

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSSNH-155
<b>DA Number</b>	DA2020/1167
<b>LGA</b>	Northern Beaches Council
<b>Proposed Development</b>	Demolition works and construction of a mixed use development to accommodate a cafe, church, conference centre, boarding house and two level basement car park
<b>Street Address</b>	Part Lot 28 DP 7413, 9 Francis Street and 28 Fisher Road, Dee Why
<b>Applicant/Owner</b>	Baptist Churches of NSW Property Trust (Owner) The George Group Pty Ltd (Applicant)
<b>Date of DA lodgement</b>	22 September 2020
<b>Number of Submissions</b>	38 submissions which includes: <ul style="list-style-type: none"> <li>• 16 submissions in support;</li> <li>• 22 submissions in opposition</li> </ul>
<b>Recommendation</b>	Refusal
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)</b>	Development with a Capital Investment Value (CIV) of more than \$5 million for affordable housing (which includes a Boarding House)
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979</li> <li>• Environmental Planning and Assessment Regulation 2000</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX)</li> <li>• State Environmental Planning Policy – Infrastructure 2011</li> <li>• State Environmental Planning Policy (Affordable Rental Housing) 2009</li> <li>• Warringah Local Environmental Plan 2011 (WLEP 2011)</li> <li>• Warringah Development Control Plan 2011 (WDPCP)</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Attachment 1 – Architectural Plans</li> <li>• Attachment 2 – Pre-lodgement notes</li> </ul>
<b>Clause 4.6 requests</b>	Not Applicable
<b>Summary of key submissions</b>	<ul style="list-style-type: none"> <li>• Lack of Parking and Traffic issues</li> <li>• Amenity Impacts</li> <li>• Bulk and scale</li> <li>• Non-compliance with Warringah LEP and DCP</li> <li>• Insufficient landscape screening</li> </ul>
<b>Report prepared by</b>	Lashta Haidari – Principal Planner
<b>Report date</b>	27 January 2021

### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

**Yes**

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

**Yes**

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

**N/A**

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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

**Not  
Applicable**

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**Conditions**

Have draft conditions been provided to the applicant for comment?

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

**No**

## **Executive Summary**

The Development Application proposes mixed use development to accommodate a cafe, church, conference centre, boarding house and two level basement car park at 28 Fisher Road and 9 Francis Street, Dee Why.

The proposed development constitutes 'Regional Development' requiring referral to the Sydney North Planning Panel (SNPP) as it has a Capital Investment Value (CIV) greater than \$5 million and is for *Affordable Housing*, which includes a boarding house and a place of public worship. Whilst Council is responsible for the assessment of the DA, the SNPP is the consent authority.

The application is recommended for refusal because having regard to the design and character requirements embodied in the applicable planning controls including the requirements of SEPP, the proposal is not considered to be an appropriate or suitable response in its current form. Further, the assessment of the proposal against the provisions of WDCP 2011, has found that the proposal is non-compliant with a number of Clause which indicates that development is an over-development for the site.

The application was referred to internal departments and external authorities. In the responses, there are a number of referral issues raised in relation to the proposed development, which also form reasons for refusal in that the application is deficient in identifying the relevant impacts associated with the subject site. The application was also reported to Northern Beaches Design and Sustainability Advisory Panel (DSAP). The panel at its meeting held on 22 October 2020 concluded that the development in its current form cannot be supported and made a number of recommendations, which are addressed in this report.

The public exhibition of the DA resulted in 38 individual responses from the community, including both concerned residents and a number of letters supporting the proposal. Those objecting to the proposal raised concerns primarily on the basis of the bulk and scale and consequent amenity impacts of the development, and the amount of additional traffic that would be generated. Those supporting the development raised the benefits of the urban renewal of the church site.

It is important to acknowledge that the redevelopment of the subject site would be a significant improvement in comparison to the existing situation. However, the proposal (as lodged) is not sufficiently consistent with the applicable controls and the impact of the development cannot be supported in its current form. Therefore, it is recommended that substantial amendments be carried out to the built form to address these concerns prior to any approval being given to the proposal.

Accordingly, the assessment concludes that proposal cannot be supported in its current form and is recommended for refusal

## **PROPOSED DEVELOPMENT IN DETAIL**

The applicant seeks consent for demolition works and construction of a boarding house and associated works under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009. The proposal also includes church and conference centre and associated facilities.

Specifically, the development comprises:

- Construction of a mixed-use development consisting of a four (4) storey building and a six (6) storey mixed use building with a maximum building height of 16.0m and a maximum floor space ratio of 2.48:1
- Provision of two levels of basement carparking, comprising 40 car spaces
- Provision of 19 motorcycle spaces and 20 bicycle spaces
- Access to the basement level car park will be provided via a driveway off Francis Street
- The six (6) storey mixed-use building fronting Fisher Road will comprise of the following:
  - Ground Floor – café, church and conference centre and associated facilities
  - Floors 1 to 4 - 52 boarding rooms and associated communal facilities
- The four (4) storey building fronting Francis Street will comprise 28 boarding rooms and associated facilities with a rooftop communal open space area.
- A numerical overview of the development is provided in the table below:

Feature	Proposed
Site Area	1,391.2
Maximum Height	16m (6 storey)
Gross Floor Area	3,312.84m <sup>2</sup>
Floor space Ratio	2.38:1
Boarding House Units	80 and 1 managers room
Car parking	40 car spaces, 19 motorcycle spaces and 20 bicycle spaces
Communal open space	213.25m <sup>2</sup>
Landscape Area	339.5m <sup>2</sup> (24%)

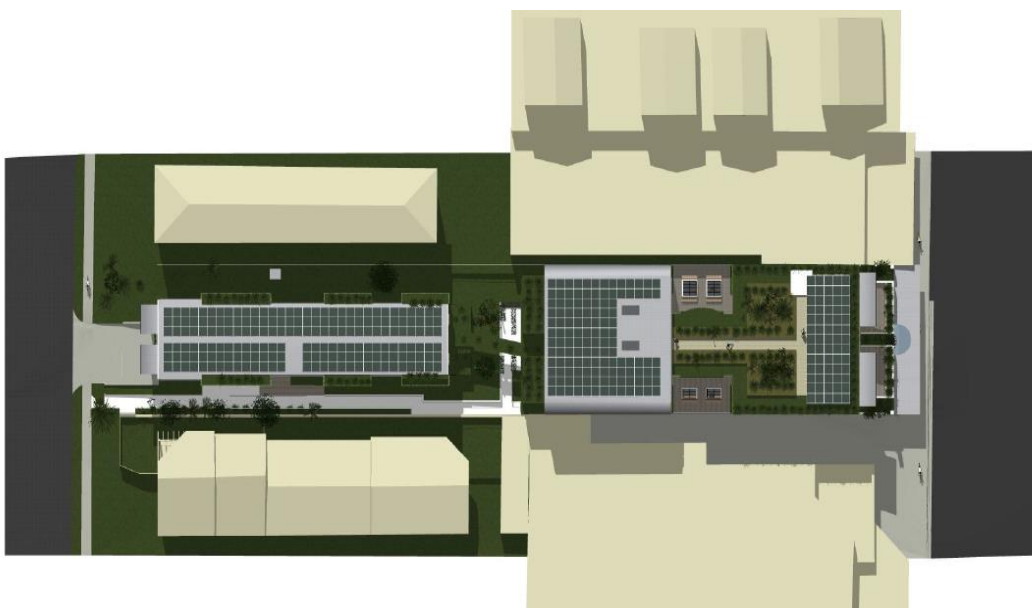


Figure 1 – Site and Landscape Plan (Source: The Georges Group Pty Ltd)

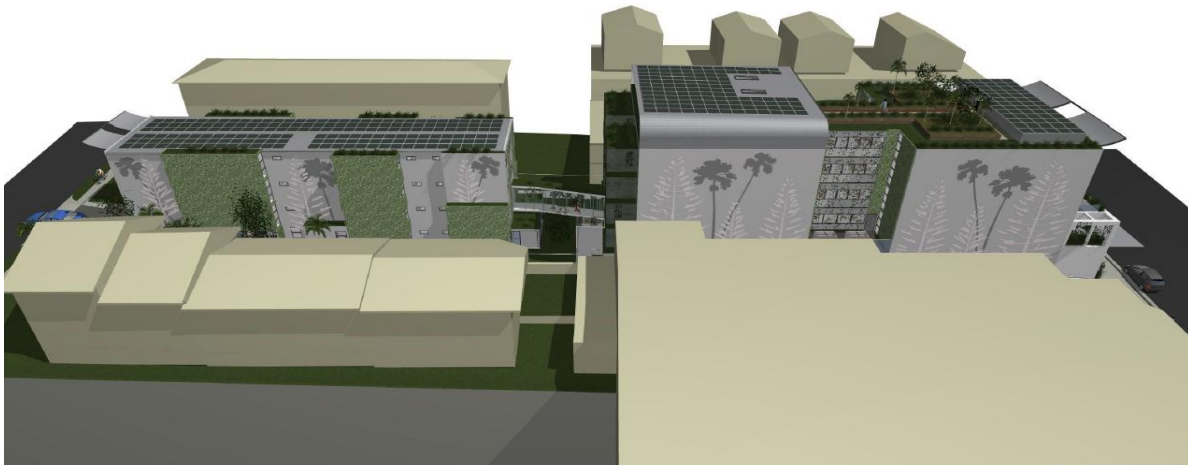


Figure 2 -3D southern view ((Source: The Georges Group Pty Ltd)



Figure 3 – View of the proposed development from Francis Street ((Source: The Georges Group Pty Ltd)



Figure 4 – View of the proposed development from Francis Street (Source: The Georges Group Pty Ltd)

## ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the EP&A Act 1979 (as amended) and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the EP&A Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

## SITE DESCRIPTION

The subject site is located on the western side of Fisher Road approximately 100m north of the intersection of Fisher Road and Pittwater Road. The site has a split zoning of B4 Mixed Use on the eastern portion fronting Fisher Road and R3 Medium Density Residential on the western portion fronting Francis Street.

