

23 Fisher Road, Dee Why

Section 4.55(1A) Modification to DA2018/1574

On behalf of
Hamptons by Rose Group Pty Ltd
March 2020



Project Director



Kate Bartlett - Director

Contributors

Camilla Firman

* This document is for discussion purposes only unless signed and dated by the persons identified. This document has been reviewed by the Project Director.

Contact

Mecone
Suite 1204b, Level 12, 179 Elizabeth Street
Sydney, New South Wales 2000
info@mecone.com.au
mecone.com.au

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- **Appendix 1.** Architectural Plans;
- **Appendix 2.** Traffic Statement;
- **Appendix 3.** Colour Justification Letter from Tony Tribe;
- **Appendix 4.** Physical Colour Samples; and
- **Appendix 5.** Amended BASIX Certificate.

1 Introduction

This *Statement of Environmental Effects (SEE)* has been prepared by Mecone NSW Pty Ltd on behalf of Hamptons by Rose Group Pty Ltd (**Rose Group**) to support a Section 4.55(1A) modification to the Northern Beaches Council (the **Council**). The application proposes to modify Development Consent (DA/2018/1574) at 23 Fisher Rd, Dee Why (the site) (Lot 11, DP 577062). DA/2018/1574 was approved for the 'construction of a mixed development comprising three residential flat building, commercial use of a heritage listed building, car parking, infrastructure and landscaping'.

This SEE includes an assessment of the proposed modification in terms of the matters for consideration as listed under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act) and should be read in conjunction with information annexed to this report and outlined in the Table of Contents.

Specifically, the SEE;

- a. Describes the site and local context;
- b. Identifies the proposed works;
- c. Identifies and addresses all relevant planning controls and policies;
- d. Identifies and addresses all potential environmental impacts of the proposal;
- e. Provides potential measures for minimising or managing the potential environmental impacts; and
- f. Demonstrates that the modification meets the test of "substantially the same development" under Section 4.55 of the EP&A Act.

The proposed modification is being sought under Section 4.55 (1A) of the Act, which relates to modifications involving minor environmental impact. The application proposes to modify Development Consent (DA/2018/1574), previously approved under Sydney North Planning Panel in June 2019. The modification application seeks approval for the following changes to the approved development conditions and administrative changes as follows;

- Amendment to Condition 1 'Approved Plans and Supporting Documentation' to reflect proposed modifications and supporting documentation;
- Amendment to Condition 88(a) 'Parking' to add 34 car spaces within Basement Level 1 with minimal change to basement footprint;
- Amendment to Condition 20 'External Finishes' regarding change of external colour palette in accordance with changes agreed with Council at informal meeting dated 13 February 2020;
- Deletion of Condition 22(i) in regard to balustrades in accordance with changes agreed with Council at informal meeting dated 13 February 2020; and
- Deletion of condition 22 (k) in regard to pedestrian exit from Basement Level 1C towards the east in accordance with changes agreed with Council at informal meeting dated 13 February 2020.

As noted above, prior to the lodgement of the Section 4.55(1A) Modification Application, a meeting with Council officers was held to discuss the proposed modifications and receive any guidance and feedback from Council. Council's

feedback and recommendations have been incorporated into this subsequent application.

A detailed description of the proposed modification is outlined in **Section 3**, a planning assessment is provided in **Section 4** and an environmental assessment is provided in **Section 5**.

This SEE is also supported by the following architectural plans and environmental assessment statements/reports which are provided separately;

- **Appendix 1.** Architectural Plans;
- **Appendix 2.** Traffic / Basement Statement;
- **Appendix 3.** Colour Justification Letter from Tony Tribe;
- **Appendix 4.** Physical Colour Samples; and
- **Appendix 5.** Amended BASIX Certificate

1.1 Proponent and Project Team

The Development Application and SEE Report have been prepared on behalf of the applicant, *Rose Group*. The expert consultant team is listed in **Table 1** below.

Table 1. Project Team	
Item	Consultant
Urban Planning Assessment	Mecone NSW Pty Ltd
Architectural Design	Rose Architectural Design
Traffic Consultant	Colston Budd Rogers & Kafes Pty Ltd
Surveyor	Veris Ltd
Colour Consultant	AR Tribe Pty Ltd

1.2 Development Consents

1.2.1 DA2018/1574

The original development consent DA2018/1574 was issued Approval by the North Sydney Planning Panel on the 18 June 2019 for construction of a mixed-use development comprising three residential flat buildings, commercial use of a heritage listed building, car parking, infrastructure and landscaping at 23 Fisher Road, Dee Why.

Specifically, the development comprises;

- Three (3) x residential flat buildings; comprising 126 dwellings and basement car parking;
- The retention of Pacific Lodge, to be used for a commercial purpose subject to a future development application;
- Basement car parking for 191 vehicles; comprising 151 dedicated resident car spaces, 12 dedicated commercial spaces for Pacific Lodge, 26 dedicated visitor parking spaces and 2 dedicated spaces for small delivery vehicles;
- Internal private service laneway; and
- Site works and associated landscaping.



Figure 1. Level 1 Plan Approved under DA/2018/1574 (extract from A1.01)
Source: Rose Architectural Design

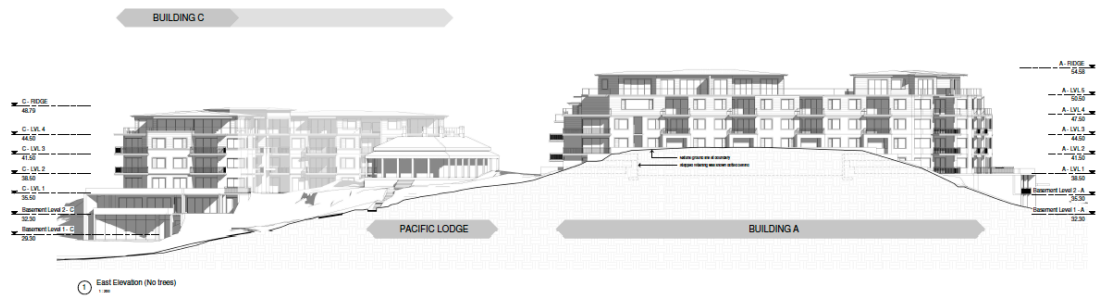


Figure 2. Eastern Elevation Approved under DA/2018/1574 (extract from A3.02)
Source: Rose Architectural Design

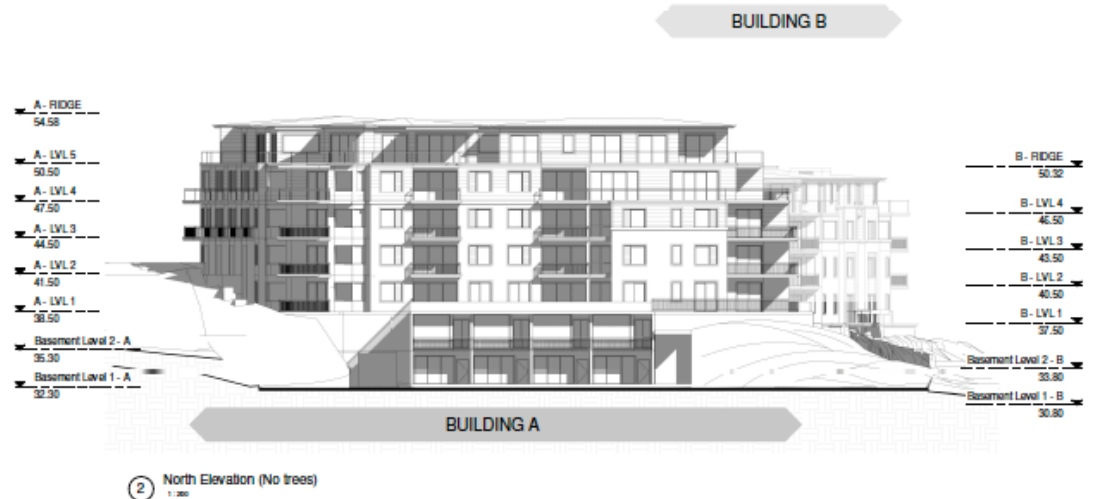


Figure 3. Northern Elevation Approved under DA/2018/1574 (extract from A3.02)
Source: Rose Architectural Design

2 The Site

2.1 Site Location and context

The subject site is located at 23 Fisher Road, Dee Why and is legally known as Lot 11 DP 577062. The site covers an area of approximately 10,620m² and is currently occupied by a disused aged care and assisted living facility previously operated by the Salvation Army.

