

STATEMENT OF ENVIRONMENTAL EFFECTS

**Alterations and change of
use from commercial to
residential dwelling**

**23 Howard Avenue, Dee
Why**

Suite 1, 9 Narabang Way Belrose NSW 2085

Phone: (02) 9986 2535 | Fax: (02) 9986 3050 | www.bbfplanners.com.au

NOTE: This document is Copyright. Apart from any fair dealings for the purposes of private study, research, criticism or review, as permitted under the Copyright Act, no part may be reproduced in whole or in part, without the written permission of Boston Blyth Fleming Pty Ltd, 1/9 Narabang Way Belrose, NSW, 2085.

RESPONSIBLE FOR THIS REPORT:

Michael Haynes

Director - BBF Town Planners

Master Urban and Regional Planning Sydney University

September 2020

TABLE OF CONTENTS

1	Introduction.....	4
1.1	Description of the Proposed Development.....	4
1.2	Statement of Environmental Effects	5
2	Site Analysis	6
2.1	Property and location description	6
3	Environmental Assessment	10
3.1	Section 4.15 of the Environmental Planning & Assessment Act, 1979	10
4	Section 4.15 (1)(i) the provisions of any environmental planning instrument	11
4.1	Warringah Local Environmental Plan 2011 – Zoning.....	11
4.2	Other relevant provisions of the LEP.....	12
4.3	State Environmental Planning Policy	14
4.3.1	State Environmental Planning Policy - BASIX	14
4.3.2	State Environmental Planning Policy 65 Design Quality of Residential Flat Development	15
4.3.3	State Environmental Planning Policy No 55 – Remediation of Land	16
4.4	BCA considerations	16
5	Development Control Plan	17
5.1	Overview.....	17
5.1.1	Development Control Plan - Part G1 Dee Why Town Centre	17
5.1.2	Development Control Plan 2011 – other aspects	19
6	Section 4.15 the Environmental Planning and Assessment Act 1979 – Summary	23
7	Conclusion	24

1 Introduction

This report is a Statement of Environmental Effects (SEE), pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979.

1.1 Description of the Proposed Development

The development application seeks consent for alterations and change of use from a commercial office suite to a residential dwelling at 1/23 Howard Avenue, Dee Why.

The existing strata lot is within the second level of the 6-storey mixed use development, located adjacent to Howard Avenue at the northern frontage to the site. The proposed alterations to the existing strata suite are depicted in the accompanying architectural plans by Walsh² Architects. A summary of the key aspects of the proposal are noted as follows:

- Entry and storage cupboard
- Bathroom
- Bedroom with robe
- Living room
- Winter-garden style private open space
- Kitchen and laundry
- Window alterations as per the architectural plans

