

**JOINT REGIONAL PLANNING PANEL  
(Sydney East Region)**

<b>JRPP No</b>	<b>2013SYE091</b>
<b>DA Number</b>	<b>DA2013/1168</b>
<b>Local Government Area</b>	<b>Warringah Council</b>
<b>Proposed Development</b>	<b>Demolition works, construction of a mixed use retail/commercial and residential development and associated draft Voluntary Planning Agreement</b>
<b>Street Address</b>	<b>Nos. 697 to 703 Pittwater Road, Dee Why</b>
<b>Applicant/Owner</b>	<b>Jubilee Properties Pty Ltd</b>
<b>Number of Submissions</b>	<b>879 total submissions - electronic petition has also been maintained by a resident of Dee Why which has attracted a total of 706 electronic signatures since its commencement</b>
<b>Recommendation</b>	<b>Approval with Conditions</b>
<b>Report by</b>	<b>Malcolm Ryan, Deputy General Manager, Environment</b>

**Assessment Report and Recommendation**

**Supplementary Report**

<b>Application Lodged:</b>	30 September 2013
<b>Plans Reference:</b>	A02(B) dated 26/03/14; A03(B) dated 26/03/14; A04(B) dated 26/03/14; A05(B) dated 26/03/14; A06(B) dated 26/03/14; A07(B) dated 26/03/14; A08(B) dated 26/03/14; A09(B) dated 26/03/14; A10(B) dated 26/03/14; A11(B) dated 26/03/14; A12(B) dated 26/03/14; A13(B) dated 26/03/14; and A14(B) dated 26/03/14.
<b>Owner:</b>	Jubilee Properties Pty Ltd
<b>Zone:</b>	B4 Mixed Use
<b>Permissible or Prohibited Land use:</b>	Shop Top Housing – Permissible with consent
<b>Clause 4.6 Variation</b>	Clause 4.3 – Height of Buildings Development Standard
<b>Land and Environment Court Action:</b>	None pending
<b>Referred to WDAP:</b>	7 May 2014
<b>Referred to JRPP:</b>	21 May 2014

## SUMMARY

<b>Submissions:</b>	Public Exhibition No. 3 (28/03/2014 to 28/04/2014) 148
<b>Submission Issues:</b>	<input type="checkbox"/> Waste Management; <input type="checkbox"/> Bicycle Parking; <input type="checkbox"/> Provision of a Building Manager; <input type="checkbox"/> Location of Male/Female Public Toilets; <input type="checkbox"/> Compliance of Disabled Parking Spaces; <input type="checkbox"/> Northern Face of the Development Facing St. David's Park; <input type="checkbox"/> Non-compliance with the Build-to-Lines under the WDCP 2011; <input type="checkbox"/> Floor Space Ratio;
<b>Recommendation:</b>	<b>Approval</b>
<b>Attachments:</b>	A. Assessment Report; B. WDAP Minutes of 7 May 2014; C. Submission List; and D. Plans

## BACKGROUND

On 30 September 2013, the applicant lodged Development Application DA2013/1168 for Demolition works, construction of a mixed use retail/commercial and residential development and associated draft Voluntary Planning Agreement (VPA).

The Development Application was amended on 29 January 2014 for the construction of a part 9/part 15 storey mixed use development, comprising 129 residential apartments, retail shops, retail/café space and 178 basement level carparking spaces.

The Development Application was assessed against the relevant planning instruments, controls and Council policies, including the Dee Why Town Centre Masterplan which was adopted by Council on 6 August 2013.

The Development Application was found to be generally consistent with the strategic direction envisaged by the Masterplan for the Dee Why Town Centre. The Masterplan identified the site as a key marker site which could appropriately accommodate a building of up to 15 storeys in height. However, a proposal could only qualify for the increased height and floor space if it provided sufficient public benefit through a VPA, which is a requirement of the Masterplan.

As the amount of public benefit offered in the earlier draft VPA was considered to be insufficient, the proposal could not rely on the increased building height and floor space envisaged in the Masterplan. Therefore, without the ability to rely upon the Masterplan, the development was considered to be unsatisfactory when assessed against the objectives of the Height of Buildings Development Standard and the zone under the WLEP 2011.

The original assessment report referred to the WDAP meeting of 27 March 2014 and the JRPP meeting of 2 April 2014 (copy attached) concluded that:

*“whilst the proposal exhibits a high quality of architecture, finishes and general design attributes and represents a good opportunity to provide for further urban renewal and revitalisation of the Dee Why Town Centre on a disused prominent corner site, it does not sufficiently satisfy the planning controls applying to the site under WLEP 2011, SEPP 65 and*

*the Residential Flat Design Code and contains insufficient compensatory design features and community benefit to outweigh these non-compliances and onsite deficiencies to be in the public interest.”*

The following reasons for refusal were subsequently recommended:

1. *Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of State Environmental Planning Policy No 65 – Design Quality for Residential Flat Development. In particular, the following Design Principles:*

- (i) Principle 2 – Scale; and*
- (ii) Principle 4 – Density.*

*Additionally, the proposal is inconsistent with the following Rules of Thumb under the Residential Flat Design Code:*

- (i) Open Space.*

2. *Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development does not comply with the relevant provisions of the Warringah Local Environmental Plan 2011. In particular, the proposal does not satisfy the requirements of:*

- ☐ *Clause 4.3 – Height of Buildings Development Standard*

3. *Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the relevant provisions of the Warringah Development Control Plan 2011. In particular, the proposal is inconsistent with the provisions of Part G – Special Area Controls (Area 7 – Pittwater Road), Requirement 9 – Build-to-Lines.*
4. *Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act, 1979, the proposed development is not in the public interest as the development is inconsistent with the height of development that the community can reasonably expect to be provided on this site under the provisions of the Warringah Local Environmental Plan 2011.*

In addition to the above, the draft VPA was separately referred to Council at the Ordinary Meeting of 25 March 2014, with a Recommendation that Council not enter into the VPA with Jubilee Properties Pty Ltd in association with DA2013/1168.

### **Council and Panel Meeting Outcomes**

On 25 March 2014, the applicant submitted a revised draft VPA for further consideration by Council.

As such, Council staff did not have sufficient time to review the revised draft VPA and to make an appropriate and informed recommendation to Council at the already scheduled meeting of 25 March 2014.

Subsequently, the draft VPA and the Development Application were considered in the following manner:

**(a) Council (25 March 2014)**

The revised draft VPA was reported to Council at the Ordinary Meeting on 25 March 2014 under Item 8.7.

