

2 Delmar Parade, Dee Why

Section 4.55 Planning Statement

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2 DELMAR PARADE, DEE WHY

Demolition works and construction of a Mixed Use Development, comprising retail shops and shop top housing

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Prepared under instructions from
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1.0 INTRODUCTION

This submission has been prepared as supporting documentation for an application made pursuant to Section 4.55(1a) of the *Environmental Planning and Assessment Act 1979* 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 application seeks approval for a range of minor refinements to the approved development. The amended proposal retains the same metrics of the approved development in relation to number of apartments and commercial tenancies as those which were originally approved and also adheres to the parameters established by the approved development.

The proposed modifications are detailed on amended architectural plans prepared by Rothelowman Architects.

This Statement has been prepared pursuant to Section 4.55(1a) of the Environmental Planning and Assessment Act 1979. The Statement provides an assessment of the amended proposal having regard to the relevant legislative context, social economic and environmental impacts, potential amenity impacts of the development on the surrounding locality and the measures proposed within the application to mitigate such impacts.

The Statement details the amended proposal's consistency with the applicable environmental planning instruments and development control plans including:

- State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development
- Warringah Local Environmental Plan 2011
- Warringah Development Control Plan 2011

Having regard to the applicable legislative framework, the proposed amendments to the approved development are such that the development retains the same fundamental characteristics and is therefore substantially the same development. The amended development also remains consistent with the aims and objectives of the relevant environmental planning instruments and development control plan.

The proposed modifications represent minor refinements to the approved design and accordingly approval is warranted.

2.0 SITE DESCRIPTION AND LOCATION

2.1 Site Description

The site is located within the suburb of Dee Why, which is located within the Northern Beaches Local Government Area. The site is located at the southern entry into the Dee Why town centre and along with its neighbours forms an important gateway function for the town centre.

The site comprises a single allotment and is legally described as Lot 1 in DP 710661 and is known as No. 2 Delmar Parade, Dee Why. The site is located on the south-eastern corner of the intersection of Delmar Parade and Pittwater Road. The site is irregular in shape with frontages of 29.01 metres to Delmar Parade, a corner splay of 6.19 metres, and a frontage of 40.98 metres to Pittwater Road. The site has an eastern boundary of 60.325 metres and a staggered southern boundary of 18 metres for the eastern portion and 34.085 metres for the western portion. The site has a total area of 2,060 square metres.

The land slopes from the south-eastern corner down approximately 2.5 metres to the north-western corner. The site previously contained a 2 storey commercial building, however, construction has commenced on the approved development.

2.2 Surrounding Development

The context of the site is undergoing substantial transformation from low scale office and industrial based uses to high density mixed use and residential development as envisaged for the Dee Why Town Centre. The site to the north at 822 Pittwater Road across Delmar Parade contains a recently completed 7 to 8 storey mixed use building which has a 3 to 4 storey podium and a tower element above which is setback from Pittwater Road, but with no setback above the podium from Delmar Parade.

Opposite the site to the north-west across Pittwater Road is a petrol station at 625 Pittwater Road, and a recently completed 7 storey mixed use development at 5 Mooramba Road, Dee Why which has a 4 storey podium and 3 storey component above.

Immediately adjacent to the south is the site known as 816 Pittwater Road which contains an Avis vehicle rental business comprising hard stand parking areas and single storey building. The subject site also shares the remainder of its southern boundary with 812 Pittwater Road which is a campus style commercial and industrial development with hardstand car parking immediately adjoining the subject site. A similar style development also immediately adjoins the site along its eastern boundary at 4 Delmar Parade.

3.0 BACKGROUND

3.1 Development Application DA2017/1183

On 12 September 2019, the Sydney North Planning Panel granted consent to development application DA2017/1183 which provided for Demolition works and construction of a Mixed Use Development, comprising retail shops and shop top housing at 2 Delmar Parade, Dee Why.

The originally approved development had a 4 storey podium with two 3 storey elements above and provided for 2 basement levels and ground level parking for 108 cars, 5 commercial tenancies at ground floor facing Pittwater Road, and 71 residential apartments above.

The originally approved development includes a variation to the 21 metre Building Height control which applies to the site under the Warringah Local Environmental Plan 2011 with a maximum height of 23.78 metres to the highest point of the building and relied upon Clause 4.6 to vary the development standard.



Figure 1:

3D image of approved development

3.2 Mod2020/0081

On 22 September 2020, consent to development application Mod2020/0081 to the approved development which provided for a revised design for the site prepared by Rothelowman Architects to achieve a significant improvement to the apartment layouts and residential amenity, a rationalised basement and ground floor layout with better streetscape interface, and a significant improvement to the architectural merit of the design. The modified design departed from the verticality of the previously approved podium and separated tower format and employs horizontal layering through the use of continual lines of brick balcony balustrades within the first 4 storeys of the podium and exposed floor level edges within the recessed levels above.