The site is undulating in nature providing a relatively steep topography owing to its location on the spur between major hills to the west and south of Dee Why town centre basin. The site ground level is elevated above the adjoining street level in most locations, especially along the St David Avenue frontage, where retaining brick wall, rock faces, escarpments and outcrops occur at varying heights.

Figure 1 and **2** below identify the site's location in a local and site-specific context.



Figure 4. Local Context Map
Source: Mecone MOSAIC

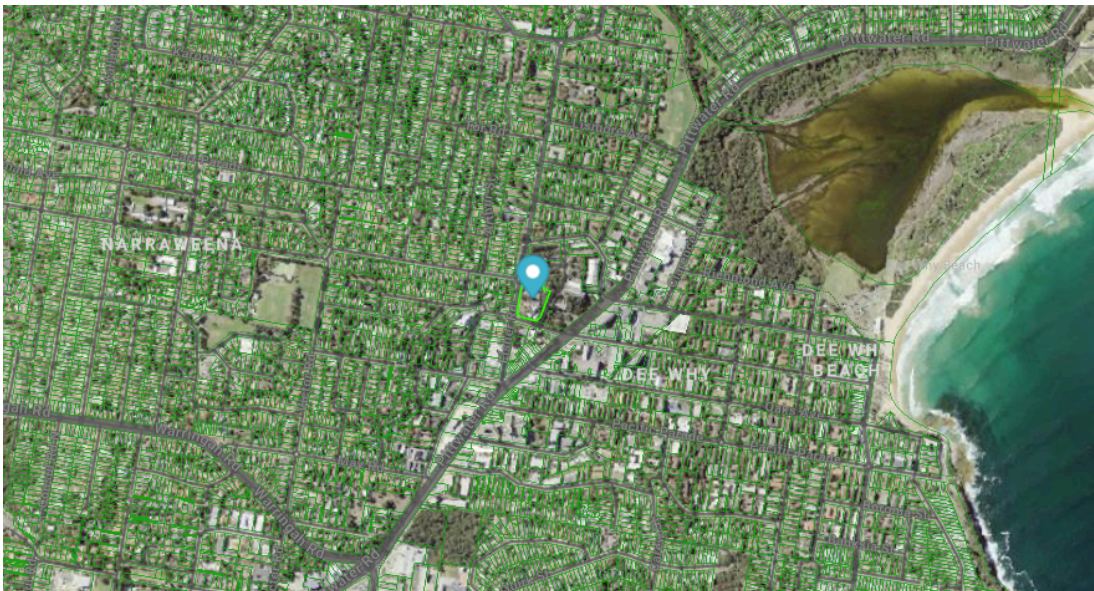


Figure 5. Site Locality Map
Source: Mecone MOSAIC

2.2 Site Description

Table 2 provides the legal description, and a brief summary of the site and surrounding context.

Table 2. Site Description	
Item	Description
Legal Description	Lot 11 DP 577062
Total Area	10,620m ²

Table 2. Site Description

Location	23 Fisher Road, Dee Why
Existing Zone	B4 Mixed Use
Surrounding Context	<ul style="list-style-type: none"> • North: Various uses are located to the north including a three storey residential flat building and a new Northern Beaches Council owned building operated by PCYC. • East: Civic Parade, Council carpark, Dee Why Library and Northern Beaches Council – Dee Why Office. • South: Beyond St David Avenue, Dee Why Police Station, St Davids Uniting Church Centre and commercial uses at 1-3 storeys in height are located. • West: Beyond Fisher Road to the west, low rise residential area including 1-3 storey dwellings and flat buildings are located.
Public Transport	Bus services along Fisher Road (directly west of site) providing regular services to Manly, Frenchs Forest, and Sydney CBD. Additional B-line bus services along Pittwater Road (less than 100m south-east of site) providing services to Warringah Mall, Palm Beach, and Mona Vale.
Topography	<p>The site is undulating in nature providing a relatively steep topography owing to its location on the spur between major hills to the west and south of Dee Why town centre basin.</p> <p>The site ground level is elevated above the adjoining street level in most locations, especially along the St David Avenue frontage, where retaining brick wall, rock faces, escarpments and outcrops occur and varying heights.</p>

3 The Proposal

The proposed modification to the approved Development Consent DA2018/1574, are being sought under Section 4.55(1A) of the act, which relates to modifications involving minor environmental impact. The proposed modifications include;

- Amendment to Condition 1 'Approved Plans and Supporting Documentation' to reflect proposed modifications and supporting documentation;
- Amendment to Condition 88(a) 'Parking' to add 34 car spaces within Basement Level 1 with minimal change to basement footprint;
- Amendment to Condition 20 'External Finishes' regarding change of external colour palette in accordance with changes agreed with Council at informal meeting dated 13 February 2020;

- Deletion of Condition 22(i) in regard to balustrades in accordance with changes agreed with Council at informal meeting dated 13 February 2020; and
- Deletion of condition 22 (k) in regard to pedestrian exit from Basement Level 1C towards the east in accordance with changes agreed with Council at informal meeting dated 13 February 2020.

As noted above, prior to the lodgement of the Section 4.55(1A) Modification Application, a meeting with Council officers was held to discuss the proposed modifications and receive any guidance and feedback from Council. Council's feedback and recommendations have been incorporated into this subsequent application.

3.1 Administrative Modifications

The Sydney North Planning Panel approved the original development application DA/2018/1574 subject to conditions in relation to the proposed development at 23 Fisher Road, Dee Why. The Conditions of Consent outline a list of amendments to the Approved Architectural Plans which were required to be addressed prior to the issuance of the Construction Certificate.

The proposed modifications to the Conditions of Consent are being sought under Section 4.55(1A) of the Act, which relates to modification involving minor environmental impact. The supporting documentation attached to this SEE is considered to satisfy the conditions and address the advised amendments, with the changes to Conditions and plans to form part of the development consent moving forward.

Prior to the lodgement of the Section 4.55(1A) Modification Application, the applicant attended an informal meeting with Council on the 13th February 2020 to discuss the proposed modifications contained in this application and obtain feedback from Council. This feedback has been incorporated into this application.

The proposed modifications are predominantly minor in nature and involve modifications to external colour palette and deletion of two minor conditioned amendments to approved plans. The proposed inclusion of an additional 34 car parking spaces is almost entirely contained within the approved basement envelope and therefore will have minimal, if not a positive environmental impact by providing residents with greater rates of parking.

Minor administrative modifications to Conditions 1(a),(b), 20, 22 and 88 are also required to reflect the proposed physical modifications as outlined in Section 3.2 below. It is proposed to modify the conditions of consent as follows (new in **bold/italic**, deletions in ~~strike through~~).

