

JOINT REGIONAL PLANNING PANEL
Sydney East Region

JRPP No	JRPP Reference Number – 2011SYE080
Development Application No.	DA2011/0887
Proposed Development	Demolition works and construction of a mixed retail, commercial and residential development and use of premises as retail shops, a café and residential units
Property Address	Nos. 697, 699 and 701 Pittwater Road, Dee Why
Applicant/Owner	Jubilee Properties Pty Ltd
Report by	Peter Robinson, Acting Deputy General Manager, Strategic and Development Services

Supplementary Assessment Report

Assessment Officer:	Steve Findlay and Renee Ezzy
Application Lodged:	14/07/2011
Plans Reference:	<u>Architectural Plans</u> DAA00 to A11, prepared by Kann Finch Group <u>Landscape Plan</u> 11002R-SK01 (Rev1), prepared by Aspect Studios (Drew Dickson Architects)
Amended Plans:	<u>Architectural Plans</u> RDA00 to A11, prepared by Kann Finch Group Dated 14.12.2011 <u>Landscape Plans</u> 11002R-SK01 (Rev02) –Planting Plan Level 1 and Ground Level, 11002R-SK02 (Rev01) –Planting Plan Level 8 11002R-SK03 (Rev02) –Planting Palette Prepared by Aspect Studios (Drew Dickson Architects) Dated December 2011
Owner:	Jubilee Properties Pty Limited

Locality:	E9 - Pittwater Road
Category:	Category 1 (shops, restaurants, housing and offices)
WLEP 2011 Permissible or Prohibited Land use:	B4 Mixed Use - Permissible
Variations to Controls (Cl.20/Cl.18(3)):	YES – Building height and Build-to-Lines
Referred to WDAP:	N/A
Land and Environment Court Action:	None

SUMMARY

Submission Issues:	Desired Future Character, Building Height, Build to Lines, Bulk and Scale, Overshadowing, Overbearing on Park and Church, Inconsistent with SEPP 65 and RFDC
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Assessment Issues:	Building Height, Communal Open Space, Design of Rear Laneway, Waste Management, Impact on Trees, Site Dewatering (Integrated Development) and Provision of Public Toilets
Recommendation	Approval
Attachments:	Amended plans submitted to Council on 19 December 2011.

RELEVANT BACKGROUND

The Development Application was referred to the meeting of the Joint Regional Planning Panel (JRPP) on 7 December 2011 with a recommendation for refusal based on planning and other concerns as outlined in the Assessment Report prepared by Council officers. The reasons for refusal are detailed as follows:

1. *Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act, 1979 and Clause 12(1)(b) of Warringah Local Environment Plan 2000 (as amended) the proposed development is considered to be inconsistent with the provisions of State Environmental Planning Policy No 65 – Design Quality for Residential Flat Development.*
2. *Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act, 1979 and Clause 12(3)(a) of Warringah Local Environment Plan 2000 (as amended) the proposed development is inconsistent with the Desired Future Character of the E9 – Pittwater Road Locality.*
3. *Pursuant to Section 79C (1) (a) (ii) of the Environmental Planning and Assessment Act, 1979, the proposed development does not comply with the development standard for “Height of Buildings” and is inconsistent with the objectives of the Height of Buildings standard under the provisions of the Draft Warringah Local Environmental Plan 2009.*
4. *Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act, 1979 and Clause 12(2)(b) of Warringah Local Environment Plan 2000 (as amended) the proposed development does not comply with the Built Form Controls under the E9 – Pittwater Road Locality statement as follows:*
 - *Building Height and*
 - *Build to Lines.*
5. *Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act, 1979 and Clause 12(1)(a) of Warringah Local Environment Plan 2000 (as amended) the development is considered to be inconsistent with the following General Principles of Development Control as follows:*
 - *Clause 58 – Protection of Existing Flora (Impact on Significant Trees),*
 - *Clause 70 - Site facilities (Waste Facilities), and*
 - *Clause 72 – Traffic Safety and Access (Design of the Rear Laneway).*
 - *Clause 76 – Management of Stormwater*
6. *Pursuant to Section 91A(4) of the Environmental Planning and Assessment Act, 1979, the NSW Office of Water has not provided its General Term of Approval that is required in order for the development to be granted consent.*
7. *Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act, 1979 the proposed development is not in the public interest.*
8. *Insufficient information has been submitted in relation to the following to allow a complete and proper assessment of the application:*
 - *Compliance with the daylight and natural ventilation requirements of the Residential Flat Design Code,*
 - *Stormwater design, and*
 - *Impact on significant trees.*

At that meeting, the Panel resolved the following:

1. *The Panel resolves unanimously to defer determination of the application on the basis that the applicant has foreshadowed that it will amend its proposal so as to meet all of the planning assessment officer's concerns expressed in the planning assessment report.*
2. *The applicant is to lodge a complete set of amended drawings by 19 December 2011. The council planning assessment officer is to report on the amended proposal and prepare draft conditions by 20 January 2012.*
3. *Following receipt of the above report the Panel will determine the application by communicating by electronic means.*

Comment:

In response to the JRPP's decision, the Applicant submitted amended plans and supporting documentation on 19 December 2011. Those plans have been the subject of assessment, including referral to the relevant internal departments within Council (no external referrals required). The Panel's decision did not require further public exhibition and such is not required under the Warringah Development Control Plan. The results of the detailed assessment of the amended scheme are contained in the following sections of this report.

SUMMARY OF AMENDMENTS

Design Amendments:

- Redesign of access driveway and ramp for right of way laneway
- Deletion of Level 9 (loft level)
- Reduction in the size of Level 8
- Reduction in the number of units from 75 to 74
- Provision of roof top communal open space and podium landscape planters
- Inclusion of public toilets (to be dedicated to Council) on the northern elevation of the ground floor level
- Relocation of access driveway and consolidation from 2 driveways to 1 driveway
- Provision of a landscape buffer to the church site
- Selected balconies enlarged

Amended Supporting Reports and Plans:

- Amended stormwater plans
- Addendum to the Heritage Impact Report
- Additional Arborist Report
- SEPP 65 Solar Access and Natural Ventilation Report
- Revised Traffic and Parking Report
- Revised BASIX Certificate
- Revised Landscape Plans
- Revised Design Verification Statement
- Revised Access Report
- Revised Waste Management Report

NOTIFICATION

In accordance with Clause 2.4 of Warringah Development Control Plan, the amendments to the proposal differ from the original scheme in minor respects and do not cause any greater environmental impact. Accordingly, the amendments detailed within this report are not required to be renotified.

