

## JOINT REGIONAL PLANNING PANEL Sydney East Region

<b>JRPP No:</b>	<b>2011SYE065</b>
<b>DA No:</b>	<b>MOD2011/0117</b>
<b>Local Government Area</b>	<b>Warringah Council</b>
<b>Proposed Development</b>	<b>Modification of DA2010/1839 for demolition works and construction of residential flat buildings and associated basement car park including landscape/site works</b>
<b>Address / Property Description:</b>	<b>Lot 1 in DP 1136022, No. 2 Mooramba Road, Dee Why; and Lot 2 in DP 1136022, No. 10 Painters Parade, Dee Why</b>
<b>Applicant:</b>	<b>Dee Why Property Development Pty Ltd</b>
<b>Number of Submissions</b>	<b>4</b>
<b>Recommendation</b>	<b>Approval</b>
<b>REPORT BY:</b>	<b>David Kerr – Acting Director Strategic and Development Services</b>

## Assessment Report and Recommendation

<b>Application Lodged:</b>	30 May 2011
<b>Plans Reference:</b>	DA06(A); DA11; DA12(A); DA13(A); DA14(A); DA15(A); DA16(A); DA17(A); DA20(A); DA21(A); DA30(A); DA31(A); DA32(A); DA35(A); DA36(A); DA40(A); DA41(A); DA50(A); L01-REVB; L02-REVB; L03-REVB.
<b>Owner:</b>	Dee Why Property Development Pty Ltd
<b>Locality:</b>	E2 Dee Why Lagoon Suburbs (10 Painters Parade); and E20 Mooramba West (2 Mooramba Road)
<b>Category:</b>	E2 Dee Why Lagoon Suburbs: - Category 1 (Car parking ancillary to housing) E20 Mooramba West: - Category 1 (Housing)
<b>Draft WLEP 2009 Permissible or Prohibited Land use:</b>	R2 Low Density Residential: – Prohibited (Car parking) R3 Medium Density Residential: - Permitted with Consent (Residential Flat Building)
<b>Variations to Controls (Cl.20/Cl.18(3)):</b>	Building Height Built Form Control
<b>Referred to ADP:</b>	No
<b>Referred to WDAP:</b>	No
<b>Referred to JRPP</b>	Yes (Section 96(2) modification to DA2011/1839 determined by JRPP pursuant to Clause 13(F) of SEPP (Major Development) 2005
<b>Land and Environment Court Action:</b>	No

### SUMMARY

<b>Submissions:</b>	Four (4) submissions have been received.
<b>Submission Issues:</b>	Provision of car parking; Traffic generation; Building height, bulk and scale; Reduction to public open space; Overshadowing; Overlooking; Proposal beyond the scope of a modification; Construction methodologies; Loss of affordable housing; and Information provided during the notification of the application.
<b>Assessment Issues:</b>	<ul style="list-style-type: none"> <li>• Building height; and</li> <li>• Landscape open space.</li> </ul>
<b>Recommendation:</b>	Approval

**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 160 adjoining land owners and occupiers for a minimum period of 30 calendar days commencing on 17 June 2011 and being finalised on 11 July 2011. Furthermore, the application has been advertised within the Manly Daily on 18 June 2011 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 6,233m<sup>2</sup>. Lot 2, DP 1136022, No. 10 Painters Parade, Dee Why is regular in shape and has an area of 925m<sup>2</sup>. The site has a total area of 7,158m<sup>2</sup>.

The site has a split locality. Specifically, Lot 1, DP 1136022, No. 2 Mooramba Road, Dee Why is located in the E20 Mooramba West locality under WLEP 2000 and in the proposed R3 Medium Density Residential zone under Draft WLEP 2009. Lot 2, DP 1136022, No. 10 Painters Parade, Dee Why is located in the E2 Dee Why Lagoon Suburbs under WLEP 2000 and in the 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.

## **RELEVANT PRIOR APPROVAL**

DA2010/1839

Lodged on 8 November 2010 for demolition works and construction of residential flat buildings and associated basement car park including landscape/site works.

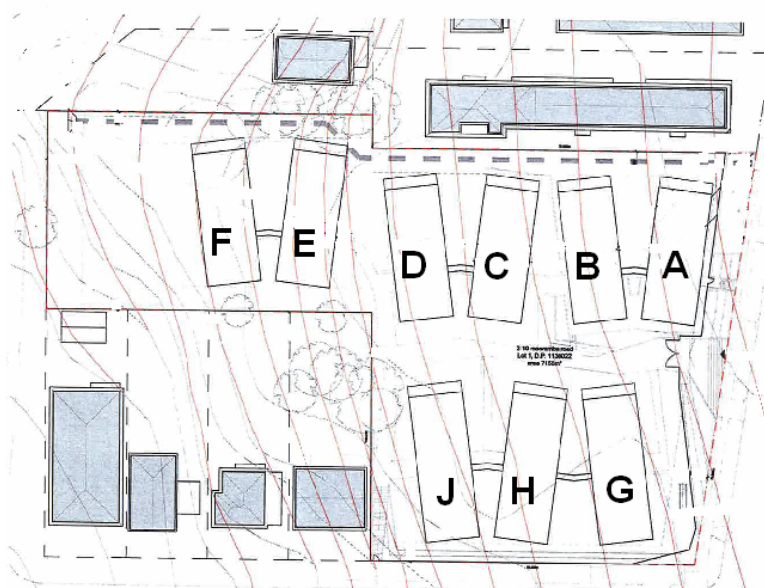
The applicant proposed to demolish all existing on-site structures relating to the motor showroom and construct nine (9) residential flat buildings over a common basement car park. The development included landscape works and the retention of the residual allotment facing Painters Parade (Lot 2, No. 10 Painters Parade).

The application was approved by JRPP on 10 February 2011 subject to conditions.

## **PROPOSED DEVELOPMENT**

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 applicant seeks to modify DA2010/1839 in the following manner:

#### Unit mix and numbers

- Change the approved unit mix as follows:

Unit Type	Approved (DA2010/1839)	Proposed (MOD2011/0117)
1 bedroom	68 Units	26 Units
2 Bedroom	48 Units	85 Units
3 Bedroom	1 Unit	Nil Units

- Decrease in the total number of units from 117 apartments to 111 apartments.

#### Landscaping

- Private allocation of ground floor level open space between Buildings A & B, B & C, C & D, D & E, E & F, G & H and H & J (separation provided by 0.5m high steel high tensile wire fencing) to enhance privacy and security;
- Replacement of approved 1.0m depth planters between buildings with variable height landscaped mounds (between 0.6m to 1.1m in height);
- Reduction to the total deep soil landscaped area (as defined under WLEP 2000) from 3,431m<sup>2</sup> (47.9%) to 2,623m<sup>2</sup> (36.6%) due to the portions of land allocated to the proposed 0.6m high landscaped mounds; and
- Deletion of Condition No. 25 which reads:

#### **“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.”*

#### Basement

- Increase to the approved floor level by 0.6m (from RL 27.110 to RL 27.710).

#### Building A

- Increase in the approved building height commensurate to the increase in ground level by 1.05m (from RL 39.260 to RL 40.310); and
- Addition of south-facing balconies to comply with Condition No. 10 imposed in DA2010/1839 which reads:

#### **“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.”*

#### Building B

- Increase in the approved building height commensurate to the increase in ground level by 1.05m (from RL 42.310 to RL 43.360); and
- Addition of south-facing balconies to comply with Condition No. 10 imposed in DA2010/1839 (see above).

#### Building C

- Increase in the approved building height commensurate to the increase in ground level by 0.2m (from RL 43.160 to RL 43.360);
- Addition of south-facing balconies to comply with Condition No. 10 imposed in DA2010/1839 (see above); and
- Provision of privacy screens to Units C07 and C11 to comply with Condition No. 8 imposed in DA2010/1839 which reads:

#### **“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.”*

#### Building D

- Increase in the approved building height commensurate to the increase in ground level by 0.2m (ie from RL 43.160 to RL 43.360);
- Addition of south-facing balconies to comply with Condition No. 10 imposed in DA2010/1839 (see above); and
- Provision of privacy screens to Units D07 and D10 to comply with Condition No. 8 imposed in DA2010/1839 (see above).