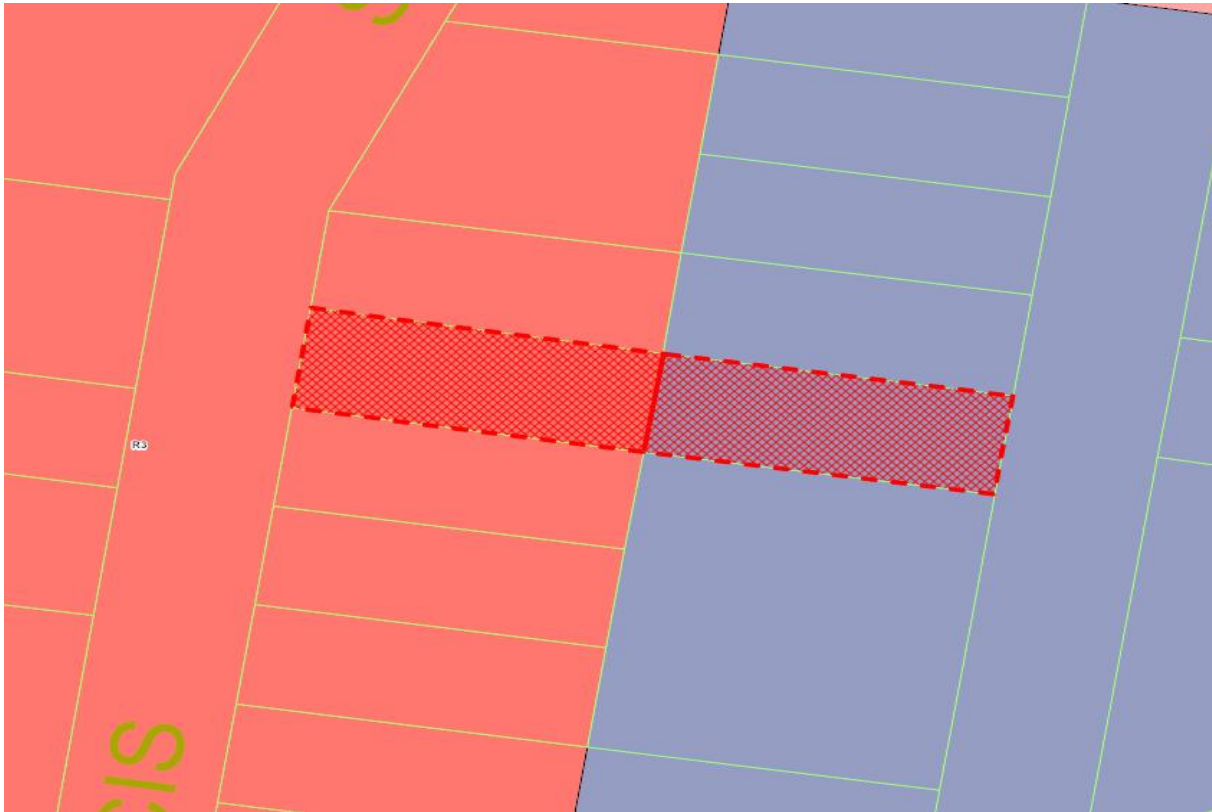
The site has a total area of approximately 1,391.2m<sup>2</sup>, with a frontage of approximately 15.0m to Fisher Road to the east and a frontage of approximately 15.0m to Francis Street to the west. The site currently contains a place of public worship.



Figure 5: Site Map

Surrounding development comprises a mix of commercial and community land uses and low and medium density residential land uses located further north and east of the site.

In addition to being subject to a split zoning, the site has a split maximum building height control applying, comprising of 11.0m on the R3 zoned land and 16.0m on the B4 Mixed Use zoned land.



**Figure 6: Zoning Map (part R3/part B4)**

## **RELEVANT HISTORY and BACKGROUND**

### **Pre-Lodgement Meeting (PLM)**

On 20 February 2020, the Applicant had a pre-lodgement meeting with Council to discuss the proposed development.

### **DEVELOPMENT APPLICATION HISTORY**

The current application was lodged with Council on 22 September 2020. The assessment of the proposal and issues raised by Design and Sustainability Advisory Panel (DSAP) found that the application was deficient and unsupportable for a number of reasons as detailed within this report.

An opportunity was presented to the applicant to withdraw the application by letter dated 3 December 2020, with a view to addressing the specific concerns and preparing the required information and resubmitting a new DA. The applicant was advised that failure to withdraw the application would result in Council reporting the application based upon the information provided at lodgement.

The applicant advised Council that the application would not be withdrawn and requested that the application be determined in relation to an amended scheme, which was submitted to Council on 16 December 2020.

The amended scheme have not been notified or assessed as part of this report, on the basis that Council did not have sufficient time to assess, notify and have the amended plans reviewed by the referral bodies including DSAP.

### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
<b>Section 4.15 (1) (a)(i)</b> – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
<b>Section 4.15 (1) (a)(ii)</b> – Provisions of any draft environmental planning instrument	See discussion on draft EPI in this report
<b>Section 4.15 (1) (a)(iii)</b> – Provisions of any development control plan	Warringah Development Control Plan 2011 is applicable to this application.
<b>Section 4.15 (1) (a)(iiia)</b> – Provisions of any planning agreement	None Applicable
<b>Section 4.15 (1) (a)(iv)</b> – Provisions of the regulations	<p>The EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. This matter can be addressed via a condition of consent should this application be approved.</p> <p>Clause 92 of the EPA Regulations 2000 requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i>. This matter can be addressed via a condition of consent should this application be approved.</p>
<b>Section 4.15 (1) (b)</b> – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<ul style="list-style-type: none"> <li>i. The environmental impacts of the proposed development on the natural and built environment are addressed under WDCP and SEPP (ARH) 2009 sections of this report. In summary, the proposed development is found to be inconsistent with the requirements of the SEPP (ARH) 2009 and WDCP 2011 and the environmental impact is found to be unsatisfactory.</li> <li>ii. The development is not considered to have a detrimental social impact in the locality considering the proposal will provide a form of affordable housing and place of public worship. In this regard, subject to suitable conditions and the effective implementation of an Operational Plan of Management (OPM), the proposed development would not have a detrimental social impact in the locality.</li> <li>iii. The proposed would not have a detrimental economic impact on the locality considering the mixed commercial and residential nature of the proposed land use within a town centre.</li> </ul>
<b>Section 4.15 (1) (c)</b> – the suitability of the site for the development	<p>The site does not contain any significant physical constraints which would prevent the provision of this development on this site.</p> <p>The site is considered suitable for a boarding house and church development. However, the intensity of the proposal in its current form is considered an inappropriate and unsuitable development of the site, constituting an overdevelopment of the site</p>
<b>Section 4.15 (1) (d)</b> – any submissions made in accordance with the EPA Act or EPA Regs	<p>A total of 38 written submissions have been received (both in support and objecting).</p> <p>The issues raised in the submissions are addressed later in this report.</p>
<b>Section 4.15 (1) (e)</b> – the public interest	The assessment has found the proposal to be contrary to the relevant provisions of SEPP (ARH) 2009 and a number of inconsistencies have been found in relation to the requirements for the site under WDCP 2011.

Section 4.15 'Matters for Consideration'	Comments
	Consequently, as the proposal does not satisfy the planning and other controls applying to the site, the proposal is not considered to be in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights do not apply to this application.

## NOTIFICATION & SUBMISSIONS RECEIVED

The Development Application has been publically exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Northern Beaches Community Participation Plan. As a result of the public exhibition, 38 submissions were received at the time of writing this report, which included:

- 16 in support
- 22 objecting to the proposal

The issues raised in the submissions include the following:

### 1. Out of Character

Concerns have been raised about the proposal being out of character with the street and neighbourhood and being an eyesore in comparison to surrounding developments within Dee Why Town centre.

#### Comment:

This issue is discussed in detail under Clause 30 of SEPP (ARH) 2009. In summary, the proposed development is found to be consistent with the surrounding character of the area. However, proposal does not relate favourably to and imposes unnecessary amenity issues on neighbouring sites on the Francis Street frontage.

This issue warrants the refusal of the application.

### 2. Impacts upon Neighbouring Residential Amenity

The submissions raise concern that the development will have an adverse impact upon areas of residential amenity such as visual privacy, solar access impact on 7 Francis Street. The submission has raised acoustic concerns.

#### Comment:

Noise and privacy impacts generally are a concern with any boarding house due to the short term nature of the tenancies and will depend to a large extent on how robust and well applied the Operational Management Plan for the premises is.

The issue of solar access on the adjoining No.7 Francis Street is concurred with given the proposed development does not comply with the side setback control and building envelope controls. This issue was also raised by the DASP panel as a concern with the proposed development.

This issue warrants the refusal of the application.

### 3. Traffic Congestion and No Parking Provided

A number of submissions received raised concern that the traffic produced by the development will exacerbate the already congested local road network.



Comment:

Council's Traffic Engineer has reviewed the proposed development and has raised concerns in relation to number of issues relating to traffic impacts. Based on Council's Traffic Engineer's assessment, the concerns raised in this regard are concurred with and are included as reasons for refusal.

**4. Density inconsistent**

Concerns have been raised that the proposal have significant densities, being 80 room boarding house.

Comment:

While there is evidence to suggest that the density of development within individual properties surrounding the subject site contain smaller numbers of units than the 80 rooms proposed, there is no density requirement with SEPP (ARH) for boarding houses in an R3 zone or B4 zone. It is pertinent to note that the development results in a number of non-compliances with the built form controls, including side boundary envelope and side setbacks, which provide some substance to the proposal being an over-development of the site.

**5. Occupants of the premises**

Concern have been raised with regards the occupants of the premises.

Comment:

A variety of persons are likely to reside in the boarding house and for a variety of reasons. The occupants will most likely represent a cross section of the community. There is no evidence to suggest that boarding house residents will be more likely to be responsible for adverse social impacts in the area.

This issue warrants the refusal of the application.

**6. Impact of construction on existing residents (noise, dust, amenity)**

Concern is raised regarding the excavation and construction impacts associated with the development and the potential impact on the suitability of adjoining development.

Comment:

With regards to excavation and construction management, appropriate conditions which aim to minimise impact can also be imposed in a consent should this application be approved.

Therefore, this issue should not be given determining weight.

## Submissions in Support

- These are planned to extend the care and community supports that is offered in Dee Why.
- The development is located in close proximity to a range of services and facilities to meet the needs of the residents.
- The design, scale and height proposed within this application is consistent with the current developments and desired future character of the site having regard to its location and site context.
- The proposed carparking will be a great improvement upon what is existing.

### Comment:

The redevelopment of the site and the uses proposed is generally supported. Whilst the redevelopment of the site is supported, it is required to be designed having regard to minimising the impact on the adjoining development. This must be done by providing a built form that is sympathetic and sensitive to the site and the area in terms of its bulk and scale, and setbacks and how it relates into spilt zoning.

It is recognised and acknowledged that there are significant benefits of the site being redeveloped in this manner, but unfortunately the development cannot be supported in its current form for details provided in this report.

## MEDIATION

No mediation has been requested by the objectors.

