

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2022/0401
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Responsible Officer:	Adam Susko
Land to be developed (Address):	Lot 1 DP 710661, 2 Delmar Parade DEE WHY NSW 2099
Proposed Development:	Modification of Development Consent DA2017/1183 granted for demolition works and construction of a Mixed Use Development, comprising retail shops and shop top housing
Zoning:	Warringah LEP2011 - Land zoned B4 Mixed Use
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Dee Why 1 Pty Ltd Dee Why 2 Pty Ltd
Applicant:	The Trustee For Dee Why 1 Unit Trust

Application Lodged:	29/07/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	12/08/2022 to 26/08/2022
Advertised:	12/08/2022
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

This Section 4.55(1A) Modification Application seeks consent to amend the development approved under DA2017/1183 for demolition works and the construction of a mixed use development, comprising retail shops and shop top housing at 2 Delmar Parade, Dee Why.

This application seeks approval to amend the following three aspects of the DA:

- Change the approved full height vertical louvers along the edge of the walkway on the southern facade, to horizontal louvers on top of a solid upturn to balustrade height;
- Replace the privacy screens to the bedrooms of unit stack X05 and X06 with translucent glass to maximum light to the bedrooms; and
- Amend Condition 53F (Required Planting) to remove the requirement for five (5) street trees along the Pittwater Road frontage of the site.

Herein this report these changes are described as the 'modifications'.

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

Warringah Development Control Plan - D6 Access to Sunlight

SITE DESCRIPTION

Property Description:	Lot 1 DP 710661 , 2 Delmar Parade DEE WHY NSW 2099
Detailed Site Description:	<p>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.</p> <p>The site is currently approved for redevelopment of a mixed use building and works are in progress for the construction that building.</p> <p>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.</p> <p>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</p>

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 by the Sydney North Planning Panel ('SNPP') on 13 June 2018 and ultimately approved the development on 12 September 2018.

Modification Application No.MOD2020/0081 for changes to DA2017/1183 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.

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

Modification Application No.MOD2021/0274 for changes to DA2017/1183 including changes to the facades, internal layout changes, changes to the roof. The modification was approved by Council on 9 September 2021.

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
<p>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:</p>	
<p>(a) it is satisfied that the proposed modification is of minimal environmental impact, and</p>	<p>Yes 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"> • The modifications do not necessitate any excavation beyond that of the approved development. • The modifications do not necessitate the removal of any existing vegetation. • The outcome of this Assessment Report concludes that the modifications do not create any unreasonable impact to neighbouring properties above and beyond that of the parent consent.
<p>(b) 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</p>	<p>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 DA2017/1183 for the following reasons:</p> <ul style="list-style-type: none"> • The modifications do not alter the approved densities, building height, footprint or envelope. • The modifications do not materially alter the approved architectural expression of the development. • From the public and private domain, the modifications are largely non-discernible.
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and the Northern Beaches Community Participation Plan.</p>

Section 4.55(1A) - Other Modifications	Comments
or (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 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.	See discussion on “Notification & Submissions Received” in this report.

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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 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&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&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.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>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&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 143A</u> of the EP&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.</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) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah/Manly/Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development 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.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

ASSESSMENT OF MODIFICATIONS

Change the approved full height vertical louvers along the edge of the walkway on the southern facade, to horizontal louvers on top of a solid upturn to balustrade height.

Comment:

On the southern elevation of the approved building, between unit stacks X01 and X09 there is an enclosed walkway / breezeway between units which has full height vertical louvers around the perimeter of the walkway. The majority of these louvers are setback 7.5m from the southern boundary.

The proposal seeks to change these full height vertical louvers to part solid upturn, and part horizontal louvers. The modifications do not materially alter the appearance of the building from neighbouring properties, and are not visible from the public domain. The walkway in question only serves unit stacks X01 and X02 (total of ten units, which excludes podium level that does not have any louvers).

The change proposed is assessed as being substantially the same as the approved development.

Replace the privacy screens to the bedrooms of unit stack X05 and X06 with translucent glass to maximise light to the bedrooms.

Comment:

The windows in question are centrally located within the development. The windows in question from unit stack X05 faces directly onto a wall. The windows from unit stack X06 are setback 22.5m from the southern boundary and sight-lines from those windows to the boundary are interrupted by two walkways, one balcony, and two areas of plantings.