AMENDED SCHEME

The amended plans submitted to Council on 19 December 2011 respond to the planning concerns detailed in the original assessment officer's report as required by the JRPP resolution. The following is a detailed assessment against those planning concerns:

- a) ***In order to address the building height concerns, it is recommended that the proposed development be amended by deleting Level 8 (9th storey) and Level 9 (loft) or substantially reducing the floor area of Level 8 by increasing the setbacks to Pittwater Road, the adjoining park, the church and St David's Avenue, such that it is designed as a proper "loft" level, and hence integrated within a roof form, and so as not to be viewable as a storey from the street or other surrounding spaces.***

Comment:

The proposed development has been amended as follows in relation to height and setbacks (build to lines):

- The deletion of Level 9 completely by removing all "loft" areas,
- The reconfiguration of Level 8 as follows:

Changes to Level 8	
Original DA Scheme	Amended DA Scheme
<u>6 Units</u>	<u>5 Units</u>
2 x 3 Bedroom + study	2 x 2 Bedroom + study
1 x 2 Bedroom + study	2 x 2 Bedroom
1 x 2 Bedroom	1 x 1 Bedroom + study
2 x 1 Bedroom + study	Communal Room (approx. 53m ²)
	Open Roof Terrace (approx. 270m ²)
	Landscaped Podium areas

The above changes to the size and configuration of Levels 8 and 9 have resulted in a significant reduction in overall height of various elements of the building and modified setbacks to the building, which can be summarised as follows:

- Reduction in the height of the north-western corner adjoining St David's Avenue by up to 6 metres,
- Reduction in the height of the southern half of the building by 2.5 metres (excluding the lift shaft),
- Increased front setback to southern half of building fronting Pittwater Road (Level 8) by 1.2m,
- Increased side setback to the adjoining site (No. 697 Pittwater Road) to the south-west by 7m,
- Increased front setback to St David's Avenue (Level 8) by 2.5m,
- Increased rear setback to the adjoining St David's Church (Level 8) by 2m,
- Reduced front setback of NE corner unit to Pittwater Road, and
- Reduced setback of Level 8 units on eastern elevation (adjacent to St David's Park).

The above amendments have reduced the height and scale of the building in specific areas to address the concerns raised in the original assessment report, including the north-western corner as it presents to St David's Avenue and the adjoining church building and the adjoining property to the south (695 Pittwater Road). However, it is noted that the amended scheme does not seek to reduce the overall height of the northern half of the building on Level 8 as suggested in the assessment report for reasons that Council's Urban Designer and the JRPP did not raise issue with the additional height for that portion of the building.

Overall, the original concerns raised in relation to the excessive building height presenting to Pittwater Road and the Park have been adequately addressed in streetscape and urban design terms in light of the fact that the building will now present appropriately with a visually prominent and strengthened NE corner and northern façade in the streetscape on this marker site in the Dee Why Town Centre. Heights elsewhere on the site have been reduced such that the building transitions down to the NW (St David Avenue), SE (adjoining property at 697 Pittwater Road) and SW corners. Therefore, on balance, the amended scheme satisfactorily addresses the concerns raised in the original assessment report in relation to building height and setbacks.

SEPP 65 and the Residential Flat Design Code

The removal of the 'Loft' level and the substantial reduction in the size of Level 8 provides a significantly reduced height and scale, which when coupled with the increased setbacks to Pittwater Road, the church site and the adjoining site to the south, are consistent with the SEPP 65 design principles in relation to Context, Scale and Built Form and satisfies the requirements of the RFDC in relation to building height.

The amended scheme provides for an open roof top terrace, podium landscaped areas and a communal recreation room adjoining the terrace on Level 8. The resulting built form provides a better transition in building height from the subject site to the southern adjoining site, enhanced corner definition for the northern half of the building and more substantial setbacks when viewed from Pittwater Road, the south-west and north-west which provides a reduced scale and mass of the building and so lessens the sense of the building being overbearing on the church site and St David's Avenue.

Warringah Local Environmental Plan 2000

(i) Built Form Controls

The following table details the compliance characteristics of the original scheme versus the amended scheme in relation to building height and build-to lines:

	Required under WLEP2000	Original Scheme	Amended Scheme	Compliance
Building Height	6 storeys and 24 metres	8-9 storeys 27.4 metres	7-8 storeys 24.99 metres (south-west) 27.4 metres (north-east)	No No No
Build to Lines	5 metres for Storeys 1-4 9 metres for storeys above the 4 th storey	Part 3.5/part 9m/part 13.4m/part 14.9m	Levels 1 to 7 (No change) Level 8 – Part 4.6m/part 8.2m/part 14.5m	No Part Yes/part No

While the amended scheme still does not comply with the building height and build-to line controls prescribed by WLEP 2000, the removal of the 'Loft' level (Level 9) and the substantial reduction and reconfiguration of Level 8 reduces the height and scale of the building and satisfactorily addresses the recommended design changes detailed in the original assessment report.

The amendments detailed above satisfy the underlying objectives of the building height and build to line controls

(ii) Desired Future Character (E9 – Pittwater Road Locality)

The amended design is considered to be consistent with the desired future character statement for the E9 – Pittwater Road. In this regard, the original scheme was found to be inconsistent with the DFC in relation to the built form paragraph, primarily in relation to non-compliance with the storeys and overall height controls. However, the amended scheme provides for a sound urban design outcome where the northern half of the building is strongly defined and the southern half is stepped down or transitioning to the south and west. On balance, the deletion of Level 9 and the reductions in Level 8 are satisfactory and the resultant built form is considered to be consistent with the DFC.

(iii) Clause 20 Variations

Therefore, the remaining variations to the building height and build to line controls under Clause 20 of WLEP 2000 are considered to be justified and are supported, it being noted that the amended scheme is consistent with the general principles of development control and State Policies as mentioned elsewhere in this report.

(iv) Warringah Local Environmental Plan 2011

The amended scheme has been re-assessed against the provisions of Clause 4.3 – Height of Buildings and Clause 4.6 – Exception to Development Standard of WLEP 2011 and has been found to be consistent with these requirements.

- b) *Additionally, the absence of any meaningful and reasonably sized communal open space or significantly greater private open space for each residential apartment is a fundamental deficiency of the proposal as it would result in inadequate amenity for the future residents of the development.***

Comment:

In response to this issue, the applicant has reconfigured the layout of Level 8 to incorporate approximately 270m² of open roof top terrace area for use as communal open space and roof top garden. This area wraps around the south-western side of the building and provides a generous separation from the higher northern corner element of the building to the adjoining property at No.695 Pittwater Road.

In addition, a further 53m² is provided as an internal community recreation room adjoining the roof terrace providing operable walls between the two spaces.

These new areas in conjunction with the gymnasium on Level 1 (45m²) and various locations for deep soil landscaping also provided on Level 1 (approximately 165m²) equates to a total provision of 29.9% of the total site area as communal open space.

In addition, the amended scheme now incorporates the provision of public toilet facilities within the building to replace the existing public toilet building located within the adjoining St David Avenue Park. The applicant is offering to build the new public toilet facilities (at no cost to Council) in order to improve the amenity for residents who will have views and outlooks to the north over the Park. The relocation of the toilet facilities from the Park to the proposed building will free up 53m² of space within the Park for public recreation purposes, which represents a tangible community benefit.

