriate for apartment Nos. A06, B06, C06, D06, A09, B09, C09, D09, B12, C12 & D12 which face towards the internal thoroughfare of the site where the design mirrors the design of the opposing apartments thereby creating an active central core to the development.</p> <p>In this regard, a condition has been imposed requiring the installation of 2.0m wide balconies to the afore-mentioned units. The imposition of the condition will result in the following:</p> <table><tr><th>Balcony Width</th><th>No. of Units</th></tr></table>	Balcony Width	No. of Units
Balcony Width	No. of Units			

Primary Development Controls	Guideline	Consistent/Comments							
		<table><tr><td>No balcony*</td><td>8 (6.8%)</td></tr><tr><td>1.0m**</td><td>16 (13.6%)</td></tr><tr><td>2.0m</td><td>66 (56.4%)</td></tr></table>	No balcony*	8 (6.8%)	1.0m**	16 (13.6%)	2.0m	66 (56.4%)	<p>In addition, whilst the condition for increased balcony space will reduce building separation, the provision of outdoor space for these units will not result in any adverse additional privacy (in this regard it is acknowledged that the building separation complies with CL 65 – Privacy under WLEP 2000), overshadowing or visual impacts the as such, the reduction in building separation is supported.</p>
No balcony*	8 (6.8%)								
1.0m**	16 (13.6%)								
2.0m	66 (56.4%)								
Ceiling Heights	<p>The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL). These are minimums only and do not preclude higher ceilings, if desired.</p> <ul style="list-style-type: none">• in mixed use buildings: 3.3m minimum for ground floor retail or commercial and for first floor residential, retail or commercial to promote future flexibility of use• in residential flat buildings in mixed use areas: 3.3m minimum for ground floor to promote future flexibility of use in residential flat buildings or other residential floors in mixed use buildings• in general, 2.7m minimum for all habitable rooms on all floors, 2.4m is the preferred minimum for all non-habitable rooms, however 2.25m is permitted.• for two storey units, 2.4m minimum for second storey if 50 percent or more of the minimum wall height at edge• for two-storey units with a two storey void space, 2.4m minimum ceiling heights• attic spaces, 1.5 metre minimum wall height at edge of room with a 30 degree minimum - ceiling slope.	<p>Consistent</p> <p>All apartments achieve a floor-to-ceiling height of 2.7m.</p>							
Ground Floor Apartments	<p>Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.</p>	<p>Consistent</p> <p>All ground floor apartments gain access via lobbies which service each respective apartment building.</p> <p>This arrangement does not have any adverse visual impact upon the streetscape as no existing apartments along Mooramba Road have separate street access. Rather, the landscaped setting which the development creates across the frontage is regarded as an improvement to the appearance of the existing streetscape of the</p>							

Primary Development Controls	Guideline	Consistent/Comments
		<p>site which has generally remained unaltered since the 1980's.</p> <p>All apartments are accessible either via the lobby areas or via lifts and connecting bridges.</p>
	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	<p>Consistent</p> <p>All ground floor apartments have access to terraced private open space.</p>
Storage	<p>In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <ul style="list-style-type: none"> • studio apartments 6.0m³ • one-bedroom apartments 6.0m³ • two-bedroom apartments 8.0m³ • three plus bedroom apartments 10m³ 	<p>Consistent</p> <p>1 bedroom - 68 x 6.0m³ = 408m³ 2 bedroom - 48 x 8.0m³ = 384m³ 3 bedroom – 1 x 10m³ = 10m³ Total storage required = 802m³ Total storage provided = 936m³ Note: All storage is located within the basement car parking areas.</p>
Building Amenity		
Daylight Access	<p>Living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9am and 3pm in mid-winter. In dense urban areas a minimum of two hours may be acceptable.</p>	<p>Consistent</p> <p>The site is located within a dense urban area. Therefore, approximately 89 (76%) apartments spaces achieve a minimum of 2 hours direct sunlight between 9am and 3pm in mid-winter.</p>
	<p>Limit the number of single-aspect apartments with a southerly aspect (SWSE) to a maximum of 10% of the total units proposed.</p> <p>Note: The RFDC does not define single-aspect apartments but does define dual aspect apartments as having at least two major external walls facing in different directions, including corner, cross over and cross through apartments.</p>	<p>Consistent</p> <p>All south facing apartments are dual-aspect.</p>
Natural Ventilation	Building depths, which support natural ventilation typically range from 10m to 18m.	<p>Consistent</p> <p>All apartments achieve a depth of 6.0m.</p>
	Sixty percent (60%) of residential units should be naturally cross ventilated.	<p>Consistent</p> <p>All apartments are dual aspect being situated on the corners of each respective building. In this regard, 100% of apartments are have access to direct ventilation and are naturally cross ventilated.</p>
Building Performance		
Waste Management	Supply waste management plans as part of the development application submission as per the NSW Waste Board.	<p>Consistent</p> <p>A Waste Management Plan has been provided as part of the application.</p> <p>Council's Waste Management Officer has not any objections to the application. Notwithstanding,</p>

Primary Development Controls	Guideline	Consistent/Comments
		appropriate conditions have been imposed which require the development to comply with Council's Policy No. PL 850 – Waste.
Water Conservation	Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos- cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	Consistent Subject to condition. The development provides for normal guttering. No lead or bitumen-based paints will be permitted.

Regional Environment Plans (REPs)

There are no REPs relevant to this application.

Local Environment Plans (LEPs)

Warringah Local Environment Plan 2000 (WLEP 2000)

Desired Future Character

The site straddles two localities being the E2 Dee Why Lagoon Suburbs Locality and the E20 Mooramba West Locality. As such, the Desired Future Character and Built Form Controls of both localities are assessed as follows:

E2 Dee Why Lagoon Suburbs Locality

The Desired Future Character Statement for this locality states:

This locality will remain characterised by detached style housing and a small pocket of apartment style housing in landscaped settings interspersed by a range of complementary and compatible uses. The development of further apartment style housing within the locality will be confined to the “medium density areas” shown on the map. The land occupied by the Dee Why Bowling Club at Lot 32 DP 868310, land occupied by the Manly Warringah Soccer Club at Lot 9 DP 793604 and land occupied by the Evergreen Tennis Centre at Lot 61 DP 611195 will continue to be used only as recreation facilities.

Outside the “medium density areas”, future development will maintain the visual pattern and predominant scale of existing detached style housing in the locality. The streets will continue to be characterised by landscaped front gardens and consistent front building setbacks. Unless exemptions are made to the housing density standard in this locality statement, any subdivision of land is to be consistent with the predominant pattern, size and configuration of existing allotments in the locality.

The spread of indigenous tree canopy will be enhanced where possible and natural landscape features, such as rock outcrops, remnant bushland and natural watercourses will be preserved. Development on hillsides or in the vicinity of ridgetops must integrate with the natural landscape and topography. The use of materials that blend with the colours and textures of the natural landscape will be encouraged.

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

An assessment of the consistency of the development against the locality's DFC follows:

This locality will remain characterised by detached style housing and a small pocket of apartment style housing in landscaped settings interspersed by a range of complementary and compatible uses. The development of further apartment style housing within the locality will be confined to the "medium density areas" shown on the map. The land occupied by the Dee Why Bowling Club at Lot 32 DP 868310, land occupied by the Manly Warringah Soccer Club at Lot 9 DP 793604 and land occupied by the Evergreen Tennis Centre at Lot 61 DP 611195 will continue to be used only as recreation facilities.

Comment:

The development, in this part of the locality, involves the excavation of the land to construct a basement car park which will be situated between -2.8m to 7.2m below the existing ground level. The land will be refilled to conceal the car park and restore the property to appear as a vacant allotment. The reinstatement of the topographical state of the allotment will permit future above-ground development to occur in keeping with the detached style housing character of the locality.

In this regard, the development will not have any adverse impact, either visually or functionally, upon the detached style character of the locality.

Outside the "medium density areas", future development will maintain the visual pattern and predominant scale of existing detached style housing in the locality. The streets will continue to be characterised by landscaped front gardens and consistent front building setbacks. Unless exemptions are made to the housing density standard in this locality statement, any subdivision of land is to be consistent with the predominant pattern, size and configuration of existing allotments in the locality.

Comment:

Because the development on this part of the site is underground, the development will not have any visual impact upon pattern or predominant scale of existing detached style housing in the locality. The development will retain the landscaped character of the streetscape.

The spread of indigenous tree canopy will be enhanced where possible and natural landscape features, such as rock outcrops, remnant bushland and natural watercourses will be preserved. Development on hillsides or in the vicinity of ridgetops must integrate with the natural landscape and topography. The use of materials that blend with the colours and textures of the natural landscape will be encouraged.

Comment:

The development will involve excavation approximately 7.0m from the front boundary. This will involve the removal of a rock shelf which is located within the southern half of the site. This has been referred to an Aboriginal Heritage consultant who advises that the site is free of any evidence of past Aboriginal visitation or use and that the development will not impact upon any documented Aboriginal archaeological sites or features. A Geotechnical Report prepared by Jeffrey and Katauskas Pty Ltd has been provided but is dated 28 November 2007 and relates only to the main site area on Mooramba Road. Notwithstanding, an appropriate condition has been imposed which requires the submission of an updated

Geotechnical Report to include the property at No. 10 Painters Parade to be submitted to Council, at Council's satisfaction, prior to the issue of a Construction Certificate. Additionally, a pre and post-development dilapidation report will be required to be prepared and submitted with regards to the neighbouring dwelling to Council. A condition has been imposed to address this.