Figure 2:

CGI of MOD approval

4.0 PROPOSED MODIFICATIONS

4.1 Proposed Amendments

The application seeks approval for the following minor various amendments to the approved development:

- Change to southern facades including:
 - replacement of brick balustrade on Level 4 of southern façade with extended boundary wall;
 - full height louvres instead of concrete up turn with louvres above; and
 - removal of one bay of louvres and incorporation of part full height wall on southern walkway where closer than 3m to boundary (to comply with the BCA)
- Removal of stairs in front of commercial tenancy 3 to create a more usable outdoor space and installation of glass balustrade.
- Minor amendments to the internal layouts of units 113 and 601
- Minor amendments to the internal configuration of the basement levels in relation to bike parking, storage, and plant which results in a total additional 4 car spaces.
- Updating of the roof plan to reflect void penetration, 500mm overhang to slabs below.
- Addition of a door to the lift lobby on Levels 1 to 6 for weather protection and associated mechanical works, which results in an increase to the Gross Floor Area.
- Installation of operable louvres over the roof voids.
- Various minor changes to the configuration of the ground level plant, waste room and amenities.

The proposed amendments are detailed on the architectural plans prepared by Rothelowman architects.

4.2 Numerical Overview

The elements of the approved development which are proposed to be amended are detailed in the below table with a comparison between the approved development and subject Section 4.55 proposal:

| Element | Approved | Amended Proposal |
|------------------|--|--|
| Site Area | 2,060 square metres | 2,060 square metres |
| Gross Floor Area | 6,152 square metres | 6,301 square metres |
| FSR | 2.99:1 | 3.06:1 |
| Height | Roof RL 51.00 Lift overrun RL 52.00 | Roof RL 51.00 Lift overrun RL 52.00 |
| Apartments | 71 | 71 |
| Apartment mix | 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 | Residential: 79 Visitor: 14 Retail: 18 Total: 111 | Residential: 82 Visitor: 14 Retail: 18 Total: 114 |
| Solar access | (71 of 71) 100% | (71 of 71) 100% |

| Element | Approved | Amended Proposal |
|----------------------|------------------------------|------------------------------|
| Cross ventilation | (66 of 71) 93% | (66 of 71) 93% |
| Adaptable apartments | 7 (10%) | 7 (10%) |
| Communal open space | 575.2 square metres or 27.7% | 595 square metres or 27.7% |
| Landscaped Area | 346.7 square metres or 16.8% | 346.7 square metres or 16.8% |

5.0 STATUTORY PLANNING FRAMEWORK

5.1 Environmental Planning & Assessment Act 1979

Section 4.55(1a) of the Environmental Planning and Assessment Act 1979 empowers Council to modify a development consent, as follows:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

In accordance with section 4.55(1A)(a) the proposed modifications are considered to result in only a minor environmental impact for the following reasons:

- The intensity of the development on the site is unchanged. There is no change proposed to the quantum of apartments or commercial floor space.
- The modifications only result in minor physical changes to the overall approved development, generally resulting from design refinement and only minor internal changes to the layout of 2 of 71 apartments.
- The proposed modification is essentially a housekeeping modification necessary to facilitate refinements to the approved development and does not result in any discernible change to the character and functionality of the approved development or any environmental impact beyond the approved development.

For these reasons the proposed amendment is considered to be of minimal environmental impact and can therefore be considered under section 4.55(1A) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

The amended proposal retains the fundamental components of the approved layout and spatial characteristics of the development. Conceptually, the proposal remains a 7 storey shop-top housing development with basement and ground floor parking, ground floor retail tenancies and 71 residential apartments above. The amended proposal also retains the same envelope to the approved development. To the casual observer, the amended proposal would appear exactly the same as the approved development.

Quantitatively, the proposed amendments to the approved development are not such that they change the development in any way, other than a minor increase in Gross Floor Area as a result of enclosure of part of the corridor for weather protection.

The proposal is therefore considered to be “essentially or materially” the same as the approved development in that the modification does not materially alter any fundamental elements of the original application such as the use or scale of the development on the site.

On this basis the proposal is appropriately categorised as being “substantially the same” as required by Section 4.55(1A) of the EP&A Act.

5.2 Environmental Planning Instruments

In accordance with Section 4.55(3) of the Environmental Planning and Assessment Act 1979 in determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

The provisions of relevant environmental planning instruments and development control plans are relevant matters for consideration under Section 4.15(1) and are addressed below.