At that meeting, Council resolved the following:

*“That Item 8.7, Voluntary Planning Agreement – DA2013/1168, be deferred to the next Council Meeting on 29 April 2014.”*

**(b) Warringah Development Assessment Panel (27 March 2014)**

The Development Application was reported to the meeting of the Warringah Development Assessment Panel on 27 March 2014 under Item 3.4.

At that meeting, the Panel resolved the following:

*“That the application be deferred until a final assessment of the amended plans and any new planning agreement has been completed by Council.”*

**(c) Sydney East Joint Regional Planning Panel (2 April 2014)**

The Development Application was reported to the meeting of the Joint Regional Planning Panel on 2 April 2014 under Business Item 2.

At that meeting, the Panel resolved the following:

1. *“The Panel has considered the planning assessment report, which recommends refusal, the views of objectors, the Dee Why Town Centre Master Plan, as well as the applicant’s request to defer the application pending the council’s consideration of the Voluntary Planning Agreement that the applicant lodged on 25 March 2014.*
2. *The Panel notes that the planning assessment officer has agreed that deferring the application would be a reasonable option.*
3. *The Panel notes also that the planning assessment report assesses the physical aspects of this application as satisfactory. It questions only the extent of public benefit offered in the draft Voluntary Planning Agreement that was on offer at the time the report was written.*
4. *Accordingly, the Panel resolves unanimously to defer the determination of the application. Following the council’s consideration of the draft Voluntary Agreement now on exhibition and the receipt of a supplementary report, the Panel will hold another public meeting to determine the application.”*

**(d) Council (29 April 2014)**

The matter regarding the draft VPA was reported to Council on 29 April 2014 under Item 8.11.

At that meeting, Council resolved that:

1. *This matter, Item 8.11 Draft Voluntary Planning Agreement - 697 to 701 Pittwater Road, Dee Why (Cobalt), be deferred to an Extraordinary Council Meeting to be held at 6pm on Tuesday 6 May 2014.*

2. *Council writes to all members of the public who have made submissions in the past regarding the Voluntary Planning Agreement for this matter and the development application and clearly set out future dates of when the Warringah Development Assessment Panel and, if known, the Joint Regional Planning Panel will consider both matters."*

**(e) Council (6 May 2014)**

The draft VPA was reported to an Extraordinary Meeting of Council on 6 May 2014 under Item 7.1.

At that meeting, Council resolved that:

- A. *Council resolves to enter into a Voluntary Planning Agreement with Jubilee Properties Pty Ltd in association with DA2013/1168.*
- B. *The cash component of the Voluntary Planning Agreement be directed towards capital expenditure in Dee Why Town Centre.*
- C. *The General Manager have delegation to agree to minor modifications of the terms of the Voluntary Planning Agreement, involving minor errors, misdescriptions or miscalculations.*

**(f) Warringah Development Assessment Panel (7 May 2014)**

The Development Application was reported to the meeting of the Warringah Development Assessment Panel on 7 May 2014 under Item 3.4.

The Minutes of the Panel are attached.

**PUBLIC EXHIBITION AND SUBMISSIONS**

The application has been publicly exhibited three times since lodgement, in accordance with the EPA Regulation 2000 and the Warringah Development Control Plan 2011. Public Exhibitions 1 and 2 are addressed in the Assessment Report.

Public Exhibition No. 3

The revised draft VPA and associated plans were notified to a total of 2,744 land owners and occupiers (which included 722 people who made submissions on the original plan) for a minimum period of 28 calendar days commencing on 28 March 2014 and ending on 28 April 2014.

The amended DA plans addressed the increased floor areas to CF1 and CF2 to correspond to the offer made in the revised draft VPA. Minor changes to the basement car parking area were also included to compensate for the increased floor area of CF1. No change has been made to the remainder of the building.

As a result of the public exhibition process, Council is in receipt of 152 submissions in response to Public Exhibition No. 3.

The proposal attracted approximately 879 total submissions during the three separate public notification periods. The list of submitters is attached to this report.

An electronic petition has also been maintained by a resident of Dee Why which has attracted a total of 706 electronic signatures since its commencement.

The issues raised in the submissions regarding the draft VPA were reported to Council at the Extraordinary Meeting of 6 May 2014 and are not included here.

The issues raised in the submissions in relation to the Development Application were identical to those raised in previous submissions and were addressed in the original assessment report to the Panel. Those submission issues are not repeated in this supplementary report.

#### Additional Issues Raised

The following additional issues were raised in the recent public exhibition period of Public Exhibition No. 3:

- (a) Waste Management;
- (b) Bicycle Parking;
- (c) Provision of a Building Manager;
- (d) Location of Male/Female Public Toilets;
- (e) Compliance of Disabled Parking Spaces;
- (f) Northern Face of the Development Facing St. David's Park;
- (g) Non-compliance with the Build-to-Lines under the WDCP 2011; and
- (h) Floor Space Ratio;

The following commentary addresses the issues raised:

#### **(a) Waste Management**

Concern is raised that the development does not provide adequate manoeuvring, storage and loading areas to accommodate Council's waste management vehicles. Additionally, concern is raised that the occupants of the apartments on Level 2 cannot use the bin chute and would need go to Level 3 to access the bin chute.

#### Comment

Council's Waste Management Officer has reviewed the plans and has imposed specific conditions which require an increase to the loading dock area and the bin storage room to accommodate Council's waste management vehicles and to comply with the requirements of Clause C9 – 'Waste Management' under the WDCP 2011.

With regards to bin chute access, the floor level of the bin storage room is 2.0m below the floor level of Level 2 and is offset to the west of the central lobby. Therefore, access to the bin chute is not possible. Instead, occupants of 8 apartments of Level 2 can directly access the main bin room directly via steps which is not considered to be unreasonable.

This issue does not warrant the refusal of the application.

#### **(b) Bicycle Parking**

Concern is raised that the development does not provide sufficient bicycle parking on the site, as required by Clause C3(A) – 'Bicycle Parking and End of Trip Facilities' under the WDCP 2011.

#### Comment

A condition is imposed which requires the development to comply with the requirements of Clause C3(A) – ‘Bicycle Parking and End of Trip Facilities’ under the WDCP 2011.

This issue does not warrant the refusal of the application.

**(c) Provision of a Building Manager**

Concern is raised that the development does not provide an onsite/resident building manager in accordance with the Strata Schemes Management Act, 1996.

Comment

The provision of a building manager is the subject of consideration by the Owners Corporation for the strata scheme and not a matter for consideration under s.79C of the Environmental Planning and Assessment Act, 1979.

This issue does not warrant the refusal of the application.

**(d) Location of Male/Female Public Toilets**

Concern is raised that the proposed location of the male/female public toilets are such that safety is reduced.