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

Comment:

The site is not located within a Local Retail Centre.

The proposed development is considered to be consistent with the Locality's DFC statement.

Built Form Controls (Development Standards)

Standard	Permitted	Proposed	Compliant
Housing Density	1 dwelling per 600m ²	Nil (basement car park only)	Yes
Building Height (overall)	8.5m	-2.8m to 7.2m (basement)	Yes
Building Height (to ceiling)	7.2m	-2.8m to 7.2m (basement)	Yes
Front Building Setback	6.5m	7.0m	Yes
Rear Building Setback	6.0m	Nil	No
Side Boundary Setback North South	0.9m 0.9m	5.6m 2.5m	Yes Yes
Side Boundary Envelope	4.0m x 45°	<4.0m x 45°	Yes
Landscape Open Space*	40% (370m ²)	100% (925m ²)	Yes

*Note: Based on site area of 925m²

Clause 20 variation

Clause 20(1) stipulates:

“Notwithstanding clause 12(2)(b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the General Principles of Development Control, the Desired Future Character of the locality and any relevant State Environmental Planning Policy.”

In determining whether the proposal qualifies for a variation under Clause 20(1) of WLEP 2000, consideration must be given to the following:

(i) General Principles of Development Control

The proposal is generally consistent with the General Principles of Development Control and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “General Principles of Development Control” in this report for a detailed assessment of consistency).

(ii) Desired Future Character of the Locality

The proposal is consistent with the Locality's Desired Future Character Statement and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on "Desired Future Character" in this report for a detailed assessment of consistency).

(iii) Relevant State Environmental Planning Policies

The proposal has been considered consistent with all applicable State Environmental Planning Policies. (Refer to earlier discussion under 'State Environmental Planning Policies'). Accordingly the proposal qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1).

Description of variations sought and reasons provided:

Rear Building Setback Built Form Control

Area of inconsistency with Control:

Standard	Permitted	Proposed	Compliant
Rear Building Setback	6.0m	Nil	No

The development breaches the Control at the rear of No. 10 Painters Parade. The non-compliance occurs below ground level as a result of the continuation of the basement car park. Whilst not visible from the street this part of the development results in a technical non-compliance.

Merit consideration of non-compliance:

In assessing this element of the proposal, it is necessary to consider the merit considerations of the Rear Building Setback Built Form Control. Accordingly, consistency with the merit considerations are addressed below:

Create a sense of openness in rear yards.

The development is situated below ground to form the eastern part of the basement car park. As such, the development will not be visible at ground level thereby maintaining the existing sense of openness.

Preserve the amenity of adjacent land.

The development proposes to excavate the site to construct the basement then backfill to reinstate the original ground level to include landscaping. No further development is proposed on the site thereby preserving the amenity of adjacent land.

Maintain the visual continuity and pattern of buildings, rear gardens and landscape elements.

The development does not propose any above-ground construction or lot consolidation thereby maintaining the existing visual continuity of the streetscape.

Provide opportunities to maintain privacy between dwellings.

The development does not propose any above-ground building works which would impact upon the privacy of neighbouring dwellings.

E20 Mooramba West Locality

The Desired Future Character Statement for this locality states:

The Mooramba West locality will remain characterised by apartment style housing and houses in landscaped settings, interspersed by a range of complementary and compatible uses in the locality.

Future apartment style housing will address public streets and spaces, create visual interest and enable the establishment of substantial landscaping in the spaces between buildings.

The upgrading of existing older apartment buildings will be encouraged to give them a more contemporary and attractive appearance.

An assessment of the consistency of the development against the locality's DFC follows:

The Mooramba West locality will remain characterised by apartment style housing and houses in landscaped settings, interspersed by a range of complementary and compatible uses in the locality.

Comment:

The application proposes residential flat buildings which are commensurate with apartment style housing within the locality. Additionally, the development includes a high level of landscaped setting within the property and around the perimeter of the site which compliments the landscaped setting of the locality.

Requirement:

Future apartment style housing will address public streets and spaces, create visual interest and enable the establishment of substantial landscaping in the spaces between buildings.

Comment:

The development addresses both Mooramba Road and May Road by respectively orientating each building towards the street frontage.

The development addresses the slope of the land (as determined by the natural ground level) and, as such, responds to the topography of the locality. This results in a highly articulated development which gradually steps up from Mooramba Road and visually introduces contemporary architectural interest to the street corner specifically and to the area generally.

The development includes substantial landscaping around the perimeter of the site which provides a visual buffer between the development and the street. Similarly, the development includes a large internal garden areas which functions as communal open space,

Requirement:

The upgrading of existing older apartment buildings will be encouraged to give them a more contemporary and attractive appearance.

Comment:

The site has previously been used as a motor vehicle dealership and has been vacant and in a dilapidated state since 2008. Therefore, the development does not propose the upgrading of any existing buildings.

The proposed development is considered to be consistent with the Locality's DFC statement.

Built Form Controls (Development Standards)

Standard	Permitted	Proposed	Compliant
Housing Density	Determined by how the design responds to: <ul style="list-style-type: none"> Desired Future Character; Built Form Controls; and General Principles of Development Control 	The assessment of the application has found that the development is consistent with the Desired Future Character of the E20 Mooramba West Locality; is generally compliant with the Built Form Controls with exception to Building Height (Storeys) and Side Boundary Setbacks (which are supported via Clause 20 of WLEP 2000); and is generally consistent with the General Principles of development Control.	Yes
Building Height (overall)	11.0m	8.0m - 11.0m	Yes
Building Height (storeys)*	3 storeys	3 - 4 storeys	No (partial)
Front Building Setback Primary – Mooramba Road Secondary – May Road	6.5m 3.5m	6.5m – 15.4m 3.5m – 4.6m	Yes Yes
Rear Building Setback	N/A (corner allotment)	N/A	N/A
Side Boundary Setback <u>North</u> Basement Above Ground <u>South</u> Basement Above Ground <u>West</u> Basement Above Ground	4.5m 4.5m 4.5m 4.5m 4.5m 4.5m	2.5m 4.5m – 5.6m 2.5m 4.5m – 5.6m Nil - 2.5m 6.8m – 10.2m	No Yes No Yes No Yes
Side Boundary Envelope	5.0m x 45°	<5.0m x 45°	Yes
Landscape Open Space**	40% (2,493m ²)	40.2% (2,506m ²)	Yes Subject to condition requiring the soil depths of podium landscaping to be no less than 1.0m.

Notes: * Building height taken from 'natural' ground level

**Based on site area of 6,233m²

Clause 20 variation

Clause 20(1) stipulates:

“Notwithstanding clause 12(2)(b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the

resulting development is consistent with the General Principles of Development Control, the Desired Future Character of the locality and any relevant State Environmental Planning Policy.”

In determining whether the proposal qualifies for a variation under Clause 20(1) of WLEP 2000, consideration must be given to the following:

(i) General Principles of Development Control

The proposal is generally consistent with the General Principles of Development Control and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “General Principles of Development Control” in this report for a detailed assessment of consistency).

(ii) Desired Future Character of the Locality

The proposal is consistent with the Locality’s Desired Future Character Statement and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “Desired Future Character” in this report for a detailed assessment of consistency).

(iii) Relevant State Environmental Planning Policies

The proposal has been considered consistent with all applicable State Environmental Planning Policies. (Refer to earlier discussion under ‘State Environmental Planning Policies’). Accordingly the proposal qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1).

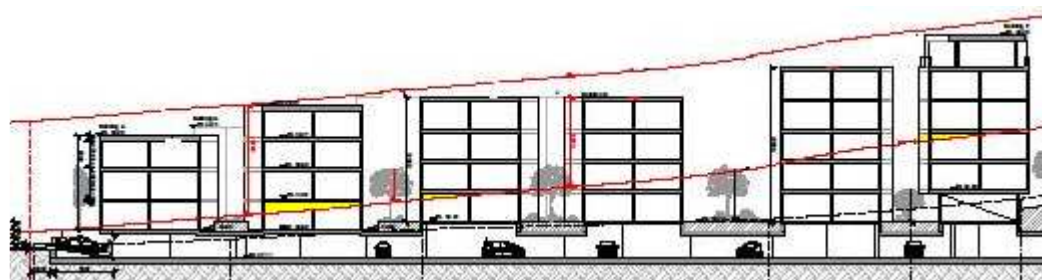
Description of variations sought and reasons provided:

Building Height Built Form Control

Area of inconsistency with Control:

Standard	Permitted	Proposed	Compliant
Building Height (storeys)	3 storeys	3 - 4 storeys	No (partial)

The development breaches the Control in Buildings B, C and F which results in a technical non-compliance of one (1) additional storey (the non-compliant areas involve a height of 1.0m above natural ground level below the three storey structure thereby counting as an additional storey). The illustration below shows the location of the non-compliance (indicated in yellow).