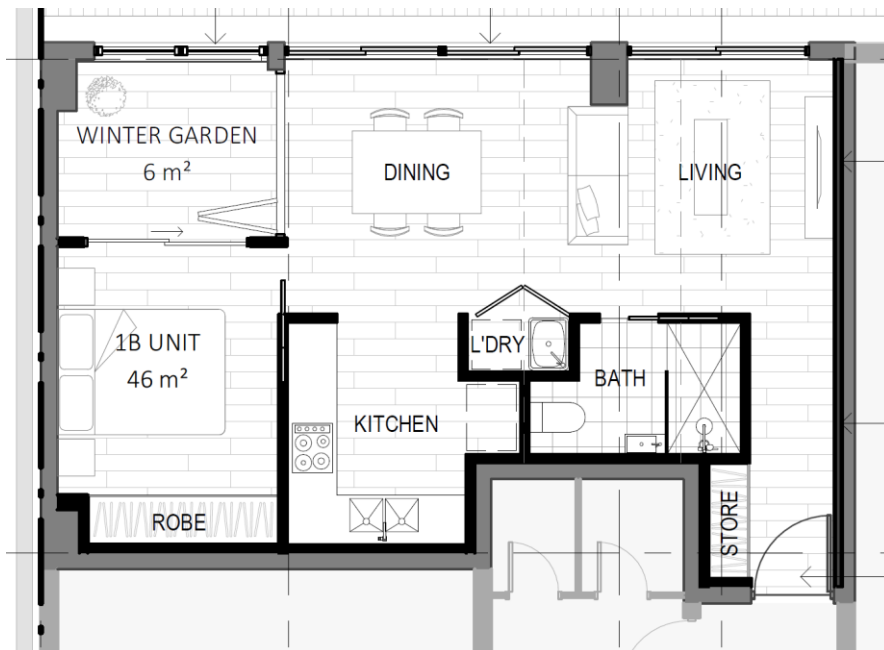


Figure 1 – proposed dwelling floor plan

1.2 Statement of Environmental Effects

This Statement of Environmental Effects (SEE) is prepared in response to Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal has been considered under the relevant provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979.

In preparation of this document, consideration has been given to the following:

- Environmental Planning and Assessment Act, 1979
- Local Environmental Plan
- Relevant State Environmental Planning Policies
- Development Control Plan

The proposal is permissible and generally in conformity with the relevant provisions of the above planning considerations.

Overall, it is assessed that the proposed development is satisfactory and the development application may be approved by Council.

2 Site Analysis

2.1 Property and location description

The site is located at 23 Howard Avenue, Dee Why and legally described as Lot 1 in Strata Plan 87279. The Strata lot has an area of approximately 53 m². The strata lot is within the second level of a 6-storey mixed commercial, retail, and residential development with a northern frontage to Howard Avenue.

The site is located on the southern side of Howard Avenue within the 'heart' of the Dee Why town centre (figure 2). The strata lot is close to shops, supermarkets, services, parks, playgrounds, Dee Why beach and public transport, all being within convenient walking and cycling proximity to the site. There is no carparking associated with the existing strata lot.

By way of background the existing mixed use development was approved by Council in 2001. DA2001/0134 'Approved demolition of the Franklins supermarket building and construction of a six storey shop top housing development comprising 20 residential units, five retail shops, two commercial office suites and 28 car parking spaces' (source: development consent). The consent was approved on 24 August 2001.

The figures on the following pages depict the character of the property and its existing development.

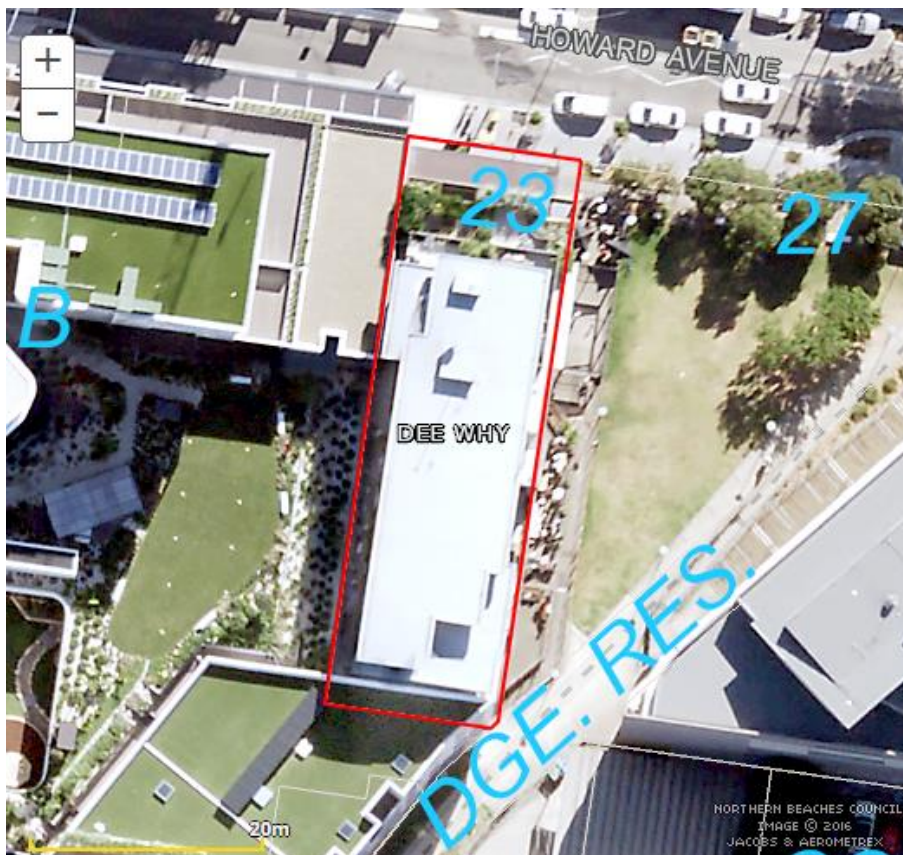


Figure 2 – Alignment, orientation and spatial layout of the subject site, adjoining dwellings (courtesy Northern Beaches Council)