Comment

A condition is imposed which requires the location of the male/female public toilets to be switched so that the female toilets are located closest to Pittwater Road.

This issue does not warrant the refusal of the application.

**(e) Compliance of Disabled Parking Spaces**

Concern is raised that the disabled parking spaces do not comply with the Australian Standard AS 2890.6.

Comment

A condition is imposed which requires that all car parking is to comply with the Australian Standard AS 2890.6.

This issue does not warrant the refusal of the application.

**(f) Northern Face of the Development Facing St. David’s Park**

Concern is raised that the northern side of the building facing St. David’s Park does not appropriately respond to the public open space and presents as a ‘cliff face’ with little or no articulation.

Comment

This matter was considered in the original assessment report to WDAP and the JRPP which acknowledged that the development incorporates a strong vertical design element at the north-eastern corner to emphasise the corner status of the building and the gateway significance of the site.

In that regard, the corner build-to element was generally considered to be an appropriate design response to the location and context of the site and the visual prominence of the site when viewed from Pittwater Road and across St. David's Park

This issue does not warrant the refusal of the application.

**(g) Non-compliance with the Build-to-Lines under the WDCP 2011**

Concern is raised that the non-compliance with the Build-to-Lines under Part G – 'Special Area Controls' of the WDCP 2011 will exacerbate the height and scale of the development when viewed from public vantage points.

Comment

The issue of Build-to-Lines was included in the assessment of the Development Application in the original assessment report where it was found that, while the development did not satisfy the relevant Objective pertaining to 'human scale' it did satisfy the remaining Objectives.

The scale and intensity of the development was considered to appropriately reflect the scale and intensity generally envisaged by the Masterplan for the Dee Why Town Centre.

Through the application of architectural framing devices, a variety of materials and textures and the incorporation of transitional elements which stepped back from the boundary as the building height increased, the development was considered to provide a reasonable level of articulation which positively related to, and complemented, the slim-line tower concept approved on Site B (Meriton) which is located on the opposite side of Pittwater Road.

In this regard, while the development does not provide a clearly defined 4<sup>th</sup> storey podium which would better respond to human scale, the proposed Build-to-Lines can be considered, on balance, to not be unreasonable in the particular context of the site, being a corner site adjacent to a park, and the broader strategic vision established in the Dee Why Town Centre Masterplan.

This issue does not warrant the refusal of the application.

**(h) Floor Space Ratio**

Concern is raised that the development proposes a floor space ratio (FSR) well in excess of that envisaged by the Dee Why Town Centre Masterplan.

Comment

There is currently no FSR control applying to the subject site.

The Masterplan does envisage the introduction of an FSR to limit the quantum of floorspace in the DYTC to ensure that the traffic environment and proposed traffic solution for the town centre is ensured.

However, Council in its decision to adopt the Masterplan stated that certain "Key Sites" will be considered for particular attention with regard to increased development potential.



This clarification provides scope for higher FSR's on Key Sites, subject to proposed developments providing significant public benefits such as publicly accessible pedestrian links.

In this regard, the subject site is strategically located to potentially deliver an important east-west pedestrian solution to elevated access across Pittwater Road via a Skybridge, hence it is considered to be a "Key Site" and having the ability for a higher FSR.

This issue does not warrant the refusal of the application.

## **DISCUSSION**

The following is a discussion of the application against the reasons for refusal proposed in the Recommendation to the WDAP and JRPP:

- 1. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of State Environmental Planning Policy No 65 – Design Quality for Residential Flat Development. In particular, the following Design Principles:**

- (j) Principle 2 – Scale; and**
- (iii) Principle 4 – Density.**

**Additionally, the proposal is inconsistent with the following Rules of Thumb under the Residential Flat Design Code:**

- (i) Open Space.**

### Comment

#### **(a) Scale**

With regards to Scale, the previous assessment report identified that the development has been conceived on the basis that the subject site is a 'Gateway Site' to the Dee Why Town Centre and will provide a transition between the older existing commercial developments along Pittwater Road and the towers of the future Meriton development approved on "Site B" of the Dee Why Town Centre.

In this regard, the site, and its immediate surrounds, should be treated in a manner that emphasises its marker status which is generally consistent with the applicable planning controls under WLEP 2011, the WDCP 2011 and the Dee Why Town Centre Masterplan.

However, it was also acknowledged that the development did not provide sufficient public benefit to support a claim for increased building height under the Dee Why Town Centre Masterplan.

As discussed below under Reason for Refusal No. 2, following the acceptance of the public benefit offer in the revised draft VPA, the development can now qualify for the additional height allowance in the Masterplan.

Given the support embodied in the provisions of the Masterplan and the delivery of demonstrable public benefit through the revised VPA, the development is now considered to be in the public interest as it is found to be consistent with the objectives of the building height development standard and satisfactorily resolves the objectives of Planning Principle 2 – 'Scale'.

**(b) Density**

With regards to Density, the planning controls under WLEP 2011 and the WDCP 2011 do not specify a maximum housing density for the zone. Rather, density is a function of the other applicable Development Standards and built form controls.

The Dee Why Town Centre Masterplan does envisage the introduction of a floor space ratio to limit the quantum of floorspace in the Dee Why Town Centre to ensure that the traffic environment and proposed traffic solution for the town centre is ensured. However, Council in its decision to adopt the Masterplan stated that certain “Key Sites” will be considered for particular attention with regard to increased development potential. The subject site is identified as one such “key site”. This clarification provides scope for higher FSR’s on Key Sites, subject to proposed developments providing significant public benefits.

Council’s Strategic Planning Department had noted in the previous assessment report that, in the absence of support through the Dee Why Town Centre Masterplan and provision of adequate public benefit, the density, as proposed, was considered to be excessive and could not be supported.

Given the acceptance by Council of the revised VPA and the satisfactory level of public benefit being offered through the VPA, the proposed density is now considered to be consistent with the objectives of the Masterplan and is supported.

**(c) Open Space**

With regards to Open Space, the development provides 319.5m<sup>2</sup> (17.9%) of communal open space (including a Gym and a Communal Room).

The communal open space areas in the form of roof-top terraces may be feasibly increased in area to closely comply with the recommended percentage. For example, the Open Terraces located on Level 9 & the Roof could be increased to achieve a further 72m<sup>2</sup> thereby increasing the provision of communal open space to 391m<sup>2</sup> (or 22%). A condition has been imposed requiring that the areas of the roof top terraces are increased accordingly.

In this regard, this Reason for Refusal is now considered to be satisfactorily addressed.

