

**JOINT REGIONAL PLANNING PANEL
Sydney East Region**

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| JRPP No | JRPP Reference Number – 2012SYE042 |
| Development Application No. | Mod2012/0087 |
| Local Government Area | Warringah Council |
| Proposed Development | MOD2012/0087 – Modification of Development Consent No. DA2011/0887 granted for demolition works and construction of a mixed retail, commercial and residential development and use of premises as retail shops, a café and residential units |
| Street Address | Nos.697, 699 and 701 Pittwater Road, Dee Why |
| Applicant/Owner | Jubilee Properties Pty Ltd |
| Number of Submissions | 2 |
| Recommendation | Approval |
| Report by | Peter Robinson, Group Manager, Development and Compliance Services |

**S96(2) Application To Modify A Development Consent
Assessment Report**

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| Assessment Officer: | Renee Ezzy and Steve Findlay |
| Application Lodged: | 4/05/2012 |
| Plans Reference: | <u>Architectural Plans</u> S96-A01 to S96-A11, prepared by Kann Finch Group <u>Landscape Plans</u> 11002R-SK01 (Rev03) –Planting Plan Level 1 and Ground Level, 11002R-SK02 (Rev02) –Planting Plan Level 8 11002R-SK03 (Rev03) –Planting Palette Prepared by Aspect Studios Dated February 2012 |
| Amended Plans: | N/A |
| Owner: | Jubilee Properties Pty Limited |

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| WLEP 2000 Locality (repealed) | E9 – Pittwater Road Locality |
| WLEP 2011 Zoning and Permissibility | B4 - Mixed Use - Permissible |
| Variations to Controls (Cl.4.6): | YES – Building height |
| WDCP Dee Why Mixed Use Area | Area 7 – Pittwater Road |
| Referred to WDAP: | NO, as S96(2) Application triggers JRPP |
| Land and Environment Court Action: | None at the time of writing this report |
| 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 |
| Assessment Issues: | Council's Urban Designers review, WDCP, SEPP 65 and RFDC and waste management. |
| Recommendation | Approval, subject to conditions |
| Attachments: | Original Assessment Report to JRPP |

LOCALITY PLAN (not to scale)



- Subject Site:** Lot B, DP 381816, Lot 4 DP 417528, and Lot 1 DP 300967 - Nos.697, 699 and 701 Pittwater Road, Dee Why.
- Public Exhibition:** The subject application was publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan.
- As a result, the application was notified to 784 adjoining landowners and occupiers for a period of 30 calendar days commencing on 11 May 2012 and being finalised on 14 June 2012. Furthermore, the application was advertised within the Manly Daily on 12 May 2012 and a notice was placed upon the site.

SITE DESCRIPTION

The site comprises three (3) allotments, including; Lot B, DP 381816, Lot 4, DP 417528 and Lot 1, DP 300967 and is known as Nos. 697, 699 and 701 Pittwater Road, Dee Why. The subject site is located on the northern side of Pittwater Road, adjoining St David Avenue Park at the intersection with St David Avenue.

The site has a total area of 1,777sqm, is irregular in shape and has frontages to both Pittwater Road (primary frontage) and St David Avenue (secondary frontage). The frontage to Pittwater Road is 35.965m and the frontage to St David Avenue is 14.575m.

On 14 February 2008, a Construction Certificate was issued by Local Certification Services and the development has been physically commenced, as confirmed by Council.

RELEVANT BACKGROUND

Development Application No. DA2011/0887 (Current Approved DA)

On 14 July 2011, Development Application No. DA2011/0887 was lodged with Council and was required to be considered by the Joint Regional Planning Panel as the consent authority as the proposed development had an estimated cost in excess of \$10 million.

Preliminary Briefing to the Joint Regional Planning Panel (JRPP)

On 14 September 2011, the application was the subject of a briefing before the Joint Regional Planning Panel, wherein the matter was set down for a determination date of 7 December 2011.

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 were stated 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.

The applicant submitted amended plans in accordance on 19 December 2011.

On 25 January 2012, a Supplementary Report on the abovementioned amended plans was considered by the JRPP member's. The assessment report made a recommendation for approval which was endorsed on 30 January 2012 and the DA was approved.

PROPOSED MODIFICATIONS

On 4 May 2012, Modification Application No. MOD2012/0087 was lodged with Council. The modification to the existing consent is made pursuant to Section 96(2) and consists of the following:

1. *Modifications to Overall Development*

The modified proposal proposes to increase the number of residential apartments from 74 to 85. The proposed new unit mix is as follows:

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|-----------------------------------|
| 45 x 1 bedroom apartments |
| 25 x 1 bedroom + study apartments |
| 7 x 2 bedroom apartments |
| 12 x 2 bedroom + study apartments |

Reduction in retail floor area from 284m² to 187m²

Increased FSR from 4.08:1 to 4.15:1

Parking increased from 113 spaces to 118 spaces

2. *Modifications by Level*

Basement Level 1

- Basement 2 deleted and Basement 1 level lowered to RL 13.71 from RL 14.6;
- Ramp grade amended to new levels;
- Lift cores amalgamated into a single central area
- Parking aisle configuration revised and plant relocated
- Storage relocated, grease arrestor added

Lower Ground Floor Level

- Void to B1 on western boundary deleted;
- Lower Ground changed to a complete level and RL's revised to RL 16.510
- Parking allocation changed to residential (51 spaces);
- Ramp grades revised
- Parking aisle configuration revised and goods lift deleted
- Storage relocated, plant rooms added

Ground Floor Level

- Basement parking RL revised to RL 19.55;
- Entry/exit ramp extended;
- Two additional car spaces and switch room added;
- Public toilets location and design revised
- Roller shutter to top of ramp added
- Single Lift lobby provided due to revised amalgamation of lift core;
- Service corridor, storage and plant rooms added;
- Retail areas and associated storage revised;
- Column grid revised;
- Booster cupboard added at Pittwater Road frontage.

Level 1

- Loading dock, garbage rooms and plant room layout revised;
- Goods lift location revised
- Loft apartments 1:06 and 2:05 changed to single level through apartment 1:07
- Envelope changes to Pittwater Road façade – infill of part of setback with amended apartment 1:04 and 1:03 (Refer to Level 01 Plan S96-A04)
- Adjustments to internal apartment layouts

Level 2

- Apartment mix revised and adjustments to internal apartment layouts;
- Separate lift cores and corridors amalgamated;
- Envelope changes to Pittwater Road façade – infill of part of setback with amended apartment 2:04 and 2:03 (Refer to Level 02 Plan S96-A04)

Level 3

- Apartment mix revised and adjustments to internal apartment layouts;
- Separate lift cores and corridors amalgamated;
- Envelope changes to Pittwater Road façade – infill of part of setback with amended apartment 3:07, 3:04 and 3:03 (Refer to Level 3 & Levels 4-6 Plan S96-A05)

Levels 4 to 6

- Apartment mix revised and adjustments to internal apartment layout
- Separate lift cores and corridors amalgamated
- Envelope changes to Pittwater Road façade – infill of part of setback with amended apartment 4:07, 5:07, 6:07, 4:04, 5:04, 6:04 and 4:03, 5:03, 6:03 (Refer to Level 3 & Levels 4-6 Plan S96-A05);
- Envelope changes to north-east and north-west elevations – infill of setback at apartment 4:12, 5:12 and 6:12. Increased setbacks at apartments 4:11, 5:11, 6:11 and 4:02, 5:02 and 6:02.

Level 7

- Apartment mix revised and adjustments to internal apartment layouts
- Separate lift cores and corridors amalgamated
- Envelope changes as indicated on plans
- Envelope changes to Pittwater Road façade – infill of part of setback with amended apartment 7:04 and 7:03 (Refer to Level 7 & 8 Plan S96-A06). Small increase to setback to apartment 7:06.
- Envelope changes to north-east and north-west elevations – infill of setback at apartment 7:11. Increased setbacks at apartments 7:11, 7:10, and 7:02.