## INTERNAL REFERRALS

Internal Referral Body	Recommendation/ Comments
<b>Building Assessment - Fire and Disability upgrades</b>	<b>Supported (subject to conditions)</b>  No objections subject to conditions to ensure compliance with the Building Code of Australia.
<b>Environmental Health (Industrial)</b>	<b>Supported (subject to conditions)</b>  Application is for a mixed use development at 28 Fisher Road & 9 Francis Street, Dee Why including the construction of a 4 storey building and a six storey mixed use building containing a café, church, conference centre and a 80 room boarding house plus managers residence.  Each of the 80 rooms is provided an en-suite. The facility provides communal kitchens, living rooms and common open space and a laundry. There will also be an onsite manger.  The proposed development poses a number of noise concerns including:  <i>-Noise from the boarding house including communal areas;</i>

Internal Referral Body	Recommendation/ Comments
	<p data-bbox="737 248 1155 309">-Noise from mechanical plant; and -Noise from the Church auditorium.</p> <p data-bbox="737 338 1374 432">As part of the submission a Plan of Management for the Boarding House was provided that included noise control measures including:</p> <ul data-bbox="783 472 1374 936" style="list-style-type: none"> <li data-bbox="783 472 1374 622">• The use of the outdoor communal area shall be restricted to between the hours of 7:00am and 10:00pm daily. No amplified music is permitted at ANY time within the outdoor communal area.</li> <li data-bbox="783 629 1374 689">• Live music will not be permissible on the premises at ANY time.</li> <li data-bbox="783 696 1374 757">• No amplified music is permitted at ANY time within the outdoor communal areas.</li> <li data-bbox="783 763 1374 913">• Recorded and/or amplified music is permissible indoors during daylight hours between 8:00am and 8:00pm Monday to Thursday and between 8:00am and 10:00pm Friday to Sunday; and</li> <li data-bbox="783 920 1374 936">• A complaints and incident register.</li> </ul> <p data-bbox="737 1003 1294 1064">The Plan of Management however, will require updates to better protect amenity including:</p> <ul data-bbox="783 1137 1374 1630" style="list-style-type: none"> <li data-bbox="783 1137 1374 1265">• That a 24 hour telephone contact number is to be available to neighbours who wish to register a complaint or comment about the premises;</li> <li data-bbox="783 1272 1374 1355">• Signage is to be posted on the outside of the building with the contact details of the boarding house manager;</li> <li data-bbox="783 1361 1374 1489">• Measures for limiting noise from amplified noise within the indoor communal areas including the MP communal zone on the top level;</li> <li data-bbox="783 1496 1374 1556">• That Northern Beaches Council is to be advised of any change to the manager and</li> <li data-bbox="783 1563 1374 1630">• Complaints and Incident Register to be updated to reference Northern Beaches Council (currently references City of Sydney)</li> </ul> <p data-bbox="737 1697 1374 1825">The applicant has also provided an acoustic report prepared by TTM Consulting Dated 12 August 2020 (Reference 20SYA0029 R01_0). The Acoustic Report concluded/recommended:</p> <p data-bbox="737 1854 1374 2022">The development is predicted to comply with Warringah Development Control Plan (DCP) 2011 and the NSW Noise Policy for Industry 2017, with no additional noise mitigation measures are required. A detailed acoustic assessment of mechanical plant during the detailed design stage is, however,</p>

Internal Referral Body	Recommendation/ Comments
	<p>recommended when the plant specifications are finalised. Management control measures have also been recommended to ensure reasonable and acceptable noise emissions levels from the proposed development.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>
<p><b>Landscape Officer</b></p>	<p><b>Supported (subject to conditions)</b></p> <p>The application is for the construction of a mixed-use development consisting of two buildings, containing a cafe, church, conference centre, and boarding house.</p> <p>The application is assessed by Landscape Referral against the following policies and controls:</p> <ul style="list-style-type: none"> <li>• Warringah Local Environment Plan 2011</li> <li>• Warringah Development Control Plan, clauses D1 Landscaped Open Space and Bushland Setting, and G1 Dee Why Town Centre part 11 Landscaping</li> <li>• State Environmental Planning Policy (Affordable Rental Housing) 2009.</li> </ul> <p>A Landscape Plan is provided with the application indicating: landscape treatments within deep soil areas along the side boundaries at the Francis Street end of the development site; planters on structure to the ground level, first, second, and fourth floors; rooftop common open space; and vertical green walls to the building facade. The existing site does not contain any prescribed (protected) trees and removal of existing vegetation is Exempt under WDCP 2011.</p> <p>Landscape Referral raise no objections to the proposal, subject to amended landscape plans adjusting planter depths to an appropriate depth to support the proposed tree planting, and inclusion of small trees along the side boundaries within the deep soil zones.</p>
<p><b>Development Engineers</b></p>	<p><b>Refusal</b></p> <p>The proposed stormwater drainage plans are not supported because the DRAINS model has not been submitted for Councils review.</p>
<p><b>Stormwater and Floodplain Engineering – Flood risk</b></p>	<p><b>Supported</b></p> <p>The DA involves the construction of a mixed use development of a four storey building and a six storey mixed use building containing a cafe, church and conference centre, 80 boarding house rooms and two level basement car parking. The site is located in the low flood risk precinct and the proposed driveway entry off Francis Street is not flood affected. The proposed</p>

Internal Referral Body	Recommendation/ Comments
	DA generally meets the flood controls in the LEP and DCP.
<b>Strategic and Place Planning (Urban Design)</b>	<p><b>Not Supported</b></p> <p>The proposal has addressed some but not all of the Urban Design issues identified in the Pre-Lodgement Meeting:</p> <p>Urban Design Comments:</p> <p>1. The proposal is required to demonstrated the building built-to lines on Fisher Road, of 4m from the kerb for the first 2 storeys (podium) and 8m for the above storeys (tower).</p> <p><b>Response:</b> The proposal has complied with the building built-to lines on Fisher Road.</p> <p>2. The awning on the Fisher Road facade should provide some street amenity/shelter to form a unified element within the streetscape, respond to streetscape conditions and complement the architectural style of the host building. The awning should be uncomplicated regular forms and constructed from high quality materials with simple detailing to reduce visual clutter in the streetscape and to provide visual continuity to the pedestrian realm. The new awnings are to be setback minimum 1000mm from the face of the kerb to accommodate utility poles and traffic /parking in the kerbside lane. Where street trees are required, the minimum awning to setback is 1500mm.</p> <p><b>Response:</b> The proposed awning can be supported.</p> <p>3. The maximum building height to the Francis Street site should be 11m. The 16m (13m+3m) building height requirement should be applied on the Fisher Road site only, and presented as a slim tower sitting on top of the 2 storey building podium.</p> <p><b>Response:</b> The proposed built forms comply with the building height controls but the Fisher Road building could be treated with more vertical articulations to be more slimline and less blocky looking.</p> <p>4. Façade treatment/ articulation should be considered for the common boundary elevation to provide some relief from the proposed blank walls presented at the PLM. In regards to the side boundary setbacks on the Francis Street site (R3 zone), side setbacks are to be a minimum of 3.5m to the north and south boundaries. A variation to the required setback of 4.5m can be considered due to the constrained width of the site. The side boundary setback to Fisher Road can consider a zero setback for the podium section.</p> <p><b>Response:</b> The facades treatment and material</p>

Internal Referral Body	Recommendation/ Comments
	<p>finishes are not clearly documented. The proposed building facades have a lot of blank wall area which is a concern. High quality facades are a balanced composition of building elements, textures, materials and colour selections to create visual interest.</p> <p>5. The boarding room levels, should consider window to boundary distances of 6m and window to window separation of 12m. The tower design should take into account possible future adjacent commercial development of zero setback to the common boundary.  <b>Response:</b> The windows of some of the boarding rooms face each other directly and are only 6.237 to 7.155m apart.</p> <p>6. Appropriate building separation is necessary as there will be future residential towers proposed around the site and appropriate amenity should be maintained between the towers.  <b>Response:</b> The tower sections of the Fisher Road block has zero setbacks to the common boundary and material finishes/ graphics proposed are not specified on the drawings.</p> <p>7. On the ground floor, the 1m wide pathway linking Fisher Road and Francis Street cannot be supported as it will be an unpleasant space and with personal security and safety concerns.  <b>Response:</b> The pathway has been deleted from the proposal.</p> <p>8. The roof top common open space areas are not supported due to overlooking and noise nuisance.  <b>Response:</b> The proposed rooftop garden should be made non-trafficable from the "MP Zone" - Multi-Purpose Zone?</p> <p>9. The community multi-function halls, café and foyer proposed is required to have an adequate floor to ceiling height of 3.6m at a minimum. The entry lobby from Fisher Road is be a more integrated, generous and welcoming area, with stairs/ lifts access to cater for big events such as church services and concerts. Amenities such as toilets and change rooms, etc. must also be adequately provided.  <b>Response:</b> The proposed function area and amenities can be supported.</p> <p>10. Shopfront to the café and foyer should activate the public footpath and be at the same entry level as the footpath.  <b>Response:</b> The proposed footpath address can be supported.</p> <p>11. A detailed solar study to be provided to ensure solar penetration to adjacent residential development are not compromised.</p>

Internal Referral Body	Recommendation/ Comments
	<p><b>Response:</b> A solar study has been submitted.</p> <p>12. A view loss/ sharing analysis should be undertaken to ensure developments on the higher slopes will not be affected by the increase in built form on the site.</p> <p><b>Response:</b> No view loss/ sharing analysis has been undertaken.</p>
<p><b>Traffic Engineer</b></p>	<p><b>Not Supported</b></p> <p>The proposal is for demolition of existing structures and construction of a mixed use development comprising a café, a church and conference centre and 80 boarding house rooms and associates communal facilities. A total of 53 rooms (65%) will be set up for full physical accessibility to the highest level of NDIS and to AS 1428.1 and platinum level liveable housing design guidelines. The remaining 28 rooms (35%) will be set up with ambulant bathroom facilities.</p> <ul style="list-style-type: none"> <li>• The proposal includes the following: <ul style="list-style-type: none"> <li>- Provision of a two level car parking comprising 40 car spaces.</li> <li>- Provision of 19 motorcycle spaces and 20 bicycle spaces.</li> <li>- Access to the basement level car park will be provided via a driveway on Francis Street.</li> <li>- A service bay accommodating small trucks SRVs for servicing and garbage collection:</li> </ul> </li> </ul> <p><u>Traffic Impact:</u></p> <p>The traffic report has not provided any information on the expected traffic generation from the proposal and its implication on the road network.</p> <p><u>Parking:</u></p> <p>There are the total of 40 parking spaces provided within two level car parking. This includes 22 parking spaces for the boarding room component (16 spaces for boarding rooms, 1 spaces for manager's room, and 5 spaces for the boarding room's employees), 15 spaces for the church staff and attendees and conference centre, and 3 spaces for the café use.</p> <p>Given the location of the site within the Dee Why Town Centre, the proposed parking provision is considered acceptable. However the parking spaces provided for the accessible rooms are to be accessible and to be designed in compliance with AS2890.6 - Parking for people with disabilities.</p>

