



Warringah Council

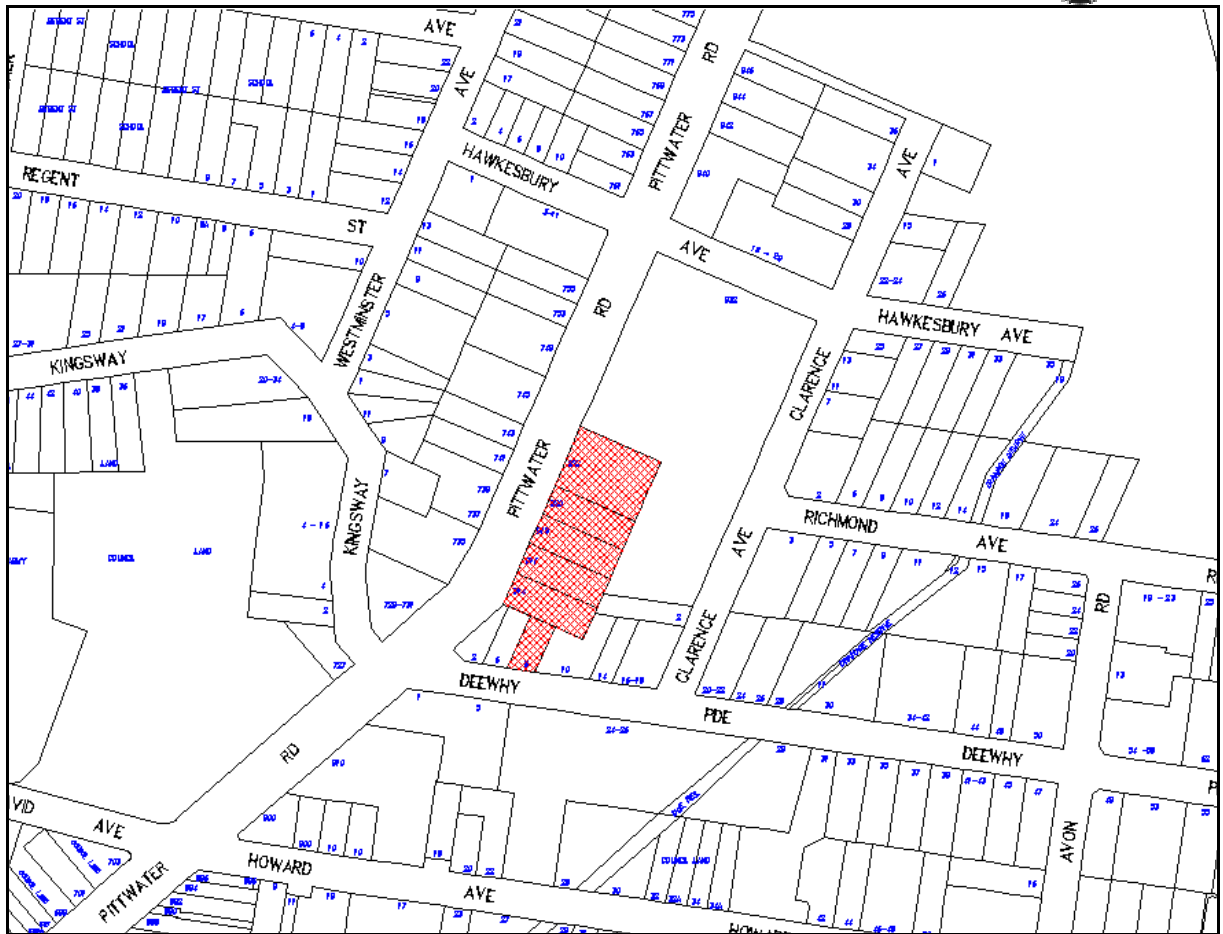
S96 (2) MODIFICATION APPLICATION ASSESSMENT REPORT

Assessment Officer:	Lashta Haidari
Address / Property Description:	914 -930 Pittwater Road and 8 Dee Why Parade, Dee Why.
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Proposal:	Section 96(2) modification of Development Consent No.2006/0807 for internal & external changes to the approved development
Modification Application No.	MOD2009/0178
Plans Reference:	DA00.00, DA00.03, DA01.02, DA01.03, DA01.04, DA01.05, DA01.06, DA01.07, DA02.01, DA02.02, DA02.03, DA03.041 (All Revision 1, dated June 2009) and all prepared by Marchese and Partners Architects.
Applicant:	Dee Why RSL Club Limited
Owner:	Dee Why RSL Club Limited
Application Lodged:	30 June 2009
Amended Plans:	NO
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Locality:	E4 Dee Why Parade and E16 Pittwater Road North
Category:	Category 2 ('Housing for older people or people with a disability')
Clause 20 Variations:	No variation sought as part of this modification
Land and Environment Court Action:	NO
Referred to WDAP:	NO
Referred to ADP:	NO
SUMMARY	
Submissions:	No submissions were received
Submission Issues:	None
Assessment Issues:	Clause 65 - Visual privacy
Recommendation:	Section 96 Approval
Attachments:	None



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LOCALITY PLAN (not to scale)



Subject Site:

- Lot 2 in DP 6953, No. 914 Pittwater Road Dee Why;
- Lot 3 in DP 6953, No. 916 Pittwater Road Dee Why;
- Lot 4 in DP 6953, No. 918 Pittwater Road Dee Why;
- Lot 5 in DP 6953, No. 920 Pittwater Road Dee Why;
- Lot 76 in DP 634746 No. 930 Pittwater Road Dee Why; and
- Lot C in DP 307103, No. 8 Dee Why Parade Dee Why.

Notification:

The subject application was publicly notified and advertised in accordance with the Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan. The notification period was from 20 July 2009 to 11 August 2009. Notification letters were sent to 1167 adjoining owners and occupiers. The application was advertised in the Manly Daily on 18 July 2009.