Figure 3 – the existing development as viewed from Howard Avenue

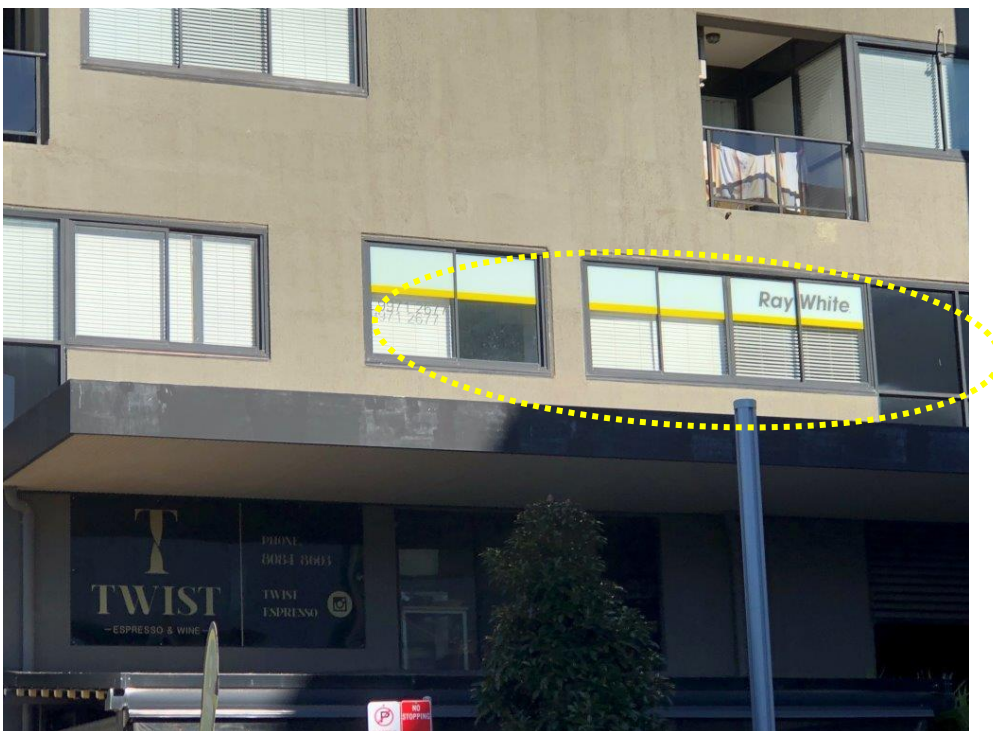


Figure 4 – the existing development as viewed from Howard Avenue



Figure 5 – the existing strata lot as viewed internally



Figure 6 – the existing strata lot as viewed internally



Figure 18 – the existing strata lot as viewed internally



Figure 18 – the site context and streetscape character of Howard Avenue looking west

3 Environmental Assessment

3.1 Section 4.15 of the Environmental Planning & Assessment Act, 1979

The following section of the report assesses the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 4.15 of the Environmental Planning & Assessment Act, 1979 as amended.

Under the provisions of the Environmental Planning and Assessment Act 1979 (the Act), the key applicable planning considerations, relevant to the assessment of the application are:

- Warringah Local Environmental Plan 2011
- State Environmental Planning Policies – as relevant
- Warringah Development Control Plan

The application of the above plans and policies is discussed in the following section of this report.

The application has been assessed against the relevant heads of consideration under Section 4.15 of the Act; a summary of these matters are addressed within Section 7 of this report, and the town planning justifications are discussed below.