Internal Referral Body	Recommendation/ Comments
	<p data-bbox="737 248 1193 277"><u>Vehicular Access and car park design:</u></p> <p data-bbox="737 315 1372 376">The following concern are raised on the proposed car park design:</p> <ul style="list-style-type: none"> <li data-bbox="737 414 1165 443">- <b>Location of vehicular access</b></li> </ul> <p data-bbox="737 481 1385 752">The vehicular access proposed down the hill and about 20m from the bend on the northern side raises the concerns regarding inadequate site distance for the vehicles exiting the driveway to the vehicles approaching the site from the northern side, as well as inadequate Stopping Site Distance for approaching vehicle from the bend to exiting vehicles. The proposal being for people with disabilities exacerbates the concern.</p> <ul style="list-style-type: none"> <li data-bbox="737 790 1045 819">- <b>Carpark ramp ways</b></li> </ul> <p data-bbox="737 857 1385 1106">There is a safety concern raised on the conflict point within the car park where the two two-way single width ramps leading to two levels of car parking are located. The grade difference between the two parallel ramps restricting the visibility between the two ramps exacerbates the concern. This is not a safe arrangements particularly given the car park will be utilised by people with disabilities and patrons.</p> <ul style="list-style-type: none"> <li data-bbox="737 1144 1149 1173">- <b>stacked car parking spaces</b></li> </ul> <p data-bbox="737 1211 1385 1361">The stacked spaces can only be acceptable if they are allocated to the same residential unit or business units (for their staff). Given the nature of the proposal, the stacked parking arrangements could be acceptable only for a limited number for staff parking.</p> <ul style="list-style-type: none"> <li data-bbox="737 1400 1037 1429">- <b>Motorcycle spaces</b></li> </ul> <p data-bbox="737 1467 1385 1559">The motorcycle parking spaces are to be provided with a convenient access by provision of adequate aisle width.</p> <ul style="list-style-type: none"> <li data-bbox="737 1597 1013 1626">- <b>Vehicular access</b></li> </ul> <p data-bbox="737 1664 1385 1724">The gradient of the first 6m of the driveway from the property boundary shall be 1:20 or less.</p> <ul style="list-style-type: none"> <li data-bbox="737 1762 997 1792">- <b>Service vehicle</b></li> </ul> <p data-bbox="737 1830 1372 1980">The proposal includes the provision of a service bay accommodating small trucks SRVs for servicing and garbage collection. However, the proposed carpark and loading bay is not capable of accommodating the access of a small truck.</p>



Internal Referral Body	Recommendation/ Comments
	<p>- <b>Pedestrian sight distance at property boundary</b></p> <p>It shall be demonstrated that a pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 is provided at the vehicular access to the property.</p> <p><u>Conclusion:</u></p> <p>In view of the above the proposal is not considered acceptable on traffic grounds.</p>
<b>Waste Officer</b>	<p><b>Refusal</b></p> <p>Council requires that the development be able to accommodate a medium rigid vehicle waste collection vehicle a minimum of 7.7 metres long.</p> <ul style="list-style-type: none"> <li>• The applicant is to demonstrate that this size vehicle can safely negotiate a three point turn within the basement.</li> <li>• The parking bay for the waste collection vehicle must be able to accommodate this size vehicle including a minimum of 2 metres at the rear of the vehicle for lifting the bins.</li> </ul> <p>Access to the basement for bin servicing must be unimpeded by security doors.</p> <p>Access to the basement via the use of keys, swipe cards, codes, transponders etc. is unacceptable to Council.</p>

## EXTERNAL REFERRALS

External Referral Body	Comments
<b>Ausgrid: (SEPP Infra.)</b>	<p><b>Supported (subject to conditions)</b></p> <p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.</p> <p>These recommendations will be included as a condition of consent, if the application was recommended for approval.</p>

## Northern Beaches Design and Sustainability Advisory Panel

The application was reported to Northern Beaches Design and Sustainability Advisory Panel (DSAP). The panel at its meeting held on 22 October 2020 concluded that the development in

its current form cannot be supported in its current form and made the following recommendations:

- The proposal for the Francis Street portion of the site is non-compliant with the setbacks (3m instead of 4.5m). The detrimental impacts that arise from the non-compliant setback include additional overshadowing on, and the reduction of a reasonable landscaped buffer to 7 Francis Street. The Panel considers to impact on the outlook, solar access, amenity of adjoining buildings on Francis Street unacceptable.
- The documentation submitted does not enable an accurate assessment of the level of additional overshadowing impact over a fully complying building envelope.
- The built envelope on the Francis Street site should be significantly reduced, and reconfigured to reduce the impact on adjoining sites.
- The Panel has reviewed the Traffic report, and although the parking arrangements appear technically feasible it is not clear how the stacked parking would operate in reality. Additionally the movements are extremely constricted and given that the development is intended for a range of users with different level of ability may not be functional.
- The DA documentation does not demonstrate that a reasonable or acceptable design quality will be able to be achieved.
- The panel does not support the proposal in its current form. The proposal has unacceptable impacts on neighbouring residents' amenity.

Comment:

The issues raised by the DASP have been considered in detail and this report and included as reasons for refusal.

### **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\***

All, EPIs (State Environmental Planning Policies (SEPPs), Regional Environment Plans (REPs) and Local Environment Plans (LEPs)), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each EPIs (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

### **State Environmental Planning Policy – State and Regional Development 2011 (SRD SEPP)**

The proposal is a regionally significant development pursuant to Clause 5 of Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP) that has a Capital Investment Value (CIV) of more than \$5 million in accordance with the SRD SEPP.

The proposal nominates a CIV of \$14,177,289. As such, the Sydney North Planning Panel is the consent authority for the development application.

### State Environmental Planning Policy (Affordable Rental Housing) 2009

SEPP (ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

#### Division 3: Boarding houses

##### Clause 25: Definition

For the Purpose of this Division, the Standard Instrument defines a 'boarding house' as a building that:

- a) is wholly or partly let in lodgings, and
- b) provides lodgers with a principal place of residence for 3 months or more, and
- c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
- d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,

*but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.*

*In this Division 'communal living room' means a room within a boarding house or on site that is available to all lodgers for recreational purposes, such as a lounge room, dining room, recreation room or games room.*

##### Clause 26: Land to which this Division applies

Requirement	Comment
This Division applies to land which any of the following land use zones or within a land use zone that is equivalent to any of these zones	
<ul style="list-style-type: none"> <li>a) Zone R1 General Residential,</li> <li>b) Zone R2 Low Density Residential,</li> <li>c) Zone R3 Medium Density Residential,</li> <li>d) Zone R4 High Density Residential,</li> <li>e) Zone B1 Neighbourhood Centre,</li> <li>f) Zone B2 Local Centre,</li> <li>g) Zone B4 Mixed Use.</li> </ul>	<p><b>Consistent</b></p> <p>The site is located within B4 and R3 zone and the proposed use is permissible with consent under WLEP 2011 and SEPP (ARH) 2009</p>

##### Clause 27: Development to which this Division applies

1. This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.

Requirement	Comment
(2) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use	<b>Consistent</b>

<p>zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area.</p> <p>Note <b>Accessible area</b> means land that is within:</p> <p><i>400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the <a href="#">Passenger Transport Act 1990</a>) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.</i></p>	<p>The definition only requires the development to be within 400m of a regularly serviced bus stop. In the case of the proposed development, the subject site is located within 400m of a bus stop (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday..</p>
<p>(3) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.</p>	<p><b>Not Applicable</b></p> <p>The site is located within the Sydney region.</p>

Clause 28: Development may be carried out with consent

Requirement	Comment
<p>Development to which this Division applies may be carried out with consent.</p>	<p>The development involves the construction of a “boarding house”, as defined by the standard instrument. Therefore, the development may be considered under this Division of the SEPP as development which may be carried out with consent.</p>

Clause 29: Standards that cannot be used to refuse consent

Standard	Requirement	Proposed	Compliant/Comment
<p>(1) <b>Density and Scale</b></p> <p>A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a</p>	<p>(a) The existing maximum floor space ratio for any form of residential accommodation permitted on the land.</p> <ul style="list-style-type: none"> <li>WLEP 2011 requires FSR of 2.4:1 for B4 zone.</li> </ul>	<p>The proposed development has a total GFA of 3,312.84m<sup>2</sup> which equates to a FSR of 2.38:1.</p>	<p>Yes</p> <p>(subject to bonus FSR)</p>

floor space ratio are not more than:	(b) if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land.	Not Applicable	Not Applicable
	(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus: <ul style="list-style-type: none"> <li>• 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or</li> <li>• 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.</li> </ul>	A portion of the site is subject to a FSR of 2.4:1. The proposed benefits from a bonus FSR of 0.5:1 increasing the maximum allowable FSR to 2.9:1  The proposed development has a total GFA of 3,312.84m <sup>2</sup> which equates to a FSR of 2.38:1.	Yes
2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:			

<p><b>(a) Building Height</b></p>	<p>If the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land.</p> <p>WLEP 2011 permits <b>16m</b> (13+3) as per Dee Why Town Centre Masterplan</p> <p>11m within R3 Medium Density Zone</p>	<p>The proposed development has a maximum building height of 11m on the western portion (R3 zone) and 16m on the eastern portion of the site (B4 zone).</p>	<p>Yes</p>
<p><b>(b) Landscaped Area</b></p>	<p>If the landscape treatment of the front setback area is compatible with the streetscape in which the building is located</p>	<p>This Clause is specifically applicable to the portion of the site fronting Francis Street, which include predominantly older style (60's and 70's) residential flat buildings. The overall character in terms of landscaping is low fence lines with a variety of landscape treatments and evenly distributed canopy trees.</p> <p>Council's Landscape officer has raised no objection to the Landscape treatment along the Francis Street frontage.</p>	<p>Yes</p>
<p><b>(c) solar access</b></p>	<p>where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,</p>	<p>The primary open space area for the occupants of the development is identified at the first, second, third floor levels with a common room and outdoor decking and roof terrace for the building fronting Fisher Road. The</p>	<p>No</p>

		<p>site also provides ground level private open space areas within the side setbacks which are fenced to belong to particular units on building fronting Francis Street.</p> <p>There are insufficient submitted with the application to demonstrate complies with this Clause and this issue was raised by DASP.</p>	
<b>(d) private open space</b>	<p>if at least the following private open space areas are provided (other than the front setback area):</p> <ul style="list-style-type: none"> <li>• one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers,</li> <li>• If accommodation is provided on site for a boarding house manager— one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation.</li> </ul>	<p>The proposed development provides a communal private open space of 527.7m<sup>2</sup> in the form of roof terrace with a minimum dimension of least 3m.</p> <p>The Manger's dwelling is provided with a private open space area of 12m<sup>2</sup> with a minimum dimension of 2.5m</p>	Yes