SITE DESCRIPTION

The subject site is located at 914 - 930 Pittwater Road and 8 Dee Why Parade, Dee Why. The site is irregularly shaped and comprises an area of approximately 6,060m². The total site comprises of six (6) separately defined allotments being described as:

- Lot 2 in DP 6953, No. 914 Pittwater Road Dee Why (998.95sqm);
- Lot 3 in DP 6953, No. 916 Pittwater Road Dee Why (915.17sqm);
- Lot 4 in DP 6953, No. 918 Pittwater Road Dee Why (917.62sqm);
- Lot 5 in DP 6953, No. 920 Pittwater Road Dee Why (919.7sqm);
- Lot 76 in DP 634746 No. 922 (930) Pittwater Road Dee Why (1836.92sqm); and
- Lot C in DP 307103, No. 8 Dee Why Parade Dee Why (463.07sqm).

All allotments are located to the east of Pittwater Road, Dee Why and provide a combined allotment frontage to Pittwater Road of 111.4 metres and frontage to Dee Why Parade of 16.1 metres.

Immediately to the north of the site is the Dee Why RSL Club, to the east of the site is located a two (2) storey car park associated with the RSL Club.

To the south of the site, fronting Dee Why Parade, is located a two (2) storey commercial premises comprised of a chemist, a single storey house and a three (3) storey apartment building. Further to the south, across Dee Why Parade, is located a multi – storey commercial, retail and mixed – use development.

To the west of the site, across Pittwater Road is generally characterised by residential developments.

APPROVED DEVELOPMENT

On 5th July 2007 Council resolved to issue a consent for Development Application No.2006/0807 for the demolition of existing structures and construction of a residential development for older people or people with a disability at 914 -930 Pittwater Road and 8 Dee Why Parade.

PREVIOUS APPROVED MODIFICATIONS

A pervious Section 96 application (Mod2009/0238) was approved by Council on 19 February 2009 for the following works:

- *Reduction in the number of units from 93 to 77 (which includes 7 x 1 bedroom units, 35 x 2 bedrooms, and 35 x 3 bedrooms unit) ;*
- *Modification of the internal apartment layouts and circulation space,*
- *An increase in the floor space of 224.13 square metres within the approved building footprint.*
- *Reconfiguration of the internal communal facilities to improve the circulation and functionality of these spaces;*
- *Reduction of the number of car parking spaces from 117 to 91 and reduction of the overall area of the approved basement car park to bring the basement*



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away from the southern and western boundaries. To increase the deep soil zone landscaping opportunities on the site;

- *Increased the size of private courtyards within the front building setback;*
- *Modification of the layout and design of the communal open space; and*
- *Modification of the external facade to respond to the internal layout changes.*

PROPOSAL IN DETAIL

The modification application seeks consent for the changes outlined below.

- Delete one apartment at ground floor level and incorporate apartment area into communal facilities area.
- Add “Winter Garden” structure to two penthouse apartments;
- Increase paved area in two private courtyards at ground floor (Level B1);
- Provide terrace on existing concrete roof to selected apartments at level 1 facing communal courtyard;
- Provide new balcony to selected apartments at level 2 facing communal courtyard;
- Provide terraces (paved areas on existing concrete roof at level 3);
- Provide new security gates on north-west and south east;
- Provide security fences on south –east and south – west;
- Increase height of private courtyard walls facing Pittwater Road to improve privacy
- Building A, B & C external walls of selected units facing east moved toward north & south to increase amenity to living areas. Facade articulation modified to reationalize structural details (materials interface).

The proposed changes to each approved level is summarised in the Statement Environment Effects prepared by Marchese + Partners international as follows;

Level	Proposed Modification
Level B1	<ul style="list-style-type: none"> ▪ Apartment BB04 & CB01 Private courtyard paved area increased to provide generous private recreational space. ▪ Unit BB.01 deleted and unit area incorporated into communal facilities at level 00. ▪ Private courtyard of deleted unit annexed into communal Courtyard A. ▪ New security added (south –east) ▪ New sliding door provided to Dee Why Parade main entry to create air lock. ▪ New boundary fence provided (south-west & south- east).
Level 00	<ul style="list-style-type: none"> ▪ Privacy courtyard wall height increased to improve privacy (all courtyard facing Pittwater Road). ▪ New security gate provided (north-west). ▪ Terraces increased (tiles in lieu of pebbles) to existing concrete roof (apartments facing east)
Level 01	<ul style="list-style-type: none"> ▪ New terraces (tiles in lieu of pebbles) to existing concrete roof of selected units facing communal courtyards A & B. New screens provided maintain privacy. ▪ Existing windows replaced by sliding



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	<p>doors unit A1.03, B1.01, and B1.04 & C1.01.</p> <ul style="list-style-type: none"> ▪ Opening & louvres added to A1.04 & C1.06 (eastern sun). ▪ A1.5 & B1.06 & C1.05 existing balcony extended.
Level 02	<ul style="list-style-type: none"> ▪ New balconies to selected apartments facing communal courtyards A & B. New screens provided to maintain privacy. ▪ Opening & louvres added to A2.4 & C2.06 (eastern sun) ▪ A2.5 & B2.06 & C2.05 existing balcony extended. ▪ C2.4 external wall extended toward east to comply with accessibility requirements. ▪ Smoke doors deleted.
Level 03	<ul style="list-style-type: none"> ▪ Building B penthouse unit B3.03 & B3.04 has been extended by "Winter Garden" structure. ▪ New terraces (tiles in lieu of pebbles) on existing concrete deck roof to improve amenities. New screens provided to maintain privacy.
Roof Level	<ul style="list-style-type: none"> ▪ Overall height and pitch remain unchanged. ▪ Additional skylights to selected units at level 4 will remain within the existing height limit.
Other Modification	<ul style="list-style-type: none"> ▪ Building A, B & C external walls of selected units facing east moved toward north & south to increase amenity to living areas. ▪ Facade articulation modified to rationalize structural details (materials interface).