1. Approved Plans and Supporting Documentation

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

Architectural Plans – Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Plan, A1.01, revision C	24 April 2019	Rose Architectural Design
West Elevation & South Elevation, A3.02, revision C	24 April 2019	Rose Architectural Design

Architectural Plans – Endorsed with Council’s stamp		
Drawing No.	Dated	Prepared By
East Elevation & North Elevation, A3.04, revision C	24 April 2019	Rose Architectural Design
Basement Car Parking Plan 1, A2.01, revision C D	24 April 2019 6 February 2020	Rose Architectural Design
Basement Car Parking Plan 2, A2.02, revision C D	24 April 2019 6 February 2020	Rose Architectural Design
Level 1 Plan, A2.03, revision C	24 April 2019	Rose Architectural Design
Level 2 Plan, A2.04, revision C	24 April 2019	Rose Architectural Design
Level 3 Plan, A2.05, revision C	24 April 2019	Rose Architectural Design
Level 2 Plan, A2.06, revision C	24 April 2019	Rose Architectural Design
Level 5 Plan, A2.07, revision C	24 April 2019	Rose Architectural Design
Roof Plan, A2.08, revision C	24 April 2019	Rose Architectural Design
Section A-A & B-B, A3.05, revision B	20 February 2019	Rose Architectural Design
Section C-C & D-Dm A3.06, revision B	20 February 2019	Rose Architectural Design
Schedule of Colours and Materials, A5.01, revision B C	20 February 2019 27 February 2020	Rose Architectural Design
Landscape Plans – Endorsed with Council’s stamp		
Concept Masterplan (p.13), revision E	April 2019	Context Landscape Design
Southern & Eastern Bushland Zone (p.14), revision E	April 2019	Context Landscape Design
Fisher Road Frontage (p.15), revision E	April 2019	Context Landscape Design
Northern Bushland Zone (p.16), revision E	April 2019	Context Landscape Design
Community Parkland (P.17), revision E	April 2019	Context Landscape Design
Heritage Zone (p.18), revision E	April 2019	Context Landscape Design
Rooftop Garden (p.19), revision E	April 2019	Context Landscape Design
Plating Schedule (p.21-22), revision E	April 2019	Context Landscape Design

Architectural Plans – Endorsed with Council’s stamp		
Drawing No.	Dated	Prepared By
		Design

(b) The following Approved Supporting Documents are relied upon in this consent:

Reports/ Documentation:		
Report	Dated	Prepared By
BASIX Certificate 944202M 944202M_02	29 August 2019 27 February 2020	Rose Management Services Pty Ltd
Flora and Fauna Report	April 2018	Ecological Consultants Australia Pty Ltd
Geotechnical Study	29 June 2011	Coffey Services Australia Pty Ltd
Geotechnical Addendum Letter	13 March 2018	Coffey Services Australia Pty Ltd
Aboriginal Impact Assessment Report	August 2018	Bluegum Tree Care Consultancy
Parking and Traffic Report (ref:JH/10845/jj)	2 March 2020	Colson Budd Rogers & Kafes Pty Ltd
Colours and Materials Letter	28 February 2020	Placemakers Architects Urban Planners

20. External Finishes

~~The External Materials & Finishes Palette referenced in Condition 1 of this consent is to be amended, as follows:~~

- ~~(a) “External Wall 2” shall be a tone equivalent to or darker than Colourbond “Jasper”,~~
- ~~(b) “External Wall 3” shall be a tone equivalent to or darker than Colourbond “Windspray”,~~
- ~~(c) “Applied Detail & Trim” shall be a tone equivalent to or darker than Colorbond “Windspray”,~~
- ~~(d) “External Metalwork” shall be a tone equivalent to or darker than Colourbond “Windspray”,~~
- ~~(e) “Privacy Screens and Fences” shall be a tone equivalent to or darker than Colourbond “Windspray”.~~

~~The use of red, white or light colours on any external surface is not permitted. The development is to be in accordance with the amended External Materials and Finishes Palette required by this condition. Details demonstrating compliance with this condition are to be submitted to the Certifying Authority prior to the issue of the construction certificate.~~

The design details of the proposed building facade including all external finishes, colours and glazing must be in accordance with the approved schedule of materials and finishes, sample board, and specifications prepared by Rose Architectural Design on drawing A2.01 Rev D and A2.02 Rev D, dated 6 February 2020 and submitted to Council.

A full schedule of external colours, finishes and colours for the approved development demonstrating compliance with the requirement of this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

22. Amendments to Approved Plans

- (i) ~~The incorporation of solid balustrades for all Level 1 and Level 2 courtyards /balconies presenting to Fisher Road, finished in horizontal cladding and slightly setback from the dominant façade of the adjacent external wall.~~
- (k) ~~The deletion of the pedestrian exit from Basement Level 1C towards the east.~~

88. Parking

All parking spaces are to be maintained free of obstruction and used solely for the parking of vehicles. The development is to maintain the following spaces for the life of the development:

- (a) ~~151~~ **185** dedicated car spaces for the 126 residential apartments, with at least 1 space for each one and two bedroom apartments and 2 spaces for each three bedroom apartments,
- (b) 12 dedicated spaces for Pacific Lodge, clearly marked "commercial",
- (c) 26 dedicated visitor parking spaces, clearly marked "visitor", including 1 parking space for people with disabilities compliant with the provisions of AS2890.6, and
- (d) 2 x dedicated spaces for small delivery vehicles, clearly marked "deliveries"

The 12 dedicated spaces for Pacific Lodge and the 2 dedicated delivery spaces must be accessible at all times and must not be located behind the 'residential carpark control door'.

3.2 Physical Modifications

3.2.1 Increase to Carparking

The approved development permits 191 parking spaces for the 126 residential apartments with vehicular access from Fisher Road. The proposed modifications seek a minor amendment to Clause 88 to permit the reconfiguration of Basement Level 1 to accommodate an additional 34 residential car parking spaces, resulting in a total of 225 parking spaces. These will be integrated largely within the existing footprint by making minor adjustments to the internal layout and inserting stacked parking in the basement of Building A and C. The stacked spaces will be allocated to the same apartment. The proposal, which will provide a more comfortable rate of carparking for residents of the dwelling, does not seek to alter the approved mix or number of apartments under the approved development. The additional parking is proposed so that each three-bedroom apartment, plus a number of the two-bedroom apartments, are provided with a minimum of two parking spaces. The proposed commercial and delivery parking spaces will also remain unchanged as well as the approved access arrangements. This is illustrated in **Figure 6** and **Figure 7** below.

This modification is supported by the updated basement Architectural Plans in **Appendix 1** and a Traffic Statement prepared by *Colston Budd Rogers & Kafes Pty Ltd* attached in **Appendix 2**.

