



STATEMENT OF ENVIRONMENTAL EFFECTS

Construction of a five storey residential flat building over basement parking and associated landscaping in accordance with Division 1 In-fill Affordable Housing of Housing SEPP.

67 Pacific Parade, Dee Why

Prepared for: Chris Brasler

REF. M230303

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1. Introduction

1.1 OVERVIEW

This Statement of Environmental Effects ('Statement') has been prepared on behalf of Chris Brasler, the Applicant for the proposed development. The Statement is to accompany a development application ('DA') to Northern Beaches Council ('Council') seeking consent for the *'Construction of a five storey residential flat building over basement parking and associated landscaping in accordance with Division 1 In-fill Affordable Housing of Housing SEPP'* at No. 67 Pacific Parade, Dee Why (the 'site').

The proposed development seeks to deliver a high quality residential flat building, inclusive of affordable housing, which appropriately responds to the constraints and characteristics of the site and surrounding locality. The proposal will seek to construct a contemporary five storey residential flat building, as demonstrated in the Architectural Plans prepared by *DKO Architects*. The proposed built form is consistent with the bulk and scale established on the site and within the surrounding locality.

Overall, the proposed development will provide a total of 9 apartments, comprising 2 x two (2) bedroom and 7 x three (3) bedroom apartments, including one (1) adaptable apartment. Vehicular access is provided from Pacific Parade to three parking areas via a car lift system. The parking arrangement will accommodate a total of 15 parking spaces including 2 visitor parking spaces spread across the basement, ground and Level 1 parking areas. The proposal will also provide extensive landscaping and vegetation throughout the subject site.

The proposal provides for significant social public benefits, in that it will provide for affordable housing per *Chapter 2 Affordable housing, Division 1 In-fill affordable housing* of the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP). The provision of additional affordable housing, for a period of 15-years, will assist in addressing the housing crisis and demand for affordable housing, particularly for key workers within the Dee Why locality.

The proposal is designed to deliver a wide range of significant benefits to the character of the locality and residential amenity of future occupants and surrounding properties. The proposal will provide an appropriate balance between providing a contemporary development which will relate to the established and desired future character of the locality.

1.2 ENVIRONMENTAL ASSESSMENT OVERVIEW

As detailed, the proposed development is sought in accordance with the recently amended Housing SEPP, Chapter 2 Affordable Housing, Division 1 In-fill Affordable Housing. The amendments were made on 14 December 2023 and deliver a floor space ratio (FSR) and building height bonus of 20-30% for developments that include at least 10-15% of gross floor area as affordable housing, for a minimum period of 15 years. The proposed development, which seeks approval for an increase in building height of 30% (to the development standard), will deliver affordable housing equating to 19.7% of the total floor area and therefore meets the requirements of the Housing SEPP.

The Waringah Local Environmental Plan 2011 (WLEP) applies to the subject site. The site is located within the R3 Medium Residential zone and the proposed residential flat building is permissible with consent and aligns with the objectives of the zone. The proposal complies with the relevant provisions of the WLEP 2011 except for a breach to the maximum building height development standard, inclusive of the bonus afforded by the Housing SEPP. As such, a Clause 4.6 Variation is provided at **Annexure C** justifying the variation.



The proposal is also generally compliant with the provisions of the Apartment Design Guide (ADG) and Waringah Development Control Plan (WDCP) and is a suitable form of development within the site context. Where variations are proposed they are addressed in this Statement and have been found to meet the objectives of the respective controls.

1.3 SUPPORTING DOCUMENTS

The development application is supported by a series of consultant reports and plans, listed below at **Table 1**:

Table 1 Supporting documentation	
Report name	Report author
Architectural Plans	DKO Architecture
Acoustic Report	ADP Consulting Pty Ltd
Landscape Plans	Matthew Higginson Landscape Architecture Pty Ltd
Arborist Report	Growing My Way Tree Consultancy
BCA and Accessibility	BMG Pty Ltd
Quantity Surveyors Report	Mitchell Brandtman
Stormwater Drawings	CAM Consulting
Survey Plan	Usher & Company
Traffic Management Report	Stanbury Traffic Planning
Demolition and Construction Waste Management Plan	LID Consulting
Waste Management Plan	LID Consulting
Fire Safety Report	ADP Consulting
Preliminary Site Investigation	Environmental Consulting Services
Geotechnical Report	CMW Geosciences
BASIX and Nathers Assessment Report	EDS Scientific
BASIX Certificate	1756473M
Nathers Certificate	HR-N8XSZ8-01
Affordable Housing Management Letter of Intent	HomeGround Real Estate Sydney

1.4 PURPOSE OF STATEMENT

The purpose of this Statement is to address the planning issues associated with the development proposal and specifically to assess the likely impact of the development on the environment in accordance with the requirements of Section 4.15 of the *Environmental Planning & Assessment Act, 1979* (EP&A Act).

This Statement has been divided into six sections. The remaining sections include an analysis of the site and locality; background; a description of the proposal; an environmental planning assessment pursuant to s.4.15 of the EP&A Act; and a conclusion.



2. Site Analysis and Context

2.1 THE SITE

The subject site is known as No. 67 Pacific Parade, Dee Why, and has a legal description of Lot 25 in DP 7002. The location of the subject site and its immediate surrounds is outlined red in the aerial image provided at **Figure 1** below.



Figure 1 Aerial image of the subject site (outlined in red).

The site is rectangular in shape with a northern frontage to Pacific Parade and southern rear boundary, both of which measure 15.24m. The site contains an eastern (side) boundary and western side boundary of 45.73m. The site has a total area of 695.6m².

The subject site falls approximately 8m from the rear southern boundary to Pacific Parade and has a crossfall in a westerly direction. Demolition works, including tree removal, were undertaken on the site in accordance with DA2020/1597 and therefore, the site is vacant containing only scattered vegetation and rock outcrops.

Images of the subject site are provided at **Figure 2** and **3**, overpage.



Figure 2 Subject site viewed from Pacific Parade.



Figure 3 Subject site viewed from the rear of the site looking towards Pacific Parade.

2.2 SURROUNDING DEVELOPMENT

The site is located within a well-established suburban area where the surrounding locality consists of a diverse mix of development types, including older and newer residential flat buildings of varying building heights and architectural styles, and attached and detached dwellings. Importantly, the site is one of the last remaining residential lots on the southern side of Pacific Parade within the residential block to be redeveloped. As a result, the site is currently an isolated allotment between three and four storey residential flat building developments on each of the adjoining sites.

Directly west of the subject site is No. 65 Pacific Parade, which contains a part three, part four storey rendered and clad residential flat building with basement car park (**Figure 4**). It is important to note that this site is of similar dimensions and constraints to the subject site. The constructed development, previously approved by Council, is non-compliant with a number of Councils built form controls including setbacks, building envelope and landscape area. Furthermore, given that site amalgamation with the subject site was not achievable at the time of lodgement, the applicant was required to demonstrate to Council how the subject site at the subject site could be redeveloped independently of No. 65. Council agreed that a redevelopment of this site for a residential flat building was achievable on the subject site.

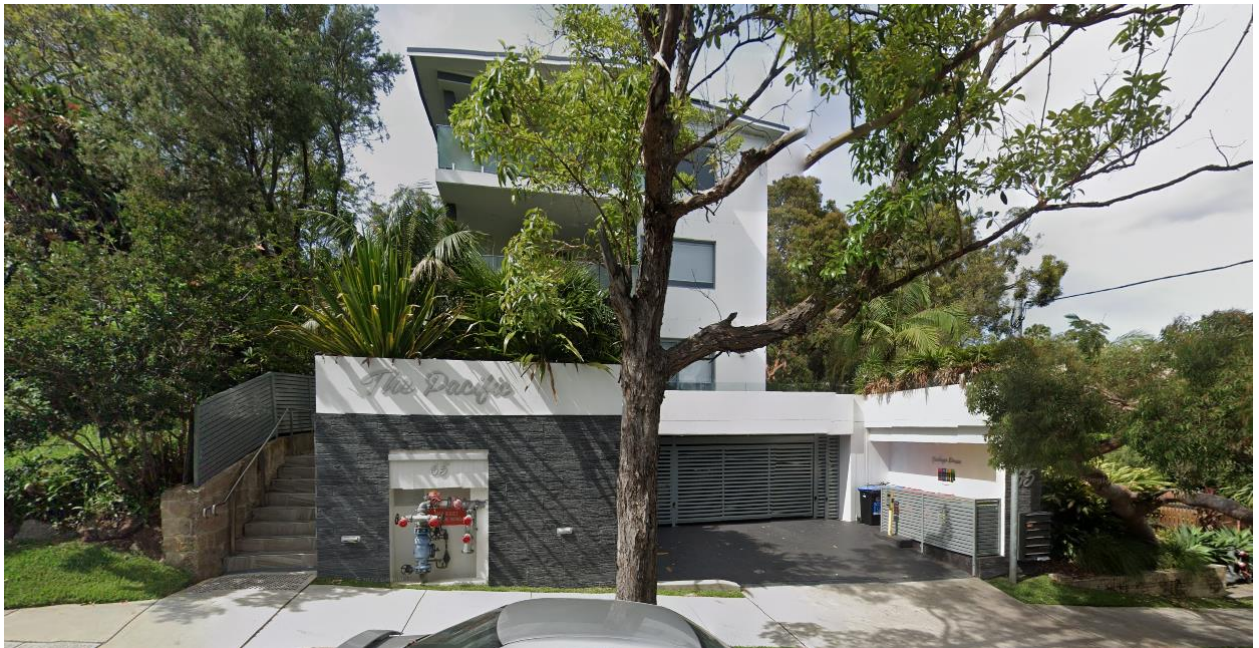


Figure 4 No.65 Pacific Parade to the west of the subject site.

Adjoining the site to the east is No. 1-5 The Crescent, which contains a three storey rendered apartment building centred within the middle of the allotment (**Figure 5** and **6**). Vehicle access to the site is provided via a two way driveway off Pacific Parade to a basement parking level. Due to the slope of the site and street, the development presents as a four storey building when viewed from Pacific Parade.



Figure 5 No.1-5 The Crescent as viewed from Pacific Parade.



Figure 6 No. 1-5 The Crescent as viewed from the intersection of Pacific Parade and The Crescent.

Adjoining the site to the rear is The Crescent Reserve comprising a playground and extensive landscaping and vegetation (**Figure 7**).

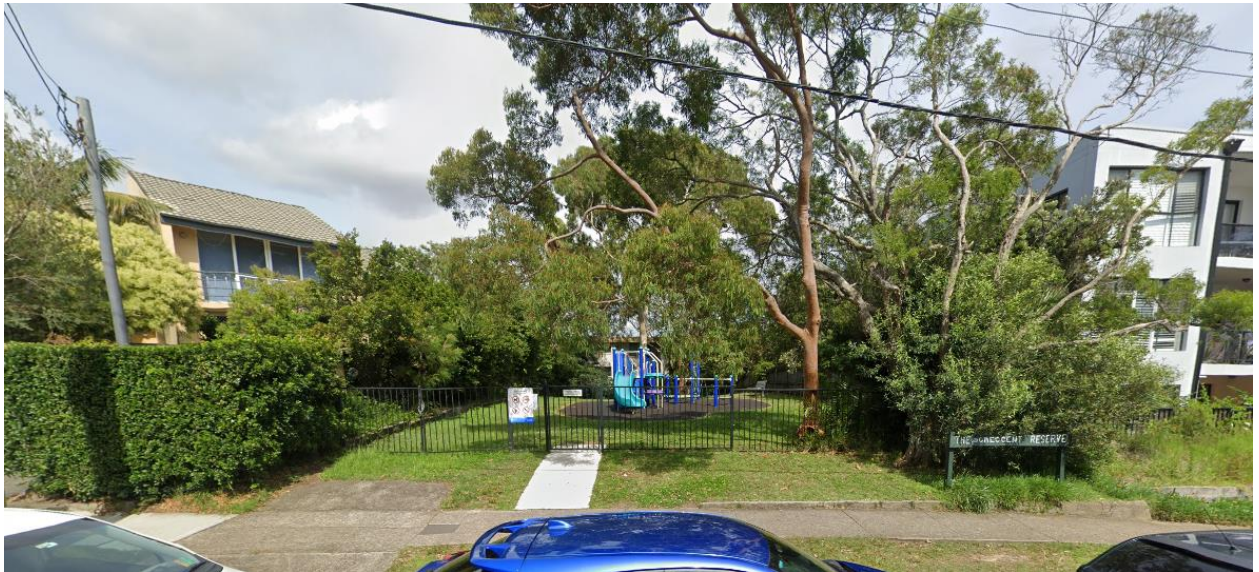


Figure 7 The Crescent Reserve as viewed from The Crescent.

To the north and on the opposite side of Pacific Parade, are a number of older walk up residential flat buildings, with varying architectural styles, reaching up four storeys in height (**Figure 8**).



Figure 8 Development to the north of the subject site.

2.3 CONNECTIVITY AND ACCESS TO PUBLIC TRANSPORT

The subject site is located within a highly accessible locality. Numerous bus stops are located along Pacific Parade which provide public transport connectivity across the North Shore and Sydney Central Business District. The bus routes provide regular services to destinations including, North Sydney, Warringah, Manly and Wynyard. The Site is also located within 400m from Dee Why Grand Shopping Centre and therefore is within close proximity to a variety of land uses, supporting the proposed development.