4 Section 4.15 (1)(i) the provisions of any environmental planning instrument

4.1 Warringah Local Environmental Plan 2011 – Zoning

The property is zoned the site is zoned B4 Mixed Use pursuant to the provisions of the Warringah Local Environmental Plan 2011 (LEP).

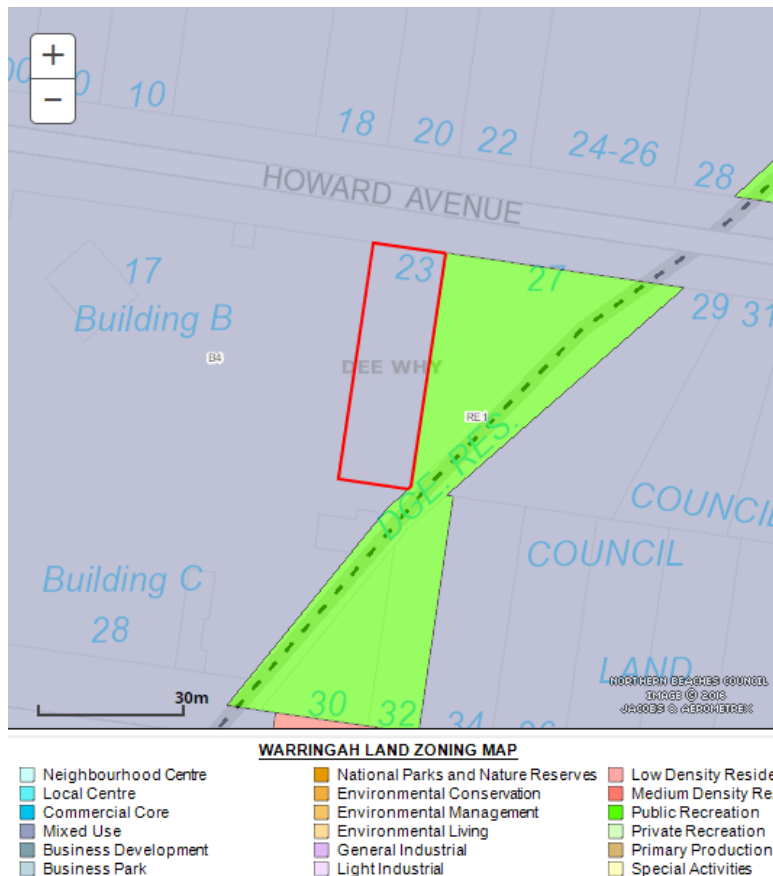


Figure 10 – zone excerpt (Council's website)

The proposal constitutes alterations to the existing building and change of use from office to residential use. The proposal is permitted in the zone with development consent.

Clause 2.3(2) of the LEP requires the consent authority to 'have regard to the objectives for development in a zone' in relation to the proposal. The objectives of the zone are stated as follows:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

- *To reinforce the role of Dee Why as the major centre in the sub-region by the treatment of public spaces, the scale and intensity of development, the focus of civic activity and the arrangement of land uses.*
- *To promote building design that creates active building fronts, contributes to the life of streets and public spaces and creates environments that are appropriate to human scale as well as being comfortable, interesting and safe.*
- *To promote a land use pattern that is characterised by shops, restaurants and business premises on the ground floor and housing and offices on the upper floors of buildings.*
- *To encourage site amalgamations to facilitate new development and to facilitate the provision of car parking below ground.*

Clause 2.3(2) of the LEP requires the consent authority to 'have regard to the objectives for development in a zone'. In relation to the proposal, regard has been had to the zone objectives, and the proposal is found to be consistent with those objectives by continuing to maximise public transport patronage and encourage walking and cycling and by providing accommodation that meets the needs of the community within a mixed-use setting. The proposed change of use is compatible with the surrounding land uses, building form, and development character within the Dee Why townscape setting. Accordingly, the proposal has had sufficient regard to the zone objectives and there is no statutory impediment to the granting of consent.