Modified by the author from Plan No. DA41 – Sections D-D + E-E by JAA Studio
Note: The lower red line indicates the extrapolated natural ground level.

Merit consideration of non-compliance:

In assessing this element of the proposal, it is necessary to consider the merit considerations of the Building Height Built Form Control. Accordingly, consistency with the merit considerations are addressed below:

Ensure that development does not become visually dominant by virtue of its height and bulk.

The development has been designed to position the tallest buildings at the rear part of the site with the lower buildings being positioned towards the front facing Mooramba Road and May Road. In this way, the bulk of the development has been vertically scaled to address the natural topography of site and its surrounds. As a result, the visual dominance of the design upon the streetscape and upon neighbouring properties is reduced.

Preserve the amenity of surrounding land.

The non-compliance occurs within the eastern half of Buildings B, C and F which are setback 4.5m to 5.6m from the northern boundary and 7.5m to 10.4m from the neighbouring residential flat building at No. 12 Mooramba Road. Because of the rising topography of the site towards the west the non-compliant heights reduce to compliance in the rear half of each building.

The development does not adversely impact upon the streetscape of Mooramba Road. Section E-E on Plan No. DA41 (Sections D-D & E-E) reveals that the non-compliance is due to the intersection of the extrapolated natural ground level through a part of the floor immediately below the three storey structure. For this reason, the non-compliance has been identified as an additional storey. Notwithstanding, it is also noted on the Plan that the building height at this point is below 11.0m which is compliant with the Control. This is considered to be a technical non-compliance as the design does not incorporate a consistent non-compliant full storey and would not visually result in an obvious breach should the natural ground level still be in existence.

Given the minor nature of the non-compliance, the development will not have any adverse impact upon the amenity of neighbouring residential land.

Ensure that development responds to site topography and minimises excavation of the natural landform.

The site was substantially excavated prior to 1946 resulting in a significant alteration to its natural topography. The registered surveyor who prepared the Site Survey (see Plan no. DETL-001/C) has provided the following certification of the extrapolated natural ground levels which have been used to determine building height:

From the historical information and the pre 1946 aerial photo supplied by URBIS, I Shane Michael Lawrence a registered surveyor hereby certify that the abovementioned property has been excavated from the original ground levels, the extent of the excavation and the position of the original ground levels is inconclusive.

However in determine that the site has been excavated after reviewing the pre 1946 aerial photo and Lawrence Group detail and level survey it is noted that -

- 1. In the south west corner abutting May Road approximately six metres of original soil has been excavated to allow for a flat surface.*

2. At the boundaries of lot 1 in DP 1136022, SP 3364 and Lot 3 in DP 221321 abutting each other approximately three metres has been excavate, it is also noted that retaining wall has been constructed at the rear of SP 3364 so as to retain the original soil after excavation.
3. The properties of lots 13 – 16 in DP 8062 have a flat surface following the incline of May Road.
4. On observation other areas have been excavated to allow for a flat working surface, the amount of excavation is inconclusive.

The natural ground level of the site may be referenced by the existing topography of May Road and the adjacent properties to the north although much of this topography has been altered through residential development. The visual reference to the street levels at May Road, Painters Parade and Mooramba Road generally correspond to the findings of the registered surveyor.

Notwithstanding, the development has been designed to address the assumed natural ground level of the site by gradually increasing the heights of buildings from Mooramba Road. This provides an architectural continuity and visual relationship of the development to the topographical character of its surroundings.

Provide sufficient area for roof pitch and variation in roof design rather than a flat roof.

The development has been designed to incorporate flat roof forms which is consistent with the roof forms along Mooramba Road and within the nearby Dee Why Town Centre and medium density surrounds. However, because of the stepped form of the development the flat roof design appears to be the most visually appropriate by minimising building height and bulk and generally simplifying the built form.

Clause 20 conclusion

The Clause 20 variation to the Building Height Built Form Control is supported.

Side Boundary Setback Built Form Control

Areas of inconsistency with Control:

Standard	Permitted	Proposed	Compliant
Side Boundary Setback			
<u>North</u>			
Basement	4.5m	2.5m	No
Above Ground	4.5m	4.5m – 5.6m	Yes
<u>South</u>			
Basement	4.5m	2.5m	No
Above Ground	4.5m	4.5m – 5.6m	Yes
<u>West</u>			
Basement	4.5m	Nil - 2.5m	No
Above Ground	4.5m	6.8m – 10.2m	Yes

Side Boundary Setback

The non-compliance occurs below ground level as a result of the siting of the basement car park. Whilst not visible from the street nor from surrounding properties this part of the development results in a technical non-compliance.

Merit consideration of non-compliance:

In assessing this element of the proposal, it is necessary to consider the merit considerations of the Side Boundary Setback Built Form Control. Accordingly, consistency with the merit considerations are addressed below:

Ensure that development does not become visually dominant by virtue of its height and bulk.

The non-compliant areas are located at basement level and are subsequently not visible from within and around the site.

Preserve the amenity of the surrounding land.

As the non-compliant areas are located below ground level there will be no adverse impact to the amenity of surrounding land.

Ensure that development responds to site topography.

The non-compliant part of the development occurs below ground level and will be concealed from view. The ground level will be reinstated as landscaped open space between the proposed residential flat buildings. In this regard, the development will visually maintain the general site topography.

Provide separation between buildings.

As the non-compliance occurs below ground level it will not have any influence on the visual separation of buildings above ground level.

Provide opportunities for landscaping.

The development includes a total of 47.9% (3,431m²) landscaped open space above the basement car park area which exceeds the required minimum 40% landscape coverage.

Create a sense of openness.

The non-compliances occur below ground level and do not have any visual impact upon the sense of openness of the property above ground level.

Clause 20 conclusion

The Clause 20 variation to the Side Boundary Setback Built Form Control is supported.

General Principles of Development Control

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

General Principle	Applies	Comments	Compliant
CL 38 Glare & reflections	Y	The proposal requires the use of various building elements that have reflective qualities such as glass and metal roofing. Conditions are recommended to provide low reflective glass is used for windows in consideration of residential amenity.	Yes Subject to condition

General Principle	Applies	Comments	Compliant
CL 39 Local Retail Centres	N	No comment	N/A
CL 40 Housing for Older People and People with Disabilities	N	No comment	N/A
CL 41 Brothels	N	No comment	N/A
CL 42 Construction Sites	Y	Construction and excavation is proposed for the site. Conditions are to be imposed to maintain the amenity of neighbouring properties with regard to construction site access, sediment and erosion control, tree protection and hours of construction.	Yes Subject to condition
CL 43 Noise	Y	<p>The development is for residential use, which is not considered to significantly impact upon neighbouring properties with regards to noise.</p> <p>Notwithstanding, the application proposes the construction of a basement carpark, which will require mechanical ventilation (BCA).</p> <p>In addition, the lift shafts have the potential to cause noise in addition to mechanical ventilation.</p> <p>Accordingly, conditions may be imposed requiring the development to be designed in accordance with AS 2107 and the EPA Guidelines for Acoustic Privacy.</p>	Yes Subject to condition
CL 44 Pollutants	N	No comment	N/A
CL 45 Hazardous Uses	N	No comment	N/A
CL 46 Radiation Emission Levels	N	No comment	N/A
CL 47 Flood Affected Land	N	The site is not identified as flood affected land. However, due to the topography of the site in relation to the level of surrounding streets, Council's Development Engineer and Natural Environment Unit have imposed conditions to ensure efficient overland stormwater flow.	N/A

General Principle	Applies	Comments	Compliant
CL 48 Potentially Contaminated Land	Y	<p>The applicant has provided an <i>Additional Environmental Site Investigation and Remedial Action Plan</i> (RAP) which undertakes a review of earlier Stage 1 and Stage 2 investigation reports prepared by Geotechnique Pty Ltd which identified an asbestos contamination 'hotspot' and a petroleum contamination 'hotspot' on the site.</p> <p>The RAP subsequently undertakes an additional assessment of these hotspots to identify the extent of asbestos and petroleum hydrocarbon contamination and to provide a strategy for remediation acceptable to the proposed residential land use in accordance with the <i>Contaminated Lands Management Act, 1997</i>, <i>State Environmental Planning Policy No. 55 – Remediation of Land</i> and the <i>Guidelines for Consultants Reporting on Contaminated Sites NSW DECC (EPA), 1997</i>.</p> <p>Whilst it is noted that the report refers to an earlier development proposal, the layout and extent of development occurring at the excavated basement level remains the same although the currently proposed depth of excavation is marginally shallower by 0.4m.</p> <p>Because of the existence of structures over the site three open (3) areas were selected for investigation and identified as Remediation Areas A, B & C. Remediation Area A is located in the north-eastern corner of the site (under proposed Buildings A & B), Remediation Area B is located in the north-western part of the site (under proposed Buildings E & F), Remediation Area C is located within the centre of the site (under proposed Building C).</p> <p>Remediation Area A was found to contain evidence of Asbestos contaminated material. Remediation Area B was found to contain Total Petroleum Hydrocarbons contaminated material while Remediation Area C contains an underground storage tank.</p> <p>The RAP provides recommendations regarding the remediation of the site which will be imposed as conditions, alongside conditions imposed by Council's Environmental Health Officer.</p> <p>See CL 49 below regarding remediation of the site.</p>	Yes Subject to condition
CL 49 Remediation of Contaminated Land	Y	<p>The applicant has provided an <i>Additional Environmental Site Investigation and Remedial Action Plan</i> (RAP) prepared by Environmental Investigation Services and dated December 2007 (Ref: E21637F-RPT).</p> <p>The report concludes that <i>the site can be made suitable for the proposed residential development provided that the remediation measures outlined in the RAP are successfully implemented.</i></p> <p>In this regard it is considered that the site, as remediated, will pose 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 subject to conditions provided in the RAP.</p> <p>The remediation of the site is defined under the WLEP 2000 Dictionary as Category 'B' remediation work.</p> <p>As such, Schedule 9 of WLEP 2000 requires the applicant to undertake a specific notification process prior to commencing remediation work on the property. This process may be imposed as a condition within the Recommendation.</p>	Yes Subject to conditions