Level 8

- Terraced area south of communal room extended to the north;
- Terraced area adjoining fire stair enlarged due to amalgamated lift cores;
- Western wall to Apartment 8:02 extended into setback;
- South-western blade wall to terrace landscaping pulled back;
- Apartment mix revised and adjustments to internal layout;
- New façade setback between apartments 8:01 and 8:05.

Roof Level

- Screened plant area added
- Roof light to Apartment 8.03 deleted
- Extent of pergola revised

South Elevation

- Ground level - columns added at entry;;
- Ground level - retail column layout revised
- Extent of frame element to levels 01-03 revised to emphasise light slot;
- Structural grid revised to reflect internal layout changes;
- Lift overrun and fire stair height revised.

East Elevation

- Additional apartment added at Level 2 (apartment 2:11);
- Ground level - columns added at entry;
- Roof level plant screen enclosure added;
- Public toilets added;
- Glass louvre screen added to Level 01 and 02 corner apartments;
- Light slot extended through Level 08;
- Structural grid revised to reflect Internal layout changes.

North Elevation

- Roof light deleted;
- Lift overrun and fire stair height revised;
- Basement levels and extent revised;
- Façade modifications to reflect internal changes to north east apartments.

West Elevation

- Fire rated glass block openings added to western boundary wall;
- Feature paint finish added to western wall;
- Extent of western boundary wall reduced on southern end;
- Fire stair height revised.

3. Modifications to Conditions

Condition 1 - Amend architectural and landscaping plans references to reflect modified plans.

Condition 2 - The Roads & Maritime Services (RMS) referral response to Council on the original DA dated 26 August 2011 states under point 10 *"Full time no stopping restrictions shall be installed along the entire St David Avenue property frontage to improve sight distance"*.

Condition 6 – The development costs for the proposed development have been reduced with the proposed modifications. The total development cost is now lower being \$18,810,000. Accordingly, the Section 94A contribution levy is requested to be amended to reflect the lower base cost.

Condition 8 (c) & (d) – Amend wording to reflect Council's responsibility to undertake any necessary works within St David's Park in respect to construction of a solid wall between the existing electricity substation and the new building and providing DDA compliant access from Pittwater Road and St David Avenue across St David's Park to the new public toilet facility within the proposed mixed use building.

Condition 11 (c) - Anti-graffiti coating to all the walls should be limited to the ground floor up to a height of 3 metres and not the whole proposed mixed use building.

Condition 13 – Amend wording to delete the requirement for provision of play equipment and water features to be provided on the rooftop communal open space area.

Condition 19 – Amend condition to reflect the amended carparking provision of 89 resident, 29 visitor and commercial car parking spaces (i.e. a total of 118 spaces) and 9 spaces for persons with a disability for the amended proposal.

Condition 50 – Amend condition in relation to the specified 3 metre radial distance required from the tree trunk. Request that the protection of this tree on the adjoining St David's Church site should be in accordance with the recommendations in the Additional Arborist Report prepared by Malcolm Bruce, Environmental Consultant and Arborist dated 12 December 2011.

Condition 64 – Amend condition to clarify responsibilities in relation to ongoing insurance, maintenance and repairs of the new public toilets. The public toilets within the new building will be created and dedicated to Council as a stratum lot rather than as a strata lot in the proposed subdivision of the new building. It is also requested that endorsement by Council of any relevant title/legal documents relating to the stratum subdivision of the proposed building should be prior to the Final Occupation Certificate and not prior to any Interim Occupation Certificate.

Condition 65 – Amend condition to read:

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 a Final Occupation Certificate for the development."

Condition 66 – Amend condition, removing word "interim" so that condition reads:

"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 a Final Occupation Certificate."

Condition 71 - The amended architectural plans show the location of the proposed intercom system to access visitor car parking within the car parking levels of the proposed mixed use building and accordingly, this condition should be amended to refer to the amended plans.

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979
- b) Environmental Planning and Assessment Regulation 2000
- c) State Environmental Planning Policy No. 55 – Remediation of Land
- d) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- e) State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development
- f) State Environmental Planning Policy (Infrastructure) 2007
- g) Warringah Local Environment Plan 2011
- h) Warringah Development Control Plan
- i) Warringah Section 94A Development Contributions Plan

PUBLIC EXHIBITION

The application was publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan. As a result, two (2) submissions were received and are detailed as follows:

| Submission | Address |
|------------|---------------------------------|
| Ann Sharp | 77 Brighton Street, Curl Curl |
| Daniel Lee | 5/13-15 Francis Street, Dee Why |

The matters raised within the submissions are as follows:

- **Inconsistency with Desired Future Character**
- **Visual impact – inadequate setbacks for upper storeys and scale**
- **Adaptable units only on 2 floors, building is predominantly residential not commercial**
- **Non-compliance with building height, in storeys and in lineal height**
- **Non-compliance with Build to Lines**
- **Non-compliance with Minimum Floor to Ceiling heights**
- **Inconsistency with SEPP 65 and RFDC Guidelines**
- **Upgrading of adjacent bus stop (Pittwater Road)**
- **Provision of shared rear lane access**
- **Traffic impacts**
- **Car parking**
- **Waste management**
- **Non-compliance with Private Open Space requirements**
- **Overdevelopment of the site**

Comment: The issues detailed above were contained within the same submission lodged by the respondents to the original development application (DA2011/0887). The issues were addressed in detail as part of the assessment against Warringah Local Environmental Plan 2000, SEPP 65 and other relevant planning legislation.

Generally, the issues were addressed through the imposition of conditions or were not considered to carry determining weight in the assessment report, which was subsequently endorsed by the JRPP.

In relation to the proposed modifications, the issues which require some re-assessment are in relation to:

- Setbacks to Pittwater Road
- Non-compliance with Build to Lines
- Traffic Impacts
- Overdevelopment of the Site

These matters are addressed in the various sections of this report and it is considered that the nature and extent of the changes to the approved development do not materially change the position with respect to the issues raised by the respondents as there are no fundamental changes to the proposed development which alter the outcome with respect to these matters.

Therefore, the resident's issues do not warrant refusal or amendment to the current application.

REFERRALS

EXTERNAL REFERRALS

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| NSW Office of Water |
| <p>The modification application was re-referred to NSW Office of Water as it is an Integrated Development pursuant to Section 91 of the Environmental Planning and Assessment Act 1979, requiring an approval under the Water Management Act 2000 for temporary construction dewatering. General Terms of Approval have been issued for the original DA.</p> <p>It is noted that the NSW Office of Water have not issued amended General Terms of Approval at the time of writing this report, hence the original GTA's still apply.</p> |
| Transport Roads & Maritimes Services (RMS) |
| <p>The application was re-referred to the RMS in accordance with State Environmental Planning Policy (Infrastructure) 2007.</p> <p>The comments received from the RMS in relation SEPP Infrastructure have been addressed under the heading "SEPP (Infrastructure) 2007 of this report. In summary, the RMS has raised objections to the proposed amendment to Condition No. 2 which excludes the 'No Stopping' restrictions. In response to the Applicants proposed amendment to the condition, the RMS have provided alternate wording to amend the condition. These amendments have been incorporated into the modified conditions.</p> |
| NSW Police Force |
| <p>The application was referred to NSW Police in accordance with Section 79C the Environmental Planning and Assessment Act, 1979 for an assessment against the Crime Guidelines, a Safer by Design Crime Risk Evaluation.</p> <p>The NSW Police has reviewed the proposal and has recommended a number measures to further minimise the crime risk for the development, which have been included as conditions of consent.</p> |
| Ausgrid |
| <p>The application was referred to Ausgrid to determine the energy supply requirements for the modified development and also with regards to Clause 45 (2) of SEPP (Infrastructure) 2007.</p> <p>No response has been received from Ausgrid in relation to the proposed modifications. Hence, the original conditions provided by Ausgrid still apply.</p> |
| State Transit |
| <p>The application was referred to State Transit given the location of the bus stop adjacent to the proposed development, however, no response had been received from State Transit in relation to the subject modification application. Hence, the original conditions provided by State Transit still apply.</p> |

INTERNAL REFERRALS

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| Development Engineer |
| <p>Council's Development Engineer have reviewed the proposal and provided the following comments:</p> <p>"No objections are raised with regards to the modification application subject to:</p> <p>1. Deletion of the following Condition 27 of the Development Consent:</p> <p><i>27. On-site Stormwater Detention Compliance Certification</i></p> <p><i>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.</i></p> |

Development Engineer

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)

2. Inclusion of the following condition:

~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, Revision C, dated 8 June 2012.