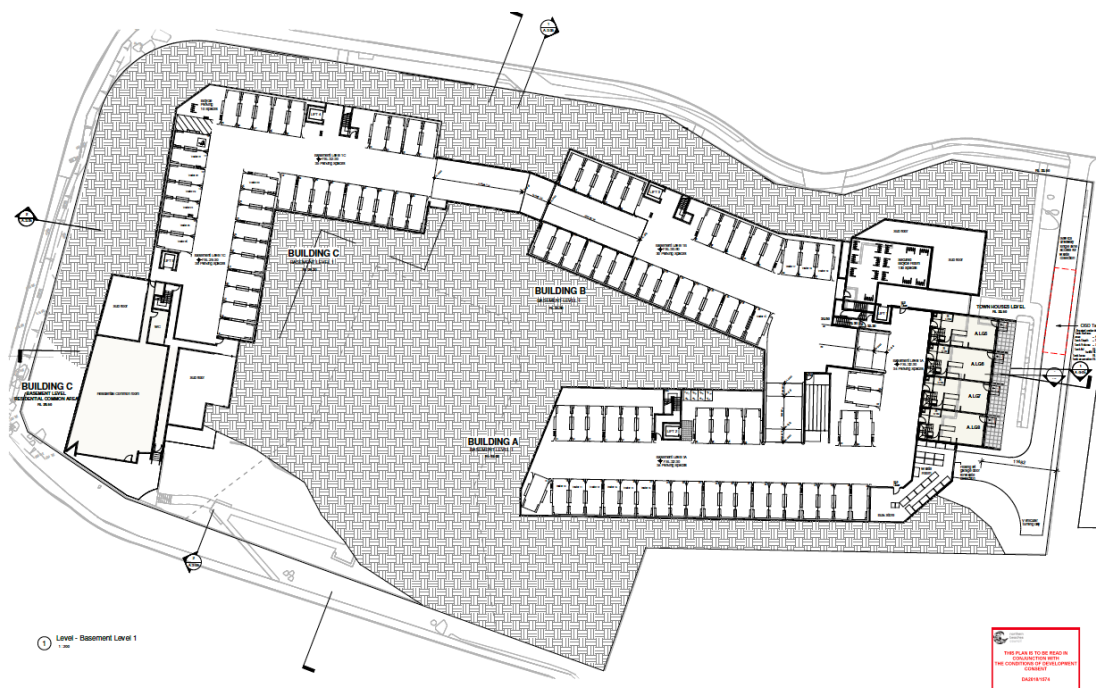


Figure 6. Approved Basement Parking Plan 1 (extract from DA/2018/1574 A2.02/C)
Source: Rose Architectural Design



Figure 7. Proposed Basement Plan Level 1(A2.01/D)–
Source: Rose Architectural Design

Control WDCP2011	Provided rooms	Approved under DA	Proposed
One space per one-bedroom apartment	35	151	151+34 = 185
1.2 space per two-bedroom apartment	70		
1.5 spaces per three-bedroom apartment	21		
TOTAL	126		
1 space per five apartments for visitors		26	26
1 space per 40m ² business premises (excluding customer service areas), plus 1 space per 16.4m ² for customer service area.	320m ²	12 commercial +2 delivery pacific lodge	12+2
TOTAL		191	191+34 = 225

3.2.2 Change of Colours

The proposal seeks a modification to the proposed exterior colour palette under Condition 20 of the Development Consent which specifies a minimum 'darkness' in tone of materials and finishes in relation to the branded *Colourbond* colours. The Conditions of Consent stipulates that details demonstrating compliance with the condition be submitted to Council prior to a Construction Certificate being issued.

This modification proposes a selection of colours, as guided by discussions with Council at an informal meeting held on the 13th February 2020, which were considered appropriate and sympathetic to the surrounding environment and developments and provisions as specified under the *Warringah Development Control Plan 2011* (WDCP2011). The informal meeting with Council concluded that Modification of Condition 20 is reasonable, justifiable and desirable in the context and that a lighter colour scheme would be consistent with Council's stated

objectives under the WDCP2011. The proposed modified colour selection includes the following;

Table 3. Proposed Schedule of Colours and Materials	
Item	Proposed
Roof Sheeting	Metal, <i>Colourbond</i> "Woodlands Grey".
Fascia & Gutter	Metal, <i>Colourbond</i> "Woodlands Grey".
Downpipes	Metal, <i>Colourbond</i> "Surfmist".
Eaves & Soffits	Fibre-cement sheet, colour to match <i>Dulux</i> "Lexicon Half".
External Wall 1 <ul style="list-style-type: none"> All exposed walls to basement, levels 1 and 2 Mailbox Walls Ground level planter walls 	To match Eco Outdoors Stone Tiles, colour "Barrinmeh".
External Wall 2 <ul style="list-style-type: none"> Levels 1,2 and 3 all buildings Part Level 4 Building A Entry Columns 	Render Paint, colour to match <i>Dulux</i> "China Mask".
External Wall 3 <ul style="list-style-type: none"> Level 4 Buildings B and C Part Level 4 Building A Level 5 Building A 	Fibre cement weatherboards, colour to match <i>Dulux</i> "Colourbond Jasper".
Applied Detail & Trim <ul style="list-style-type: none"> Window Sills and head trims Banding Column Capitals Pergolas 	Trims and detail colour to match <i>Dulux</i> "Lexicon Half".
External Metalwork <ul style="list-style-type: none"> Window and door frames External Louvres Balcony Balustrade 	Powder-coated to match <i>Dulux</i> "Lexicon Half".
Stair Handrail	Brushed Stainless Steel.
Courtyard Fences	Aluminium, powder-coated to match <i>Dulux</i> "Charcoal".
Privacy Screens & Fences	Timber, colour to match <i>Dulux</i> "Lexicon Half".
Carpark Entry Door and & Basement Louvres	Aluminium, powder-coated to match <i>Dulux</i> "Colourbond Jasper".
Paving	Adbri Masonry Euroclassic "Athens", 300mm x 300mm x 40mm concrete. Adbri Masonry Euroclassic, "London", 300mm x 300mm x 40mm concrete borders.
Driveway	Washed aggregate concrete PGH 50mm wire cut "Chestnut" header paver.
Entry Path	Anston Paving Stones, 600mm x 600mm, traditional range, colour Murry.

Refer to the Schedule of Finishes and Sample Board in **Appendix 1**. To support this selection of colours, a letter outlining the proposed colours and justification has been prepared by *Placemakers Architects and Urban Planners* and is attached in **Appendix 3**. A physical sample board of proposed colours and finishes is also provided in **Appendix 4**.

3.2.3 Balustrades

The proposed modification seeks the deletion of Condition 22(i) relating to "the incorporation of solid balustrading for all Level 1 and Level 2 courtyards/balconies presenting to Fisher Road, finished in horizontal cladding and slightly setback from

the dominant façade of the adjacent external wall". This condition, was originally included to increase screening to both to and from the external areas of apartments fronting Fisher Road, affects apartments A.109, A.110, A.G15, A.G16, B.101, B.106, B.201, B.206, C.108, C.110, C.112, C.208, C.210 and C.212.

This condition imposes two (2) changes to the development architecture comprising of solid horizontal cladding boards in lieu of vertical metal balusters and the reduction in size of courtyards and balconies. These changes are considered inappropriate and unnecessary for the development as a result of the existing screening in the form of landscaping and deep setbacks.

Accordingly, this application seeks the deletion of this condition as justifiable on the following grounds;

- Adequate screening is and will be achieved by virtue of significant landscaped street setbacks and apartment heights above adjacent footpath levels;
 - Building A Level 1 apartments (RL 38.50) are situated 4.5m to 6.5m above adjacent footpath level on Fisher Road (RL 32.0 – RL 34.0). These heights increase to 7.5m to 9.5m for the Level 2 apartments.
 - Building B Level 1 apartments (RL 37.50) are situated 3m above the adjacent footpath level on Fisher Road (RL 34.50). This height increases to 6m for the Level 2 apartments;
 - Building C Level 1 apartments (RL 35.50) are situated 2m to 3.5m above adjacent footpath level on Fisher Road [RL 32.0 – RL 33.5]. These heights increase to 5m to 6.5m for the Level 2 apartments;
- The specification of horizontal cladding boards including their colour as a condition of consent is overbearing. The applicant proposes that any additional screening, if required, be specified by the design Architect to ensure full integration into the existing approved design;
- The landscaped area between Level 1 courtyards and the footpath in Fisher Road is common property ensuring its viability and maintenance;
- A key feature of 'Rose Group' developments is the preference of landscaping over solid fencing as privacy screening and delineation between private, semi-private and public spaces;
- Part 4 Section L Ground floor apartments of the ADG guides elevation of private gardens and terraces above street level by 1 to 1.5m;
- Courtyards at level 1 by their very nature extend beyond the dominant façade of the adjacent wall. The *Apartment Design Guide* (ADG) calls for larger areas on ground/podium level with deeper minimum dimension;
- Setting the courtyard wall back as conditioned will render apartments A.G15, A.G16, C.108 and C.110 non-compliant. Further, it will also significantly reduce the usability of the private external open space; and
- Setting the balcony balustrade back to Level 2 apartments A.109 and A.110 will make them non-compliant and reduce their usability as outdoor private spaces.