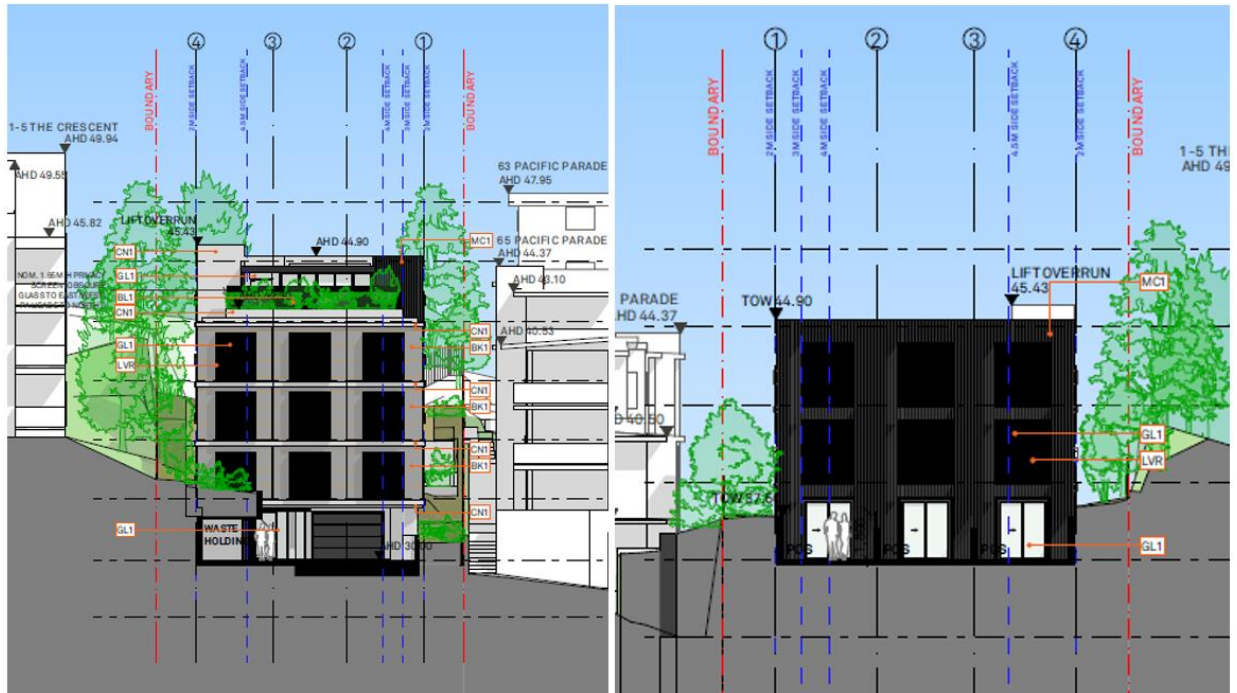


Figure 10 Approved Northern (left) and Southern (right) elevations under DA2020/1597.

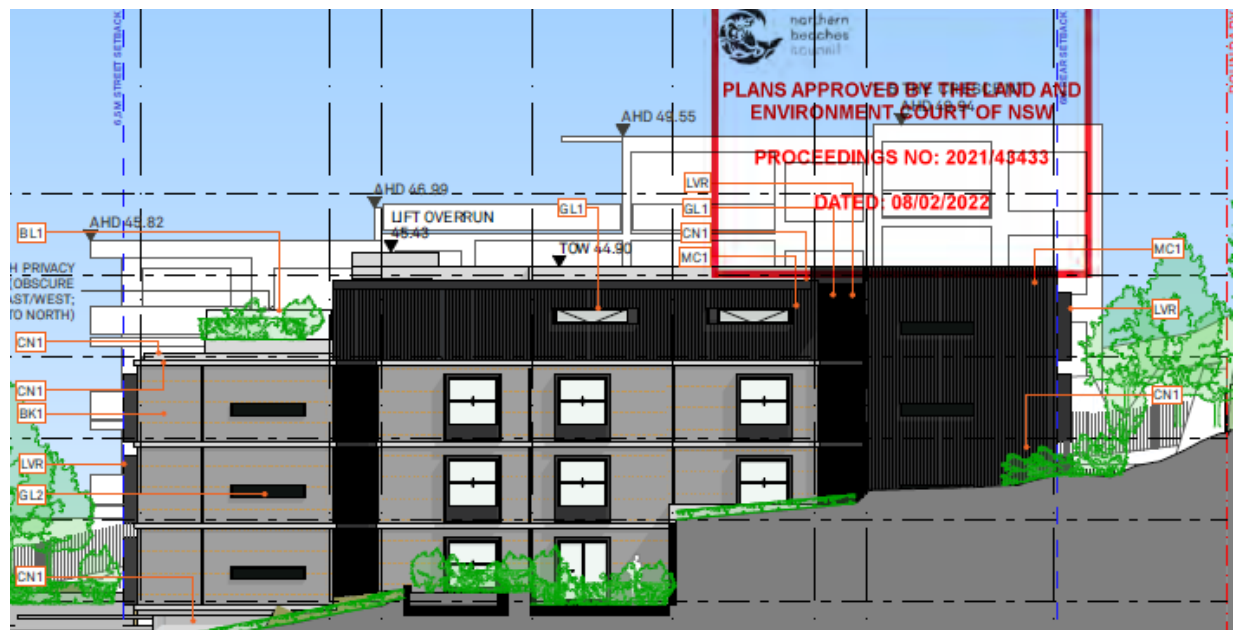


Figure 11 Approved Western (side) elevation under DA2020/1597.

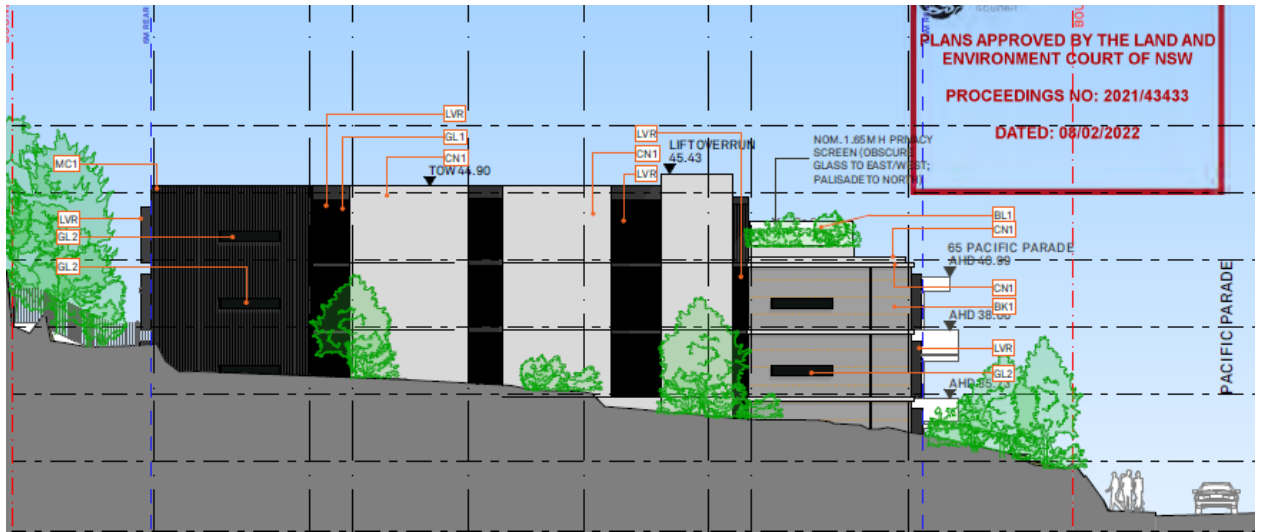


Figure 12 Approved Eastern (side) elevation under DA2020/1597.

4. Description of the Proposal

4.1 OVERVIEW OF PROPOSAL

This development application proposes the construction of a contemporary five storey residential flat building. The proposal has been designed to respond to the topography of the site and significantly improve the character of the site as viewed from Pacific Parade, appropriately responding to the bulk, scale and character of surrounding built forms.

The development proposes 9 residential apartments, comprising 2 x 2 bedroom apartments and 7 x 3 bedroom apartments. This includes the allocation of 1 x 2 bedroom apartment and 1 x 3 bedroom apartment as affordable housing, for a period of 15 years to a registered community housing provided, in accordance with the Housing SEPP. The apartments allocated as affordable housing include G01 and 101, of which apartment G01 is also adaptable.

The proposal will provide for a total of 15 car parking spaces (including 1 accessible space) across the basement level, ground level and Level 1. The basement parking area will be accessed via a two way driveway from Pacific Parade and a car lift will allow for vehicles to access additional parking spaces provided at the ground floor and Level 1. The basement will also provide bicycle parking, services and bin storage room. High quality landscaping and deep soil areas are provided throughout the site.

The proposed development is depicted on the plans prepared by *DKO Architecture*, which are included with the development application and described in detail below.

4.2 EXCAVATION

The site is to be excavated to facilitate the proposed basement car parking, building services and slabs. All excavation works will be undertaken using conventional construction techniques and appropriate sediment control, safety fencing and hoardings, traffic management, waste management, tree protection, noise and dust control, and protection of public and adjoining properties will be undertaken during excavation and construction.

Any hazardous waste (e.g. asbestos) that is found during the construction phase of the development will be disposed of in accordance with the relevant NSW EPA regulations and procedures.

4.3 TREE REMOVAL

Under DA2020/1597, a number of trees on the site were approved for removal to accommodate the proposed building envelope. All trees were removed in accordance with the consent under DA2020/1597, with the exception of two trees located towards the front of the site.

In order to enable redevelopment, the proposal will replace the two existing trees on the site in accordance with the recommendations of the Arborist Report prepared by *Growing My Way Tree Services*. Replacement trees will be planted as far from any permanent infrastructure, new or existing on the neighbouring sites, as possible.

All new and replacement plantings will be as per the Landscape Plan prepared by *Matthew Higginson Landscape Architecture* which is submitted with this application.

4.4 BUILDING ARRANGEMENT AND CONFIGURATION

The development has been purposefully designed to ensure all units have a high level of amenity. The development has been sited to meet the relevant objectives and/or controls of the Housing SEPP, Apartment Design Guide (ADG), Warringah LEP and Warringah DCP. Where variations are proposed to the various controls, the design has incorporated additional design features to ensure the overall amenity of neighbouring residents is maintained. Certainly, the proposed development is considered to be a better outcome when compared to the approved boarding house development under DA 2020/1597.

The arrangement of each level is described in detail below.

Basement (RL 28.55)

Vehicle access is provided off Pacific Parade via a driveway with separate entry and exit and an intercom and security door provided to restrict access. Services are provided adjacent to the driveway including fire and sprinkler booster, cupboard, water service and meter and the bin store and bulky waste storage. Ramped pedestrian access is provided off Pacific Parade to the services and the bin storage area.

The basement level will provide 3 parking spaces, including 1 residential accessible parking space and 2 visitor parking spaces. The level will also contain 6 bicycle parking spaces, storage, services room, rainwater tank, and lift and stair access to the upper levels. A hydraulic car lift is also provided to allow for vehicle access to the upper parking levels.

Ground (RL 31.55)

Pedestrian access from Pacific Parade is provided along the eastern side boundary and leads to the lobby which provides for vertical lift access to the upper levels and basement. Mailboxes are provided along the pedestrian pathway within the front setback and an additional 3 bicycle parking spaces are provided at the end of the pathway. Accessed from the lobby is a two bedroom apartment with open plan living area and private open space oriented towards the western side boundary and surrounded by planter boxes which have retained existing natural levels where possible. The apartment is adaptable and will be allocated for affordable housing. The lobby will also contain services and fire stair.

At the rear of the level, 6 additional residential parking spaces and 1 bicycle parking space are provided which are accessed from the basement by the car lift. Direct internal access to the parking area is provided from the lobby.

Level 1 (RL 34.65)

Oriented towards Pacific Parade is a three bedroom apartment with an open plan living area and balcony addressing Pacific Parade. Access to the apartment is provided via the lobby and lift access (and the associated fire stair), which are accessed from the pedestrian pathway off Pacific Parade.

The remainder of this level is occupied by an additional parking area with 6 residential spaces provided which are accessed from the basement by the car lift. Direct internal access to the parking area is provided from the lobby. Services are also provided at this level.

Level 2 (RL 37.75)

Level 2 contains 2 x 3 bedroom apartments. One apartment addresses Pacific Parade and contains an open plan living area, with a balcony orientated towards the street. The other apartment is oriented to the rear of the site and contains an open plan living area which opens out to a large courtyard space surrounded by deep soil landscaped area. An additional courtyard is also provided within the western side boundary. The remainder of this floor includes lift and stair access to the upper and lower levels and building services. Notably, the lift provides separate openings and lobbies for each apartment.

Level 3 (RL 40.85)

Level 3 contains 2 x 3 bedroom apartments. One apartment addresses Pacific Parade and contains an open plan living area, with a balcony orientated towards the street and surrounded by planter boxes. The other apartment is oriented to the rear of the site and contains an open plan living area, with a balcony oriented towards the rear of the site, which overlooks the adjoining reserve. The remainder of this floor includes lift and stair access to the upper and lower levels and building services. Notably, the lift provides separate openings and lobbies for each apartment.

Level 4 (RL 43.95)

Level 4 contains 1 x 2 bedroom apartment and 1 x 3 bedroom apartment. One apartment addresses Pacific Parade and contains an open plan living area, with a balcony orientated towards the street and surrounded by planter boxes. The other apartment is oriented to the rear of the site and contains an open plan living area, with a balcony oriented towards the rear of the site, which overlooks the adjoining reserve. The remainder of this floor includes lift and stair access to the upper and lower levels and building services. Notably, the lift provides separate openings and lobbies for each apartment.