Drainage plans must be amended to comply with the following:

1) Finished slab level of the substation kiosk plinth must be minimum 300mm above maximum overflow path from the OSD tank to St David's Avenue.

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)

3. Following drainage plans are NOW part of the Development Consent:

Drawing 208142 SW0 A, SW1 B, SW2 A, SW3 C, SW4 A, SW5 C, SW8

Comment: The amendments to conditions as detailed by Council's Development Engineers have been incorporated into the revised conditions.

Urban Designer

Council's Senior Urban Designer has reviewed the proposal and has provided the following comments:

Positive aspects:

- 1. Pittwater Road has continuous street frontage and awning to provide safe and sheltered 5m wide pedestrian route. Vehicular circulation and truck loading areas are located to the side street at St David's Avenue.*
- 2. Providing service access to neighbouring sites which front on to Pittwater Road where vehicular access is not desirable. The landscaped area proposed at the vehicular entry/exit ramp to the neighbouring site, No. 695 Pittwater Road, should be a driveway made available for service access to No. 695 Pittwater Road when the ramp is constructed. The soft landscape calculations will have to be revised to reflect this.*

Negative Aspects:

- 1. Less articulated building forms. Facades facing Pittwater Road are more bulky and flat by comparison to the previous proposal.*

Urban Designer

2. *The proposal has building forms which exceeds the 24m WLEP building height control by up to about 3m. The applicant proposed that the 1.3m original unexcavated site level and an extra 10% be added to the height plane. The proposal of 9 storey plus loft exceeds the 6 storey limit count. DCP Building Build-to lines requirement of 9m from the kerb for storey above the 4th storey has not been complied with.*
3. *SEPP 65 Site Design - The Communal Open Space requirement of 25 to 30% of the site area should be provided for an 85 residential unit development with minimal private open space proposed for each unit. Nevertheless the previous approved proposal provided for the inclusion of a public toilet within the proposed building which will enable the existing old toilet block to be demolished and improve the amenity of St Davids Park for the benefit of the local community and users of the existing bus stop. The Residential Flat Design Code (RFDC), rule of thumb, states that where developments are unable to achieve the recommended communal open space, such as those in dense urban areas, they must demonstrate that residential amenity is provided in the form of a contribution to public open space. St Davids Park bus stop is a popular and main stop for major bus routes. The removal of the old toilet building into the new proposal will benefit the public transport commuters and local park users greatly in terms of new public toilets facilities and increase of valuable north facing park land. Moreover the proposed residential balconies facing the park will also benefit from the removal of the old toilet block and provide active surveillance of a very public area.*

With the section 96 modifications, the total area for soft landscaping and open spaces (terrace) has been reduced whilst the number of units increased from 74 to 85 residential units. This is not an acceptable outcome.

4. *SEPP 65 Amenity – RFDC recommends apartment buildings habitable rooms/ balconies separation distance of 18m for building height up to 25m/ 8 Storeys. The proposal has balconies separation of about 9 -12.2m to the North West boundary. The inadequate separation distances will potentially create amenity problems like lack of visual and acoustic privacy, loss of daylight access to apartments and to private open spaces when the neighbouring sites are developed.*

The design should optimise solar access and cross-ventilation to contribute positively to residence amenity. A summary expert opinion for solar access and cross ventilation by Steve King dated 4 April 2012 has been submitted to provide more information. The report claims that the proposal complied with the Residential Flat Design Code 'rule-of-thumb' with 70.5% (RFDC 70% min.) of units receiving over 3 hours of sun to living rooms or bedrooms (RFDC only consider living rooms). The report also claims that 29.4% of units achieved natural cross-ventilation and 32.9% of units exhibit enhanced single sided ventilation performance 'sufficiently reliable' as natural cross ventilation (RFDC requires 60% min.)

5. *The service access to neighbouring sites through the right-of-carriageway dedicated to the benefit of Council is below natural ground level. The original intention would be a service laneway at ground level. The applicant claims the difference in level will be about 300mm maximum.*
6. *The additional unit proposed on the East elevation close to the existing sub-station needs to demonstrate adequate safety setback requirements as per Ausgrid's requirement.*

Conclusion

The site has a central location at the town centre junction of Pittwater Road and Howard Avenue and is considered a 'prominent corner'. Considering the location of the site at the junction of Dee Why Town Centre, the previously approved nine storeys plus loft proposal, although higher in storey count but is still predominantly within the 24m building height plane, were supported. However the section 96 modifications proposal of additional building bulk on the south façade facing Pittwater Road has reduced substantially the articulation previously approved to make the corner read as a distinct corner tower element.

The overall analysis is that that the proposed changes to the approved proposal will make the building bulkier especially when viewed from Pittwater Road. Moreover it does not comply fully with the current WLEP, WDCP and with SEPP 65 requirements for residential flat development and appears to have made it worse. There is no justification to allow a departure from the controls. Therefore the development cannot be supported in its current form."

Comments on Urban Design Review

The concerns raised by Council's Urban Designer have been considered as part of the overall assessment of this application. Whilst the urban design comments are generally not supportive of the modified design, in essence, it is considered that the proposed development, as modified, will continue to provide for a streetscape and built form outcome which is consistent with the original approved design. In this regard, the proposal will maintain a strong "corner" prominence adjacent the park and corner of St Davids Avenue and Pittwater Road.

Urban Designer

Additionally, the overall height of the development presenting to Pittwater Road and the Park is unchanged, continuing to exhibit a strengthened NE corner module and northern façade identifying it as a “marker site” in the Dee Why Town Centre. Further, the south-east and south-west corners of the development maintain the same reduced height as approved to ensure a transition for future mixed development on the adjoining properties.

Increased Bulk

In terms of the concerns that the changes proposed resulting in a bulkier building, the extent and scope of the changes are not so dramatic to the final outcome as to warrant refusal of the application overall. Further, the changes to the south-eastern build to lines and façade (Pittwater Road elevation) are considered to offer a more balanced façade removing deep recesses which are not considered likely to offer good amenity to the occupants of those previously approved units. Also, the introduction of a new apartment on the northern façade adjoining the park at Level 2 provides much needed relief to what was previously a large expanse of unarticulated wall.

Reduction in Communal and Landscaped Open Space

The plans and supporting documentation submitted with this modification application clearly indicate that the roof terrace on **Level 8** has been increased in area due to the extension across the south-east alignment and additional area reclaimed through the consolidation of the lift shafts. Therefore the concerns raised in relation to the reduction in total area cannot be sustained. The amounts of open space (communal and soft landscaping) are still considered satisfactory having regard to the increased number of dwellings.

Conclusions on Urban Design Issues

The amended scheme, despite losing some of the building articulation and adding additional units and floorspace, substantially maintains the key design elements which were previously identified as being meritorious and favourable for this site. Therefore, on balance, the proposed modifications are therefore considered to be supportable and do not warrant refusal of the application.

