



**Application No:** PLM2014/0055

**Meeting Date:** 12 June 2014

**Property Address:** 511-513 Pittwater Road, Brookvale

**Proposal:** Construction of Shop top Housing and strata subdivision, refurbishment of existing hotel, and Torrens subdivision

**Attendees for Council:** Steve Findlay – Planning Assessment Manager  
Lashta Haidari – Planning Assessment Manager  
Joseph Di Cristo - Senior Development Engineer

**Attendees for applicant:** Greg Boston – Consultant Town Planner  
Charles Kelly – Owner  
Andrew Towzell – Project Manager  
Tony Leung – Architect

**General Comments:**

All applications are assessed on individual merit, however a failure to comply with Council or a State Planning controls will generally indicate an over development of the site and may result in adverse impacts upon adjoining and nearby land and the streetscape.

You are advised to carefully read these notes. If there is an area of concern or non-compliance, you are strongly advised to review and reconsider the appropriateness of the design of your development for your site and the adverse impacts that may arise as a result of your development prior to the lodgement of any development application.

Council will seek to ensure that the development of land meets all provisions of all legislation and the relevant Environmental Planning Instrument/s, in addition to providing appropriate levels of amenity to surrounding and nearby lands.

Failure to achieve this may ultimately lead to the refusal of any application lodged without notice.



WARRINGAH COUNCIL

Civic Centre 725 Pittwater Road Dee Why NSW 2099  
DX 9118 Dee Why NSW ABN 31 565 068 406  
T 02 9942 2111 F 02 9971 4522  
[warringah.nsw.gov.au](http://warringah.nsw.gov.au)



## Warringah Local Environmental Plan 2011 (WLEP 2011)

Consideration of proposal against Warringah Local Environment Plan 2011

The fundamentals	
<b>Definition of proposed development:</b> (ref. WLEP 2011 Dictionary)	Shop top Housing Refurbishment of existing hotel Subdivision
<b>Zone:</b>	B5 Business Development
<b>Permitted with Consent or Prohibited:</b>	<b>Shop top Housing</b> – permitted under Schedule 1 <b>Refurbishment of Existing Hotel</b> – permitted with consent <b>Subdivision</b> - Permitted with Consent

Objectives of the Zone
<p>The objective of the zone are:</p> <ul style="list-style-type: none"><li>• To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of, centres.</li><li>• To provide for the location of vehicle sales or hire premises.</li><li>• To create a pedestrian environment that is safe, active and interesting by incorporating street level retailing and business uses.</li></ul> <p><u>Comment:</u> The proposed development is consistent with the objectives of the B5 zone, in that the proposed mixed use development is permissible within the zone. Furthermore, the retail component of the development and refurbishment of the Brookvale Hotel will continue to support the viability of the centre.</p> <p>With regards to the objective relating to creating a pedestrian environment, the applicant is required to demonstrate that the proposed retail/business space at the ground level will continue to be such that it will create a pedestrian environment that is safe, active and interesting by incorporating business uses that is permissible within the zone.</p>

Principal Development Standards:			
Standard	Permitted	Proposed	Comment
<b>Minimum subdivision lot size:</b>	No minimum Lots size apply to the site	The proposal includes the subdivision of the subject site into two (2) Lots.  There was insufficient information submitted with the application to determine the proposed lot sizes.	The subdivision of the Lot does raise some significant concerns in relation to the proposed height for the shop top housing component. Refer to discussion under “Heights of Buildings” within these notes.



