

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2021/0274
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<b>Responsible Officer:</b>	Alex Keller
<b>Land to be developed (Address):</b>	Lot 1 DP 710661, 2 Delmar Parade DEE WHY NSW 2099
<b>Proposed Development:</b>	Modification of Development Consent DA2017/1183 (as modified by MOD2020/0081) granted for a mixed use development comprising retail shops and shop top housing
<b>Zoning:</b>	Warringah LEP2011 - Land zoned B4 Mixed Use
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Margaret Mary Wells Simon Andrew Wykeham Wells Timothy William Wykeham Wells Peter Guilford Leonard Yvette Maree Leonard Dee Why 1 Pty Ltd Dee Why 2 Pty Ltd
<b>Applicant:</b>	Landmark Group Australia Pty Ltd

<b>Application Lodged:</b>	27/05/2021
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Mixed
<b>Notified:</b>	02/06/2021 to 23/06/2021
<b>Advertised:</b>	02/06/2021
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

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

- Minor change to selected elements of the southern facade treatment 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 Building Code of Australia BCA / National Construction Code)

2. Removal of stairs in front of commercial tenancy 3 to create a more usable outdoor space and installation of glass balustrade.
3. Minor amendments to the internal layouts of units 113 and 601.
4. 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.
5. Updating of the roof plan to reflect void penetration, 500 millimetre (mm) overhang to slabs below.
6. 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.
7. Installation of operable louvres over the roof voids.
8. 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*.

## ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Assessment - Dee Why Town Centre Contributions Plan 2019  
Warringah Local Environmental Plan 2011 - 7.3 Objectives for development within Dee Why Town Centre

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 710661 , 2 Delmar Parade DEE WHY NSW 2099
<b>Detailed Site Description:</b>	The site is located on the south-western junction of Pittwater Road and Delmar Parade and has street frontages to

Pittwater Road of 40.98 metres (m) and Delmar Parade of 29m, generally at the southern entry to the Dee Why Town Centre. The site is 2,060 square metres (sqm) in area.

The site currently approved for redevelopment of a mixed use building and works are in progress for the construction that building as per the modified consent for DA2017/1183 (MOD2020/0081).

Development surrounding the subject site is a mix of commercial, retail and residential buildings. To the north of the site is 822 Pittwater Road, which is a 7 to 8 storey, mixed use building. To the east of the site is a commercial office development.

To the south of the site is No. 814 - 816 Pittwater Road, which is currently commercial use and further to the south, is the Stony Range Garden (public park). West of the site on the opposite side of Pittwater Road is a service station, a residential flat building and detached dwellings in the low density residential zone.

The land is moderately sloping with a level difference of approximately 1.5m between the south western corner and the north eastern corner.

Map:



## SITE HISTORY

**Development Application No.DA2017/1183** was considered at the SNPP on 13 June 2018. In the Assessment Report, Council outlined a case for refusal of the application based on the following grounds:

1. Site isolation of the adjoining property to the south, 814-816 Pittwater Road, Dee Why (known as the Avis site);
2. Approval from the NSW Roads and Maritime Services (RMS) was not provided;
3. Non-compliances with the requirements of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and associated Apartment Design Guide (ADG);
4. Non-compliance with the Building Height - Clause 4.3 Height of Buildings development standard of the Warringah Local Environmental Plan 2011;
5. Non-compliance with the requirements of Warringah Development Control Plan (WDCP 2011), in relation to site amalgamation, number of storeys, Clause C2 - Traffic, Access and Safety and Clause C4 – Stormwater.

At the meeting, the Panel concurred with the reasons for refusal in the Assessment Report, however made the decision to defer the determination of the application to allow the Applicant to attend to and respond to the following:

- *“An offer of purchase submitted to the owner of the adjoining Avis site based on an independent valuation and a response from the owner including the valuation (or evidence of lack of response);*
- *In case of a negative or no response, the provision of a right-of-way through the subject site that could be utilised as access to the Avis site in case it gets redeveloped in the future;*
- *Evidence of support from the RMS for the traffic impact of the proposal;*
- *A minimum setback of 6m from the front southern boundary above podium level and from the rear southern boundary from the ground;*
- *Improved access to and quality of the communal open space at podium level, which is to be achieved by the deletion of Unit 45 and above;*
- *Provision of deep soil planting along the eastern boundary at ground level to a minimum area of 5m x 5m;*
- *Re-calculation of the GFA on the basis that garbage facilities not in the basement and corridors which are enclosed on their long side are included as floor space;.*

The Panel noted that, *“if the above issues are satisfactory resolved, the panel may accept that an increase in the height of the development above the current control (3.0m) may be acceptable. Similarly, the Panel may accept that a four-storey has merit on this site”.*

A Supplementary Report was prepared and submitted to the Panel on 12 September 2018, which addressed the above matters.

The Sydney North Planning Panel approved the development application, subject to condition, on 12 September 2018.

**Modification Application No.MOD2020/0081** for changes to DA2017/01183 which included a comprehensive variety of minor modifications to all floor levels for selected bedrooms and unit mix. Modification work also included minor changes to both basement levels and the ground floor areas and the cosmetic (streetscape) presentation of the building. The modification was assessed as a "section 4.55(2)" modification and approved by Council.

**Modification Application No.MOD2021/0253** was withdrawn prior to completion of the lodgement process.

## **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

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

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

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

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2017/1183, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
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	<p><b>Yes</b></p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <ul style="list-style-type: none"> <li>• The intensity of the development on the site is unchanged. There is no change proposed to the quantum of apartments or commercial floor space.</li> <li>• 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 only 2 of the 71 apartments.</li> <li>• 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.</li> </ul>
(b) it is satisfied that the development to which the consent as modified relates is substantially	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under

Section 4.55(1A) - Other Modifications	Comments
<p>the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and</p>	<p>DA2017/1183 for the following reasons, including considerations under MOD2020/0081 where appropriate:</p> <ul style="list-style-type: none"> <li>• The building does not change the principle built form controls of the building and maintains it overall appearance and design qualities in accordance with Part G Special Area Controls of the WDCP 2011.</li> <li>• The proposed modifications are consistent with the reasons for approval of the original development consent and maintain consistency with the conditions of consent provided (as modified by MOD2020/0081).</li> <li>• The modification works are 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 / size and overall appearance of the development on the site.</li> <li>• Quantitatively, the proposed modifications to the approved development are of a minor nature such that they do not change the appearance of the development in any way. The minor increase in Gross Floor Area is a result of enclosure of part of the corridor for weather protection purposes.</li> <li>• The modification 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 and overall fabric when viewed from surrounding land.</li> </ul>
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan.</p>

Section 4.55(1A) - Other Modifications	Comments
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.	No submissions were received in relation to this modification application.

### Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 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 relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed modification retains the residential use of the site, and is not considered a contamination risk as addressed pursuant to the original assessment of DA2017/1183.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation was submitted with the original application and has been provided with a summary review to support the modification changes. The proposal remains consistent with the approved design as modified and the reasons for approval.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>request additional information. Some supplementary information was requested to address traffic access within the basement parking area (including structural position of a support pillar). Suitable and minor changes were made to address safety access in the loading dock area / entry driveway with amended plans dated 31.8.2021 received to resolve technical issues for parking vehicle movement inside the building. This information of a routine Traffic referral assessment consideration and does not warrant re-notification pursuant to the <i>Community Participation Plan</i>.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent..</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA / National Construction Code). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This matter has been addressed via a condition in the original consent and has been provided with supporting information with a revised design verification by <i>RotheLowman</i> dated 7.5.2021 as part of the modification application.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development modification will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development modification will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development modifications.</p>



Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the modification application in the public interest. Previous submissions under the original DA and other modifications have been reviewed as part of the assessment consideration for this modification.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 02/06/2021 to 23/06/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
Strategic and Place Planning (Urban Design)	<p><b>Supported with no additional / modified conditions.</b></p> <p>The application seeks approval for a range of minor refinements to the development to modify the consent for Development Application DA2017/1183 for demolition works and construction of a mixed-use development comprising of retail shops and shop-top housing. The proposed amendments will not change the fundamental characteristics of the original approval, and as such, will not result in any adverse impacts on the amenity of the locality.</p>
Traffic Engineer	<p><b>Supported</b></p> <p><u>Traffic Engineering Comments in review of the Amended Architectural plans dated 31/08/2021:</u> The amendments on the proposed accessway, in response to the Council's concerns raised earlier, have addressed the concerns. Therefore, the proposed modification can be supported by the transport team.</p> <p><u>Earlier Referral Comments:</u></p>

Internal Referral Body	Comments
	<p>The proposed modification includes changes to the ground level and basement carpark. The proposed changes incorporate reconfigurations within the ground level and basement car parking area resulting in changes on the number and location of parking spaces, and reconfigured accessway on ground level.</p> <p>The proposed modification on the accessway design on ground level has previously been reviewed and considered inappropriate. As a result, the accessway was redesigned to incorporate smoother bends and provide improvements on the required two-way traffic flow along the accessway. Given the above, the proposed changes on the accessway are not supported.</p> <p>No objection is raised on the car parking reconfiguration subject to no reduction on the number of spaces currently approved for individual uses/purpose. Given the above, the proposed modification is unsupported.</p> <p><u>Planning Comment</u> The latest amended plans show parking proposed to now be 82 Residential, 13 Visitor Residential and 17 Retail + loading dock. Various disabled access spaces are distributed accordingly within the residential and retail and visitor components. In order to ensure the conditions are consistent with the submitted plans and no net loss of parking for either component, condition 54 is adjusted to suit the amended plans including a minimum of 14 residential visitor spaces.</p> <p>Given the retail spaces are split between two floors and additional residential spaces were created for the modification an allocation of 18 retail is appropriate with the balance of 80 residential, considering the scale of the building and DCP compliance achieved. This has been discussed with Traffic Engineering as acceptable. This also supports car parking being used for its constructed purpose and not other miscellaneous uses that would displace basement parking toward the Delmar Parade or nearby. A modified condition (no.54) is recommended to suit.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to <i>Ausgrid</i> . A response has been received on the 8 June 2021 with advisory comments regarding the proximity of existing electrical network assets. These referral comments / requirements are already part of the conditions of consent.

### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and

LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

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

## **State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)**

### **SEPP 55 - Remediation of Land**

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. This matter was addressed in the assessment of DA2017/1183 where the 'Due Diligence Contamination Investigation Report', prepared by *Douglas Partners* dated February 2016.

The modification application was also referred to Council's Environmental Health Officer who raised no objection to the proposal. Accordingly, based on the information submitted, it was considered that the requirements of SEPP had been satisfied and the land was considered to be suitable for the development subject to conditions, as per the parent development assessment.

The modification of DA2017/1183 (i.e. this application) does not alter the depth of the excavation to accommodate the basement carpark and is not considered to compromise the findings of the 'Due Diligence Contamination Investigation Report' nor the conditions imposed in DA2017/1183 (as previously modified).

### **SEPP 65 - Design Quality of Residential Apartment Development**

The development is required to comply with SEPP 65, and the associated Apartment Design Guide (ADG) provides additional details and guidance for applying the nine design quality principles outlined in SEPP.

As per the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP are applicable to the assessment of this modification application.

As previously outlined within this report Clause 50(1A) of the EP&A Regulation 2000 requires the submission of a Design Verification Statement from the building designer at lodgement of the development application. This documentation has been submitted for the modification.

Clause 28 of SEPP requires that in determining a development application for consent to carry out development to which SEPP 65 applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):

- a. The advice (if any) obtained from the design review panel, and
- b. The design quality of the development when evaluated in accordance with the design quality principles, and
- c. The ADG.

## **DESIGN & SUSTAINABILITY ADVISORY REVIEW PANEL**

The modifications relate to minor elements and mostly internal components to address construction (in progress) and structural contingencies that do not warrant referral to the DSAP.

## **DESIGN QUALITY PRINCIPLES**

### **Principle 1: Context and Neighbourhood Character**

*Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.*

*Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.*

#### Comment

The site is located within the Dee Why Town Centre as defined by the Warringah Local Environmental Plan 2011.

Contextually, the site features as a gateway into and out of the Centre being the last of two notable sites situated at the southern end of the Centre.

The modified design of the building is considered to be appropriate to this context as it makes only subtle changes to a selected elements of the building internal areas that are mostly not visible to the public domain. The overall appearance of the building is substantially the same.

Accordingly, it is considered that the modified proposal satisfies this principle.

### **Principle 2: Built Form and Scale**

*Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.*

*Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.*

#### Comment

The proposed development is considered to contain a number of examples of good design in terms of its built form, including the composition of building setbacks, levels of articulation, use of balconies, podiums, fine-edged roof forms, recessing and strongly defined elements.

The proportions, transitions, materials and elongated north-south flow of the building are considered to be favourable aspects of its built form and are maintained. The facades of the building remain the same overall appearance as approved and do not adversely impact adjacent land or traffic access to Pittwater Road. The modification maintains its emphasizes of the corner status of the building and the 'gateway' significance of the site for Dee Why CBD. The overall floor space is increased marginally from 2.99:1 to 3.06:1 FSR with the Gross Floor area

Accordingly, it is considered that the modified proposal satisfies this principle.

### **Principle 3: Density**

*Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.*

*Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.*

#### Comment

The modified proposal achieves the same density as that approved under DA2017/1183 (including as modified by MOD2020/0081).

Accordingly, it is considered that the modified proposal satisfies this principle.

### **Principle 4: Sustainability**

*Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.*

#### Comment

The proposed works include demolition of all structures currently on the site and excavation works to accommodate the new development.

An updated BASIX certificate (see Certificate No. 1068650M-08 dated 17 May 2021) for the residential component of the development has been submitted with the application. The certificate confirms that the development is capable of achieving the water and energy targets and has obtained a pass for thermal comfort as previously approved. Waste and bin management facilities remain consistent with the approved building design.

Accordingly, it is considered that the modified proposal satisfies this principle.