Traffic Engineer

Council's Traffic Engineer has reviewed the proposal and has provided the following comments:

Condition (2) – Full time ‘No Stopping’ parking restrictions to be installed along the entire St David property frontage to improve sight distance.

The installation of parking restrictions on local roads are subject to approval by the Local Traffic Committee. As the applicant is not able to install these parking restrictions this condition should be modified.

The loading dock facilities are as per the original approval. This dock can accommodate a 10.2m garbage collection vehicle. It cannot accommodate a 12.5m Heavy Rigid Vehicle.

It is acceptable for the commercial/retail component to be serviced by 8.8m Medium Rigid Vehicles.

Conditions recommended:

Condition (2) Subject to Local Traffic Committee approval the applicant is to provide No Stopping restrictions on the southern side of St David Avenue commencing at the property boundary of number 3 St David Avenue and number 701 Pittwater Road, extending east to the intersection of Pittwater Road and St David Avenue.

In order to provide consistency for parking signage these signs should be installed by Council at the cost of the applicant.

In the event that the Local Traffic Committee does not approve the parking restrictions this condition will be deemed to be satisfied.

Comment: The amendments to conditions provided have been incorporated into the modified conditions.

Waste Services Officer

Council's Waste Services Officer has reviewed the proposal and has provided the following comments:

Waste Management has the following concerns with regards to this proposal:-

1) Access to the loading dock by waste collection vehicles

To access the loading dock the waste collection vehicles are required to drive past the loading dock and then onto the opposite side of the driveway into the path of oncoming vehicles. The waste collection vehicles then have to reverse back and across the path of vehicles entering the building to access the loading dock. There is only limited vision in each direction for the waste collection vehicle and other vehicles entering or leaving the building. As this driveway is planned as future access for a number of buildings fronting Pittwater Road the traffic volume will only increase and the potential for conflicts between trucks using the loading dock and vehicles entering or leaving multiple underground car parks will increase.

2) Size of the loading dock

Documentation provided with the application indicates that the loading dock is suitable for a waste collection vehicle 9.5 metres long. Councils' current waste collection vehicles are 10.5 metres long. This size of heavy rigid vehicle will be used into the foreseeable future.

The commercial waste storage area is at the rear of the loading dock. As this area is not sealed off from the loading dock there is potential for waste to be dumped on the floor in front of the bins further reducing the available space for the servicing of the bins.

These two issues may result in the front of the truck protruding into the driveway and creating a hazard for vehicles entering the building.

There is a roller shutter part way into the loading dock. This will need to be removed. Council requires unobstructed access to waste bin storage areas.

3) Access to the bin room from the loading dock

The access doors to the bin room must open flat against the wall and be able to be latched in this position. The plans provided show the smaller section of the door protruding into the walkway - this is unacceptable.

4) Residential Waste Collections

The "waste management report" indicates that permission has been granted by Council to use a private contractor to collect residential waste from this development. This is incorrect. No such permission has been granted nor will it be. Council will arrange for the collection of all residential waste. The "waste management report" indicates that garbage will be collected twice weekly. This is incorrect. The service is once per week.

5) Commercial waste storage area

The bins are double banked in the commercial waste storage area. This is unacceptable. The commercial waste storage area is open to the loading dock. It needs to be in a walled room.

Comment: The issues raised by Council's Waste Officer were addressed in the previous assessment report for the development application (DA2011/0887). It is noted that the proponent intends to use a private contractor to access the site and remove residential and commercial waste. However, in relation to the roller shutter located at the entrance to the loading area, this element is not supported and it is recommended that it be deleted. A condition of consent has been imposed.

Heritage Officer

The application was referred to Council's Heritage Officer for comments, as the site is located within the vicinity of a heritage items. The Heritage officer has reviewed the proposal and has no objections to the proposed modifications.

Environmental Health and Protection

Council's Environment Health and Protection Section have reviewed the proposal and have raised no objection to the proposed modified development subject to conditions.

Landscape Officer

Council's Landscape Officer provided the following comments:

No objections are raised in relation to the amended landscape plans. The SEE indicates a request to amend Condition 50, which relates to the protection of a tree on the adjoining site.

The approved works include excavation and construction up to the boundary with St David's Uniting Church. The tree is located some 1.2m off this boundary. A masonry wall currently exists on the boundary adjacent to the tree. The ability to retain the tree on the St David's site will, despite any tree protection measures engaged, essentially be a matter of faith as the location of roots below the existing masonry wall is unknown. Excavation for the approved works may yet lead to the demise of the tree.

However, in order to provide the best opportunity for retention, the proposed amendment is considered acceptable subject to the inclusion recommended below (bold & underlined).

The proposed modified Condition 50 is as follows:

50. Protection of Trees during Works

The Eucalyptus Robusta (Swamp Mahogany) tree located on the adjoining St David's Church property is to be protected throughout the duration of demolition and construction works in accordance with AS 4970-2009 Protection of Trees on Development Sites and the recommendations of the Additional Arborist report prepared by Malcolm Bruce, Environmental Consultant and Arborist dated 12 December 2011.

A suitably qualified Australian Qualification Framework Level 5 (-AQF5) Arboriculturist to be retained throughout the duration of demolition and construction works to supervise and monitor Tree Protection of trees to be retained. Tree Protection Measures as per Australian Standard AS 4970-2009.

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

With regard to the proposed amendment to Condition 8, concern was raised in my comments dated 1 September 2011 regarding the integration of the proposed works with the adjoining public open space (St David's Park), particularly in relation to levels: It is noted that the applicant has responded to the suggestion that the public toilets be included in the new development, enabling removal from the adjoining public land.

Whilst this is considered a positive outcome, it will require resolution of existing levels to maintain access grades. In view of the heightened relationship of the development to the adjoining open space and the resultant level differences, the proposal should indicate how the integration can be achieved and should perhaps for part of any approval for the site.

Any amendment to the approved plans needs to ensure that the proposed works as a minimum provide for retaining along the boundary to maintain existing levels and ensure that the proposed toilet block entry level is accessible from existing park levels.

Comment: The above matters have been dealt with by way of conditions.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

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

| Section 79C 'Matters for Consideration' | Comments |
|--|--|
| Section 79C(1)(a)(i) – Provisions of any environmental planning instrument | See discussion on “Environmental Planning Instruments” in this report. |
| Section 79C(1)(a)(ii) – Provisions of any draft environmental planning instrument | None Applicable at the time of writing this report. |
| Section 79C(1)(a)(iii) – Provisions of any development control plan | Warringah Development Control Plan applies and has been considered in the context of this report. |
| Section 79C(1)(a)(iia) – Provisions of any planning agreement | None Applicable. |
| Section 79C(1)(a)(iv) – Provisions of the regulations | <p>The EPA Regulations 2000 require the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter was addressed via a condition of consent under DA2011/0887.</p> <p><u>Clause 92</u> of the EPA Regulations 2000 requires the consent authority to consider <i>AS 2601 - 1991: The Demolition of Structures</i>. This matter was addressed via a condition of consent under DA2011/0887.</p> <p><u>Clause 50(1A)</u> of the EPA Regulations 2000 requires the submission of a design verification statement from the building designer at lodgement of the development application. A revised design statement has been submitted.</p> |
| Section 79C(1)(b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) The environmental impacts of the modified development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. In summary, the impacts are not significant and are acceptable.</p> <p>(ii) The proposed development, as modified, will not have a detrimental social impact in the locality considering the residential and retail character of the proposal is maintained.</p> <p>(iii) The proposed modifications will not have a detrimental economic impact on the locality considering the minor changes to the mix of uses within the development and only minimal changes are proposed to the area occupied by non-residential uses within the development.</p> |
| Section 79C(1)(c) – the suitability of the site for the development | The proposed modifications do not alter the site's suitability for the proposed use. |
| Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs. | See discussion on “Public Exhibition” in this report. |
| Section 79C(1)(e) – the public interest | <p>The various controls contained within WLEP 2011 and WDCP provide the community with a level of certainty as to the scale and intensity of future development and the form and character of development that is in keeping with the surrounding locality.</p> <p>The development, as modified, is considered to be consistent with the requirements of WLEP 2011 and WDCP as detailed in the various section of this report.</p> <p>As the modifications to the proposed development continue to generally comply with the various controls which apply to the site, the development is considered to be consistent with the scale and intensity of development that the community can reasonably expect to be provided on this site and within this locality.</p> <p>Therefore, the modified proposal is considered to still be in the public interest.</p> |