Level 5 (RL 47.05)

Level 5 contains a single 3 bedroom apartment which contains an open plan living area, with a large balcony orientated towards the street and surrounded by planter boxes, and an additional smaller balcony provided at the rear. The remainder of this floor includes lift and stair access to the upper and lower levels and building services. Notably, the lift provides separate openings and lobbies for each apartment.

Roof (RL 50.35)

The roof contains air conditioning plant and an access hatch, as well as the lift overrun.

4.5 DEEP SOIL LANDSCAPING

Details of the proposed landscaping are shown on the Landscape Plan prepared by *Matthew Higginson Landscape Architecture* which accompanies the development application. The Landscape Plan concentrates podium landscaping and deep soil planting throughout the site, with emphasis to the rear boundary, where the site adjoins The Crescent Reserve and to the site boundaries. The proposed landscaping will provide a balance between the natural and built features of the site and will assist with softening the built form and separation of adjoining properties.

The proposal will provide 122m² or 17.5% of the site area as deep soil landscaped area, concentrated within the rear and side boundaries, with suitable minimum dimensions. The proposal will also provide considerable soft landscaping equating to a total area of 110m² or 15.5% of the site area, located above basements, podiums and roof top. This will be capable of supporting a wide variety of vegetation which will soften the built form and improve the flora network of the locality. In total, the development will provide a landscaped area of 232m² or 33%.

The Landscape Plan details that the subject site will contain mature trees and shrubs which will grow to an appropriate mature height, which are located in the deep soil landscaped areas throughout the site. Additional shrubs, ground cover and podium landscaping will be proposed throughout the site to improve the landscaped character. As such, the density of the site will increase, so will the range of tree specifics within suitable locations that will ensure their long term retention.

4.6 ACCESS

Vehicular access to the site is provided via Pacific Parade to the basement parking level where car lift is provided to the parking levels above. Pedestrian access to the proposed building is provided from Pacific Parade along the eastern



side boundary to the lobby area with lift and stair access serving the respective apartments. All vehicular access and parking will be in accordance with the relevant Australian Standards. A Traffic Report prepared by *Stanbury Traffic Planning* and an Access Report prepared by *BM+G* are submitted with this application.

4.7 WASTE MANAGEMENT

A Waste Management Plan has been prepared by *Low Impact Development Consulting* and covers the operational phase of the development. The proposal incorporates a waste storage area within the basement. The proposal also provides adequate waste storage within each individual apartment. The building manager will transfer bins for street collection at Pacific Parade by Council, similar to other residences along Pacific Parade.



5. Environmental Planning Assessment

5.1 PREAMBLE

This section of the Statement provides a planning assessment of the proposed development covering all relevant heads of consideration under Section 4.15 of the EP&A Act, 1979.

5.2 STATUTORY AND POLICY COMPLIANCE

The relevant matters for consideration under Section 4.15(1)(a) of the EP&A Act, 1979, are identified in **Table 2**.

Table 2 Section 4.15 Matters For Consideration				
EP&A Act, 1979.	Matters for Consideration	OK	See Comments	N/A
S.4.15(1)(a)(i)	SEPP (Resilience and Hazards) 2021	✓	✓	
"	SEPP (Biodiversity and Conservation) 2021	✓	✓	
"	SEPP (Planning Systems) 2021	✓	✓	
"	SEPP (Housing) 2021	✓	✓	
"	SEPP (Sustainable Buildings) 2022	✓	✓	
"	Warringah Local Environmental Plan 2011	✓	✓	
S.4.15(1)(a)(iii)	Warringah Development Control Plan 2011	✓	✓	
S.4.15(1)(a)(iv)	Any other prescribed matter: - AS 2601-1991: Demolition of structures.			✓

The matters identified in the above Table as requiring specific comment are discussed below. The primary statutory documents that relate to the subject site and the proposed development are the *State Environmental Planning Policy Housing 2021* and *Warringah Local Environmental Plan 2011* (WLEP 2011). The primary non-statutory documents relating to the subject site and proposed development are the *Apartment Design Guide (ADG)* and *Warringah Development Control Plan 2011* (WDCP 2011). An assessment of the applicable provisions of these documents and other relevant planning instruments is provided below.

5.2.1 State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP) commenced on 1 March 2022, repealing and replacing three former SEPPs related to coastal management, hazardous and offensive development and remediation of land. *Chapter 4 Remediation of Land* is of relevance to the proposed development.

Chapter 4 of the Resilience and Hazards SEPP 2021 provides planning controls for the remediation of contaminated land and requires an investigation to be made if land contamination is suspected. The consent authority must consider if the land is contaminated and, if so, whether it is suitable, or can be made suitable, for the proposed use. As the site was previously used for residential purposes, and has been for a considerable period of time, there is no reason to suspect that it is contaminated. Regardless, a Preliminary Site Investigation (PSI) prepared by *Environmental Consulting Services* is submitted with this application. The PSI concluded that the site is suitable for redevelopment and sensitive use following implementation of the following recommendations:

- “The preparation of a waste classifications for any material to be excavated and disposed of off-site. The waste classifications must be prepared in accordance with EPA guidelines; and
- All waste must be managed and disposed of in accordance with current guidelines and regulations.”

The requirements of the SEPP are therefore satisfied.

5.2.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP) commenced on 1 March 2022, repealing and replacing 11 previous SEPPs. Of relevance to the proposed development is *Chapter 2 Vegetation in non-rural areas*

Chapter 2 Vegetation in non-rural areas replaces the previous SEPP (Vegetation in Non-Rural Areas) 2017. The primary aims and objectives of Chapter 2 are related to the protection of the biodiversity values of the trees and other vegetation on the site in non-rural areas. This chapter works together with the *Biodiversity Conservation Act 2016* and the *Local Land Services Amendment Act 2016* to create a framework for the regulation of clearing of native vegetation in NSW.

Chapter 2 regulates clearing that is not ancillary to development requiring consent. Whereas, clearing that is ancillary to development requiring consent will be assessed as part of the development assessment process. As such, the proposed removal of trees is ancillary to development requiring consent and will be assessed by Council’s Tree and Landscape Officer. As detailed, the proposal will remove 2 trees towards the front of site. This is addressed in this Statement and the supporting Arborist Report prepared by *Growing My Way Tree Services*. The trees to be removed will be replaced in accordance with the Landscape Plan prepared by *Matthew Higginson Landscape Architecture*.

5.2.3 State Environmental Planning Policy (Planning Systems) 2021

State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP) commenced on 1 March 2022, repealing and replacing three former SEPPs related to state and regionally significant development, Aboriginal land and concurrence authority for certain development.

Of relevance to the proposed development is *Chapter 2 State and regional development. Part 2.4 Regional Significant Development* of Chapter 2 identifies what development is regionally significant and refers to Schedule 6 of the Planning Systems SEPP. In accordance with Clause 5 under Schedule 6, the proposed development is regionally significant development since it is for the purpose of affordable housing with a cost of more than \$5 million.

As such, the consent authority for the application will be the Sydney North Planning Panel.

5.2.4 State Environmental Planning Policy (Housing) 2021

State Environmental Planning Policy (Housing) 2021 (Housing SEPP) commenced on 26 November 2021 and aims to incentivise the supply and ensure the effective delivery of new affordable and diverse housing. The Housing SEPP consolidates five existing housing related policies, including:

- *State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP);*
- *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP);*
- *State Environmental Planning Policy No 70 - Affordable Housing (Revised Schemes) (SEPP 70);*
- *State Environmental Planning Policy No 21 - Caravan Parks; and*
- *State Environmental Planning Policy No 36 - Manufactured Home Estates.*

In addition to the above, the Housing SEPP was recently amended on 14 December 2023 to further incentivise affordable housing, and to also consolidate the provisions of *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development*. The relevant sections of the Housing SEPP which apply to this development are:

- Chapter 2 Affordable Housing
- Chapter 4 Design of Residential Apartment Development

Chapter 2 Affordable Housing, Division 1 In-fill Affordable Housing

The proposed development seeks to deliver in-fill affordable housing under Chapter 2 of the Housing SEPP. On 14 December 2023, in-fill affordable housing reforms were gazetted to encourage private developers to boost affordable housing and deliver more market housing. The reforms primarily deliver a floor space ratio bonus of 20-30% and building height bonus of 20-30% for projects that include at least 10-15% of gross floor area as affordable housing. This application will seek to benefit from the additional building height, and resultantly deliver affordable housing.

The site is within an “accessible area” as defined by the Policy which states:

accessible area means land within—

(a) 800m walking distance of—

(i) a public entrance to a railway, metro or light rail station, or

(ii) for a light rail station with no entrance—a platform of the light rail station, or

(iii) a public entrance to a wharf from which a Sydney Ferries ferry service operates, or

(b) (Repealed)

(c) 400m walking distance of a bus stop used by a regular bus service, within the meaning of the *Passenger Transport Act 1990*, that has at least 1 bus per hour servicing the bus stop between—

(i) 6am and 9pm each day from Monday to Friday, both days inclusive, and

(ii) 8am and 6pm on each Saturday and Sunday.

The subject site is located approximately 100m from bus stops along Pacific Parade which meet the required number of services.

Section 16 of the Housing SEPP contains calculations for the provision of floor space ratio and building height bonuses. However, Section 16(4) stipulates the following (note our underline):

(1) *The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).*

(2) *The minimum affordable housing component, which must be at least 10%, is calculated as follows—*

$$\text{affordable housing component} = \frac{\text{additional floor space ratio}}{(\text{as a percentage})} \div 2$$

(3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).

Example— Development that is eligible for 20% additional floor space ratio because the development includes a 10% affordable housing component, as calculated under subsection (2), is also eligible for 20% additional building height if the development involves residential flat buildings or shop top housing.

(4) This section does not apply to development on land for which there is no maximum permissible floor space ratio.

Per the above, the FSR and height bonus permitted under Section 16 does not apply to development on land for which there is no maximum permissible floor space ratio, which includes the subject site.

Nevertheless, Section 18 of the Housing SEPP provides the following provisions in relation to additional building height available for affordable housing development:

- (1) *This section applies to development that includes residential development to which this division applies if the development—*
 - (a) *includes residential flat buildings or shop top housing, and*
 - (b) *does not use the additional floor space ratio permitted under section 16.*
- (2) *The maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height of up to 30%, based on a minimum affordable housing component calculated in accordance with subsection (3).*
- (3) *The minimum affordable housing component, which must be at least 10%, is calculated as follows—*

$$\text{affordable housing component} = \frac{\text{additional building height}}{(\text{as a percentage})} \div 2$$

The proposal meets the requirements of Section 18(1) above in that it is for a residential flat building and does not seek to utilise the additional floor space ratio available under Section 16 of the SEPP.

The subject site is permitted a maximum building height of 11m under the WLEP. In accordance with Section 18(2), 19.7% of the total GFA (or 205m²) will be allocated to affordable housing and therefore the full 30% additional building height is available to the proposed development under Section 18(3). As such, the maximum building height permitted on the subject site, in accordance with the 30% bonus, is 14.3m.

The proposed development has a maximum building height of 15.84m to the lift overrun. The only other component of the development which extends above the 14.3m building height plane is the air conditioning plant and surrounding metal palisade which reaches a maximum height of 15.07m. All habitable levels sit within the 14.3m building height plane.

As such the proposal does not strictly comply with the maximum building height, including the bonus, as afforded by the Housing SEPP. Importantly, the proposal contains all habitable floor space within the building height limit, and the non-compliance is limited to services and the lift overrun. It is not considered practicable or possible to accommodate the lift overrun and services within the additional height, particularly when considered the topography of the site. The additional height has been utilised for additional residential floor space, as intended by the purpose of the Housing SEPP incentives, and the height non-compliance is a response to the site context and will appear negligible on the backdrop of the existing development within the streetscape.

A Compliance Table which considers the proposal against the relevant standards and provisions of the Housing SEPP is provided at **Table 3** below.