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

SEPP 65 applies to development for the purpose of a new residential flat building, shop top housing or mixed use development, the substantial redevelopment/refurbishment of one of these buildings or the conversion of an existing building into one of these types of buildings provided the building is at least 3 or more storeys and the building contains at least 4 or more dwellings. The development meets the definition of a residential flat building and as such the provisions of SEPP 65 are applicable to the proposed development.

SEPP 65 aims to improve the design quality of residential flat developments, provide sustainable housing in social and environmental terms that is a long-term asset to the community and delivers better built form outcomes. In order to satisfy these aims and improve the design quality of residential apartment buildings in the State, the plan sets design principles in relation to context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction, and aesthetics.

SEPP 65 requires any development application for residential flat development to be assessed against the 9 principles contained in Schedule 1 of the SEPP and the matters contained in the Apartment Design Guide (ADG).

The proposed modifications only result in a minor reconfiguration to the internal design of 2 of 71 apartments with no detrimental implications for the amenity of those apartment. The amended proposal does not result in any change in relation to the relevant matters in Schedule 1 of the SEPP and the matters contained in the ADG with no change to the approved communal open space, deep soil, solar access, cross ventilation or apartment sizes.

The amended proposal remains satisfactory with respect of the 9 design principles in the SEPP and the matters contained in the ADG.

5.2.2 State Environmental Planning Policy (Infrastructure) 2007

The site has a frontage to a classified road, Pittwater Road.

The amended proposal remains satisfactory with respect of Clauses 45, 102 and 106 of State Environmental Planning Policy (Infrastructure) 2007 as it maintains the approved vehicular access from Delmar Parade, the same density of development and resulting traffic generation, and acoustic attenuation commitments.

5.2.3 Warringah Local Environmental Plan 2011

Zoning and Permissibility

The site is located within the B4 Mixed Use zone pursuant to the Warringah Local Environmental Plan 2011 (WLEP). An extract of the Land Zoning Map is included as Figure 3.

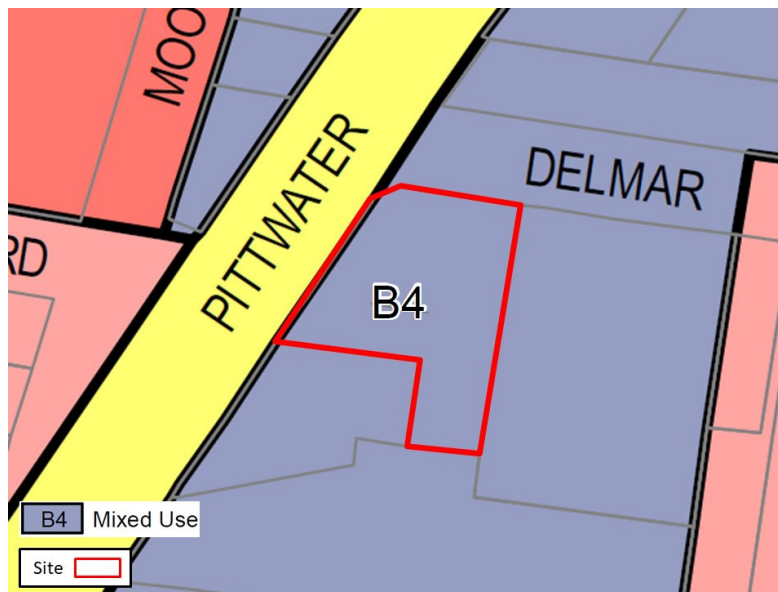


Figure 3:

Extract from WLEP
2011 Zoning map

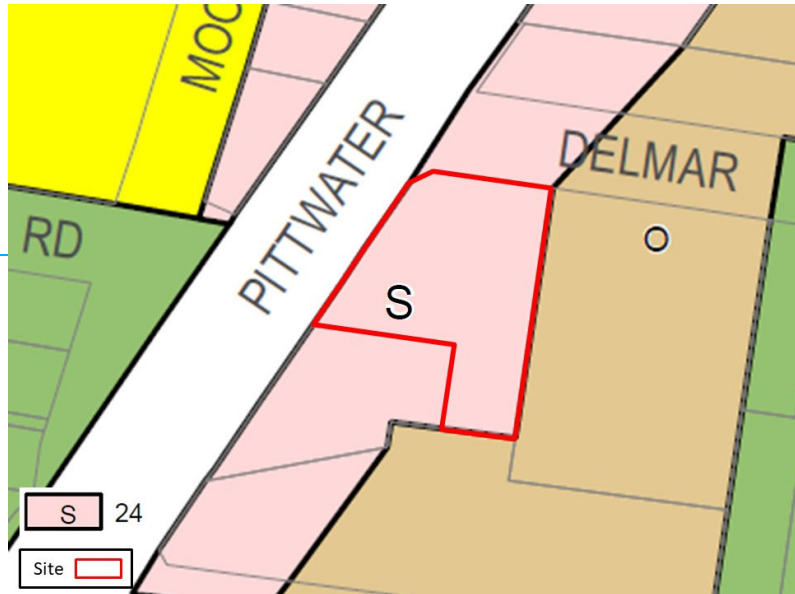
Pursuant to the Land Use Table of the WLEP residential flat buildings, commercial buildings and shop-top housing are permitted with consent in the B4 zone. The amended proposal remains a shop-top housing development. The proposed amendment is therefore permissible in the zone with consent and remains consistent with the zone objectives.