### **Principle 5: Landscape**

*Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.*

*Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.*

#### Comment

The modified proposal includes maintains the approved landscape scheme which responds to the streetscape through the provision of a landscaped podium edge facing Pittwater Road and a lower landscaped podium facing No. 4 Delmar Parade and No. 816 Pittwater Road, which remains consistent with the approved design with no significant change.

Accordingly, it is considered that the modified proposal satisfies this principle.

### **Principle 6: Amenity**

*Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.*

*Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.*

#### Comment

The modified development provides a high level of amenity both internally and externally.

Given the challenge of the irregular shape of the site and its location to a major arterial road, the modification does not adversely impact the approved room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.

Accordingly, it is considered that the modified proposal satisfies this principle.

### **Principle 7: Safety**

*Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.*

*A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.*

#### Comment

The modified design satisfies the principles of CPTED and includes a positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose, with suitable weather protection.

Generally, the development provides secure access which is separated from all vehicular access points. All apartments provide balconies and windows which provides passive surveillance over Pittwater Road, Delmar Parade and the properties to the east (i.e. No. 4 Delmar Parade).

Accordingly, it is considered that the modified proposal satisfies this principle.

### **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.*

Comment

The provision of a mix of apartment sizes in this location is considered reasonable due to the site's close proximity to major bus interchanges, commercial facilities and opportunities within the DYTC and being within walking distance to the beach and public amenities and facilities and the future Dee Why Town Centre redevelopment.

Accordingly, it is considered that the modified proposal satisfies this principle.

**Principle 9: Aesthetics**

*Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.*

*The visual appearance of well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.*

Comment

The modified development exhibits a high standard of architectural aesthetic which would contribute positively to the transitional streetscape at the southern end of the Town Centre.

The approved design incorporates a substantial use of glazing, recessed balconies, architectural framing and a variety of materials and textures which are integrated and will provide a visual "uplift" of this site and this portion of Town Centre. The building modification does not alter the modern and contemporary form of the overall building's physical and material articulation and modulation to provide a distinctive and strongly defined corner element to the southern gateway of the Town Centre.

Accordingly, it is considered that the modified proposal satisfies this principle.

**APARTMENT DESIGN GUIDE**

The following table is an assessment against the criteria of the 'Apartment Design Guide' as required by SEPP 65.

Development Control	Criteria / Guideline	Comments
<b>Part 3 Siting the Development</b>		
<b>Site Analysis</b>	Does the development relate well to its context and is it sited appropriately?	<p><b>Consistent</b></p> <p>A Site Analysis Plan has been submitted with the application.</p> <p>The modification application also includes the following reports to inform the assessment of the application:</p> <ul style="list-style-type: none"> <li>• SEPP 65 Design Statement;</li> <li>• Basix Certificate; and</li> <li>• Statement of Environmental Effects.</li> </ul>
<b>Orientation</b>	Does the development respond to the streetscape	<b>Consistent</b>

	and site and optimise solar access within the development and to neighbouring properties?	As discussed elsewhere in this report under the Design Quality Principles a within the relevant clauses under the WDCP 2011. The modification maintains its streetscape appearance as appropriate for the and optimises solar access within the development and to neighbouring properties.												
<b>Public Domain Interface</b>	Does the development transition well between the private and public domain without compromising safety and security?  Is the amenity of the public domain retained and enhanced?	<b>Consistent</b>  The development is considered to provide a satisfactory transition between the private and public domains without compromising safety and security.												
<b>Communal and Public Open Space</b>	Appropriate communal open space is to be provided as follows:  1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid winter)	<b>Consistent</b>  Given the site area of 2,060sqm, the development is required to provide 515sqm communal open space.  The development maintains 595sqm (27.7%) communal open space (which include soft landscaping 346.7sqm (16.8%), seating areas and associated walkways).  Subject to the future development of Delmar Parade, the principal communal open space area will receive a minimum 50% direct sunlight for a 2 hour period between 9am and 3pm on 21 June which will be primarily gained between 10am and Noon (inclusive).												
<b>Deep Soil Zones</b>	Deep soil zones are to meet the following minimum requirements:  <table border="1" data-bbox="331 1592 959 2136"> <thead> <tr> <th>Site area</th> <th>Minimum dimensions</th> <th>Deep soil zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>Less than 650m<sup>2</sup></td> <td>-</td> <td rowspan="4">7%</td> </tr> <tr> <td>650m<sup>2</sup> – 1,500m<sup>2</sup></td> <td>3m</td> </tr> <tr> <td>Greater than 1,500m<sup>2</sup></td> <td>6m</td> </tr> <tr> <td>Greater than 1,500m<sup>2</sup> with significant existing tree cover</td> <td>6m</td> </tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m <sup>2</sup>	-	7%	650m <sup>2</sup> – 1,500m <sup>2</sup>	3m	Greater than 1,500m <sup>2</sup>	6m	Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m	<b>Acceptable on merit</b>  Given the site area of 2,060m <sup>2</sup> , the development is required to provide a (144.2m <sup>2</sup> ) deep soil zone within a minimum dimension of 6.0m.  The development does not provide a deep soil landscaping within the minimum dimension of 6.0m. However, it does provide areas being contained within consolidated pockets at the central courtyard area and along the eastern edge of the podium.  The net landscaping (planter boxes, podium areas etc) is 346.7sqm or 16.8%.
Site area	Minimum dimensions	Deep soil zone (% of site area)												
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	<p>Achieving the design criteria may not be possible on some sites including where:</p> <ul style="list-style-type: none"> <li>the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres);</li> <li>there is 100% site coverage or non-residential uses at ground floor level.</li> </ul> <p>Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure.</p>	<p>The Design Guidance of Clause 3E-1 the development is located within the Dee Why Town Centre and is constrained by its shape and that the 100% site coverage of non-residential uses at the ground floor level.</p> <p>The development achieves acceptable stormwater management and provide alternative forms of planting on the podium level.</p>																																				
<p><b>Visual Privacy</b></p>	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="333 1016 959 1375"> <thead> <tr> <th>Building height</th> <th>Habitable rooms and balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table> <p><i>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</i></p> <p><i>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</i></p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p><b>No change - Satisfactory</b></p> <p>The habitable rooms and balconies in development are arranged to face outward to Pittwater Road, Delmar Parade and towards No. 4 Delmar Parade.</p> <p>Given that the habitable rooms and balconies facing Pittwater Road and Delmar Parade comply with the separation requirements due to the room widths. The approved configuration below is maintained.</p> <table border="1" data-bbox="986 1402 1474 1928"> <thead> <tr> <th>Height</th> <th>Level</th> <th>Rooms</th> <th>Balcor</th> </tr> </thead> <tbody> <tr> <td rowspan="3">12m Req 6m</td> <td>1</td> <td>6m to 8m</td> <td>4m &amp; 5</td> </tr> <tr> <td>2</td> <td>6m to 8m</td> <td>6m</td> </tr> <tr> <td>3</td> <td>6m to 8m</td> <td>6m</td> </tr> <tr> <td rowspan="3">25m Req 9m</td> <td>4</td> <td>6m to 8m</td> <td>7m</td> </tr> <tr> <td>5</td> <td>6m to 8m</td> <td>7m</td> </tr> <tr> <td>6</td> <td>6m to 8m</td> <td>7m</td> </tr> </tbody> </table> <p><b>Note:</b> Distances are to the side boundary.</p> <p>No change proposed to separation distances for the building. The</p>	Height	Level	Rooms	Balcor	12m Req 6m	1	6m to 8m	4m & 5	2	6m to 8m	6m	3	6m to 8m	6m	25m Req 9m	4	6m to 8m	7m	5	6m to 8m	7m	6	6m to 8m	7m
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		<p>separations at Levels 1 to 3 are satisfactory as approved for the objectives and requirement of Clause 1.</p> <p>The approved configuration below is maintained.</p> <table border="1" data-bbox="986 548 1474 1070"> <thead> <tr> <th>Separation</th> <th>Level</th> <th>Rooms</th> <th>Balcoi</th> </tr> </thead> <tbody> <tr> <td rowspan="3">12m (2 x 6m)</td> <td>1</td> <td>15m to 17m</td> <td>13m to 14m</td> </tr> <tr> <td>2</td> <td>15m to 17m</td> <td>15m</td> </tr> <tr> <td>3</td> <td>15m to 17m</td> <td>15m</td> </tr> <tr> <td rowspan="3">18m (2 x 9m)</td> <td>4</td> <td>15m to 17m</td> <td>16m</td> </tr> <tr> <td>5</td> <td>15m to 17m</td> <td>16m</td> </tr> <tr> <td>6</td> <td>15m to 17m</td> <td>16m</td> </tr> </tbody> </table> <p><b>Note:</b> Distances are building-to-buildi</p> <p>The above elements demonstrate the modification is substantially the same approved.</p>	Separation	Level	Rooms	Balcoi	12m (2 x 6m)	1	15m to 17m	13m to 14m	2	15m to 17m	15m	3	15m to 17m	15m	18m (2 x 9m)	4	15m to 17m	16m	5	15m to 17m	16m	6	15m to 17m	16m
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<p><b>Pedestrian Access and entries</b></p>	<p>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>	<p><b>Consistent</b></p> <p>The development provides an access and legible building entry which defin the private property from the public domain. Minor change for weather protection.</p>																								
<p><b>Vehicle Access</b></p>	<p>Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?</p>	<p><b>Consistent</b></p> <p>The development includes a 6.6m wii driveway and crossover which facilita adequate sightline distances along th adjacent footpath.</p> <p>Minor internal change proposed to as with basement layout, services and provision of additional parking. This h been addressed by Councils Traffic Engineering assessment for the</p>																								