**2. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development does not comply with the relevant provisions of the Warringah Local Environmental Plan 2011. In particular, the proposal does not satisfy the requirements of:**

☐ **Clause 4.3 – Height of Buildings Development Standard**

Comment

The original assessment report referred to the WDAP and JRPP at their respective meetings on 27 March 2014 and 2 April 2014 found that the proposed height of the development was consistent with the building heights envisaged for the Dee Why Town Centre in the Dee Why Town Centre Masterplan. However, it was also found that the development failed in its provision of adequate public benefit through the provision of a satisfactory VPA.

The provision of adequate public benefit is a fundamental criteria of the Masterplan for this site in allowing additional building height and floor space. Therefore, the failure of the VPA to provide adequate public benefit meant that the development did not qualify for the building height allowance in the Masterplan and, instead, had to rely solely upon the provisions of Clauses 4.3 and 4.6 under the WLEP 2011.

Following the acceptance of the public benefit offer in the revised draft VPA, the development now qualifies for the additional height allowance in the Masterplan.

Given the support of the Masterplan and the delivery of demonstrable public benefit through the VPA, the development is considered to be in public interest as it is found to be consistent with the objectives of the building height development standard.

In this regard, this Reason for Refusal is now considered to be satisfactorily addressed.

- 3. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the relevant provisions of the Warringah Development Control Plan 2011. In particular, the proposal is inconsistent with the provisions of Part G – Special Area Controls (Area 7 – Pittwater Road), Requirement 9 – Build-to-Lines.**

Comment

As discussed earlier in this report, the assessment of the Development Application found that, while the development did not satisfy the particular Objective pertaining to 'human scale' it did satisfy the remaining Objectives of the Control.

The scale and intensity of the development was considered to appropriately reflect the scale and intensity generally envisaged by the Masterplan for the Dee Why Town Centre and, while the development does not provide a clearly defined 4th storey podium which would better respond to human scale, the proposed Build-to-Lines can be considered, on balance, to not be unreasonable in the particular context of the site, its surrounds and the broader strategic vision established in the Dee Why Town Centre Masterplan.

In this regard, this Reason for Refusal is now considered to be satisfactorily addressed.

- 4. Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act, 1979, the proposed development is not in the public interest as the development is inconsistent with the height of development that the community can reasonably expect to be provided on this site under the provisions of the Warringah Local Environmental Plan 2011.**

Comment

Given the support of the Dee Why Town Centre Masterplan, the consistency of the development with the objectives of the Height of Buildings Development Standard and the zone, and the satisfactory provision of public benefit through the VPA, the development is considered to be in public interest.

In this regard, this Reason for Refusal is now considered to be satisfactorily addressed.

## CONCLUSION

It is considered that all processes and assessments have been satisfactorily addressed and that proposed development constitutes the proper and orderly planning for the site or the locality.

As a direct result of the application and the consideration of the matters detailed within this supplementary report it is recommended that the Sydney East Joint Regional Planning Panel approve Development Application DA2013/1168.

## RECOMMENDATION

That Development Application No. DA2013/1168 for demolition works, construction of a mixed use retail/commercial and residential development and associated draft Voluntary Planning Agreement at Lot B, DP 381816, Lot 4, DP 417528, Lot 1, DP 300967 and Lot 1 in DP 364010 known as Nos. 697, 699, 701 and 703 Pittwater Road, Dee Why be approved subject to the following conditions:

### GENERAL CONDITIONS

### CONDITIONS THAT IDENTIFY APPROVED PLANS

#### 1. Approved Plans and Supporting Documentation

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

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
6195-A03(B) Basements 1 & 2 Plan	26/03/2014	Kann Finch Group Pty Ltd
6195-A04(B) Ground & Level 1	26/03/2014	Kann Finch Group Pty Ltd
6195-A05(B) Level 2 & 3	26/03/2014	Kann Finch Group Pty Ltd
6195-A06(B) Levels 4, 5 & 7	26/03/2014	Kann Finch Group Pty Ltd
6195-A07(B) Levels 6, 8 & 9	26/03/2014	Kann Finch Group Pty Ltd
6195-A08(B) Levels 10 & 11	26/03/2014	Kann Finch Group Pty Ltd
6195-A09(B) Levels 12 & 13	26/03/2014	Kann Finch Group Pty Ltd
6195-A10(B) Level 14 & Roof	26/03/2014	Kann Finch Group Pty Ltd
6195-A11(B) Section	26/03/2014	Kann Finch Group Pty Ltd
6195-A12(B) Sections	26/03/2014	Kann Finch Group Pty Ltd
6195-A13(B) South & East Elevation	26/03/2014	Kann Finch Group Pty Ltd
6195-A14(B) North & West Elevation	26/03/2014	Kann Finch Group Pty Ltd
6195-A30(A) External Materials	24/01/2014	Kann Finch Group Pty Ltd

Engineering Plans		
Drawing Number	Dated	Prepared By
208142 SWO(A)	15/12/2011	Demlakian Engineering
208142 SW1(E)	20/09/2013	Demlakian Engineering
208142 SW2(D)	20/09/2013	Demlakian Engineering
208142 SW3(F)	20/09/2013	Demlakian Engineering
208142 SW4(B)	30/07/2013	Demlakian Engineering
208142 SW5(D)	30/07/2013	Demlakian Engineering
208142 SW8(A)	30/07/2013	Demlakian Engineering

Reports/Documentation – All requirements and recommendations contained within:		
Report/Document	Dated	Prepared By

<b>Reports/Documentation – All requirements and recommendations contained within:</b>		
WB766-01F02(REV2) – Section J Report	06/09/2013	Windtech Consultants Pty Ltd
GEOTLCOV24307AA-AB – Geotechnical Study	24/06/2011	Coffey Geotechnics Pty Ltd
GEOTLCOV24307AA-AC – Stage 1 Environmental Assessment	30/06/2011	Coffey Environments Pty Ltd
Statement of Compliance – Access for People with a Disability	12/09/2013	Accessible Building Solutions
Addendum Report V	26/09/2013	Koikas Acoustics Pty Ltd
BCA Capability Report	16/09/2013	Vic Lilli Partners
Report on a significant tree with a public space located near the junction of Pittwater Road and St. David Avenue, Dee Why	10/06/2011	Malcolm Bruce

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

**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:

<b>External Department, Authority or Service</b>	<b>E-Services Reference</b>	<b>Dated</b>
Ausgrid	Referral Response - Ausgrid	15 October 2013
NSW Office of Water	Referral Response – Office of Water	19 December 2013
Roads & Maritime Service	Referral Response - RMS	16 December 2013

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

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

## 3. No Approval for any Signage

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

**Reason:** Control of signage. (DACPLB06)

#### 4. Prescribed Conditions

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

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

- (c) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and license number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

- (d) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish

- particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

**Reason:** Legislative Requirement. (DACPLB09)

## **5. General Requirements**

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- ☐ 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

- (g) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy. )
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

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

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

### 6. Finalisation of the Planning Agreement

Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979, the Planning Agreement that relates to the development application the subject of this consent must be entered into before the issuing of a Construction Certificate.