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979
- b) Environmental Planning and Assessment Regulations 2000
- c) Water Act 1912 (and associated Regulations)
- d) State Environmental Planning Policy (Building Sustainability index (BASIX) 2004;
- e) State Environmental Planning Policy No 55 – Remediation of Land
- f) State Environmental Planning Policy No 65 – Design Quality for Residential Flat Development
- g) State Environmental Planning Policy – (Housing for seniors or People with a Disability) 2004
- h) Warringah Local Environment Plan 2000
- i) Warringah Development Control Plan
- j) Warringah Section 94A Contributions Plan

REFERRALS

Traffic Engineer

No objections to the proposed modifications have been raised by Council's Traffic Engineer.



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Development Engineers

No objections to the proposed modifications have been raised by Council's Development Engineer.

Landscape Officer

Council's Landscape officer has reviewed the proposed amendments and has raised no objection to the proposed modification.

Energy Australia

Energy Australia has raised no objection to the proposed modification.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application was publicly notified and advertised in accordance with the Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan. The notification period was from 20 July 2009 to 11 August 2009. Notification letters were sent to 1167 adjoining owners and occupiers. The application was advertised in the Manly Daily on 18 July 2009.

No submissions were received as result of the notification process.

SECTION 96 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The subject application to modify Development Consent No. 2006/0807 has been lodged pursuant to Section 96(2) of the Environmental Planning and Assessment Act 1979.

Section 96(2) of the Environmental Planning and Assessment Act 1979 (the Act) stipulates:

'Other modifications

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 development to which the consent as modified relates is substantially 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*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that*



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Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

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

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

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

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

The proposed development is considered to be of a minimal environmental impact for the following reasons;

- The modifications will not result in any adverse impacts on the adjoining properties.
- The modification does not result in any significant external changes to the proposed development.
- The increase in the floor space will be confined within the approved building footprint.

The development as modified is considered to be substantially the same development as the development for which consent was originally granted. The proposed changes are minor in nature and although there is a 'Winter Garden' structure added to building B at the penthouse level (facing east), the overall bulk and scale of the approved building will generally remain unchanged.

The amenity to neighbouring properties will not be adversely affected by the proposed modification (with regard to solar access, acoustic disturbance or visual privacy). The visual appearance of the development, as seen from the neighbouring and the public domain will remain unchanged.

The original Development Application DA2006/0807 identified the development as integrated development as a dewatering licence was required under Part V of the Water Act 1912. The subject modification proposes no change to the basement level and therefore the general terms of approval for the dewatering licence will remain in the original consent. As such, the modification application is not required to be referred to the Department of Water and Energy for comment.

As discussed in the 'Notification and Submissions' section of this report, the application has been advertised and notified in accordance with the Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan. No submissions were received as result of the notification for the proposed development.

Accordingly, the proposed modifications may be assessed pursuant to Section 96(2) of the Act.

Section 79C Assessment



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In accordance with Section 96(3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application.

The following table assesses the proposed modifications against the relevant matters under Section 79C of the Environmental Planning and Assessment Act 1979.

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	The proposed modifications do not alter the proposal's compliance with any environmental planning instrument. See discussion under "State Environmental Planning Polices" and "Warringah Local Environmental Plan 2000" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	No draft environmental planning instruments are relevant to the proposed modification.
Section 79C (1) (a)(iii) – Provisions of any development control plan	The application was notified in accordance with Warringah Development Control Plan.
Section 79C (1) (a)(iiia) –Planning Agreement or any Draft Planning Agreement under Section 93F	None applicable to the proposal
Section 79C (1) (a)(iv) – Provisions of the regulations	All relevant provisions of the EP&A Regulation 2000 have been taken into consideration during the assessment of the development application and this modification application.
Section 79C (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	<ul style="list-style-type: none"> (i) The proposed modifications will not result in any adverse impacts on the natural or built environment as the proposed modifications will be consistent with the desired future character statement and the relevant general principles of development control in WLEP 2000. (ii) The proposed modifications will not have a detrimental social impact on the locality as only minor internal and external changes are proposed. (iii) The proposed modifications will not have a detrimental economic impact on the locality considering no changes are proposed to the use of the development.
Section 79C (1)(c) – The suitability of the site for the development	The proposed modifications do not alter the site's suitability for the proposed use.
Section 79C (1)(d) – Any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received as result of the notification period for the proposed modification.
Section 79C (1)(e) – The public interest	The proposed modifications are generally consistent with the planning controls applying to the site under WLEP 2000 and do not result in any unreasonable impacts on the adjoining properties. As such, the modifications are considered to be in the public interest.

State Environmental Planning Policies

State Environmental Planning Policy (Building Sustainability Index: 2004)

Pursuant to Clause 115(1C) and 1(D) of the Environmental Planning and Assessment Regulation 2000, a replacement BASIX certificate is not required to be submitted as the modified development is consistent with the BASIX certificate submitted with the original development application and the pervious modification.



State Environmental Planning Policy – (Housing for seniors or People with a Disability) 2004

The subject application to modify the original consent has been lodged under the provisions for older people or people with a disability within WLEP 2000 not the former State Environmental Planning Policy No. 5 or the currently gazetted State Environmental Planning Policy (Housing for seniors or People with a Disability) 2004 (SEPP HSPD).

Notwithstanding the above, an assessment with regard to the relevant provisions of SEPP HSPD is outlined as follows:

Chapter 1 – Preliminary

The proposed modifications are considered to be consistent with the aims of the policy, in that the modifications will maintain the approved increase in the supply and diversity of residences to meet the needs of seniors or people with a disability, the development will make efficient use of existing infrastructure and services available to the site and in the locality, and the proposed development is considered to be of satisfactory design.

The proposed modifications is considered to maintain consistency with the definitions contained in this policy, the policy applies to land within Warringah and there are no agreements or covenants that require suspension.

Accordingly, on this basis, it is considered that the proposed modifications are consistent with the provisions outlined under Chapter 1 of SEPP HSPD.