Therefore, the amended scheme is now considered satisfactory and has adequately responded to this planning concern raised in relation to communal open space.

- c) *Furthermore, the inadequate design of the rear laneway needs to be rectified, which will involve making the ramp gradient more suitable for service vehicles.***

Comment:

The applicant has redesigned the vehicular access arrangements for the proposed development at the St David's Avenue frontage by moving one of the previous driveways to the east of the original location and combining it to provide one dual use driveway access with improved grades. Council's Traffic Engineer has reviewed the amended design and has provided comments supporting the new grades. The rationalisation of the driveway crossings will also enhance the streetscape.

The amended driveway access complies with the relevant Australian Standards and is now designed to the satisfaction of Council's Traffic Engineer. Accordingly, the amended proposal is considered to satisfy the requirements of Clause 72 Traffic Access and Safety within the General Principles of Development Control of WLEP 2000.

d) Waste storage and access

Comment:

As mentioned above, the vehicular access driveway ramp from St David Avenue which services the whole development has been redesigned which to provide grades which comply with the requirements of AS2890.2 and are satisfactory to Council's Traffic Engineer. In addition, the bin storage area for the residential component of the development has been

amended to provide 56 x 240 litre Mobile Garbage Bins (MGB). As the number of units in the development has been amended to 74 units, the provision of 56 x 240 litre bins meets the requirements of the Warringah Waste Management Plan 2010. Further, the layout of the commercial bin room (refer to plan no. RDA04 dated 14.12.2011) provides for 13 x 240 litre bins which meets the requirements of the Warringah Waste Management Plan 2010.

The comments received from Council's Waste Officer in relation to the original scheme specified the following additional requirements:

"The access door to the residential bin room requires the following modifications:-

- Minimum 1200mm wide.*
- Door must swing outwards.*
- Door must be able to be latched in the open position."*

These additional matters can be dealt with by way of a suitable condition of consent which has been included in the draft set of conditions.

The original scheme was not consistent with Clause 70 Site Facilities of the General Principles of Development Control, however, the amended scheme now complies with *Policy No. PL850 Waste* in terms of the bin storage areas. Additionally, Council's Traffic Engineer is satisfied that sufficient access and manoeuvring space has been provided to accommodate a 10.2m waste collection vehicle, the amended proposal is now considered satisfactory in terms of its consistency with CL 70 of the General Principle of Development Control.

e) *Approval is required for this Integrated Development from the NSW Office of Water in relation to temporary construction dewatering.*

Comment:

On 14 December 2011, Council received the outstanding General Terms of Approval (GTA) from the NSW Office of Water. The documentation received from the NSW Office of Water identifies that a Licence under Part 5 of the *Water Act 1912* is required. Further, the Office of Water makes a recommendation that Council issue a "staged consent" as follows:

"Stage 1, corresponding to the demolition of existing buildings and clearing of the surface of the site. The NSW Office of Water does not have a role in licensing these activities where they do not impact on groundwater. However, clearing of the site may be the only means by which access can be gained to install groundwater monitoring bores to address the GTAs. The technical documentation required by the GTAs must be provided to the NSW Office of Water prior to the commencement of Stage 2, at the time of application for a Water Licence for temporary construction dewatering.

Stage 2, comprising excavation at the site and construction of the proposed development. The NSW Office of Water recommends that any consent has a condition that requires the proponent to present proof of receiving the Water Licence to the Private Certifying Authority, before any Construction Certificate is issued at the commencement of Stage 2. The reason for this is that no works that can impact upon groundwater can commence before a licence is obtained."

In response to the contents of the GTA's, contact was made with the Office of Water who clarified that the 'technical documentation' referred to within the recommended Stage 1 is essentially the requirement for the Licence under Part 5 of the *Water Act 1912* to be obtained to ensure that this is in place prior to any groundwater pumping or extraction.

A suitable condition has been imposed requiring the applicant to comply with the requirements of the NSW Office of Water.

f) Additional clarifying information in relation to Light and Ventilation requirements under the Residential Flat Design Code

Comment:

In response to Council's Urban Designers comments on the original scheme, the applicant commissioned *Steve King Consultant Architect* to provide an Expert Opinion Report in relation to solar access and natural ventilation compliance for the amended scheme. The detail provided within this report explains the process undertaken to assess the developments compliance with the solar access and natural ventilation requirements of the Residential Flat Design Code. The following is a summary of the findings in relation to each element:

"Solar access

In the present proposal, quantitative requirements of the applicable DCP and the numerical standards of the RFDC Rules of Thumb are fully satisfied: the number of apartments that are projected to receive over 3 hours of sun to Living areas between 9am and 3pm on June 21 is 53, being 71.6% and over two hours 6 (8%).

Natural Ventilation

In the present proposal, 44 (59.5%) apartments may be characterised as cross-ventilated. The RFDC Rules of Thumb require 60%.

A further 8 (10.7%) apartments are designed and oriented so that they are likely to exhibit enhanced single sided ventilation performance equivalent to cross ventilation...

... The total proportion of apartments which may be deemed to comply for a natural ventilation amenity is therefore 52 apartments, or 70.3%.

In terms of solar access and natural ventilation, the original application contained some ambiguity in relation to how the results reported were achieved and their subsequent compliance with the RFDC. Notwithstanding the building depth still exceeds the maximum of 15 to 27 metres as required by the RFDC, these issues have been resolved to the satisfaction of Council's Urban Designer with the additional Expert Opinion report submitted and discussed above.

Accordingly, the non-compliance with the *Building Depth* in the previous scheme has been satisfied with the additional information provided with the amended scheme.

g) Additional information in relation to the impact of the development on trees (park and church sites)

Comment:

The Applicant has submitted an additional Arborist Report to address the *Eucalyptus botryoides* (Bangalay) located adjacent to the north-west of the site within the rear of the adjoining St David's Uniting Church. Council's Landscape Officer and Parks Reserves and Foreshore Team have reviewed the documentation and raise no further concerns in relation to this matter.

Also, suitable conditions have been provided which have been included in the set of draft conditions. Accordingly, the amended scheme is consistent with the requirements of Clause 58 - Protection of Existing Flora of the General Principles of Development Control of WLEP 2000.

h) Incorporating the toilet facilities within the development to enhance the amenity for the proposed development and the public

As discussed in the original Assessment Report, early discussions with the applicant revealed that it would be a positive outcome to have the existing public toilet block in St David's Park relocated to within the proposed development, noting that it wasn't part of the DA as lodged. The assessment report noted that the provision of such public facilities within the new development would represent a significant *net community benefit* considering the extent of non-compliance with the building height controls under WLEP 2000. However, the matter became problematic after a number of discussions between the applicant and Council officers and was not part of the proposal that was reported to JRPP.