**Reason:** To ensure that the matters agreed to in the Planning Agreement are formalised.

### 7. Fitout of Council Facilities

Details of the internal fit out of Council Facility 1 and Council Facility 2, as annotated on the approved plans, including service connections for water, electricity, telephone and sanitary waste are to be approved by council prior to issue of Construction Certificate.

**Reason:** To ensure that the Council facilities agreed to in the Voluntary Planning Agreement are fitted out in a satisfactory manner.

### 8. Deletion of Planter Box

This consent does not approve of the construction of the planter box located at the south-western corner of the site adjacent to the southern end of the driveway.

The planter box is to be deleted from the plans and the road surface of the driveway, as proposed in the approved plans, is to be extended to the south boundary.

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

**Reason:** To enable a through site link from Delmar Parade to the property to the south.



## 9. Section 94A Contributions

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

Warringah Section 94A Development Contributions Plan		
Contribution based on total development cost of \$		31,550,000
Contribution - all parts Warringah	Levy Rate	Contribution Payable
Total S94A Levy	0.95%	\$299,725
S94A Planning and Administration	0.05%	\$15,775
<b>Total</b>	<b>1.0%</b>	<b>\$315,500</b>

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)

## 10. Compliance with Standards

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

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

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

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

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

- (m) AS 1428.2 - 1992\*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities\*\*

**\*Note:** The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website

[http://www.humanrights.gov.au/disability\\_rights/buildings/good.htm](http://www.humanrights.gov.au/disability_rights/buildings/good.htm)

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

## **11. Development of a Fitout Design to Councils Specifications for the Amenities Block**

A Fitout 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

## **12. Sewer/Water Quickcheck**

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

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

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

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

### 13. Access Door to the Residential Bin Room

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

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

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

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

### 14. 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.

### 15. External Colours and Materials

#### (a) External Glazing

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

#### (b) External Roofing

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

#### (c) Anti Graffiti Coating

The finishes of the walls up to 3m in height from ground level 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)

### 16. Soil Depth in Planter Boxes

All planter boxes and garden areas are to accommodate soil to a depth of no less than 1.0m.

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

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

#### **17. Communal Open Space Details**

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

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

#### **18. Utilities Services**

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

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

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

#### **19. Dilapidation Survey**

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

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

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

**Reason:** Proper management of records.

#### **20. Car Park Vents**

Any exhaust vents associated with the basement car park are to be located such that no residential dwelling within the property or surrounding the property will be affected

by fumes and noise greater than 5dBA above the background noise when measured at the property boundary.

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

**Reason:** Protection of amenity and health.

## **21. Damage to Public Infrastructure**

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

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

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

## **22. Bonds**

The following bonds are payable:

### **(a) Security Bond**

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

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

A Bond of \$60,000 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

### **(d) Construction, Excavation and Associated Works Bond (Crossing/Kerb)**

A Bond of \$60,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter and any footpath works required as part of this consent.

### **(e) Construction, Excavation and Associated Works Bond (Pollution)**

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

### **(f) Construction, Excavation and Associated Works Bond (Failure to Remove Waste)**

A bond of \$5,000 as security against damage to Council's road(s) fronting the site caused by the transport and disposal of materials and equipment to and from the site.

### **(g) Construction, Excavation and Associated Works Bond (Maintenance for civil works)**

The developer/applicant must lodge with Council a Maintenance Bond of \$6,000 for the construction of stormwater pipeline diversion works. The Maintenance Bond will only

be refunded on completion of the Maintenance Period, if work has been completed in accordance with the approved plans to the satisfaction of Council.

**(Note:** This bond may be refunded and replaced by the Maintenance Bond upon submission to Council of the final Compliance Certificate or Subdivision Certificate.)

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

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

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

### **23. Vehicle Driveway Gradients**

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

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

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

### **24. Geotechnical Report**

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

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

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

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

### **25. Food Premises**

Any premises being constructed to be used as a food premises shall comply with the requirements of Australian Standards 4674 (Design, Construction and Fit Out of Food Premises).

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

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

## **26 Mechanical Ventilation**

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

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

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

## **27. Waste/Recycling Requirements to Comply with the WDCP 2011**

Details demonstrating compliance with Clause C9 – ‘Waste Management’ under the Warringah Development Control 2011, including the required ‘Waste Management Plan’ are to be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

**Note:** If the proposal, when compliant with Clause C9 – ‘Waste Management’ under the Warringah Development Control 2011, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans a modification(s) to the development may be required.

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

## **28. Construction Management Program**

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

- a) The proposed method of access to and egress from the site for construction vehicle, including the proposed method of traffic control, access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area. Access across public parks and open space reserves is prohibited. Site access and egress is to be generally obtained from St David Avenue;
- b) The proposed phases of construction works on the site, and the expected duration of each construction phase;
- c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process;
- e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. On site crainage is a requirement of this consent. Mobile cranes if used shall be located wholly within the site or only utilised during the demolition and excavation phase, and in association with the

- establishment and removal of a site crane, removal of excavation equipment and the like;
- f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
  - g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
  - h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer and shall not involve any permanent or temporary encroachment onto Council's property;
  - i) Proposed protection for Council and adjoining properties. Details are to include site fencing and the provision of hoardings over footpaths and laneways;
  - j) The location and operation of any on site crane; and
  - k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.

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

## **29. Pedestrian Sight Distance at Property Boundary**

A pedestrian sight triangle of 2.0 metres by 2.5 metres, in accordance with AS2890.1:2004 is to be provided at the vehicular access to the property and where internal circulation roadways intersect with footpaths or other pedestrian access areas.

The gutter crossing and footpath crossing is required to be of sufficient width to accommodate all movements in and out of the driveway.

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

**Reason:** To maintain pedestrian safety. (DACTRBOC2)

## **30. Adaptable & Disabled Parking Spaces**

The adaptable unit parking spaces will need to be allocated to the specific adaptable units.

The parking spaces for the adaptable units are to comply with AS4299 with regard to length, width (6.0m x 3.8m min.) and vertical clearance. All disabled parking spaces are to comply with AS2890.6 with regard to length, width, provision of the shared area and vertical clearance.

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

**Reason:** To ensure compliance with Australian Standards (DACTRBOC1)



### **31. 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 numbers 208142 SW0 Rev A, 208142 SW1 Rev E, 208142 SW2 Rev D, 208142 SW3 Rev F, 208142 SW4 Rev B, 208142 SW5 Rev D, 208142 SW8 Rev A.