General Principle	Applies	Comments	Compliant
CL 49a Acid Sulfate Soils	N	The site is not affected by acid sulphate soils.	N/A
CL 50 Safety & Security	Y	<p>A crime risk assessment under Crime Prevention Through Environmental design (CPTED) has been prepared by the applicant.</p> <p>The key CPTED principles are:</p> <ul style="list-style-type: none"> • Natural surveillance; • Access control; • Territorial reinforcement/ownership; and • Space management. <p>The assessment has found that opportunities for crime have been minimised using the CPTED principles for surveillance, access control, territorial reinforcement and space management.</p>	Yes
CL 51 Front Fences and Walls	Y	The development provides for a raised landscaped podium facing Mooramba Road which is considered to be complimentary to the streetscape and which provides a visual transition.	Yes
CL 52 Development Near Parks, Bushland Reserves & other public Open Spaces	N	No comment	N/A
CL 53 Signs	N	No comment	N/A
CL54 Provision and Location of Utility Services	Y	Conditions have been applied requiring connection to all utility services including an approved telecommunications provider, energy, water and sewerage.	Yes Subject to condition
CL 55 Site Consolidation in 'Medium Density Areas'	N	Given that the development proposes to construct the basement car park over two (2) allotments consolidation or the burdening of both lots via a Restrictive Covenant will be required. A condition has been imposed to this effect.	Yes Subject to condition
CL 56 Retaining Unique Environmental Features on Site	N	The site has been extensively modified through an earlier excavation and does not contain any unique environmental features.	N/A
CL 57 Development on Sloping Land	Y	The site is not located within an identified potential landslip area. Additionally, the excavation works which have previously been undertaken on the site have effectively modified the topography to remove the natural slope of the land.	Yes
CL 58 Protection of Existing Flora	N	No comment	N/A
CL 59 Koala Habitat Protection	N	No comment	N/A
CL 60 Watercourses & Aquatic Habitats	N	No comment	N/A

General Principle	Applies	Comments	Compliant
CL 61 Views	Y	<p>The development does not have any adverse impact on view sharing. The proposal complies with the overall Building Height Built Form Control and views across the site to the north-east will be substantially maintained by the proposal. The proposal is consistent with the Planning Principle – <i>Tenacity v Warringah Council</i>.</p> <p>An assessment of view sharing is provided below in accordance with the four part test outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140:</p>	Yes

General Principle	Applies	Comments	Compliant
		<p>CL 61 Views (assessment):</p> <p>The proposal allows for a reasonable sharing of views between adjoining and neighbouring dwellings. 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, were applied to the proposal. While no objections regarding view loss were received, the view assessment has been undertaken having regard to all surrounding properties.</p> <p>Nature of the views to be affected <i>"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".</i></p> <p>The subject site is located to the east of Painters Parade where adjoining properties on the western (and higher side) of Painters Parade currently enjoy district views (namely of the subject site and the taller buildings of the Dee Why Town Centre) across the entire length of the site.</p> <p>What part of the property affected the views are obtained <i>"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".</i></p> <p>Given the elevated position of the neighbouring dwellings along the eastern side of Painters Parade, the views from Nos. 1, 2 & 3 Painters Parade are enjoyed from both a sitting and standing position from ground floor level window openings. There are direct easterly views over each respective front boundary to the Dee Why Town Centre. These views will not be unreasonably impacted upon by the proposal.</p> <p>Extent of impact <i>"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".</i></p> <p>The proposal will not unreasonably reduce the views from the east facing windows of Nos. 1, 2 & 3 Painters Parade. The proposal will maintain the established view easterly corridor which allows for view sharing as it does not result in any significant loss of district views. The impact on views to Nos. 1, 2 & 3 Painters Parade is considered negligible to minor as the portion of the proposed development (namely proposed Building 'F') in relation to where views are obtained proposes no change to the view corridor.</p> <p>Reasonableness of the proposal that is causing the impact. <i>"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."</i></p> <p>Notwithstanding, the proposed numerical non-compliance with the Building Height (number of storeys), Side and Rear Building Setback Built Form Controls, the development maintains compliance with the overall Building Height Built Form Control. The proposal has been designed to take in to account the available district. The non-compliances can be attributed to the sloping topography and the subject site's unique shape which does not unreasonably affect the outcome in regards to the view sharing. Overall, the proposal is considered appropriate for the subject site and acceptable in this instance.</p> <p>Accordingly, it is considered that the proposal is satisfactory in addressing the intent of this Clause.</p>	

General Principle	Applies	Comments	Compliant
CL 62 Access to sunlight	Y	<p>The application includes a certified shadow diagram (see Plan No. DA80 dated 17 September 2010) which indicates that the development complies with the provisions of Cl 62 which requires that sunlight, to at least 50% of the principal private open spaces of surrounding properties, in not to be reduced to less than 2 hours between 9am and 3pm on June 21.</p> <p>The plan shows that the principal private open spaces of the neighbouring properties to the south (Nos. 4, 6 & 8 May Road) will not be subject to overshadowing in excess of 50% and will not be reduced to less than 2 hours between 9am and 3pm on June 21.</p>	Yes
CL 63 Landscaped Open Space	Y	<p>Generally, the development provides a satisfactory quality of landscaped open space throughout the site. However, the application is numerically deficient in deep soil landscaped open space (as identified earlier in the Landscaped open Space Built Form Control).</p> <p>The development is capable of complying with the Control if these two areas are addressed such that the paving is removed and the soil depth within the atrium area is increased to a minimum of 1.0m. A condition has been imposed which requires that the block-paving within the southern side setback be removed and that the soil depth of the atrium be increased to a minimum of 1.0m. This will increase the landscaped open space to 45.5% (1,197m²) which is 5.5% (146m²) above the requirement.</p>	Yes Subject to condition
CL 63A Rear Building Setback	N	The site is a corner allotment and does not possess a rear setback.	N/A

General Principle	Applies	Comments	Compliant								
CL 64 Private open space	Y	<p>CL 64 requires apartment style development to include 10m² of private open space per apartment with a minimum dimension of 2.5m</p> <p>The development includes the following balcony provision (taken at upper floors only):</p> <table><tr><th>Balcony Width</th><th>No. of Units</th></tr><tr><td>No balcony*</td><td>19 (16.2%)</td></tr><tr><td>1.0m**</td><td>16 (13.6%)</td></tr><tr><td>2.0m</td><td>55 (47.0%)</td></tr></table> <p>*Note: Does not include ground floor units which will be addressed via condition to increase private open space areas.</p> <p>*In consideration of Option C of the RFDC (refer to Figure 03.16.A under Building Design of the RFDC) the applicant has applied a design solution to all south-facing upper-level apartments by incorporating bi-fold doors/windows to the living rooms which effectively transform the each living room into a balcony and provide the minimum dimension when opened.</p> <p>In addition, the applicant has provided scaled plans which show that the alternative balcony depths provide adequate, useable space.</p> <p>As discussed under the RFDC in this report, this is considered to be an appropriate solution for apartment Nos. E06, F03, G05, G06, H05, H06, J05, J06, E09, D06, G09, G10, H09, H10, J09, J10, E12, F09, H13, H14, J13, J14, E15 & F12 where the proximity of the outward facing apartments to the side setbacks limits the provision of dedicated balconies without major redesign and alteration of the overall architectural design of the development.</p> <p>In this regard, as this is an acceptable design solution to the aforementioned units under CL 18(3) of the WLEP 2000.</p> <p>The variation is considered to be appropriate in this instance.</p> <p>However, the solution is not considered to be appropriate for apartment Nos. A06, B06, C06, D06, A09, B09, C09, D09, B12, C12 & D12 which face towards the internal thoroughfare of the site where the design mirrors the design of the opposing apartments thereby creating an active central core to the development.</p> <p>In this regard, a condition has been imposed requiring the installation of 2.0m wide balconies to the afore-mentioned units.</p> <p>The applicant has provided a plan (see Plan No. DA12(1) – Ground Level) which indicates that the each unit at ground level achieves a minimum of 25m² of private open space with a minimum dimension of 4.0m. However, the private open space areas of the south-facing ground floor apartments (Unit Nos. A03, B03, C03, D03 & E03) are poorly defined. In this regard a condition has been imposed which requires that the apartments in question achieve a minimum landscaped open space of 25m² each.</p> <p>In this regard, The development includes adequate areas for private open space which are accessible from living rooms and which are of a size and dimension commensurate with the requirements for apartment style housing.</p>	Balcony Width	No. of Units	No balcony*	19 (16.2%)	1.0m**	16 (13.6%)	2.0m	55 (47.0%)	Yes Subject to condition
Balcony Width	No. of Units										
No balcony*	19 (16.2%)										
1.0m**	16 (13.6%)										
2.0m	55 (47.0%)										