#### Building E

- Increase in the approved building height commensurate to the increase in ground level by 0.65m (from RL 46.210 to RL 46.860).

#### Building F

- Move the building 1.13m towards the west (Painters Parade);
- Increase in the approved building height commensurate to the increase in ground level by 0.65m (from RL 49.260 to RL 49.910);
- Infilling the approved ground floor undercroft area with one (1) x one bedroom apartment and two (2) x two bedroom apartments; and
- Replacing the approved single three bedroom apartment on the top floor with one (1) x one bedroom apartment and two (2) x two bedroom apartments.

#### Building G

- Increase in the approved building height commensurate to the increase in ground level by 0.2m (from RL 40.110 to RL 40.310);
- Replacing the approved 12 x 1 bedroom apartments with nine (9) x two bedroom apartments; and
- Replace timber louvers with glass louvers on the south face of the building.

#### Building H

- Increase in the approved building height commensurate to the increase in ground level by 0.2m (from RL 43.160 to RL 43.360);
- Replacing the approved 16 x 1 bedroom apartments with 12 x two bedroom apartments; and
- Replace timber louvers with glass louvers on the south face of the building.

#### Building J

- Increase in the approved building height commensurate to the increase in ground level by 0.2m (from RL 43.160 to RL 43.360);
- Replacing the approved 16 x 1 bedroom apartments with 12 x two bedroom apartments; and
- Replace timber louvers with glass louvers on the south face of the building.

The buildings will continue to be arranged around the site in a regular 'zig-zag' formation with each building being offset to each other at an angle of approximately 15° thereby maintaining a building separation of between 2.5m to 10.0m. Each pair of buildings will continue to be connected by glass-enclosed bridge walkways at the upper levels.

No change is proposed to the approved external timber cladding.

### **AMENDMENTS TO THE SUBJECT APPLICATION**

The applicant has provided a written request dated to maintain the basement level as approved under DA2010/1839. Therefore, this modification assesses the proposed changes to the above ground levels only.

In this regard, under s2.4 of Warringah DCP, re-notification/advertising is not required as the request to maintain the approved basement level does not cause any greater environmental impact than has already been approved.

### **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 160 adjoining land owners and occupiers for a minimum period of 30 calendar days commencing on 17 June 2011 and being finalised on 11 July 2011. Furthermore, the application has been advertised within the Manly Daily on 18 June 2011 and a notice was placed upon the site.

As a result of the public exhibition process four (4) submissions were received from:

<b>Submission</b>	<b>Address</b>
Francis Kan	14 Mooramba Road, Dee Why
R Story	3 Painters Parade, Dee Why
Katrina Conaghan	2 Wilson Street, Freshwater
Patricia Conaghan	23/14 Mooramba Road, Dee Why

The matters raised within the submissions are as follows:

### Provision of car parking

The submission raises concern that the development, as modified, will not provide sufficient on-site car parking thereby impacting upon the provision of on-street car parking.

### Comment

Since the notification of the modification, the applicant has provided a written request to maintain the basement level as approved under DA2010/1839. The assessment of the car parking provision has been provided under Schedule 17 in this report (refer to 'Schedules') which found that the development, as modified and with the retention of the approved basement level, would result in an on-site car parking surplus of one (1) space.

This issue has been resolved and does not warrant the refusal of the application.

### Traffic generation

The submission raises concern that the development, as modified, will result in an increased traffic generation as a result of the conversion of one bedroom apartments to two bedroom apartments.

### Comment

The proposed change in the unit mix may result in an increased traffic generation but this is speculating that every owner/tenant of the two bedroom units will own two cars which may or may not be case.

As noted above, the development includes a compliant on-site car parking provision which is intended to minimise the need to park on the street which could otherwise contribute towards traffic congestion.



This issue has been resolved and does not warrant the refusal of the application.

#### Building height, bulk and scale

The submission raises concern that the development, as modified, will increase the height, bulk and scale of the buildings.

#### Comment

The application proposes to increase the overall building height by up to 1.05m to Buildings A and B with the remainder of the buildings being raised by 0.2m to 0.65m.

The increased building heights, as found under the assessment of the Building Height Built Form Control in this report. In summary, the increase in building heights are marginal and will not add any perceivable height, bulk or scale to the development such that it could be readily visible from the original consent issued under DA2010/1839.

This issue does not warrant the refusal of the application.

#### Reduction to public open space

The submission raises concern that the modification will result in a loss of public open space.

#### Comment

The two properties which are included within the site area are both privately owned and do not provide for public open space. The development (as approved under DA2010/1839), and as considered under this application, is not required to provide any public open space areas.

This issue does not warrant the refusal of the application.

#### Overshadowing

The submission suggests that the proposed increase to the height of the buildings will impact upon the provision of sunlight access.

#### Comment

The approved Development Application included a certified shadow diagram (see Plan No. DA60 dated 5 November 2010) which indicated that the development complied with the provisions of Clause 62 – 'Access to Sunlight' under the General Principles of Development Control in *Warringah Local Environmental Plan 2000* 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.

The plan showed that the principal private open spaces of the neighbouring properties to the south (Nos. 4, 6 & 8 May Road) were not subject to overshadowing in excess of 50% and that this would not be reduced to less than 2 hours between 9am and 3pm on June 21.

The marginal increase in building height is not considered to exacerbate this degree of overshadowing such 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 that this application would reduce sunlight access to less than 2 hours between 9am and 3pm on June 21.

This issue does not warrant the refusal of the application.

#### Overlooking

The submission raises concern that the proposed increase to the building heights will result in overlooking into the neighbouring property.

#### Comment

The matter of visual privacy was addressed under DA2010/1839 whereby privacy screens were required under Condition No. 8 to be installed to Units C07, C11, D07 and D10. This was considered appropriate given the proximity of the development to the neighbouring building. On review of Condition No. 8 it has been noted that privacy screens should be installed to the balcony of Unit No. C08 instead of C07. This has been rectified by amending Condition No. 8.

The development, as modified, does not propose to change the location of the buildings (with exception to Building F which is proposed to move 1.13m to the west (ie: towards Painters Parade). In this regard, it is considered that the development remains substantially the same as approved and will not have any additional impact upon the visual privacy of neighbouring properties as a result of the proposed increase in height to the buildings.

This issue does not warrant the refusal of the application.

#### Proposal beyond the scope of a modification

The submission suggests that the scope of works proposed in the subject application exceeds a modification.

#### Comment

This matter is addressed under Section 96(2) of the *Environmental Planning and Assessment Act, 1979* in this report.

The works proposed involve the raising of the basement, ground floor level and building heights between 0.6m to 1.05m. The proposed reduction to the area of the basement car parking level has been withdrawn from this application.

Therefore, in summary the subject application has been found to be such that Council is satisfied that the proposed works are substantially the same development as the development for which the consent was originally granted.

This issue does not warrant the refusal of the application.

#### Construction methodologies

The submission raises concern that the development will generate general dust emissions which may also contain asbestos particles from the demolition of the existing buildings on the site, inconvenience caused by on-street construction worker parking, and the need to impose traffic restrictions on Mooramba Road to limit speeding traffic.

The submitter makes the following recommendations:

##### *Dust emission*

- The site is to be remediated;
- Erection of large/high dust nets to be erected around the perimeter of the property;
- Necessity for sprinklers to control dust during demolition; and
- Request advanced compensation for monthly external cleaning of neighbouring properties.

##### *Traffic calming*

- Impose traffic restrictions to restrict no right turn during peak hours;
- Lane width restrictions; and
- Installation of speed humps.

#### Comment

This application is for the modification of an approved Development Application and does not, in itself, contribute towards the matters raised by the submitter. Appropriate conditions of consent were imposed under DA2010/1839 which addressed matters pertaining to the handling of asbestos and

other potential contamination and remediation (see Condition Nos. 38, 39 and 40 under DA2010/1839) including general construction management including traffic movement and safety.