Table 3 SEPP (Housing) 2021 Compliance		
Clause	Requirement	Compliance
15C Development to which this division applies	(1) This division applies to development that includes residential development if— (a) the development is permitted with consent under Chapter 3, Part 4 or another environmental planning instrument, and (b) the affordable housing component is at least 10%, and	The proposed residential flat building is permitted with consent in the R3 Medium Density Residential zone. The proposal will provide 19.7% of the GFA as affordable housing.
	(c) all or part of the development is carried out— (i) for development on land in the Six Cities Region, other than in the City of Shoalhaven local government area—in an accessible area, or (ii) for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone.	The development is within the Six Cities Region and is within 100m walking distance to bus stops with services that meet the requirements and is therefore accessible.
	(2) Affordable housing provided as part of development because of a requirement under another environmental planning instrument or a planning agreement within the meaning of the Act, Division 7.1 is not counted towards the affordable housing component under this division.	Noted.
	(3) In this section— relevant zone means the following— (a) Zone E1 Local Centre, (b) Zone MU1 Mixed Use, (c) Zone B1 Neighbourhood Centre, (d) Zone B2 Local Centre, (e) Zone B4 Mixed Use.	Noted.
16 Affordable housing requirements for additional floor space ratio	(1) The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2). (2) The minimum affordable housing component, which must be at least 10%, is calculated as follows— $\text{affordable housing component} = \frac{\text{additional floor space ratio}}{(\text{as a percentage})} \div 2$	In accordance with Section 16(4), the site does not have a maximum permissible floor space ratio, and therefore this section does not apply.
	(3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height that is the same	

Table 3 SEPP (Housing) 2021 Compliance

	percentage as the additional floor space ratio permitted under subsection (1).	
	<p>Example—</p> <p>Development that is eligible for 20% additional floor space ratio because the development includes a 10% affordable housing component, as calculated under subsection (2), is also eligible for 20% additional building height if the development involves residential flat buildings or shop top housing.</p> <p>(4) This section does not apply to development on land for which there is no maximum permissible floor space ratio.</p>	
17 Additional floor space ratio for relevant authorities and registered community housing providers	<p>(1) This section applies to residential development to which this division applies that is carried out—</p> <p>(a) by or on behalf of a relevant authority or registered community housing provider, and</p> <p>(b) on land with a maximum permissible floor space ratio of 2:1 or less.</p>	Not applicable. The proposal is not for a registered community housing provider.
18 Affordable housing requirements for additional building height	<p>(1) This section applies to development that includes residential development to which this division applies if the development—</p> <p>(a) includes residential flat buildings or shop top housing, and</p> <p>(b) does not use the additional floor space ratio permitted under section 16.</p> <p>(2) The maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height of up to 30%, based on a minimum affordable housing component calculated in accordance with subsection (3).</p> <p>(3) The minimum affordable housing component, which must be at least 10%, is calculated as follows—</p> $\text{affordable housing component} = \frac{\text{additional building height}}{\text{(as a percentage)}}$	<p>The subject site is permitted a maximum building height of 11m under the WLEP. In accordance with Section 18(2), 19.7% of the total GFA (or 205m²) will be allocated to affordable housing and therefore the full 30% additional building height is available to the proposed development under Section 18(3). As such, the maximum building height permitted on the subject site, in accordance with the 30% bonus, is 14.3m.</p> <p>The proposed development has a maximum building height of 15.84m to the lift overrun. The only other component of the development which extends above the 14.3m building height plane is the air conditioning plant and surrounding metal palisade which reaches a maximum height of 15.07m. All habitable levels sit within the 14.3m building height plane.</p> <p>As such the proposal does not strictly comply with the maximum building height, including bonuses, as afforded by the Housing SEPP.</p> <p>A Clause 4.6 Variation is provided in Annexure C.</p>

Table 3 SEPP (Housing) 2021 Compliance

19 Non-discretionary development standards – the Act, s 4.15	(2)(a) a minimum site area of 450m ²	The site has an area of 695.6m ² .
	(2)(b) a minimum landscaped area that is the lesser of— (i) 35m ² per dwelling, or (ii) 30% of the site area,	<p>35m per dwelling equates to 315m². 30% of the site area equates to 208.68m². Therefore, the minimum landscaped area required is 208.68m².</p> <p>The proposed development provides for a deep soil area of 112m² of deep soil area and 120m² of soft landscaped area. In total, the proposal will provide for a landscaped area of 232m² or 33% of the site area and is therefore considered acceptable.</p> <p>Whilst the definition of landscaped area, which is reproduced below excludes part of the site area occupied by the building, the provision of significant podium landscaping is considered to be appropriate and will contribute to the flora and fauna network of the locality. Importantly, the definition includes open-air recreation facility and the podium landscaping, which is generally adjacent to private open spaces, should therefore be included and is acceptable. It should also be noted that a swimming pool can be included, which would also increase the maximum extent of landscaped area.</p> <p>landscaped area means the part of the site area not occupied by a building and includes a part used or intended to be used for a rainwater tank, swimming pool or open-air recreation facility, but does not include a part used or intended to be used for a driveway or parking area.</p>
	(2)(c) a deep soil zone on at least 15% of the site area, where— (i) each deep soil zone has minimum dimensions of 3m, and (ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site,	This is not applicable as subclause (3) states that subclause (2)(c) and (d) do not apply to development to which Chapter 4 applies. As the proposal is for a residential flat building, <i>Chapter 4 Design of residential apartment development</i> applies and as such, (c) is not applicable.
	(2)(d) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter,	This is not applicable as subclause (3) states that subclause (2)(c) and (d) do not apply to development to which Chapter 4 applies. As the proposal is for a residential

Table 3 SEPP (Housing) 2021 Compliance

		flat building, <i>Chapter 4 Design of residential apartment development</i> applies and as such, (d) is not applicable.
	(2)(e) the following number of parking spaces for dwellings used for affordable housing— (i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, (iii) for each dwelling containing at least 3 bedrooms—at least 1 parking space,	The proposal provides the following dwellings for affordable housing: 2 bed = 1 dwelling (0.5 spaces required) 3 bed = 1 dwelling (1 space required) A total of 2 parking spaces are required. The proposal provides at least 2 spaces for the affordable housing units.
	(2)(f) the following number of parking spaces for dwellings not used for affordable housing— (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 1 parking space, (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,	The proposal provides the following dwellings for non-affordable housing: 2 bed = 1 dwelling (1 space required) 3 bed = 6 dwellings (9 spaces required) A total of 10 parking spaces are required. The proposal provides at least 10 spaces for the non-affordable housing units. Notably, a total residential parking provision of 15 is provided which achieves the SEPP requirement of at least 12 parking spaces.
	(2)(g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,	All units comply with the minimum internal areas under the ADG. Refer to the Architectural Plans for compliance.
	(2)(h) for development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces)—the minimum floor area specified in the Low Rise Housing Diversity Design Guide,	Not applicable.
	(2)(i) if paragraphs (g) and (h) do not apply, the following minimum floor areas— (i) for each dwelling containing 1 bedroom—65m ² , (ii) for each dwelling containing 2 bedrooms—90m ² , (iii) for each dwelling containing at least 3 bedrooms—115m ² plus 12m ² for each bedroom in addition to 3 bedrooms.	Clause (2)(g) applies to the development.
	(3) Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.	The proposal is for a residential flat building and as such Chapter 4 applies. Accordingly, subclauses (2)(c) and (d) do not apply to this application.
20 Design requirements	(1) Development consent must not be granted to development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces) under this division unless the consent authority has considered the Low Rise Housing Diversity Design Guide, to the extent to which the guide is not inconsistent with this policy.	Not applicable.
	(2) Subsection (1) does not apply to development to which Chapter 4 applies.	Noted.

Table 3 SEPP (Housing) 2021 Compliance

	(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with— (a) the desirable elements of the character of the local area, or (b) for precincts undergoing transition—the desired future character of the precinct.	Local character is addressed within this Statement.
21 Must be used for affordable housing for at least 15 years	(1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development— (a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and (b) the affordable housing component will be managed by a registered community housing provider.	It is anticipated that a condition in relation to affordable housing will be imposed by the consent authority.
	(2) This section does not apply to development carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation.	Not applicable.
22 Subdivision permitted with consent	Land on which development has been carried out under this Division may be subdivided with development consent.	Strata subdivision will form part of a separate application.

Non-discretionary development standards

The proposed development addresses Clause 19 of Housing SEPP which prevents a consent authority from requiring more onerous standards for which this division applies on the following grounds:

(2) The following are non-discretionary development standards in relation to the residential development to which this division applies—

- (a) a minimum site area of 450m²,*
- (b) a minimum landscaped area that is the lesser of—*
 - (i) 35m² per dwelling, or*
 - (ii) 30% of the site area,*
- (c) a deep soil zone on at least 15% of the site area, where—*
 - (i) each deep soil zone has minimum dimensions of 3m, and*
 - (ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site,*
- (d) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter,*
- (e) the following number of parking spaces for dwellings used for affordable housing—*
 - (i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces,*

- (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces,
- (iii) for each dwelling containing at least 3 bedrooms— at least 1 parking space,
- (f) the following number of parking spaces for dwellings not used for affordable housing—
 - (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces,
 - (ii) for each dwelling containing 2 bedrooms—at least 1 parking space,
 - (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,
- (g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,
- (h) for development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces)—the minimum floor area specified in the Low Rise Housing Diversity Design Guide,
- (i) if paragraphs (g) and (h) do not apply, the following minimum floor areas—
 - (i) for each dwelling containing 1 bedroom—65m²,
 - (ii) for each dwelling containing 2 bedrooms—90m²,
 - (iii) for each dwelling containing at least 3 bedrooms—115m² plus 12m² for each bedroom in addition to 3 bedrooms.

It is noted that Clause 19(1) states “The object of this section is to identify development standards for particular matters relating to residential development under this division that, if complied with, prevent the consent authority from requiring more onerous standards for the matters”. As such, the subject Housing SEPP provisions are standards or matters that can be varied with merit-based justification.

Per **Table 3**, the proposal is compliant with all standards under Clause 19(2).

Character of Local Area

Clause 20 (3)(a) and (b) of the Housing SEPP states that a consent authority must not consent to development to which the Division applies (being development for the purposes of in-fill affordable housing) unless it has taken into consideration where the design of the residential development is compatible with the following:

- “(a) the desirable elements of the character of the local area, or*
- (b) for precincts undergoing transition—the desired future character of the precinct.”*

Whilst the site is within an established area, it is also experiencing change in accordance with the planning controls, and is also capable of accommodating an increase in density as envisaged by the Housing SEPP. The increase in density is consistent with the desire of transit orientated development and delivery of affordable housing. Importantly, the concept of character, and the extent to which a particular development achieves compatibility with character, is inherently subjective.

To address the question of compatibility, reference is made to the Land and Environment Court Planning Principle for assessing the compatibility of a proposal with surrounding development, established by Roseth in *Project Venture Developments Pty Ltd v Pittwater Council* [2005] NSWLEC 191 (*Project Venture*). This Principle calls on the assessment to consider if the physical impacts of a proposal are acceptable and also if the proposal’s appearance is in harmony with the buildings around it and the character of the street, both existing and future.

Further to this, desired future character is also considered by *Woollahra Municipal Council v SJD DB2 Pty Limited [2020] NSWLEC 115*, where in determining the desired future character, matters other than development standards must be considered. This is also consistent with the findings in *Big Property Pty Ltd v Randwick City Council [2021]*, where it was also found that desired future character is not determined solely by standards that control building envelopes for an area, and that in-fill affordable housing must be factored in the consideration of desired future character.

For the purpose of this development, it is noted that the WLEP and WDCP development controls do not anticipate the additional FSR and building height permitted in accordance with the recently amended Housing SEPP. Notwithstanding, it is considered that the proposal provides a high-quality design which is entirely compatible with the various characteristics of surrounding properties, including storey height, setbacks, landscaping, bulk and scale, as viewed along Pacific Parade.

The site is located within a well-established suburban area where the surrounding locality consists of a diverse mix of development types, including older and newer residential flat buildings of varying building heights and architectural styles, and attached and detached dwellings. Importantly, the site is one of the last remaining residential lots on the southern side of Pacific Parade within the residential block to be redeveloped. As a result, the site is currently an isolated allotment between three and four storey residential flat building developments on each of the adjoining sites.

In this regard, the proposed development has been designed to provide for a bulk and scale which is entirely compatible with the neighbouring properties, existing and recently approved, concealing the additional density (height and FSR) permitted by the Housing SEPP. In accordance with the relevant caselaw, the height and FSR of a development are not the only factors which determine compatibility with surrounding development. It is also the building and landscaped design, materiality, modulation and proportioning, which are consistent with that existing on-site and desired within the locality, which ensure compatibility with local character.

In relation to the appearance of the building, the proposed development has been designed to respond to the topography of the site and the height of adjoining developments. The proposal has been designed to set back the upper floor levels so that when viewed from Pacific Parade, the development largely presents as four storeys above basement parking. Furthermore, due to the topography of the site, when viewed from The Crescent Reserve at the rear, the development will appear only 4 storeys in height, with the bulk of the built form concentrated in the middle of the site. The proposal provides for contemporary design elements and materiality. This includes vertically proportioned modules with curved elements and recessed upper levels. This is integrated with landscaping, balcony forms and glazing, with face brickwork and a light colour scheme. Importantly, the increase in building height permitted by the Housing SEPP will not be overly visible from Pacific Parade or neighbouring buildings, and is considered acceptable with regards to local character. Indeed, the proposal provides a built form which is visually compatible with the neighbouring properties, existing and approved, integrated with recessed upper levels and is not out of character when considering the bonus afforded by the Housing SEPP.

Following the above, the additional increase in density is internalised within the site and does not have any adverse impact to the character of the locality as viewed from Pacific Parade and also the neighbouring properties. The proposal is generally compliant with the relevant standards and controls which apply to the subject site, with a variation to building height which is deemed acceptable due to the site topography and consistency with neighbouring properties, amongst other things. Accordingly, the proposal is entirely compatible with the established character of the locality since the built form, architectural design, heights, setbacks and landscaped area are all consistent with the desired character and will not be obtrusive from the public domain.

In terms of the physical impacts, the application documentation and discussion contained within this Statement demonstrates that the physical impacts of the proposal are acceptable. Specifically, the proposal incorporates appropriate design elements to ensure overlooking and noise transmissions from windows and balconies will be

minimised in a dense urban environment. The proposal will ensure that the amenity afforded to the future occupants is not diminished, whilst privacy of neighbours is protected.

The extent of overshadowing created by the proposed development, including the additional density afforded by the Housing SEPP, is also considered to be reasonable within a dense urban environment. The proposed development has been designed to minimise overshadowing to adjoining properties, where its impact is dictated to a large extent by the approved building envelope, site orientation and bulk of the existing development to the north. Any overshadowing caused by the proposed development is therefore considered acceptable.

Furthermore, and in terms of views, the proposed development is designed so that it does not result in any adverse loss of views from the public domain or surrounding properties, as discussed in this Statement.

For all of the reasons outlined above, the proposal satisfies the character test pursuant to Clause 20 of the Housing SEPP.

Affordable Housing

Clause 21 states that consent must not be granted for development to which the Division applies unless conditions are imposed requiring restrictions on the use of the land as affordable housing for 15 years from the date of issuance of the occupation certificate and all accommodation that is used for affordable housing will be managed by a registered community housing provider.

In this respect, a suitable condition of consent can be imposed by Council which requires that a restriction be registered against the title of the property (prior to issue of an occupation certificate) in accordance with section 88E of the Conveyancing Act 1919, to ensure that the requirements of the Housing SEPP are met.