		basement modification layout.
<b>Bicycle and Car Parking</b>	<p>For development in the following locations:</p> <ul style="list-style-type: none"> <li>On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or</li> <li>On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</li> </ul> <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>	<p><b>Consistent</b></p> <p>The site is located within a B4 Mixed zone.</p> <p>A comparison between the RMS Guide to Traffic Generating Developments and the <i>Warringah Development Control Plan 2011</i> (WDCP) reveals that the two parking rates are identical.</p> <p>Therefore, the parking requirements of the WDCP have been applied.</p> <p>The development provides car parking surplus to the requirements of the WDCP (see Clause 'C3 - Parking Facilities' in the WDCP section of this report).</p> <p><u>Bicycle parking</u></p> <p>The ADG does not include any numerical requirement for the provision of bicycle parking. This is addressed under Clause C3(A) of the WDCP 2011 whereby the development has been found to comply with the requirements as approved.</p> <p>Bike parking is shown on Basement Level 1 &amp; 2 and ground level near the access.</p>
<b>Part 4 Designing the Building</b>		
<b>Amenity</b>		
<b>Solar and Daylight Access</b>	<p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> <li>Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter.</li> </ul>	<p><b>Consistent</b></p> <p>The development provides a compliant number of apartments which receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid winter.</p>

	<ul style="list-style-type: none"> <li>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter.</li> </ul>	<p><b>Consistent</b></p> <p>No change to the approved regime.</p>												
<b>Natural Ventilation</b>	<p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:</p> <ul style="list-style-type: none"> <li>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</li> </ul>	<p><b>Consistent</b></p> <p>The development provides adequate number of apartments which are naturally cross ventilated. No change the approved regime for the modifica</p>												
	<ul style="list-style-type: none"> <li>Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.</li> </ul>	<p><b>Consistent</b></p> <p>The overall depth of cross-through apartments do not exceed 18m. No change.</p>												
<b>Ceiling Heights</b>	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="331 1070 959 1659"> <thead> <tr> <th colspan="2">Minimum ceiling height</th> </tr> </thead> <tbody> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td>For 2 storey apartments</td> <td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td> </tr> <tr> <td>Attic spaces</td> <td>1.8m at edge of room with a 30 degree minimum ceiling slope</td> </tr> <tr> <td>If located in mixed used areas</td> <td>3.3m for ground and first floor to promote future flexibility of use</td> </tr> </tbody> </table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	<p><b>Consistent</b></p> <p>The development retains the following floor-to-ceiling heights:</p> <ul style="list-style-type: none"> <li>Habitable Rooms: 2.8m</li> <li>Non-Habitable Rooms: 2.8m</li> <li>Commercial: 3.8m</li> </ul>
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<b>Apartment Size and Layout</b>	<p>Apartments are required to have the following minimum internal areas:</p> <table border="1" data-bbox="331 1809 959 2033"> <thead> <tr> <th>Apartment type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m<sup>2</sup></td> </tr> <tr> <td>1 bedroom</td> <td>50m<sup>2</sup></td> </tr> <tr> <td>2 bedroom</td> <td>70m<sup>2</sup></td> </tr> <tr> <td>3 bedroom</td> <td>90m<sup>2</sup></td> </tr> </tbody> </table> <p>The minimum internal areas include only one</p>	Apartment type	Minimum internal area	Studio	35m <sup>2</sup>	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	<p><b>Consistent</b></p> <p>The development retains the following apartment sizes:</p> <ul style="list-style-type: none"> <li>1 Bedroom: ~50m<sup>2</sup> to ~86m<sup>2</sup>.</li> <li>2 Bedroom: ~75m<sup>2</sup> to ~102m<sup>2</sup></li> <li>3 Bedroom: ~91m<sup>2</sup> to ~111m<sup>2</sup></li> </ul> <p>(See architectural plans for comparison and minor change subject to construction phase and Strata allocation)</p>		
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<p>bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</p>																											
<p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p>	<p><b>Consistent</b></p> <p>Each room has a window in an external wall with a total minimum glass area of not less than 10% of the floor area of room. No change for the modification</p>																										
<p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p>	<p><b>Not applicable</b></p> <p>All apartments are open plan layout. No change</p>																										
<p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p>	<p><b>Satisfactory. No change</b></p> <p>The development includes habitable room depths of between 7m and 8.7m with no change proposed as per the existing approved regime below:</p> <p>The non-compliant units are existing minor variations as approved previously</p> <table border="1" data-bbox="979 1176 1471 1758"> <thead> <tr> <th>Unit</th> <th>Depth</th> </tr> </thead> <tbody> <tr><td>101</td><td>8.2m</td></tr> <tr><td>109</td><td>8.7m</td></tr> <tr><td>201</td><td>8.2m</td></tr> <tr><td>209</td><td>8.7m</td></tr> <tr><td>301</td><td>8.2m</td></tr> <tr><td>309</td><td>8.7m</td></tr> <tr><td>401</td><td>8.6m</td></tr> <tr><td>402</td><td>8.6m</td></tr> <tr><td>403</td><td>8.6m</td></tr> <tr><td>404</td><td>8.6m</td></tr> <tr><td>502</td><td>8.6m</td></tr> <tr><td>602</td><td>8.6m</td></tr> </tbody> </table> <p>The above elements of the modification is substantially the same as approved</p> <p>(See architectural plans for comparison and minor change subject to construction phase and Strata allocation)</p>	Unit	Depth	101	8.2m	109	8.7m	201	8.2m	209	8.7m	301	8.2m	309	8.7m	401	8.6m	402	8.6m	403	8.6m	404	8.6m	502	8.6m	602	8.6m
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<p>Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space).</p>	<p><b>Satisfactory. No change</b></p> <p>The non-compliant units are existing</p>																										