Principal Development Standards:			
Standard	Permitted	Proposed	Comment
<b>Height of Buildings:</b> <b>Note:</b> Building heights under WLEP 2011 are taken from existing ground level.	11m	Calculated at approximately 15.6m above the existing ground level.	<p>The issue relating to Building Height has been discussed at length at number of meetings relating to the site. In summary, the additional height as proposed could be supported under the provisions of Clause 4.6 of WLEP 2011.</p> <p>1. However, as discussed at previous meetings, it is suggested that in order to satisfy the objectives and requirement of Clause 4.6 in relation to public benefit, a Voluntary Planning Agreement (VPA) providing for a restriction that no building/s will be constructed above the Brookvale Hotel building (fronting Pittwater Road) until such time that a MasterPlan is adopted for Brookvale centre and the planning controls arising at of that Masterplan are adopted as Planning controls for the site. Therefore, you are advised to formalise yourself with the Draft VPA policy, which has been publicly exhibited.</p> <p>2. The public benefits should also include:</p> <p>The Through Site Link as shown on the latest plans submitted at the pre-lodgement meeting.</p> <p>The retention of Brookvale Hotel to ensure its community</p>



Principal Development Standards:			
Standard	Permitted	Proposed	Comment
			<p>gathering facility.</p> <p>3. Additional information is to be submitted demonstrating that the solar access to communal open space on the site is in compliance with requirement of SEPP 65, RFDC and the WDCP and there is no unreasonable impact on the adjoining developments, particularly, the residential units to the north east.</p> <p>Detailed written variation to the building height control under the provisions of Clause 4.6 in WLEP 2011 is required to be submitted with the Application.</p> <p>Additional, Cross sections, intersecting through multiple points through each building, are to be provided which clearly show the proposed building heights (as expressed in metres and storeys) in relationship to the <i>existing</i> ground level.</p>

Part 5 Miscellaneous Provisions	
Provision	Comment
5.9 Preservation of trees or vegetation	The site is not identified as accommodating prescribed vegetation.
5.10 Heritage conservation	The subject site is in the vicinity of heritage items (in this case, the Brookvale Public School). The modified design of the proposed development is to ensure the character of the heritage item is not impacted upon. The Statement Environmental Effect (SEE) needs to address the requirement of this control.

Part 6 Relevant Additional Local Provisions	
Provision	Comment
6.3 Flood Planning	The site is located with an identified Flood Planning area



Part 6 Relevant Additional Local Provisions	
Provision	Comment
	<p>and is therefore subject to satisfying the requirements of this clause.</p> <p>In this regard, a <i>Flood Risk Assessment report must be submitted with the Development Application – the guidelines for undertaking this assessment can be found on Council's website at:</i></p> <p><a href="http://www.warringah.nsw.gov.au/sites/default/files/documents/general-information/flood-zones/2009081641guidelineforpreparingafloodriskassessmentreport.pdf">http://www.warringah.nsw.gov.au/sites/default/files/documents/general-information/flood-zones/2009081641guidelineforpreparingafloodriskassessmentreport.pdf</a></p>
<b>6.4 Development on Sloping Land</b>	<p>The proposed development area of the site is located within Landslip Area A, as detailed in Council's Landslip Risk Map.</p> <p>As excavation is proposed to accommodate the basement car park, a Geotechnical Report will be required to be provided with the Development Application to confirm that the locations, areas and depths of the basements are both appropriate and achievable with respect to their particular geological and topographical circumstances.</p>

Relevant Schedules	
Schedule	Comment
<b>Schedule 1 Additional permitted uses</b>	<p><b><i>Use of certain land in the vicinity of Pittwater Road and Roger Street, Brookvale</i></b></p> <p><i>This clause applies to land in the vicinity of Pittwater Road and Roger Street, Brookvale, shown as "Area 9" on the <a href="#">Additional Permitted Uses Map</a>.</i></p> <p><i>Development for the following purposes is permitted with consent:</i></p> <ul style="list-style-type: none"><li>• office premises,</li><li>• retail premises,</li><li>• Shop top housing.</li></ul> <p><i>Consent must not be granted under this clause to development for the purposes of shop top housing unless the consent authority is satisfied that the development will not have a significant adverse impact on any adjoining land in Zone IN1 General Industrial.</i></p> <p><b>Comment:</b> The proposal will remain consistent with the Additional Permitted Uses applicable to the site. Details of the potential issues and treatment / protection to ensure the proposal do not have an adverse impact on</p>



Relevant Schedules	
	the adjoining zoning are to be detailed within the SEE.