Pedestrian exit from Basement Level 1C towards the east

The proposed modification seeks the deletion of Condition 22 (k) requiring “the deletion of the pedestrian exit from Basement Level 1C towards the east” (highlighted in red in **Figure 8**). The Condition is unreasonable and unnecessary as it does not provide for general access to the site. This exit is purely required as a fire escape for the development which ultimately leads to Fisher Road in the event of an emergency.

The exit does not rely upon fire egress on to Civic Drive, and therefore does not rely on this private road to achieve BCA and Fire Standards for the development and therefore should be deleted.

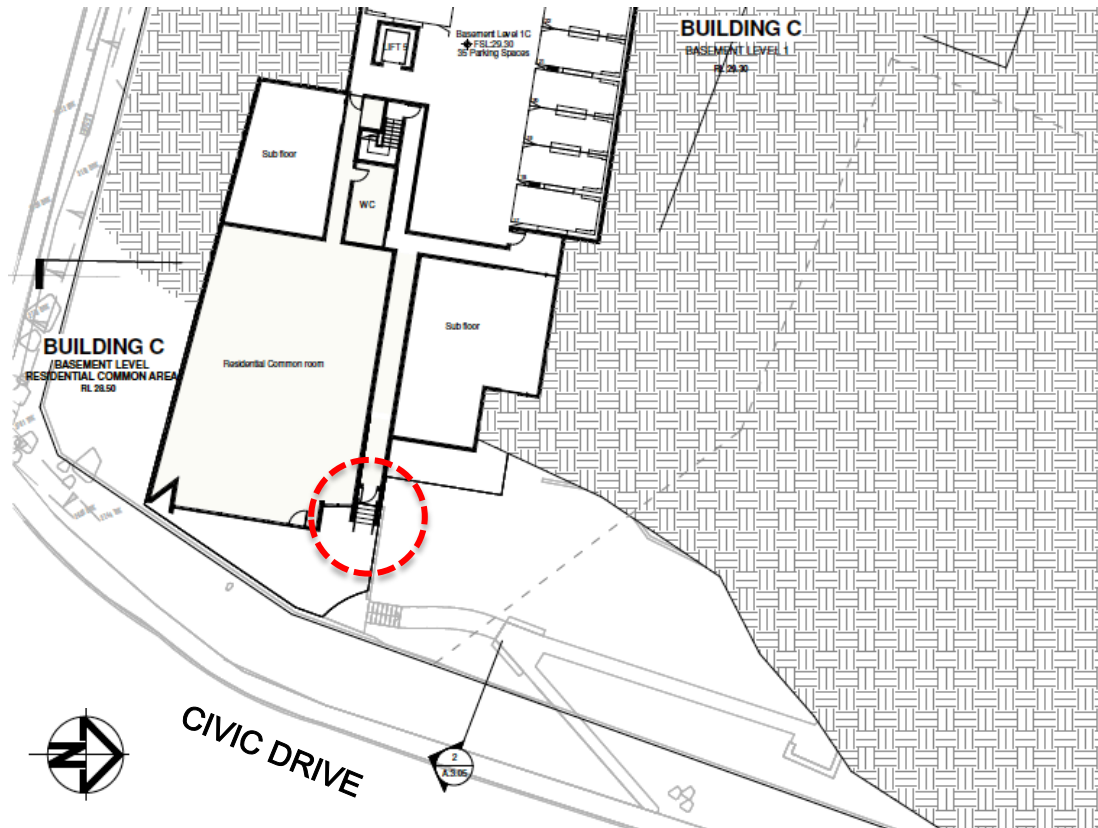


Figure 8. Approved Basement Parking Plan 1 (extract from DA/2018/1574 A2.02/C)
Source: Rose Architectural Design

4 Planning Assessment

Mecone has undertaken an assessment of the amended proposal against the relevant planning and environmental legislation and guidelines to identify potential environmental impacts and mitigation measures. The potential environmental impacts and their mitigation measures are discussed below.

4.1 Section 4.55(1A) of EP&A Act 1979

The *Environmental Planning and Assessment Act 1979* (the Act) is the key environmental planning legislation in New South Wales. The Act establishes the regime in which the consent authorities address environmental issues for proposed developments. This includes the ability to modify development approval through Section 4.55 of the Act. This SEE also includes an assessment of the proposed works against the matters for consideration listed under Section 4.15 of the EP&A Act and should be read in conjunction with information annexed to this report.

In regard to this proposed modification, Council's consent is sought for a modification under Section 4.55(1A) of the Act, which states;

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.*

Subsections (1), (2) and (5) do not apply to such a modification.

...

An assessment against Section 4.15C of the Act has been undertaken to demonstrate the minor nature of the proposed modification. **Section 6** below provides a summary of the assessment.

4.1.1 Substantially the same development

It is considered that the overall proposed development is substantially the same as the original Approved Development (DA/2018/1574). The proposal does not seek to alter the use, built form, height or create any additional GFA from the Approved, it simply seeks the addition of residential car parking spaces, change to the proposed colour scheme and deletion of two minor conditions relating to balustrades and exit from Basement Level 1C.

The inclusion of an additional 34 residential parking spaces within Basement Level 1 will not significantly alter the basement building footprint. No change to the vehicular access points from the Approved are sought. The additional basement parking spaces will remain consistent with the condition in that all parking spaces will be maintained free of obstruction and will ensure off-street parking is maintained for the life of the development and used solely for the parking of vehicles. The original Sydney North Planning Panel Assessment Report, dated 4 June 2019, established that in accordance with the car parking requirements of the WDCP2011, the development generates demand for 189 car parking spaces. The original DA approved 191 car spaces which was deemed consistent with the minimum requirements of the WDCP2011. The proposed increase of 34 car spaces, resulting in a total of 225 spaces, will continue to maintain consistency and compliance with the WDCP2011's minimal parking requirements (refer to Section 4.2.3 of the SEE for detailed discussion). Finally, the modification seeks no alteration to the commercial, visitor, DDA or delivery parking spaces as approved under the original consent.

The modification to the exterior colour palette under Condition 20 of the Development Consent is also sought under this application. This is purely an aesthetic and administrative amendment to the development with no change to the built form or facades proposed. Condition 29 specifies a minimum 'darkness' in tone of materials and finishes relation to the branded *Colourbond* colours to ensure that the visual impact is appropriately minimised and subservient to the surrounding landscape as per the DCP.

The final chosen colour selection, as agreed with Council's recommendations notated in an informal meeting held on the 13th February 2020, which are considered appropriate and sympathetic to the surrounding environment and developments and will result in minimal visual impact. The proposed selection remains consistent with the provisions and objectives as specified under the *Warringah Development Control Plan 2011* (WDCP2011).

The proposal seeks the deletion of Condition 22(i) relating to the incorporation of solid balustrading for all Level 1 and Level 2 courtyards/balconies presenting to Fisher Road. This condition aims to "ensure an appropriate level of amenity and privacy as to ensure consistency with the relevant plans and policies". The subsequent deletion of this clause, is simply an administrative act, requires no adjustments the Architectural Plans as approved under DA/2018/1574 in order to adopt. It is considered that the existing screening methods on site, achieved by virtue of significant landscaped street setbacks and apartment heights above adjacent footpath levels satisfies the objective of the control by ensuring adequate privacy to the residences from the public domain.

