

Statement of Environmental Effects

Proposed Section 4.56 Modification to Approved Mixed Use Development at 28 Lockwood Avenue, Belrose

September 2022



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Introduction

This report has been prepared by Navon Planning on behalf of Platinum Property Advisors No 1 c/- Momentum Project Group Pty Ltd in relation to the proposed Section 4.56 modification to the approved mixed use development at 28 Lockwood Avenue, Belrose. On 8 November 2021 the NSW Land and Environment Court upheld the decision to approve the DA for the demolition of existing structures and construction of a mixed use development comprising of retail uses and shoptop housing containing 49 dwellings, basement car parking for 238 vehicle spaces, landscaping, and a central public square (DA2020/0393).

A comprehensive review of the DA approval was undertaken by the project team in order to fine tune the design through improving the internal and external amenity for the future residents, visitors, customers and staff. The proposed modifications also ensure compliance with the National Construction Code (NCC). There are no changes proposed to the approved building height, floor space, setbacks or landscaped area. As such, the proposed modifications sought under this application primarily relate to various minor internal and external changes that enhance the design. The proposal has been assessed against relevant State and Council planning controls and is considered satisfactory and worthy of Council approval.

This application is supported by the following documents:

- Architectural Plans prepared by Urbanacorp
- Statement of Environmental Effects prepared by Navon Planning
- Stormwater Plans prepared by Erbas
- Traffic Letter prepared by McLaren Traffic Engineering
- BASIX Certificate prepared by Ecomode Design
- Operational Waste Management Plan prepared by Elephants Foot Recycling Solutions

The Site and Surrounding Area

The subject site known as 28 Lockwood Avenue, Belrose and is legally identified as Lot 1 in DP 1199795. It is located at the intersection of Lockwood Avenue and Glen Street, with Glenrose Place adjoining the site to the east. The site has an irregular shape with a total site area of 5,322sqm. The site slopes from south to north by approximately 3.8m Existing on the site is a redundant Council library building centrally located, surrounded by lawn and numerous trees.

Adjoining the site to the south-east is a petrol station, across the road to the south are residential dwellings, to the west are also dwellings with a pedestrian walkway in between, to the north are also dwellings and towards the east is the Glenrose Village shopping centre.



Figure 1: The site and surrounding area



Figure 2: The site looking to the north-east



Figure 3: The site looking to the south-west



Figure 4: The site looking to the west



Figure 5: Closer view of the existing building on the site



Figure 6: View of the site from Lockwood Avenue



Figure 7: Existing building from Lockwood Avenue side



Figure 8: Dwellings to the west on Lockwood Avenue



Figure 9: View of the site from the walkway



Figure 10: Child care centre and walkway to the west



Figure 11: The site from Glenrose Place



Figure 12: Car park entrance to Glenrose Village



Figure 13: Glenrose Village further east from the site



Figure 14: Petrol station to adjoining the site to the east

The Proposal

This Section 4.56 Modification seeks various changes to the approved mixed use development at 28 Lockwood Avenue Belrose. On 8 November 2021 the NSW Land and Environment Court upheld the decision to approve the DA for the demolition of existing structures and construction of a mixed use development comprising of retail uses and shoptop housing containing 49 dwellings, basement car parking for 238 vehicle spaces, landscaping, and a central public square (DA2020/0393).

The proposed modifications are required for the following reasons;

- A more efficient layout and circulation arrangement for car-parking
- Improved internal layout for the majority of units for residents
- Improved loading dock facilities
- Enhanced facilities for cyclists
- Improvements to storage for residents
- To meet DDA requirements for accessible parking
- Ensure compliance with NCC
- Provision of communal facilities for residents

The modifications sought under this application are summarised below:

Basement 4

- Entry and exit ramp relocated
- Increase of 6 spaces and re-arrangement, as follows.