### Warringah Development Control Plan 2011 (WDCP 2011)

Consideration of proposal against Warringah Development Control Plan 2011

Warringah Development Control Plan			
Part B: Built Form Controls			
Control	Requirement	Proposed	Comment
<b>B5 &amp; B6. Side Boundary Setbacks</b>	Merit	Varied setback provided to the southern boundary, being the only side boundary for the subject site.	No specific concern is raised with regards to the setback, as it is considered to provide an effective transition from the adjoining development on Roger Street to the proposed development.
<b>B9 &amp; B10. Rear Boundary Setbacks</b>	Merit	Not Applicable as the site has Three (3) street frontages	Not Applicable
Part C: Siting Factors			
Control	Comment		
<b>C2. Traffic, Access and Safety</b>	<p><u>Traffic Report</u> A comprehensive traffic report prepared by a suitably qualified person is required to be submitted with the Development Application which addresses the requirements of Clauses C2 and C3.</p> <p>In the preparation of this, you are encouraged to liaise with Council's Traffic Engineer to discuss and resolve any traffic related matters prior to the lodging of a Development Application.</p> <p><u>Dewatering and tanking</u> With regards to the construction of the basement car parking areas, the proposal may intersect the water table and require temporary construction dewatering. The basement car park is to be tanked to prevent the need for a pumping system to be operated continuously for the life of the development, to make the structure safe, trafficable and habitable.</p> <p>If the proposal is integrated, Development under Section 91 of the EPA Act as it requires a permit under the Water Management Act 2000, a cheque</p>		



Warringah Development Control Plan	
	<p>for \$320 is to be provided with the Development Application.</p> <p><u>Loading and unloading facilities</u> The general location of Facilities for the loading and unloading of service, delivery and emergency vehicles are to be approximate to the size and nature of the development. On-site facilities are to be screened from public view and designed so that vehicles may enter and leave in a forward direction. Full details will be required to be submitted with Development Application.</p>
<b>C3. Parking Facilities</b>	<p>Compliant off-street car parking is to be provided within the subject property boundaries having regard to land use, hours of operation, availability of alternative parking in accordance with Appendix 1 under the WDCP.</p> <p>The Traffic Report is to address parking compliance.</p>
<b>C3(A). Bicycle Parking and End of Trip Facilities</b>	<p>The provision of bicycle parking facilities is to be provided as required by this clause.</p>
<b>C4. Stormwater</b>	<p>Council's Development Engineer has provided the following comments with regards to stormwater management:</p> <ol style="list-style-type: none"><li><i>OSD is required and is to be as per the original approval in terms of the volume and discharge rate. All other elements of the design of the system are to be in accordance with Council's OSD Technical Specification.</i></li><li><i>In order for the applicant to remove the requirement for tanking of the site, a revised geotechnical report with recommendations of the ground water with respect to the proposed development will be required with the submission.</i></li></ol>
<b>C6. Building over or adjacent to Constructed Council Drainage Easements</b>	<p>Given the location of the basement car park, the location of any Council easements is to be examined and, if found to be within close proximity to the development, the layout of the affected structure(s) is to be adjusted to accommodate the easement(s).</p> <p>Details of any Council easements are to be included on a survey diagram to accompany the Development Application.</p>
<b>C7. Excavation and Landfill</b>	<p>Excavation of the site is to be kept to a minimum in order to minimise impact upon Council's drainage assets.</p>
<b>C8. Demolition and Construction</b>	<p>A Construction Management Plan will be required</p>