However, the applicant tabled an amended plan at the JRPP meeting on 7 December which included the provision of the public toilets on the ground floor level fronting the park and also forms part of the current amended scheme which is the subject of this supplementary report.

Council's Corporate Lawyer has provided advice in relation to the mechanism for facilitating the provision of the public toilets and has provided requirements to be included in suitable conditions to be imposed on the consent to ensure the toilet facilities are designed to Council's requirements, are transferred into Council's ownership and allow Council to access, maintenance, cleaning, repair and renew as needed.

Ultimately, this will necessitate the demolition of the existing toilet block on St David's Park, however this is a matter for Council as to timing and does not form part of this application, use of Section 94 monies and related upgrade works to the park. Once the existing block is demolished, suitable complying access arrangements will also need to be put in place to enable the new facilities to be commissioned.

The inclusion of new public toilet facilities within the proposed development represents a significant and positive outcome for the community and the future residents of the new shop top housing development.

Other Matters

(i) Private Open Space

The residential units which previously had non-complying balconies have been amended to comply.

(ii) Stormwater Design

The applicant submitted revised stormwater design details which were reviewed by Council's Development Engineering Section and are satisfactory.

PUBLIC CONSULTATION

The Panels decision did not require further public exhibition and such is not required under the Warringah Development Control Plan on the basis that the amendments result in a form of development that will have a lesser environmental impact than that previously exhibited.

The six (6) submissions made in respect of the original scheme were addressed in the original assessment report. Those submissions were received from the following respondents:

Submission	Address
Ruth Sutton	No address provided
Ann Sharp	77 Brighton Street, Curl Curl
Brian Scott	PO Box 1509 Lane Cove
Robert Price	PO Box 6278 Kincumber
Lyn Saunderson	11 Francis Street, Dee Why
St David's Uniting Church	3 St David Avenue, Dee Why (see special note below)

The issues raised in the above submissions have been reviewed as part of the assessment of the amended scheme and the following summary comments are made:

1. Inconsistency with Desired Future Character

Comment: The amended scheme is assessed as being consistent with the DFC for the E9 Locality

2. Visual Impact (inadequate setbacks for upper storeys and scale of the building dominates the street, park and church)

Comment: The visual impact of the amended proposal is assessed as being satisfactory on the grounds that the reduced building height and scale as it presents to St David's Avenue, the church, the park and the adjoining property in Pittwater Road has been lessened and has addressed the previous concerns.

3. Excessive Height fronting Pittwater Road, non-compliance with 4 storey podium and lack of setback of upper floors

Comment: These issues have been satisfactorily addressed in the amended scheme.

4. Adaptable units only on 2 floors. Building is predominantly residential not commercial

Comment: This issue was previously found to be satisfactory and should not carry determining weight.

5. Non-compliance with building height control, in storeys and in lineal height

Comment: The amendments to the design have satisfactorily addressed issues of non-compliance with building height.

6. Non compliance with Build to Lines

Comment: The amendments to the design have satisfactorily addressed issues of non-compliance with build-to lines.

7. Non-compliance with Minimum Floor to Ceiling Heights

Comment: This issue was previously found to be satisfactory and should not carry determining weight.

8. Inconsistency with SEPP 65 and RFDC Guidelines

Comment: The amended proposal is now consistent and so this issue should be given determining weight.

9. Upgrading of the Adjacent Bus Stop (Pittwater Road)

Comment: This issue was previously not concurred with and so should not be given determining weight

10. Provision of the Shared Rear Lane Access

Comment: The amended proposal was rectified the grade issues with the rear lane access way.

11. Traffic Impacts

Comment: This issue was previously found to be satisfactory and should not carry determining weight.

12. Lack of communal Open Space

Comment: The amended proposal provides for adequate communal open space in the form of the roof top terrace and community room. Therefore, this objection should not be given determining weight.

13. Non-compliance with Private Open Space Requirements

Comment: The amended scheme provides for complying balconies for all units.

14. Overdevelopment of the site

Comment: The amended scheme has addressed the shortcomings of the previous scheme and is no longer considered to be an overdevelopment of the site.

15. Excessive bulk and Scale

Comment: The amended scheme is considered to be satisfactory in relation to bulk and scale as the built form has been amended to provide strong corner definition on the northern half of the site and the southern half steps down to adjoining properties and the church.

16. Increased overshadowing of Adjoining Properties

Comment: The amended proposal will reduce the extent of shadow effects on adjoining properties owing to the reduced heights. Overall, the proposal is satisfactory in this regard.

17. Loss of Breezes

Comment: This issue was previously found to be satisfactory and should not carry determining weight.

18. Construction related Impacts

Comment: Suitable conditions of consent have been imposed in relation to management of the construction site and protection of adjoining properties. Therefore, the objection should not be given determining weight.

19. Site Dewatering

Comment: The General Terms of Approval have now been received in relation to this DA, hence consent can be granted. Therefore, this objection should not be given determining weight.

20. Proposed building is incompatible and inappropriate in a beachside suburb, is ugly, has the potential to create a slum and belies the natural beauty of the area

Comment: This issue was previously found to be satisfactory and should not carry determining weight.

New Letter from St David's Anglican Church

The applicant submitted a letter dated 14 December 2011 from the Uniting Church stating that the church has no concerns in relation to the amended plans.

REFERRALS

(i) Parks Reserves and Foreshores

Council's Parks, Reserves and Foreshores Group have reviewed the proposed development and have raised no objections subject to the imposition of specific conditions. In this regard, any works to be carried out within the reserve will require the following:

“A Working on Reserves Permit is required for any works on the reserve on St David Avenue, such as the demolition of the existing toilet block, or a Reserve Vehicular Access Permit will be required if access is required across the reserve for construction purposes. The applications and guidelines for these are available on Council’s website.”

The above requirement has been imposed as a condition in the draft set of conditions.

(ii) Property and Commercial Development

Council’s Property and Commercial Team provided comments in relation to the design, operation and maintenance of the public toilet facilities which are to be provided as part of this development and dedicated to Council. Those matters are included, where relevant, in the draft conditions of consent.

(iii) Heritage

The applicant has submitted an addendum to the original Heritage Impact Statement. This addendum has been considered by Council’s Heritage Adviser who advises that the proposal is now acceptable on heritage grounds with no conditions to be imposed on the consent. The following comments in relation to the heritage assessment were provided:

“This application proposes demolition of the existing vacant retail buildings and the construction of a mixed retail and residential development. The original application was submitted in July 2011, however, in response to consideration by JRPP, revised DA plans were lodged with Council on 19 December 2011.

These heritage comments relate to these revised DA plans.

The original application was accompanied by a Heritage Impact Statement prepared by City Plan Heritage dated June 2011. This heritage advice has now been supplemented by a letter from City Plan Heritage dated 15 December 2011, which provides additional comments on the amended plans submitted to Council on 19 December 2012. In particular, this supplementary heritage advice specifically addressed the impact of the proposed development on the heritage listed Warringah Library building and the Civic Precinct generally.