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

| Section 96(2) - Other Modifications | Comments |
|---|---|
| A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if: | |
| (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and | <p>The development as modified is considered to be substantially the same development as the development for which consent was originally granted.</p> <p>The changes proposed, whilst numerous, do not alter the height or scale of the approved development to any significant extent. Only minimal changes are proposed to the areas occupied by the various uses approved within the development.</p> <p>The visual appearance of the development, as seen from the public domain and adjoining properties will remain largely unchanged. Any changes will largely be imperceptible between the originally approved scheme and the current modified scheme.</p> <p>Therefore, the assessment has found that the modified development is substantially the same as the development consented to under DA2011/0887.</p> |
| (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and | <p>The original DA2011/0887 was referred to NSW Office of Water as Integrated Development pursuant to Environmental Planning and Assessment Act 1979 requiring General Terms of Approval under the provision of the Water Management Act 2000.</p> <p>Council received 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.</p> <p>A suitable condition was imposed on the original consent DA2011/0887 requiring the applicant to comply with the requirements of the NSW Office of Water.</p> <p>As no revised GTA's have been received in response to a referral of this modified application, the original GTA's apply.</p> |
| (c) it has notified the application in accordance with: | <p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment</p> <p>Regulation 2000, Warringah Local Environment Plan 2011 and the Warringah Development Control Plan.</p> <p>In this regard, two (2) submissions were received and have been addressed under 'Public Exhibition' in this report.</p> |

| Section 96(2) - Other Modifications | Comments |
|--|---|
| (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be. | The assessment of this application has considered the submissions made in response to the notification of this application (see 'Public Exhibition' in this report) where it was found that the matters raised did not warrant the refusal or further amendment of the application. |

State Environmental Planning Policies

Further consideration is required for the following State policies:

State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)

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

At the time of assessment of the original application, Council records did not indicate that the site was potentially contaminated. Similarly, there is no evidence at the time of this assessment to suggest the site is contaminated.

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

A revised BASIX certificate has been submitted with the application (see Certificate No. 385041M_04 dated 16 April 2012). The BASIX Certificate indicates that the development will achieve the following:

| Commitment | Required Target | DA2011/0887 | MOD2012/0087 |
|-----------------|-----------------|-------------|--------------|
| Water | 40 | 40 | 41 |
| Thermal Comfort | Pass | Pass | Pass |
| Energy | 20 | 20 | 20 |

It is noted that the energy score has improved upon what was approved under DA2011/0887.

SEPP (Infrastructure) 2007

Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- Within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists);
- Immediately adjacent to an electricity substation; or
- Within 5m of an exposed overhead electricity power line.

The application was referred to Ausgrid to determine if the subject site was within or immediately adjacent to any of the above electricity infrastructure. No response had been received at the time of writing this report.

It is noted that Ausgrid in their previous response to DA2011/0887 by letter dated 25 July 2011 raised no objection to the proposed development subject to conditions which were included in the notice of determination. In this regard, the subject application is considered to satisfy the provision of Clause 45 SEPP Infrastructure.

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

In accordance with 'Modification of consents' in Part 4 of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) if a S96(2) modification application relates to a residential flat development for which the development application was required to be accompanied by a design verification from a qualified designer under Clause 50(1A), the modification application must be accompanied by a design verification statement in which the qualified designer verifies that;

- (a) *He or she designed, or directed the design, of the modification of the residential flat development, and*
- (b) *the residential flat development, as modified, achieves the design quality principles set out in Part 2 of [State Environmental Planning Policy No 65—Design Quality of Residential Flat Development](#), and*
- (c) *The modifications do not diminish or detract from the design quality, or compromise the design intent, of the development for which the development consent was granted.*

An amended design verification statement has been submitted.

The SEPP requires the assessment of any development application for residential flat development against the 10 Principles contained in Clauses 9 - 18 and Council is required to consider the matters contained in the publication "Residential Flat Design Code (RFDC)". The application, as modified, does not materially alter the design of the development such that it deviates from the original assessment and conclusions made under DA2011/0887. In this regard, further assessment of the following relevant principles has been carried out:

Principle 3: Built Form

"Good design achieves an appropriate Built Form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Appropriate Built Form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook." and

Principle 10: Aesthetics

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

Comment: The modified development is basically the same as the original approved development with the exception of some adjustments to the build to lines fronting Pittwater Road and hence some loss of articulation of the along the Pittwater Road façade, some widening of balconies on the northern façade to St Davids Park and alterations to the roof top communal open space. The external finishes are generally the same as originally approved.

The above changes to the built form and aesthetics result in a building that can be described as being "fatter" in its presentation to Pittwater Road, which slightly diminishes the sense of the building being comprised of two (2) attached modules, however the character, design and external appearance are generally the same. Accordingly, the extent to which the

changes impact on the overall built form and aesthetic outcome are not substantial and do not create an unacceptable outcome.

Principle 4: Density

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

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

Comment: The FSR of the development increases from 4.08:1 to 4.15:1 which represents an increase of 0.007 or 117 sqm. The number of units increases from 74 units to 85 units or an increase of 11 units. The applicant argues that this is necessary due to changed market conditions. The marginal increase in FSR and increase in the number of units does not translate into any unacceptable impacts or non-compliances and is satisfactory.

Principle 7: Amenity

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

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

Comment: Council's Urban Designers advice is such that the documentation addressing the amenity requirements of the RFDC (particularly in relation to sunlight access and natural cross ventilation) are not fully satisfied and that the levels of compliance claimed by the applicant are inadequate to confirm compliance with the relevant Rules of Thumb. However, based on the documentation provided by the applicant, as evidenced in the expert reports by Steve King, it is considered that the modification application has provided sufficient evidence to support the claims of compliance and the overall design provides a good level of amenity for future occupants, with the majority of apartments having good levels of sunlight access and cross ventilation and is consistent with the requirements (guidelines) of the RFDC.

The orientation and layout of the apartments on each level has taken advantage of the northern exposure over the park, the church site and Pittwater Road. The units on the south-western side of the site are the ones which will not be afforded with such high levels of amenity, particularly those units immediately on that south-western boundary with No. 693 Pittwater Road. It is acknowledged that not all units can be provided with superior levels of amenity and that some units will only achieve “satisfactory” amenity considering the constraints imposed by the shape and orientation of the site and the nature of adjoining land uses.

Whist Council's Urban Designer queries the methods employed by the Applicants expert Steve King in achieving their stated level of compliance for solar access at 62.4% and for natural ventilation at 70.5%, Steve King's demonstrable industry expertise and reputation is considered a satisfactory level of evidence for assessment purposes and to accept the results as provided.

Accordingly, the levels of compliance with the amenity standards of the RFDC for the proposal are considered to be generally satisfactory in terms of this design principle.

Residential Flat Design Code

The proposed modifications result in a number of relatively minor internal and external changes to the approved building and do not significantly alter the proposal's consistency with the design guidelines in the Residential Flat Design Code.