Chapter 2 – Key concepts

The proposed modifications are consistent with the key concepts contained within SEPP HSPD. The proposed development comprises of seventy six (76) independent living units, which are to be occupied by seniors, people with a disability, or other persons permitted by the SEPP. Appropriate conditions were placed on the original consent to restrict occupation of this building in accordance with the definitions outlined under the SEPP.

Accordingly, on this basis, it is considered that the proposed modifications are consistent with the provisions outlined under Chapter 2 of SEPP HSPD.

Chapter 3 – Development for seniors housing

Chapter 3 of SEPP HSPD contains a number of development standards that are applicable only to development applications made pursuant to SEPP HSPD. However, as the development application was made pursuant to WLEP 2000, the specific provisions prefaced for their operation with the words “made pursuant to this chapter” of Chapter 3 do not apply. There are no relevant provisions of Chapter 3 applicable to this development application.



Chapter 4 – Miscellaneous

The proposed development is not inconsistent with the provisions contained in Chapter 4. The site is not on environmentally sensitive land, is not affected by amendments to other SEPPs, and the special provisions do not apply to this land.

Accordingly, no further assessment of the application is required under Chapter 4 of the SEPP.

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

The proposed modifications do not alter the proposal's compliance with the requirements of State Environmental Planning Policy No.65 or the Residential Flat Design Code.

Residential Flat Design Code

The following table is a general consideration against the relevant criteria of the 'Residential Flat Design Code' as required by SEPP 65 for the proposed modification.

PART 01 LOCAL CONTEXT						
<i>Primary Development Controls</i>						
<i>Building Height</i>	Where there is an existing floor space ratio (FSR), test height controls against it to ensure a good fit	Not applicable as Council does not have an FSR control.				
	Test heights against the number of storeys and the minimum ceiling heights required for the desired building use. (2.7 for habitable rooms, 2.4 non-habitable rooms and 1.5 for attics) (Habitable Rooms include: any room or area used for normal domestic activities, including living, dining, family, lounge, bedrooms, study, kitchen, sub room and play room).	A minimum of 2.7 metre floor to ceiling height is provided. The overall height above the natural ground level will remain as approved and is considered appropriate for the proposed scheme.				
	Resolve building depth controls in plan, section and elevation.	The proposal scheme is considered to be satisfactory in this regard.				
	In general, an apartment building depth of 10-18 metres is appropriate. Developments that propose wider than 18 metres must demonstrate how satisfactory day lighting and natural ventilation are to be achieved.	All units comply with the building depth rule of thumb, accordingly no further assessment will be conducted in this regard.				
<i>Building Separation</i>	Design and test building separation controls in plan and section. five to eight storeys/up to 25 metres	The proposed modification scheme is considered to be satisfactory in this regard.				
	<table border="1"> <tr> <td>18 metres</td> <td>Habitable rooms & balconies</td> </tr> <tr> <td>13 metres</td> <td>between habitable rooms/balconies</td> </tr> </table>		18 metres	Habitable rooms & balconies	13 metres	between habitable rooms/balconies
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	<p>*Habitable room any room or area used for normal domestic activities, including living, dining, family, lounge, bedrooms, study, kitchen, sun room and play room</p> <p>*Non-habitable room spaces of a specialised nature not occupied frequently or for extended periods, including bathrooms, toilets, pantries, walk-in wardrobes, corridors, lobbies, photographic darkrooms and clothes drying rooms.</p>					
	Test building separation controls for daylight access to buildings and open spaces.	The proposed scheme is considered to be satisfactory in this regard.				
<i>Street Setbacks</i>	Identify the Desired Streetscape Character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls.	Setback to Pittwater Road remains as per the approved scheme.				
<i>Side + rear setbacks</i>	Relate side setbacks to existing streetscape patterns.	The side setback established is considered to be appropriate in the context of the site and meets the numerical requirement of WLEP 2000.				
<i>Floor space ratio</i>	Test the desired Built Form outcome against proposed floor space ratio to ensure consistency with building height- building footprint the three dimensional building envelope open space requirements.	Not applicable, no FSR controls.				
PART 02 SITE DESIGN						
<i>General Comments</i>	Site analysis detail was submitted with the development application. In terms of site configuration, the proposal provides adequate areas for private and common open space and deep soil landscape areas.					
Site Configuration						
<i>Deep Soil Zones</i>	A minimum of 25 percent of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, Stormwater treatment measures must be integrated with the design of the residential flat building.	This is achieved with more than 50% of landscaped open space being deep soil landscape zone.				
<i>Open Space</i>	The area of communal open space required should generally be at least between 25 and 30 percent of the site area.	Communal open space equates to 31% of landscaped open space being deep soil landscape zone.				
<i>Visual Amenity</i>	Refer to Building Separation minimum standards	The proposed modification is designed so as to not result in any significant adverse impacts on the visual or acoustic privacy of the proposed units, given the layouts, the orientation of the				