This additional advice was prompted by previous heritage comments on the original DA plans, which expressed concern that the proposed building had unacceptable impacts upon the heritage significance of Warringah Library.

The original Statement of Heritage Impact, dated June 2011, concluded that the new development “will not be of detrimental impact to the heritage significance of nearby heritage items.” It also stated that “The proposed building will introduce a contemporary apartment design to the streetscape, which is part of the ongoing changing development history and character of the streetscape of Pittwater Road in Dee Why.”

The revised plans have been reviewed and it is agreed that there will be no adverse heritage impact on the existing heritage items in the vicinity of the site.”

(iv) Traffic Management Officer

The amended scheme was assessed by Council’s Traffic Engineer who raises no objections to the proposal and made the following comments:

“The revised access arrangements will allow for a connection to the proposed service lane with ramp grades that meet the requirements of AS2890.2.

I can also confirm that the service area can accommodate a 10.2m waste collection vehicle. A single reverse manoeuvre is required to access the service bay.”

(v) Landscape Officer

The amended plans have been assessed by Council's Landscape Officer who provided the following comments:

"No objections to the proposed planting plan.

Consideration has been made to the original Arborist Report and the Additional Report dated 2/12/2011 prepared by Malcolm Bruce, Environmental Consultant and Arborist.

The proposed re design and re alignment of the driveway will increase the setback distance between the Eucalyptus robusta (Swamp Mahogany) (identified in the report as E. botryoides) located on the adjoining property at St David's Church property and construction activity. Additionally, the provision of the proposed landscape area to the east of this tree will allow for a greater Tree Protection Zone essential for tree stability and for successful long term retention.

Recommendations are made for the natural ground level to be maintained for a minimum radial distance of 3 metre from the tree trunk. General recommendations section 1 and 2 provided in the Arborist report can be followed and Tree Protection Measures as per Australian Standard AS4970 – 2009. Recommendations are also made for a suitably qualified Australian Qualification Framework Level 5 (—AQF5) arboriculturist to be retained throughout the duration of construction works to supervise and monitor Tree Protection.

The London Plane tree (Platanus sp.) is a prominent tree specimen in the streetscape. Tree protection as per Australian Standard AS4970 – 2009. The arborist report recommends a Tree Protection Zone of 9 metres from the tree trunk and the installation of a fence."

Also, special conditions have been provided which are included in the draft set of conditions.

CONCLUSION

This supplementary report provides the results of the assessment of the amended scheme for the proposed shop top housing development as submitted by the applicant on 19 December 2011, in accordance with the Resolution of the Joint Regional Planning Panel (JRPP) of 7 December 2011. This supplementary report should be read in conjunction with the original assessment report for the purposes of background.

The amended scheme was referred to all relevant internal departments within Council for their review and provision of additional comments for consideration in the assessment. It is noted that no further public consultation was required by the JRPP decisions nor is required by Council's WDCP based on the fact that the amendments represent a lessening of the scale, intensity and environmental impact of the proposed development.

The assessment of the original scheme against the provisions of *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development* found that there were inconsistencies with a number of design quality principles, including context, scale, landscape and density, however, the amended scheme has satisfactorily addressed these matters and it is now considered that the proposed development is consistent with the provisions of the SEPP.

In relation to the requirements of the '*Residential Flat Design Code*', the original scheme involved a number of inconsistencies which related primarily to the issue of height (associated with Levels 8 and 9), the lack of communal open space provision and inadequate information in relation to supporting documentation for solar access and natural ventilation within the development. However, the amended scheme has satisfactorily addressed these matters by deleting the loft areas on Level 9 and amending Level 8 to incorporate a communal open space terrace and roof garden which provides increased setbacks from the Pittwater Road frontage, the south-western and north-western boundaries and a better transition in height to the adjoining site. Further, the additional information addressing the methodology used to determine solar access and natural ventilation compliance is considered to be satisfactory in addressing the requirements of the RFDC.

Whilst the proposed development still does not comply with the building height and build-to line controls applying to the E9 – Pittwater Road Locality, the amended scheme is assessed as being consistent with the desired future character statement and the general principles of development control, hence the variations to the building height and build-to line controls are supported under Clause 20 of WLEP 2000.

The amended scheme is consistent with the objectives of Clause 4.3 – Height of buildings of WLEP 2011.

It is noted that the non-compliance with the building height is now primarily focused on the northern half of the site as the building presents to St David's Avenue and the corner park. The applicants submissions that the site is an important '*marker site*' within the Dee Why Town Centre and for this reason the height, build to lines and visual prominence of the building should be accentuated is concurred with as it is consistent with sound urban design principles in a town centre and is a suitable and appropriate planning outcome for the subject site.

The removal of the 'loft' spaces on Level 9 and the reconfiguration of the building mass on Level 8 such that the built form is stepped down in relation to the adjoining site to the south and stepped down in relation to St David's Avenue and the Uniting Church represents a significant improvement in terms of visual bulk and scale. The reduction in building mass and bulk is partly associated with the inclusion of a roof top terrace (to address the communal open space requirements) along the south-western boundary which has the effect of reducing the visual bulk of the building and any associated overshadowing of adjoining properties.

The redesign of the vehicular access from St David's Avenue in the form of a single driveway ramp, located further east than originally proposed, has resolved the issue in relation to the driveway grades and now complies with the relevant Australian Standard and is to the satisfaction of Council's Traffic Engineer. Further, these amendments have enabled sufficient space to be provided for accommodating a 10.2m waste collection vehicle, a landscaped buffer to the adjoining church and has addressed the impact on the tree on the church site.

In relation to Urban Design, the amended scheme for the proposed development on balance is worthy of support on the following grounds:

- *The site has a prominent location at the Dee Why Town Centre major junction of Pittwater Road, Howard Avenue and St. David Avenue and is considered an important focal point.*
- *Considering the location of the site near the heart of Dee Why Town Centre, the building height, although higher in storey count, is still predominantly within the 24m building height plane.*
- *The amended scheme is supported on the basis that the communal open space has been provided and the right-of-carriageway issues have been rectified.*
- *The built form can be more prominent to define the corner of a major junction and be at a contextually fitting scale to the adjoining buildings, streetscape and future Multiplex Development.*

The provision of the public toilets within the development represents a community benefit and provides further justification for a departure from the controls.

The amended scheme is assessed as now being consistent with the General Principles of Development Control under WLEP 2000, including Clauses 58 Flora and Fauna, 70 Site Facilities, 72 Traffic Access, 76 Management of Stormwater and 82 Heritage.

Council's Landscape Officer and Parks Reserves and Foreshores Team have reviewed the additional information submitted in relation to the impact of the development on trees (located with the park and the church sites) and raise no concerns subject to conditions which have been included in the draft set of conditions.

The previously outstanding General Terms of Approval have now been provided by the NSW Office of Water in relation to temporary construction dewatering.

