

26 June 2020

Tony Collier  
Northern Beaches Council  
PO Box 82  
MANLY NSW 1655

Dear Tony

[Modification Application MOD2020/0081 – 2 Delmar Parade, Dee Why](#)

We refer to your letter dated 4 June 2020 in relation to modification application MOD2020/0081 to modify the consent for Development Application DA2017/1183 for demolition works and construction of a Mixed Use Development, comprising retail shops and shop top housing at 2 Delmar Parade, Dee Why.

The matters raised in the letter are addressed below and amended plans and details are also provided.

The proposal has been redesigned to achieve the following primary improvements:

- The basement level has been adjusted to accommodate for changes made on ground floor (to improve vehicular circulation) and level 1 landscaping.
- Ground:
  - The deep soil zone at the southern end of the site has been relocated up to Level 1 at Council's request where it provides a more meaningful contribution to the outdoor amenity for the residents, and that location at ground floor now accommodates an inter-allotment sewer line as well as OSD tank and plant.
  - Some plant and car space reconfiguration with one retail space has been relocated to the basement.
  - The car parking along the eastern boundary has been shifted slightly south, and the southern commercial tenancy reduced, to accommodate structure on the eastern and southern boundaries.
  - Widening entry driveway from 6300mm to 6600mm to maintain consistency with the approved driveway entry arrangement.
- Level 1:
  - The communal open space has been expanded at the southern end of the site with the soft landscaping elevated which provides for a wrap around communal open space from the eastern side of the site, to the southern side, and around the central communal garden area.
  - The eastern communal open space area has been rationalised with circulation and gathering areas converted into soft landscaped gardens, and additional planter boxes have been introduced along the edge of the courtyards, which provide further soft landscaping and improved privacy and outlook for these apartments.
  - The entry courtyard for unit U111 has been increased in size as a result of rationalisation of services cupboards.
  - The central communal area has been rationalised and reconfigured to substantially increase soft landscaping, and to create more generous and private entry courtyards to the apartments which face Pittwater Road.

- The blade wall which separated the two balconies for unit U107 has been removed to provide a contiguous private open space area.
- Units U113 and U 114 have been slightly reconfigured in response to landscape amendments.
- Levels 2 and 3:
  - The circulation arrangement has been rationalised to create more generous and private entry courtyards to the apartments which face Pittwater Road, and also to reduce the number of apartments accessed from various parts of the circulation corridor which serves to improve privacy for the apartments due to less passing of residents.
  - The entry courtyard for unit U211/U311 has been improved as a result of rationalisation of services cupboards.
  - The blade wall which separated the two balconies for unit U207/U307 has been removed to provide a contiguous private open space area.
  - A vertical planting structure has been added to the circulation corridor adjacent to units U204/U304 and U203/U303 to further improve privacy for the entries to these units and to add landscaped amenity within the development.
- Level 4:
  - The circulation arrangement has been rationalised to create more generous and private entry courtyards to the apartments which face Pittwater Road, and also to reduce the number of apartments accessed from various parts of the circulation corridor which serves to improve privacy for the apartments due to less passing of residents.
  - Unit U408 has increased slightly in size as a result of rationalisation of services cupboards and the internal layout slightly reconfigured.
  - A vertical planting structure has been added to the circulation corridor adjacent to units U403 and U404 to further improve privacy for the entries to these units and to add landscaped amenity within the development.
  - Additional soft landscaping has been provided to the southern terrace of Unit U401.
  - The eastern facing highlight windows to Units U406 to U410 have been changed to opaque glass, and a 500mm high vertical louvre screen has been added to the balcony edge of Units U407 to U410 to achieve privacy for the eastern adjacent site.
- Level 5:
  - The circulation arrangement has been rationalised to create more generous and private entry courtyards to the apartments which face Pittwater Road, and also to reduce the number of apartments accessed from various parts of the circulation corridor which serves to improve privacy for the apartments due to less passing of residents.
  - Unit U508 has increased slightly in size as a result of rationalisation of services cupboards and the internal layout slightly reconfigured.
  - A vertical planting structure has been added to the circulation corridor adjacent to units U503 and U504 to further improve privacy for the entries to these units and to add landscaped amenity within the development.
  - The eastern facing highlight windows to Units U506 to U510 have been changed to opaque glass, and a 500mm high vertical louvre screen has been added to the balcony edge of Units U507 to U510 to achieve privacy for the eastern adjacent site.
- Level 6:
  - The circulation arrangement has been rationalised to create more generous and private entry courtyards to the apartments which face Pittwater Road, and also to reduce the number of apartments accessed from various parts of the circulation corridor which serves to improve privacy for the apartments due to less passing of residents.
  - A vertical planting structure has been added to the circulation corridor adjacent to units U602 and U603 to further improve privacy for the entries to these units and to add landscaped amenity within the development.