		<p>dwellings, location of balconies and the separation between the proposed buildings within the subject development.</p>
<i>Pedestrian access</i>	<p>Identify the access requirements from the street or car parking area to the apartment entrance.</p>	<p>Pedestrian access is provided via Pittwater Road through a number of key entries, as well as a ramped pathway from Dee Why Parade. The Dee Why Parade pedestrian entry is separated from the driveway by way of landscaping and is identifiable through paving type.</p> <p>The proposal provides for three lifts within the parking area which links directly to the residential units.</p> <p>Theses pedestrian access will not be alter as part of this modification.</p>
	<p>Follow the accessibility standard set out in AS 1428 (parts 1 and 2), as a minimum.</p>	<p>The original consent includes conditions in relation to compliance with this requirement. The proposed modification does not alter these conditions.</p>
	<p>Provide barrier free access to at least 20 percent of dwellings in the development.</p>	<p>The proposed scheme is considered to be satisfactory in this regard.</p>
<i>Vehicle access</i>	<p>Generally limit the width of driveways to a maximum of six metres.</p>	<p>The proposed scheme is considered to be satisfactory in this regard.</p>
	<p>Locate vehicle entries away from main pedestrian entries and on secondary frontages.</p>	<p>The proposed scheme is considered to be satisfactory in this regard.</p>
<p>PART 03 BUILDING DESIGN</p>		
<p>Building Configuration</p>		
<i>Apartment layout</i>	<p>Single-aspect apartments should be limited in depth to 8 metres from a window.</p>	<p>The proposed scheme is considered to be satisfactory in this regard.</p>
	<p>The back of a kitchen should be no more than 8 metres from a window.</p>	<p>The proposed scheme is considered to be satisfactory in this regard.</p>
	<p>Buildings not meeting the minimum standards listed above, must demonstrate how satisfactory day lighting and natural ventilation can be achieved, particularly in relation to habitable rooms (see Daylight Access and Natural Ventilation).</p>	<p>The proposed scheme complies with this requirement.</p>
	<p>If council chooses to standardise apartment sizes, a range of sizes that do not exclude affordable housing should be used. As a guide, the Affordable Housing Service suggest the following minimum apartment sizes, which can contribute to housing affordability: (apartment size is only one factor influencing affordability)</p> <ul style="list-style-type: none"> - 1 bedroom apartment 50sqm - 2 bedroom apartment 70sqm - 3 bedroom apartment 95sqm 	<p>The proposed scheme complies with this requirement.</p>
<p><i>Apartment Mix</i></p>		
<i>Balconies</i>	<p>Provide primary balconies for all apartments with a minimum depth of 2 metres. Developments which seek to vary from the minimum standards must demonstrate that negative</p>	<p>All dwelling balconies comply with the minimum 2 metre depth requirement. The proposed scheme complies with this requirement</p>



	impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions.	
<i>Ceiling Heights minimum wall height at edge</i>	The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL). These are minimums only and do not preclude higher ceilings, if desired. <i>2.7 metre minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25m is permitted.</i> <i>attic spaces, 1.5 metre minimum wall height at edge of room with a 30 degree minimum - ceiling slope.</i>	A 2.7m ceiling height is achieved throughout the development.
<i>Ground Floor Apartments</i>	Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.	The proposed scheme will not be alter the original scheme in relation to compliance with this scheme.
	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	All ground floor units are provided with access to a terrace/POS area.
<i>Internal Circulation</i>	In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight. Exceptions may be allowed: <ul style="list-style-type: none"> • for adaptive reuse buildings • where developments can demonstrate the achievement of the desired streetscape character and entry response where developments can demonstrate a high level of amenity for common lobbies, corridors and units, (cross over, dual aspect apartments).	The proposed scheme complies with this requirement
Building Amenity		
<i>Daylight Access</i>	Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid winter. In dense urban areas a minimum of two hours may be acceptable.	Approximately 73% of the apartments will receive a minimum of 3 hour of direct sunlight and therefore the proposal meets the requirement of achieving 70%
<i>Natural Ventilation</i>	Building depths, which support natural ventilation typically range from 10 to 18 metres.	The proposed scheme complies with this requirement
	Sixty percent (60%) of residential units should be naturally cross ventilated.	Natural cross ventilation is achieved for approximately 64% of units.
<i>Building Form</i>	<i>No rules of thumb</i>	Not applicable



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Regional Environment Plans (REP's)

There are no REP's applicable to the assessment of this application.

Local Environment Plans (LEP's)

Warringah Local Environmental Plan 2000

Desired Future Character

Nos. 914, 916, 918, 920 and 922 (930) Pittwater Road Dee Why are located in the E16 Pittwater Road North Locality under Warringah Local Environmental Plan 2000.

The Desired Future Character Statement for this locality is as follows:

“The Pittwater Road North locality will incorporate a mix of business, retail and community uses including housing, shops and offices. Housing will predominantly take the form of apartment buildings with some shop-top housing where business and retail uses occur.

Future apartment buildings will be of a high standard of design that addresses public streets and spaces, creates visual interest and enables the establishment of substantial landscaping in the spaces between buildings.

Development that adjoins residential land is not to reduce the amenity enjoyed by adjoining occupants. In this regard the built form of commercial development in the locality is to provide a transition to adjacent residential development, including reasonable setbacks from side and rear boundaries, particularly above the ground floor level.

The Dee Why RSL Club will continue to cater for the recreational and leisure needs of the community. Development involved in the further expansion of the existing approved building and carparking areas is to be assessed with regard to a masterplan for the site. This masterplan will address issues such as views, visual impact, management of traffic and impact upon the amenity of the locality.”

The proposed development is defined as “housing for older people or people with a disability” under the WLEP 2000 dictionary. “Housing for older people or people with a disability” is identified as Category 2 development within E16 locality.

Clause 12(3) (a) of WLEP 2000 requires the consent authority to be satisfied that the proposed development is consistent with the Locality's DFC statement.

The proposed modification is considered to be consistent with the E16 Pittwater Road North locality's DFC for the following reasons:

- The proposed modification will not alter the design of the approved development which was consistent with the existing and surrounding urban environment appropriately addressing the public domain in particular Pittwater Road whilst also providing an appropriate transition of development to the Dee Why Commercial Centre.



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- The bulk and scale of the proposal will not be significantly altered as part of this modification;
- The development will continue to be used for housing for older people or people with a disability with ancillary functions of the development located at ground floor level which was considered to be consistent with the DFC requirements for housing and a mix of other land uses.
- The level of articulation setbacks and the landscaping proposed in the original development will not be altered as part of this modification.
- Views, privacy, visual impact, traffic management and impact on the amenity of the locality will not be further comprised as result of the proposed modification. In addition, the amenity of the residential properties to the south and south east is retained through the provision of appropriate building setbacks, particularly with higher floors stepping back from the boundary to reduce the impact of any overshadowing. Amenity is also protected through the provision of appropriate landscape screening and other screening devices together with the orientation of open space away from these sites to ensure that privacy is maintained.
- The proposed modification will not alter the building materials, colours and textures, all of which were approved as part of the original application.
- The proposed modification does not involve the expansion of the Dee Why RSL Club.
- The proposal will not impact upon the operations of the Dee Why RSL Club.