The supporting documentation has indicated that the design changes to the residential units maintains full compliance for 3 hours sunlight on 21 June between 9am and 3pm is still maintained to a minimum of 70% of the dwellings (71% or 60 apartments meet this requirement). Likewise for the assessment of natural ventilation amenity, a minimum 60% of the dwellings (62.4% or 53 apartments meet this requirement).

Based on the analysis provided with the application, the changes to the levels of performance against the guidelines are still within the "Rules of Thumb" requirements recommended by the RFDC and are therefore considered to be satisfactory.

ENVIRONMENTAL PLANNING INSTRUMENTS

Warringah Local Environmental Plan 2011 (WLEP 2011)

Consideration of proposal against Warringah Local Environment Plan 2011:

| The fundamentals | |
|---|--|
| Definition of proposed development: (ref. WLEP 2011 Dictionary) | Shops, restaurants and shop-top housing. |
| Zone: | B4 Mixed Use |
| Permitted with Consent or Prohibited: | Permitted with consent |

| Objectives of the Zone |
|--|
| <ul style="list-style-type: none"><i>To provide a mixture of compatible land uses.</i><i>To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</i><i>To reinforce the role of Dee Why as the major centre in the sub-region by the treatment of public spaces, the scale and intensity of development, the focus of civic activity and the arrangement of land uses.</i><i>To promote building design that creates active building fronts, contributes to the life of streets and public spaces and creates environments that are appropriate to human scale as well as being comfortable, interesting and safe.</i><i>To promote a land use pattern that is characterised by shops, restaurants and business premises on the ground floor and housing and offices on the upper floors of buildings.</i><i>To encourage site amalgamations to facilitate new development and to facilitate the provision of car parking below ground.</i> |
| The development is considered to be consistent with the above listed objectives of the zone as the scope and nature of the modifications do not to any significant extent alter the developments consistency with respect to these matters. |

| Principal Development Standards: | | | | |
|----------------------------------|-----------|---|---|---|
| Standard | Permitted | As Approved by DA2011/0887 | Proposed under modification Mod2012/0087 | Comment |
| Height of Buildings: | 24m | 24.99m (south-west) 27.4m (north-east) <i>Nb. These heights are measured from original natural ground level in accordance with WLEP 2000.</i> | 25.99m (south-west) 28.4m (north-east) | The development as modified does not change the actual height of the development as originally approved. The change in numeric height is a direct result of the measurement for building height under WLEP 2011 being from existing ground level. |

| Relevant Additional Local Provisions | |
|---|---|
| Provision | Comment |
| Acid Sulphate Soils | Not Applicable. |
| Earthworks | The original and modified proposal involves changes to the ground levels. The existing conditions of consent are satisfactory to address the requirements of this clause. |
| Flood Planning | The subject site is not flood affected |
| Development on Sloping Land | Not Applicable |
| Coastline Hazards | Not Applicable |
| Erection of dwelling houses in Zone E3 Environmental Management | Not Applicable |
| Residential Flat Buildings in Zone B4 Mixed Use | There is no change proposed to the location of the residential component of this development from what was originally approved. The development does not include any dwellings on the ground floor level of the development and is therefore satisfactory in this regard. |
| Subdivision of Certain Land | Not Applicable |
| Location of Sex Services Premises | Not Applicable |

| Relevant Schedules | |
|---|--|
| Schedule | Comment |
| Schedule 1 Additional permitted uses | Not Applicable |
| Schedule 2 Exempt development | Not Applicable |
| Schedule 3 Complying development | Not Applicable |
| Schedule 4 Classification and reclassification of public land | Not Applicable |
| Schedule 5 Environmental heritage | The application was referred to Council's Heritage Officer who raised no concerns with the proposed modifications. |

| Other Relevant WLEP 2011 Clauses |
|----------------------------------|
| None Applicable. |

Warringah Development Control Plan 2011 (WDCP 2011)

Consideration of proposal against Warringah Development Control Plan 2011

| Warringah Development Control Plan | | | | | | | | | | | | | |
|--|--|----------------|---------|------------------|----------|---|---------------------------|--|--------------------------------|---|----------------------------|---|---------------------------|
| Part B: Built Form Controls | | | | | | | | | | | | | |
| Control | Requirement | Proposed | Comment | | | | | | | | | | |
| B1. Wall height | No controls applicable to the B4 Zone | | | | | | | | | | | | |
| B2. Number of storeys | | | | | | | | | | | | | |
| B3. Side Boundary Envelope | | | | | | | | | | | | | |
| B4. Site Coverage | | | | | | | | | | | | | |
| B5 & B6. Side Boundary Setbacks | | | | | | | | | | | | | |
| B7 & B8. Front Boundary Setbacks | | | | | | | | | | | | | |
| B9 & B10. Rear Boundary Setbacks | | | | | | | | | | | | | |
| B11. Foreshore Building Setback | | | | | | | | | | | | | |
| B12. National Parks Setback | | | | | | | | | | | | | |
| B13. Coastal Cliffs Setback | | | | | | | | | | | | | |
| B14. Main Roads Setback | | | | | | | | | | | | | |
| B15. Minimum Floor to Ceiling Height | | | | | | | | | | | | | |
| Part C: Siting Factors | | | | | | | | | | | | | |
| Control | | Comment | | | | | | | | | | | |
| C1. Subdivision | | Not Applicable | | | | | | | | | | | |
| C2. Traffic, Access and Safety | Suitable access will be maintained in a manner consistent with the approved access. The proposal will not alter the access arrangements or parking provision from the original development. | | | | | | | | | | | | |
| C3. Parking Facilities | <div>The proposed modifications result in an increase in the number of residential apartments from 74 to 85. In this regard, carparking has been calculated as follows:</div> <table><tr><th>Parking Required</th><th>Proposed</th></tr><tr><td>Shop (Retail) 1 space per16.4m2 187m2/16.4 = 11.4 spaces</td><td>Retail = 12 spaces</td></tr><tr><td>Residential 1 space per 1 bedroom dwelling 66 x 1 = 66 spaces 1.2 spaces per 2 bedroom dwelling 19 x 1.2 = 22.8</td><td>Residential = 89 spaces</td></tr><tr><td>Visitor 1 space per 5 dwellings 85/5 = 17 spaces</td><td>Visitor = 17 spaces</td></tr><tr><td>Total Retail + residential + visitor = 117 spaces</td><td>Total = 118 spaces</td></tr></table> <div>Notwithstanding the increased number of dwellings proposed, the amended car parking provision remains compliant with the minimum requirements.</div> | | | Parking Required | Proposed | Shop (Retail) 1 space per16.4m2 187m2/16.4 = 11.4 spaces | Retail = 12 spaces | Residential 1 space per 1 bedroom dwelling 66 x 1 = 66 spaces 1.2 spaces per 2 bedroom dwelling 19 x 1.2 = 22.8 | Residential = 89 spaces | Visitor 1 space per 5 dwellings 85/5 = 17 spaces | Visitor = 17 spaces | Total Retail + residential + visitor = 117 spaces | Total = 118 spaces |
| Parking Required | Proposed | | | | | | | | | | | | |
| Shop (Retail) 1 space per16.4m2 187m2/16.4 = 11.4 spaces | Retail = 12 spaces | | | | | | | | | | | | |
| Residential 1 space per 1 bedroom dwelling 66 x 1 = 66 spaces 1.2 spaces per 2 bedroom dwelling 19 x 1.2 = 22.8 | Residential = 89 spaces | | | | | | | | | | | | |
| Visitor 1 space per 5 dwellings 85/5 = 17 spaces | Visitor = 17 spaces | | | | | | | | | | | | |
| Total Retail + residential + visitor = 117 spaces | Total = 118 spaces | | | | | | | | | | | | |
| C4. Stormwater | <div>The Applicant has submitted amended stormwater drainage plans which address the location of the new electricity kiosk at the north-western corner of the site.</div> <div>The proposed OSD design clears the footprint of the kiosk. Council's Development Engineer has reviewed the proposed design and has raised no objections subject to conditions.</div> | | | | | | | | | | | | |