Subdivision

Clause 22 states that land on which development has been carried out under the Division may be subdivided with the consent of the consent authority. Strata subdivision is proposed as part of this development application and is detailed in the submitted documentation.

Retention of Existing Affordable Rental Housing

Part 3 Retention of existing affordable rental housing of the SEPP (Housing) 2021 relates to retention of existing affordable rental housing and applies only to those buildings that were low-rental residential buildings at any time five (5) years prior to the lodgement of the DA (relevant period). Previously existing on the site was a single dwelling house which was approved for demolition under DA2020/1597. As such the proposal will not remove any existing affordable rental housing within the area.

Chapter 4 Design of Residential Apartment Development

As outlined, on 14 December 2023 the NSW Government consolidated the provisions of *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* into the Housing SEPP and the *Environmental Planning and Assessment Regulation 2021*. The process of consolidation does not affect the operations of the provisions or the Apartment Design Guide (ADG).

Schedule 9 of the Housing SEPP sets out nine 'Design Quality Principles' and Clause 147 requires that the consent authority, in determining a development application, takes into consideration:

- The advice (if any) of a relevant design review panel;
- The design quality of the residential flat development when evaluated in accordance with the design quality principles; and

- The Apartment Design Guide.

A compliance table is provided at **Annexure A** detailing compliance with the applicable Design Criteria contained within the Apartment Design Guide. The compliance table identifies that the proposal is consistent with the relevant design criteria or is acceptable on merit for the reasons detailed in the compliance table.

A Design Verification Statement has been submitted with this development application by *DKO Architects* demonstrating compliance with the design quality principles and objectives in Parts 3 and 4 of the ADG in satisfaction of Clause 29 of the EP&A Regulation 2021.

Furthermore, Clause 149 of the SEPP states that development control plans cannot be inconsistent with the Apartment Design Guide in relation to:

- “(a) visual privacy,*
- (b) solar and daylight access,*
- (c) common circulation and spaces,*
- (d) apartment size and layout,*
- (e) ceiling heights,*
- (f) private open space and balconies,*
- (g) natural ventilation,*
- (h) storage.”*

In addition, Clause 148 of the SEPP states that a development application cannot be refused if it complies with the prescribed criteria of the Apartment Design Guide in relation to ceiling heights, parking and internal apartment sizes.

5.2.4.1 Visual Privacy

Design Criteria 1 of Part 3F of the ADG prescribes separation (setback) requirements between proposed buildings and the side or rear boundaries of an allotment, as reproduced at **Table 4**. The objective of the design criteria is to ensure adequate separation distances are shared equitably between neighbouring sites to achieve reasonable levels of external and internal visual privacy. It is pertinent to note that the objective relates solely to visual amenity and is satisfied by the proposed development. Section B3 and B5 of the WDCP also contain side boundary setback provisions which are also provided in **Table 4** below.

Table 4 Setback distances prescribed by the ADG and DCP				
Building height	Habitable rooms & balconies	Non-habitable rooms	DCP Requirements	Proposal
Up to 12m (4 storeys)	6m	3m	<u>Western Boundary:</u> Projecting plane at 45 degrees from a height of 5m above ground level (existing) at the side boundary	<u>Western Boundary:</u> Ground: 1.7m to courtyard and 2-3.6m to façade
Up to 25m (5-8 storeys)	9m	4.5m		Level 1-4: 2.3m to balcony and 2-3.65m to façade
Over 25m (9+ storeys)	12m	6m		Level 5: 2.3-5m to balcony and 2-3.65m to façade

Table 4 Setback distances prescribed by the ADG and DCP

	<p><u>Eastern Boundary:</u> Projecting plane at 45 degrees from a height of 5m above ground level (existing) at the side boundary</p>	<p><u>Eastern Boundary:</u> Ground: 1.7m to courtyard and 2-3.6m to façade Level 1-4: 2m to balcony and façade Level 5: 4.75m to balcony and 2m to façade</p>
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Importantly, Part 3F to the ADG states that no building separation is required between blank walls.

The proposal will maintain the visual privacy of both the neighbouring properties and future residents, therefore satisfying the objective of Part 3F-1.

With regard to the DCP requirements, the proposal does not comply with the side boundary envelope and to achieve full compliance would significantly restrict redevelopment of the site. As an isolated allotment with a width of 15m, it is not possible to provide a residential flat building with high levels of amenity on the site that sits within the DCP building envelope. Instead, the proposal has been designed to respond to the building separation requirements established by the ADG and provide a balance of amenity for both future residents and adjoining properties. Whilst there are some variations proposed as addressed below, the bulk of the development complies with the ADG setback requirements due to orientation of apartments and use of blank walls. Furthermore, the proposal incorporates privacy screening where it does not achieve the required distances. Notably, the proposal has been designed to largely retain the side setbacks of the approved development under DA2020/1597, and therefore the proposed non-compliances with the ADG are consistent with what was considered acceptable on the site under the previous approval.

At the ground floor level the proposal is largely compliant with the ADG, as a result of the orientation of habitable spaces and the blank walls proposed along the side elevations. The only non-compliance relates to the window opening at the western elevation to the kitchen of Unit 1 which is setback 3.6m, where 6m would normally be required, and the window to the bathroom of Unit 1 which is setback 2m, where 3m is required. When considering the scale of the development, the non-compliances are relatively minor and will not have any adverse impacts on the adjoining properties in terms of privacy due to the landscaping and fencing along the site boundary.

At Level 1, Unit 2 achieves compliance with the ADG with the exception of a bedroom window on the western elevation which is setback 3.6m instead of 6m, and a bathroom window on the eastern elevation which is setback 2m instead of 3m. Importantly, where both window openings are proposed the development sits within the building envelope of the approved development on the site under DA2020/1597. It is also important to highlight that the non-compliances relate to smaller windows to less trafficable areas rather than main living spaces. This ensures that overlooking to the neighbouring properties will be appropriately minimised due to the reduction of active areas on the façade. This is further supported through the provision of solid balustrades, blank facades and landscaping. Indeed, whilst the balcony proposed to Unit 2 does not comply with the ADG, it is oriented to the street and will be provided with screening along the western elevation to protect the privacy of neighbours.

Due to the topography of the site, Level 2 sits at the ground at the rear, and therefore the proposed courtyards sit at ground level and will be screened from the adjoining properties by boundary fencing and vegetation. The rear apartment at Level 2, Unit 4, achieves full compliance with the ADG at the western elevation. At the eastern elevation, the proposal will provide 2m setbacks to the bathroom and bedroom windows, where 3m and 6m would be required respectively. Despite this, given the levels of the site, the windows will be screened from the adjoining properties by boundary fencing and vegetation and will not create any opportunities for direct sight lines or overlooking. In relation to the street facing apartment, Unit 3, the proposal complies with the ADG setbacks except for the bathroom at the eastern elevation and the balcony at the western elevation. Importantly, both non-compliances sit within the building envelope of the approved development on the site and adequate screening will be provided as necessary to maintain privacy.

At Level 3, the only non-compliances with the ADG relate to a single bedroom window at the western elevation and the proposed balconies, as well as the window openings along the eastern elevation. As previously stated, adequate screening will be provided as necessary to maintain privacy to adjoining properties. Importantly, the non-compliances along the eastern elevation relate to windows to non-habitable spaces only and therefore are not considered to introduce any significant privacy issues for the east adjoining property.

At Level 4 and 5 the proposed development is not capable of achieving the ADG separation requirements given the width of the site. Indeed, to provide setbacks of 9m would be impossible within the 15m site width, and therefore in response to the constraints of the site the proposal has been designed to minimise openings along the side elevations and orientate main living areas towards the street and rear boundary. Notwithstanding the orientation of apartments, some window openings are still required along the side elevations to offer necessary sunlight, ventilation and articulation to the façade. In relation to the proposed balconies, whilst non-compliant, the proposal will include privacy screening, and in relation to the Level 5 street facing balcony, the proposal will include podium landscaping around the periphery of the balcony to provide a visual and physical buffer. Notably, these upper levels do not align with the adjoining properties due to site topography and the additional height proposed on the site, which is afforded by the Housing SEPP bonus. As such, where windows and openings are proposed at the side elevations they do not create any direct sightlines or create any significant overlooking opportunities.

Overall, the proposed development has provided appropriate separation distances to the eastern and western neighbours. This also includes a variety of design measures to protect the amenity of neighbours. Importantly, the site is located within a Medium Density Residential zone (R3) which is undergoing transition from lower density to residential flat building development. The density of the locality makes privacy harder to protect for the properties to the east and west. Nevertheless, the proposed development is not considered a poor design with all practicable measures taken to minimise direct overlooking through separation, design solutions and landscaping. The primary area of private open space for the apartments are orientated to the street frontage and rear as far as practicable, noting alternative measures have been implemented where required to maximise solar gain.

Indeed, the non-compliances with the ADG are considered acceptable and are combat by the topography of the locality and provision of dense on-site landscaping, solid balustrades and purposeful orientation of views (to the public domain) which limit any adverse overlooking impact.

The central requirement of the ADG is the achievement of the relevant objective rather than achieving the numeric requirements. If it is not possible to satisfy the design criteria, applications must demonstrate what other design responses are used to achieve the objective. As such, for the reasons discussed above the proposed development is considered to satisfy the only objective of Part 3F-1 and will provide satisfactory building separation distances that *are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.*

5.2.5 Warringah Local Environmental Plan 2011

The *Warringah Local Environmental Plan 2011* (WLEP 2011) applies to the subject site. Under the LEP the subject site is within zone R3 Medium Density Residential, as indicated on the Land Zoning Map. The proposed development is characterised as a *residential flat building* which is permissible with consent in zone R3 under WLEP 2011. The objectives of the zone are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

- *To ensure that medium density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*
- *To ensure that medium density residential environments are of a high visual quality in their presentation to public streets and spaces.*

The proposed development will meet the objectives of the zone through the provision of a high quality residential flat building development which offers a variety of dwelling types to meet the needs of the community within a medium density residential environment.

The proposal will result in the provision of a contemporary development with 9 residential apartments, comprising 2 x 2 bedroom and 7 x 3 bedroom apartments. The proposal will allocate 2 of the apartments as affordable housing, for a period of 15 years to a registered community housing provider, in accordance with Part 2, Division 1 of the Housing SEPP. This will meet the needs of the community within a medium density residential environment.

The proposal will also maintain the existing land use pattern of residential uses on the site and will provide accommodation in a highly accessible area with good access to public transport, services and facilities, serving the need of future residents. The proposal will provide high quality landscaped area across the site to allow for quality vegetation and tree plantings. The built form will present to the public domain as a significant improvement, delivering a contemporary development which respects the existing character of the locality.

Provided at **Annexure B** is a compliance table which identifies the relevant objectives and development standards that apply to the proposal and undertakes an assessment of the proposed development against those relevant provisions. As indicated, the proposal complies with all relevant objectives of the development standards, resulting in a development that is of a scale, density and character that is encouraged at the site.

However, the proposal seeks variations to the building height development standards, inclusive of the bonus afforded by the Housing SEPP, and as such, a Clause 4.6 Variation is provided in **Annexure C**. Whilst the proposal varies the building height standard, when considering the bonuses, there are sufficient environmental planning grounds and the objectives of the standard are demonstrably achieved.

5.2.6 Warringah Development Control Plan 2011

The *Warringah Development Control Plan 2011* (WDCP 2011) applies to all land to which the Warringah Local Environmental Plan 2011 applies, including the subject site. A Compliance Table is provided at **Annexure D** and considers the proposal against the relevant controls of the DCP. The compliance table demonstrates that the proposal is largely consistent with relevant DCP controls.

Areas of non-compliance are discussed and justified within the compliance table or below.

In accordance with Section 4.15(3) of the Environmental Planning & Assessment Act, 1979, a consent authority is to consider DCP variations on merit, as outlined below (our emphasis added):

- “ (3A) **Development control plans** *If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority—*
- (a) *if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and*
- (b) *if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow*

reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and

(c) *may consider those provisions only in connection with the assessment of that development application.*

5.2.6.1 Number of Storeys

Under *Section B2 Number of Storeys*, a maximum storey height of three storeys applies to the subject site in accordance with the WDCP Mapping. The proposed development is four storeys to Pacific Parade and four storeys at the rear and a maximum of five storeys centrally within the site, which is a product of the site topography. Notably, the basement level, although visible from Pacific Parade, is located entirely below the existing ground level, and therefore does not constitute a storey, consistent with the DCP control.

Whilst the proposal is numerically non-compliant, the proposed built form is consistent with the bulk, scale and character of surrounding developments and is anticipated by the bonus building height afforded by the Housing SEPP. Indeed, the proposal seeks to benefit from the 30% bonus height afforded under Clause 18(2) of the Housing SEPP, and therefore, it is irrational and unrealistic for the development to comply with a 3 storey height limit.

As discussed in further detail below, the proposed building envelope is consistent with that established within the locality and is appropriate for the site, particularly when taking into consideration the building height bonus.

Of relevance, the objectives under Section B2 of the WDCP are as follows:

- *To ensure development does not visually dominate its surrounds.*
- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*
- *To provide equitable sharing of views to and from public and private properties.*
- *To ensure a reasonable level of amenity is provided and maintained to adjoining and nearby properties.*
- *To provide sufficient scope for innovative roof pitch and variation in roof design.*
- *To complement the height of buildings control in the LEP with a number of storeys control.*

The proposed number of storeys is considered appropriate for the site and will not dominate the streetscape. Both of the adjoining properties visually present 4 storeys in height due to the topography of the locality, and the proposal will sit comfortably between the existing developments. Whilst it is acknowledged that the proposal will reach up to 5 storeys in height, this is a result of the bonus height afforded by the Housing SEPP. Indeed, it would be unreasonable to expect that the proposal would provide only 3 storeys within the permissible building height limit of 14.3m. Furthermore, to provide only 3 storeys on the site would contradict the last objective of the control which requires the number of storeys to complement the building height limit.