As detailed above the proposed development is considered to be consistent with the E16 Pittwater Road North desired future character statements.

No. 8 Dee Why Parade, Dee Why (for the provision of access and site facilities for the development only) is located in the E4 Dee Why Parade Locality under Warringah Local Environmental Plan 2000.

The Desired Future Character Statement for this locality is as follows:

“Dee Why Parade provides a transition between the town centre and adjacent residential localities.

As such the locality will incorporate a mix of business, community and leisure uses including housing, shops and offices with apartment style housing being the predominant use on the northern side of Dee Why Parade.

The scale of development will help to achieve the transition between the town centre and surrounding localities with the buildings on the northern side of the Parade being more in keeping with the scale of existing apartment style housing in the area. New development on the southern side of Dee Why Parade will be of an increased scale although it will remain less than the scale of development in the Howard Avenue locality. On either side of Dee Why Parade articulation of building facades in such a way that they are broken into smaller elements with strong vertical proportions will be encouraged.

Future development on the southern side of Dee Why Parade is to be designed so that a 3 storey podium adjoins the sidewalk and establishes a coherent parapet line. Above the parapet line additional storeys will be



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set back from the front and the side boundaries so that the scale of development does not dominate Dee Why Parade and spaces are created between buildings to add interest to the skyline, reduce the mass of the building and facilitate the sharing of views and sunlight.

Minimum ceiling heights will be observed in the locality to emphasise the ground floor of buildings which incorporate uses other than housing and to maximise the amenity of dwellings and facilitate their adaptation for other purposes.

Building layout and access are to be in accordance with Map E, available at the office of the Council.”

The proposed development is defined as “housing for older people or people with a disability” under the WLEP 2000 dictionary. “Housing for older people or people with a disability” is identified as Category 2 development within E4 locality.

The proposed development is also considered to be consistent with the E4 Pittwater Road North desired future character statements for the same reasons as outlined above in the E16 locality statement.

BUILT FORM CONTROLS

E16 Pittwater Road North Locality

The following is an assessment of the relevant Built Form Controls for the E16 Pittwater Road North Locality.

BUILT FORM CONTROL COMPLIANCE TABLE				
Control	Required	Approved	Proposed	Compliance
Building Height	3 Storeys / 12 metres	5 storeys / 15.4 metres	No Changes	N/A
Front Setbacks				
Basement 02				
Basement 01	6.5 metres	2.0-6.0	No Changes	N/A
Level 00	6.5 metres	3.0	No Changes	N/A
Level 01	6.5 metres	6.5	7m -11m	YES
Level 02	6.5 metres	6.5	No Changes	N/A
Level 03	6.5 metres	6.5	No Changes	N/A
	6.5 metres	6.5	No Changes	N/A
Rear Setback				
Basement 02	6.0 metres	6.0-12.8	No Changes	N/A
Basement 01	6.0 metres	6.0	No Changes	N/A
Level 00	6.0 metres	6.0	No Changes	N/A
Level 01	6.0 metres	6.0-7.0	No Changes	N/A
Level 02	6.0 metres	6.0-7.0	No Changes	N/A
Level 03	6.0 metres	6.0-16.2	No Changes	N/A



BUILT FORM CONTROL COMPLIANCE TABLE				
Control	Required	Approved	Proposed	Compliance
Side Setbacks				
NORTH				
Basement 02	4.5 metres	4.5	No Change	N/A
Basement 01	4.5 metres	4.5	No Changes	N/A
Level 00	4.5 metres	4.5	No Change	N/A
Level 01	4.5 metres	4.5-11.0	No Change	N/A
Level 02	4.5 metres	4.5-11.0	No Change	N/A
Level 03	4.5 metres	4.5-12.0	No Change	N/A
SOUTH				
Basement 02	4.5 metres	0-32.0	No Changes	N/A
Basement 01	4.5 metres	0-32.0	No Change	N/A
Level 00	4.5 metres	4.5	4.9m	YES
Level 01	4.5 metres	4.5	No Change	N/A
Level 02	4.5 metres	4.5	No Change	N/A
Level 03	4.5 metres	4.5	No Change	N/A
Side boundary Envelope	45 degree inward projection from side boundaries commencing 5 metres above natural ground level.	NORTH: Levels 4 & 5 outside envelope SOUTH: Levels 4 & 5 outside envelope	No Changes No Changes	N/A N/A
Landscape Area (Site area 6067.45m ²)	40% (2420.57sqm)	38% (2307.17sqm)	40% (2430.90sqm)	YES

E4 Dee Why Parade Locality

The following is an assessment of the relevant Built Form Controls for the E4 Dee Why Parade Locality.

BUILT FORM CONTROL COMPLIANCE TABLE			
Control	Required	Proposed (Modification)	Compliance
Building Height	3 Storeys / 13 metres	No development beyond driveway access, garbage area, and substation.	N/A
Building Mass	Percentage Floorplates <ul style="list-style-type: none"> ▪ 30% above topmost storey ▪ 50% topmost storey ▪ 70% second topmost storey 	No development beyond driveway access, garbage area, and substation.	N/A
Minimum Floor to Ceiling Height	<ul style="list-style-type: none"> ▪ Ground Floor 3.6 metres ▪ Upper Storeys 2.7 metres 	No development beyond driveway access, garbage area, and substation.	N/A
Minimum Front Building Setbacks	4 metres from kerb	No development beyond driveway access, garbage area, and substation.	N/A
Footpath Awnings	Continuous awning to	No development beyond	N/A



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BUILT FORM CONTROL COMPLIANCE TABLE			
Control	Required	Proposed (Modification)	Compliance
	be provided	driveway access, garbage area, and substation.	
Carparking facilities	Required below ground or behind buildings with landscaping to achieve 70% coverage when mature	No development beyond driveway access, garbage area, and substation.	N/A
Side Boundary Envelope	45 degree inward projection from side boundaries commencing 5 metres above natural ground level.	No development beyond driveway access, garbage area, and substation.	N/A
Side Setback	4.5 metres	No development beyond driveway access, garbage area, and substation.	N/A
Landscape Open Space	40%	The Landscape open space has been increased as result of the proposed modification (refer to E16 compliance table).	YES