4.2 Other relevant provisions of the LEP

Other provisions of the LEP that are relevant to the assessment of the proposal are noted and responded to as follows:

LEP Provision	Response	Complies
Part 4 of LEP – Principal Development Standards		
LEP Clause 4.1 Minimum subdivision lot size	NA	NA
LEP Clause 4.3 – Height of Buildings	No change	NA
LEP Clause 4.4 – Floor space ratio	NA	NA
LEP Clause 4.6 – Exceptions to development standards	NA	NA
Part 5 of LEP – Miscellaneous Provisions		
LEP Clause 5.4 Controls relating to miscellaneous permissible uses	NA	NA
LEP Clause 5.4 Controls relating to miscellaneous permissible uses	NA	NA

LEP Provision	Response	Complies
LEP Clause 5.10 Heritage Conservation	NA	NA
Part 6 of LEP – Additional Local Provisions		
LEP Clause 6.1 Acid sulfate soils	NA	NA
LEP Clause 6.2 Earthworks	NA	NA
LEP Clause 6.3 Flood planning	<p>The site is affected by Flood Risk as identified on Council's maps with an overland flood source located to the east of the site.</p> <p>The proposal involves a change of use within the existing building approximately 5m above the adjacent ground level and the strata lot is appropriately elevated above the flood planning level.</p> <p>The proposed change of use and internal alterations to the existing building have will have no external impacts upon the floodplain or increase the flood risks associated with the property. Furthermore, there is capacity for future dwelling occupants to shelter in place during flood events.</p> <p>The nature and composition of the proposed development has considered the matters within clause 6.3(3) of the LEP and results in appropriate outcomes against these criteria.</p> <p>Based on the above, the proposed development satisfies the considerations within clause 6.3 and the site is suitable for the development proposed.</p>	Yes
LEP Clause 6.4 Development on sloping land	NA	NA
Part 7 of LEP - Dee Why Town Centre		
LEP Clause 7.1 Definitions	The subject site is not within a Key Site.	NA
LEP Clause 7.2 Land to which this Part applies	Applies to all land within the Dee Why B4 zone. Part 7 is therefore applicable to the subject site.	Yes
LEP Clause 7.3 Objectives for development within Dee Why Town Centre	The proposal is assessed as being compatible with the provisions of the clause.	Yes
LEP Clause 7.4 Development must be consistent with objectives for development and design excellence	The proposal is assessed as being compatible with the provisions of the clause.	Yes

LEP Provision	Response	Complies
LEP Clause 7.5 Design excellence within Dee Why Town Centre	The proposal is assessed as being compatible with the provisions of the clause.	Yes
LEP Clause 7.6 Height of buildings	No change	NA
LEP Clause 7.6A Podium heights Land fronting Pittwater Road – is to achieve a consistent street frontage and create a less dominant built form along the streetscape; variation in building design is also encouraged. The clause states: <i>‘(2) Development consent may be granted to the erection of buildings on the following land with the following maximum podium heights— (c) land fronting Pittwater Road (except land on Site A or Site B)—3 storeys,...’</i>	No change	NA
LEP Clause 7.7 Site A Oaks Avenue above podium elements	Not applicable to the proposal.	NA
LEP Clause 7.8 Site B Oaks Avenue above podium elements	Not applicable to the proposal.	NA
LEP Clause 7.9 Site A Proposed New Road above podium elements	Not applicable to the proposal.	NA
LEP Clause 7.10 Allowance for external ancillary plant and roof access	Not applicable to the proposal.	NA
LEP Clause 7.11 Town Square and pedestrian connections	Not applicable to the proposal.	Yes
LEP Clause 7.12 Provisions promoting retail activity	Applies. Addressed separately below the table.	Yes
LEP Clause 7.13 Mobility, traffic management and parking	The existing commercial suite and the proposal has no car parking provision. Its ongoing use and travel demand will encourage walking, cycling, public transport use and car sharing as the B-Line, public buses are within close walking distance to the site.	Yes
LEP Clause 7.14 Community infrastructure floor space in Dee Why Town Centre	The subject site is within the land shown as Key Site E. However, the site does not seek to gain the additional building height or FSR offered by the LEP’s Key Site provisions.	Yes

4.3 State Environmental Planning Policy

4.3.1 State Environmental Planning Policy - BASIX

The proposed change of use to residential and alterations and additions is BASIX affected development as prescribed. A BASIX assessment report accompanies the application and satisfies the SEPP in terms of the DA assessment.