The change therefore has no impact on the provision of privacy available to neighbouring properties. Internal of the development the changes are not anticipated to generate any unreasonable loss of privacy. On balances of factors the benefit of solar access outweighs the potential for a loss of privacy internal to the unit.

Amend Condition No. 53F to remove the requirement for 5 street trees along the Pittwater Road frontage of the site.

Comment:

Condition 53F requires that five trees be planted along the Pittwater Road frontage. Further exploratory surveys of this location have revealed that there is extensive below ground infrastructure which precludes the ability for trees to be planted in a manner that would allow them to exist in longevity, without damaging the infrastructure.

It is therefore considered that removing the requirement for these trees is warranted.

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 12/08/2022 to 26/08/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Fineoak Pty Ltd	816 Pittwater Road DEE WHY NSW 2099

One submission was received on behalf of the owners of the adjoining 816 Pittwater Road, which raised the following issues:

- Visual privacy
- Bulk and scale

The above issues are addressed as follows:

- **Visual privacy**

The submissions raised concerns that the change from vertical to horizontal louvers, and the removal of privacy screens from the bedroom windows will result in visual privacy impacts for the adjoining property.

Comment:

The existing premises at 816 Pittwater Road is a car hire premises and therefore the changes sought to the design are not expected to have any impacts to the existing operation. In consideration of the development potential of that site (for a similarly designed and proportioned mixed-use development), the change to louvers and privacy screens is not expected to have any detrimental impacts.

These matters are discussed in greater detail later in this report, but in summary the changes do not warrant the refusal of the application.

- **Bulk and scale**

The submissions raised concerns that the proposed horizontal louvers will increase the visual bulk commensurate to vertical louvers.

Comment:

This concern is considered to be preferential and it is not concurred with that the change from vertical to horizontal will create any excessive bulk and scale above and beyond the approved development.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<i>Supported, with conditions</i> The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.

Internal Referral Body	Comments																
	Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.																
Landscape Officer	<p>Supported, with amendment to Condition 53F</p> <p>The application is for modification to development consent DA2017/1183, and relative to Landscape Referral includes the proposed removal of street tree planting (x 5) along Pittwater Road under Condition 53F, due to the location of extensive utility services across the road reserve verge, as represented in the Underground Services Survey. The street tree planting (x 2) to Delmar Parade remains.</p> <p>Accordingly, Condition 53F shall be amended to delete reference to the 5 x street trees to Pittwater Road, whilst maintaining the requirement for street tree planting to Delmar Parade, as illustrated below</p> <table border="1" data-bbox="469 837 1420 1357"> <thead> <tr> <th>No. of Trees</th> <th>Species</th> <th>Location</th> <th>Minimum Pot Size</th> </tr> </thead> <tbody> <tr> <td>All trees</td> <td>As indicated on the approved Landscape Plans</td> <td>As indicated on the Landscape Plans</td> <td>As indicated on the Landscape Plans</td> </tr> <tr> <td>5</td> <td>Tristanopsis laurina 'Luscious'</td> <td>Pittwater Road road reserve forward of the property, clear of driveway and intersection sightlines and generally in alignment with other street trees</td> <td>100 litre</td> </tr> <tr> <td>2</td> <td>Tristanopsis laurina 'Luscious'</td> <td>Delmar Parade road reserve forward of the property, clear of driveway and intersection sightlines and generally in alignment with other street trees</td> <td>100 litre</td> </tr> </tbody> </table>	No. of Trees	Species	Location	Minimum Pot Size	All trees	As indicated on the approved Landscape Plans	As indicated on the Landscape Plans	As indicated on the Landscape Plans	5	Tristanopsis laurina 'Luscious'	Pittwater Road road reserve forward of the property, clear of driveway and intersection sightlines and generally in alignment with other street trees	100 litre	2	Tristanopsis laurina 'Luscious'	Delmar Parade road reserve forward of the property, clear of driveway and intersection sightlines and generally in alignment with other street trees	100 litre
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Strategic and Place Planning (Urban Design)	Supported, without conditions																

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs 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 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 65 - Design Quality of Residential Apartment Development

Clause 4 of State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment Development (SEPP 65) stipulates that:

(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.

The provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are applicable to the assessment of this application.

Given the reasonably minor nature of this application commensurate to the overall development, a full assessment against the Design Quality Principles of SEPP 65 and the Apartment Design Guide is not necessary.