GENERAL PRINCIPLES OF DEVELOPMENT CONTROL

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed modifications;

General Principal	Applies	Comments	Complies
CL38 Glare & reflection	YES	No significant changes are proposed to the external colours and finishes.	YES
CL39 Local retail centres	NO	Not applicable.	N/A
CL40 Housing for Older People and People with Disabilities	YES	The modified scheme retains compliance with Clause 40 as per the approved scheme.	YES
CL41 Brothels	NO	Not applicable.	N/A
CL42 Construction Sites	YES	Construction management conditions have been included on the original consent.	YES
CL43 Noise	YES	The proposed modifications will not significantly alter the acoustic impact of the development on the adjoining properties.	YES
CL44 Pollutants	NO	Not applicable.	N/A
CL45 Hazardous Uses	NO	Not applicable.	N/A
CL46 Radiation Emission Levels	NO	Not applicable.	N/A
CL47 Flood Affected Land	NO	The site is not identified as flood affected.	N/A
CL48 Potentially Contaminated Land	NO	Not applicable.	N/A
CL49 Remediation of Contaminated Land	NO	Not applicable.	N/A
CL49a Acid Sulfate Soils	NO	Not applicable.	N/A
CL50 Safety & Security	YES	The proposed modifications will not reduce casual surveillance of the public domain nor will they provide greater opportunity for concealment. It is	YES



General Principal	Applies	Comments	Complies
		considered that the proposed modifications are satisfactory in this regard.	
CL51 Front Fences and Walls	YES	The amended plans indicate that the site frontage to Pittwater Road incorporates landscape detail and an increase courtyard walls to a maximum height of 1.8m from NGL to secure the site and mitigate traffic. The proposed modification is considered to be satisfactory in relation this Clause.	YES
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	NO	Not applicable.	N/A
CL53 Signs	NO	Not applicable.	N/A
CL54 Provision and Location of Utility Services	NO	No change proposed.	N/A
CL55 Site Consolidation in 'Medium Density Areas'	NO	Not applicable.	N/A
CL56 Retaining Unique Environmental Features on Site	NO	No change proposed.	YES
CL57 Development on Sloping Land	NO	Not applicable.	N/A
CL58 Protection of Existing Flora	NO	The proposed modifications will not adversely impact on any existing flora.	N/A
CL59 Koala Habitat Protection	NO	Not applicable.	N/A
CL60 Watercourses & Aquatic Habitats	NO	Not applicable.	N/A
CL61 Views	YES	View sharing was raised as concern by the adjoining properties (in particular west of Pittwater Road) in the assessment of the original application. The height and scale of the building form is not being altered as result of the proposed modification and therefore the impact on views will not be adversely affected as result of the changes proposed as part of this application. The proposed modification is considered to be satisfactory in relation Clause 61.	YES
CL62 Access to sunlight	YES	Clause 62 states that development is not to unreasonably reduce sunlight to surrounding properties. Sunlight to at least 50% of the principal private open space is not to be reduced to less than 2 hours between 9am and 3pm on June 21 and where overshadowing by existing structures and fences is greater than this, sunlight is not to be further reduced by the development by more than 20%. The proposed modifications will not significantly alter the solar access received by the adjoining properties.	YES
CL63 Landscaped Open Space	YES	The minimum area of landscaped open space required is 40% of the site area. The proposed modification achieves a slightly higher proportion of landscape open space to that approved in the original scheme. The landscape space for the modified scheme is calculated at 40% (2430.90m ²).	YES



General Principal	Applies	Comments	Complies
		The proposed modification satisfies the requirement of Clause 63.	
CL64 Private open space	YES	<p>Clause 64 states that private open space is to be directly accessible from a living area of the dwelling and capable of serving as an extension of the dwelling.</p> <p>Apartment style housing is to have access to a minimum of 10 square metres with minimum dimensions of 2.5 metres.</p> <p>The proposed modifications achieve compliance with the private open space as required by Clause 64 Private Open Space.</p>	YES
CL65 Privacy	YES	<p>The privacy impacts of the proposed development resulting from the windows and balconies have been addressed in the original assessment. The internal apartment layout and amendments to landscape design have ensured that privacy is maintained to adjoining properties.</p> <p>All dwelling windows remain oriented to enhance privacy, separations between windows are more than 9m and are screened by a combination of landscaping and screening devices. New balconies and terraces proposed as parts of this modification are oriented to maximise outlook toward the east are suitably screened to ensure privacy between adjoining dwellings are maintain.</p> <p>Proposed new/extended terraces will be provided with privacy screen to maintain discrete separation between individual private open space.</p> <p>The proposed modification is therefore satisfactory in addressing the requirement of this Clause.</p>	YES
CL66 Building Bulk	YES	<p>Clause 66 provides that buildings are to have a visual bulk and an architectural scale consistent with structures on adjoining or nearby land and are not to visually dominate the street or surrounding spaces.</p> <p>The modification application does not alter the approved built form and as such, the scale of the modified development will remain unchanged from the approved scheme.</p> <p>Accordingly, the proposal is considered to be consistent with the General Principle.</p>	YES
CL67 Roofs	YES	No significant changes are proposed to the roof form.	YES
CL68 Conservation of Energy and Water	YES	The modifications do not affect the approved scheme's compliance.	YES
CL69 Accessibility – Public and Semi-Public Buildings	YES	The modification proposed does not affect the approved scheme's compliance.	N/A
CL70 Site facilities	YES	The proposed modification relating to the site facilities has been assessed as being acceptable to Council's waste management section and therefore the proposed modification is satisfactory in this regard.	YES
CL71 Parking facilities (visual impact)	NO	No change proposed. The proposed modifications will not increase the visual impact of the parking facilities.	N/A