The proposed deletion of Condition 22 (k) which requires "the deletion of the pedestrian exit from Basement Level 1C towards the east" (highlighted in red in **Figure 8** above). Council wanted the exits removal as they didn't want a fire egress discharged onto land that may in the future be redeveloped without private access. The Condition is unreasonable and unnecessary as it does not provide for general access to the site. This exit is purely required as a fire escape for the development which ultimately leads to Fisher Road via a paved pathway in the event of an emergency. The exit does not rely upon fire egress onto Civic Drive, and therefore does not rely on this private road to achieve BCA and Fire Standards for the development and therefore should be deleted. Its proposed retention will not impact any future redevelopment of the site to the south.

Overall, the modifications will maintain 'substantially the same development' as approved and will not introduce any new environmental impacts to the approved development consent. The modification does not alter the development's consistency with the key planning controls and includes no change of use, density or

building envelope on site. Therefore, it is considered that the proposed modification is eligible for Council's consent under Section 4.55(1A) of the Act.

4.1.2 Minimal Environmental Impact

The modification is best suited to a Section 4.55(1A). The proposed physical and administrative changes do not create any significant environmental impacts to the otherwise approved development. Overall, the proposed modifications are minor in nature and will not introduce any new or additional environmental impacts to what was originally approved under DA/2018/1574. Rather, they are explicitly responding and seeking to satisfy the conditions imposed on the consent and will therefore be considered to have a beneficial environmental impact on the development and surrounding context.

Further, the proposal does not seek to alter the use, built form, height or create any additional GFA from the Approved DA, it simply seeks the addition of residential car parking spaces (largely within the existing basement footprint), changes to the proposed colour scheme and deletion of two minor conditions relating to balustrades and exit from Basement Level 1C.

The approved development permits 191 parking spaces for the 126 residential apartments with vehicular access from Fisher Road. The proposed additional 34 additional residential parking spaces will be incorporated within the existing footprint of Basement Level 1 will not alter the approved mix or quantity of apartments, vehicular access points. The additional parking is proposed so that each three-bedroom apartment, plus a number of the two-bedroom apartments, are provided with a minimum of two parking spaces to create a more comfortable rate of carparking for residents of the dwellings. These will be integrated largely within the existing footprint by making minor adjustments to the internal layout and inserting stacked parking in the basement of Building A and C. Where stacked parking is proposed to assist accommodating the additional vehicles, these will be allocated to persons of the same residence to ensure ease of consistent access, management and maneuvering within the basement. The proposed works will also not impede the tree protection or root zones of any trees in the vicinity of the works other than what was approved under the Original Consent. Moreover, it will maintain the existing rate of commercial, visitor, DDA or delivery parking spaces as approved. The proposed increase of 34 car spaces, resulting in a total of 225, will continue to maintain consistency and compliance with the WDCP2011's minimal parking requirements. The commercial and delivery parking spaces will also remain unchanged as well as the approved access arrangements. This is illustrated in **Figure 6** and **Figure 7** below. This SEE is supported by an Amended BASIX Report in **Appendix 5**, an updated basement Architectural Plans in **Appendix 1** and a Traffic Statement prepared by *Colston Budd Rogers & Kafes Pty Ltd* attached in **Appendix 2**.

The proposed colour selection was discussed with Council at length in an informal meeting with the recommendations from Council incorporated into the selection included in this application. The lighter colour scheme is considered acceptable and will result in an improved and sympathetic interface with natural and built environments in the vicinity of the site and the greater Dee Why Civic Centre with its diverse and varied streetscape character and bushland setting. The selection of colours and materials complement the natural existing landscape, heritage items and native vegetation providing respective level of contrast to maintain visual interest whilst also providing an increased level of available of reflected light to the periphery to enhance public awareness of the retained and new native vegetation whilst improving passive surveillance and safety. Finally, it will also enhance the available reflected light throughout the development which will in turn benefit the amenity and livability of future residents.

The proposed deletion of Condition 22(i) and 22 (k) relate to the incorporation of solid balustrading for all Level 1 and Level 2 courtyards/balconies presenting to Fisher Road and pedestrian exit from Basement Level 1C towards the east. These modifications are purely administrative in nature, will not alter the Architectural Plans as approved and will not result in any additional impacts from the approved.

The deletion of the balustrade control and retention of the existing methods of significant landscaped street setbacks and apartment heights above adjacent footpath levels meets the objectives of the WDCP2011 objectives. This screening method, which is consistent with the planning principle established in *Meriton v Sydney City Council [2004] NSWLEC 313*, will ensure that the development maintains natural ventilation and solar access to the apartments which would otherwise be impacted if a solid balustrade was to be installed as per the Conditions of Consent. It also ensures an appropriate level of amenity and privacy as to ensure consistency with the relevant plans and policies. The landscaped area between Level 1 courtyards and the footpath in Fisher Road is common property ensuring its viability and maintenance in alignment with the WDCP2011.

The deletion of the condition seeks to retain the exit purely for use as a fire exit for safe and quick exit from the basement level to Fisher Road via a paved pathway in the event of an emergency. Its retention would not prejudice or compromise any future development of the nearby Civic Centre site as it will not be used for general access to the site.

4.1.3 Notification

The proposed modification may be exhibited in accordance with Council's policies.

4.1.4 Consideration of any submissions

The proposed modification will include consideration of any submissions in accordance with Council's policies.

In addition, in accordance with Clause 4.55(3) of the Act, the subject SEE has considered relevant matters from Clause 4.15(1).

4.2 State Environmental Planning Policies

4.2.1 State Environmental Planning Policy (BASIX) 2004

The original Development Application (DA/2018/1574) included a BASIX Certificate which established that the original proposed development was able to comply with the required targets. The application was also supported by NatHERS Certificates. Conditions have been included in the Conditions of Consent to require compliance with the commitments indicated in the BASIX Certificate.

The subject application is minor in nature, largely administrative and does not include any physical modifications to the residential dwellings. An amended BASIX Certificate has been provided which addresses the proposed modifications and confirms that the development remains capable of complying with the approved BASIX targets. The updated BASIX Certificate is attached in **Appendix 5**.

4.2.2 State Environmental Planning Policy No. 55 (Remediation of Land)

Clause 7(1)(a) of SEPP 55 requires that the consent authority to consider whether land is Contaminated. The original Development Application DA/2018/1574 was supported by a Preliminary Environmental Site Assessment (PSI) prepared by *Coffey Services Australia Pty Ltd* (Coffey). The original Sydney North Planning Panel

Assessment Report notated that the site has been zoned for residential purposes for a significant period of time with no prior land uses and is considered that the site poses no risk of contamination with no further consideration under Clause 7 (1)(b) and (c) of SEPP 55 required with the land considered to be suitable for the residential land use. The proposed modifications, which are minor in nature, will maintain compliance and consistency with SEPP55.

4.2.3 State Environmental Planning Policy (Infrastructure) 2007

The Original Development Application DA/2018/1574 included an assessment against the State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure). Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any development application (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 Original DA was referred to Ausgrid. No response was received within the 21-day statutory period and therefore, it was assumed that no objections were raised, and no conditions were recommended. This proposed modification is minor in nature and will not involve works that would trigger referral to Ausgrid. The internal reconfiguration of parking will be undertaken within the existing basement footprint.

4.2.4 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Buildings

The Original Development Application (DA/2018/1574) addressed the proposed development against the provisions of the *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development* (SEPP65) including the nine (9) design principles stipulated in the Apartment Design Guide (ADG) that need to be considered in achieving good design.