- The eastern facing highlight windows to Units U606 to U609 have been changed to opaque glass, and a 500mm high vertical louvre screen has been added to the balcony edge of Units U606 to U609 to achieve privacy for the eastern adjacent site.

The following additional documentation is provided:

Appendix	Document	
Appendix A	Amended architectural package and design response	Rothelowman Architects
Appendix B	Amended landscape package	Paul Scrivener Landscape Architect
Appendix C	Amended stormwater design	S&G Consultants
Appendix D	Amended BCA Report	Aramini & Leedham Consulting Pty Ltd
Appendix E	Memo from Fire Engineer	Innova
Appendix F	Memo from Acoustic Engineer	Wilkinson Murray
Appendix H	Memo from Traffic Engineer	TTPP

The amended numerical overview is as follows:

Element	Approved	Initially Proposed Amendment	Final Proposed Amendment
Site Area	2,060 square metres	2,060 square metres	2,060 square metres
GFA	5,837.6 square metres	6,155 square metres	6,152 square metres
FSR	2.83:1	2.99:1	2.99:1
Height	Roof RL 51.20 Lift overrun RL 52.00	Roof RL 51.00 Lift overrun RL 52.00	Roof RL 51.00 Lift overrun RL 52.00
Apartments	71	71	71
Apartment mix	18 x studio (25%) 45 x 1 bed (63%) 8 x 2 bed (12%) 0 x 3 bed (0%)	29 x 1 bed (41%) 37 x 2 bed (52%) 5 x 3 bed (7%)	29 x 1 bed (41%) 37 x 2 bed (52%) 5 x 3 bed (7%)
Car parking	109	110	110
Solar access	(67 of 71) 94%	(71 of 71) 100%	(71 of 71) 100%
Cross ventilation	(49 of 71) 69%	(66 of 71) 93%	(66 of 71) 93%
Adaptable apartments	Nil	7 (10%)	7 (10%)
Communal open space	591.7 square metres or 28.7%	577 square metres or 28%	595 square metres or 29%
On-structure planitng	419 square metres or 20%	357 square metres or 17.3%	575 square metres or 26%

A response to the issues raised in Council's letter is provided in the table below:

Issue	Response
<p><b>(a) 3D – Communal and Public Open Space</b></p> <p>The Design Guidance under Objective 3D-1 recommends that communal open space should be consolidated into a well-designed, easily identified and usable area and that direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies.</p> <p>The isolated pocket landscape area situated within the south-eastern part of the site cannot be considered to constitute communal open space given its isolation, accessibility and limited sunlight access once surrounding development is constructed.</p> <p>Design Criteria 1 under Objective 3D-1 requires that the communal open space within the development has a minimum area equal to 25% of the site (i.e. 515m<sup>2</sup>).</p> <p>The approved development provided 32% (659.2m<sup>2</sup>) of communal open space which complied with the requirement and was a positive of that development. However, the modification proposes only 22.7% (469m<sup>2</sup>), as the pocket landscaped area cannot be legitimately considered as communal open space.</p> <p>As discussed at the meeting, it is recommended that the pocket landscaped area is elevated to Level 1 to better relate to the proposed communal open space area along the eastern side of the site, thus affording an enlarged area of “useable” communal open space.</p>	<p>As requested, the proposal has been amended to elevate the pocket landscaped area up to Level 1 which achieves a significantly improved relationship to the proposed communal open space area along the eastern side of the site and a larger area of “useable” communal open space. With this change, this elevated area is included in the common open space calculation and the amended proposal achieves in excess of the minimum required common open space while greatly improving the common open space offering in comparison to the approved scheme.</p>
<p><b>(b) 3E – Deep Soil Zones</b></p> <p>The Design Criteria under Objective 3E-1 requires that sites which have an area greater than 1,500m<sup>2</sup> have deep soil zones of not less than 7% of the site area (144.2m<sup>2</sup>) with a minimum dimension of 6.0m.</p> <p>The approved development provided for 16.8% (346.8m<sup>2</sup>) of deep soil area with a minimum dimension of 6.0m. The modification reduces the provision of deep soil area to 14.2% (292.8m<sup>2</sup>). Although numerically compliant, the areas designated as deep soil zone have minimum dimensions of less than 6.0m.</p> <p>At the briefing, the SNPP reinforced the need to maintain deep soil zones within the site and required that the approved numerical area of deep soil be maintained. Furthermore, in order to provide a meaningful quality of deep soil area within the site and to facilitate plantings throughout, which would complement the scale and architectural design of the modified built form, the minimum areas of deep soil are to be increased to achieve the minimum dimension of 6.0m.</p>	<p>The approved scheme provided a tokenistic amount of only 25 square metres of true deep soil as defined by the Apartment Design Guide. The originally lodged modification application sought to increase this amount to a more significant size of 108 square metres. However, Council has requested that this part of the site is elevated to Level 1, which precludes the ability to achieve deep soil in this part of the site.</p> <p>Despite the reduction in unobstructed deep soil, this amendment is embraced by the application as it achieves a significantly improved amenity outcome for the development, and furthermore the elevated area remains a soft landscape component with ample soil depth and volume to support mature landscaping.</p> <p>In addition to this soft landscape space, the proposal has also been amended to substantially increase the soft landscaped area and now provides a total of 575 square metres of soft landscaping when compared to the approved development which had 419 square metres of soft landscaping.</p>

Issue	Response
<p><b>(c) 3F – Visual Privacy</b></p> <p>The Design Criteria under Objective 3F-1 requires that separation between windows and balconies is provided to ensure visual privacy is achieved.</p> <p>Because of the height of the building, a minimum separation distance of 9.0m is required from habitable rooms and balconies to the side and rear boundaries and a minimum separation distance of 4.5m is required from non-habitable rooms to the side and rear boundaries.</p> <p>The approved development provided 9.0m setbacks from the inset east-facing balconies (at Levels 2 to 6) to the eastern side boundary which complies with the requirement. However, the modification proposes a setback of 6.0m from the east-facing balconies to the eastern side boundary.</p> <p>Furthermore, the approved development provided 4.5m to 6.0m setbacks from the southern side elevation to the southern boundary (at Levels 5 and 6). The modification proposes a setback of 3.0m from the southern side elevation to the southern boundary.</p> <p>In both instances, there is shared concern (Panel and Council) that the reduced setbacks will prejudice the development of neighbouring sites at No. 4 Delmar Parade and at No. 816 Pittwater Road and, in order to address this issue, concept plans are to be submitted to Council which demonstrate that the development of both neighboring properties could be achieved to satisfy the requirements of the ADG, WLEP 2011 and WDCP 2011. Failure to demonstrate that both properties could be developed satisfactorily would indicate a deficiency with the modification and the separation distances/setbacks would be required to be achieved.</p>	<p><b>Eastern Boundary Setbacks</b></p> <p>The ADG requires a 6 metre side boundary setback from the eastern boundary for ground to Level 3 for habitable windows and a 3 metres setback for non-habitable windows. A 6 metre setback has been provided.</p> <p>In relation to Levels 4, 5 and 6, a 9 metre side boundary setback would ordinarily be required for habitable windows and a 4.5 metre setback for non-habitable windows.</p> <p>The approved development provided a 6 metre side boundary setback for Levels 4, 5, and 6 however provided a performance based solution to address the reduced distance with the apartment designed to address the variation with high level windows and by designing recessed balconies setback from the façade edge.</p> <p>The subject proposal has adopted the same 6 metre side boundary setback for these levels as the approved development and also proposes a performance based solution to address privacy with:</p> <ul style="list-style-type: none"> <li>• 9m setbacks to glazing lines</li> <li>• Opaque high level windows (1800mm sill height) where glazing lines are within the 9m setback</li> <li>• 1000mm wide planter boxes at balcony edges</li> <li>• 500mm high horizontal louvers installed on the external side of planter boxes which prevents horizontal and downward views.</li> </ul> <p>Sections have been prepared in the Architectural response package which visually demonstrate each of the above items.</p> <p>This design solution is more comprehensive than the approved scheme and addresses the objective of the separation distance control in that it preserves privacy to the eastern adjacent site and also achieves an improved privacy outcome when compared with the approved development.</p> <p>Finally, it is relevant to note that the planning controls presently only allow a 5 storey height on the eastern adjacent 4 Delmar Parade which means that the reduced interface only occurs for Level 4 of the proposed development.</p> <p><b>Southern Boundary Setbacks</b></p> <p>The approved development provided a blank party wall condition on the southern boundary above the podium,</p>