<b>(e) parking</b>	<p>If: in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and</p> <p>in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site</p>	<p>The development proposes 80 boarding rooms plus 1 manager's residence, generating a parking requirement of –17 spaces (at 0.2 car spaces per room as the proposed development is being carried out on behalf social housing provider) for lodgers and 1 space for the operational manager. The proposal provides 22 car spaces which exceeds the requirement.</p>	<p>Yes</p>
<b>(f) accommodation size</b>	<p>if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</p> <p>(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or</p> <p>(ii) 16 square metres in any other case.</p>	<p>All rooms are more than 12 for single and 16m<sup>2</sup> for double.</p>	<p>Yes (subject to conditions)</p>
	<p>(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.</p>	<p>All rooms have a private kitchen and bathroom facilities.</p>	<p>Yes</p>
	<p>(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).</p>	<p>The development complies with the standards</p>	<p>Yes</p>

Clause 30: Standard for Boarding Houses



Standard requirement	Proposed	Compliant/Comment
(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following		
(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	As indicated above, the development provides sufficient communal living area.	Yes
(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres,	No boarding rooms within the development have a gross floor area exceeding 25m <sup>2</sup>	Yes
(c) no boarding room will be occupied by more than 2 adult lodgers,	This is addressed, within the OPM, including room leasing. This can be imposed as a condition of consent, If the application was recommended for approval.	Yes (subject to condition)
(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	All rooms are provided with a bathroom and kitchenette facilities.	Yes
(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,	A manager's residents is provided on the ground floor of the development.	Yes
(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,	The site is not zone for commercial purposes	Not Applicable
(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	A total of 19 motorcycle and 20 bicycle spaces are required for the proposed development.  The development incorporates accommodation for 19 motorcycle spaces and 20 bicycles spaces within the two level basement parking.	Yes
(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	Not Applicable	Not Applicable

### **Clause 30AA: Boarding houses in Zone R2 Low Density Residential**

A consent authority must not grant development consent to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone unless it is satisfied that the boarding house has no more than 12 boarding rooms.

#### **Comment:**

Not applicable. The subject site is zoned R3 Medium Density Residential and B4 mixed used.

### **Clause 30A: Character of the local area**

Clause 30A states that Council cannot grant consent to a boarding house unless it has taken into consideration whether the design of the development is compatible with the character of the local area. Case law has held that the test in Clause 30A is “one of compatibility not sameness” (*Gow v Warringah Council [2013] NSWLEC 1093 (15 March 2013)*). Compatibility is widely accepted to mean “capable of existing together in harmony” (*Project Venture Developments Pty Ltd v Pittwater Council [2005] NSWLEC 191*).

It has also been held that in assessing ‘compatibility’ both the existing and future character of the local area needs to be taken into account (*Sales Search Pty Ltd v The Hills Shire Council [2013] NSWLEC 1052 (2 April 2013)* and *Revelop Projects Pty Ltd v Parramatta City Council [2013] NSWLEC 1029*).

#### **Relationship to the Existing and Future Character of the Local Area**

*In Revelop Projects Pty Ltd v Parramatta City Council [2013] NSW LEC 1029*, Commissioner Morris concluded that the ‘local area’ includes both sides of the street and the ‘visual catchment’ as the minimum area to be considered in determining compatibility. The ‘local area’ in this case is taken to include both sides of Pittwater Road and the immediate surrounding streets. Within this local area, development is primarily characterised by the mix of 2-5 storey commercial buildings, intermixed with recent 8, and up to 18 storey mixed commercial and residential developments.

In *Project Venture Developments v Pittwater Council [2005] NSWLEC 191*, the Land and Environment Court specifically set out a relevant planning principle. Consideration has therefore been given to the two key questions identified in the Land and Environment Court Planning Principles:

- (a) Are the proposal’s physical impacts on surrounding development acceptable?  
The physical impacts include constraints on the development potential of surrounding sites.**

#### **Comment:**

The development typology is permissible within the two zones, and the transition of this location from medium to high densities is being increased in the form of larger built forms is evident within the visual catchment.

However, it is noted that the proposal development fronting Francis Street is non-compliant with the side setback control, providing 3m instead of the required 4.5m. As

result, the proposed development impacts on the amenity of the adjoining development at No. 7 and 11 Francis Street, which includes additional overshadowing to 7 Francis Street , and the reduction of a reasonable landscaped buffer to the adjoining sites.

Given the above, it is considered that the development does not satisfy this Principle.

**(b) Is the proposal's appearance in harmony with the buildings around it and the character of the street?**

As indicated above, the overall built form as proposed is not harmonious with the adjoining development. Due to the orientation and spilt zoning of the site the development will result in adverse impacts on neighbouring sites on Francis Street.

Assessing 'compatibility' requires both the 'existing' and 'future' character of the local area to be taken into account (*Sales Search Pty Ltd v The Hills Shire Council [2013] NSWLEC 1052 and Revelop Projects Pty Ltd v Parramatta City Council [2013] NSWLEC 1029*). As discussed above, the proposed development will prejudice the development of the adjoining sites.

Given the above, it is considered that the proposal does not satisfy the character test and the development results in a built form which provides poor occupant amenity and an unresolved interface to adjoining residential development to the north and south.

**State Environmental Planning Policy 55 - Remediation of Land (SEPP 55)**

SEPP No. 55 – Remediation of Contaminated Lands establishes State-wide provisions to promote the remediation of contaminated land.

Clause 7 of the SEPP requires that a consent authority must not grant consent to a development if it has considered whether a site is contaminated, and if it is, that it is satisfied that the land is suitable (or will be after undergoing remediation) for the proposed use.

In response, the applicant has submitted a site condition report, which states that the site has been used for Church building and associated carpark since 1940. The report indicates that apart from asbestos, there were no other contaminated issues found on the site.

In this regard, it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use, subject to conditions to ensure appropriate safe handling of any lead paint asbestos material that may be present/identified in the demolition process.

**SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. 1127034M, dated 11 September 2020).

A condition could be included in the recommendation of this report, if the application was worthy of approval requiring compliance with the commitments indicated in the BASIX Certificate.

## **SEPP (Infrastructure) 2007**

### **Clause 45 - Electricity Infrastructure**

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

- Within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists);
- Immediately adjacent to an electricity substation;
- Within 5m of an overhead power line;
- Includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line.

The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent, if the application was recommended for approval.

### **Draft State Environmental Planning Policies Draft State Environmental Planning Policy – Remediation of Land**

The Department of Planning and Environment ('DPE') has announced a Draft Remediation of Land SEPP ('Draft SEPP') which will repeal and replace the current State Environmental Planning Policy No 55—Remediation of Land ('SEPP 55').

The main changes proposed include the expansion of categories of remediation work which requires development consent, a greater involvement of principal certifying authorities particularly in relation to remediation works that can be carried out without development consent, more comprehensive guidelines for Councils and certifiers and the clarification of the contamination information to be included on Section 149 Planning Certificates.

Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land.

As discussed above with regards to SEPP 55, the site is considered to be suitable for the proposed development and unlikely to be subject to land contamination.

### **STATE REGIONAL ENVIRONMENTAL PLANS**

There are no SREPs applicable to the site.

### **LOCAL ENVIRONMENTAL PLANS**

#### **WARRINGAH LOCAL ENVIRONMENT PLAN 2011**

The Warringah Local Environmental Plan 2011 is applicable to the development.

<b>Is the development permissible with consent?</b>	Yes
<b>After consideration of the merits of the proposal, is the development consistent with:</b>	
<b>Aims of the LEP?</b>	Yes

<b>Zone objectives of the LEP?</b>	Yes
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### Zoning and Permissibility

The site has a spilt zoning of B4 mixed use on the eastern site fronting Fisher Road and R3 Medium Density Residential on the western side fronting Francis Street.

<b>The fundamentals</b>	
<b>Key definitions</b> (ref. WLEP 2011 Dictionary)	1. Places of public worship 2. Boarding house 3. Food and drink premises
<b>Zone:</b>	B4 Mixed Use R3 Medium Density Housing
<b>Permitted with Consent or Prohibited:</b>	<b>Boarding House</b> – Permitted with consent in both zones <b>Places of worship</b> - Permitted with consent in both zones <b>Food and drink premises</b> - Permitted with consent within the B4 zone.

### **Principal Development Standards**

<b>Standard</b>	<b>Permitted</b>	<b>Proposed</b>	<b>Variation</b>
4.3 – Height of Buildings	The maximum building height of the B4 zone is <b>16m</b> (13+3) as per Dee Why Town Centre Masterplan  11m within R3 Medium Density Zone	The proposed development has a maximum building height of 11m on the western portion and 16m on the eastern portion of the site.	N/A
4.4 – Floor Space Ratio	2.4:1 for B4 zone  The SEPP (ARH) 2009 provides for an additional 0.5:1 additional FSR under Clause 29. Therefore, the proposed development has a maximum FSR control of 2.9:1.	The proposed development has a total GFA of 3,312.84m <sup>2</sup> which equates to a FSR of 2.38:1.	N/A

### **Compliance Assessment Summary**

<b>Relevant Clauses</b>	<b>Compliance with Requirements</b>
<b>Part 1 Preliminary</b>	
1.2 Aims of the Plan	Yes
<b>Part 2 Permitted or prohibited development</b>	
2.1 Land Use Zones	Yes
2.7 Demolition requires consent	Yes

Relevant Clauses	Compliance with Requirements
<b>Part 4 Principal development standards</b>	
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
<b>Part 5 Miscellaneous Provisions</b>	
5.9 Preservation of trees or vegetation	Yes
5.10 Heritage	Yes
<b>Part 6 Additional Local Provisions</b>	
6.2 Earthworks	Yes
6.3 Flood planning	Yes
6.4 Development on sloping land	Yes
6.7 Residential Flat Buildings in Zone B4 Mixed Use	N/A

### Part 7 Dee Why Town Centre

Part 7 contains local provisions that relate to the Dee Why Town Centre, a portion of the site fronting Fisher Road is located within Dee Why Town Centre. The specific controls as it relates to Fisher Road component of the development are addressed as follows:

#### 7.4 Development must be consistent with objectives for development and design excellence

This clause states that development consent must not be granted to development on land in the Dee Why Town Centre, unless the consent authority is satisfied that the development is consistent with the objectives of this Part that are relevant to that development, and incorporates:

Requirement	Comment	Compliant
i. Stormwater management measures, including water sensitive urban design and ecologically sustainable development principles.	This issue is addressed by the Development Engineer referral comments. In summary, additional information is required to address the requirement of this Clause.	No
ii. Innovative design solutions that minimise stormwater impacts, including stormwater quantity and quality impacts, on the Dee Why Lagoon system.	The application has been assessed in detail by Council's Development Engineers, whom have raised issues with current drainage model.	No
iii. Finished floor levels and basement car park entry levels that include adequate freeboards to protect against the entry of stormwater from the Council's street drainage system.	The Dee Why South Catchment Flood Study identified that the Dee Why CBD was affected by overland flow with depths in the range of 200-900mm in the 1 in 100 Year ARI storm event. These overland flow levels resulted in new buildings requiring elevated ground floor levels and basement driveway entry levels at or above the 1 in 100 Year ARI storm event levels.	Yes

	The finished floor levels of development are above the Flood Planning Levels and found to be satisfactory.	
iv. Continuous colonnades or pedestrian awnings on those parts of any building that are on the edges of streets or public spaces.	Awnings have been provided above the new ground floor fronting Fisher Road as required for the development.	Yes

### 7.5 - Design Excellence within Dee Why Town Centre

in determining whether development exhibits design excellence, the consent authority must have regard to the following matters:

Matters of Consideration	Comment
a) Whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved.	The development has an appropriate built form fronting Fisher Road which will contribute positively to the streetscapes within Dee Why Town Centre.
b) Whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain.	The proposed development fronting Fisher Road is considered to be appropriate in terms of the composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the resultant building.  The proposal responds aesthetically to the environment and context, contributing to the desired future character of the area.
c) Whether the building meets sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security and resources, energy and water efficiency.	The proposed development has been designed to meet BCA energy efficiency requirements through the deemed-to-satisfy or Alternative Solutions Approach provisions of the BCA. The National Construction Code (NCC) BCA section J sets minimum energy performance requirements of all new development and covers building fabric and glazing thermal performance, air-conditioning, ventilation, lighting, power and hot water.
d) Whether satisfactory arrangements have been made to ensure that the proposed	The development fronting Fisher Road is considered to be a satisfactory

design is carried through to the completion of the development concerned.	response to the site's context, location and surrounding land uses, and is consistent with the outcome as envisaged in the Masterplan.
e) Whether the configuration and design of communal access and communal recreational areas within the residential elements of development incorporate exemplary and innovative treatments and will promote a socially effective urban village atmosphere.	Communal areas have been included within the proposed development that will provide social gathering for the residents of the development.

### **7.12 - Provisions promoting retail activity**

The objective of this clause is to promote retail activity on the ground and first floors of new buildings in the Dee Why Town Centre.

This clause imposes additional restrictions on the type of uses that may be accommodated within the development, specifically on the ground and first floor levels of the development.

The uses within the proposed development as they relates to the ground floor levels is consistent with the requirement of this clause in that there is no residential accommodation, medical centre, and office premises on the ground floor of the proposed development fronting Fisher Road.

### **7.13 - Mobility, traffic management and parking**

The objective of this clause is to ensure improved vehicle access and circulation in the Dee Why Town Centre, through good design and the management of traffic flows within the existing and new roads servicing the Dee Why Town Centre.

The DA was accompanied by a traffic assessment report which addresses the existing and future traffic flows within the Dee Why Town Centre. The report has been reviewed by Council's Traffic Engineer, who have stated the development is deficient in providing adequate traffic counts and therefore the finding of the applicant's traffic report is not concurred with by Council's Traffic Engineer and the application is recommended for refusal on this basis.

## **DEVELOPMENT CONTROL PLANS**

### **WARRINGAH DEVELOPMENT CONTROL PLAN 2011**

The Warringah Development Control Plan 2011 is applicable to the development.

#### **Built Form Control**

**Note:** WDCP 2011 can be viewed at Council's website or NSW Legislation website.

<b>Part B: Built Form Controls for R3 Zoning</b>				
<b>Control</b>	<b>Requirement</b>	<b>Proposed</b>	<b>% Variation</b>	<b>Complies</b>
<b>B2. Number of Storeys</b>	3 storey	3 storey	N/A	Yes
<b>B3 – side Boundary Envelope</b>	5m (north)	Outside Envelope	32.5% - 13.8%	<b>No</b>
	5 (south)	Outside Envelope	50% - 26.7%	<b>No</b>



<b>B5. Side Boundary Setbacks</b>	4.5m (North) 4.5m (south)	Basement Level – Nil Development–varied setback 3m -4m	100%  33%	<b>No</b>
<b>B7. Front Boundary Setbacks</b>	6.5	6m	7.6%	<b>No</b>
<b>D1- Landscaped Open space</b>	40% for site of 695.6m <sup>2</sup> (278.24m <sup>2</sup> )	31.4% (218.6m <sup>2</sup> )	21%	<b>No</b>

### Compliance Assessment Summary

Clause	Compliance with Requirements	Consistency Aims/Objectives
<b>Part A Introduction</b>		
A.5 Objectives	<b>No</b>	<b>No</b>
<b>Par B Built Form Controls – R3 Zone</b>		
B2 Number of Storey	Yes	Yes
B3 Side Boundary Envelopes	<b>No</b>	<b>No</b>
B5 Side Boundary Setbacks	<b>No</b>	<b>No</b>
B7 Front Boundary Setbacks	<b>No</b>	<b>Yes</b>
B9 Rear Boundary Setbacks	N/A	N/A
D1 Landscaped Open Space	<b>No</b>	<b>No</b>
<b>Part C Siting Factors</b>		
C2 Traffic, Access and Safety	<b>No</b>	<b>No</b> (refer to Traffic comments in the referral section of this report)
C3 Parking Facilities	Yes	Yes
C3(A) Bicycle Parking and End of Trip Facilities	Yes	Yes
C4 Stormwater	<b>No</b>	<b>No</b> (refer to Development Engineer comments in the referral section of this report)
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	<b>No</b>	<b>No</b> (refer to Waste officer comment in the referral section of this report)
Residential accommodation - 3 or more dwellings	Yes	Yes
<b>Part D Design</b>		

Clause	Compliance with Requirements	Consistency Aims/Objectives
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	<b>No</b>	<b>No</b>
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	No	No
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
<b>Part E The Natural Environment</b>		
E1 Private Property Tree Management	Yes	Yes
E10 Landslip Risk	Yes	Yes
Part G1 – Dee Why Town Centre for B4 Zoning	<b>No</b>	<b>No</b> <b>(refer to discussion below)</b>

### Detailed Assessment

#### **A.5 Objectives**

The proposed development is not considered to provide the best outcome for the site in responding to the characteristics of the site and surrounding development which is evident in the number of non-compliance with the local controls and number of objections received.

#### **B3 Side Boundary Envelope**

##### Description of non-compliance

The portion of the development located within the R3 zone results in a non-compliance with the side boundary envelope control, calculated as:

- North - 32.5% - 13.8%
- South - 50% - 26.7%

The variation extends for the length of the western building as depicted in the following figures:

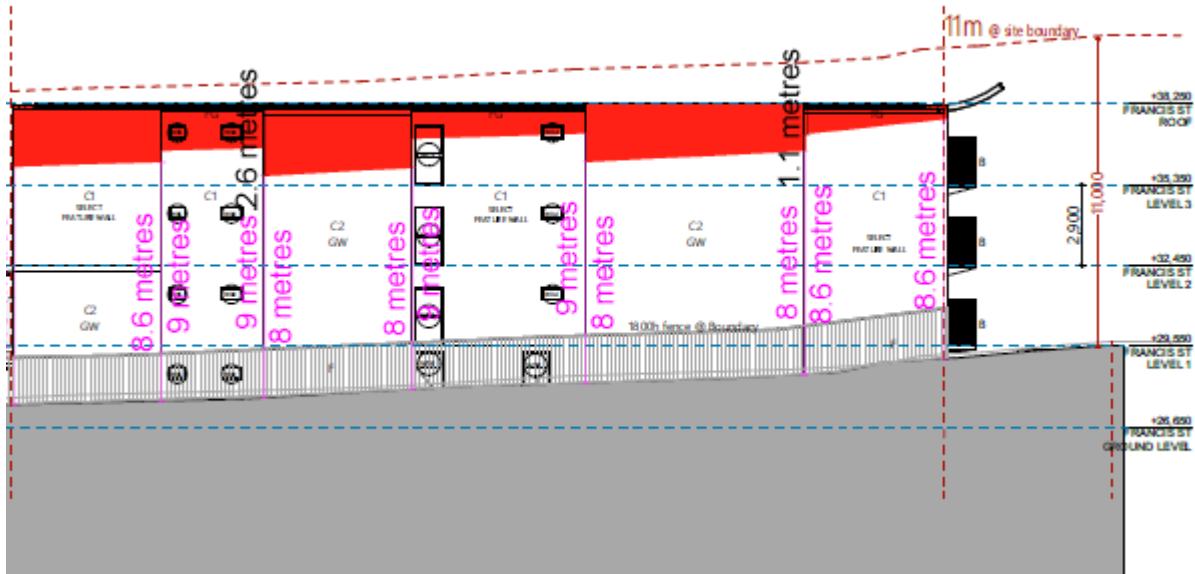


Figure 7 North Elevation (Source: The Georges Group Pty Ltd)

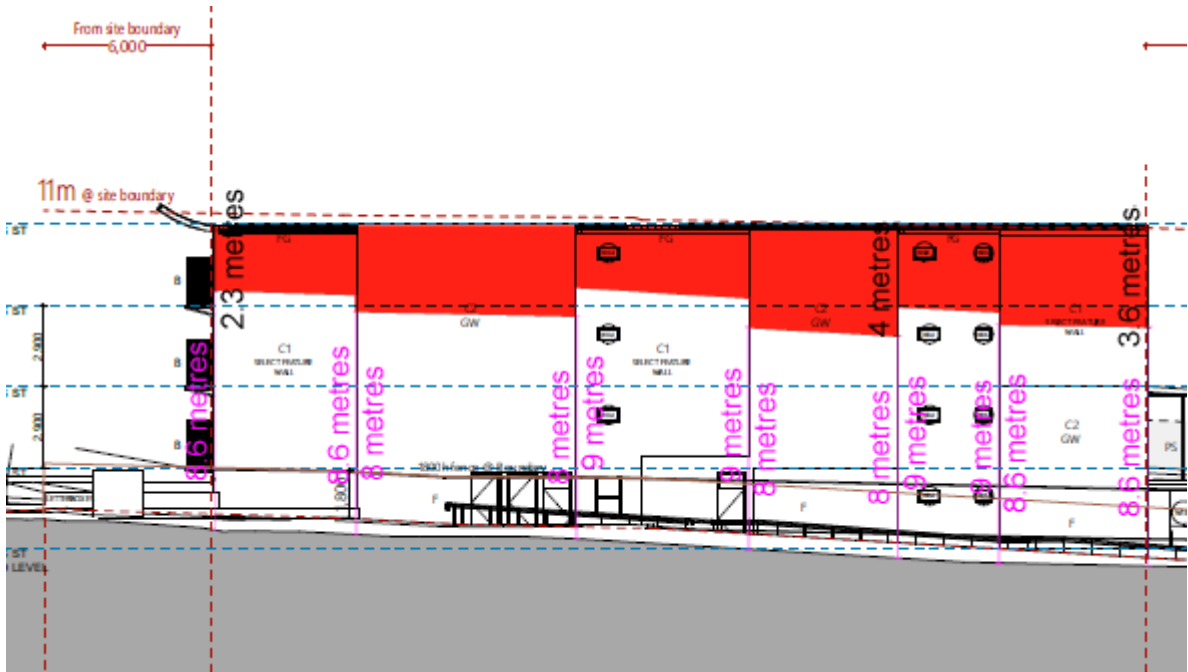


Figure 8 South Elevation (Source: The Georges Group Pty Ltd)

**Merit consideration**

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- **To ensure that development does not become visually dominant by virtue of its height and bulk.**

Comment:

The development fails in achieving this objective with the additional building form adding substantial bulk which additional impacts on the adjoining development.