The amended scheme incorporates new public toilet amenities within the building which will allow the existing toilet block on the adjoining St David Park to be demolished. Suitable conditions have been imposed on the consent to facilitate the dedication to Council.

Accordingly, it is recommended that the amended scheme be approved.

RECOMMENDATION - APPROVAL

That the Joint Regional Planning Panel (JRPP) for the Sydney East Region grant development consent to Development Application No. 2011/0887 for demolition works and construction of a mixed retail, commercial and residential development and use of premises as retail shops, café, residential units and provision of public amenities at Lot B, DP 381816, Lot 4, DP 417528 and Lot 1, DP 300967, Nos. 697, 699 and 701 Pittwater Road, Dee Why subject to the attached conditions.

DRAFT SET OF CONDITIONS

GENERAL CONDITIONS

CONDITIONS THAT IDENTIFY APPROVED PLANS

1. Approved Plans and Supporting Documentation

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

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
RDA01 – Site Analysis (Site Plan)	14.12.2011	Kann Finch Group
RDA02 – Basement 2 & Basement 1	14.12.2011	Kann Finch Group
RDA03 – Lower Ground & Ground Floor Plan	14.12.2011	Kann Finch Group
RDA04 – Level 1 and Level 2	14.12.2011	Kann Finch Group
RDA05 – Level 2 - Levels 4-6	14.12.2011	Kann Finch Group
RDA06 – Level 7 & 8	14.12.2011	Kann Finch Group
RDA07 – Roof Level	14.12.2011	Kann Finch Group
RDA08 – Section	14.12.2011	Kann Finch Group
RDA09 – Sections	14.12.2011	Kann Finch Group
RDA10 – South & East Elevation	14.12.2011	Kann Finch Group
RDA11 – North & West Elevation	14.12.2011	Kann Finch Group

Reports/Documentation – All requirements and recommendations contained within:		
Report/Document	Dated	Prepared By
Geotechnical Study	24 June 2011	Coffey Geotechnics Pty Ltd
Traffic and Parking Assessment Report	1 July 2011	Halcrow
Traffic and Parking Review	15 December 2011	Halcrow
Arborist Report	10 June 2011	Malcolm Bruce Environmental Consultant and Arborist
Additional Arborist Report	2 December 2011	Malcolm Bruce Environmental Consultant and Arborist
Access Statement of Compliance	14 December 2011	Accessible Building Solutions

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

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

Landscape Plan		
Drawing Number	Dated	Prepared By
11002R – SK01 – Planting Plan Level 1 and Ground Level	December 2011	Aspect Studios
11002R – SK02 - Planting Plan – Level 8	December 2011	Aspect Studios
11002R – SK03 – Planting Palette	December 2011	Aspect Studios

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

2. Compliance with External Department, Authority or Service Requirements

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

External Department, Authority or Service	E-Services Reference	Dated
NSW Office of Water	General terms of approval – office of water DA2011/0887	14/12/2011
Transport Roads & Maritime Services (RMS)	RTA referral response	26/08/2011
NSW Police Force	Northern Beaches Police Referral Response	7/11/2011
Ausgrid	Response Ausgrid Referral	25/07/2011
State Transit	Response State Transit Authority Referral	3/08/2011

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

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of External Department, Authority or Bodies. (DACPLB02)

3. No Approval for any Signage

No approval is granted under this Development Consent for signs (as defined under Warringah Local Environment Plan 2000 and State Environmental Planning Policy No. 64). A separate Development Application for any signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

Reason: Control of signage. (DACPLB06)

4. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

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

- (c) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:

A. the name and licence number of the principal contractor, and

- B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative Requirement. (DACPLB09)

5. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:
7.00 am to 5.00 pm inclusive Monday to Friday
8.00 am to 1.00 pm inclusive on Saturday,
No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:
8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

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

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

6. Section 94A Contributions

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

Warringah Section 94A Development Contributions Plan		
Contribution based on total development cost of		\$ 20,344,000.00
Contribution - all parts Warringah	Levy Rate	Contribution Payable
Total S94A Levy	0.95%	193,268
S94A Planning and Administration	0.05%	10,172
Total	1.0%	\$203,440

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

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

7. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

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

Reason: To ensure the development is constructed in accordance with appropriate standards.

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'**
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 - 2009* Design for access and mobility - General requirements for access - New building work**
- (m) AS 1428.2 - 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

***Note:** The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website http://www.humanrights.gov.au/disability_rights/buildings/good.htm

****Note:** the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to.

8. Development of a Fit out Design to Councils Specifications for the Amenities Block

A Fit out Design must be developed to the satisfaction of Council for the construction of an accessible amenities block with separately metered water and electricity services within the subject development.

In particular, the design should include at least the following:

- (a) Reverse the location of male & female toilets. i.e. female to be closest to Pittwater Road
- (b) Access doors to be fitted with remote locking capability similar to other Council toilets
- (c) Construct solid wall between sub-station and new building to eliminate 'hiding' spot. Recommend same finish as rest of main building.
- (d) Toilets must be DDA compliant in all aspects, including access from Pittwater Road and St.Davids Avenue, access into the accessible toilet, internal spaces and fit out.

Detailed plans relating to the construction and fit out specifications for the amenities are to be approved by Council's Delegate (Note: Council's Buildings, Property and Spatial Information Manager is the relevant Officer at the time of determination) prior to the issue of a Construction Certificate.

Reason: To ensure that the appropriate design specifications are incorporated in accordance with Council's requirements.

9. Sewer/Water Quickcheck

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- a. Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- b. Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- c. Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water.
(DACPLC12)

10. Access Door to the Residential Bin Room

The access door to the Residential Bin Room shall be modified in the following way:

- (a) Minimum door width of 1200mm
- (b) Outwards swinging door
- (c) Door must be able to be latched in the outward opening position

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

Reason: To ensure that the Residential Bin Room fit out complies with the Warringah Waste Management Plan.

11. External Colours and Materials (Industrial, Commercial, Mixed & Apartment Buildings)

(a) External Glazing

The reflectivity index of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20% (expressed as a per centum of the reflected light falling upon any surface).

(b) External Roofing

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

(c) Anti Graffiti Coating

The finishes of the walls must be finished in heavy duty long life, ultra violet resistant coating with a high resistance to solvents and chemicals as an anti-graffiti coating easily cleaned by solvent wipe.

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

Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development. (DACPLC04)

12. Soil depth in planter boxes

Planter boxes and garden areas identified at Ground Floor, Level 1 and Level 8 are to accommodate soil to a depth of no less than 1.0m.

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

Reason: To ensure that sufficient garden bed depths are provided to support the establishment of quality landscape plantings.

13. Communal Open Space Details

Detailed plans of the communal open space recreation areas on the roof top terraces on Level 8 are to be submitted to the satisfaction of the Certifying Authority prior to the submission of a Construction Certificate. Details are to include seating, paving, landscaping, barbeque facilities, play equipment, and water features.