Minimum storage volume of 68 cubic metres must be provided in the OSD tank.

Basement car park levels are to be permanently tanked or water-proofed to prevent ingress of groundwater.

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)

### **32. Pump-Out System Design for Stormwater Disposal**

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

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

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

### **33. Structures Located Adjacent to Council Pipeline or Council Easement**

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

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

### **34. Vehicle Crossings Application Formwork Inspection**

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

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

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

### **35. Structural Adequacy and Excavation Work**

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

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

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

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

**Reason:** Safety. (DACENC19)

### **36. Shoring of Adjoining Property**

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

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

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

### **37. Submission of Engineering Plans for Civil Works in the Public Road Reserve**

Engineering plans are to be submitted to Council for approval under the provisions of Section 138 of the Roads Act 1993. The submission is to include four (4) copies of Civil Engineering plans for the design of full width concrete footpath along the St David Avenue and Pittwater Road frontages and diversion of Council's 375mm reinforced concrete stormwater pipe around the development which are to be generally in accordance with the Development Application, Warringah Council's Public Spaces Design Guidelines, Council's specification for engineering works – AUS-SPEC #1 and/or Council's Minor Works Specification.

The Fee Associated with the assessment and approval of the plans is to be in accordance with Council's Fees and Charges.

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

**Reason:** Ensure engineering works are constructed in accordance with relevant standards. (DACENCPC1)

### **38. Waterproofing/Tanking of Basement Level - Design**

The basement area is to be permanently tanked or waterproofed in accordance with the Sydney Coastal Councils Group : Groundwater Management Handbook, A Guide for Local Government, First Edition, dated September 2006. Details of the waterproofing/ tanking and certification certifying that the basement level is permanently tanked or waterproofed to prevent the ingress of sub-surface flows / groundwater into the basement area are to be prepared by a suitably qualified Engineer.

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

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

**Reason:** To prevent the ingress of sub-surface flows / groundwater into the basement area and to comply with State Government Requirements. (DACENCPC2)

### **39. Flood**

In order to protect occupants from flood inundation the following is required:

#### **a) Minimum Floor Level**

The finished floor level of the ground floor must be set at or above the Flood Planning Level of 19.5m AHD.

#### **b) Flood Protection**

All new building works and services shall be designed to withstand the hydraulic forces of the floodwaters up to the flood planning level of 19.5m AHD. Buoyancy (particularly in relation to cars in the ground floor car park), flowing water with debris, wave action, the flood compatibility of materials and waterproofing shall be addressed. Structural details for the construction for all elements including the building, air-conditioning units and waste and recycling bins are to be prepared by a suitably qualified Engineer.

#### **c) Habitable Rooms**

No approval is granted by this development consent for habitable rooms (as defined by the New South Wales Floodplain Development Manual) to be located under the flood planning level of 19.5m AHD.

#### **d) Hazardous Chemicals**

Hazardous Chemicals are not to be stored in areas under the flood planning level of 19.5m AHD.

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

**Reason:** To protect the building from flooding in accordance with Council and NSW Government policy. (DACNEC09)

#### **40. Contaminated Land Requirements**

Prior to the issue of any Construction Certificate a Contamination Management Plan is to be prepared by an appropriately qualified Environmental Consultant and provided to the satisfaction of the Certifying Authority.

The plan shall detail:

- a) How all the requirements and / or recommendations contained within the Reports - Statement of Environment and Effects report No. 7950A Prepared by Jubilee Properties Dated September 2013, Geotechnical Study report No. GEOTLCOV24307AA -AB prepared by Coffey dated 24 June 2011 and Stage 1 Environmental Site Assessment report No. GEOTLCOV24307AA-AC prepared by Coffey dated 30 June 2011 are to be implemented;
- b) A Remedial Action Plan (RAP) prepared by a suitably qualified Environmental Consultant in accordance with State Environmental Planning Policy No. 55 - Remediation of Land, and with any contaminated land planning guidelines under the Contaminated Land Management Act 1997;
- c) Stipulate reporting and processes associated with discovery of any new contamination that is revealed during excavation, demolition or development works. This process shall include the ability to contact NSW Fire and Rescue for pollution incidents, have on call (24 hours a day), a suitably qualified Environmental Consultant to undertake immediate investigations and provide recommendations for containment and rectification of contaminants or toxins and a process for notification to Warringah Council and the Principal Certifying Authority.
- d) A requirement to complete ongoing water and soils testing during excavation, demolition and development works as follows:
  - (a) During construction in order to monitor water and soil quality the following is to be implemented:
    - i) Water testing is to be completed in accordance with Section 3 of the NSW RTA's Guideline for Construction Water Quality Monitoring
    - ii) Soil Testing in order to detect contaminants is occur weekly with two (2) samples in accordance with the NSW EPA Contaminated Site Sampling Design Guidelines.
  - (b) The requirements of (i) and (ii) above are to be implemented from the commencement of works as follows:
    - i) Fortnightly during excavation works
    - ii) Monthly during building works
- e) To ensure water quality is maintained runoff must be drained to an adequately bunded central collection sump and treated, to meet NSW Department of Environment and Climate Change (formerly Environment Protection Authority) discharge criteria.

**Note:** Other options for the disposal of excavation pump-out water include disposal to sewer with prior approval from Sydney Water, or off-site disposal by a liquid waste transported for treatment/disposal to an appropriate waste treatment/processing facility.

- f) All stockpiles of potentially contaminated soil must be stored in a secure area on the site (no greater than 48 hours) so as not to cause pollution or public health risk until disposed of at a waste facility. All contaminated soil removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with all relevant Acts, Regulations and Guidelines. Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

**Note:** The following Acts and Guidelines applied at the time of determination:

- i) Protection of the Environment Operations Act 1997; and
  - ii) Environment Protection Authority's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).
- g) Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Environment Protection Authority and the provisions of all relevant Acts, Regulations and Guidelines.

**Note:** The following standards applied at the time of determination:

- i) Environment Protection Authority's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).
- h) Stipulate protocols for the importation of any landfill material onto the site the protocols shall include:
  - ☐ 'Chain of Custody' documentation shall be kept and submitted for the transport of the validated fill material from the (\*) site at (\*), to the subject premises.
  - ☐ Requirement that any landfill material being brought to the site shall be free of contaminants or toxins and shall be suitable for the use on the land.
  - ☐ Any landfill material being brought to the site shall have a validation report prepared to the satisfaction of the Principal Certifying Authority (prepared in accordance with the Department of Environment & Climate Change's guidelines).