Issue	Response
	<p>with the exception of one non-habitable window, which means this wall could potentially have been provided immediately on the common boundary. Whilst the proposed amendment has reduced the southern side boundary setback to 3 metres, the design of the southern wall achieves the equivalent of a blank party wall condition as the only windows on this elevation are screened secondary windows. In fact, these windows could all be removed with no internal change except to Unit U401, however this is considered a sub-optimal outcome as it would reduce the articulation and visual interest to this façade, which is quite important for the approach view to the site coming into Dee why town centre, especially in the short term before 816 Pittwater is developed.</p> <p>In addition, the changes to the Level 4 landscaping will enhance the visual separation of the two sites as per amended plans and sections. The previously wide paved area is reduced to a single width pathway that allows for access and maintenance of the planter box, and to the building façade, and screen planting is proposed within the planter boxes. No areas for seating or external entertaining are catered for along the common boundary, with the major open space being on the Pittwater road frontage.</p> <p>Sections have been prepared in the Architectural response package which visually demonstrate each of the above items.</p> <p>As the southern side wall achieves an equivalent outcome to a blank wall condition in relation to privacy, the proposed amended design does not prejudice the future development potential of the southern adjacent 816 Pittwater Road. Furthermore, a concept for the likely future development of the southern adjacent site accompanies this submission which demonstrates that the proposed amendments to the approved development of 2 Delmar do not prejudiced the future development of 816 Pittwater Road. In particular, the proposal:</p> <ul style="list-style-type: none"> <li>• allows the full potential of 816 Pittwater road to be realised</li> <li>• achieves a stronger street alignment to the gateway entry to Dee Why</li> <li>• facilitates a 6m separation between the two forms which is sufficient to create visual interest and facilitate cross ventilation</li> <li>• is capable of achieving solar performance.</li> </ul>