Reason: To ensure the design, location and type of communal recreational facilities are appropriate for the development.

14. Waterproofing/Tanking of Basement Level

The basement area is to be permanently tanked or waterproofed. Details of the waterproofing/ tanking are to be prepared by a suitably qualified Engineer.

Where dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the Department of Water and Energy. The bore license must be obtained prior to commencement of dewatering works. All requirements of the Office of Water are to be complied with and a copy of the approval must be submitted to the Certifying Authority.

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

Reason: To prevent ingress of sub-surface flows into the basement area and to comply with State Government Requirements. (DACENC14)

15. Utilities Services

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

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

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

16. Structural Adequacy and Excavation Work

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

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

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

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

Reason: Safety. (DACENC19)

17. Shoring of Adjoining Property

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

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

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land. (DACENCO5)

18. Dilapidation Survey

A photographic survey of adjoining properties detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to Council and the Certifying Authority (where Council does not issue the Construction Certificate) prior to the issue of a Construction Certificate. This survey is to be prepared by an appropriately qualified independent person agreed to in writing by both the applicant and the owner of the adjoining property.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant MUST DEMONSTRATE, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

(Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible)

Reason: Proper management of records.

19. Allocation of Spaces

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

No. of Spaces	Component
84	Residential
29	Retail - Visitors
9	Spaces for persons with a disability

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

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

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

20. Visitor Car parking

Visitor car parking must be permanently available, freely accessible and clearly marked / signposted. The visitor car parking spaces are not to be allocated to individual units / tenancies. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure visitor carparking is available at all times and is clearly identified. (DACPLG02)

21. Car park vents

Any exhaust vents associated with the basement car park are to be located such that no residential dwelling within the property or surrounding the property will be affected by fumes and noise greater than 5dBA above the background noise when measured at the property boundary.

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

Reason: Protection of amenity and health.

22. Loading Within Site

All loading and unloading operations shall be carried out wholly within the confines of the site and within the approved loading areas, at all times.

Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian safety and amenity. (DACPLG20)

23. Vehicle Egress Signs

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

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

Reason: To ensure pedestrian safety. (DACPLG03)

24. Parking Enclosure

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

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

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

25. Damage to Public Infrastructure

The applicant shall bear the cost of all restoration works to Council's property damaged during the course of this development. The applicant shall advise Council, in writing, of any existing damage to Council property before commencement of the development. A dilapidation survey of Council's assets, including photographs and written record, must be prepared by a suitably qualified person and submitted to Council prior to the issuing of any Construction Certificate.

Note: This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicant's interest for it to be as full and detailed as possible.

Reason: To ensure the protection of existing built public infrastructure.

26. Bonds

The following bonds are payable:

(a) Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

A Bond of \$10,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter and any footpath works required as part of this consent.

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

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

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

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

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

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

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

27. On-site Stormwater Detention Compliance Certification

Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Warringah Council's "On-site Stormwater Detention Technical Specification" and the concept drawing by Demlakian Engineering, drawing number 208142 dated 14 December 2011.

Approval must be obtained from Roads & Maritimes Service to discharge stormwater into the existing surface inlet pit in Pittwater Road. All requirements of Roads & Maritime Services must be complied with. Written approval from Roads & Maritime Services must be submitted to the Principal Certifying Authority.

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

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development. (DACENC03)

28. Pump-Out System Design for Stormwater Disposal

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

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

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

29. Shoring of Adjoining Property

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

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

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

30. Vehicle Crossings Application Formwork Inspection

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

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

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

31. Vehicle Driveway Gradients

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in Council's Minor Works Policy.

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

Reason: To ensure suitable vehicular access to private property. (DACENC13)

32. Waterproofing/Tanking of Basement Level

The basement area is to be permanently tanked or waterproofed. Details of the waterproofing/ tanking are to be prepared by a suitably qualified Engineer.

Where temporary dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW

Office of Water. The bore license must be obtained prior to commencement of dewatering works. All requirements of the NSW Office of Water including the General Terms of Approval from the NSW Office of Water are to be complied with. A copy of the approval must be submitted to the Certifying Authority.

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

Reason: To prevent ingress of sub-surface flows into the basement area and to comply with State Government Requirements. (Special condition)

33. Geo-Technical Report

A Geo-Technical Report and certificate shall be prepared by an appropriately qualified Geo-technical Engineer certifying that the existing rock formations and substrate on the site are capable of withstanding:

- (a) the proposed loads to be imposed;
- (b) the extent of the proposed excavation, including any recommendations for shoring works that may be required to ensure the stability of the excavation;
- (c) protection of adjoining properties;
- (d) the provision of appropriate subsoil drainage during and upon completion of construction works.

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

Reason: To ensure the structural integrity of the subject site and adjoining sites during the excavation process. (DACPLC14)

34. Food Premises

The premises shall comply with the requirements of Australian Standards 4674 (Design, Construction and Fit Out of Food Premises).

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

Reason: To ensure compliance with the applicable food standards. (DACHPC06)

35. Mechanical ventilation

Mechanical ventilation must comply with AS 1668 Parts 1 and 2 and the exhaust hood and air conditioning system has been installed in accordance with AS 1668 and AS1055.

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

Reason: To ensure compliance with applicable standards. (DACHPC07)

36. Waste/Recycling Requirements to comply with Policy

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

Note: If the proposal, when compliant with Warringah Council's Policy Number PL 850 - Waste, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

37. Construction Management Program (Commercial and Mixed use Development)

A Construction Management Program shall be submitted and approved by the Warringah Council Traffic Committee PRIOR TO THE ISSUE OF ANY Construction Certificate. Any use of Council property shall require appropriate approvals. The program shall detail:

1. The proposed method of access to and egress from the site for construction vehicle, including the proposed method of traffic control, access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area. Access across public parks and open space reserves is prohibited. Site access and egress is to be generally obtained from St David Avenue;
2. The proposed phases of construction works on the site, and the expected duration of each construction phase;
3. The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
4. The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process;
5. The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. On site crainage is a requirement of this consent. Mobile cranes if used shall be located wholly within the site or only utilised during the demolition and excavation phase, and in association with the establishment and removal of a site crane, removal of excavation equipment and the like;
6. The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
7. The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
8. The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer and shall not involve any permanent or temporary encroachment onto Council's property;
9. Proposed protection for Council and adjoining properties. Details are to include site fencing and the provision of hoardings over footpaths and laneways;
10. The location and operation of any on site crane; and
11. The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

38. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land. (DACEND01)

39. Working on Reserves and Reserves Vehicular Access Permit

Prior to any works on the reserve on St David Avenue or access across the reserve for construction purposes, a Working on Reserves Permit or Vehicular Access Permit must be obtained from Council.

Reason: To ensure appropriate access and consent is obtained for activities on the Reserve.