Height

In accordance with clause 4.3 'Height of Buildings' of the WLEP the height of a building on any land is not to exceed the maximum height shown for the land on the 'Height of Buildings Map'. The maximum height shown for the site is 24 metres as shown in Figure 4. The proposed modification does not result in any change to the previously approved height which is 23.78m and compliant with the height control.

Figure 4:

Extract from WLEP
2011 Height of
Buildings Map



Floor Space Ratio

In accordance with clause 4.4 'Floor Space Ratio' of the WLEP, there is a maximum FSR of 3.2:1 for the site, as shown in Figure 5. Whilst the proposed modification result in a minor increase to the FSR of the development as a result of the enclosure of parts of the corridor, the amended FSR of 3.06:1 remains compliant with the 3.2:1 FSR which applies to the site.

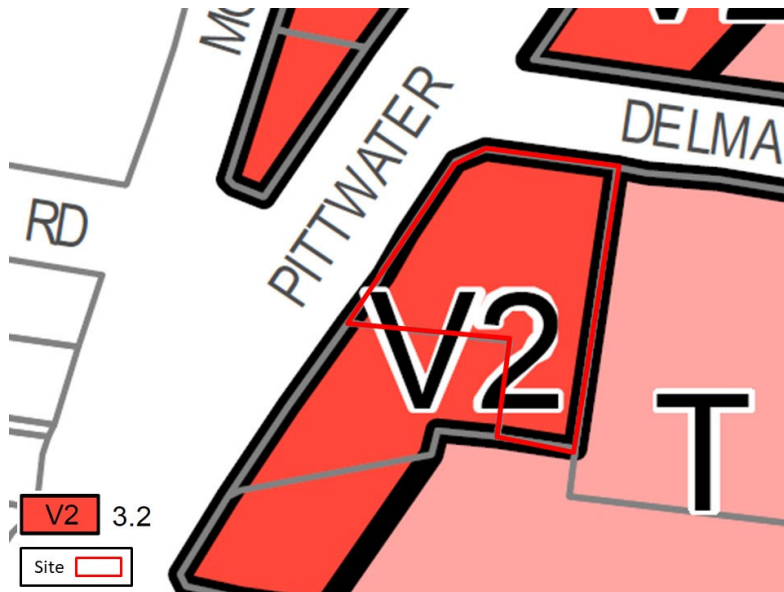


Figure 5:

Extract from WLEP
2011 Zoning map

Remaining Provisions

The proposed amendments to the approved development do not give rise to any further consideration against the remaining provisions of the WLEP beyond those which were considered in the assessment of the original development application.

5.2.4 Warringah Development Control Plan 2011

The Warringah Development Control Plan (WDCP) 2011 applies to the subject site and includes general provisions, as well as specific controls for the Dee Why Town Centre under Part G1.

The amended proposal does not result in any significant difference in relation to compliance with the provisions of the WDCP.

The increase in residential car parking spaces is acceptable as the control is expressed as a minimum requirement.

6.0 CONCLUSION

This submission has been prepared as supporting documentation for an application made pursuant to Section 4.55(1a) of the *Environmental Planning and Assessment Act 1979* 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 application seeks approval for a range of minor refinements to the development to reflect a rationalisation of the design. The amended proposal retains the same number of apartments as those which were originally approved and also adheres to the parameters established by the approved development.

The amended proposal retains the fundamental components of the approved layout and spatial characteristics of the development, retains compliance with the amenity provisions of the Apartment Design Guide, and does not result in any adverse traffic or other impacts.

As detailed in this submission the proposed modifications may be made by the consent authority in accordance with Section 4.55(1a) of the Environmental Planning and Assessment Act 1979 as the proposed amendments do not radically transform the proposal or alter the overarching fundamental characteristics of the original approval, and so the amended proposal is appropriately categorised as being “substantially the same” as the approved development.

The proposed amendments remain consistent with the aims and objectives of the relevant environmental planning instruments and development control plan and will not result in any adverse impacts on the amenity of the locality. Accordingly, the proposed amendments are considered acceptable and warrant approval.