Issue	Response
<p><b>(d) 4B – Natural Ventilation</b></p> <p>The Design Criteria under Objective 4B-3 requires that at least 60% of apartments (43 apartments) are naturally cross ventilated in the first nine (9) storeys of the building (note: this issue also relates to 4H – Acoustic Privacy).</p> <p>The modification proposes 62% of apartments are naturally cross ventilated and, although numerically compliant, there is concern that 27 of the apartments would be compromised due to acoustic privacy impact owing to the close proximity of bedrooms to the central walkway and the need to close bedroom windows thereby limiting cross through ventilation.</p>	<p>In the first instance, it is noted that the primary design principal of the proposed amendments has been to increase the opportunity for natural ventilation within the development by creating a second aspect for apartments that face onto Pittwater road. Having a dual aspect allows for the occupant to better control access to natural ventilation by having either an east or west aspect individually or at the same time. Council has noted that it is generally bedrooms which are on the inside face of the development and this is a deliberate design approach to move the bedrooms away from the constant noise from Pittwater Road which is considered to be more of a concern than noise from other residents within the development.</p>
<p><b>(e) 4H – Acoustic Privacy</b></p> <p>The Design Guidance under Objective 4H-1 recommends that window and door openings are generally orientated away from noise sources (note: this issue also relates to 4B – Natural Ventilation).</p> <p>As noted above, the positioning of bedrooms adjacent to the central walkway raises concerns regarding the internal amenity of the listed apartments. It is also noted that the Acoustic Report submitted with the application does not address this situation. Given the limitations of relocating the bedrooms within the listed apartments, the Acoustic Report is to be updated to address this concern.</p>	<p>Notwithstanding this, in order to address Council's concern and improve the amenity of the bedrooms which face the internal part of the development, the circulation pathways have been substantially redesigned and rationalised to significantly reduce the paths of travel which has reduced the number of apartments accessed from each path and therefore reduced the interactions between residents and other apartments. The pathways are transient spaces and are not gathering spaces, and in addition the front entry courtyards have been increased in size to achieve more privacy. Finally, a vertical planted element has been introduced to the internal circulation space which further reduces privacy impacts within the development.</p> <p>A memo prepared by the acoustic engineer accompanies this submission which confirms that the proposed design does not result in an unacceptable acoustic impact to the future occupants, and in fact enhances the acoustic performance of the units by reducing the expanse of glazing each unit has facing Pittwater Road.</p> <p>Given that the privacy issues are adequately addressed, it is confirmed that the proposal achieves a very high level of natural cross ventilation performance with 93% of apartments being naturally cross ventilated.</p>
<p><b>(f) 4Q – Universal Design</b></p> <p>The Design Guidance of Objective 4Q-1 recommends that developments achieve a benchmark of 20% of the total apartments incorporating the Livable Housing Guideline's silver level universal design features.</p> <p>The information submitted with the application does not include any reference to Livable Housing Guideline to verify compliance with this recommendation. A report is to be provided which details how the modified</p>	<p>Plan TP06.01 submitted with the S4.55 proposal nominated the units designed to comply with the Livable Housing Guidelines. The units were designed to comply with the SEPP 65 – Part 4Q1 as referenced in the Access Report prepared by Accessible Building Solutions submitted with the S4.55 (refer pg. 14 of 17).</p> <p>Notwithstanding, the amended architectural package includes a separate sheet which demonstrates compliance with the benchmark of 20% of the total</p>

Issue	Response
development incorporates the Livable Housing Guideline's silver level universal design features	apartments incorporating the Livable Housing Guideline's silver level universal design features.
<p><b>(g) D6 – Access to Sunlight</b></p> <p>Clause 4A under the ADG establishes precedence for solar access over the WDCP 2011, however it is also noted that Clause 4A only refers to the internal amenity of the proposed development and not the amenity of neighbouring properties.</p> <p>Therefore, the development's impact on the adjoining site needs to be assessed against the requirements of clause D6 under the WDCP 2011 to evaluate how the development impacts surrounding properties. In this regard Clause D6 requires at least 50% of the required areas of private open space of adjoining dwellings to receive a minimum of three hours of sunlight between 9am and 3pm on June 21.</p> <p>Because the proposed southern wall of the development has been extended in length adjacent to the southern boundary, a concept plan will be required to be submitted to Council.</p>	<p>As previously discussed, a concept design for the redevelopment of 816 Pittwater Road accompanies this submission which demonstrates that the subject proposal does not prevent the achievement of a high level of solar performance a development proposal for 816 Pittwater Road. The façade which faces Pittwater Road enjoys over 3 hours solar access and the concept design demonstrates that 84% of apartments can achieve 3 hours of solar access between 12pm and 3pm on 21 June. (It is also noted that whilst the DCP currently applies in relation to overshadowing, at the time that a development application is lodged for 816 Pittwater Road, the 2 hour test in the ADG will become the relevant benchmark).</p>
<b>Other Matters</b>	
<p><b>Building Code of Australia (BCA) Compliance Assessment Report</b></p> <p>The BCA Report submitted with the application includes sections which incomplete and which identify elements of the development which do not comply with the BCA.</p> <p>With respect to incomplete information, refer to Page 12 of the report which indicates missing areas and volumes.</p> <p>The Report identifies the following areas which do not comply with the BCA yet does not provide any recommendations to overcome the non-compliances:</p> <ul style="list-style-type: none"> <li>• C3.2 – Protection of Openings in External Walls.</li> <li>• D1.4 – Exit Travel Distances (page 20)</li> <li>• D1.7 – Travel via Fire Isolated Exits (page 21 &amp; 22)</li> </ul>	<p>An amended BCA report clarifying the dimensions is provided with this response.</p> <p>A memo prepared by a Fire Engineer is also provided addressing the non-conformances identified in the BCA report, validating that all non-conformances identified are capable of being addressing by a performance based solution.</p>
<p><b>DA Noise Assessment</b></p> <p>As noted above (under 4H – Acoustic Privacy of the ADG), the Noise Assessment does not address acoustic conflict between the bedrooms of the above listed apartments and the common walkway.</p> <p>The Report is to be updated to include the missing information and to provide recommendations to address the above-mentioned non-compliances</p>	<p>A memo prepared by an Acoustic Engineer accompanies this submission which addresses this matter.</p>
<b>Referral Responses</b>	