Existing

x 103 Retail spaces

x 24 Residential spaces

Total = 127 spaces (incl. x 2 disabled spaces)

32 Bicycle spaces

Proposed

x 133 Retail spaces

Total = 133 spaces (incl. x 4 disabled spaces)

30 Bicycle spaces

- Traffic flow, car spaces and storage cages re-arranged
- Floor RL lowered by 1.287m to 143.513 AHD to ensure the loading dock complies with clearance heights
- End of Trip (EOT) and accessible bathroom provided
- Fire stairs relocated to comply with NCC

- Waste lift is changed to retail lift and drops to this level

Basement 3

- Entry and exit ramp combined and relocated
- Decrease of 6 spaces and re-arranged, as follows:

Existing

x 60 Retail spaces
 x 41 Residential spaces
 x 10 Residential spaces (visitor)
 Total = 111 spaces (incl. x 5 disabled spaces)
 44 Bicycle spaces

Proposed

x 30 Commercial spaces
 x 65 Residential spaces
 x 10 Residential spaces (visitor)
 Total = 105 spaces (incl. x 6 disabled spaces)
 48 Bicycle spaces

- RL of basement increased in depth by 1.18m
- Maximum ceiling height of basement increased from 4.8 to 6.087m
- Traffic flow, car spaces and storage cages re-arranged
- Fire stairs relocated to comply with NCC
- End of Trip (EOT) facilities removed (to be relocated to Basement 4)
- Plant and utility rooms re-arranged
- The hoist lift in the loading dock is changed to waste lift and it drops to this level

Basement 2

- Entry and exit ramp combined and relocated
- Loading dock entry/exit ramp modified
- Accessible bathroom provided
- Levels modified
- Entry to shop number 07 modified
- Mechanical exhaust shafts
- Loading dock RL modified
- Glen Street pedestrian entry modified for structural rationalisation
- Electrical switch boards relocated

Lower Ground Floor

- Mechanical exhaust shafts
- Face brick removed from intermediate exposed slab edges
- Proposed clubhouse/communal room
- New aluminium windows and doors
- Electrical switch boards located
- Fire stairs relocated and minor internal unit rearranged adjacent to the new stair location

Ground Floor

- Mechanical exhaust shafts located
- Electrical switchboards located
- External wall modified to Unit G.12
- New aluminium windows and doors

Level 1 Plan

- Mechanical exhaust shafts located
- East wall relocated and balcony deleted to Unit 1.01
- New aluminium windows and doors

Roof Plan

- Roof extended over enclosed balcony

Elevations

- Face brick removed from intermediate exposed slab edges
- External wall modified to Unit G12
- Fixed window added to clubhouse/communal room
- New aluminium windows and doors

Other Changes

- To improve apartment layouts for LG.05, LG.07, LG.08, LG.09, L1.11, LG03, LG11, LG13, LG17, G03, G06, G08, G10, G11, G12, G14, L101, L103, L104, L109
- To provide an additional bin room as an amenity for Building B residents. Previous proposal had a longer and inconvenient path of travel to the main bin holding room.

The table below summarises the key changes to the proposal in relation to the approved DA.

	DA Approved		Proposed Modifications	
Building Height	As per approval		No change	
FSR	Not applicable		No change	
Landscaped Area	As per approval		No change	
Car Parking	Commercial	163	Commercial	163
	Residential	65	Residential	65
	Residential Visitor	10	Residential Visitor	10
	Incl. Accessible spaces	10	Incl. Accessible spaces	10
Total Spaces		238		238
Bicycle Parking		As per approval		78

No other changes are proposed to the approved DA and refer to the submitted plans prepared by Urbana Corp for further details.

Assessment of Planning Controls

Below is an assessment of the relevant State and Council planning controls applicable to the site and proposal.

Section 4.56 Modification by Consent Authorities of Consents Granted by the Court

This application is made under Section 4.56 of the Environmental Planning and Assessment Act 1979 which allows Council to modify a development consent issued by the NSW Land and Environment Court if the following conditions have been satisfied:

(a) 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

Comment: This application seeks to modify the approved mixed use development at 28 Lockwood Avenue DA2020/0393 by various minor internal and external alterations within the existing building envelope.

The extent of the proposed modification has been reviewed in consideration of what constitutes the “substantially the same development” test in *Moto Projects (No 2) Pty Ltd v North Sydney*

Council [1999] NSWLEC 280 where at paragraphs 55 and 56, Bignold J described the process for consideration of a proposed modification of development as follows:

"55. The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is "essentially or materially" the same as the approved development.

56. The comparative task does not merely involve a comparison of the physical features or components of the development as approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted)."

In relation to paragraph 55, the proposed modifications retain the approved uses with no addition to the approved building height and FSR. The density remains the same and the building envelope is substantially the same as the approved DA.

A comparison of the previous DA approval to the current proposal appears above, which demonstrates the proposed modifications sought are essentially and materially the same as the approved DA. The submitted architectural plans demonstrate the modified design is virtually identical similar to the approved design in terms of footprint, height, floor space, setbacks and landscaping.