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	<p>Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension.</p>	<p><b>Consistent</b></p> <p>All bedrooms have a minimum dimension of 3m (excluding built in wardrobes). change.</p>																											
	<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> <li>• 3.6m for studio and 1 bedroom apartments</li> <li>• 4m for 2 and 3 bedroom apartments</li> </ul>	<p><b>Consistent</b></p> <p>All apartments achieve widths of greater than 4m. No change.</p>																											
	<p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	<p><b>Consistent</b></p> <p>All cross-through apartments have widths greater than 4.0m.</p>																											
<p><b>Private Open Space and Balconies</b></p>	<p>All apartments are required to have primary balconies as follows:</p> <table border="1"> <thead> <tr> <th>Dwelling Type</th> <th>Minimum Area</th> <th>Minimum Depth</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m<sup>2</sup></td> <td>-</td> </tr> <tr> <td>1 bedroom apartments</td> <td>8m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>2 bedroom apartments</td> <td>10m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>12m<sup>2</sup></td> <td>2.4m</td> </tr> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3m.</p>	Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m <sup>2</sup>	-	1 bedroom apartments	8m <sup>2</sup>	2m	2 bedroom apartments	10m <sup>2</sup>	2m	3+ bedroom apartments	12m <sup>2</sup>	2.4m	<p><b>Satisfactory. No change</b></p> <p>The development provides the following private open space and balcony sizes:</p> <table border="1"> <thead> <tr> <th>Type</th> <th>Area</th> <th>Depth</th> </tr> </thead> <tbody> <tr> <td>1 Bedroom</td> <td>8m<sup>2</sup> to 19m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>2 Bedroom</td> <td>10m<sup>2</sup> to 75m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>3 Bedroom</td> <td>18m<sup>2</sup> to 67m<sup>2</sup></td> <td>2m to 2.4m</td> </tr> </tbody> </table> <p>No change, as previously approved under existing conditions.</p> <p><b>Satisfactory. No change</b></p> <p>The development includes 14 apartments which are sited at the podium level.</p>	Type	Area	Depth	1 Bedroom	8m <sup>2</sup> to 19m <sup>2</sup>	2m	2 Bedroom	10m <sup>2</sup> to 75m <sup>2</sup>	2m	3 Bedroom	18m <sup>2</sup> to 67m <sup>2</sup>	2m to 2.4m
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2 Bedroom	10m <sup>2</sup> to 75m <sup>2</sup>	2m																											
3 Bedroom	18m <sup>2</sup> to 67m <sup>2</sup>	2m to 2.4m																											

		<p>The non-compliant units are existing minor variations as approved previous</p> <table border="1" data-bbox="986 376 1474 1048"> <thead> <tr> <th>Unit</th> <th>Area</th> <th>Depth</th> </tr> </thead> <tbody> <tr><td>101</td><td>8m<sup>2</sup> &amp; 11m<sup>2</sup></td><td>1m to 2.4</td></tr> <tr><td>102</td><td>8m<sup>2</sup> &amp; 10m<sup>2</sup></td><td>1m to 1.8</td></tr> <tr><td>103</td><td>8m<sup>2</sup> &amp; 11m<sup>2</sup></td><td>1m to 2n</td></tr> <tr><td>104</td><td>8m<sup>2</sup> &amp; 10m<sup>2</sup></td><td>1m to 1.8</td></tr> <tr><td>105</td><td>8m<sup>2</sup></td><td>1m to 3n</td></tr> <tr><td>106</td><td>8m<sup>2</sup></td><td>1m to 3n</td></tr> <tr><td>107</td><td>5m<sup>2</sup> &amp; 12m<sup>2</sup></td><td>1m to 3n</td></tr> <tr><td>108</td><td>11m<sup>2</sup></td><td>1m to 1.9</td></tr> <tr><td>109</td><td>21m<sup>2</sup></td><td>2m</td></tr> <tr><td>110</td><td>3m<sup>2</sup> &amp; 15m<sup>2</sup></td><td>1m to 2n</td></tr> <tr><td>111</td><td>24m<sup>2</sup></td><td>1m to 3.1</td></tr> <tr><td>112</td><td>23m<sup>2</sup></td><td>1m to 3.1</td></tr> <tr><td>113</td><td>11m<sup>2</sup></td><td>1m to 1.9</td></tr> <tr><td>114</td><td>31m<sup>2</sup></td><td>1.8m to 4</td></tr> </tbody> </table> <p>No change as approved with existing conditions.</p>	Unit	Area	Depth	101	8m <sup>2</sup> & 11m <sup>2</sup>	1m to 2.4	102	8m <sup>2</sup> & 10m <sup>2</sup>	1m to 1.8	103	8m <sup>2</sup> & 11m <sup>2</sup>	1m to 2n	104	8m <sup>2</sup> & 10m <sup>2</sup>	1m to 1.8	105	8m <sup>2</sup>	1m to 3n	106	8m <sup>2</sup>	1m to 3n	107	5m <sup>2</sup> & 12m <sup>2</sup>	1m to 3n	108	11m <sup>2</sup>	1m to 1.9	109	21m <sup>2</sup>	2m	110	3m <sup>2</sup> & 15m <sup>2</sup>	1m to 2n	111	24m <sup>2</sup>	1m to 3.1	112	23m <sup>2</sup>	1m to 3.1	113	11m <sup>2</sup>	1m to 1.9	114	31m <sup>2</sup>	1.8m to 4
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<p><b>Common Circulation and Spaces</b></p>	<p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>Where Design Criteria 1 is not achieved, no more than 12 apartments should be provided off a circulation core on a single level.</p> <p>Achieving the design criteria for the number of apartments off a circulation core may not be possible. Where a development is unable to achieve the design criteria, a high level of amenity for common lobbies, corridors and apartments should be demonstrated, including:</p> <ul style="list-style-type: none"> <li>• sunlight and natural cross ventilation in apartments.</li> <li>• access to ample daylight and natural ventilation in common circulation spaces.</li> <li>• common areas for seating and gathering.</li> <li>• generous corridors with greater than minimum ceiling heights.</li> <li>• other innovative design solutions that provide high levels of amenity.</li> </ul> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	<p><b>Satisfactory. No significant change</b></p> <p>No change as approved with existing conditions.</p> <p>Communal opens space is increased marginally from 575.2sqm to 595.2sq</p> <p>The non-compliant units are existing minor variations as approved previous</p> <table border="1" data-bbox="986 1518 1474 1832"> <thead> <tr> <th>Level</th> <th>No. Apartment</th> </tr> </thead> <tbody> <tr><td>1</td><td>14</td></tr> <tr><td>2</td><td>14</td></tr> <tr><td>3</td><td>14</td></tr> <tr><td>4</td><td>10</td></tr> <tr><td>5</td><td>10</td></tr> <tr><td>6</td><td>9</td></tr> </tbody> </table> <p>Due to the open plan layout of these circulation areas this remains acceptable for the modification.</p> <p><b>Not applicable</b></p>	Level	No. Apartment	1	14	2	14	3	14	4	10	5	10	6	9																															
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<p><b>Storage</b></p>	<p>In addition to storage in kitchens, bathrooms and</p>	<p><b>Consistent</b></p>																																													