With regards to site remediation, the original Development Application (DA2010/1839) was referred to Council's Environmental Health Officer who did not raise any objection to the development subject to conditions and the imposition of recommendations provided in the *Additional Environmental Site Investigation & Remedial Action Plan* prepared by Environmental Investigation Services (as referenced in Condition No. 1 under DA2010/1839). This application does not deviate from that original requirement.

In this regard, the provision of a Construction Management Plan was recommended as a condition of consent under DA2010/1839. The Plan is 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.

Council cannot control, nor impose any conditions which seek to regulate, the parking of construction workers. Such matters are policed by Council's Rangers and Parking Officers through the provisions of the *Road Transport (General) Act 2005* and the *Australian Road Rules (parking)*.

With respect to the imposition of traffic calming devices, this is a matter to be addressed directly by the submitter to Council's Traffic Committee. It is noted that a condition (see Condition No. 26) was imposed under DA2010/1839 which requires the provision of a work zone to be established in Mooramba Road. This is to ensure that appropriate measures have been considered for traffic movement during all phases of the construction process.

Additionally, Condition No. 35 imposed under DA2010/1839 requires the provision of lighting, fencing, traffic control and advanced warning signs to be installed and implemented in accordance with Council's Minor Works Policy. The condition states that traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works.

In this regard, appropriate conditions have already been imposed under the original Development Application (DA2010/1839) which addresses these matters and the concerns raised do not warrant the refusal of the application.

#### Loss of affordable housing

The submission raises concern that the development (as modified by this application) will result in the loss of affordable housing and will, therefore, not be in the public interest.

#### Comment

The applicant proposes to alter the approved mix of apartments from 68 x one bedroom apartments, 48 x two bedroom apartments and 1 x one bedroom apartment to 26 x one bedroom apartments and 85 x two bedroom apartments. The applicant claims, in the Statement of Environmental Effects, that the change is a result of market demand.

Whilst it is acknowledged that the reduction in one bedroom apartments will limit the number of one bedroom apartments Council has no Policy or Control which requires the provision of an optimum mix. The two obvious instruments which guide apartment type development, *State Environmental Planning Policy (Affordable Rental Housing) 2009* (which does not apply to this development) and *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development*, provide for

the internal areas of apartments only and do not dictate how many apartments within a development should be one, two or three bedroom.

This issue does not warrant the refusal of the application.

#### Information provided during the notification of the application

The submission expresses concern that the information provided to residents during the notification period did not clearly provide details of the development and that this was a significant oversight on the part of Council.

#### Comment

The subject application was publicly exhibited in accordance with the *Environmental Planning and Assessment Regulation 2000*, *Warringah Local Environment Plan 2000* and the *Warringah Development Control Plan*. The notification of the application included a covering letter, site plan and elevations (both on A4 paper). The covering letter provided the following advice:

*"Attached for your information is a reduced copy of the relevant plans of the application. Should you require additional information, you can inspect the original plans at the Customer Service Centre, General Enquiries, Dee Why, during the hours of 8.30am to 5.00pm, Monday to Friday (excluding public holidays). Additional details of the application are also available via Council's E-Services System at [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au)"*

It is noted that the assessing officer forwarded additional information to the submitter on 27 June 2011 which included copies of Pages 2, 3 & 4 of the Statement of Environmental Effects which explained the modification and an annotated plan of the site to aid in the identification of the various buildings.

In this regard, Council has notified the Development Application in accordance with the relevant legislation and this issue does not warrant the refusal of the application.

#### **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**

##### Ausgrid

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

##### **Internal**

##### Development Engineer

Council's Development Engineer has not raised any objection to the application subject to Condition (No. 51) and the deletion of Condition No. 52.

Condition No. 52 is recommended to be modified and is included in the Recommendation in this report.

##### Natural Environment Unit

Council's Natural Environment Unit do not raise any objection to the development, subject to conditions. However the Unit notes that Landscape plan L01-REVB shows a proposed 0.5m high steel post and tensile wire fence is along the alignment of Council's pipeline within the easement on the northern boundary. This is not compliant with Council's policy 'building over or adjacent to constructed Council drainage systems and easements' and should be removed. No fences or structures should be within the easement.

It is also noted on landscape plan L01-REVB that the planting proposed within the easement includes medium to tall tree planting. As part of this development, a screen will be constructed across the inlet of Council's pipeline which will be required to be cleaned by Council's maintenance team on a regular basis.

Maintenance vehicles will not be able to gain access along the easement to the screen at the rear of the property with trees planted in the easement and tree roots significantly damage pipelines.

In this regard, the Unit has requested Condition Nos. 18 & 22 be modified and are included in the Recommendation in this report. The Unit has also requested that Condition Nos. 73 & 74 be added and are included in the Recommendation in this report

#### 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 reviewed the amended landscape plan (see Plan No. L01-REVB dated 25 May 2011 and prepared by Habitation) and provides the following comments:

*"The plans indicate a number of minor amendments to the landscape component of the plans. This relates mainly to path layouts, planting areas and private open space. No objection is raised in relation to landscape issues providing planning requirements of Landscape Open Space are still met.*

*The Statement of Environmental Effects submitted with the Modification indicates that planting has been amended in accordance with Condition 25 of the original consent.*

In this regard, Council's Landscape Officer has requested Condition No. 25 be modified and is included in the Recommendation in this report.

#### Waste Management

Council's Waste Management Officer has not provided a response 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**

In accordance with Section 96(3) of the *Environmental Planning and Assessment Act 1979*, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application.

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

Section 79C 'Matters for Consideration'	Comments
<b>Section 79C(1)(a)(i)</b> – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
<b>Section 79C(1)(a)(ii)</b> – Provisions of any draft environmental planning instrument	See discussion on "Draft Environmental Planning Instruments" in this report.

Section 79C 'Matters for Consideration'	Comments
<b>Section 79C(1)(a)(iii)</b> – Provisions of any development control plan	The application was advertised and notified in accordance with Warringah Development Control Plan.
<b>Section 79C(1)(a)(iia)</b> – Provisions of any planning agreement	None applicable.
<b>Section 79C(1)(a)(iv)</b> – Provisions of the regulations	<p>The EPA Regulations 2000 require the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter was addressed via a condition of consent under DA2010/1839.</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 was addressed via a condition of consent under DA2010/1839.</p> <p><u>Clause 50(1A)</u> of the EPA Regulations 2000 requires the submission of a design verification statement from the building designer at lodgement of the development application. A revised statement has been submitted.</p>
<b>Section 79C(1)(b)</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, as modified, on the natural and built environment are addressed under the General Principles of Development Control in this report.</p> <p>(ii) The proposed development, as modified, will not have a detrimental social impact in the locality considering the residential character of the proposal.</p> <p>(iii) The proposed development, as modified, will not have a detrimental economic impact on the locality considering the residential nature of the proposed land use.</p>
<b>Section 79C(1)(c)</b> – the suitability of the site for the development	The proposed modifications do not alter the site's suitability for the proposed use.
<b>Section 79C(1)(d)</b> – any submissions made in accordance with the EPA Act or EPA Regs.	See discussion on “Public Exhibition” in this report.
<b>Section 79C(1)(e)</b> – the public interest	<p>The various controls contained within WLEP 2000 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, as modified, is considered to be consistent with the Desired Future Character of the E2 Dee Why Lagoon Suburbs locality and E20 Mooramba West locality and the E2 Dee Why Lagoon Suburbs locality. The development also complies with the Built Form Controls (with exception to the proposed variation to the Building Height Built Form Control which is 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>



The relevant matters for consideration under Section 96(2) of the *Environmental Planning and Assessment Act, 1979*, are:

Section 96(2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The works proposed involve the raising of the basement, ground floor level and building heights by 0.6m to 1.05m generally. The proposed reduction to the area of the basement car parking level has been withdrawn from this application.</p> <p>Therefore, the subject application has been found to be such that Council is satisfied that the proposed works are of substantially the same as those already approved under DA2010/1839.</p>
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA2010/1835 did not require concurrence from the relevant Minister, public authority or approval body. No conditions were imposed as a requirement for concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body.
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require, or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p>	<p>The application has been publicly exhibited in accordance with the <i>Environmental Planning and Assessment Act 1979</i>, <i>Environmental Planning and Assessment Regulation 2000</i>, <i>Warringah Local Environment Plan 2000</i> and the <i>Warringah Development Control Plan</i>.</p> <p>In this regard, four (4) submissions have been received and have been addressed under 'Public Exhibition' in this report.</p>
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	The assessment of this application has considered the submissions made in response to the notification of this application (see 'Public Exhibition' in this report) where it was found that the matters raised did not warrant the refusal of the application.