Importantly, the proposed development largely complies with the maximum building height limit, with the exception of the lift overrun and air conditioning units. As such, all five storeys proposed sit below the 14.3m height limit and therefore present a suitable outcome for the site, as envisaged by the Housing SEPP incentives.

Notably, it is the central portion of the development which represents the greatest variation, however, it is appropriately setback and integrated into the site as to mitigate any adverse impact, ensuring that the bulk, scale and character of the neighbourhood will be retained. The variation to storey height is further mitigated through the provision of a high-

quality built form as it addresses the public domain. The proposed building has been designed with a high quality, simple contemporary character. The proposal includes well-considered horizontal and vertical articulation, curved elements, solid to void ratios and materiality, with a neutral colour scheme. In fact, the proposal will substantially improve the character of the site as the development addresses the public domain. The proposal provides highly articulated elevations to ensure the visual bulk of the development when viewed from the neighbouring properties is minimised. Additionally, the variation to the building storey height will have no adverse impact on the amenity of neighbouring properties. That is, the solar access, privacy and views of neighbouring properties will not be exacerbated by the proposal and is acceptable in this regard.

The proposal provides a contemporary roof form which is consistent with the adjoining residential flat buildings which contain flat roof forms.

As such, the proposal is considered acceptable given that it achieves the objectives of the control.

5.2.6.2 Rear Boundary Setbacks

Under *Section B9 Rear Boundary Setbacks*, a rear building setback of 6m applies to the subject site in accordance with the WDCP Mapping. The proposed development largely achieves compliance with the 6m requirement with the exception of some minor structural elements at the rear of the development as shown in **Figure 13** below, and the car parking areas at the Ground Floor Level and Level 1, which are below ground.

Importantly, and as shown in **Figure 13**, the approved building envelope under DA2020/1597 extended into the 6m rear building line at various points along the rear façade to provide a setback which is consistent with that proposed. As such, the proposed development will actually reduce the extent of the rear setback non-compliance compared to the approved building envelope, and provide a better outcome for the site by rationalising the rear built form.

With regard to the parking areas which extend into the rear setback, despite the non-compliance with the 6m control, the areas are proposed to be setback 3.075m from the rear boundary. Notably, the adjoining site to the rear does not contain any residential development, and therefore the proposed setback is considered to be appropriate and will have no adverse impact on the adjoining property.

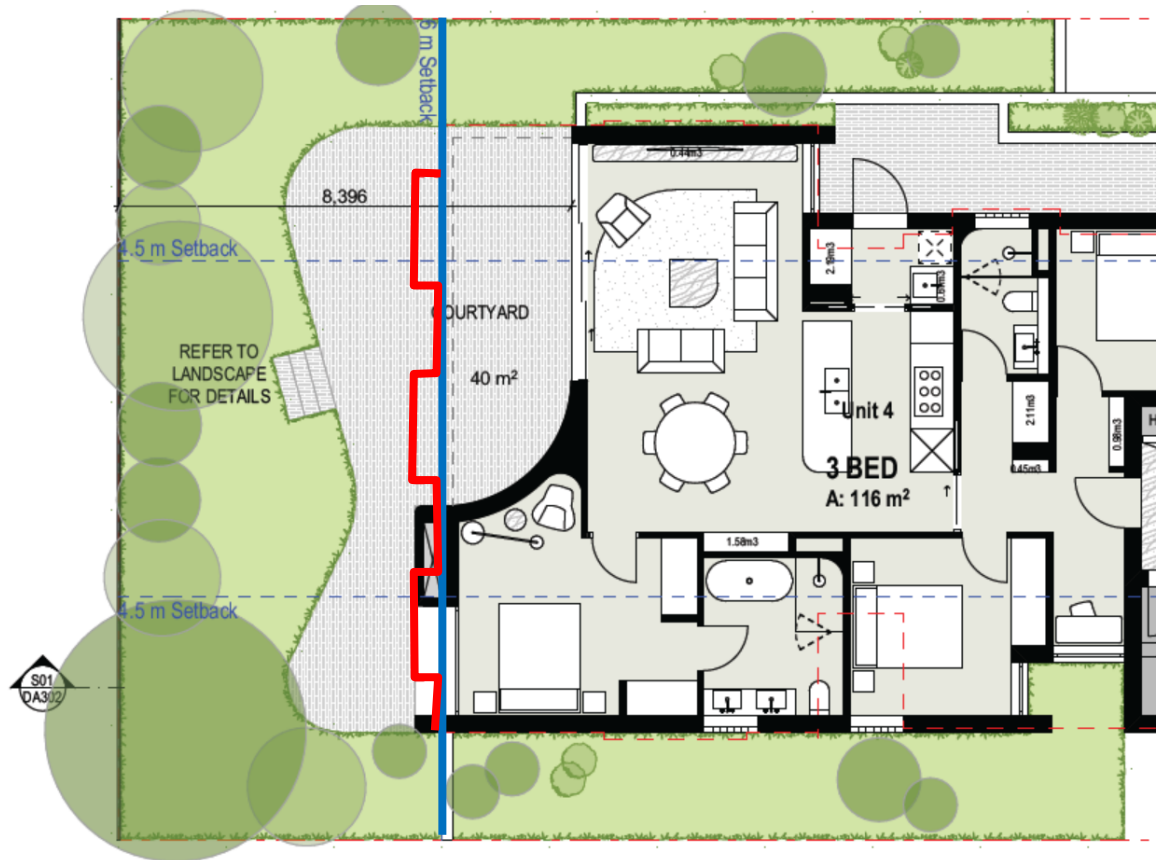


Figure 13 Extract of Ground Floor Plan with 6m setback shown blue and approved building envelope shown red.

Of relevance, the objectives under Section B2 of the WDCP are as follows:

- *To ensure opportunities for deep soil landscape areas are maintained.*
- *To create a sense of openness in rear yards.*
- *To preserve the amenity of adjacent and, particularly relating to privacy between buildings.*
- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*
- *To provide opportunities to maintain privacy between dwellings.*

The non-compliance with the 6m rear boundary setback requirement above the ground level is limited to minor structural elements. As previously stated, the proposed rear setback is consistent with the approved building envelope and will actually reduce the extent of rear setback non-compliance compared to what was approved on the site. Given the minor extent of the non-compliance above ground level, and the extent of the approved building envelope, the proposed development is not considered to offend any of the objectives of the rear setback requirement, as listed above.

In relation to the below ground parking areas which extend into the rear setback, the proposal will still provide deep soil area in excess of the ADG requirement. Indeed, the proposal will provide a total of 122m² (17.5%) of deep soil area across the site, with the majority of this located within the rear setback, despite the proposed non-compliance. The proposal has been sited and designed to allow for a large courtyard at the rear of the site, surrounded by deep soil area, which ensures a sense of openness is established.

The proposed rear setback non-compliances will have no bearing on the privacy of adjoining development considering the site adjoins The Crescent Reserve to the rear.

Overall, the proposal is largely compliant with the rear setback requirement, and the non-compliance is limited to minor structural elements, or located below ground level. As such, to the casual observer, particularly when viewed from The Crescent Reserve, the proposal will appear compliant with the rear boundary setback.

As such, the proposal is considered acceptable given that it achieves the objectives of the control.

5.3 IMPACTS ON NATURAL & BUILT ENVIRONMENT

5.3.1 Topography & Scenic Impacts

The proposal requires excavation to accommodate the basement car parking, the ground level and part of Level 1. The basement is directly accessible from Pacific Parade, is contained below the existing ground line and has been designed to respond to the topography of the site.

The completed building is designed to occupy majority of the excavated basement area which represents an efficient use of the site for the provision of on-site parking and other facilities necessary for the building to function. Where the proposed basement will extend beyond the footprint of the building above, this is a result of the site arrangement, parking rates as required under the WDCP and essential building services. Regardless and as detailed above, the basement is designed as an articulated podium with dense landscaping, particularly at the rear, so that it will not have any adverse impact on the topography or character of the area.

To protect the character of the locality, the topography around the periphery of the site has been maintained. This is also integrated with deep soil and podium landscaping to reduce the extent of hard surfaces and maximise permeability. It follows that despite the proposed excavation, a proportionate quantum of landscaped area and deep soil planting will be provided which is consistent with the ADG. Where the excavation is located in close proximity to neighbouring properties, appropriate measures will be undertaken in accordance with the recommendations provided in the Geotechnical Assessment prepared by *CMW*. Dilapidation Reports are also anticipated to be imposed as a condition of consent to ensure the protection of the neighbouring properties during excavation.

In terms of scenic impacts, the proposal is considered to be consistent with the desired future character of the area and changing density of the locality. The proposed excavation and building design will not adversely impact the amenity of neighbouring sites or the structural integrity of nearby buildings.

As such, the proposal is considered acceptable with regards to topographical and scenic impacts.

5.3.2 Micro-climate Impacts

The amended development will have no adverse impact on surface or ground water regimes. The proposal will also provide new plantings and deep soil area on the site which is considered to improve canopy coverage and reduce thermal heat gain. The proposal will result in an appropriate canopy coverage which will benefit the site. As such, there will be no adverse no impact on local micro-climate.

5.3.3 Water & Air Quality Impacts

Stormwater Plans prepared by *CAM Consulting* are submitted with the development application. The plans demonstrate that stormwater can be appropriately managed on site to ensure that there is no adverse rainwater run-off from the site and water quality in the surrounding area is maintained.

During construction, appropriate sediment and erosion controls will be installed and maintained to prevent migration of sediment from the site. Once constructed, roof and surface water from the development will be captured within on-site detention. Therefore, the proposal will have positive impacts on the water quality of the locality.

In terms of air quality, the site will be managed during construction to mitigate any potential impacts on air quality, particularly during excavation. It is expected that appropriate dust mitigation measures will be employed during excavation, which can be secured via conditions of consent. Once complete, the proposed development is unlikely to have any notable impact on air quality.

5.3.4 Flora & Fauna Impacts

Under DA2020/1597, a number of trees on the site were approved for removal to accommodate the proposed building envelope. All trees were removed in accordance with the consent under DA2020/1597, with the exception of two trees located towards the front of the site.

In order to enable redevelopment, the proposal will replace the two existing trees on the site in accordance with the recommendations of the Arborist Report prepared by *Growing My Way Tree Services*. Replacement trees will be planted as far from any permanent infrastructure, new or existing on the neighbouring sites, as possible.

Extensive planting is proposed on site, as demonstrated in the accompanying Landscape Plans prepared by *Mathew Higginson Landscape Architecture*. The landscape plans include the provision of extensive tree and vegetation planting throughout the site, including the addition of indigenous canopy trees. Screen planting adjacent to site boundaries will also assist in protecting the visual and aural amenity of neighbouring properties and future occupants of the proposed development, specifically to the low-density residential zone. Furthermore, additional podium planting is also proposed throughout the development and on the upper levels to complement the character of the area and further soften the built form.

It is unlikely that the subject site contains any protected flora or fauna species. Landscaping design, including species selection throughout the site will provide potential future habitats for a variety of fauna. In summary, due to the significant proposed new native plantings and increased habitat opportunities, the development is considered to have a positive impact on flora and fauna within the site and locality.

5.3.5 External Appearance & Design

The proposed development represents an excellent response to the site constraints and reasonable permitted density on the site. The proposal, being a contemporary residential flat building, is consistent with the desired built form anticipated by the applicable planning controls and objectives of the R3 zone, and integrates the permitted increase in density (afforded by the Housing SEPP) sympathetically throughout the built form. The architectural language of the proposal utilises a high quality, simplified design to ensure the development will not be visually alarming or obtrusive as viewed from the public domain or adjoining properties. Specifically, the architectural language includes well-defined linear and curved elements, modulation, balcony articulation and fenestration, with compatible materiality, to ensure consistency with the established character of the site and surrounding locality.

The proposal provides a new, residential flat building which is consistent with the character established within the locality and the subject site. Importantly, the proposal has responded to the topography of the site through a recessed uppermost level as to reduce the visual bulk and scale of the development when viewed from the public domain and surrounding properties. This has been purposefully integrated with contemporary materials including concrete render, metal cladding, face brickwork and glazing, with a neutral colour scheme which ensures the provision of a high-quality development as viewed from the public domain. As discussed, the built form is consistent with the setbacks and heights of the neighbouring buildings, delivering a built form which steps in accordance with the existing topography. This

results in a bulk, scale and character which is respective of the buildings adjoining the site to the east and west, as shown in **Figure 14** below.

The proposed articulation, in conjunction with the recessed upper levels, ensures the provision of sympathetic built form when viewed from the streetscape. Importantly, the non-compliant building height will not be visible from the public domain (as discussed in **Annexure C** of this Statement).



Figure 14 Perspective of proposed development from Pacific Parade.

Integral to the proposal is the provision of high-quality landscaping throughout the site which provides a visual and physical relationship to the locality. The proposal has concentrated landscaping to site boundaries and throughout podium forms. Given the undulating topography, the provision of the landscaping along the site edges further mitigates the bulk and scale of the development from the public domain.

The internal design and layout of the residential flat building achieves a high level of amenity for residents via considerable solar gain and natural cross ventilation. The proposal has also provided outlooks to the public domain and has been designed to ensure visual privacy from neighbouring properties.

Accordingly, the proposed development will provide a high-quality architectural design which is compatible with the locality.