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General Principal	Applies	Comments	Complies
CL72 Traffic access & safety	NO	No change proposed.	N/A
CL73 On-site Loading and Unloading	NO	Not applicable.	N/A
CL74 Provision of Carparking	YES	No changes are proposed to the number of approved car spaces.	N/A
CL75 Design of Carparking Areas	YES	No changes are proposed to the layout of the carparking area.	YES
CL76 Management of Stormwater	NO	No change.	N/A
CL77 Landfill	NO	Not applicable.	N/A
CL78 Erosion & Sedimentation	YES	Appropriate conditions were included on the original consent.	YES
CL79 Heritage Control	NO	The site is not identified as a Heritage Item nor is it located within a Conservation Area.	N/A
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	NO	Not applicable.	N/A
CL81 Notice to Heritage Council	NO	Not applicable.	N/A
CL82 Development in the Vicinity of Heritage Items	NO	The site is not located within the vicinity of a heritage item.	N/A
CL83 Development of Known or Potential Archaeological Sites	NO	The subject site is not located within the vicinity of any known or potential archaeological sites.	N/A

SCHEDULES

Schedule 8 - Site analysis

Site Analysis Adequate site analysis documentation has been provided with this application.

Schedule 17 - Carparking Provision

Carparking Provision Schedule 17 has been address under 'Clause 74 Provision of car parking' in the General Principles of Development Control table in this report. In summary, the proposed modification does alter the approved number of car spaces.

MEDIATION

Mediation was not requested for this development application.

Warringah Section 94A Development Contributions Plan

The applicant does not seek to modify the section 94 contribution applicable at the time of the original approval.

CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 96(2) of the Environmental Planning and Assessment Act 1979, SEPP 55, SEPP 65, SEPP HSPD, SEPP (BASIX) 2004, Warringah Local



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Environmental Plan 2000, and Warringah Development Control Plan and the relevant codes and policies of Council.

The site is split between two localities, the E4 Dee Why Parade locality and the E16 Pittwater Road North locality. However, the majority of the approved development is located within the E16 locality. There is no change to the overall consistency of the scheme as per the desired future character set out in each locality statement. The overall use of the building, being seniors housing, remains unchanged, and remains permissible as Category 2 development within this localities.

The modification proposed under this application seeks to rationalise the approved scheme for construction without compromising the original design concept. The modifications proposed are generally consistent with the relevant planning controls which apply to the site. Whilst some minor changes to the stepping of the facade resulted from the reconfiguration of internal apartment layouts, the overall built form and footprint of the approved development remains substantially unchanged.

It is considered that the proposed modification satisfies the relevant controls and that all processes have been followed. Accordingly, the proposal is recommended for approval.

RECOMMENDATION (SECTION 96 APPROVAL)

That the Section 96 Application No. 2008/0178 to modify Development Consent No. 2006/0807 granted for the for the demolition of all onsite structures, lot consolidation, site works, construction of a new residential flat housing development for older people or people with a disability, ancillary facilities, basement car parking and associated landscape works on land at Lot 2 in DP 6953, No. 914 Pittwater Road Dee Why; Lot 3 in DP 6953, No. 916 Pittwater Road Dee Why; Lot 4 in DP 6953, No. 918 Pittwater Road Dee Why; Lot 5 in DP 6953, No. 920 Pittwater Road Dee Why; Lot 76 in DP 634746 No. 930 Pittwater Road Dee Why and Lot C in DP 307103, No. 8 Dee Why Parade Dee Why be approved and the consent be modified in the following manner;

A. Modify Condition No. 1 - Approved Plans to read as follows:

The development is to be carried out in compliance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended in red and by other conditions of consent:

Architectural Plans		
Plan No. (revision)	Designer	Date
DA01.01(C)	Marchese & Partners Architects	23.04.07
DA01.02(D)	Marchese & Partners Architects	01.05.07
DA01.03(E)	Marchese & Partners Architects	04.07.07
DA01.04(C)	Marchese & Partners Architects	04.07.07
DA01.05(C)	Marchese & Partners Architects	04.07.07
DA01.06(B)	Marchese & Partners Architects	16.03.07
DA01.07(B)	Marchese & Partners Architects	16.03.07
DA02.01(B)	Marchese & Partners Architects	16.03.07
DA02.02(B)	Marchese & Partners Architects	16.03.07
DA02.03(B)	Marchese & Partners Architects	16.03.07
DA03.01(B)	Marchese & Partners Architects	16.03.07
DA03.02(C)	Marchese & Partners Architects	23.04.07



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Engineering Plans		
Plan No. (revision)	Designer	Date
SKH-001 (P4)	AWH	01.06.07
C01(8)	Robert Bird Group	04.06.07
C02(7)	Robert Bird Group	04.06.07
C03(6)	Robert Bird Group	04.06.07
C04(6)	Robert Bird Group	04.06.07
C05(6)	Robert Bird Group	04.06.07
SKC04 (2)	Robert Bird Group	05.06.07

As modified by the Section 96 application Mod2009/0178 received by Council on 30 June 2009, and endorsed with Council's approval stamp;

Architectural Plans		
Plan No. (revision)	Designer	Date
DA00.03(1)	Marchese & Partners Architects	June 2009
DA01.02(1)	Marchese & Partners Architects	June 2009
DA01.03(1)	Marchese & Partners Architects	June 2009
DA01.04(1)	Marchese & Partners Architects	June 2009
DA01.05(1)	Marchese & Partners Architects	June 2009
DA01.06(1)	Marchese & Partners Architects	June 2009
DA01.07(1)	Marchese & Partners Architects	June 2009
DA02.01(1)	Marchese & Partners Architects	June 2009
DA02.02 (1)	Marchese & Partners Architects	June 2009
DA02.03 (1)	Marchese & Partners Architects	June 2009
DA03.01 (1)	Marchese & Partners Architects	June 2009

Signed

Date

Lashta Haidari, Senior Development Assessment Officer

Signed

Date

Rod Piggott, Team Leader Development Assessment