## 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	Approved	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	NA	NA	N/A
Rural Subdivision:	Not applicable to the proposed development	N/A	NA	NA	NA
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	NA	NA	NA
Height of Buildings:	11.0m*	10.4m – 17.0m	11.5m - 17.65m	<b>No</b>	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 as 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, as modified, 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 increase to the building height is considered to be minor and has been found to be compatible with the building heights of surrounding development (in particular the residential flat buildings to the north and the mixed use buildings to the east along Pittwater Road) 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. However, in both cases it is noted that the development includes privacy screens to address this concern.

The approved Development Application included a certified shadow diagram (see Plan No. DA60 dated 5 November 2010) which indicated that the development complied with the provisions of Clause 62 – ‘Access to Sunlight’ under the General Principles of Development Control in *Warringah Local Environmental Plan 2000* 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.

The plan showed that the principal private open spaces of the neighbouring properties to the south (Nos. 4, 6 & 8 May Road) were not subject to overshadowing in excess of 50% and that this would not be reduced to less than 2 hours between 9am and 3pm on June 21.

The marginal increase in building height is not considered to exacerbate this degree of overshadowing such 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 that this application would reduce sunlight access to less than 2 hours between 9am and 3pm on June 21.

A view analysis was provided with DA2010/1839 (see Plan No. A-006) which indicated that the development would not obstruct views from neighbouring properties. In this regard, and given the minor increase to the approved building heights, it is considered that the development remains 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:

Although the modification proposes to alter the mix of apartments, the development will continue to provide 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, as modified, maintains a variety of housing types consisting of 26 one bedroom apartments, 85 two bedroom apartments (111 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, as modified, continues to incorporate landscaping within 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 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, as modified, will continue to present 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, as modified, continues to be 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 variation to the building heights is not unreasonable and unnecessary in the particular circumstances of the case.

**R2 Low Density Residential**

The applicant has provided a written request to maintain the basement level as approved under DA2010/1839. Therefore, this element of the application has already been addressed under DA2010/1839 where it was found that basement level satisfied the relevant objectives of the R2 Low Density Residential zone.

As such, no further assessment against the relevant provisions of Draft WLEP 2000 has been conducted.

**ENVIRONMENTAL PLANNING INSTRUMENTS**

**State Environmental Planning Policies (SEPPs)**

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

A revised BASIX certificate has been submitted with the application (see Certificate No. 344681M - 02 dated 25 May 2011). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 44238646 dated 25 May 2011).

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

Commitment	Required Target	DA2010/1839	MOD2011/0117
Water	40	40	40
Thermal Comfort	Pass	Pass	Pass
Energy	20	30	36

It is noted that the energy score has improved upon what was approved under DA2010/1839.

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 original development application (DA2010/1839) was referred to the RTA under the provisions of Schedule 3 of the SEPP. The RTA did not raise any objection to the original development application subject to comments which were included in the original consent.

Given that the proposed modification, the subject of this application, does not propose a significant alteration to the design or the number of apartments already approved, nor to the basement car park and the number of car parking spaces. This modified application was not referred to the RTA for further comment.

### Ausgrid

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 Ausgrid power line which extends across the frontage of Mooramba Road. The application was referred to Ausgrid who advise that the development will comply with statutory clearances from Ausgrid electrical mains.

Consequently, Ausgrid 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.

This matter was considered under DA2010/1839 where conditions were imposed by Council's Environmental Health Officer requiring the applicant to notify Council of any new contamination evidence which may be revealed during demolition and excavation works and which requires 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.

It is noted that this application proposes to raise the floor level of the basement car park from the approved RL 27.110 to RL 27.710 (+0.6m) which will contribute towards reducing impacts to the subsurface level. Notwithstanding, Condition Nos. 38, 39 and 40 and the reference to the *Additional Environmental Site Investigation & Remedial Action Plan* prepared by Environmental Investigation Services in Condition No. 1 under DA2010/1839 are to remain in force.

In this regard, the site is considered to be suitable for the proposed development, as modified, with regards to contamination.

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

*State Environmental Planning Policy No. 65* (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.



The overall layout of the development is the same as that approved under DA2010/1839. The development, as modified, involves the addition of three (3) units located on the ground floor of Building F (F01a, F02b & F03c), the replacement of the three bedroom unit (F13) in Building F with 1 x one bedroom (F15) and 2 x two bedroom units (F13 & 14), and the reconfiguration of the mix of units in Buildings G, H and J from 44 x one bedroom to 33 x two bedroom.

Clause 50(1A) of the EPA Regulations 2000 requires the submission of a design verification statement from the building designer at lodgement of the development application. An updated statement has been submitted by JAA Architecture Studio Pty Ltd dated 26 May 2011.

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)". The application, as modified, does not materially alter the design of the development such that it deviates from the original assessment and conclusions made under DA2010/1839. In this regard, further assessment of the 10 principles is not considered necessary and has not been undertaken.

### Residential Flat Design Code

The following table provides an assessment of the development, as modified, against the provisions of the Residential Flat Design Code.

**Note:** Only the controls which have been impacted by the modification are addressed. The remainder were considered under DA2010/1839 and found to be consistent.

Primary Development Controls	Guideline	Approved (DA2010/1839)	Proposed (MOD2011/0117)
<b>PART 02 SITE DESIGN</b>			
<b>Deep Soil Zones</b>	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.	<b>Consistent</b> Subject to condition. The development will provide approximately 2,506m <sup>2</sup> (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.	<b>Consistent</b> Subject to the amendment of Condition No. 11 which requires the replacement of the raised mounds with raised planter boxes, as imposed under DA2010/1839.
<b>Open Space.</b>	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%.	<b>Consistent</b> The development provides approximately 51.4% (3,204m <sup>2</sup> ) of communal open space.	<b>Consistent</b> The development proposes the private allocation of ground floor level open space between Buildings A & B, B & C, C & D, D & E, E & F, G & H and H & J (separation provided by 0.5m high steel high tensile wire fencing) to enhance privacy and security.  This will result in a reduced effective communal open space area of 2,404m <sup>2</sup> (33.5%).