General Principle	Applies	Comments	Compliant
CL 65 Privacy	Y	<p>Clause 65 states that development is not to cause unreasonable direct overlooking of habitable rooms and principal private open spaces of other dwellings. In particular the windows of dwellings are to be located so they do not provide direct and close views (i.e. from less than 9 metres away) into the windows of other dwellings.</p> <p>The building separation between Buildings C and D to the neighbouring building at No. 12 Mooramba Road is 7.5m. Whilst this distance is less than 9.0m it is noted that the proposed balconies are off-set to the existing balconies and windows of the rear units in the neighbouring building and, therefore, do not result in direct viewing.</p> <p>The development does present an overlooking opportunity into the neighbouring properties at No. 12 Mooramba Road and at No. 4 May Road. In both cases it is noted that the development includes privacy screen to address this concern.</p> <p>Notwithstanding, given the close proximity of the proposed balconies to the existing neighbouring balconies it is considered appropriate to install privacy screens to the north-western corner of the balconies to Units C05, C08 & C11 and to the north-eastern corner of the balconies to Units D04, D07 & D10. A condition is imposed to address this</p> <p>In this regard, the development achieves sufficient building separation to comply with the privacy provisions of CL 65 under WLEP 2000.</p>	Yes Subject to condition
CL 66 Building Bulk	Y	<p>The proposal is not dissimilar in form to other contemporary residential development situated within the locality or to development within the Dee Why Commercial Centre which are considered to be within the immediate context of the proposed development. The general principle for building bulk as stated in the Warringah Local Environment Plan 2000 requires structures not to dominate the street or surrounding spaces and to have progressive setbacks for side and rear boundaries.</p> <p>The proposed buildings are of contemporary design, using a range of natural building materials complimented by dense landscaping throughout the site, to provide a highly articulated development. The architectural design has adequately and successfully minimised the bulk of the buildings.</p> <p>Notwithstanding the overall design, collectively the buildings are well articulated with integrated landscaping around the perimeter to break up bulk and provide visual interest to the development.</p> <p>Accordingly, the development is not considered to result in any adverse visual impacts on the surrounding development and is considered to be satisfactory with regard to the provisions of Clause 66.</p>	Yes
CL 67 Roofs	Y	<p>The proposed development provides flat metal roofs which will not be readily visible from the street. No features will be located on the roof beyond a lift over run and solar panels which are not considered be detrimental to the design of the building or to any views. Irrespective, conditions are proposed to detail the colour and reflectivity.</p>	Yes Subject to condition

General Principle	Applies	Comments	Compliant												
CL 68 Conservation of Energy and Water	Y	<p>CL 68 requires a development to make the most efficient use of energy and water. In particular:</p> <ul style="list-style-type: none">• The buildings within the development have been orientated to maximise the provision of landscaping, solar access and natural ventilation.• The development achieves compliant above-ground setbacks and overall building heights to permit reasonable solar access to neighbouring sites (in accordance with CL 62 of WLEP 2000).• The landscape design assists in the conservation of energy and water through the planting of native species of various heights and canopy densities. <p>A BASIX certificate has been submitted with the application (see Certificate No. 344681M dated 5 November 2010).</p> <p>The BASIX Certificate indicates that the development will achieve the following:</p> <table><tr><th>Commitment</th><th>Required Target</th><th>Proposed</th></tr><tr><td>Water</td><td>40</td><td>40</td></tr><tr><td>Thermal Comfort</td><td>Pass</td><td>Pass</td></tr><tr><td>Energy</td><td>20</td><td>30</td></tr></table> <p>All required BASIX commitments have been noted on the application plans. Furthermore, a condition has been imposed requiring compliance with the requirements of the applicable BASIX Certificate.</p>	Commitment	Required Target	Proposed	Water	40	40	Thermal Comfort	Pass	Pass	Energy	20	30	Yes Subject to condition
Commitment	Required Target	Proposed													
Water	40	40													
Thermal Comfort	Pass	Pass													
Energy	20	30													
CL 69 Accessibility – Public and Semi-Public Buildings	Y	<p>Level access is provided to all foyers from street level and via lifts from the basement car park.</p> <p>Notwithstanding, conditions will be imposed which require compliance with AS 1428.2 – 1992 <i>‘Design for Access and Mobility’</i>.</p>	Yes Subject to condition												
CL 70 Site facilities	Y	<p>Council’s Waste Services Officer has assessed the application and has raised no objection.</p>	Yes Subject to condition												
CL 71 Parking facilities (visual impact)	Y	<p>All on-site car parking is located within the basement level, as such, the proposed car park will have no visual impact.</p>	Yes												
CL 72 Traffic access & safety	Y	<p>In support of the proposed development the applicant submitted a traffic report prepared by McLaren Traffic Engineering dated September 2010.</p> <p>The proposal will be serviced by basement parking areas which are accessed from a 6.2m wide crossover off Francis Street via a two (2) directional entry and exit point. Visitor car parking will be provided on site.</p> <p>The report provided details of the existing road network, traffic controls, traffic conditions, parking, access, internal circulation and servicing which has been based on RTA guidelines and statistical data.</p> <p>Council’s Traffic Engineer has reviewed the development and has raised no objections to the proposal subject to conditions.</p>	Yes Subject to conditions												
CL 73 On-site Loading and Unloading	Y	<p>The basement area may be used for the loading and unloading associated with residential removals.</p>	Yes												

General Principle	Applies	Comments	Compliant
CL 74 Provision of Carparking	Y	The development provides for 151 parking spaces which is one (1) car space short of the parking requirement of Schedule 17 for a residential flat building. A condition is to be imposed with requires that an additional car space is to be provided.	Yes Subject to condition
CL 75 Design of Carparking Areas	Y	The car park has been generally laid out in a satisfactory manner in that the proposal has allowed for appropriate manoeuvring for vehicles. In this regard it is considered that the proposed car parking area is designed to adequately accommodate the development. The design of the car parking and access areas is addressed in the applicant's traffic report. Council's Traffic Engineer has raised no objection to the proposal subject to a condition which requires that The proposed driveway, parking aisle and car spaces are to conform with Standards Australia AS/NZS 2890.1- 2004.	Yes Subject to condition
CL 76 Management of Stormwater	Y	Council's Development Engineer and Council's Natural Environment unit have assessed the proposal with respect to the adequacy of the proposed stormwater system and have raised objections subject to conditions.	Yes Subject to condition s
CL 77 Landfill	N	No comment	N/A
CL 78 Erosion & Sedimentation	Y	Erosion and sediment control measures are to be put in place during construction. The proposal is considered satisfactory with regard to erosion and sediment control principles under the WLEP 2000.	Yes Subject to condition
CL 79 Heritage Control	N	The subject site is not defined as (or located) within the vicinity of any items of heritage significance or heritage conservation area, accordingly no further assessment with regard to heritage matters is required for this application.	N/A
CL 80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	N	The subject site is not located within the vicinity of any known or potential Aboriginal sites.	N/A
CL 81 Notice to Heritage Council	N	No comment	N/A
CL 82 Development in the Vicinity of Heritage Items	N	The subject site is not located within the vicinity of any items of heritage significance. Accordingly, no further assessment is required with regard to the provisions of Clause 82.	N/A
CL 83 Development of Known or Potential Archaeological Sites	N	The subject site is not located within the vicinity of any known or potential archaeological sites.	N/A

Other Relevant WLEP 2000 Clauses

Nil

SCHEDULES

Schedule 8 - Site analysis

Clause 22(2)(a) of WLEP 2000 requires that the consent authority must consider a Site Analysis prepared in accordance with the criteria listed in Schedule 8.

It is considered that the submitted Site Analysis, in conjunction with the Statement of Environmental Effects (as prepared by Urbis dated November 2010 and in response to the provisions of Schedule 15) adequately addresses how the development responds to its surrounds and the locality.

Schedule 9 - Notification requirements for remediation work

The remediation of the site is defined under the WLEP 2000 Dictionary as Category 'B' remediation work.

As such, Schedule 9 requires the applicant to undertake a specific notification process prior to commencing remediation work on the property. This process may be imposed as a condition within the Recommendation.

Schedule 10 - Traffic Generating Development

Schedule 10 requires Council to regard development as traffic generating development if the proposal meets the following criteria:

- (2) *If the site of the development has direct vehicular or pedestrian access to an arterial road (or a road connecting with an arterial road, where the access is within 90 metres, measured along the road alignment of the connecting road, of the arterial road):*
- (a) *the erection of, or the conversion of a building into, a residential flat building comprising 75 or more dwellings or the enlargement or extension of a residential flat building by the addition of 75 or more dwellings.*

The development proposes the construction of residential flat buildings which collectively accommodate 117 apartments. The development site is located approximately 85.5m from Pittwater Road (as measured along the alignment of the connecting road). Therefore, the application has been considered under Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007 and has been referred to the RTA as Traffic Generating Development

The RTA has not raised any objection to the application subject to conditions.