| Warringah Development Control Plan | |
|--|--|
| C5. Erosion and Sedimentation | Existing conditions of consent will ensure erosion and sedimentation continues to be controlled. |
| C6. Building over or adjacent to Constructed Council Drainage Easements | The works are not over any drainage easement. |
| C7. Excavation and Landfill | No change to the existing consent conditions is recommended. The modifications are relatively minor and do not significantly alter the amount of cut and fill required. |
| C8. Demolition and Construction | No change to the existing consent conditions is recommended |
| C9. Waste Management | <p>Council's Waste Officer has provided comments in relation to the amendments to the development in relation to the bin storage area.</p> <p>As the number of apartments in the development has increased from 74 to 85, the number of bins required has also increased from 56 x 240 litre bins to 65 x 240 litre bins. The amended plans indicate space for 67 x 240 litre bins which meets the requirements of the Warringah Waste Management Plan 2010.</p> <p>It is noted that the developer will engage the services of a private contractor to service this site in terms of garbage, hence the issues raised in relation to inadequate space and manoeuvring for a Council contracted garbage truck do not warrant refusal or amendment to the design. A suitable condition will be imposed in this regard.</p> |
| Part D: Design | |
| Control | Comment |
| D1. Landscaped Open Space and Bushland Setting | Not Applicable. |
| D2. Private Open Space | Multi dwelling housing is required to provide 10m ² with minimum dimension 2.5 metres. The supporting documentation submitted with the application confirms that all 85 apartments will contain a minimum 10m ² with dimensions of 2.5m. |
| D3. Noise | The existing conditions of consent are satisfactory to address the requirements of this clause. |
| D4. Electromagnetic Radiation | Not Applicable |
| D5. Orientation and Energy Efficiency | The solar access and cross ventilation summary report prepared by Steve King addresses the natural ventilation for the development. The report concludes that 62.4% of apartments comply with the performance objectives for natural ventilation. This is considered acceptable as the minimum required by the RFDC Rules of Thumb is 60%. |
| D6. Access to Sunlight | <p>The proposed modifications will not significantly alter the solar access received by the adjoining properties.</p> <p>A solar access and cross ventilation summary report by Steve King has been submitted with the application. The report confirms that the proposed modifications to the development retain a minimum of 70.5% of apartments within the development achieving 3 hours of solar access between 9am and 3pm which is considered acceptable.</p> |
| D7. Views | The height and scale of the building form is not being altered and therefore the impact on views will not be adversely affected as result of the changes proposed as part of this application |
| D8. Privacy | The proposed modification does not provide any significant new openings which would cause unreasonable direct overlooking of habitable rooms and principal private open spaces of adjoining dwellings and is considered satisfactory in addressing this Clause. |

| Warringah Development Control Plan | |
|--|---|
| D9. Building Bulk | The overall visual impact and streetscape presentation of the building will remain largely similar to the original approval, it being noted that there is some loss of building articulation on the Pittwater Road elevation as detailed earlier in this report. The design remains sufficiently broken-up and articulated, the building envelope has only marginally been increased and the overall maximum height has not been increased. Importantly, the inclusion of an additional residential unit on the northern façade at Level 2 will soften the northern façade as it presents to the park. |
| D10. Building Colours and Materials | Some changes to the building facade have been included as a part of this modification. The extent of changes is minor with the most significant change to the western façade incorporating glass block openings and feature paint finishes providing visual interest. |
| D11. Roofs | No significant perceptible changes are proposed to the approved roof of the building. A screened plant area is proposed at the centre of the roof which provides a clearer and more condensed treatment of the roof top plant equipment. |
| D12. Glare and Reflection | There is an existing condition of consent to ensure reflectivity is kept to a reasonable level. |
| D13. Front Fences and Front Walls | Not Applicable |
| D14. Site Facilities | The site facilities of approved development were found to be acceptable in the original consent. These facilities will not be altered as result of the proposed modification. Therefore the proposed modification is satisfactory in this regard. |
| D15. Side and Rear Fences | No side and rear fences are proposed. |
| D16. Swimming Pools and Spa Pools | Not Applicable. |
| D17. Tennis Courts | Not Applicable |
| D18. Accessibility | The proposal involves minor changes to the layout and design of the buildings. The existing conditions of consent, which require compliance with the requirements of the Disability Discrimination Act 1992 and Australian Standard AS1428.2-1992 Design for Access and Mobility - Enhanced and additional requirements - Buildings and facilities, are satisfactory to address the requirements of this clause. |
| D19. Site Consolidation in the R3 and IN1 Zone | Not Applicable |
| D20. Safety and Security | The minor changes to the building layout and design will continue to incorporate casual surveillance from balconies and windows throughout the development. |
| D21. Provision and Location of Utility Services | The existing conditions of consent are satisfactory to address the requirements of this clause. |
| D22. Conservation of Energy and Water | The modifications do not adversely affect the approved scheme's compliance. |
| D23. Signs | Not Applicable |
| Part E: The Natural Environment | |
| Control | Comment |
| E1. Private Property Tree Management | The modifications do not result in the removal of any trees. The modification of Condition No. 50 maintains works around the Swamp Mahogany tree will be in accordance with the relevant Australian Standard. Subject to this condition, the proposal is considered consistent in this regard. |

| Warringah Development Control Plan | |
|---|---|
| E2. Prescribed Vegetation | Not Applicable |
| E3. Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conversation Habitat | The modifications will not impact on any threatened species. |
| E4. Wildlife Corridors | Not Applicable |
| E5. Native Vegetation | The modifications will not impact on any native vegetation. |
| E6. Retaining unique environmental features | The minor modifications will not impact on any unique environmental features. |
| E7. Development on land adjoining public open space | The proposed modifications will not impact upon the public reserve. The relocation of the public amenities to within the building was considered as part of the original application. |
| E8. Waterways and Riparian Lands | Not Applicable |
| E9. Coastline Hazard | Not Applicable |
| E10. Landslip Risk | The subject site is classified as Class A, and B land on the Landslip Risk Map. As the current application is to modify the original consent, and this application is substantially the same development, no further geotechnical engineers report is required to be provided to Council. |
| E11. Flood Prone Land | Not Applicable |
| Part F: Zones and Sensitive Areas | |
| Control | Control |
| F1. Local and Neighbourhood Retail Centres | Not Applicable |
| F2. Brookvale Brickworks | Not Applicable |
| F3. SP1 Special Activities | Not Applicable |
| Part G: Special Area Controls | |
| Control | Control |
| G1. Dee Why Mixed Use Area | <p>The subject site is located within Area 7 of the Dee Why Mixed Use Area. The proposed modifications satisfy the objectives for this area as previously addressed in the assessment report on the DA.</p> <p>The modifications involve some changes to the compliance characteristics of the development when assessed against the requirements for Area 7. The main changes relate to the changes to the build-to lines adjoining Pittwater Road, however the portions of the building which are being revised still comply with the minimum standards under the DCP.</p> <p>On balance, the modified proposal is satisfactory with respect to the controls applying to Area 7 of the DCP.</p> |
| G2. R3 Medium Density Residential bound by Sturdee Parade, Pacific Parade and land zoned B4 Mixed Use | Not Applicable |
| G3. Belrose Corridor | Not Applicable |
| G4. Warringah Mall | Not Applicable |
| G5. Forest Way Shops | Not Applicable |

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

The proposal is for the modification to an approved development under DA2011/0887. As the application includes an amendment to the cost of the development, the calculations in accordance with Council's Section 94A Development Contributions Plan have been reassessed as follows:

The following monetary contributions are applicable:

| | | |
|---|------------------|-----------------------------|
| <i>Warringah Section 94A Development Contributions Plan</i> | | |
| Contribution based on total development cost of | | \$18,810,000 |
| Contribution - all parts Warringah | Levy Rate | Contribution Payable |
| Total S94A Levy | 0.95% | 178,695 |
| S94A Planning and Administration | 0.05% | 9,405 |
| Total | 1.0% | \$188,100 |

A suitable modified condition has been included.