Primary Development Controls	Guideline	Approved (DA2010/1839)	Proposed (MOD2011/0117)
	<p>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<sup>2</sup>; the minimum preferred dimension in one direction is 4.0m. (see 'Balconies' for other private open space requirements).</p>	<p><b>Consistent</b></p> <p>Subject to condition.</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 25m<sup>2</sup> 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 &amp; 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 25m<sup>2</sup> 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>	<p><b>Consistent</b></p> <p>Subject to the retention of Condition No. 9 as imposed under DA2010/1839.</p> <p>The fencing proposed to define private open space (0.5m high steel tensile wire) is considered to be an appropriate form of fencing due to it's visually permeable and of low visibility and that it will not have any adverse impact upon the overall design of the development or landscaped areas.</p>
<p><b>Planting on structures</b></p>	<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"> <li>• Large trees such as figs (canopy diameter of up to 16m at maturity) - minimum soil volume 150m<sup>3</sup> - minimum soil depth 1.3m - minimum soil area 10m x 10m area or equivalent.</li> <li>• Medium trees (8.0m canopy diameter at maturity) - minimum soil volume 35m<sup>3</sup> - minimum soil depth 1.0m - approximate</li> </ul>	<p><b>Consistent</b></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 perimeter 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>	<p><b>Consistent</b></p> <p>Subject to an amendment of Condition No. 11, which requires the replacement of the raised mounds with raised planter boxes, as imposed under DA2010/1839; and</p> <p>Subject to the amendment of Condition No. 25 as required by Council's Landscape Officer.</p>

Primary Development Controls	Guideline	Approved (DA2010/1839)	Proposed (MOD2011/0117)
	soil area 6.0m x 6.0m or equivalent. <ul style="list-style-type: none"> <li>• Small trees (4.0m canopy diameter at maturity) - minimum soil volume 9.0m<sup>3</sup> - minimum soil depth 800mm - approximate soil area 3.5m x 3.5m or equivalent.</li> <li>• Shrubs - minimum soil depths 500-600mm</li> <li>• Ground cover - minimum soil depths 300-450mm</li> <li>• Turf- minimum soil depths 100-300mm</li> <li>• any subsurface drainage requirements are in addition to the minimum soil depths quoted above.</li> </ul>		
	Follow the accessibility standard set out in AS 1428 (parts 1 and 2), as a minimum.	<b>Consistent</b> Subject to a standard condition.	<b>Consistent</b> Subject to the retention of Condition No. 6 as imposed under DA2010/1839.
<b>Vehicle access</b>	Generally limit the width of driveways to a maximum of 6.0m.	<b>Consistent</b> The development proposes a crossover width of 6.0m onto Mooramba Road.	<b>Consistent</b> No change subject to the retention of Plan No. DA11 dated 5 November 2010 as prepared by JAA Studio (as requested by the applicant).
	Locate vehicle entries away from main pedestrian entries and on secondary frontages.	<b>Consistent</b> Driveway located on primary frontage due to the topography of the site.	<b>Consistent</b> No change subject to the retention of Plan No. DA11 dated 5 November 2010 as prepared by JAA Studio (as requested by the applicant).
<b>PART 03 BUILDING DESIGN</b>			
<b>Building Depth</b>	The back of a kitchen should be no more than 8.0m from a window.	<b>Consistent</b> All apartments achieve a depth of up to 6.0m to the back of the kitchen from a window.	<b>Consistent</b> All apartments, including those modified by this application, achieve a depth of up to 6.0m to the back of the kitchen from a window.
<b>Balconies</b>	Provide primary balconies for all apartments with a minimum depth of 2.0m. Developments which seek to vary from the minimum standards must	<b>Consistent</b> Subject to condition. The development includes the following balcony provision (taken at upper floors only):	<b>Consistent</b> All upper level apartments now include balconies which achieve a minimum depth of 2.0m.

Primary Development Controls	Guideline	Approved (DA2010/1839)	Proposed (MOD2011/0117)								
	<p>demonstrate that negative impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions.</p> <p>Provide scale plans of balcony with furniture layout to confirm adequate, useable space when an alternate balcony depth is proposed.</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><b>*Note:</b> Does not include ground floor units which will be addressed via condition to increase private open space areas.</p> <p><b>**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.</b></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 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.</p>	Balcony Width	No. of Units	No balcony*	19 (16.2)	1.0m**	16 (13.6)	2.0m	55 (47.0)	<p>Condition No. 10 was imposed to require balconies to Unit Nos. A06, B06, C06, D06, A09, B09, C09, D09, B12, C12 &amp; D12 which extend across the entire southern building elevations and include moveable privacy screens.</p> <p>The proposed provision of the balconies to Unit Nos. A06, B06, C06, D06, A09, B09, C09, D09, B12, C12 &amp; D12 do not extend across the entire southern building elevations nor do they include moveable privacy screens. Instead, the balconies extend across half the southern building elevations to service the Living/Dining Rooms only and consist of an open deck.</p> <p>However, it is considered that the design, location and dimensions of the balconies in question are appropriate given their open style which minimises additional bulk and their proximity to the internal walkways of the site which facilitates passive surveillance and contributes towards a sense of community.</p> <p>In this regard, Condition No. 10 is now considered to be appropriately addressed and is recommended to be deleted from the consent.</p>
Balcony Width	No. of Units										
No balcony*	19 (16.2)										
1.0m**	16 (13.6)										
2.0m	55 (47.0)										

Primary Development Controls	Guideline	Approved (DA2010/1839)	Proposed (MOD2011/0117)								
		<p>J06, E09, D06, G09, G10, H09, H10, J09, J10, E12, F09, H13, H14, J13, J14, E15 &amp; 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 &amp; 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><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> <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</p>	Balcony Width	No. of Units	No balcony*	8 (6.8%)	1.0m**	16 (13.6%)	2.0m	66 (56.4%)	
Balcony Width	No. of Units										
No balcony*	8 (6.8%)										
1.0m**	16 (13.6%)										
2.0m	66 (56.4%)										

Primary Development Controls	Guideline	Approved (DA2010/1839)	Proposed (MOD2011/0117)
		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 is building separation is supported.	
	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	<b>Consistent</b> All ground floor apartments have access to terraced private open space.	<b>Consistent</b> All ground floor apartments have access to terraced private open space which have been further sensitively defined through the use of low visibility fencing.
<b>Storage</b>	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: <ul style="list-style-type: none"> <li>studio apartments 6.0m<sup>3</sup></li> <li>one-bedroom apartments 6.0m<sup>3</sup></li> <li>two-bedroom apartments 8.0m<sup>3</sup></li> <li>three plus bedroom apartments 10m<sup>3</sup></li> </ul>	<b>Consistent</b> 1 bedroom - 68 x 6.0m <sup>3</sup> = 408m <sup>3</sup> 2 bedroom - 48 x 8.0m <sup>3</sup> = 384m <sup>3</sup> 3 bedroom – 1 x 10m <sup>3</sup> = 10m <sup>3</sup> Total storage required = 802m <sup>3</sup> Total storage provided = 936m <sup>3</sup> <b>Note:</b> All storage is located within the basement car parking areas.	<b>Consistent</b> The development, as modified, proposes to amend the unit mix as follows: 1 bedroom - 25 x 6.0m <sup>3</sup> = 150m <sup>3</sup> 2 bedroom - 85 x 8.0m <sup>3</sup> = 680m <sup>3</sup> Total storage required = 830m <sup>3</sup> Total storage provided = 936m <sup>3</sup> All storage continues to be located in the basement car parking areas.

### 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 development, as modified, does not alter the overall design of the proposal such that it would render it inconsistent with the Desired Future Character of the E2 Dee Why Lagoon Suburbs Locality and the E20 Mooramba West Locality as assessed under DA2010/1839.

As such, no further assessment against the respective Desired Future Character statements is required.

#### Built Form Controls (Development Standards) - E2 Dee Why Lagoon Suburbs Locality

Standard	Permitted	Approved	Proposed	Compliant
<b>Housing Density</b>	1 dwelling per 600m <sup>2</sup>	Nil (basement car park only)	No change	Yes
<b>Building Height (overall)</b>	8.5m	-2.8m to 7.2m (basement)	No change	Yes



Standard	Permitted	Approved	Proposed	Compliant
<b>Building Height</b> (to ceiling)	7.2m	-2.8m to 7.2m (basement)	No change	Yes
<b>Front Building Setback</b>	6.5m	7.0m	No change	Yes
<b>Rear Building Setback</b>	6.0m	Nil	No change	Variation supported under DA2010/1839
<b>Side Boundary Setback</b> North South	0.9m 0.9m	5.6m 2.5m	No change No change	Yes Yes
<b>Side Boundary Envelope</b>	4.0m x 45°	<4.0m x 45°	No change	Yes
<b>Landscape Open Space</b>	40% (370m <sup>2</sup> )	100% (925m <sup>2</sup> )	No change	Yes

The development, as modified, does not alter the basement level which is the subject of the above assessment. The variation to the Rear Building Setback Built Form Control was considered under DA2010/1839 and supported.

No further assessment of the Built Form Controls is required in this regard.