	<p>bedrooms, the following storage is provided:</p> <table border="1" data-bbox="335 338 959 669"> <thead> <tr> <th>Dwelling Type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m<sup>2</sup></td> </tr> <tr> <td>1 bedroom apartments</td> <td>6m<sup>2</sup></td> </tr> <tr> <td>2 bedroom apartments</td> <td>8m<sup>2</sup></td> </tr> <tr> <td>3+ bedroom apartments</td> <td>10m<sup>2</sup></td> </tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling Type	Storage size volume	Studio apartments	4m <sup>2</sup>	1 bedroom apartments	6m <sup>2</sup>	2 bedroom apartments	8m <sup>2</sup>	3+ bedroom apartments	10m <sup>2</sup>	<p>The development requires the following storage:</p> <ul style="list-style-type: none"> <li>• 1 Bedroom x 29 = 174m<sup>3</sup></li> <li>• 2 Bedroom x 37 = 222m<sup>3</sup></li> <li>• 3 Bedroom x 5 = 50m<sup>3</sup></li> <li>• Total Required = 446m<sup>3</sup></li> </ul> <p>The development maintains compliant storage volume and of which 50% is located within the basement car park 50% is located within each respective apartment. (See architectural plans for comparison and minor change subject to construction phase and Strata allocation)</p>
Dwelling Type	Storage size volume											
Studio apartments	4m <sup>2</sup>											
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<b>Acoustic Privacy</b>	<p>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.</p>	<p><b>Consistent</b></p> <p>All garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, private open spaces and circulation areas are located more than 3m away from bedrooms.</p>										
<b>Noise and Pollution</b>	<p>Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.</p>	<p><b>Consistent</b></p> <p>The development is designed to minimise acoustic impact from neighbouring development and the local road network as well as minimising noise transmission to neighbouring land use.</p>										
<b>Configuration</b>												
<b>Apartment Mix</b>	<p>Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.</p>	<p><b>Consistent</b></p> <p>The development provides the following modified apartment mix:</p> <ul style="list-style-type: none"> <li>• 1 Bedroom: 29 (41%) (previous 30 units)</li> <li>• 2 Bedroom: 37 (52%) (previous 36 Units)</li> <li>• 3 Bedroom: 5 (7.1%) (no change)</li> </ul>										
<b>Ground Floor Apartments</b>	<p>Do the ground floor apartments deliver amenity and safety for their residents?</p>	<p><b>Not applicable</b></p>										
<b>Facades</b>	<p>Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.</p>	<p><b>Consistent</b></p> <p>The proposed building maintains its progressive setbacks and good levels of vertical and horizontal articulation such that the resulting building alignments and proportions that are generally</p>										



		<p>balanced and reflective of the internal layout and structure.</p> <p>No change as approved.</p>																				
<p><b>Roof Design</b></p>	<p>Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features.</p> <p>Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top.</p>	<p><b>Consistent</b></p> <p>The development retains a flat roof form which is considered to be consistent with development in the local area and proximity to Dee Why Town Centre.</p> <p>The roof is non-trafficable and cannot be used for common open space.</p>																				
<p><b>Landscape Design</b></p>	<p>Was a landscape plan submitted and does it respond well to the existing site conditions and context.</p>	<p><b>Consistent</b></p> <p>The landscape design for the modified development includes a reasonable level of vegetation that contributes towards the architectural scale of the proposed building without under-utilizing or overcrowding the site such that it impacts upon solar access and which is considered to contribute towards the landscape character of the streetscape and neighbourhood while providing for acceptable levels of internal and external amenity.</p>																				
<p><b>Planting on Structures</b></p>	<p>When planting on structures the following are recommended as minimum standards for a range of plant sizes:</p> <table border="1" data-bbox="314 1384 979 2136"> <thead> <tr> <th>Plant type</th> <th>Definition</th> <th>Soil Volume</th> <th>Soil Depth</th> <th>Soil Area</th> </tr> </thead> <tbody> <tr> <td>Large Trees</td> <td>12-18m high, up to 16m crown spread at maturity</td> <td>150m<sup>3</sup></td> <td>1,200mm</td> <td>10m x 10m or equivalent</td> </tr> <tr> <td>Medium Trees</td> <td>8-12m high, up to 8m crown spread at maturity</td> <td>35m<sup>3</sup></td> <td>1,000mm</td> <td>6m x 6m or equivalent</td> </tr> <tr> <td>Small trees</td> <td>6-8m high, up to 4m crown spread at maturity</td> <td>9m<sup>3</sup></td> <td>800mm</td> <td>3.5m x 3.5m or equivalent</td> </tr> </tbody> </table>	Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Large Trees	12-18m high, up to 16m crown spread at maturity	150m <sup>3</sup>	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m <sup>3</sup>	1,000mm	6m x 6m or equivalent	Small trees	6-8m high, up to 4m crown spread at maturity	9m <sup>3</sup>	800mm	3.5m x 3.5m or equivalent	<p><b>Consistent</b></p> <p>The development retains the 1m x 1m wide high planters at Level 1 and at Levels 4, 5 &amp; 6 which enable the planting of shrubs.</p>
Plant type	Definition	Soil Volume	Soil Depth	Soil Area																		
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	<table border="1"> <tr> <td>Shrubs</td> <td></td> <td></td> <td>500-600mm</td> <td></td> </tr> <tr> <td>Ground Cover</td> <td></td> <td></td> <td>300-450mm</td> <td></td> </tr> <tr> <td>Turf</td> <td></td> <td></td> <td>200mm</td> <td></td> </tr> </table>	Shrubs			500-600mm		Ground Cover			300-450mm		Turf			200mm		
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<b>Universal Design</b>	<p>Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features.</p> <p>The seven core design elements in the <i>LHA Silver Level</i> are:</p> <ol style="list-style-type: none"> <li>1. A safe continuous and step free path of travel from the street entrance and / or parking area to a dwelling entrance that is level.</li> <li>2. At least one, level (step-free) entrance into the dwelling.</li> <li>3. Internal doors and corridors that facilitate comfortable and unimpeded movement between spaces.</li> <li>4. A toilet on the ground (or entry) level that provides easy access.</li> <li>5. A bathroom that contains a hobless shower recess.</li> <li>6. Reinforced walls around the toilet, shower and bath to support the safe installation of grabrails at a later date.</li> <li>7. Stairways are designed to reduce the likelihood of injury and also enable future adaptation.</li> </ol>	<p><b>Consistent</b></p> <p>15 Units being 20% of the total number of units are LHA adaptable units.</p> <p>These are identified on Plan TP06.01 drawn by <i>RotheLowman</i> dated 7.5.20</p>															
<b>Adaptable Reuse</b>	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.	<b>Not applicable</b>															
<b>Mixed Use</b>	<p>Can the development be accessed through public transport and does it positively contribute to the public domain?</p> <p>Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.</p>	<p><b>Consistent</b></p> <p>The development has accessibility to regular public transport routes along Pittwater Road.</p> <p>The ground floor accommodates retail and car parking only. The parking layout is now: Residential :82 (previously 79) Visitor: 14 (previously 14) Retail: 18 (previously 18) Total 114: (previously 111) (Subject to conditions for access parking and motorbike parking may be adjacent the entry / loading dock by</p>															