4.3.2 State Environmental Planning Policy 65 Design Quality of Residential Flat Development

State Environmental Planning Policy No. 65 (SEPP 65) relates to Design Quality of Residential Apartment Development. Clause 4 establishes the circumstances in which the SEPP applies. It states:

4 Application of Policy

(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

(a) the development consists of any of the following:

(i) the erection of a new building,

(ii) the substantial redevelopment or the substantial refurbishment of an existing building,

(iii) the conversion of an existing building, and

(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and

(c) the building concerned contains at least 4 or more dwellings.

(2) If particular development comprises development to which subclause (1) applies and other development, this Policy applies to the part of the development that is development to which subclause (1) applies and does not apply to the other part.

(3) To remove doubt, this Policy does not apply to a building that is a class 1a or 1b building within the meaning of the Building Code of Australia.

(4) Unless a local environmental plan states otherwise, this Policy does not apply to a boarding house or a serviced apartment to which that plan applies.

In response, the subject change of use to a single strata lot located within a 6 storey, mixed use building comprising 20 residential units, five retail shops, two commercial office suites, from a commercial office suite to a residential dwelling does not involve:

- the erection of a new building,
- the substantial redevelopment or the substantial refurbishment of an existing building,
- the conversion of an existing building

Furthermore, it is noted that the existing residential flat building was approved and constructed before the Policy came into effect. The DA was approved 21 August 2001 before SEPP 65 commenced on 27 July 2002. Therefore, the existing building has not

been designed or constructed to comply with SEPP 65. Based on the above, the proposed change of use and alterations is not a development which is subject to SEPP 65.

4.3.3 State Environmental Planning Policy No 55 – Remediation of Land

Clause 7 of SEPP 55 requires Council to consider whether land is contaminated prior to granting consent to carrying out of any development on that land. In this regard, the proposal involves a change of use within level 2 of the building and does not involve any earthworks.

In these circumstances, no further investigation of land contamination is warranted. The strata lot is suitable in its present state for the proposed residential development. Therefore, pursuant to the provisions of SEPP 55, Council can consent to the carrying out of development on the land.

4.4 BCA considerations

In determining an application for a change of use that requires alterations to a building, the consent authority needs to consider the life safety of occupants and protection of the spread of fire from the building in accordance with Cl 94 of the Environmental Planning and Assessment Regulation 2000.

The application is accompanied and is supported by an assessment of the design against the provisions of the BCA by BCA Logic Consulting. The report finds that the proposal is capable of satisfying building safety requirements subject to further detailed design and documentation at the Construction Certificate stage. In conclusion, the relevant safety and accessibility considerations are appropriately addressed and satisfied by the proposal.

5 Development Control Plan

5.1 Overview

In response to Section 4.15 (1)(iii) of the Act, the Warringah Development Control Plan (DCP) is applicable to the property. Relevant provisions of the Warringah DCP are addressed below. A table demonstrating compliance with the relevant provisions of the DCP is detailed as follows.

5.1.1 Development Control Plan - Part G1 Dee Why Town Centre

Control	Response	Complies
Part G1 Dee Why Town Centre		
G3 Desired Character for the Dee Why Town Centre	The DCP states: <i>“Dee Why will be home to a thriving cosmopolitan community who cherish their past, celebrate its unique and engaging vibe and embrace its bold commitment to urban sustainability. It will be a place of both energy and refuge, a city at the beach, with a distinctive modern urban identity.”</i>	Yes
G4 Streetscape and Public Domain	Pedestrian Connections No change is proposed. Kerb setbacks No change is proposed. Retail Activation No change is proposed.	Yes NA NA
G5 Design and Architectural Diversity	Architectural Design No change is proposed. Housing The provisions are not relevant to the subject proposal. Tower Setbacks No change is proposed.	NA NA NA
G6 Site amalgamation	Not applicable	Yes