The proposed modifications, which consist of an increase in parking, change of external colour palette, the deletion of the requirement of balustrades and retention of basement exit maintain consistency with the design quality principles of SEPP 65 and Apartment Design Guide (ADG), in that the development continues to;

- Maintain compatibility with that of other developments in the B4 Mixed Use zone, and is considered with other nearby and adjacent residential flat building;
- Achieve an appropriate balance between the retention of these natural features and heritage items and the development of the site, with key areas and bands retained and enhanced to soften the visual impact of the proposal and to assist in providing an appropriate transition the development in the vicinity;
- Maintains its presence (as approved under the original DA) as a series of four and five storey residential flat buildings, consistent with the size/scale of other residential flat buildings along Fisher Road and nearby mixed-use developments within the commercial centre;

- Be an appropriate contextual fit for the site, with a density that is suitable within the B4 Mixed Use Zone and for a site that is in such close proximity to the Dee Why Town Centre and the main transport links on Pittwater Road;
- Maintains the landscaped solution approved under the Original DA which comprises an appropriate scale of plantings to ensure that the visual impact of the built form will be screened and softened as seen from the public domain and adjoining properties;
- Provide a reasonable level of amenity for future occupants of the development, without unreasonably compromising the amenity of adjoining residences;
- Provide an appropriate balance of different housing options for a variety of living needs and household budgets;
- Incorporate varied colours and materials, which change as the height of the development increases to break down the scale of the façade. The proposed colour selection has been guided by Council's advice and is considered to be sympathetic with the surrounding natural environment.
- Maintains consistency and compliance with the relevant parts of the ADG in that;
 - The proposed retention of the exit at Basement Level 1C, is purely required as a fire escape for the development in the event of an emergency and provides safe exit ultimately leading to Fisher Road;
 - The proposed increase to car parking within the basement will not impact the vehicle access points as approved under the original DA;
 - The proposed increase in carparking will largely utilise the existing the basement footprint and will not impact the ability to provide safe, secured access. Therefore, the modifications will result in no additional environmental impacts, other than what was previously approved under the original DA. No modifications are proposed to the vehicle access points as viewed from the public domain; and
 - The selected external colour-scheme will ensure visual interest whilst respecting the character and colours of developments within the vicinity.

4.3 Environmental Planning Instruments

4.3.1 Warringah Local Environmental Plan 2011

The development has been addressed under the provisions of the environmental planning instrument in the original DA, which includes the *Warringah Development Control Plan 2011* (WDCP2011). The proposed modifications predominantly result in the increase of parking within the basement levels, alterations to the approved colour palette and minor administrative amendments to the conditions of consent relating to balustrades pedestrian exit from Basement Level 1C towards the east. These proposed works remain compliant with the WLEP2011 controls as discussed below;

Zoning and permissibility

The subject lot is zoned B4 Mixed Use under the WLEP2011. The land use table permits 'residential flat buildings' and 'commercial premises' with consent. The proposed

works continue to relate to the approved mixed-use development comprising three residential flat buildings, commercial use of a heritage listed building, car parking, infrastructure and landscaping which is permitted with consent in the zone. The proposal maintains consistency with the objectives of the B4 Mixed Use zone, in that the proposed continues to provide a residential mixed-use development of appropriate scale and intensity, which will encourage the use of public transport as well as walking and cycling. In particular, the land use mix of predominantly residential uses with a commercial component has been propose in response to the transitional nature of the site, being located between low density residential zoning to the west and the Dee Why town centre mixed use zone to the east.

Height and Floor Space Ratio

A maximum height control of 13m applies to the subject site under the WLEP2011. The conditions of consent approved a height of 15.9m with the support of a Clause 4.6 Variation to Development Standard Report under the Original DA. No Floor Space Ratio Controls apply to the subject site under the WLEP2011. The proposed modifications largely consist of amendments to the number of car parking spaces within the basement, changes to colour scheme and minor administrative amendments to the conditions around balustrades and exit from the Basement Level 1C. The modification seeks no change to the height or FSR that has been previously approved under the original DA and therefore will maintain consistency with the objectives of the Clause 4.3 and Clause 4.4 of the WLEP2011.

Heritage Items and Conservation Areas

The subject site is identified as a heritage item of local significance under the LEP (Item 43 of Schedule 5) known as 'Pacific Lodge (Salvation Army)'. Furthermore, surrounding development such as the Dee Why Public Library, Civic Centre and civic centre landscaping to the east are considered heritage items of state significance. These items of heritage significance were addressed under the Original DA and accompanied by a Heritage impact Statement (HIS) and Conservation Management Plan for the Pacific Lodge. The modifications do not seek to change or impact the heritage items on site or in the vicinity and as such, the proposed development will not contravene any heritage planning controls under the WLEP2011.

Non-residential uses at ground floor

The Sydney North Planning Panel approved under the Original DA a variation from Clause 6.7 with the sanction for the dwellings being permitted at the ground level of each residential flat building with the support of a Clause 4.6 Variation to Development Standard Report under the Original DA. The proposed modification does not seek to change the use, apartment mix or location of residential dwellings as approved under the Original DA and therefore maintains consistency with the controls approved under the Conditions of Consent.

Dee Why Town Centre

Consistent with the objectives of Part 7 of the WLEP2011 for development within the Dee Why Town Centre, the proposed development will continue to create an attractive living environment that sustains the social, economic and environmental needs of its community and visitors, whilst achieving a pattern of development that reflects the underlying urban form in Dee Why and attains high levels of visual and physical permeability. It also ensures that the development responds to the surrounding environmental and protects the scenic qualities of Dee Why and its views and vistas, whilst maintaining a high standard of architectural design, materials and detailing appropriate to the building type and location and ensures the form

and external appearance of the development improves the quality and amenity of the public domain.

4.3.2 Warringah Development Control Plan 2011

The development has been addressed under the provisions of the environmental planning instrument under the original DA, which includes the *Warringah Development Control Plan 2011* (WDCP2011). The proposed modifications do not seek to change the use, overall built above ground level form, the number or mix of residential apartments that have been previously approved under the original DA. Some of the key controls are discussed below;

Desired character of the Dee Why Mixed Use Area

The subject site is located within the Dee Why Mixed Use Area – Area 10 Civic Centre. The modifications do not alter the building envelope as approved under DA/2018/1574 and maintains an appropriate bulk and scale whilst providing a height quality architecturally designed development with form, scale and finish that respects the heritage fabric of the locality and is compatible with the streetscape of the Dee Why Town Centre.

The development maintains the objectives of the DCP by encouraging good design and innovative architecture, ensuring the creation of a pedestrian environment that is comfortable, interesting and safe, ensures that shops and dwelling enjoy good access to natural light and buildings that address the street and retains vegetation and sandstone outcrops as approved under the original DA. Overall, the proposed modifications are considered to maintain consistency with the requirements, purpose and desired environment expressed in the WDCP2011. Finally, the proposed lighter colour scheme ensures consistency with the G1 Dee Why Mixed Use Area, and in particular Area 10 Civic Centre with the development continuing to provide good design and innovative architecture and will maintain a pedestrian environmental that is comfortable, interesting and safe for the community.

Building Bulk

The modifications will maintain the building bulk as approved under the Original DA. And seeks no changes to the approved setbacks, buildings height, scale, building articulation or landscape plantings. The proposed increase of car parking in the basement level will not result in any additional bulk above ground level and only very minimally increase the basement footprint in one location. There will be no change to the built form and elevations under the original DA and as viewed from the public domain. The development is considered to maintain consistency and compliance with the objectives and provisions of the DCP.

Retaining unique environmental features

The proposed modifications will not impact the existing approach to retaining unique environmental features. The modifications do not seek changes that affect the retention of any unique features on site, modify any of the landscaping as approved under the original DA or remove any additional trees or vegetation on site. Therefore, it is considered that the development maintains compliance and consistency with the DCP requirements as approved under DA/2018/1574.

Building Colours and Materials

Part D10 of the WDCP2011 outlines the objectives and provisions for the building colours and materials. The proposal seeks changes to the external colour scheme from the listed colours approved under the original DA.