		Traffic Engineering assessment). See allocation recommended to suit parking as per condition No.54 .
<b>Awnings and Signage</b>	<p>Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development.</p> <p>Signage must respond to the existing streetscape character and context.</p>	<p><b>Consistent</b></p> <p>Awnings are located along the Pittwa Road and Delmar Parade street frontages and compliment the design of the building.</p> <p>Signage is not part of this application</p>
<b>Performance</b>		
<b>Energy Efficiency</b>	Have the requirements in the BASIX certificate been shown in the submitted plans?	<p><b>Consistent</b></p> <p>The BASIX Certificate submitted with application (see Certificate No. 1068650M-08 dated 17 May 2021) indicates that the development will achieve above target scores for water (40) and energy (34) usage while Thermal Comfort will achieve a target pass.</p>
<b>Water Management and Conservation</b>	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	<p><b>Consistent</b></p> <p>The modification maintains consistency with the water disposal measures and the impact of the development on any groundwater seepage.</p>
<b>Waste Management</b>	Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?	<p><b>Consistent</b></p> <p>The modification consistency with the approved Waste Management Plan which demonstrates safe and convenient collection and storage of waste and recycling.</p>
<b>Building Maintenance</b>	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	<p><b>Consistent</b></p> <p>The modification does not alter the overall approved scheme for Schedule Materials and Finishes which ensures longevity and sustainability of the building.</p>

## STANDARDS THAT CANNOT BE USED TO REFUSE DEVELOPMENT CONSENT

Clause 30 of SEPP 65 Standards that cannot be used as grounds to refuse development consent or modification of development consent states that:

(1) If an application for the modification of a development consent or a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:

- (a) if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,
- (b) if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,
- (c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

**Note.** The Building Code of Australia specifies minimum ceiling heights for residential flat buildings.

#### Comment

The development satisfies the requirements of Clause 30(1)(a), (b) and (c).

(2) Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:

- (a) the design quality principles, and
- (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.

(3) To remove doubt:

- (a) sub-clause (1) does not prevent a consent authority from refusing an application in relation to a matter not specified in subclause (1), including on the basis of sub-clause (2), and
- (b) the design criteria specified in sub-clause (1) are standards to which clause 79C (2) of the Act applies.

**Note.** The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant or modify development consent.

#### Comment

It is considered that adequate regard has been given to:

- (a) the design quality principles, and
- (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.

## **SEPP (Infrastructure) 2007**

### Clause 45 - Electricity Infrastructure

Clause 45 of the SEPP 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 5.0m 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 5.0m of an overhead electricity power line.

It is noted that Ausgrid provided their comments and conditions to the referral made under DA2017/1183 and, given that no fundamental change has been made to the approved development within the road reserve and to nearby electricity infrastructure. In summary, the modification of the development would not compromise the existing conditions already imposed by *Ausgrid* under DA2017/1183 (including previous modifications) pertaining to street lighting and the proximity of underground cables in Pittwater Road and Delmar Parade.

The modification proposal was referred to *Ausgrid*. A response has been received on the 8 June 2021 with advisory comments regarding the proximity of existing electrical network assets. These referral comments / requirements are already part of the conditions of consent.

### **Clause 102 - Residential development adjacent to a road corridor**

Clause 102 applies to residential development adjacent to a road corridor or freeway with an annual average daily traffic volume of more than 40,000 vehicles and which the consent authority considers would be likely to be adversely affected by road noise or vibration. The RMS has published traffic volume maps for NSW (*Traffic Volume Maps for Noise Assessment for Building on Land Adjacent to Busy Roads*). The noise assessment for the development is indicated on Map 12 as mandatory under Clause 102 of the SEPP Infrastructure.

Clause 102(2) also requires the consent authority to consider any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.

The supporting guidelines (as published by The Department of Planning in 2008) guide development adjacent to railway lines and along motorways, tollways, freeways, transit ways and other 'busy' roads. For new residential developments, internal noise levels of 35 dB (A) have been set for bedrooms during the night-time period and 40 dB (A) for other habitable rooms.

Clause 102(3) prohibits the consent authority from granting consent to residential development adjacent to a road corridor or freeway unless it is satisfied that appropriate measures will be taken to ensure that the above-mentioned LAeq levels are not exceeded. As the site is located adjacent to Pittwater Road which has volume in order of 47, 000 vehicles per day, this Clause applies to the proposed development.

The modification does not alter the conditions and requirements for acoustic treatment (glazing) for apartments along Pittwater Road as already addressed with the existing consent. No further referral issues are raised pursuant to RMS / Transport NSW (TfNSW) requirements of the SEPP under Section 102 and no referral is required as RMS (TfNSW) requirements are already part of the conditions of consent and remain unchanged / unaffected by the current modification.

### **Clause 106 - Traffic Generating Development**

Pursuant to Clause 106(1) (a) the clause applies to new premises of the relevant size or capacity. (2) In this clause, "relevant size or capacity" means: "in relation to development on a site that has direct vehicular or pedestrian access to any road-the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3".

Clause 106 'Traffic generating development' of the SEPP Infrastructure requires the application be referred to the RMS within seven days, and take into consideration any comments made within 21

days, if the development is specified in Schedule 3 of the SEPP Infrastructure.

Schedule 3 of SEPP Infrastructure requires that the following residential flat developments are referred to the RMS as Traffic Generating Development:

Purpose of Development	Size or Capacity (Site with access to any road)	Size of Capacity (Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road)
Apartment or residential flat building	300 or more dwellings	75 or more dwellings
Commercial premises	10,000m <sup>2</sup> in area	2,500m <sup>2</sup> in area
Refreshment rooms	200 or more motor vehicles	300m <sup>2</sup>
Shops and commercial premises	4,000m <sup>2</sup>	1,000m <sup>2</sup>

The development, as modified by this application, does not seek to change the number of apartments, retail GFA or commercial GFA space.