The proposed modifications can satisfy the principle under paragraph 56 given the changes do not constitute a deviation from the approved DA. Rather, the changes relate to enhancing the development through various minor modifications. As such, the proposal is substantially the same development as the approved DA.

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

- (i) the regulations, if the regulations so require, and*
- (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*

It is Council's responsibility to notify this application to the neighbours and it is expected that this is undertaken in accordance with their relevant procedures.

- (c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed*

modification by sending written notice to the last address known to the consent authority of the objector or other person, and

It is expected that reasonable attempts are made by Council.

(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.

Council will need to consider any submissions as part of their assessment of this application.

Draft Instruments

There are no relevant draft instruments associated with the proposal.

State Environmental Planning Policy (Resilience and Hazards) 2021

The site has been zoned for commercial uses for many years and is unlikely to have been affected by contamination. Notwithstanding this, the previous DA was approved via the LEC and therefore satisfied this SEPP. As such, there are no additional impacts expected as a result of the proposed modifications.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The removal of on-site trees and impact upon street trees was considered as part of the previously approved DA. There are no additional changes to approved trees or landscaping and therefore the proposed modifications comply with this SEPP.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The application is accompanied by a BASIX Certificate which satisfies the required environmental outcomes.

State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development

There are no substantial changes to the layout of the apartments that require a SEPP 65 Assessment as all changes are minor and internal. However, the provision of the club/communal facilities for

residents at ground floor level will be an enhancement to residential amenity as well as being consistent with Principle 8 of the Apartment Design Guide (2015).

Principle 8: Housing Diversity and Social Interaction

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

*Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, **including different types of communal spaces** for a broad range of people, providing opportunities for social interaction amongst residents.*

Subsequently, the proposed modifications maintain compliance with SEPP 65 and the NSW ADG.

Warringah Local Environmental Plan 2011

The site is zoned B2 Local Centre under the Warringah LEP 2011. The proposed modifications are permitted, subject to Council approval. An assessment of the relevant LEP zoning objectives has been undertaken and addressed below.

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

Response: The proposed modifications do not alter the mix of compatible uses and a mix of commercial and residential uses are provided.

- *To maximise public transport patronage and encourage walking and cycling.*

Response: The proposal enhances facilities for cyclists with both end of trip (EOT) facilities and more secure cycle spaces.

- *To provide an environment for pedestrians that is safe, comfortable, and interesting.*

Response: The proposed modifications to the approved parking and unloading and unloading facilities are considered to provide a safer environment for pedestrians.

- *To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.*

Response: There are minor changes to the façade with face brick removed from the slab edges. The remainder of the scheme is identical to that approved.

- *To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of any adjoining or nearby residential land uses.*

Response: The proposal does not result in any additional conflict between uses in different zones or to nearby residential occupiers.

The table below summarised how the proposal complies with the relevant LEP provisions.

Control	Proposal	Complies
B2 Local Centre	The proposed modifications are permissible within the B2 zone.	Yes
4.3 Height of buildings Max height of buildings 8.5m	The proposed modifications do not seek to increase the approved height.	Yes
4.4 Floor Space Ratio	Not applicable to the site	Yes
4.6 Exceptions to development standards		
5.10 Heritage conservation	The site is not heritage listed or located within a heritage conservation area.	Yes
6.4 Development on sloping land	The impact of the development on landslip and the implications of the development on adjoining land were fully considered as part of the original DA. As such, the proposed modifications do not impact this Clause.	Yes

Control	Proposal	Complies

Warringah Development Control Plan 2011

An assessment of the relevant DCP provisions in relation to the proposed alterations additions appears below.

Control	Proposal	Complies
<p>Part C</p> <p>C2 Traffic, Access, and Safety Vehicular Access</p>	<p>Refer to traffic letter prepared by McLaren for further details.</p>	<p>Yes</p>
<p>Requirements</p> <p>6. Facilities for the loading and unloading of service, delivery and emergency vehicles are to be:</p> <ul style="list-style-type: none"> ▪ appropriate to the size and nature of the development. ▪ screened from public view. ▪ and designed so that vehicles may enter and leave in a forward 	<p>Proposed with the amended design. Refer to traffic letter prepared by McLaren for further details.</p>	<p>Yes</p>
<p>C3 Parking Facilities</p>		
<p>Requirements</p> <p>3. Carparking, other than for individual dwellings, shall:</p> <ul style="list-style-type: none"> • Avoid the use of mechanical car stacking spaces; • Not be readily apparent from public spaces; • Provide safe and convenient pedestrian and 	<p>Considered in the modified plans. Refer to traffic letter prepared by McLaren for further details.</p>	<p>Yes</p>