Control	Response	Complies
G7 Traffic and Parking	<p>The objectives of the control are:</p> <ul style="list-style-type: none"> ▪ <i>To encourage walking, cycling, public transport and car sharing.</i> ▪ <i>To encourage integrated basement car parking areas with shared access in suitable locations.</i> ▪ <i>To reduce overall building bulk and scale (particularly within podiums) by locating parking underground.</i> ▪ <i>To ensure the security of residential parking areas in mixed use developments.</i> <p>In response, the proposal appropriately addresses the provisions of the clause noting that:</p> <ul style="list-style-type: none"> ▪ There is no carparking associated with the existing strata lot. ▪ The site is located on the southern side of Howard Avenue within the 'heart' of the Dee Why town centre (figure 1). The strata lot is close to shops, supermarkets, services, parks, playgrounds, Dee Why beach and public transport. ▪ The proposal's ongoing use and travel demand will encourage walking, cycling, public transport use, and car sharing. The B-Line High frequency and quality service along with a wide variety of other bus routes are within close walking distance to the site on Pittwater Road and there are established car sharing pods within walking distance of the location. <p>Further addressed below in response to C3. Parking Facilities.</p>	Yes
G8 Car Share	Not applicable.	Yes
G9 Sustainability	<p>The objectives of the control are:</p> <p><i>To supplement controls contained within Part D22 Conservation of Energy and Water.</i></p> <p><i>To ensure substantial new developments incorporate best practice sustainability.</i></p> <p><i>To establish benchmarks for building rating scheme compliance.</i></p> <p>In response, the proposal Involves a change of use to an existing building. The application is accompanied by a BASIX report. The proposed development provides appropriate measures to conserve energy and water.</p> <p>Furthermore, the proposal promotes healthy lifestyles and more sustainable travel means which will in-turn reduce the environmental impact of traffic congestion and pollution from vehicle emissions.</p>	Yes

Control	Response	Complies
G10 Water Sensitive Urban Design (WSUD)	The application is accompanied by a BASIX report. The proposed development provides appropriate measures to conserve energy and water.	NA
G11 Landscaping	Not applicable to the proposal.	NA
G12 Key Sites	The subject site is not a Key Site.	NA
G13 Civic Centre Site	Not applicable to the proposal.	NA
G14 Residential Flat Buildings	Not applicable to the proposal.	NA

5.1.2 Development Control Plan 2011 – other aspects

Control	Response	Compliance
Part C: Siting Factors (as relevant)		
C2. Traffic, Access and Safety	No change.	Yes
C3. Parking Facilities	<p>The proposed development is appropriate in terms of parking considerations noting that:</p> <ul style="list-style-type: none"> There is no carparking associated with the existing strata lot. The site is located on the southern side of Howard Avenue within the 'heart' of the Dee Why town centre (figure 1). The strata lot is close to shops, supermarkets, services, parks, playgrounds, Dee Why beach and public transport. The existing commercial suite has no existing car parking allocated to it. At 53m² it generates a theoretical parking demand of 1.2 spaces at a rate of 1 space per 40 m² of GFA. Similarly, the proposed dwelling has no car parking allocated to it. As a single bedroom dwelling it generates a theoretical parking demand of 1 space. The proposed change of use is therefore assessed as a reasonable 'like-for-like' change that will not significantly affect the current status quo. 	Yes

Control	Response	Compliance
	<ul style="list-style-type: none"> The proposal's ongoing use and travel demand will encourage walking, cycling, public transport use, and car sharing. The B-Line High frequency and quality service along with a wide variety of other bus routes are within close walking distance to the site on Pittwater Road and there are established car sharing pods within walking distance of the location. 	
C3A. Bicycle Facilities Objectives	The proposed development does not generate any significant change in the demand for bicycle parking spaces.	Yes
Part D: Design Factors (as relevant)		
D2. Private Open Space	<p>It is assessed that the proposal is satisfactory and appropriately designed to reasonably provide appropriate Private Open Space provision. The proposal provides a winter garden style balcony space that is approximately 2.650 by 2.150 metres in dimension. Whilst slightly under the minimum recommended requirements, it is directly accessible from the principle living areas, and being north facing will receive excellent solar access provision. It provides an appropriate and functional private open space for future occupants. In addition to this space, the site is located within convenient walking and cycling distance of key recreational areas, including:</p> <ul style="list-style-type: none"> Walter Gorrs Park / playground The Triangular shaped park adjacent to the site The town square Nearby pocket parks like Mooramba Road half basketball court Dee Why Beach <p>These spaces along with the various cafes and restaurants within the town centre will complement the private open space provision available to the occupants of the dwelling.</p>	Yes
D3. Noise	The proposal is assessed as satisfactory in addressing potential acoustic impact considerations.	Yes
D6. Access to Sunlight	<p>Given the strata lot's northern orientation to Howard Ave, and the relatively shallow depth of 3.5m of its proposed living rooms, the proposed dwelling will receive excellent levels of direct solar access.</p> <p>The proposed dwelling will receive direct sunlight from approx.</p>	Yes