#### **Built Form Controls (Development Standards) - E20 Mooramba West Locality**

Standard	Permitted	Approved	Proposed	Compliant
<b>Housing Density</b>	Determined by how the design responds to:  <ul style="list-style-type: none"> <li>• Desired Future Character;</li> <li>• Built Form Controls; and</li> <li>• General Principles of Development Control</li> </ul>	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.	No change.	Yes
<b>Building Height</b> (overall)	11.0m	Building A – 8.95m Building B – 10.55m Building C – 10.3m Building D – 8.8m Building E – 9.85m Building F – 9.85m Building G – 7.8m Building H – 9.3m Building J – 7.8m	Building A – 10m Building B – 11.8m Building C – 10.5m Building D – 9.0m Building E – 10.5m Building F – 10.5m Building G – 8.0m Building H – 9.5m Building J -8.0m	Yes <b>No</b> Yes Yes Yes Yes Yes Yes Yes

Standard	Permitted	Approved	Proposed	Compliant
<b>Building Height</b> (storeys)*	3 storeys	3 - 4 storeys	No change	Variation supported under DA2010/1839
<b>Front Building Setback</b> Primary – Mooramba Road Secondary – May Road	6.5m 3.5m	6.5m – 15.4m 3.5m – 4.6m	No change	Yes Yes
<b>Rear Building Setback</b>	N/A (corner allotment)	N/A	No change	N/A
<b>Side Boundary Setback*</b> <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 change No change No change No change No change No change	Variations supported under DA2010/1839
<b>Side Boundary Envelope</b>	5.0m x 45°	<5.0m x 45°	<5.0m x 45°	Yes
<b>Landscape Open Space**</b>	40% (2,493m <sup>2</sup> )	40.2% (2,506m <sup>2</sup> )	27.7% (1,698m <sup>2</sup> ) Condition No. 11 will revert the development back to compliance.	Yes Subject to an amendment to Condition No. 11

\*The variations to the Building Height (storeys) and Side Boundary Setback Built Form Controls were considered and supported under DA2010/1839. However, the development proposes to increase the overall height of the buildings and decrease the provision of landscape open space (as defined under WLEP 2000).

\*\*The provision of landscape open space has been addressed through an amendment to Condition No. 11, as imposed under DA2011/1839, to indicate that the landscape mounds as proposed on Plan No. L01-REVB dated 25 May 2011 and prepared by Habitation, are not supported and are to be replaced with planter boxes which accommodate a minimum soil depth of 1.0m. This will increase the provision of landscape open space to 2,491m<sup>2</sup> (40%) and is consistent with the comments provided by Council's Landscape Officer (see 'Referrals' in this report).

Therefore, further assessment against the provisions of Clause 20 under Warringah Local Environmental Plan 2000 is required for the proposed variation to the Building Height Built Form Control.

### 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	Approved	Proposed
<b>Building Height</b> (overall)	11.0m	8.0m – 11.0m	8.02m – 11.8m (Building B)

The development breaches the Control at the eastern corner of Building B.

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 Building B which is 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.

The non-compliance will not have any adverse impact upon the amenity of the neighbouring property at No. 12 Mooramba Road as the proposed height does not create any overshadowing over the neighbouring property nor does it result in any additional overlooking or view loss beyond what was considered and addressed in DA2010/1839.

Given the minor variation of 0.8m the development does not adversely impact upon the streetscape of Mooramba Road. Additionally, it is noted that Building B is generally concealed from view from the public domain by Building A.

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) included with DA2010/1839 provided certification of the extrapolated natural ground levels which have been used to determine building height.

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.

The development, as modified, continues 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, as modified, continues to incorporate flat roof forms which is considered to be consistent with the roof forms along Mooramba Road and within the nearby Dee Why Town Centre and medium density surrounds.

The variation to the Building Height 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.

**Note:** Only the Principles which have been impacted by the modification are addressed. The remainder were considered under DA2010/1839 and found to be compliant.

<b>Principle</b>	<b>Applies</b>	<b>Comments</b>	<b>Compliant</b>
CL 50 Safety & Security	Yes	The application now includes the provision of open balconies to Unit Nos. A06, B06, C06, D06, A09, B09, C09, D09, B12, C12 & D12 which overlook the central pedestrian walkway and communal area. This is considered to be appropriate in that the balconies will enhance the passive surveillance of the site.	<b>Yes</b>
CL 61 Views	Yes	A view analysis was provided with DA2010/1839 (see Plan No. A-006) which indicated that the development would not obstruct views from neighbouring properties. In this regard, and given the minor increase to the approved building heights, it is considered that the development remains consistent with the provisions of Clause 61 of the General Principles of Development Control which requires that <i>development is to allow for the reasonable sharing of views</i> .	<b>Yes</b>
CL 62 Access to sunlight	Yes	The approved Development Application included a certified shadow diagram (see Plan No. DA60 dated 5 November 2010) which indicated that the development complied with the provisions of Clause 62 – 'Access to Sunlight' under the General Principles of Development Control in <i>Warringah Local Environmental Plan 2000</i> 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.	<b>Yes</b>

Principle	Applies	Comments	Compliant
		<p>The plan showed that the principal private open spaces of the neighbouring properties to the south (Nos. 4, 6 &amp; 8 May Road) were not subject to overshadowing in excess of 50% and that this would not be reduced to less than 2 hours between 9am and 3pm on June 21.</p> <p>The marginal increase in building height is not considered to exacerbate this degree of overshadowing such that the principal private open spaces of the neighbouring properties to the south (Nos. 4, 6 &amp; 8 May Road) will not be subject to overshadowing in excess of 50% and that this application would reduce sunlight access to less than 2 hours between 9am and 3pm on June 21.</p>	
CL 63 Landscaped Open Space	Yes	<p>The application, as modified, proposed to incorporate variable height landscaped mounds between each building instead of regular depth planter boxes. The mounds each achieved heights of between 0.6m and 1.1m. This resulted in a non-compliant landscape open space provision when assessed against the Landscape Open Space Built Form Control.</p> <p>However, the provision of landscape open space can be addressed through an amendment to Condition No. 11, as imposed under DA2011/1839, to indicate that the landscape mounds as proposed on Plan No. L01-REVB dated 25 May 2011 and prepared by Habitation, are not supported and are to be replaced with planter boxes which accommodate a minimum soil depth of 1.0m. This will increase the provision of landscape open space to 2,491m<sup>2</sup> (40%) and is consistent with the comments provided by Council's Landscape Officer (see 'Referrals' in this report).</p>	<b>Yes</b> Subject to condition
CL 64 Private open space	Yes	<p>The development, as modified, proposes the private allocation of ground floor level open space between Buildings A &amp; B, B &amp; C, C &amp; D, D &amp; E, E &amp; F, G &amp; H and H &amp; J (separation provided by 0.5m high steel high tensile wire fencing).</p> <p>The resulting private open space areas satisfy the minimum area and dimension requirements prescribed under Clause 64.</p>	<b>Yes</b>
CL 65 Privacy	Yes	<p>The development, as modified, maintains the approved location of windows and balconies with exception to the addition of the balconies to the south side of Buildings A, B, C &amp; D as required under Condition No. 10 imposed in DA2010/1839.</p> <p>The proposed provision of the balconies to Unit Nos. A06, B06, C06, D06, A09, B09, C09, D09, B12, C12 &amp; D12 do not include moveable privacy screens. Instead, the balconies consist of an open deck.</p> <p>It is considered that the open style of the balconies is not problematic in terms of privacy due to the 10m wide physical separation from other balconies (as opposed to habitable rooms) and that balconies do not demand the same level of privacy as habitable rooms.</p> <p>Condition No. 8, as imposed in DA2010/1839, is to be amended to require a privacy screen to Unit No. C08 as opposed to Unit No. C07.</p>	<b>Yes</b> Subject to condition
CL 66 Building Bulk	Yes	<p>The development, as approved and as modified, 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.</p>	<b>Yes</b>