Prior to the lodgement of the Section 4.55(1A) Modification Application, the applicant attended a meeting with Council to discuss these replacement colours and receive any guidance or feedback on Council's preferred selection. Council's feedback on colours guided the final selection of lighter colours. The proposed lighter colour scheme is considered consistent with the objectives and provisions of the DCP in that;

- The proposed modified selection of colours are sympathetic to the surrounding natural and built environmental and as per the requirements;
- In highly visible areas, the visual impact of any new developments has been minimised through the appropriate selection of colours and materials and landscaping;
- The selection of colours and materials complement the natural existing landscape and native vegetation on site;
- The colours and materials used for the alterations and additions to the existing heritage structure also complements the existing external building façade; and
- Consistent with the original DA Conditions of consent, no the colour scheme does not include red or white.

Refer to the Schedule of Finishes and Sample Board in **Appendix 1**. To support this selection of colours, a details letter of justification for the proposed colours has been prepared by Tony Tribe and is attached in **Appendix 3** and a sample board of proposed colours and finishes is provided in **Appendix 4**.

Access, car parking and car parking facilities

Clause C2 and C3 of the WDCP2011 outlines the objectives and provisions relating to Car Parking requirements and parking facilities. Appendix 1 of Clause C3 establishes the following minimum parking rates required for the subject development;

- 1 space per one (1) bedroom apartment;
- 1.2 spaces per two (2) bedroom apartment;
- 1.5 spaces per three (3) bedroom apartment;
- 1 space per five (5) apartments for visitors; and
- 1 space per 40m² business premises (excluding customer service areas), plus one space per 16.4m² for customer service area.

The approved development provides 191 parking spaces for the 126 residential apartments with vehicular access from Fisher Road. The proposed modifications seek a minor amendment to Clause 88 to permit the reconfiguration of Basement Level 1 to accommodate an additional 34 residential car parking spaces, resulting in an amended total of 225 parking spaces. This increase in residential parking spaces maintains compliance with the minimum parking rates required under the WDCP2012 and ensures ongoing consistency with the objectives of the respective controls with the development in that the development;

- Maintains the provision of off-street car parking on site, located underground in basement levels to ensure the parking facility will have minimal visual impact on the street frontage when viewed from the public domain;
- Continues to avoid the use of mechanical car stacking spaces;

- Provides safe and convenient pedestrian and traffic movement. Where stacked parking is proposed to assist accommodating the additional vehicles, these will be allocated to persons of the same residence to ensure ease of consistent access, management and maneuvering within the basement.

Finally, the proposed modifications do not seek amendments to the commercial, visitor, DDA or delivery allocated rates or spaces from approved under DA/2018/1574.

Refer to the updated basement Architectural Plans in **Appendix 1** and a Traffic Statement prepared by *Colston Budd Rogers & Kafes Pty Ltd* attached in **Appendix 2**.

Access and Servicing and Internal Layout

The proposed modifications will maintain compliance and consistency with the objectives of Clause D20 'Safety and Security' of the WDCP2011 with the development and proposed retention of the fore exit on Basement Level 1C providing the opportunity for quick and safe exit from the basement level in the event of an emergency and therefore ensuring a development that maintains and enhances the security and safety for the residents and community.

Privacy

Clause D8 of the WDCP2011 relates to privacy controls. The deletion of the balustrade control and retention of the existing methods of significant landscaped street setbacks and apartment heights above adjacent footpath levels meets the objectives of the Control in that the development;

- Ensures the siting and design of buildings will provide a high level of visual and acoustic privacy for occupants and neighbours;
- Encourages innovative design solutions including carefully landscaping to act as natural screening methods whilst improving the urban environment;
- Maintains natural ventilation and solar access which would otherwise be impacted if a solid balustrade was to be installed as per the Conditions of Consent.

The planning principle established in *Meriton v Sydney City Council [2004] NSWLEC 313* details that landscaping may be used as a screening technique to adequately screen windows and outdoor areas to ensure privacy whilst also visually reducing the building bulk and maintaining critical environmental elements such as natural ventilation and solar access.

5 Environmental Assessment

In accordance with Section 4.15 of the Act, an assessment has been undertaken for the potential environmental impacts associated with the development in the original DA. The proposed modification does not create any additional significant environmental impacts other than those already assessed and approved under the original development application DA/2018/1574.

Mecone has worked closely with *Rose Architectural Design* and other related consultants to ensure the proposed modifications will enable efficient development of the site, without causing any additional environmental impacts. An assessment against Section 4.15 of the Act has been undertaken to demonstrate the minor nature of the proposed modification. **Table 4** provides a summary of the assessment.

Table 4. Section 4.15 Assessment Summary

(1)	Matter for consideration – General In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:	
(a)(i)	The provision of: Any environmental planning instrument, and	The proposed modification has been shown to continue to be consistent with the relevant SEPPs and LEP as approved under the original DA.
(ii)	Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	Not Applicable
(iii)	Any development control plan, and	The proposed application has been assessed against the relevant provisions of the <i>Warringah Development Control Plan 2011</i>
(iiia)	Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and	Not Applicable
(iv)	The regulations (to the extent that they prescribe matters for the purposes of this paragraph),	The proposal remains consistent with the regulations applying to this development application.

Table 4. Section 4.15 Assessment Summary

(v)	(repealed)	Noted
(b)	The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The proposed modifications are minor and will have minimal environmental impacts. All conditions will still need to be met.
(c)	The suitability of the site for the development,	The site has been demonstrated as being suitable for the development, and this modification has no effect on the site's suitability.
(d)	Any submissions made in accordance with this Act or regulations,	The proposed modification will include consideration of any submissions in accordance with Council's policies.
(e)	The public interest.	The proposed modification is considered to be in the public interest.

6 Conclusion

This SEE has been prepared on behalf of *Rose Group Pty Ltd (Rose Group)* to support a Section 4.55(1A) application to modify Development Consent (DA/2018/1574), dated June 2019, in relation to the site at 23 Fisher Road, Dee Why.

This SEE concludes that the proposed modifications are consistent with Section 4.15 of the *Environmental Planning and Assessment Act 1979 (The Act)*. A Planning Assessment has been undertaken in **Section 4**, and an Environmental Assessment has been undertaken in **Section 5** and are supported by additional plans and statements as requested by Council.

The planning and environmental assessments found the proposal remains consistent with the state and local planning controls and that associated impacts of the proposal are considered to be minimal and manageable and that the modification results in a development that is '*substantially the same*' as the development approved. Hence;

- The modification is in accordance with 4.55(1A) of the Act, substantially the same development as the development for which the consent was originally granted and is considered to be of minimal environmental impact;
- No State Environmental Planning Policies apply to the Subject Section 4.55(1A) modification;
- The proposed modification will maintain consistency with the key planning controls within the WLEP2011 and WDCP2011 and does not seek to amend those controls approved under the Conditions of Consent including use, building height or FSR;
- The proposed inclusion of 34 additional residential parking spaces within Basement Level 1 will not significantly alter the basement building footprint or vehicular access points from the approved DA and subsequently will not impact or impede any tree protection or root zones;
- The proposed minor modification to the exterior colour palette under Condition 20 of the Development Consent are considered appropriate and sympathetic to the surrounding environment and developments and will result in minimal visual impact;
- Mecone has worked closely with *Rose Group* and other related consultants to ensure the modifications represent the most efficient and effective way forward;
- The proposed modifications ensure that the key social, economic and environmental matters are addressed within the design of the proposed modification in respect to amenity; and
- The proposed works are within the public interest, based on the above issues, is an appropriate outcome for the site.

We recommend that Council approve the proposed modifications in accordance with Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* for the development located at 23 Fisher Road, Dee Why.



Suite 1204B, Level 12, 179 Elizabeth Street
Sydney, New South Wales 2000

info@mecone.com.au

mecone.com.au