Warringah Development Control Plan	
	to be submitted with the Development Application dealing with construction access, parking, storage, stockpiling, security fencing, sediment and erosion management, work zones required, crane locations, dust minimisation, noise minimisation etc. Development is not to result in noise emission which would unreasonably diminish the amenity of the area and is not to result in noise intrusion which would be unreasonable to the occupants.
<b>C9. Waste Management</b>	Details demonstrating compliance with C9 of WDCP 2011 including the required 'Waste Management Plan' are to be addressed and submitted with the development application.
Part D: Design	
Control	Comment
<b>D1. Landscaped Open Space and Bushland Setting</b>	A plan is to be included with the Development Application which clearly identifies areas allocated for deep soil landscaping (as defined in the WDCP). The plan is to include calculations linked to shaded areas which identify the areas allocated for deep soil landscaping.
<b>D2. Private Open Space</b>	<p>The development is to provide private open space areas for each dwelling in the form of terraces and/or balconies with a minimum dimension of 2.5m and a minimum area of 10m<sup>2</sup>.</p> <p>Each terrace and/or balcony is to be directly accessible from a living area and is to be located so as to avoid privacy impacts to other units within the development and to any surrounding residential development. As a rule of thumb, locate terraces/balconies away from bedrooms of neighbouring dwellings.</p>
<b>D3. Noise</b>	<p>Because of its proximity to Pittwater Road, Old Pittwater Road, and Roger Street, the development is to be designed to mitigate any adverse noise impacts to the dwellings within the building.</p> <p>An Acoustic Report is to be prepared by a suitably qualified person to assess this matter against Clause 102 of SEPP (Infrastructure) and the development is to incorporate the recommendations provided in that report.</p>
<b>D5. Orientation and Energy Efficiency</b>	The development is to demonstrate compliance with the objectives for this clause and State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
<b>D6. Access to Sunlight</b>	The development is not to unreasonably reduce sunlight to surrounding properties. Shadow diagrams, certified by the architect, are to be provided which show the extent of shadow cast by





Warringah Development Control Plan	
	the proposed building envelopes at 9.00am, Noon and 3.00pm on 21 June.
<b>D7. Views</b>	The development is to allow for the reasonable sharing of views. A detailed view analysis is to be provided from various points. In addition, view sharing is to be analysed in the Statement of Environmental Effects in accordance with the four part test outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140.
<b>D8. Privacy</b>	<p>Development is not to cause unreasonable direct overlooking of habitable rooms and principal private open spaces of other dwellings.</p> <p>Particular regard is to be given to the impact of overlooking into the neighbouring residential properties and to the habitable rooms (including bedrooms) of proposed apartments. Similarly, particular attention should be given to the building separation requirements under <i>State Environmental Planning Policy No. 65 (Design Quality of Residential Flat Development)</i> to address privacy between apartments within the development.</p>
<b>D9. Building Bulk</b>	<p>Buildings are to have a visual bulk and an architectural scale consistent with structures on adjoining or nearby land and are not to visually dominate the street or surrounding spaces.</p> <p>Therefore, the proposal is to include massing diagrams and modelling to demonstrate that the preferred design outcome has been carefully matched to form a relationship with the bulk, scale and spatial spread of development envisaged by the control under the WLEP 2011 and WDCP for Brookvale.</p> <p>The bulk and height of the development is to be diffused through detailed articulation to all facades and the through appropriate application of materials and colours.</p>
<b>D20. Safety and Security</b>	A formal risk assessment, including the consideration of the 'Crime Prevention through Environmental Design' principles will be required to be submitted with the Development Application.
<b>D21. Provision and Location of Utility Services</b>	The development is to provide for connection to all available utility services.
<b>D22. Conservation of Energy and Water</b>	The development is to demonstrate compliance with the objectives for this clause and State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.



### Other Relevant Environmental Planning Instruments/SEPPs

You are advised that the following Environmental Planning Instruments apply to the development:

- SEPP No. 55 – Remediation of Land;
- SEPP No. 64 – Advertising and Signage (if required);
- SEPP No. 65 – Design quality of Residential Flat Development (including the Residential Flat Design Code);
- SEPP (Infrastructure) 2007; and
- Warringah Local Environment Plan 2011.