APARTMENT DESIGN GUIDE

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

Development Control	Criteria / Guideline	Comments												
Part 3 Siting the Development														
Visual Privacy	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1"> <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>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</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>Consistent</p> <p>The privacy screens to be removed are internal of the site and are some 22.5 from the southern boundary.</p> <p>The louvers are (for the most part) 7.5m from the southern boundary and are from a 'habitable space' (outdoor communal walkway) as per the note.</p> <p>The spatial separation is not subject to change, and the provision of privacy is not considered to materially change as the modification seeks to just change the</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												

	<i>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</i>	direction of an approved screen. Overall the works are considered to be consistent with the guide for visual privacy.
Part 4 Designing the Building		
Amenity		
Solar and Daylight Access	To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space: <ul style="list-style-type: none"> 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. 	Consistent Whilst the changes proposed to the development will not alter the buildings compliance with the solar access requirements, it is acknowledged that the removal of privacy screens will provide an improved provision of solar access for future occupants.

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 modification is not being put up for refusal on these grounds.

(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) subclause (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 subclause (2), and
- (b) the design criteria specified in subclause (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:

The modification is not being put up for refusal on these grounds.

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
2.7 Demolition requires consent	Yes
5.3 Development near zone boundaries	Yes
5.21 Flood planning	Yes
6.2 Earthworks	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
7.7 Site A Oaks Avenue above podium elements	Yes

Clause	Compliance with Requirements
7.8 Site B Oaks Avenue above podium elements	Yes
7.9 Site A Proposed New Road above podium elements	Yes
7.10 Allowance for external ancillary plant and roof access	Yes
7.11 Town Square and pedestrian connections	Yes
7.12 Provisions promoting retail activity	Yes
7.13 Mobility, traffic management and parking	Yes

Warringah Development Control Plan

Built Form Controls

Part B Built Form Controls does not apply to land zoned B4 Mixed Use within the Dee Why Town Centre. All other parts of the DCP apply to the land identified within the Dee Why Town Centre.

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
D18 Accessibility and Adaptability	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
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	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
6 Site amalgamation	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

Detailed Assessment

D6 Access to Sunlight

The modifications proposed which change the privacy screens for bedrooms in unit stack X05 and X06 to transparent glass are done so to maximise the provision of sunlight available to the subject bedrooms. To that extent, the modifications enhance the internal amenity and provision of sunlight for future occupants without generating any solar additional solar impacts to neighbouring properties.

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 2021;
- 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. Mod2022/0401 for Modification of Development Consent DA2017/1183 granted for demolition works and construction of 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.1C - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

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

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
TP01.08 F - Basement Level 2	15 July 2022	Rothelowman
TP01.09 F - Basement Level 1	15 July 2022	Rothelowman
TP01.10 H - Ground Level	15 July 2022	Rothelowman
TP01.11 E - Level 1	15 July 2022	Rothelowman
TP01.12 E - Level 2	15 July 2022	Rothelowman
TP01.13 E - Level 3	15 July 2022	Rothelowman
TP01.14 E - Level 4	15 July 2022	Rothelowman
TP01.15 E - Level 5	15 July 2022	Rothelowman

TP01.16 E - Level 6	15 July 2022	Rothelowman
TP01.17 D - Roof Level	15 July 2022	Rothelowman
TP02.05 E - Site Elevations - North	15 July 2022	Rothelowman
TP02.06 F - Site Elevations - South	15 July 2022	Rothelowman
TP02.07 E - Site Elevations - East	15 July 2022	Rothelowman
TP02.08 D - Site Elevations - West	15 July 2022	Rothelowman
TP03.01 D - Site Section 1	15 July 2022	Rothelowman
TP03.02 E - Site Section 2	15 July 2022	Rothelowman
TP03.03 E - Site Section 3	15 July 2022	Rothelowman
TP03.04 D - Site Section 4	15 July 2022	Rothelowman

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate no. 1068650M_10	26 May 2022	Senica Consultancy Group Pty Ltd

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 53F - Required Tree Planting to read as follows:

Street trees shall be planted in accordance with the following schedule:

- 2 x *Tristaniopsis laurina* 'Luscious' planted at 100 litre container size, within Delmar Parade road reserve forward of the property, clear of driveway and intersection sightlines and generally in alignment with other street trees.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To maintain environmental amenity.

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

Signed



Adam Susko, Principal Planner

The application is determined on 05/09/2022, under the delegated authority of:



Steven Findlay

Steven Findlay, Manager Development Assessments