Schedule 17 - Carparking Provision

Schedule 17 requires a development to provide on-site car parking at the following rates (note: required car parking spaces are rounded up):

Component	Required	Provided	Complies
Residential			
1 bedroom	68 x 1 car space = 68 spaces	128 spaces	Yes
2 Bedroom	48 x 1.2 car spaces = 58 spaces		
3 Bedroom	1 x 1.5 car spaces = 2 spaces		
Visitors	1 car space/5 dwellings = 24 spaces	24 spaces	Yes
Total	152 car spaces	152 car spaces	Yes

The table above indicates that the development complies with the provisions of Schedule 17.

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 94A Development Contributions Plan		
Contribution based on total development cost of :		
	\$	21,977,330.00
Contribution - all parts Warringah	Levy Rate	Contribution Payable
Total S94A Levy	0.95%	\$208,784.64
S94A Planning and Administration	0.05%	\$10,988.67
Total	1.0%	\$219,773.00

OTHER MATTERS FOR CONSIDERATION

Nil

CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, the provisions relevant Environmental Planning Instruments including Warringah Local Environment Plan 2000, Draft Warringah Local Environmental Plan 2009 and the relevant codes and policies of Council.

The development attracted two (2) submissions which raised the following issues:

- Construction management;
- Land use compatibility; and
- Car parking.

All issues have been addressed under the Public Exhibition section in this report.

All external and internal referral departments have raised no objection to the development.

The development has been found to be consistent with the Matters for Consideration under S79C of the EP&A Act, 1979. The assessment also found that the development was compliant with the Development Standards of Draft WLEP 2009.

The development has been found to be consistent and compliant with *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*; *State Environmental Planning Policy (Infrastructure) 2007*; *State Environmental Planning Policy No. 55 – Remediation of Land* and *State Environmental Planning Policy No. 65 – Design Quality for Residential Flat Development*.

In assessing the application against *Residential Flat Design Code* the following key issues were identified:

- Part 02 – Site Design (Open Space)

The development was found to include five (5) apartments at ground floor level which did not achieve the prescribed 25m² private open space area.

The assessment found that the apartments in questions (Unit Nos. A03, B03, C03, D03 & E03) could provide the 25m² of dedicated private open space and a condition has been imposed to this effect.

- Part 03 – Building Design (Balconies)

The development was found to include 35 (29.9%) of apartments which did not achieve the prescribed minimum balcony depth of 2.0m.

The applicant has provided justification through a Design Statement which proposes an alternative design solution offered with the Code (refer to Option C in Figure 03.16.A under Building Design of the RFDC). The design solution proposes to incorporate bi-fold doors/windows to the living rooms which effectively transform each living room into a balcony and provide the minimum dimensions when opened. While this is not traditionally proposed in residential flat development it is acknowledged that the design does offer a practical architectural solution to maximising adaptable useable floor space by providing occupier flexibility in the individual use of their indoor/outdoor floor space.

This was considered to be an appropriate solution for apartment Nos. E06, F03, G05, G06, H05, H06, J05, J06, E09, D06, G09, G10, H09, H10, J09, J10, E12, F09, H13, H14, J13, J14, E15 & F12 where the proximity of the outward facing apartments to the side setbacks limits the provision of dedicated balconies without major redesign and alteration of the overall architectural design of the development.

However, the solution is not considered to be appropriate for apartment Nos. A06, B06, C06, D06, A09, B09, C09, D09, B12, C12 & D12 which face towards the internal thoroughfare of the site where the design mirrors the design of the opposing apartments thereby creating an active central core to the development.

In this regard, a condition has been imposed requiring the installation of 2.0m wide balconies to apartment Nos. A06, B06, C06, D06, A09, B09, C09, D09, B12, C12 & D12. This will effectively reduce the number of apartments which did not achieve the prescribed minimum balcony depth of 2.0m to 24 (20.5%).

In this regard, the design solution to the balcony widths was considered to be acceptable.

The development has been assessed against the Desired Future Character and Built Form Controls of WLEP 2000 and has been found to be consistent with exception to minor non-compliance to the Building Height, Rear Setback and Side Boundary Setback Built Form Controls. The non-compliances have been considered supportable under a CL20 variation.

The development has been assessed under the General Principles of Development Control and was found to be generally compliant.

In assessing the application against the General Principles of Development Control the following key issues were identified:

- Clause 64 – Private Open Space

As discussed above under the *Residential Flat Design Code*, the development was found to include five (5) apartments at ground floor level which did not achieve the prescribed 25m² private open space area; and 46 (39.3%) of apartments which did not achieve the prescribed minimum balcony depth of 2.5m (as required under the Clause 64).

The applicant has provided an acceptable design solution to resolve the balcony width issue. A condition has been imposed with regards to the provision of private open space at ground floor level for the five (5) apartments.

As discussed above (see *Part 03 – Building Design (Balconies)*) a condition has been imposed requiring the installation of 2.0m wide balconies to apartment Nos. A06, B06, C06, D06, A09, B09, C09, D09, B12, C12 & D12.

The development has been assessed under 'Schedule 8 - Site analysis'; 'Schedule 9 - Notification requirements for remediation work'; 'Schedule 10 - Traffic Generating Development'; and 'Schedule 17 - Carparking Provision' and was found to be compliant.

Therefore, it is considered that the development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

As a direct result of the application and the consideration of the matters detailed within this report it considered that Council as the consent authority grant approval.

RECOMMENDATION

That the Joint Regional Planning Panel (JRPP) for the Sydney East Region as the consent authority approve the Development Application No: DA2010/1839 for demolition works and the construction of residential flat buildings and associated basement car park including landscape/site works at Lot 1, DP 1136022, No. 2 Mooramba Road, Dee Why; Lot 2, DP 1136022, No. 10 Painters Parade, Dee Why subject to the following conditions:

GENERAL CONDITIONS

CONDITIONS THAT IDENTIFY APPROVED PLANS

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:

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA06 Site/Roof	05/11/2010	JAA Studio
DA11 Carpark	05/11/2010	JAA Studio
DA12 Ground Level	05/11/2010	JAA Studio
DA13 Level 1	05/11/2010	JAA Studio
DA14 Level 2	05/11/2010	JAA Studio
DA15 Level 3	05/11/2010	JAA Studio
DA16 Level 4	05/11/2010	JAA Studio
DA17 Level 5	05/11/2010	JAA Studio
DA20 Typical Building Plan Types	05/11/2010	JAA Studio

Architectural Plans - Endorsed with Council's stamp		
DA21 Apartment Types	05/11/2010	JAA Studio
DA30 Elevations – East and South	05/11/2010	JAA Studio
DA31 Elevation – North and Section G-G	05/11/2010	JAA Studio
DA35 Elevations – Typical 1 Bedroom Apartment Building	05/11/2010	JAA Studio
DA36 Elevations – Typical 1 & 2 Bedroom Apartment Building	05/11/2010	JAA Studio
DA40 Sections A-A & B-B	05/11/2010	JAA Studio
DA41 Sections D-D & E-E	05/11/2010	JAA Studio
DA50 Sections – Typical 1 & 2 Bedroom Apartment Building	05/11/2010	JAA Studio
DA55 Design Study	05/11/2010	JAA Studio
DA70 Colours and Finishes Sample Board	05/11/2010	JAA Studio

Engineering Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
1018/A (1 of 3) Stormwater Pipeline Augmentation Layout	24/09/2010	Stefani Group
1018/A (2 of 3) Pipeline Long Sections and Details	24/09/2010	Stefani Group
1018/A (3 of 3) Stormwater Pipeline and Easement Sections	24/09/2010	Stefani Group
HDA01/P3 Hydraulic Services Street Location Plan	30/11/2010	Whipps-Wood
HDA02/P3 Hydraulic Services Catchment Plan	30/11/2010	Whipps-Wood
HDA03/P4 Hydraulic Services Carpark Plan	02/12/2010	Whipps-Wood
HDA04/P3 Hydraulic Services Ground Level plan	30/11/2010	Whipps-Wood
HDA05/P3 Hydraulic Services Stormwater Details	30/11/2010	Whipps-Wood
HDA06/P1 Hydraulic Services Tank & Easement Sections	30/11/2010	Whipps-Wood

Reports/Documentation		
Report/Document	Dated	Prepared By
All recommendations made in <i>Additional Environmental Site Investigation & Remedial Action Plan</i> (Ref: E21637F-RPT)	December 2007	Environmental Investigation Services
All recommendations made in <i>Geotechnical Investigation</i> (Ref: 21637SB-RPT)	28/11/2007	Jeffery and Katauskas Pty Ltd

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

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

Landscape Plans - Endorsed with Council's stamp		
Drawing Number	Dated	Prepared By
10-074 L01(G) Landscape Plan	30/11/2010	Habitation
10-074 L02(E) Landscape Sections	30/11/2010	Habitation
10-074 L03(E) Landscape Sections	30/11/2010	Habitation

Landscape Plans - Endorsed with Council's stamp		
10-074 L04(E) Landscape Details	30/11/2010	Habitation

Waste Management Plan - Endorsed with Council's stamp		
Plan Number	Dated	Prepared By
Site and Waste Management Report	04/11/2010	JAA Studio

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

2. Compliance with External Department, Authority or Service Requirements

The development must be carried out in compliance with the following:

External Department, Authority or Service	E-Services Reference	Dated
Energy Australia	Response Energy Aust Referral	18/11/2010
NSW RTA	RTA Referral Response	22/12/2010

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

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of External Department, Authority or Bodies. (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) Smoke alarms are to be installed throughout all new and existing portions of any 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) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy).
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) 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.