No additional conditions are imposed to be modified as per the existing requirements address by the RMS (TfNSW) under DA2017/1183 (including previous modifications) and the amendments do not affect existing TfNSW requirements already part of consent conditions. No further referral issues are raised pursuant to RMS / TfNSW requirements of the SEPP under Section 106.

### SEPP (Major Development) 2005

The original development approval was granted consent the Sydney North Planning Panel. The subject modification seeks to make minor changes to selected / limited elements and therefore is not required to be referred to the SNPP.

The proposed modification work is of a minor nature to address contingencies or minor refinements to the overall development. In detail these changes include more efficient arrangement with the parking and service rooms of the approved basement area, selected changes to ancillary elements of the building fabric / access / open space elements, and refinements to address minor building components for construction compliance purposes.

In summary, the proposal remains consistent with the objectives and requirements of the SEPP and the development is substantially the same, being minor changes to the overall size and scale of the approved building.

### Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	Complies
4.3 - Height of Buildings	21m (maximum)	23.5m (Building) (as modified previously)	No change	No (As approved)
		23.78m (lift overrun) (as approved)	No change	No (As approved)

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	N/A
4.6 Exceptions to development standards	N/A
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes
6.4 Development on sloping land	Yes
Part 7 Dee Why Town Centre	Yes
7.3 Objectives for development within Dee Why Town Centre	Yes
7.4 Development must be consistent with objectives for development and design excellence	Yes
7.5 Design excellence within Dee Why Town Centre	Yes
7.6 Height of buildings	Yes
7.10 Allowance for external ancillary plant and roof access	Yes
7.12 Provisions promoting retail activity	Yes
7.13 Mobility, traffic management and parking	Yes

Detailed Assessment

**7.3 Objectives for development within Dee Why Town Centre**

The proposed modifications retain the overall appearance of the building as being substantially the same as approved with only minor or ancillary changes to address contingencies identified during the CC process. The building remains consistent with the DCP objectives for development within the Dee Why Town Centre including urban design outcomes, access, traffic / pedestrian safety, streetscape and amenity controls for residential development. The proposal remains consistent with supporting commercial / business activation of the street frontage and creating an attractive urban environment for leisure, work and residential living. This includes maintaining consistency with design excellence objectives of the DCP, building height controls, provision of adequate infrastructure / services, encouraging retail activity and mobility for pedestrian links and traffic management.

In summary, the modification is consistent with Part 7 of the DCP for the Dee Why Town Centre additional planning and design considerations.

## Warringah Development Control Plan

### Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	N/A	N/A	N/A	N/A
B2 Number of storeys	N/A	N/A	N/A	N/A
B3 Side Boundary Envelope	N/A	N/A	N/A	N/A
B4 Site Coverage	N/A	N/A	N/A	N/A
B5 Side Boundary Setbacks	N/A	N/A	N/A	N/A
B7 Front Boundary Setbacks	N/A	N/A	N/A	N/A
B9 Rear Boundary Setbacks	N/A	N/A	N/A	N/A
D1 Landscaped Open Space and Bushland Setting	N/A	N/A	N/A	N/A

The site is located within "Area 7" under the WDCP 2011 and is therefore subject to Clause A.6 which stipulates that, in the event of any inconsistency between Part G and Parts C, D and E, the requirements of Part G will prevail.

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes
Part G Special Area Controls	Yes	Yes
Part G1 Dee Why Town Centre	Yes	Yes
1 Introduction	Yes	Yes
2 About the Dee Why Town Centre	Yes	Yes
3 Desired Character for the Dee Why Town Centre	Yes	Yes
4 Streetscape and Public Domain	Yes	Yes
5 Design and Architectural Diversity	Yes	Yes
7 Traffic and Parking	Yes	Yes
8 Car Share	Yes	Yes
9 Sustainability	Yes	Yes
10 Water Sensitive Urban Design (WSUD)	Yes	Yes
11 Landscaping	Yes	Yes

## THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

## CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

## CONCLUSION

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

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

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

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2021/0274 for Modification of Development Consent DA2017/1183 (as modified by MOD2020/0081) granted for a mixed use development comprising retail shops and shop top housing on land at Lot 1 DP 710661,2 Delmar Parade, DEE WHY, subject to the conditions printed below:

### A. Add Condition No.1B - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

1B - Modification of Consent - Approved Plans and supporting Documentation

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

a) Modification Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
TP01.05 C Site Plan	7.5.2021	Rothe Lowman
TP01.06 C Communal Landscape Plan	7.5.2021	Rothe Lowman
TP01.08 E Basement Level 2	7.5.2021	Rothe Lowman
TP01.09 F Basement Level 1	31.8.2021	Rothe Lowman
TP01.10 G Ground Level	31.8.2021	Rothe Lowman
TP01.11 D Level 1	7.5.2021	Rothe Lowman
TP01.12 D Level 2	7.5.2021	Rothe Lowman
TP01.13 D Level 3	7.5.2021	Rothe Lowman
TP01.14 D Level 4	7.5.2021	Rothe Lowman
TP01.15 D Level 5	7.5.2021	Rothe Lowman
TP01.16 D Level 6	7.5.2021	Rothe Lowman
TP01.17 C Roof Level	7.5.2021	Rothe Lowman
TP02.05 D Site Elevations - North	7.5.2021	Rothe Lowman

TP02.06 E Site Elevations - South	7.5.2021	Rothe Lowman
TP02.07 D Site Elevations - East	7.5.2021	Rothe Lowman
TP02.08 C Site Elevations - West	7.5.2021	Rothe Lowman
TP03.01 C Site Section 1	7.5.2021	Rothe Lowman
TP03.02 D Site Section 2	7.5.2021	Rothe Lowman
TP03.03 D Site Section 3	7.5.2021	Rothe Lowman
TP03.04 C Site Section 4	7.5.2021	Rothe Lowman
TP06.01 C Adaptable and LHA Plans	7.5.2021	Rothe Lowman

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Basix Certificate 1068650M-08	17.5.2021	Senica Consultancy Group

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

**B. Modify Condition No.3 Compliance with Other Department, Authority or Service Requirements, to read as follows:**

3. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

<b>Other Department, Authority or Service</b>	<b>EDMS Reference</b>	<b>Dated</b>
Ausgrid	Response Ausgrid Referral	8.6.2021
Ausgrid	Response Ausgrid Referral	18/12/2017
Transport for NSW	Referral Response - RMS	1 April 2020

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies."

**C. Modify Condition No.54 - Allocation of Spaces, to read as follows:**

54. Allocation of Spaces

The parking allocation shall maintain parking requirements consistent with the Warringah DCP and plans shown with the following allocation:

- 18 'retail' parking spaces
- 14 'residential visitor' spaces
- 80 'resident' spaces

The above allocation includes disabled access parking to be consistent with that shown on the modification plans, to the satisfaction of the Certifying Authority.

A plan demonstrating the above is to be submitted to the satisfaction of the Certifying Authority prior to issues of the construction certification.

Reason: Maintain consistency with modified plans and compliance with Warringah DCP.

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**



**Alex Keller, Principal Planner**

The application is determined on 09/09/2021, under the delegated authority of:



**Rebecca Englund, Acting Development Assessment Manager**