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

**Reason:** Protection of the environment, SEPP 55 compliance. (DACHPCPCC6)

#### **41. Vertical Clearance in Loading Dock**

The vertical clear height within the loading dock off St. David Avenue, which services the retail, commercial and residential uses is to be a minimum of 4.5m in accordance with Australian Standard AS 2890.1-2002 (Part 2, "Off-street Commercial Vehicle Facilities"). Details to be incorporated in the plans submitted with the Construction Certificate.

**Reason:** To ensure adequate clearance for delivery trucks and garbage trucks.

## **42. Waste and Recycling Requirements**

Details demonstrating compliance with Warringah Development Control Plan – Clause C9 Waste Management, including the required Warringah Waste Management Plan, are to be submitted to and approved by Council's Waste Services prior to the issue of any Construction Certificate.

(a) Loading Dock

- (i) The Loading dock is to have a minimum dimension of 5.5m wide and 13.5m deep with a minimum 4.5m headroom.
- (ii) There must be no door preventing access onto and off the loading dock.
- (iii) The loading dock must be unoccupied on collection day.
- (iv) There must be a 2m wide and 2m deep splay at the inner entrance/exit of the loading dock to allow a heavy rigid vehicle to reverse into the area.
- (v) No goods/waste to be stored in the loading dock.

(b) Bin Room

- (i) The door on the bin room to/from the loading dock must be moved to reflect the change of the minimum required loading dock dimension. The door must open outwards and face the back of the waste collection vehicle.
- (ii) All doors on the bin room must not be locked, and able to latch in an open position.
- (iii) The bin room must be able to accommodate for 108 x 240L bins and garbage chute. The minimum dimension for 108 x 240L bins stacked in 4 columns with 1m wide aisles between the bin columns is 16.5m long and 6m wide.

(c) Bulky Goods Room

- (i) A separate room must be provided for bulky goods, the minimum space required is 60 cubic metres.

(d) Ramp Access

- (i) The path between the lobby lift and the bin room must be via ramp access (must be no stairs), there must be no doors on the path except on both entrance/exit
- (ii) Maximum gradient of 1 in 8 for the Ramp

(e) Recycling Cupboards

- (i) The recycling cupboard must be 1.2m wide and 0.8m deep. The recycling cupboard must be able to house 1 x 240L paper bin and 1 x 240L bottle bin.
- (ii) The recycling cupboard must be designed in a manner to encourage residents to utilize the recycling bins.

(f) Ongoing Waste Management

- (i) The recycling bins must be checked daily and replaced with an empty bin when required.
- (ii) The recycling cupboard and garbage chute must be adequately signed to encourage correct use of the bin facilities.

**Note:** If the proposal, when compliant with Warringah Development Control Plan – Part C9 Waste Management, causes inconsistencies with other parts of the approval

i.e. architectural or landscaped plans a modification(s) to the development may be required.

**Reason:** To ensure adequate and appropriate waste and recycling facilities are provided. (DACWTC01)

#### **43. Provision of Bicycle Parking**

Bicycle parking is to be provided within the basement levels and shall comply with

- a) Australian Standard AS 2890.3-1993 Parking Facilities – Bicycle parking facilities;
- b) The design principles and specifications for bicycle parking contained in the NSW Planning Guidelines for Walking and Cycling; and
- c) The NSW Bicycle Guidelines.
- d) Clause C3 (A) of the Warringah Development Control Plan 2011.

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

**Reason:** To address Clause C3 (A) of the WDCP.

#### **44. Increase to the Areas of Roof Top Terraces**

The roof top terraces on Level 9 and the Roof are to be increased to achieve a total additional area of 72m<sup>2</sup>.

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

**Reason:** To improve the provision of communal open space and residential amenity.

### **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

#### **45. Public Liability Insurance - Works on Public Land**

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

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

#### **46. Working on Reserves and Reserves Vehicular Access Permit**

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

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

## **CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

### **47. Plans on Site**

A copy of all stamped approved plans, specifications and documents (including the Development Consent, Consent Plans, Construction Certificate and Plans if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

**Reason:** To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance.

### **48. Loading within Site**

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

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

### **49. Installation and Maintenance of Sediment Control**

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

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

### **50. Installation and Maintenance of Sediment Control**

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

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

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



**51. Traffic Control During Road Works**

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

**Reason:** Public Safety. (DACENE11)

**52. Requirement to Notify about New Contamination Evidence**

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

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

**53. Protection of Trees During Works**

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

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

**54. Tree Pruning**

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

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

**55. Property Boundary Levels**

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

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

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

## **56. Stormwater Pipeline Construction**

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

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

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

## **57. Vehicle Crossings**

The provision of one vehicle crossing 7 metres wide at the property boundary and 11.5 metres wide at the kerb alignment in accordance with Warringah Council Drawing No A4-3330/1 Normal and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass.

Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

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

## **58. Civil Works Supervision**

All civil works approved in the Construction Certificate are to be supervised by an appropriately qualified and practising Civil Engineer.

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

**Reason:** To ensure compliance of civil works with Council's specification for engineering works. (DACENE06)

## **59. Footpath Construction**

The applicant shall re-construct full width concrete footpath along the St David Avenue and Pittwater Road frontages. The works shall be in accordance with the following:

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

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

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

#### **60. Layback Construction**

A layback 11.5 metres wide (excluding the wings) is to be constructed in accordance with Warringah Council Drawing No A4-2276 and specifications.

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

#### **61. Maintenance of Road Reserve**

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

**Reason:** Public Safety. (DACENE09)

#### **62. Notification of Inspections**

Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

- (a) Installation of Silt and Sediment control devices
- (b) Prior to backfilling of pipelines
- (c) Prior to pouring of stormwater gully pits
- (d) Prior to pouring of kerb and gutter
- (e) Subgrade level / basecourse level
- (f) Sealing road pavement

**Note:** Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification. Council approval or acceptance of any stage of the work must be obtained in writing, and will only be issued after completion of the work to the satisfaction of Council and receipt of the required certification.

**Reason:** To ensure new Council infrastructure is constructed to Council's requirements. (DACENE10)

#### **63. Waterproofing/Tanking of Basement Level - Certification**

Certification certifying that the basement level is permanently tanked or waterproofed to prevent the ingress of sub-surface flows / groundwater into the basement area.

Certification is to be provided by an Accredited Certifier suitably accredited with the Building Professionals Board in the relevant area of expertise.

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

**Reason:** To prevent the ingress of sub-surface flows / groundwater into the basement area. (DACENEDW1)

#### **64. Public Tree Protection**

To ensure protection of public trees during works the recommendations included in the arboricultural assessment *Report on a significant tree within a public space, located near the junction of Pittwater Road and St David's Avenue, Dee Why* (Bruce, 2011) are to be implemented.