- **To ensure adequate light, solar access and privacy by providing spatial separation between buildings.**

Comment:

The development fails to provide any increased separation as the building envelope has increased. While this would not provide any additional relief at ground level, it will certainly provide a greater sense of openness and separation from the adjoining properties.

- **To ensure that development responds to the topography of the site.**

Comment:

The development is considered to respond to the topography of the site.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

## **B5 Side Boundary Setbacks**

### **Description of non - compliance**

The proposed development seeks variations with the side boundary setback requirements of WDCP. The proposed basement includes a nil setback for the basement length along both boundaries.

Above ground, the development continues the non-compliance alongside both setbacks. The ground level of the proposed development on the northern side is use for private space for individual uses and on the south side its access paths.

While the controls incorporate special provisions within the R3 Medium Density Residential Zone for basement parking to encroach up to 2.0m from the boundary and private open space up to 3.5m from the boundary, the proposed development seeks 100% encroachment of these areas which is not supported. The control and the special provisions state:

*On land within the R3 Medium Density Residential zone, above and below ground structures and private open space, basement car parking, vehicle access ramps, balconies, terraces, and the like shall not encroach the side setback.*

*Variations will be considered for existing narrow width allotments, where compliance is unreasonable in the context of surrounding medium density development for basement carparking and private open space.*

*Basement car parking may extend:*

- *Up to 2 metres from the side boundary, and*
- *No more than 1 metre above ground level (existing)*

*Private open space may extend:*

- *Up to 3.5 metres from a side boundary*

### **Merit consideration**

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- **To provide opportunities for deep soil landscape areas.**

Comment:

There is insufficient area within the setback to support planting that is commensurate with the building height, as this area has been identified as private open spaces for the northern setback, and the southern setback is used for fire egress paths. It is unlikely to contain any useful planting that would serve to offset the bulk and scale of the building.

- **To ensure that development does not become visually dominant.**

Comment:

The side setbacks are used for sharing purposes and priority as private open space for the individual rooms, which appear to fence off a space and contains insufficient soil depth above existing ground levels. There can be no reliance on effective landscaping serving to reduce the dominance of this building or offer any landscaped buffer separating the occupants from the adjoining properties.

- **To ensure that the scale and bulk of buildings is minimised.**

Comment:

As identified above, the development is seeking variation with the building envelope on the supposition that the development provides adequate and suitable setbacks containing substantive landscape screening which will soften the building in its setting. The physical form of the building fails to minimise bulk and scale of the development and based on the reasons provided is unlikely to be offered any relief from the landscape design.

- **To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.**

Comment:

The physical separation of the building facade from the boundaries is not acceptable as the development will result in overshadowing impact on the adjoining development to the south.

- **To provide reasonable sharing of views to and from public and private properties.**

Comment:

There are no views which have been identified as affected by the proposed development.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

**B7. Front Boundary Setbacks**

Description of non-compliance

Clause B7 requires that development is to maintain a minimum setback of 6.5m. The proposed development provides 6m setback to Francis Street.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To create a sense of openness.***

Comment

The non-compliant elements are minor and sufficiently articulated, elevated and setback from the street alignment to facilitate a continued sense of openness from the street.

The development is considered to satisfy this objective.

- ***To maintain the visual continuity and pattern of buildings and landscape elements.***

Comment

The landscaping treatment fronting Francis Street is consistent with another development within the streetscape.

The development is considered to satisfy this objective.

- ***To protect and enhance the visual quality of streetscapes and public spaces.***

Comment

The non-compliant elements are minor and only noticeable at an oblique angle from Francis Street.

The development is considered to satisfy this objective.

- ***To achieve reasonable view sharing.***

Comment

There are no views which have been identified as affected by the proposed development.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the

Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the non-compliance with the front setback can be supported, in this particular circumstance.

## **D1 Landscaped Open Space and Bushland Setting**

### **Description of non-compliance**

The proposed development that is located within the R3 zone provides 31.4% of the site included as landscaping.

### **Merit consideration**

Whilst it is acknowledged a total of 944m<sup>2</sup> (67.85%) of Landscape Open Space has been provided for the entire development. The calculation includes areas on the ground level and rooftop, which is in accordance with the requirement of Part G1- Dee Why Town Centre which is applicable to the eastern portion of the site.

However, concern is raised with the amount landscaping provided within the side setbacks to offset the impact of the development on the adjoining development along Francis Street.

The proposed development is for a boarding house and includes a number of private open spaces areas within the site setback. The layout of the ground floor landscaping in terms of accommodating outdoor recreational opportunities in this instance are considered inappropriate.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

## **D6 Access to Sunlight**

Clause D6 of WDCP 2011 requires a minimum of 3 hours of direct sunlight to 50% of each area of private open space between 9am and 3pm in midwinter. The application has not provided sufficient information to determine compliance in this regard, particularly with regards to the impact of the development on the adjoining residential development at No. 7 Francis Street.

Whilst some level of additional overshadowing impact is anticipated due to the comparably undeveloped nature of the existing site, concern is raised where the additional impacts as a result of non-compliance with Council's built form controls. In this respect, it is noted that the impact are directly attributable to non-compliance with the Building Envelope and Side Setback development controls that are applicable to part of the site.

As such, the proposed development is considered to be inconsistent with the requirement of this Clause, which seek to ensure that reasonable access to sunlight is maintained to adjoining properties.

## **D9 Building Bulk**

The development is considered against the underlying Objectives of the Control as follows:

- **To encourage good design and innovative architecture to improve the urban environment.**

Comment:

While the street presence of the proposal provides an adequate form of design which is representative of a modern architectural detail, the development on balance fails to focus adequate emphasis on the other facades of the building. The development will create additional solar access impact of adjoining properties and fails to provide an adequate level of internal amenity for the future occupants of the development as discussed by DASP panel.

- **To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.**

Comment:

The proposed development is inadequate in minimising visual bulk. The built form presents overwhelming facades which offer little articulation or relief, compounded further by an additional non-compliant building envelope breaches on the Francis Street frontage.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.


### Part G1- Dee Why Town Centre

Part of the site is located within Dee Why Town Centre within B4 Mixed use zone under the WDCP 2011.

Note: Clause A.6 of the WDCP 2011 stipulates that, in the event of any inconsistency between Part G and Parts C, D and E, the requirements of Part G will prevail. The following table provides an assessment of the development against the controls of Part G1 as it specifically relates to the component of the development located within B4 zone:

Requirement	Comment	Compliance
<p><b>3. Desired Character for the Dee Why Town Centre</b></p> <p>The vision for Dee Why Town Centre identified in the 2013 Masterplan is as follows:</p> <p><i>“Dee Why will be home to a thriving cosmopolitan community who cherish their past, celebrate its unique and engaging vibe and embrace its bold commitment to urban sustainability. It will be a place of both energy and refuge, a city at the beach, with a distinctive modern urban identity.”</i></p> <p>The North District Plan 2018 identifies Dee Why Town Centre as a mixed-use area that offers a vibrant local night-time economy. It outlines actions that are interpreted as objectives within this section of the DCP.</p> <p>The desired character for the Dee Why</p>	<p>The proposed development is found to be acceptable with regards to its built form in accordance with Desired Character, however the fact that the proposed development does not provide suitable amenity for the residents of the development and issues with Traffic, the proposed development is found to be <u>inconsistent</u> with Desired Character statement for Dee Why Town Centre.</p>	<p><b>No</b></p>



Requirement	Comment	Compliance
Town Centre is further defined by objectives within this Development Control Plan.		
<p><b>4. Streetscape and Public Domain</b></p> <p>This section details design requirements for places accessible to the public, being either on public land or as part publicly accessible areas of a private development. This includes building frontages addressing the street, awnings over footpaths, pedestrian access ways and open spaces. It also includes requirements for the provision of new public infrastructure on Key Sites shown in Figure 2, including:</p> <ul style="list-style-type: none"> <li>- Key Site E – New Shared Pathway and Pedestrian Accessway</li> </ul>  <p>Figure 6- Key Sites Map indicating public domain upgrades</p>	<p>The proposed development is acceptable with regards to the requirement of this Clause.</p> <p>The site is not identified as the key sites.</p>	Yes
<p><b>5. Design and Architectural Diversity</b></p> <p>1. New developments must be designed to avoid the use of blank walls fronting streets and the public domain. In circumstances where blank walls are unavoidable, they are to be designed in a manner that is consistent with the overall building form that contributes to the public domain and create visual interest.</p> <p>2. Corner sites must:</p> <ol style="list-style-type: none"> <li>a. Adequately address both street frontages;</li> <li>b. Combine architectural features, materials and landscape design to define corners</li> </ol>	As advised by DASP, the proposed development is found to be unacceptable in terms of its design and architecture.	<b>No</b>
<p><b>6. Site Amalgamation</b></p> <p>Development should not result in the isolation of land adjacent to the development site, preventing the reasonable development of that land.</p> <p>2. Development that would result in an isolated lot must be supported by documentary evidence to demonstrate that a genuine and reasonable attempt has been made to purchase an isolated lot</p>	No isolation issue has been found with the development.	Yes