Control	Proposal	Complies
<p>traffic movement;</p> <ul style="list-style-type: none"> • Include adequate provision for manoeuvring and convenient access to individual spaces; • Enable vehicles to enter and leave the site in a forward direction; • Incorporate unobstructed access to visitor parking spaces; • Be landscaped to shade parked vehicles, screen them from public view, assist in micro-climate management and create attractive and pleasant places; • Provide on-site detention of stormwater, where appropriate; and • Minimum car parking dimensions are to be in accordance with AS/NZS 2890.1. 		
<p>Requirements</p> <p>4. Carparking is to be provided in accordance with Appendix 1 which details the rate of car parking for various land uses. Where the carparking rate is not specified in Appendix 1 or the WLEP, carparking must be adequate for the development having regard to the objectives and requirements of this clause. The rates specified in the Roads and Traffic Authority's Guide to Traffic Generating Development should be used as a guide where relevant.</p>	<p>Considered in the modified plans. Refer to traffic letter prepared by McLaren for further details.</p>	<p>Yes</p>
<p>Requirements</p> <p>5. Adequate provision for staff, customer and courier parking, and parking and turning of vehicles with trailers must be provided if appropriate to the land use.</p>	<p>Provided as per the submitted plans. Refer to traffic letter prepared by McLaren for further details.</p>	<p>Yes</p>

Control	Proposal	Complies
<p>Requirements</p> <p>7. Where appropriate, car parking which meets the needs of people with physical disabilities must be provided in accordance with the relevant Australian Standard.</p>	<p>Provided in the modified plans. Refer to traffic letter prepared by McLaren for further details.</p>	<p>Yes</p>
<p>C3(A) Bicycle Parking and End of Trip Facilities</p>		
<p>Requirements</p> <p>4. Bicycle parking shall be provided in accordance with the generation rates in the following table and is determined by adding Column 1 and Column 2 requirements and rounding up.</p>	<p>Refer to traffic letter prepared by McLaren for further details.</p>	<p>Yes</p>
<p>Requirements</p> <p>5. End of trip facilities must be provided for new buildings and for alterations or additions to existing buildings. In the case of alterations or additions to existing buildings end of trip facilities are required for the additional floor area only. End of trip facilities are not required for schools, wholly residential buildings or residential components of mixed-use buildings.</p>	<p>Refer to traffic letter prepared by McLaren for further details.</p>	<p>Yes</p>
<p>C4 Stormwater</p>	<p>Refer to the submitted stormwater plans which demonstrate compliance.</p>	<p>Yes</p>
<p>C7 Excavation and Landfill</p>	<p>No change.</p>	<p>Yes</p>

Control	Proposal	Complies
C9 Waste Management	Refer to the submitted Operational Waste Management Plan for further details.	Yes
D10 Building Colours and Materials	Generally maintained as demonstrated in the plans.	Yes

Section 4.15 Considerations

Natural Environment

The proposal is in an established mixed use environment. The modifications are minor in nature and do not result in any additional adverse impacts to the site or surrounding area. The proposal will therefore not impact the general natural environment of Belrose.

Built Environment

The scale of the proposed modifications area consistent with the built form and streetscape of the surrounding area. The modifications are generally confined to the approved building envelope and do not require any changes to the approved building height, floor space or setbacks. Potential impacts of the proposal have been considered in accordance with the relevant planning controls and the proposed external changes are very minor in relation to the overall approved DA.

Social and Economic Impacts

There are no social or economic impacts as a result of the proposed modifications.

Suitability of the site

The site is considered suitable for the proposed modifications.

Public Interest

The proposal is in the public interest.

Conclusion

This Section 4.56 modification to the approved mixed use development at 28 Lockwood Avenue, Belrose has been assessed against the relevant State and Council planning controls and complies. The proposed modifications are generally confined to the approved building envelope and improve the amenity and function for future users. The changes are substantially the same as approved. The proposal improves safety and accessibility and represents an enhancement of the originally approved scheme. There are no additional amenity or other impacts upon the amenity of adjoining or properties. As such, the proposal is considered to be worthy of development consent.