Principle	Applies	Comments	Compliant																					
CL 68 Conservation of Energy and Water	Yes	<p>A revised BASIX certificate has been submitted with the application (see Certificate No. 344681M - 02 dated 25 May 2011). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 44238646 dated 25 May 2011).</p> <p>The BASIX Certificate indicates that the development, as modified, will achieve the following:</p> <table><tr><th>Commitment</th><th>Required Target</th><th>DA2010/1839</th><th>MOD2011/0117</th></tr><tr><td>Water</td><td>40</td><td>40</td><td>40</td></tr><tr><td>Thermal Comfort</td><td>Pass</td><td>Pass</td><td>Pass</td></tr><tr><td>Energy</td><td>20</td><td>30</td><td>36</td></tr></table> <p>It is noted that the energy score has improved upon what was approved under DA2010/1839.</p> <p>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.</p>	Commitment	Required Target	DA2010/1839	MOD2011/0117	Water	40	40	40	Thermal Comfort	Pass	Pass	Pass	Energy	20	30	36	Yes Subject to condition					
Commitment	Required Target	DA2010/1839	MOD2011/0117																					
Water	40	40	40																					
Thermal Comfort	Pass	Pass	Pass																					
Energy	20	30	36																					
CL 69 Accessibility – Public and Semi-Public Buildings	Yes	<p>Level access continues to be provided to all foyers from street level and via lifts from the basement car park.</p> <p>Notwithstanding, conditions will be retained which requires compliance with AS 1428.2 – 1992 <i>Design for Access and Mobility</i>.</p>	Yes Subject to condition																					
CL 74 Provision of Carparking	Yes	<p>Clause 74 calls up Schedule 17 which provides the car parking rates for individual development types. Schedule 17 requires a development to provide on-site car parking at the following rates (note: required car parking spaces are rounded up):</p> <table><tr><th>Component</th><th>Proposed (MOD2011/0117)</th><th>Complies</th></tr><tr><td>Residential</td><td></td><td></td></tr><tr><td>1 bedroom</td><td>26 Units (26 spaces)</td><td></td></tr><tr><td>2 Bedroom</td><td>85 Units (102 spaces)</td><td>Yes</td></tr><tr><td>3 Bedroom</td><td>Nil Units</td><td></td></tr><tr><td>Visitors</td><td>111 Units (24 spaces)</td><td>Yes</td></tr><tr><td>Total</td><td>152 car spaces</td><td>Yes</td></tr></table>	Component	Proposed (MOD2011/0117)	Complies	Residential			1 bedroom	26 Units (26 spaces)		2 Bedroom	85 Units (102 spaces)	Yes	3 Bedroom	Nil Units		Visitors	111 Units (24 spaces)	Yes	Total	152 car spaces	Yes	Yes
Component	Proposed (MOD2011/0117)	Complies																						
Residential																								
1 bedroom	26 Units (26 spaces)																							
2 Bedroom	85 Units (102 spaces)	Yes																						
3 Bedroom	Nil Units																							
Visitors	111 Units (24 spaces)	Yes																						
Total	152 car spaces	Yes																						
CL 76 Management of Stormwater	Yes	Council’s Development Engineer has not raised any objection subject to conditions.	Yes Subject to conditions																					

#### Other Relevant WLEP 2000 Clauses

Nil

#### SCHEDULES

The following Schedule is applicable to the development, as modified. Only the Schedule which has been impacted by the modification is addressed. The remainder (Schedules 9 and 10) were considered under DA2010/1839 and found to be compliant subject to conditions.

#### Schedule 8 – Site Analysis

Adequate site analysis documentation has been provided with this application



## 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	Approved (DA2010/1839)	Proposed (MOD2011/0117)	Complies
<b>Residential</b>			
1 bedroom	68 Units (68 spaces)	26 Units (26 spaces)	Yes
2 Bedroom	48 Units (58 spaces)	85 Units (102 spaces)	
3 Bedroom	1 Unit (2 spaces)	Nil Units	
<b>Visitors</b>	117 Units (24 spaces)	111 Units (24 spaces)	Yes
<b>Total</b>	152 car spaces	152 car spaces	Yes

## POLICY CONTROLS

### Warringah Section 94A Development Contribution Plan

Development contributions were imposed under Section 94A were included in the consent for DA2010/1839 and do not apply to this application.

## OTHER MATTERS FOR CONSIDERATION

Nil

## CONCLUSION

The proposal has been considered against the relevant matters for consideration under Section 79C and Section 96(2) 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.

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.

### Submissions

The development attracted four (4) submissions which raised the following issues:

- Provision of car parking;
- Traffic generation;
- Building height, bulk and scale;
- Reduction to public open space;
- Overshadowing;
- Overlooking;
- Proposal beyond the scope of a modification;
- Construction methodologies;
- Loss of affordable housing; and
- Information provided during the notification of the application.

All issues have been addressed in this report (see 'Public Exhibition') and were found to not warrant the refusal of the application.

### Referrals

All external and internal referral departments have raised no objection to the development. Council's Landscape Officer has provided an amendment to Condition No. 25 (see below) as imposed in DA2010/1839 to further clarify the planting of native species.

### Environmental Planning Instruments

The development, as modified, has been found to remain consistent with the Matters for Consideration under S79C of the *Environmental Planning & Assessment Act, 1979*.

The development, as modified, has been found to maintain consistency with the various provisions of the following Environmental Planning Instruments:

- *State Environmental Planning Policy No. 55 – Remediation of Land*;
- *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development*;
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*; and
- *State Environmental Planning Policy (Infrastructure) 2007*.

Additionally, the assessment also found that the development, as modified, remained compliant with the Development Standards of Draft WLEP 2009.

### Desired Future Character

The development, as modified, has been found to maintain consistency with the Desired Future Character of the E2 Dee Why Lagoon Suburbs Locality and the E20 Mooramba West Locality as originally considered under DA2010/1839.

### Built Form Controls

#### *Building Height*

The development breaches the Building Height Built Form Control at the eastern corner of Building B. The non-compliance was considered to be minor and did not have any adverse impact upon internal or external amenity or appearance.

The non-compliance has been considered supportable under a Clause 20 variation.

#### *Landscape Open Space*

The provision of landscape open space has been addressed through an amendment to Condition No. 11 (see below), as imposed under DA2011/1839, to indicate that the landscape mounds as proposed on Plan No. L01-REVB dated 25 May 2011 and prepared by Habitation, are not supported and are to be replaced with planter boxes which accommodate a minimum soil depth of 1.0m. This will increase the provision of landscape open space to 2,491m<sup>2</sup> (40%) and is consistent with the comments provided by Council's Landscape Officer (see 'Referrals' in this report).

### General Principles of Development Control

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

### Schedules

The development has been assessed under 'Schedule 8 – Site Analysis' and 'Schedule 17 - Carparking Provision' and was found to be compliant.

### Modification to imposed conditions of consent

The assessment has considered changes to the following conditions imposed under DA2010/1839:

- Condition No. 8 is to be modified in the following manner to require a privacy screen to Unit No. C08 as opposed to Unit No. C07:

#### **"8. Privacy Screens**

*Privacy screens are to be installed to the following units:*

##### Units C08 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 C08 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."*

- Condition No. 11 is to be modified in the following manner to require raised planter boxes to be installed between each building which are to accommodate a minimum soil depth of 1.0m:

**"11. Planter boxes**

*The areas indicated as having a 'soil depth of 600mm over podium' on Plan Nos. L01-REVB; L02-REVB and L03-REVB each dated 25 May 2011 and prepared by habitation are to be replaced with raised planter boxes. The planter boxes are to be setback 1.0m from the abutting face of each respective building and are to accommodate a consistent soil depth of 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."*

- Condition No. 18 is to be modified in the following manner to require the inclusion of the words "(including fences)":

**18. Structures Located Adjacent to Council Pipeline or Council Easement**

*All structures are to be located clear of any Warringah Council pipeline or easement. (including fences). 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.*

- Condition No. 22 is to be modified in the following manner to require the inclusion of the words "or the like":

**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 or the like.*

*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."*

- Condition No. 25 is to be modified to provide a clearer direction as to the planting of native species:

**"25. Amended Landscape Plan**

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

1. *The 8 trees indicated to be planted within 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 (shrubs and trees) with the remainder of the area turfed with suitable grass species.*
3. *Fencing within the stormwater/sewer easement adjacent to the northern property boundary is to be deleted. The easement is to remain free of obstruction at all times to permit access by Council and Sydney Water vehicles.*

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

**Reason:** *Control of erosion, access and the maintenance of local amenity."*

- Condition No. 51 is to be modified as follows:

**"51. Certification Civil Works**

*The Civil Engineer responsible for the supervision of the civil drainage works shall certify that the completed works have been constructed in accordance with this consent and the approved Construction Certificate. Works as Executed data certified by a registered surveyor prepared in accordance with Council's requirements is to be provided to Council.*

*Full details of the information is to be submitted to Council, as part of the Works as Executed Data, are outlined in Council's 'Guideline for preparing Works as Executed data for Council's stormwater assets' which is available from Council's Natural Environment Unit. The Works as Executed data is to be verified by the Principal Certifying Authority prior to submission of any documentation.*

*The Works as Executed Data is to include but not limited to the following:*

- *Works as Executed (WAE) Plan,*
- *a Spreadsheet Schedule of all stormwater asset attributes and*
- *a CCTV Report of the completed pipeline.*

*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)"*

Conditions of consent to be added

- Condition No. 73 is to be added to read:

**73. Structures Located Adjacent to Council Pipeline or Council Easement**

*All structures including fences 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. A statement of compliance with this condition is required by the Certifying Authority prior to the issue of the Occupation Certificate.*

**Reason:** *Protection of Council's Infrastructure*

- Condition No. 74 is to be added to read:

#### **74. 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 Occupation Certificate.*

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

#### Conditions of consent to be deleted

The assessment noted that the subject application has addressed Condition No. 10 imposed under DA2010/1839 which required the following:

#### **“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.”*

The proposed provision of the balconies to Unit Nos. A06, B06, C06, D06, A09, B09, C09, D09, B12, C12 & D12 do not extend across the entire southern building elevations nor do they include moveable privacy screens. Instead, the balconies extend across half the southern building elevations to service the Living/Dining Rooms only and consist of an open deck.

It is considered that the design, location and dimensions of the balconies in question are appropriate given their open style which minimises additional bulk and their proximity to the internal walkways of the site which facilitates passive surveillance and contributes towards a sense of community. In this regard, Condition No. 10 is now considered to be appropriately addressed and is recommended to be deleted from the consent.

Council's Development Engineer has modified Condition No. 51 (see above) to include a CCTV Report therefore rendering Condition No. 52 (see below) redundant.

#### **“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](http://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)”*

Therefore, subject to the amendments to Condition Nos. 8, 11, 18, 22, 25 and 51, the addition of Condition No. 73 and 74 and the deletion of Condition Nos. 10 and 52 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 is considered that the Joint Regional Planning Panel (JRPP) for the Sydney East Region, as the consent authority, grant approval.

## RECOMMENDATION

That the Joint Regional Planning Panel (JRPP) for the Sydney East Region grant approval to modify 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 Moormamba Road, Dee Why; Lot 2, DP 1136022, No. 10 Painters Parade, Dee Why subject to the following conditions:

### A. Condition No. 1 to be modified as follows:

#### 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
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 &amp; 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:

<b>Landscape Plans - Endorsed with Council's stamp</b>		
<b>Drawing Number</b>	<b>Dated</b>	<b>Prepared By</b>
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
10-074 L04(E) Landscape Details	30/11/2010	Habitation

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

As modified by the Section 96 application Mod2011/0117 received by Council on 30 May 2011, and endorsed with Council's approval stamp;

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA06(A) Site/Roof	26/05/2011	JAA Studio
DA11 Carpark	05/11/2010	JAA Studio
DA12(A) Ground Level	26/05/2011	JAA Studio
DA13(A) Level 1	26/05/2011	JAA Studio
DA14(A) Level 2	26/05/2011	JAA Studio
DA15(A) Level 3	26/05/2011	JAA Studio
DA16(A) Level 4	26/05/2011	JAA Studio
DA17(A) Level 5	26/05/2011	JAA Studio
DA20(A) Typical Building Plan Types	26/05/2011	JAA Studio
DA21(A) Apartment Types	26/05/2011	JAA Studio
DA30(A) Elevations – East and South	26/05/2011	JAA Studio
DA31(A) Elevation – North and Section G-G	26/05/2011	JAA Studio
DA32(A) Elevation - West	26/05/2011	JAA Studio
DA35(A) Elevations – Typical Building A-F	26/05/2011	JAA Studio
DA36(A) Elevations – Typical Building G-J	26/05/2011	JAA Studio
DA40(A) Sections A-A & B-B	26/05/2011	JAA Studio
DA41(A) Sections D-D & E-E	26/05/2011	JAA Studio
DA50(A) Sections – Typical Buildings	26/05/2011	JAA Studio
DA55 Design Study	05/11/2010	JAA Studio
DA70 Colours and Finishes Sample Board	05/11/2010	JAA Studio

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:

<b>Landscape Plans - Endorsed with Council's stamp</b>		
<b>Drawing Number</b>	<b>Dated</b>	<b>Prepared By</b>
10-074 L01-REVB Landscape Plan	25/05/2011	Habitation
10-074 L02-REVB Landscape Sections	25/05/2011	Habitation
10-074 L03-REVB Landscape Sections	25/05/2011	Habitation

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

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

**B. Condition No. 8 to be modified as follows:**

**8. Privacy Screens**

Privacy screens are to be installed to the following units:

Units C08 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 C08 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.

**C. Condition No. 10 to be deleted.**

**D. Condition No. 11 to be modified as follows:**

**11. Planter boxes**

The areas indicated as having a 'soil depth of 600mm over podium' on Plan Nos. L01-REVB; L02-REVB and L03-REVB each dated 25 May 2011 and prepared by habitation are to be replaced with raised planter boxes. The planter boxes are to be setback 1.0m from the abutting face of each respective building and are to accommodate a consistent soil depth of 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.

**E. Condition No. 18 to be modified as follows:**

**18. Structures Located Adjacent to Council Pipeline or Council Easement**

All structures are to be located clear of any Warringah Council pipeline or easement. (including fences). 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.



**F. Condition No. 22 to be modified as follows:**

**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 or the like.

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."

**G. Condition No. 25 to be modified as follows:**

**25. Amended Landscape Plan**

Prior to the issue of a construction certificate, the Landscape Plan L01-REVB is to be amended as follows:

- (a.) The 8 trees indicated to be planted within 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.
- (b.) 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 (shrubs and trees) 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.

**H. Condition No. 51 to be modified as follows:**

**52. Certification Civil Works**

The Civil Engineer responsible for the supervision of the civil drainage works shall certify that the completed works have been constructed in accordance with this consent and the approved Construction Certificate. Works as Executed data certified by a registered surveyor prepared in accordance with Council's requirements is to be provided to Council.

Full details of the information is to be submitted to Council, as part of the Works as Executed Data, are outlined in Council's 'Guideline for preparing Works as Executed data for Council's stormwater assets' which is available from Council's Natural Environment Unit. The Works as Executed data is to be verified by the Principal Certifying Authority prior to submission of any documentation.

The Works as Executed Data is to include but not limited to the following:

- (a) Works as Executed (WAE) Plan,
- (b) a Spreadsheet Schedule of all stormwater asset attributes and
- (c) a CCTV Report of the completed pipeline.

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)

**I. Condition No. 52 to be deleted.**

**J. Addition of Condition No. 73 to read as follows:**

**73. Structures Located Adjacent to Council Pipeline or Council Easement**

All structures including fences 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. A statement of compliance with this condition is required by the Certifying Authority prior to the issue of the Occupation Certificate.

**Reason:** Protection of Council's Infrastructure

**K. Addition of Condition No. 74 to read as follows:**

**74. 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 or the like.

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

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