### Relevant Council Policies

You are advised of the following (but not limited to all) Council's policies available at [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au):

- [Applications for Development - Policy for the handling of unclear, non-conforming, insufficient and Amended applications: PDS-POL 140](#)
- [Stormwater drainage for low level properties PDS-POL 135](#)
- [Building over or adjacent to constructed Council drainage systems and easements: PAS-PL 130](#)
- [Common vehicular access to multiple properties: LAP-PL 310](#)
- [Development Applications relating to trading hours under the Liquor Act 1982: LAP-PL 610](#)
- [Vehicle access to all roadside development: LAP-PL 315](#)

### Required Documentation

- All information required to be submitted under Schedule 1 of the Environmental Planning and Assessment Regulation 2000;
- All information as required on the Development Application form checklist;
- Site Analysis;
- Site Survey (prepared by a registered Surveyor);
- Statement of Environmental Effects addressing:
  - Section 79C of EPA Act,
  - all relevant sections of WLEP 2011, including demonstrating consistency with the B5 zone and the compliance with the Height of Buildings Development Standard.
  - All relevant sections of WDCP 2011;
  - other relevant Environmental Planning Instruments.
- Geo-technical report;
- Clause 4.6 Variation
- SEPP 65 and RFDC Assessment
- Preliminary Site Contamination Assessment;
- Phase 1 Site Contamination Assessment;
- Access Report;
- Traffic and Parking Report;
- Crime Prevention Through Environmental Design (CPTED) assessment;
- SEPP 65 Design verification statement from a qualified designer;
- Model of the proposed development;
- Shadow diagrams;
- View analysis;
- Photo montages;
- Landscape Plan showing the layout of the landscaping within the site and the selection of



### Required Documentation

- species;
- Waste Management Plan;
- Flood Assessment Report
- Acoustic Report
- Stormwater Management Plan;
- Erosion and Sedimentation Plan;
- Colour and Materials Schedule;
- Cost Summary Report, if the cost of works exceeds \$100,000. This report is to be in addition to the Estimated Cost of Work options in Part 2.3 of Council's Development Application Form.

### Concluding Comments

These Minutes are in response to a pre-lodgement meeting held on 16 June 2014 to discuss the redevelopment of the site for the purposes of shop top housing, the refurbishment of the existing Brookvale Hotel, and the Subdivision of Lot into two (2) Lots. The Minutes reference preliminary plans prepared by Tony Leung dated 8 May 2014.

The issue relating to the building height has been discussed at length at the meetings, in summary, the additional height can be supported if sufficient public benefit is provided and there are sufficient environmental planning grounds to justify the departure from the development standards. As discussed, it is suggested that this may involve a Voluntary Planning Agreement (VPA) providing Council with a restriction that no building/s will be constructed above the Brookvale Hotel building (fronting Pittwater Road) until such time that a Masterplan and associated planning controls are adopted for Brookvale.

Based upon the above comments you are advised to satisfactorily address the matters raised in these minutes prior to lodging a development application.

### Other Matters

- **Requirement to Submit Correct, Clear and Accurate Information at Lodgement**

You are advised, that if an application is unclear, non-conforming or provides insufficient information, or if Council requests additional information in accordance with Clause 54 of the EPA Regulations 2000 and it is not provided within the specified time frame, a development application may be rejected or refused without notice.

The time to discuss and amend your design is prior to lodgement of your Development Application, as there will be no opportunity to do so during the assessment process.

- **Privacy and Personal Information**

You are advised that Council is legally obliged to make Development Applications and supporting documents available for public inspection – see section 12 of the Local Government Act 1993. We do this at the Customer Service Centre and by placing copies of the applications and supporting documents on the Council website.

Should this proposal result in a development application being lodged these notes will form part of the development application documentation that will appear on Council's website – DA's online. [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au)



<b>Other Matters</b>
<ul style="list-style-type: none"><li>• <b>Monitoring DA progress after lodgement</b></li></ul> <p>Once lodged you can monitor the progress of your application through Council's website – DA's online. <a href="http://www.warringah.nsw.gov.au">www.warringah.nsw.gov.au</a></p>