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

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

5. Section 94A Contributions

The Section 94A Contributions are required to be paid for this development. This amount has been calculated using the Warringah Section 94A Development Contributions Plan. The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index).

The basis for the contributions is as follows:

Warringah Section 94A Development Contributions Plan		
Contribution based on total development cost of :		
	\$	21,977,330.00
Contribution - all parts Warringah	Levy Rate	Contribution Payable
Total S94A Levy	0.95%	\$208,784.64
S94A Planning and Administration	0.05%	\$10,988.67
Total	1.0%	\$219,773.00

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

Reason: To retain a level of service for the existing population and to provide the same level of service for the population resulting from new development. (DACPLC01)

6. 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 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (h) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (i) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (j) AS 1428.1 - 2009* Design for access and mobility - General requirements for access - New building work**
- (k) AS 1428.2 - 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

***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.

7. External Colours and Materials (Dwellings)

External Roofing

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 from glazing does not occur as a result of the development. (DACPLC03)

8. Privacy Screens

Privacy screens are to be installed to the following units:

Units C07 and C11

Privacy screens at a height of 1.65 metre high (measured from finished floor level) are to be erected on north-western corner of the balconies to Units C07 and C11 for a length of 1.5m along the north-facing edge of each respective balcony.

D07 and D10

Privacy screens at a height of 1.65 metre high (measured from finished floor level) are to be erected on north-eastern corner of the balconies to Units D07 and D10 for a length of 1.5m along the north-facing edge of each respective balcony.

The privacy screens shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement in design of the approved development.

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

Reason: In order to maintain privacy to the adjoining property. (DACPLC06)

9. Provision of private open space

The south-facing ground floor apartments (Unit Nos. A03, B03, C03, D03 & E03) are to each be provided with dedicated private open space areas which achieve an area of 25m² with a minimum dimension of 4.0m in one direction.

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

Reason: To improve amenity and achieve compliance with SEPP No. 65.

10. Provision of balconies

Balconies with moveable privacy screens and a width of 2.0m are to be provided for the entire southern building elevations Unit Nos. A06, B06, C06, D06, A09, B09, C09, D09, B12, C12 & D12.

The design of the balconies and the privacy screens are to be consistent with the materials/colours/finishes to that approved for the northern elevations of Buildings G, H & J.

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

Reason: To improve amenity and achieve compliance with SEPP No. 65.

11. Soil depth in planter boxes

Planter boxes located at ground level throughout the site are to each accommodate soil to a depth of no less than 1.0m.

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

Reason: To achieve compliance with the Landscape Open Space Built Form Control under WLEP 2000.

12. 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)

13. Construction Management Program

A Construction Management Program shall be prepared which includes the following:

- (a) The proposed method of access to and egress from the site for demolition, excavation and construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
- (b) The proposed method of loading and unloading, demolition, excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- (c) The location and operation of any on site crane; and

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

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community. (DACPLC13)

14. Bonds

(a) Security Bond

A bond (determined from cost of works) of \$3,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

A Bond of \$250,000 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

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

A Bond of \$10,000 as security to ensure that there is no transmission of material, soil etc off the site and onto the public road and/or drainage systems.

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

A bond of \$10,000 as security against damage to Council's road(s) fronting the site caused by the transport and disposal of materials and equipment to and from the site.

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.

Reason: To ensure adequate protection of Council infrastructure. (DACENC01)

15. Pump-Out System Design for Stormwater Disposal

The design of the pump-out system for stormwater disposal will be permitted for drainage of basement areas only, and must be designed in accordance with Council's Stormwater Drainage Policy. Engineering details demonstrating compliance with this requirement and certified by an appropriately qualified and practising hydraulic engineer.

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

Reason: To ensure adequate provision is made for the discharge of stormwater from the excavated parts of the site. (DACENC04)

16. Shoring of Adjoining Property

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

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

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land. (DACENC05)

17. Submission of Engineering Plans

Engineering plans are to be submitted to the Certifying Authority for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of stormwater augmentation works to Council's pipeline which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and Council's Minor Works Policy. Engineering plans are to be amended to comply with the following:

- i. Reinforced concrete ramp at chainage 0.0m to 6.0m of Council's new pipeline is to be designed with a maximum gradient of 1V : 6V
- ii. Access hatch/lid at the inlet headwall (at chainage 122.65m) is to be fitted with minimum 900mm x 600mm hinged grated cover
- iii. Step irons are to be provided at all access points into Council's new pipeline
- iv. Flood protection wall at chainage 122.65m along the northern boundary is to be deleted to divert overland flows into the grated head wall structure
- v. Walls or fences must not be provided along the eastern boundary of the development within the 4.5m wide drainage easement, to provide access to Council's drainage pipeline and unimpeded overland flows to Mooramba Road

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

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

18. Structures Located Adjacent to Council Pipeline or Council Easement

All structures are to be located clear of any Warringah Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Policy Building Over or Adjacent to Constructed Council Drainage Systems and Easements. Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure. (DACENC09)

19. Vehicle Crossings Application Formwork Inspection

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

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

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

20. Utilities Services

Prior to the issue of the Construction Certificate, evidence is to be submitted to the Certifying Authority that

- (a) A letter from the telecommunications service provider confirming that satisfactory arrangements have been made for the provision of underground telecommunications for the approved development have been made; and
- (b) Evidence that notification has been received from an Electricity Service Provider of electricity supply requirements for the development can be provided.

Reason: To ensure that services have been provided as required by this consent.
(DACENC15)

21. Structural Adequacy and Excavation Work

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

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

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

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

Reason: Safety. (DACENC19)

22. Landscaping within the overland flow path along the northern side of the development

The proposed landscaping is to be amended to remove any trees within the proposed drainage easement benefiting Council and replaced with grass only.

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

Reason: To provide adequate access to Council's future drainage pipeline and adequate overland flow provisions through the development. (Special condition)

23. Pit Grate Design

All pit grates required as part of the stormwater pipeline augmentation are to be heavy duty so as to permit vehicles to traverse these grates to maintain the overland flow path.

Reason: To ensure adequate provision is made access to the overland flow path.

24. Trees and/or Landscaping

In order to protect and enhance onsite vegetation and trees the following applies to the development site:

(a) Construction Certificate Plans

Where applicable the Construction Certificate plans must include reference to:

- (i) Trees to be removed coloured or shaded in the colour red
- (ii) Trees to be retained coloured or shaded in the colour green

(b) Existing trees which may be removed

Approval is granted for the removal trees as indicated in the following plan:

Landscape Plan - Endorsed with Council's stamp		
Drawing Number	Dated	Prepared By
L01 G	30.11.2010	Habitation

Any trees identified on the above plan for retention must be retained.

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

25. Amended Landscape Plan

Prior to the issue of a construction certificate, the Landscape Plan is to be amended as follows:

1. The 8 *Corymbia* "Summer Red" trees indicated to be planted on the Mooramba Road frontage of the site are to be replaced with local native species capable of attaining a minimum height at maturity of 10m and a minimum pot size of 45 litres.
2. The landscape area at the western part of the site facing Painters Parade indicated as "Hydro-seed grasses" is to be amended to provide a minimum 40 %

coverage of local native plant species with the remainder of the area turfed with suitable grass species.

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

Reason: Control of erosion and maintenance of local amenity.

26. Work zone

An application for a work zone in Mooramba Road in front of the site is to be lodged for Council's consideration and approval. (The provision of a work zone will require approval from Warringah Traffic Committee. Applications forms for work zones are available on Council's web site or Customer Service and should be lodged at least 4 weeks prior to work commencing).

Reason: To ensure appropriate measures have been considered for traffic movement during all phases of the construction process.

27. Waste/Recycling Requirements to comply with Policy

Details demonstrating compliance with Warringah Council's Policy Number PL 850 - Waste, including the required 'Waste Management Plan' are to be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with Warringah Council's Policy Number PL 850 - Waste, 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."

28. Design quality excellence

(a) In order to ensure the design quality excellence of the development is retained:

- (i) The design architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project.
- (ii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
- (iii) Evidence of the design architect's commission is to be provided to the Council prior to release of the Construction Certificate.

(b) The design architect of the project is not to be changed without prior notice and approval of the Council.