MEDIATION

Mediation was not requested for this application.

CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 79C in terms of Section 96 (2) of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy No.55 – Remediation of Land, , State Environmental Planning Policy No 65 Design Quality of Residential Flat Development, Warringah Local Environmental Plan 2011, Warringah Development Control Plan and the relevant codes and policies of Council.

The modification proposed under this application seeks to refine, update and bring the approved development closer to market expectations. The changes proposed do not compromise the original design concept and retain most of the positive urban design elements of the development. The modifications proposed are generally consistent with the relevant planning controls which apply to the site under WLEP 2011 and the WDCP, which are largely a translation of the planning controls which applied to the site at the time the DA was approved, being WLEP 2000. The overall use of the building, being a mixed retail, commercial and residential development remains unchanged, and remains permissible pursuant to WLEP 2011.

The amended proposal does not alter the overall height of the building, the envelope is largely the same except for some changes to the setbacks (build-to-lines) to Pittwater Road. The development adequately maintains its key urban design feature, being the strong corner definition and presentation to the corner of St David's Avenue, the corner park and Pittwater Road.

It is noted that the proposed amendments to Condition No. 64 (Provisions Relating to the Amenities Block) are not supported by Council and are not included in the revised conditions. Additionally, a special condition will require the developer to enter into a private contract to provide the ongoing waste management for the development.

It is considered that the proposed modification satisfies the relevant controls and that all processes have been followed. Accordingly, subject to consideration of the matters detailed within this report it is recommended that the Joint Regional Planning Panel (JRPP) for the Sydney East Region, as the consent authority, grant approval to the modification application as outlined in the attached modified conditions.

RECOMMENDATION (Section 96 Approval)

That the Joint Regional Planning Panel (JRPP) as the consent authority grant approval to Mod2012/0087 for Section 96 (2) Modification of Development Consent No. 2011/0887 granted for the demolition works and construction of a mixed retail, commercial and residential development and use of premises as retail shops, a café and residential units on land at Lot B, DP 381816, Lot 4 DP 417528, and Lot 1 DP 300967, known as Nos.697, 699 and 701 Pittwater Road, Dee Why in accordance with the following modified conditions:

A. Modify Condition No. 1 to read as follows:

1. Approved Plans and Supporting Documentation

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

| Architectural Plans - Endorsed with Council's stamp | | |
|--|--------------|--------------------|
| Drawing No. | Dated | Prepared By |
| 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 |

As modified by Section 96 application Mod2012/0087 received by Council on 4 May 2012 and endorsed with Council's approval stamp:

| Architectural Plans - Endorsed with Council's stamp | | |
|--|--------------|--------------------|
| Drawing No. | Dated | Prepared By |
| S96-A01 – Site Analysis (Site Plan) | 01.05.2012 | Kann Finch Group |
| S96-A02 – Basement 1 | 01.05.2012 | Kann Finch Group |
| S96-A03 – Lower Ground & Ground Floor Plan | 01.05.2012 | Kann Finch Group |
| S96-A04 – Level 1 and Level 2 | 01.05.2012 | Kann Finch Group |
| S96-A05 – Level 3 - Levels 4-6 | 01.05.2012 | Kann Finch Group |
| S96-A06 – Level 7 & 8 | 01.05.2012 | Kann Finch Group |
| S96-A07 – Roof Level | 01.05.2012 | Kann Finch Group |
| S96-A08 – Section | 01.05.2012 | Kann Finch Group |
| S96-A09 – Sections | 01.05.2012 | Kann Finch Group |
| S96-A10 – South & East Elevation | 01.05.2012 | Kann Finch Group |
| S96-A11 – North & West Elevation | 01.05.2012 | Kann Finch Group |

| Reports/Documentation – All requirements and recommendations contained within: | | |
|---|-----------------|---|
| Report/Document | Dated | Prepared By |
| Traffic and Parking Review | 13 April 2012 | Halcrow |
| Additional Arborist Report | 10 June 2011 | Malcolm Bruce Environmental Consultant and Arborist |
| Additional Arborist Report | 2 December 2011 | Malcolm Bruce Environmental Consultant and Arborist |
| Access Letter of Compliance | 26 April 2012 | 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 (Rev 03) | February 2012 | Aspect Studios |
| 11002R – SK02 - Planting Plan – Level 8 (Rev 02) | February 2012 | Aspect Studios |
| 11002R – SK03 – Planting Palette (Rev 03) | February 2012 | 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 |
|---|---|------------|
| Transport Roads & Maritime Services (RMS) | Referral Response – Transport Roads and Maritime Services (RMS) | 18/06/2012 |
| NSW Police Force | Northern Beaches Police Referral Response | 4/06/2012 |

(**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)

B. Modify Condition No. 6 to read:

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).

| <i>Warringah Section 94A Development Contributions Plan</i> | | |
|---|-------------|----------------------|
| Contribution based on total development cost of | | \$18,810,000 |
| Contribution - all parts Warringah | Levy Rate | Contribution Payable |
| Total S94A Levy | 0.95% | 178,695 |
| S94A Planning and Administration | 0.05% | 9,405 |
| Total | 1.0% | \$188,100 |

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)

C. Modify Condition No. 8 to read:

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) Toilets demonstrating compliance with DDA, including access from and 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.

D. New Conditions No. 10A and 10B to read as follows:

10A. Deletion of Roller Door to Loading Area

The roller shutter identified at the entrance to the Loading Area shall be deleted from the plans.

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

Reason: To ensure that the Loading Area complies with the Warringah Waste Management Plan.

10B. Private Contractor to Service Waste Collection

The development is to be serviced by a private waste contractor, including residential and commercial waste. Evidence confirming that this condition has been satisfied is to be provided to the Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To ensure that adequate arrangements are made for ongoing waste management.

E. Modify Condition No. 11 to read:

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 walls from ground level to a minimum height of 3.0 metres 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)

F. Modify Condition No. 13 to read:

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 such amenities as seating, paving, landscaping and barbeque facilities.

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

G. Modify Condition No. 19 to read:

19. Allocation of Spaces

Car parking spaces shall be provided, made accessible and maintained at all times.

The spaces shall be allocated as follows:

| No. of Spaces | Component |
|----------------------|--------------------------------------|
| 89 | 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)

H. Modify Condition No. 50 to read:

50. Protection of Trees During Works

The Eucalyptus robusta (Swamp Mahogany) (identified in the report as E. botryoides) located on the adjoining property at St Davids Church property is to be protected throughout the duration of demolition and construction works in accordance with Australian Standard AS4970 – 2009 Protection of Trees on Development Sites and the recommendations of the Additional Arborist Report prepared by Malcolm Bruce, Environmental Consultant and Arborist dated 12 December 2011. A suitably qualified Australian Qualification Framework Level 5

(-AQF5) Arboriculturist to be retained throughout the duration of demolition and construction works to supervise and monitor Tree Protection of trees to be retained. Tree Protection Measures as per Australian Standard AS 4970-2009.

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

I. Modify Condition No. 65 to read:

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 a final occupation certificate for the development.

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

J. Modify Condition No. 66 to read:

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 a 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.

K. Modify Condition No. 71 to read:

71. Intercom

An intercom system must be provided in a convenient location adjacent to the visitor parking entry (as shown on Drawing No. S96-A03 prepared by Kann Finch Architects, dated 3 April 2012) 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)