**Reason:** To ensure protection of public trees (DACHPEDW1)

#### **65. Trees and/or Landscaping**

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

##### **(a) Protection of Trees During Works**

The *Eucalyptus robusta* (Swamp Mahogany) (identified in the Arborist's report as *E. botryoides*) located on the adjoining property at St David's 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.

##### **(b) Tree Pruning**

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

##### **(c) Existing trees which must be retained**

All trees not identified for removal on the approved plans

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

#### **66. Trees Condition**

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

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.

- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

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

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

**Reason:** Protection of Trees. (DACLA03)

#### **67. Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan titled 'Waste Management Report' and dated 25 September 2013

**Reason:** To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided. (DACWTE01)

#### **68. Waste/Recycling Requirements (Materials)**

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

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

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

#### **69. Completion of the Fitout of Council Facilities**

Works as executed drawings of the internal fit-out of Council Facility 1 and Council Facility 2, as annotated on their approved plans, including service connections for water, electricity, telephone and sanitary waste to be provided to Council for approval prior to release of Occupation Certificate.

**Reason:** To ensure that the Council facilities agreed to in the Voluntary Planning Agreement are fitted out in a satisfactory manner.

#### **70. Separate Commercial and Residential Garbage and Recycling Rooms**

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

containers and all other waste and recyclable material generated by this premises.

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

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

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

#### **71. Provisions Relating to Council Facilities (Toilets)**

Provision of the following items to be documented:

- ☐ Ongoing insurance maintenance and repair of Council's Facilities as agreed to in the Planning Agreement, including any common areas and party walls at no cost to Council.
- ☐ That Council shall not be required to contribute by way of any strata levies or the like towards the development.

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

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

#### **72. Creation and Dedication to Council of a Stratum Lot for Council Facilities**

Creation and dedication to Council (at no cost to Council) of a separate unencumbered stratum lot for the toilets, Community Facility 1 and Community Facility 2 (as agreed to in the Planning Agreement) is required prior to the issue of an interim/final occupation certificate.

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

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

#### **73. Vehicle Egress Signs**

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

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

**Reason:** To ensure pedestrian safety. (DACPLG03)

#### **74. Visitors Sign**

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

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

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

#### **75. Waste/Recycling (Certificate of Compliance with Policy)**

The proposal shall be constructed in accordance with Clause C9 – 'Waste Management' under the Warringah Development Control 2011.

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

**Reason:** To ensure waste and recycling facilities are provided.

#### **76. Positive Covenant for Waste Services**

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

**Reason:** To ensure ongoing access for servicing of waste facilities

#### **77. House/Building Number**

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

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

**Reason:** Proper identification of buildings. (DACPLF04)

#### **78. Allocation of Spaces**

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

<b>No. of Spaces</b>	<b>Component</b>
132	Residential
14	Retail
3	Council Facility 1
4	Council Facility 2
22	Visitor

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)

#### **79. Visitor Car parking**

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

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

#### **80. Parking Enclosure**

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

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

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

#### **81. Intercom**

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

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

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

#### **82. Authorisation of Legal Documentation Required for On-site Stormwater Detention**

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

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



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

**83. Registration of Encumbrances for On-site Stormwater Detention**

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

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

**Reason:** To identify encumbrances on land. (DACENF02)

**84. Reinstatement of Kerb**

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

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

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

**85. Restriction as to User for On-site Stormwater Detention**

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

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

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

**86. Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person.

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

**Note:** The following Standards and Codes applied at the time of determination:

- (a) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003 - Plumbing and drainage – Stormwater drainage
- (b) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003/Amdt 1 - 2006 - Plumbing and drainage - Stormwater drainage
- (c) National Plumbing and Drainage Code.

**Reason:** To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)

#### **87. On-Site Stormwater Detention Compliance Certification**

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

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

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

#### **88. Positive Covenant for the Maintenance of Stormwater Pump-out Facilities**

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

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

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

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

#### **89. Positive Covenant for On-site Stormwater Detention**

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

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

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

#### **90. Creation of Positive Covenant and Restriction as a User**

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

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

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

**Reason:** To identify encumbrances on land. (DACENF14)

#### **91. Waterproofing/Tanking of Basement Level - Certification**

Certification certifying that the basement level is permanently tanked or waterproofed to prevent the ingress of sub-surface flows / groundwater into the basement area.

Certification is to be provided by an Accredited Certifier suitably accredited with the Building Professionals Board in the relevant area of expertise.

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

**Reason:** To ensure compliance with State Government Requirements. (DACENFPOC2)

#### **92. Consolidation of Lots or Restrictive Covenant**

Lot 1 DP 300967, Lot 4 DP 417528 and Lot B DP 381816 must be consolidated as one (1) allotment and registered on a survey plan (prepared and signed by a Registered Surveyor) with the NSW Land & Property Information Service (NSW Department of Lands).

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 development is not constructed over property boundaries. (DACPLF02)

#### **93. Fire Safety Matters**

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

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

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

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

**94. Environmental Report Certification**

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

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

**Reason:** To ensure compliance with standards.

**95. Garbage and Recycling Facilities**

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

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

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

**96. Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

**Reason:** To ensure waste is minimised and recycled. (DACWTF02)

**97. Positive Covenant for Waste Services**

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

**Reason:** To ensure ongoing access for servicing of waste facilities (DACWTF03)

**98. Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (Department of Lands standard form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

**Reason:** To create encumbrances on the land. (DACWTF04)

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

### **99. Loading Within Site**

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

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

### **100. Signs/Goods in the Public Way**

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

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

### **101. Maintenance period for civil works under the provisions of the Roads Act 1993 and Environmental Planning and Assessment Act 1979**

A Maintenance Period of six (6) months shall apply to the footpath and drainage works located in, on or over a public road as approved under the provisions of Section 139 of the Roads Act 1993 and Section 80A of the Environmental Planning and Assessment Act 1979, after it has been completed and approved in writing by the appropriate Roads Authority. In that period the applicant shall be liable for any part of the work which fails to perform in the manner outlined in Roads Authority's specifications, or as would be reasonably be expected under the design conditions.

**Reason:** To ensure works are appropriately constructed and repaired where defective. (DACENG01)

### **102. Commercial Waste and Recycling Storage**

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins as shown on the approved plans.

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

### **103. Commercial Waste Collection**

Waste and recyclable material, generated by this premises, must not be collected between the hours of 9pm and 8am on any day.

**Reason:** To ensure the acoustic amenity of surrounding properties. (DACPLG24)