5.3.6 Solar Access

Shadow diagrams have been prepared by *DKO Architects* and show the extent of shadows cast by the development between 9am and 3pm on 21 June. The zoning of the locality, permitted built form and topographical decline of the site result in a degree of overshadowing to the surrounding properties. Notwithstanding and as discussed below, the proposed development will retain adequate solar access to the neighbouring properties. Under Part D6 Access to Sunlight, the WDCP requires the following:

2. At least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.

To the west adjoining properties, the proposal will result in additional overshadowing in the morning, however, by 11am the extent of overshadowing caused by the proposal will shift and the neighbouring properties will have access to sunlight for the remainder of the day during midwinter. Conversely, the east adjoining property will not be affected by any additional overshadowing caused by the proposed development until 2pm and therefore will receive solar access in excess of the DCP requirement.

It is important to highlight that due to the lot orientation, the adjoining developments, as well as the proposal, have north facing orientations and therefore receive high levels of solar access during midwinter. The proposed development will not cause overshadowing to the north facing windows of the directly adjoining properties and therefore ensures solar access to those properties is maximised.

Although it is noted that additional overshadowing will be cast onto the neighbouring properties (however minor), this is unavoidable given zoning, anticipated increase of density and topography. Importantly, the non-compliance pertaining to building height will not adversely impact the solar gain of the surrounding developments as detailed above.

With regard to the overshadowing to The Crescent Reserve, the extent of overshadowing is anticipated by the scale of development permitted on the site, inclusive of the bonus height afforded by the Housing SEPP. Notably, the proposal will not overshadow the adjoining reserve to the same extent as the adjoining development to the east. Nevertheless, as shown on the shadow diagrams submitted with this application, the reserve will still receive direct sunlight access at various times during midwinter to ensure the amenity of the public open space is maintained.

In terms of solar access to the proposed development, it is noted that the 89% will receive 2 hours of solar access from 9am to 3pm during mid-winter and will therefore comply with the ADG Design Criteria. As such, it is considered that the proposal will not result in any unreasonable impact to overshadowing or solar access.

5.3.7 Views

There are no significant views obtained from the public domain or neighbouring properties through the subject site that are likely to be unreasonably obscured by the development. The proposed building massing is considered to be acceptable with regards to the applicable building controls and the approved building envelope on the site. As such, any incidental loss of views is considered to be a result of a compliant building envelope and form as is reasonably anticipated within the R3 Medium Density Residential zone.

5.3.8 Aural & Visual Privacy

In terms of privacy, the proposed development has been designed to minimise, as far as practicable, the likelihood of any adverse overlooking or invasion of aural privacy of neighbouring properties. When considering the visual and acoustic privacy of the neighbouring sites, this is achieved by providing appropriate setbacks, orientation of views, window design and privacy screens as discussed in Section 5.2.4.1 of this Statement.

The proposal is designed with appropriate setbacks for the R3 Medium Density Residential zone in order to protect the privacy of residents for the subject development and neighbouring properties. The proposed setbacks, which are generally consistent with the ADG, provide adequate separation which limits adverse impacts. To both the eastern and western boundaries, the privacy of future occupants and neighbouring properties is supported as the design has orientated views towards the public domain (where practicable), utilised solid balustrades, privacy screening and dense landscaping.

An Acoustic Report prepared by *ADP Consulting* also accompanies the application and provides a number of recommendations to mitigate any potential adverse noise impacts on the proposed development from the surrounding locality. In light of the above, the development will not have any adverse impacts on visual or aural privacy of neighbouring properties or that of future occupants.

5.4 ECONOMIC & SOCIAL IMPACTS

The proposal will have no adverse economic impacts. Undertaking the construction works will have some short-term positive economic impacts through employment generation, both direct employment and multiplier effects.

The proposed development will add to the existing housing stock in the locality, providing much needed higher density accommodation in an accessible location. This includes the dedication of residential apartments equating to 19.7% of the total apartment yield as affordable housing, as required by the Housing SEPP. Furthermore, the development is of a high quality design that is compatible with the desired future character of the locality and will have positive long term visual amenity impacts on the local streetscape.

5.4.1 Social Impacts

In addition to the above, development will provide a number of distinctive social benefits which are considered to achieve the objectives of the R3 Medium Density Residential zone. These include;

- The provision of 9 high quality residential apartments, comprising 2 x 2 bedroom and 7 x 3 bedroom apartments;
- Allocation of 1 x 2 bedroom apartment and 1 x 3 bedroom apartment as affordable housing, for a period of 15 years to a registered community housing provider;
- Provision of a residential flat building which will significantly improve character of the site and complement the existing streetscape character;
- Reduced stress on on-street parking; and
- Improved casual surveillance to the surrounding public domain.

Despite the predominant positive social benefits, the proposal is considered to have minor, short term effects to the surrounding properties during construction. Notwithstanding this, these impacts can be managed through careful on-site management of traffic, noise, dust, sediment, vibration and so on. Conditions of consent will be imposed to ensure that construction management is undertaken in accordance with the relevant Australian Standards.

Accordingly, despite the minor short-term impacts, the proposal is considered to perform favourably with regards to the social impacts of the development and will significantly improve the character and quality of the site, therefore having long term benefits to the locality.

5.4.2 Crime Prevention through Environmental Design

Part B of the Department of Urban Affairs and Planning's (now Department of Planning and Environment) Crime Prevention and the Assessment of Development Applications: Guidelines under Section 4.15 of the Environmental Planning and Assessment Act 1979 identify four Crime Prevention through Environmental Design (CPTED) principles. Each of the principles seeks to reduce opportunities for crime and have been used to inform the NSW Police Safer by Design Guidelines for Crime Prevention. The principles are:

- Surveillance;
- Access control;
- Territorial reinforcement; and



- Space management.

The subject development performs well in terms of achieving the safer by design guidelines for crime prevention. The development is deemed to be either safe or safe subject to the implementation of the following recommendations:

- Secure basement level car parking has been provided with access via security control system or intercom;
- Entry into the building's common areas and associated lobby area will be via a security card / smart reader or key, with intercom access for visitors;
- Areas of concealment have been minimised through careful design of spaces as to maintain clear lines of sight;
- Entries to the building will be adequately lit to ensure good visibility and maintain resident safety;
- Signage / building address will be in prominent location for easy identification and way finding;
- Given the number of letterboxes and Australia Post requirements, these will be located in a consolidated form along the lobby entry path from Pacific Parade and set into the front landscape area. Letterboxes will be sized to suit mail requirements of Australia Post and will be lockable. Larger parcels will be able to be delivered to the building and stored in a dedicated storage area within each of the secure building lobbies;
- Services cupboards and plant areas will be secure and accessed by maintenance personnel key;
- Fire stairs will be accessible to residents only from within the secure building;
- Public areas have been activated with building entries and apartment living areas fronting these spaces;
- Lighting will be designed to meet the relevant codes;
- Landscaping in the development will ensure clear lines of sight are maintained, through the use of the low planting and taller tree species;
- The provision of ground level and higher level apartments facing Pacific Parade and The Crescent Reserve will provide for natural surveillance;
- Passive surveillance of common and public open spaces has been achieved through apartments orientation and location of windows from habitable spaces overlooking these areas;
- The ground floor apartment and lobby entries will contain alarms to be activated in the event of forced entry;
- All painted surfaces on the external parts of the ground floor level are to be treated with a graffiti resistant coating; and
- Building management is to be responsible for the maintenance of common property including landscaping and removal of any graffiti.

5.5 THE SUITABILITY OF THE SITE

5.5.1 Access to Services

The subject site is located within a highly accessible locality. Numerous bus stops are located along Pacific Parade which provide public transport connectivity across the North Shore and Sydney Central Business District. The bus routes provide regular services to destinations including, North Sydney, Warringah, Manly and Wynyard. The Site is also located approximately 400m from Dee Why Grand Shopping Centre and therefore is within close proximity to a variety of land uses, supporting the proposed development.

As the site is within an established area, electricity, telephone, gas, water and sewerage is readily available to the subject site.

5.5.2 Car parking

Vehicular access to the site is provided from Pacific Parade via a two-way driveway. The proposed development has been designed with 15 car spaces, consisting of 13 resident (1 being accessible) and 2 visitor spaces as required by



the WDCP. It is noted that the development elicits a total of 15 spaces, including 13 resident and 2 visitor spaces as outlined in the WDCP, in which the proposal complies. The proposed development also provides for considerable bicycle storage within the parking areas and at the ground floor in accordance with the DCP requirements.

The design and layout of the on-site parking and vehicular access/egress is compliant with relevant Australian Standards and will not give rise to any traffic or parking issues in the locality. A Traffic and Parking Assessment Report has been prepared by *Stanbury Traffic Planning* and is submitted with this application.

5.5.3 Hazards

The subject site is not on bush fire prone or flood prone land. As such, the proposed development is not likely to increase the likelihood of such hazards occurring and is considered appropriate in this instance. It is noted however that the subject site is identified as within 'Area B – Flanking Slopes 5° to 25°' under *Clause 6.4 Development on sloping land*. To address the provisions of Clause 6.4, this application is submitted with a Geotechnical Report prepared by *CMW Geosciences*.

5.6 THE PUBLIC INTEREST

The proposal development will provide for high quality housing, including affordable housing, within a built form which is compatible in bulk, scale and character. The design has incorporated specific design measures and materiality to ensure that it will contribute to the streetscape and maintain the amenity of the surrounding locality.

The proposed development will also protect the amenity of neighbouring properties, as well as to provide a high degree of amenity for future residents. This includes high quality private open spaces, in addition to landscaping and vegetation, promoting social interaction and well-being. The proposed development is in an accessible location with good access to local amenities, employment and services. Overall, the proposal will provide a high-quality development which will both protect and improve the character of the streetscape.

As also discussed, the development will include the provision of 2 affordable housing apartments, in accordance with Chapter 2, Division 1 of the Housing SEPP, which will provide for a direct benefit to the provision of affordable housing in the Potts Point locality. The proposal will allocate 2 apartments as affordable housing for a period of 15 years, to a registered community housing provider, which is to be imposed as a condition of consent requiring restrictions on the use of the land as affordable housing from the date of issuance of the occupation certificate. This will require that a restriction be registered against the title of the property (prior to issue of an occupation certificate) in accordance with section 88E of the Conveyancing Act 1919.

The proposal is consistent with the WLEP provisions, other than the height non-compliance which is justified in **Annexure D**. When this variation is considered against the bonus afforded by the Housing SEPP, the extent of variation is significantly reduced. Overall, the proposal is considered to have largely positive social and economic impacts, and manageable impacts on the environment. As such, the proposed development is considered to be in the public interest.

6. Conclusion

This Statement accompanies a development application for the '*Construction of a five storey residential flat building over basement parking and associated landscaping in accordance with Division 1 In-fill Affordable Housing of Housing SEPP*' at No. 67 Pacific Parade, Dee Why (the 'site'). The proposed development has been assessed pursuant to Section 4.15 of the Environmental Planning & Assessment Act, 1979 and Council's relevant planning Guidelines and Policies.

The proposed built form will correspond to the approved building envelope under DA2020/1597, character of the locality and controls set out in the Housing SEPP, WLEP and WDCP. Ultimately, the proposal will deliver a wide range of significant benefits for residential amenity of future occupants, surrounding properties and general public, particularly in terms of appearance, aesthetics and the public domain.

The proposed development is made in accordance with the recently amended Housing SEPP, *Part 2 Affordable housing, Division 1 In-fill affordable housing*. The proposal will seek to benefit from a 30% increase in maximum building height, as measured from the development standard contained within the WLEP. The development will therefore allocate 19.7% of the total floor area as affordable housing, equating to 2 apartments, aligning with the Housing SEPP.

The proposal will deliver a residential flat building as is permissible with Council's consent in the R3 Medium Density Residential zone under WLEP. The proposed development generally complies with the applicable provisions of Council's WLEP, with exception of the maximum height of building development standard, including the bonus afforded by the Housing SEPP. In this regard, justification pursuant to Clause 4.6 of the WLEP is provided at **Annexure C** demonstrating why strict compliance is both unreasonable and unnecessary. The proposal is also consistent with the objectives and/or Design Criteria of the Apartment Design Guide and Council's DCP.

In conclusion, the site is suitable for the proposed development and satisfies the objectives of zone R3. The development will positively contribute to the quality of the streetscape, housing stock in the locality, inclusive of much needed affordable housing, and will have manageable impacts on both the natural and built environment in the locality. There will be no adverse impacts on the natural environment, the locality and the proposed development will have positive social and economic impacts for the area.

Accordingly, the proposal is considered to be in the public interest and worthy of the Northern Beaches Council's support.