Requirement	Comment	Compliance
<p>adjacent to the development site, based on a fair market value. This is to include at least one recent independent valuation by a licensed valuer and a written offer to cover reasonable expenses likely to be incurred by the owner of the isolated lot during the sale of the property.</p> <p>3. Where amalgamation of an isolated lot adjacent to the development site is not feasible, applicants will be required to:</p> <p>a. Demonstrate that an orderly and economic use and development of the separate sites can be achieved;</p> <p>b. Provide a building envelope for the adjacent isolated lot, indicating height, setbacks, resultant site coverage (building and basement), sufficient to understand the relationship between the application and the adjacent isolated lot;</p> <p>c. Detail the likely impacts of development on the adjacent isolated lot in terms of solar access, visual privacy, building separation, streetscape and vehicular access.</p>		
<p><b>7. Traffic and Parking</b></p> <p>1. Site amalgamation is encouraged to enable integrated car parking and service provision using shared driveways where possible.</p> <p>2. New developments are to be accompanied by a service delivery and loading dock plan.</p> <p>3. Car parking and vehicle access points shall incorporate the following design elements:</p> <p>a. Recessed car park entries from the main building facade alignment;</p> <p>b. Avoidance of large voids in the facade by providing security doors or decorative grills to car park entry;</p> <p>c. Returning the facade finishes into the car park entry recess for the extent visible from the street;</p> <p>d. Concealing all services, pipes and ducts.</p>	The site does not include site amalgamation.	N/A
<p><b>8. Car Share</b></p> <p>1. For properties with more than 25 dwellings, one (1) car share space must be provided per 25 dwellings with each car share space replacing one (1) regular car parking space.</p> <p>2. Where the proposed number of car share spaces exceed the above minimum, Council may consider reduced private parking, where suitable evidence and justification is provided to Council of the benefits to the road network.</p>	No car share is proposed as part of the development as the proposal provides adequate parking.	Yes

Requirement	Comment	Compliance
<p><b>9. Sustainability</b></p> <p>New development with a cost of works equal to or greater than \$5 Million must achieve a minimum 4 Star, Green Star – Design and As Built rating in the Green Building Council of Australia rating system.</p> <p>2. Compliance with another rating tool may be considered by Council, so long as it can be demonstrated this tool:</p> <p>a. Is a holistic third party certifying green building rating system covering at least energy, indoor environmental quality, water, transport and waste:</p> <p>b. Awards ratings following a review by impartial third-party certifying bodies that meet the 'Principles for Inspiring Confidence' outlined in the international standard ISO/IEC 17021.</p>	<p>The proposed development has been designed to meet BCA energy efficiency requirements through the deemed-to-satisfy or Alternative Solutions Approach provisions of the BCA. The National Construction Code (NCC) BCA section J sets minimum energy performance requirements of all new development and covers building fabric and glazing thermal performance, air-conditioning, ventilation, lighting, power and hot water.</p>	<p>Yes</p>
<p><b>10. Water Sensitive Urban Design</b></p> <p>A water sensitive urban design (WSUD) Strategy shall be prepared for all new buildings. The Strategy shall demonstrate compliance with WSUD objectives of this DCP and with Council's Water Management Policy (PL 850). The Strategy must be prepared by a Civil Engineer, who has membership to the Institution of Engineers Australia (NPER-3). The Strategy shall include the following:</p> <p>a. Proposed development – Describe the proposed development at the site, including site boundaries and proposed land uses;</p> <p>b. Catchment analysis plan – Clearly showing the surface type (roof, road, landscape, forest etc.) and the total areas. This must be consistent with the land use nodes within the Model for Urban Stormwater Improvement Conceptualisation (MUSIC) Model;</p> <p>c. Stormwater quality requirements – Demonstrate how Stormwater Quality Requirements of the Water Management Policy will be met, including the location, size and configuration of stormwater treatment measures proposed for the development;</p> <p>d. MUSIC model - Prepared in accordance with the draft NSW MUSIC Modelling Guidelines unless alternative modelling parameters are justified based on local studies. Details of the modelling of those elements, parameters and assumptions used. All MUSIC data files must be provided</p>	<p>This requirement can be imposed as condition of consent, should the application for worthy of approval.</p>	<p>Yes (subject to condition)</p>

Requirement	Comment	Compliance
to Council. Two models are required to be submitted – the existing site, and the proposed development. The modelling should demonstrate a neutral or beneficial effect over the existing scenario; e. Integration with the urban design – Identify how the treatment measures will integrate with the development layout and the surrounding area. Proprietary devices in isolation to WSUD features are unlikely to be approved.		
<b>11 Landscaping</b>  1. Where possible, existing trees should be retained, particularly where they are adjacent to the public domain. 2. A minimum of 20% of the site area is to be provided as landscaped area, which may be located on balconies, ground, podium and roof top levels or green walls of buildings. 3. Facades at the street level may incorporate planting on structures to enhance views from the public domain. 4. Where green walls are provided, they must be via a cladding structure with growing medium to facilitate extensive plant growth.	The development provides in excess of 20% landscaped area.	Yes

## Detailed Assessment

### Clause C3- Parking Facilities

Appendix 1 of the WDCP 2011 requires a development to provide on-site car parking at the following rates (note: required car parking spaces are rounded up):

Component	Required	Provided	Compliance
<b>Boarding House</b>	0.2 space per room under the provision of SEPP (ARH) 2009  80 rooms = 16 spaces Manager residence – 1 space (total =17 spaces)	22 spaces	No
<b>Café</b>	1 space per 100 m <sup>2</sup>  3 spaces for 63.1m <sup>2</sup>	3	Yes
<b>Church / Conference Centre</b>	15 spaces  Comparisons must be drawn with developments for a similar purpose.  The need for additional	15 spaces  The Traffic submitted with the application suggests that the development will generate between 10	Yes

Component	Required	Provided	Compliance
	parking for church halls must also be addressed in relation to proposed uses and hours of use	and 15 off-street parking spaces.	
<b>Total</b>	<b>35 spaces</b>	<b>40 spaces</b>	<b>Yes</b>

### Clause D3 - Noise

An Acoustic Report was lodged with the application which considers both internal and external noise sources including surrounding traffic noise, noise emissions associated with traffic generated by activities on site, noise associated with mechanical plant and noise generated by the proposed development.

The assessment recommends that certain acoustic treatments be implemented to ensure internal noise levels comply with relevant Australian Standards. These can be included as conditions on the draft consent, should the application will be worthy of approval.

### THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological Communities or their habitats

### CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention through Environmental Design.

### POLICY CONTROLS

#### Dee Why Town Centre Contributions Plan 2019

The Dee Why Town Centre Contributions Plan 2019 applies to this development. The development will increase the demand for local infrastructure levied by the Plan. Notwithstanding that the owner of the site (Baptist Church of NSW Property Trust) may be a social housing provider, the application does not meet the requirements for an exemption to development contributions in part 2.6 of the Plan.

In accordance with Table 1 in the Plan, the contribution is calculated as follows:

291sqm of proposed non-residential development at \$166.46 per m<sup>2</sup> (based on \$16,646.35/100sqm) \$48,439.86

81 boarding rooms at \$6,341.47 per room  
\$513,659.07

**Total \$562,098.93**

Part 6.3.1 of the Contributions Plan stipulates that the contribution rates in the plan will be adjusted to reflect quarterly movements in the Consumer Price Index (CPI) as published by the Australian Bureau of Statistics. The next CPI adjustment will be published on 27 January 2021. If the development application is not determined before this date, the contribution calculation will need to be updated to reflect the amended contribution rates.

The Plan identifies that the development contribution is attributable to the net increase in infrastructure demand and that there may be an allowance for existing development. Part 4.3 of the Plan identifies that the contribution attributable to the net increase in infrastructure demand is determined by calculating the contribution under that Plan that would apply to the existing development. The site currently contains a church however the submitted plans are insufficient to calculate the existing GFA of this building. No allowance for existing development can be provided until the existing GFA can be accurately calculated. Once this information is provided an updated contribution can be calculated.

The contribution will be imposed as condition of consent, should the application be worthy of approval.

## **CONCLUSION**

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal. In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Inconsistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

The proposed land uses are permissible with consent on the site pursuant to the provisions of SEPP (ARH) 2009 and WLEP 2011. As discussed throughout this report, there are no objections raised to proposed land uses on the site and redevelopment of the site will be highly beneficial to the locality as a whole.

The application has been lodged pursuant to the State Policy for Affordable Housing (SEPP (ARH) 2009). The assessment against the requirements of the SEPP has concluded that the proposed character does not provide for a suitable and appropriate response to the setbacks the proposed building with adjacent development to the north and south, particularly for the building facing Francis Street.

The configuration of the subject site split into two different zones is a challenge in itself and problematic as evidenced by the poor relationships to the neighbouring properties. It requires a skilful design in order to overcome such self-imposed constraints. From the list of constraints generated by the site, the capacity to support the proposed built form without generating undesirable amenity impacts is of very high relevance. The proposal has failed to properly recognise and respond to the challenges presented by the site, resulting in unacceptable impacts on adjoining neighbours facing Francis Street.

There are a number of possible options for amendments to be made to this development to address the concerns raised in this report, such that it is designed in a manner that is consistent with the applicable planning controls and a development that is a more sympathetic to the adjoining sites. The design solutions for the site is also detailed with DASP minutes, however, the process for dealing with an amended scheme is via a new Development Application, owing to the significant notification, assessment and referral requirements that are involved.

Based on the assessment contained in this report, it is recommended that the Sydney North Planning Panel (SNPP) refuse the application for the reasons detailed within the recommendation attached to this report.

## **RECOMMENDATION (REFUSAL)**

That the Sydney North Planning Panel, as the relevant consent authority pursuant to Clause 4.16(1) (a) of the EP&A Act 1979 (as amended), refuse to grant consent to Development Application No. DA2020/1167 for demolition works and construction of a mixed use development to accommodate a cafe, church, conference centre, boarding house and two level basement car park at art Lot 28 DP 7413, 9 Francis Street and 28 Fisher Road, Dee Why.

### **1. State Environmental Planning Policy (Affordable Rental Housing) 2009**

The proposed development should not be approved in its current form as it is inconsistent with the requirements for a Boarding House in Division 3 of the SEPP.

Particulars:

- a) The development form is not characteristic and imposes unnecessary impact on the surrounding built form, and is therefore inconsistent with Clause 30A of the SEPP (ARH) 2009.
- b) The development does not provide sufficient information to demonstrate compliance with regards to Clause 29(2) (C) – Solar access.

### **2. Warringah LEP 2011**

The proposed development is not consistent with the requirement of Part 7 – Town Centre Controls.

Particulars:

- a) The development does not provide sufficient information to demonstrate compliance with regards to Clause 7.4 (i) and (ii) relating to Stormwater Management.
- b) The proposed development is found to inconsistent with the requirement of Clause 7.13 relating to Traffic Management.

### **3. Non-compliance with Warringah DCP 2011**

The proposed development does not comply with the following provisions of WDCP 2011.

Particulars:

- a) Clause 1.2 Aims of The Plan
- b) Clause 2.3 Zone Objectives
- c) B3 Side Boundary Envelope
- d) B5 Side Boundary Setback
- e) C2. Traffic, Access and Safety
- f) C9. Waste Management
- g) D1 Landscaped Open Space and Bushland Setting
- h) D6 Access to Sunlight
- i) D9 Building Bulk
- j) D14 Site Facilities