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

40. Property Boundary Levels

The property boundary levels shall match the existing levels except where modified for the vehicular crossing. The applicant shall design and construct having regard for the existing levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

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

Reason: To maintain the existing profile of the nature strip/road reserve. (DACENE01)

41. Installation and Maintenance of Sediment Control

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

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

42. Vehicle Crossings

The provision of one vehicle crossing 6.7 metres wide in accordance with Warringah Council Drawing No A4-3330/1 Normal and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property. (DACENE05)

43. Footpath Construction

The applicant shall construct full width paving along Pittwater Road frontage. The works shall be in accordance with the following:

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

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

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

44. Layback Construction

A layback 6.7 metres wide (excluding the wings) is to be constructed in accordance with Warringah Council Drawing No A4-2276 and specifications.

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

45. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety. (DACENE09)

46. Installation and Maintenance of Sediment Control

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

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

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

47. Traffic Control During Road Works

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

Reason: Public Safety. (DACENE11)

48. Waterproofing/Tanking of Basement Level - Certification

Certification certifying that the basement level is permanently tanked or waterproofed to prevent the ingress of sub-surface flows / groundwater into the basement area. Certification is to be provided by an Accredited Certifier suitably accredited with the Building Professionals Board in the relevant area of expertise.

Details demonstrating compliance are to be submitted to the Certifying Authority prior pouring of concrete for the ground floor level.

Reason: To prevent the ingress of sub-surface flows / groundwater into the basement area. (Special condition)

49. Requirement to Notify about New Contamination Evidence

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

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

50. Protection of Trees During Works

The natural ground level shall be maintained for a minimum radial distance of 3 metre from the tree trunk of the Eucalyptus robusta (Swamp Mahogany) (identified in the report as E. botryoides) located on the adjoining property at St Davids Church. A suitably qualified Australian Qualification Framework Level 5 (—AQF5) arboriculturist to be retained throughout the duration of construction works to supervise and monitor Tree Protection of trees to be retained. Tree Protection Measures as per Australian Standard AS4970 – 2009.

Reason: To ensure the protection and longevity of existing trees.

51. Trees Condition

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all

identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

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

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

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

Reason: Protection of Trees. (DACLA03)

52. Tree Pruning

Any tree pruning necessary for construction shall be carried out by a suitably qualified person with a minimum AQF level 3 Certificate of Horticulture (Arboriculture) and with a minimum of \$5 million Public Liability Insurance. All works must be carried out in accordance with the Australian Standards 4373-2007 'Pruning of Amenity Trees' and the WorkCover 'Code of Practice: Amenity tree industry' 1998

Reason: To ensure protection and longevity of existing trees.

53. Trees and / or Landscaping

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

Existing trees which must be retained:

Approval is NOT granted for the removal of the following trees, which Council has determined to be significant landscape elements.

All trees not identified for removal on the site analysis- Endorsed with Council's stamp		
Drawing Number	Dated	Prepared By
6195 DA01	06/07/11	KannFinch Group

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

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

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

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

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

prior to the issue of any interim / final Occupation Certificate.

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

55. Registration of Encumbrances for On-site Stormwater Detention

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

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

Reason: To identify encumbrances on land. (DACENF02)

56. Reinstatement of Kerb

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

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

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

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

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

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

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

58. On-Site Stormwater Detention Compliance Certification

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

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

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

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

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

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

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

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

60. Positive Covenant for On-site Stormwater Detention

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

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

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

61. Creation of Positive Covenant and Restriction as a User

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

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

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

Reason: To identify encumbrances on land. (DACENF14)

62. Environmental Report Certification

Written certification from a suitably qualified person(s) shall submit to the Principal Certifying Authority and Warringah Council, stating that all the recommendations of the Stage 1 Environmental Site Report prepared by Coffey Environments Report No. GEOTLCOV24307AA-AC dated 30 June 2011.

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

Reason: To ensure compliance with standards.

63. Separate Commercial and Residential Garbage and Recycling Rooms

Physically separated commercial and residential waste storage rooms that are designed so they are easy to clean, suitably ventilated and managed to prevent pests shall be provided within the premises for the storage of all garbage bins and recycling containers and all other waste and recyclable material generated by this premises.

All internal walls of the garbage storage area shall be rendered to a smooth surface, covered at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning. The commercial and residential garbage rooms must be adequately labelled.

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

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

64. Provisions relating to Council's Amenity Block

Provision of the following items to be documented:

- Ongoing insurance maintenance and repair of the building structure including any common areas and party walls at no cost to Council.
- That Council shall not be required to contribute by way of any strata levies or the like towards the development.

Any necessary Building Management Statement, relevant By laws, S88B instruments, covenant, caveats or agreements to give affect to the above items are to be submitted for Council's endorsement prior to the issue of any Interim / Final Occupation Certificate.

Reason: To ensure that the appropriate provisions relating to the ongoing management and maintenance of the public amenities is documented.

65. Completion of Public Amenities

The amenities building is to be completed to Council's satisfaction and details in writing provided to the Certifying Authority prior to the issue of any interim or final occupation certificate for the development.

Reason: To ensure completion of the public amenities to Council's satisfaction.

66. Creation and dedication to Council of a Stratum Lot for the Public Amenities

Creation and dedication to Council (at no cost to Council) of a separate unencumbered stratum lot for the accessible amenities block is required prior to the issue of an interim/final occupation certificate.

The transfer of the subject Lot to Council is to be simultaneous with the registration of the stratum subdivision of the development site.

Reason: To ensure appropriate provisions are in place in relation to the ownership of the public amenities.

67. Fire Safety Matters

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

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

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000. (DACPLF07)

68. Vehicle Egress Signs

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

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

Reason: To ensure pedestrian safety. (DACPLG03)

69. Visitors Sign

A sign, legible from the street, shall be permanently displayed to indicate that visitor parking is available on the site and the visitor car parking spaces shall be clearly marked as such.

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

Reason: To ensure that visitors are aware that parking is available on site and to identify those spaces to visitors. (DACPLG04)

70. Waste/Recycling (Certificate of Compliance with Policy)

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

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

Reason: To ensure waste and recycling facilities are provided.

71. Positive Covenant for Waste Services

A positive covenant shall be created on the title of the land requiring the proprietor of the land to provide access to the waste storage facilities prior to the issue of an Interim/Final Occupation Certificate. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities

72. House/Building Number

House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings. (DACPLF04)

73. Intercom

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

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

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

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

74. Commercial Waste Collection

Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

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

75. Delivery Hours

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

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

76. Signs/Goods in the Public Way

No signs or goods are to be placed on the footway or roadway adjacent to the property.

Reason: To ensure pedestrian safety and to protect the streetscape. (DACPLG15)

77. Hours of Operation

The hours of operation are to be restricted to 6am to 11pm Monday to Saturday and 7am to 10pm Sunday (inclusive).

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained. (DACPLG08)