Control	Response	Compliance
	<p>7.30-8am on 22 June until approx. 1pm exceeding the minimum 3 hours required.</p> <p>Furthermore, the proposed floor plan has been designed to achieve appropriate levels of solar access to each of its living rooms and winter garden space on 22 June.</p>	
D7. Views	The proposal satisfies view sharing.	Yes
D8. Privacy	<p>It is assessed that the proposal is satisfactory and appropriately designed to reasonably address privacy considerations. The following features of the design and its relationship with adjoining land are noted:</p> <ul style="list-style-type: none"> ▪ No projecting, external balconies are proposed ▪ There are no openings within the side elevations. <p>It is concluded that the proposal will not unreasonably affect the visual privacy of the neighbouring properties and will achieve an appropriate privacy outcome.</p>	Yes
D9. Bulk	No change.	Yes
D10. Building Colours and Materials	No change	Yes
D11. Roofs	No change	Yes
D12. Glare and reflection	No change	Yes
D14. Site facilities	The proposal will utilise existing waste management areas, letterbox, communal, and plant areas. The location of these facilities are established on the site.	Yes
D20. Safety & security	The proposed development will result in enhanced security and safety of the community through increased observation from the proposed residence which view over the adjoining roadway & public spaces.	Yes
D22. Conservation of energy and water	The application is accompanied by a BASIX report. The proposed development provides appropriate measures to conserve energy and water.	Yes

Control	Response	Compliance
Part E: The Natural Environment		
Control	Response	Compliance
E11 Flood Prone Land	This has been previously addressed in response to the cl 6.3 of the LEP	Yes

6 Section 4.15 the Environmental Planning and Assessment Act 1979 – Summary

The proposal has been assessed having regard to the matters for consideration pursuant to S.4.15 of the Act and to that extent Council can be satisfied of the following:

- There will be no significant or unreasonable adverse built environment impacts arising from the proposed physical works on the site.
- The site is appropriate for accommodating the proposed development. The proposal has sufficiently addressed environmental considerations. There will be no significant or unreasonable adverse environmental impacts arising from the proposal.
- The proposal will result in positive social and economic impacts, noting:
 - Employment during the construction phase of the works;
 - Economic benefits, arising from the investment in improvements to the land;
 - Social (and environmental) benefits arising from the provision of new housing within a desired and highly accessible location.
- The proposal is permissible and consistent with the objectives of the zone, pursuant to the LEP. The proposal satisfies the provisions of the relevant provisions of the council's DCP.
- It is compatible with the current and likely future character of development within the local context.
- It will not result in any significant unacceptable offsite impacts that limit the use or enjoyment of nearby or adjoining land.
- The proposal will have an acceptable impact when considering key amenity issues such as visual impact, views, overshadowing, noise and privacy.
- Given the site's location and established function, the site is assessed as being entirely suitable for the proposed development.
- The public interest is best served through the approval of the application.

7 Conclusion

The application seeks development consent for alterations and additions and change of use to the existing commercial office suite at 1/23 Howard Avenue, Dee Why.

The proposed development is permissible, consistent with the intent of the B4 mixed use zone and will positively contribute to activity within the Dee Why town centre.

This report demonstrates that the proposal is appropriately located and configured to complement the property's established mixed-use character. Furthermore, that the proposal will not give rise to any unacceptable residential amenity or public interest consequences. Accordingly, the variations proposed are considered minor and acceptable under the circumstances.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979 and should be granted development consent.

BBF Town Planners



Michael Haynes
Director