Reason: To ensure design consistency throughout the development process.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

29. 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 THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

30. Vehicle Crossings

The provision of 1 vehicle crossing 6 metres wide in accordance with Warringah Council Drawing No A4-3330/ 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)

31. 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)

32. Footpath Construction

The applicant shall construct a 1.2 metre wide concrete footpath along the May Road frontage of the site. The works shall be in accordance with the following:

- (a) All footpath works are to be constructed in accordance with Council's minor works policy
- (b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Council's specification for footpath.

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

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

33. Layback Construction

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

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

34. 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)

35. Traffic Control During Road Works

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with Council's Minor Works Policy and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works.

Reason: Public Safety. (DACENE11)

36. Sewer Main Diversion

The diversion of Sydney Water's sewer main is relocated so that it is clear of the proposed 4.5 metre wide drainage easement.

Reason: To limit potential conflict between stormwater and sewer mains.

37. Trees Condition

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

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

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

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

Reason: Protection of Trees. (DACLA03)

38. Requirement to notify about new contamination evidence

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.

Reason: To protect human health and the environment. (DACHPE01)

39. Off-site disposal of contaminated material

All contaminated material removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with:

- ☐ *Protection of the Environment Operations Act 1997 (NSW); and*
- ☐ *Environment Protection Authority's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).*

Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

Reason: For protection of environment and human health and to ensure compliance with the legislation.

40. Dewatering

Any water being discharged from the site to stormwater must not cause pollution and must comply with the ANZECC 2000 guidelines and meet the following requirements:

- Suspended sediment must be less than 50mg/L
- Turbidity must be less than 150 NTU
- Oil & Grease must be less than 10mg/L
- BOD 5 must be less than 30
- pH must be between 6.5 -8.5

Any discharged water must be analysed by an independent NATA accredited laboratory and records of water quality discharge must be kept on site. Water must be discharged in a manner that does not cause safety nuisances.

Reason: Environmental Protection

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

41. 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)

42. Garbage and Recycling Facilities

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

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

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

43. 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)

44. Intercom

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

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

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

45. 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)

46. 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 the NSW Fire Brigade.

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 the NSW Fire Brigade 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)

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

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

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

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

48. Registration of Encumbrances for On-site Stormwater Detention

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

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

Reason: To identify encumbrances on land. (DACENF02)

49. Reinstatement of Kerb

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

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

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

50. Restriction as to User for On-site Stormwater Detention

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such restriction.

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

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

51. Certification Civil Works

The Civil Engineer responsible for the supervision of the civil works shall certify that the completed works have been constructed in accordance with this consent and the approved Construction Certificate.

A “work as executed” (WAE) plan certified by a registered surveyor is required to be provided for the development.

WAE Documents are to be provided in the following manner:

- a) overdrawn in red on a copy of the approved civil works plans are to be provided to Council. The W.A.E. drawing shall show the alignment, depth and grade of the stormwater drainage pipelines, easement and associated structures; and
- b) in accordance with Council's Guidelines “*Guideline for Preparing Works As Executed Data for Council Stormwater Assets*” available at www.warringah.nsw.gov.au

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 compliance of drainage works with Council's specification for engineering works. (DACENF06)

52. CCTV of Stormwater Drainage Works

The applicant shall submit to Council a CCTV inspection of the completed drainage works that revert to Council's care and control.

A CCTV Report for Council Stormwater Asset prepared in accordance with Council's Guidelines “*Guideline for Closed Circuit Television (CCTV) Investigation of Council Stormwater Assets*” available at www.warringah.nsw.gov.au

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 compliance of drainage works with Council's specification for engineering works. (DACENF09)

53. On-Site Stormwater Detention Compliance Certification

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a “work as executed” (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

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

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

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

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

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

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

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

55. Positive Covenant for On-site Stormwater Detention

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Warringah Council's delegate prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such covenant.

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

Reason: To ensure ongoing maintenance of the on-site stormwater detention system. (DACENF12)

56. Creation of Positive Covenant and Restriction as a User

Where any conditions of this Consent require the creation of a positive covenant and/or restriction as a user, the original completed request forms, (Department of Lands standard forms 13PC and/or 13RPA), shall be submitted to Warringah Council for authorisation.

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

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

Reason: To identify encumbrances on land. (DACENF14)

57. Easement for Drainage

An easement for drainage 4.5 metres wide (under the provisions of Section 88B of the Conveyancing Act) is to be created to ensure all drainage infrastructure is located within the appropriate easement(s).

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

Reason: Council's statutory requirements of the Conveyancing Act 1919.
(DACENH16)

58. Easement to Drain Water - Channel/Floodways

An easement to drain water shall be created in favour of Council over the channel/floodway to encompass the 1 in 100 year recurrence frequency predicted water surface level.

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

Reason: Council's statutory requirements of the Conveyancing Act 1919.
(DACENH16)

59. Positive Covenant for the Maintenance Stormwater Drainage Channel

A Positive Covenant (under the provisions of Section B of the Conveyancing Act 1919) is to be created on the property title requiring the proprietor of the land to maintain the stormwater drainage channel including the flood walls traversing the site.

Warringah Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Warringah Council's Authorised Officer shall sign these documents prior to the submission to the Department of Lands. Evidence of the registration of the instrument referred to in this condition is to be provided to the Certifying Authority prior to the issue of an Interim/Final Occupation Certificate.

Reason: To ensure the ongoing maintenance of the stormwater drainage channel.

60. Restriction as to User for Overland Flow Channel and Flood Walls

A restriction as to user shall be created on the title over overland flow channel, including flood walls, restricting any alteration to the levels of the channel and flood walls. The terms of such restriction are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such restriction.

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

Reason: To ensure modification to the overland flow channel (including flood walls) is not carried without Council's approval. (DACENF04)

61. Required Planting

Species	Location	Pot Size
All species	As indicated on Landscape Plan Dwg No. L01 G dated 30.11.10 prepared by Habitation	As indicated on Landscape Plan Dwg No. L04 E dated 03.11.10 prepared by Habitation

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

Reason: To maintain environmental amenity. (DACLAF01)

62. Validation for Remediation

Any contamination identified in the 'Stage 2 Detailed Investigation' must be suitably remediated and a validation report issued under the Contaminated Land Management Act 1997 must be submitted to the Council within one month from completion of the remediation work. The validation report must certify that the remediation was undertaken in accordance with the Contaminated Land Management Act 1997 and the site is suitable for the proposed development with regard to contamination.

Reason: To ensure contamination risks are suitably addressed.

63. 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.

64. Waste/Recycling Certificate of Compliance with Policy

The proposal shall be constructed in accordance with Warringah Council's Policy Number PL 850 - Waste

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.

65. 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.

66. Restrictive covenant (basement car park structure)

A restrictive covenant created on the title of the land for Lot 2 (No. 10 Painters Parade), to the benefit of Lot 1 (No. 2 Mooramba Road), making car parking and the entire basement car park structure on Lot 2 (No. 10 Painters Parade), as detailed on the approved plans, permanently available for the occupants of the development on Lot 1 (No. 2 Mooramba Road) and that the owners of Lot 1 (No. 2 Mooramba Road) will be responsible for the management, repairs and maintenance of the entire structure.

Council is to be named the sole authority to release or modify the restrictive covenant.

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

Reason: To ensure ongoing use, maintenance and structural integrity of the basement car park.

67. Covenant (structural adequacy of basement car park structure)

A covenant is to be registered on the title of the land for Lot 2 (No. 10 Painters Parade) requiring a structural report to be prepared for any development occurring on Lot 2 (No. 10 Painters Parade).

Council is to be named the sole authority to release or modify the covenant.

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

Reason: To ensure ongoing use, maintenance and structural integrity of the basement car park.

68. Building façade maintenance

A Building Façade Maintenance Program is required to be prepared for the entire approved development.

The Building Façade Maintenance Program shall be prepared by a suitably qualified person and shall address:

- An ongoing maintenance regime (in intervals of no greater than 5 years from the date of installation) of all external building materials/colours/finishes which must be maintained in a physically sound condition and visually acceptable appearance.
- At the completion of each maintenance period a certificate is to be provided to Council as evidence of its completion.
- The external façade of the development shall be maintained to the satisfaction of Council.
- The Building Façade Maintenance Program shall be registered on the Title.

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 visual appearance of the development and the amenity of the streetscape.

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

69. Allocation of Car Parking Spaces

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

128 car parking spaces	-	Residential
24 car parking spaces	-	Residential - Visitors
3 car parking spaces	-	Spaces for persons with a disability

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

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

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

70. Visitor Car parking

Visitor car parking must be permanently available, freely accessible and clearly marked/signposted. The visitor car parking spaces are not to be allocated to individual units.

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 visitor carparking is available at all times and is clearly identified. (DACPLG02)

71. Vehicle Egress Signs

Appropriate sign(s) shall be provided and maintained within the site at the point of vehicular egress to compel all vehicles to come to a complete stop before proceeding onto the public way.

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 pedestrian safety. (DACPLG03)

72. Parking Enclosure

No parking spaces, or access thereto shall be constrained or enclosed by any form of structure such as fencing, cages, walls, storage space, or the like, without prior consent from Council.

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 minimum dimensions for parking spaces are not reduced or that vehicle manoeuvring is compliant with relevant standards. (DACPLG05)