Issue	Response
<p><b>Development Engineering</b></p> <p>The stormwater drainage plans have been reviewed and are not satisfactory for the following reasons:</p> <ol style="list-style-type: none"> <li>1) The DRAINS model is required to be submitted to Council for verification and review.</li> <li>2) The plans do not comply with section 3.3 of Councils On site Detention Technical Specification -"Minimum information for all Developments".</li> </ol> <p>All information required as detailed in this section is to be provided to Council and or detailed on the stormwater drainage plans. Further information is also to include:</p> <ul style="list-style-type: none"> <li>• Details of an overflow path/mechanism in the event of a blockage to the on-site Detention tank.</li> <li>• A cross section through the footpath area detailing the location of the 300mm stormwater outlet pipe in relation to all utility services in Delmar Parade.</li> </ul>	<p>An amended stormwater concept plan shall accompany this submission, addressing this matter.</p>
<p><b>Traffic Engineering</b></p> <p>The access driveway is to accommodate simultaneous ingress and egress of the largest vehicle accessing the site and B99 vehicle to avoid any waiting and queuing on the street.</p> <p>Given that the right of way will accommodate the access to/from the subject site and also the future access to 814-816 Pittwater Road, it shall be designed to accommodate a two way vehicular access all along the right of way. It is to be demonstrated that the design of the right of way and any circulation roadways intersecting the right of way will allow for a two way vehicular access with no vehicular conflict. The two way access shall be designed for the largest vehicle accessing the subject sites and a B99 vehicle to pass each other. The swept path provided within the traffic report demonstrating the vehicular conflict at the sharp bend within the right of way as well as the intersection of the right of way with the ramp way leading to the basement car park is not acceptable. The circulation roadways and parking aisles are to provide adequate capacity to handle peak period movements and the conflict between the intersecting streams of circulating traffic is to be avoided within the car park.</p> <p>The above shall be addressed by the applicant and a swept path analysis is to be accompanied to demonstrate the above requirements are satisfied.</p> <p>In view of the above, the proposal cannot be not supported mainly in regards to the design of access driveway and internal circulation roadways.</p>	<p>A memo prepared by a Traffic Engineer accompanies this submission which addresses this matter.</p> <p>It is however noted that the proposed scheme is largely the same as the approved scheme.</p>



We trust that the above discussion and amended details and other documentation have satisfactorily resolved your concerns and we look forward to the expeditious determination of the application. Should you have any questions concerning the above, please contact Aaron Sutherland on 0410 452 371, or alternatively at [aaron@sutherlandplanning.com.au](mailto:aaron@sutherlandplanning.com.au)

Yours faithfully

A handwritten signature in black ink, appearing to read 'A Sutherland', written in a cursive style.

Aaron Sutherland

**Sutherland & Associates Planning Pty Ltd**