ANNEXURE A

Apartment Design Guide – Compliance Table





Apartment Design Guide - Compliance Table			
Clause / Control	Requirement	Proposal	Satisfies Objective
Part 3 Siting the development			
3D Communal Open Space	1. Communal open space has a minimum area equal to 25% of the site (site area = 695.6m ²). Minimum required = 173.9m ²	<p>No common open space is provided at the site which is acceptable in light of the Design Guidance which states that:</p> <p><i>Where developments are unable to achieve the design criteria, such as on small lots, within business zones, or in dense urban areas they should, inter alia:</i></p> <ul style="list-style-type: none">• <i>Demonstrate good proximity to public open space and facilities...</i> <p>The proposal is acceptable because it is located within 300m of the Dee Why Centre and future residents will have immediate access to a range of restaurants, bars and other social opportunities.</p> <p>Furthermore, the site has immediate proximity to The Crescent Reserve which directly adjoins the site at the rear. The site is also located within 800m walking distance of Dee Why Beach and is located within close proximity to a number of other reserves and parks. Proximity to these areas will ensure a range of active and passive recreation opportunities for future residents.</p> <p>Finally, the internal arrangements and balconies provided to each apartment will ensure suitable levels of private open space areas at the site, contributing to appropriate occupant amenity. The proposal is considered to satisfy the only objective for communal open space which is to "<i>enhance residential amenity and to provide opportunities for landscaping.</i>"</p>	On merit



Apartment Design Guide - Compliance Table

	2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)	Not applicable. Notwithstanding this, the private open spaces received in excess of the minimum solar access requirements.	Yes												
3E Deep Soil Zones	1. Deep soil zones are to meet the following minimum requirements: <table><tr><th>Site Area</th><th>Minimum Dimension</th><th>Deep Soil Zone</th></tr><tr><td>Less than 650m²</td><td>-</td><td rowspan="3">7% of the site area</td></tr><tr><td>650m² to 1,500m²</td><td>3m</td></tr><tr><td>Above 1,500m²</td><td>6m</td></tr></table>	Site Area	Minimum Dimension	Deep Soil Zone	Less than 650m ²	-	7% of the site area	650m ² to 1,500m ²	3m	Above 1,500m ²	6m	The proposed development has a deep soil area of 122m ² or 17.5%.	Yes		
Site Area	Minimum Dimension	Deep Soil Zone													
Less than 650m ²	-	7% of the site area													
650m ² to 1,500m ²	3m														
Above 1,500m ²	6m														
3F Visual Privacy	1. Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><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></table> <p>No building separation is necessary where building types incorporate blank party walls. Typically, this occurs along a main street or at podium levels within centres.</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	The proposed separation distances are discussed in Section 5.2.4.1 of this Statement. As discussed, whilst the proposal will not strictly satisfy the ADG Design Criteria, it will achieve the visual privacy objective of Part 3F-1 and is therefore considered acceptable.	On merit
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													
3J Bicycle and Car Parking	1. For development in the following locations: <ul style="list-style-type: none">on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or	Not applicable. WDCP parking rates apply.	N/A												



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	<ul style="list-style-type: none">on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments (GTTGD), or the car parking requirement prescribed by the relevant council, whichever is less.</p>		
Part 4 Designing the Building			
4A Solar Access and Daylight	1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas	8 of 9 apartments (89%) receive at least 2 hours of direct sunlight into the living areas and private open space between 9am and 3pm. It is noted that none of the apartments do not receive any direct sunlight during mid-winter.	Yes
4B Natural Ventilation	1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	All satisfy cross ventilation requirements and therefore the proposal complies with the ADG.	Yes
	2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	Refer to architectural set which demonstrates compliance.	Yes



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4C Ceiling Height	<div>1. Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</div> <table><tr><th colspan="2">Minimum ceiling height</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable rooms</td><td>2.4m</td></tr></table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable rooms	2.4m	All levels of the proposed development contain a 2.7m floor to ceiling height.	Yes				
Minimum ceiling height													
Habitable rooms	2.7m												
Non-habitable rooms	2.4m												
4D Apartment Layout	<div>1. Apartments are required to have the following minimum internal areas:</div> <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 Bedroom</td><td>70m²</td></tr><tr><td>3 Bedroom</td><td>90m²</td></tr></table> <div>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</div>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 Bedroom	70m ²	3 Bedroom	90m ²	<div>The minimum area of the apartments are as follows;</div> <div>2B – 91m²</div> <div>3B – 106m²</div> <div>Apartments with additional bathrooms are provided the additional 5m². Refer to architectural plans.</div>	Yes Yes Yes
	Apartment type	Minimum internal area											
	Studio	35m ²											
1 bedroom	50m ²												
2 Bedroom	70m ²												
3 Bedroom	90m ²												
	<div>2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</div>	Each habitable room has a sufficiently sized window/s for solar access and natural ventilation.	Yes										
	<div>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</div>	Dimensions provided on the submitted plan set demonstrate that rooms are appropriately proportioned to comply with the numeric requirements of the ADG and to permit entry of sunlight and natural ventilation throughout internal spaces.	Yes										



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	2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Dimensions indicated on plans demonstrate that living area depths comply with numeric requirements. It is noted that where the depths exceed 8m, they have multiple openings on differing facades to ensure that no part of the living area exceeds 8m from an opening.	Yes															
	1. Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)	Refer to plan set which demonstrates that each bedroom is sized to comply with the numeric requirements of the ADG.	Yes															
	2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	Each bedroom has a minimum dimension of 3m to allow for typical furniture layouts.	Yes															
	3. Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none">3.6m for studio and 1 bedroom apartments4m for 2 and 3 bedroom apartments	Each living room has a minimum dimension which accords with the ADG to allow for varied furniture layouts.	Yes															
	4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Refer to architectural plans which demonstrate compliance.	Yes															
4E Open Space	<div>All apartments are required to have primary balconies as follows:<table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>Studio</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom</td><td>8m²</td><td>2m</td></tr><tr><td>2 Bedroom</td><td>10m²</td><td>2m</td></tr><tr><td>3 Bedroom +</td><td>12m²</td><td>2.4m</td></tr></table>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</div>	Dwelling type	Minimum area	Minimum depth	Studio	4m ²	-	1 bedroom	8m ²	2m	2 Bedroom	10m ²	2m	3 Bedroom +	12m ²	2.4m	<div>All apartment will meet the minimum balcony area requirement per the architectural plans.</div> <div>Noted.</div>	<div>Yes</div> <div>-</div>
Dwelling type	Minimum area	Minimum depth																
Studio	4m ²	-																
1 bedroom	8m ²	2m																
2 Bedroom	10m ²	2m																
3 Bedroom +	12m ²	2.4m																



Apartment Design Guide - Compliance Table

	2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m	<p>The ground floor apartment is provided with a courtyard measuring 12m. Despite falling short of the requirement, the courtyard will offer high levels of amenity and is surrounded by planting to improve the visual quality of the private open space for residents.</p> <p>The rear apartment on Level 2 is provided with courtyards in excess of 15m².</p>	<p>On merit</p> <p>Yes</p>										
4F Common Circulation Space	1. The maximum number of apartments off a circulation core on a single level is 8.	Maximum of 2 apartments are provided off a single circulation core.	Yes										
	2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Not applicable.	N/A										
4G Storage	<p>1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling type</th><th>Storage volume</th></tr><tr><td>Studio</td><td>4m³</td></tr><tr><td>1 bedroom</td><td>6m³</td></tr><tr><td>2 Bedroom</td><td>8m³</td></tr><tr><td>3+ Bedroom</td><td>10m³</td></tr></table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling type	Storage volume	Studio	4m ³	1 bedroom	6m ³	2 Bedroom	8m ³	3+ Bedroom	10m ³	<p>Storage within the apartment is located in dedicated built-in cupboards or in zones where future storage furniture could be reasonably provided. Additional storage is provided within the parking areas to make up the requirements where necessary.</p>	Yes
Dwelling type	Storage volume												
Studio	4m ³												
1 bedroom	6m ³												
2 Bedroom	8m ³												
3+ Bedroom	10m ³												

ANNEXURE B

Warringah LEP 2011 – Compliance Table



WARRINGAH LEP 2011 – COMPLIANCE TABLE			
Clause / Control	Requirement	Proposal	Complies?
Part 2 Permitted or prohibited development			
2.3 Zone objectives and Land Use Table	Zone R3 Medium Density Residential	Residential flat buildings are permitted with consent. The proposal is consistent with the zone objectives as follows:	Yes
	<ul style="list-style-type: none"> <i>To provide for the housing needs of the community within a medium density residential environment.</i> <i>To provide a variety of housing types within a medium density residential environment.</i> <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> <i>To ensure that medium density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.</i> <i>To ensure that medium density residential environments are of a high visual quality in their presentation to public streets and spaces</i> 	<p>The proposed development will provide for the housing needs of the community through delivering a mixture of apartment typologies within a medium density environment.</p> <p>As above, the proposed development will provide for a variety of apartment types including 2 x 2 bedroom and 7 x 3 bedroom apartments, including adaptable dwellings.</p> <p>The proposal is not antipathetic to this objective.</p> <p>The proposal will provide significant landscaping throughout the site which will enhance the residential environment through considerable improvements to the landscaped character over existing.</p> <p>The proposal provides a high quality, contemporary development when viewed from Pacific Parade.</p>	Yes
Part 4 Principal development standards			
4.3 Height of buildings	(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. 11m	The proposal provides a maximum building height of 15.84m to the lift overrun. This is therefore non-compliant with the 14.3 height, which includes the bonus afforded by Housing SEPP, and a Clause 4.6 is provided in Annexure C .	No – Refer to Clause 4.6 Variation in Annexure C
4.4 Floor Space Ratio	(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. N/A	Not applicable.	N/A
Part 6 Additional Local Provisions			

WARRINGAH LEP 2011 – COMPLIANCE TABLE			
6.2 Earthworks	<p>(3) Before granting development consent for earthworks, the consent authority must consider the following matters—</p> <p>(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality</p> <p>(b) the effect of the proposed development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.</p>	<p>A Geotechnical Assessment has been prepared by <i>CMW Geosciences</i> to accompany the DA. The proposal is considered acceptable as follows: The proposal will not result in any impact to the drainage of the locality. A Stormwater Plan is submitted with this application.</p> <p>The proposed excavation will permit redevelopment of the subject site.</p> <p>Excavated soil will be reused on-site where possible. Excavated soil will be disposed of as per standard.</p> <p>The excavation will have no impact to the amenity of the adjoining properties as detailed in this Statement.</p> <p>As detailed, excavated material will be reused where possible. Any excavated material will be disposed of per standard construction methods.</p> <p>The site has been previously disturbed.</p> <p>The site is not within proximity to any waterway or environmentally sensitive area.</p>	Yes
6.4 Development on sloping land	<p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—</p> <p>(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and</p> <p>(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and</p> <p>(c) the development will not impact on or affect the existing subsurface flow conditions.</p>	<p>The subject site is identified as within Area B Flanking Slopes 5° to 25°.</p> <p>This application is submitted with a Geotechnical Report.</p> <p>The proposed development will not impact stormwater discharge. Stormwater Plans are submitted with this application.</p> <p>The proposal will not impact the flow as shown in the supporting documentation.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

ANNEXURE C

Clause 4.6 Variation Request – Building Height





Clause 4.6 Variation Statement – Maximum Height (WLEP Clause 4.3 and Housing SEPP Section 18(2))

1. Height of Buildings standard

Clause 4.3 of *Waringah Local Environmental Plan 2011* (WLEP 2011) relates to the maximum height requirements and refers to the Height of Buildings Map. The relevant map identifies the subject site as having a maximum height of 11m.

It is noted however that this application is made pursuant to *Part 2 Development for affordable housing, Division 1 In-fill affordable housing, Section 18 Affordable housing requirements for additional building height*, subsection (2) of the Housing SEPP. Specifically, this application seeks to benefit from the 30% building height bonus under Section 18(2) of the Housing SEPP, where affordable housing is provided to at least 15% of the total gross floor area (GFA) for a minimum 15-year period. Accordingly, and per the Housing SEPP, the subject site is therefore permitted a maximum building height of 14.3m (where the 11m limit applies).

Building height is defined as:

building height (or height of building) means—

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

The relevant map (HOB_010AB) indicates that the maximum building height permitted at the subject site is 11m, as demonstrated in Figure 14 below. As identified above, when applying the 30% building height bonus afforded by Section 18(2) of the Housing SEPP, a maximum building height of 14.3m is permitted.

The maximum height control is a “development standard” to which exceptions can be granted pursuant to clause 4.6 of the LEP.



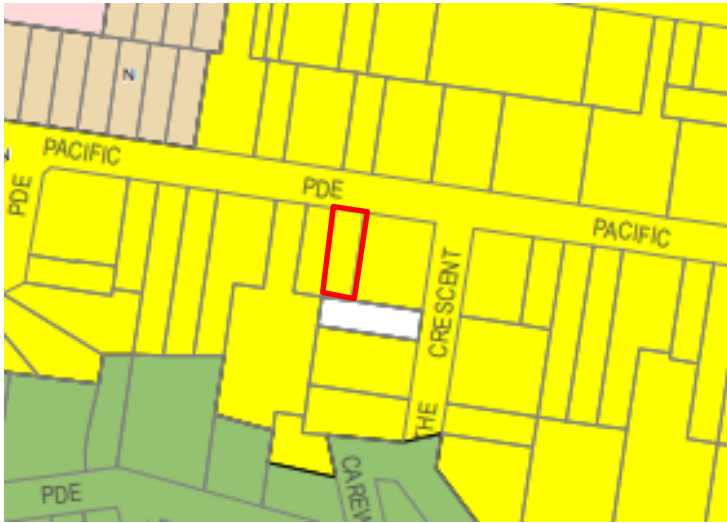


Figure 15 Extract from Height of Buildings Map [Yellow = 11m]

2. Proposed variation to height of buildings development standard

The proposed development has a maximum height of 15.84m as measured to the lift overrun at the roof top from the existing ground level and is therefore non-compliant.

Accordingly, the proposal is non-compliant with the 14.3m building height development standard set by the Housing SEPP Section 18(2) and seeks for a maximum variation of 1.54m or 10.7%.

The balustrades surrounding the air-conditioning units on the roof will also extend above the building height limit. The balustrades will reach a maximum height of 15.07m and therefore represent a non-compliance of 770mm or 5.3%. The rest of the building envelope, including all habitable space, will sit below the building height limit.

Figure 16 provides a height blanket diagram of the proposed development which clearly indicates the extent of the height non-compliance. Also shown within the diagram is the extent to which the remaining built form sits below the height limit.

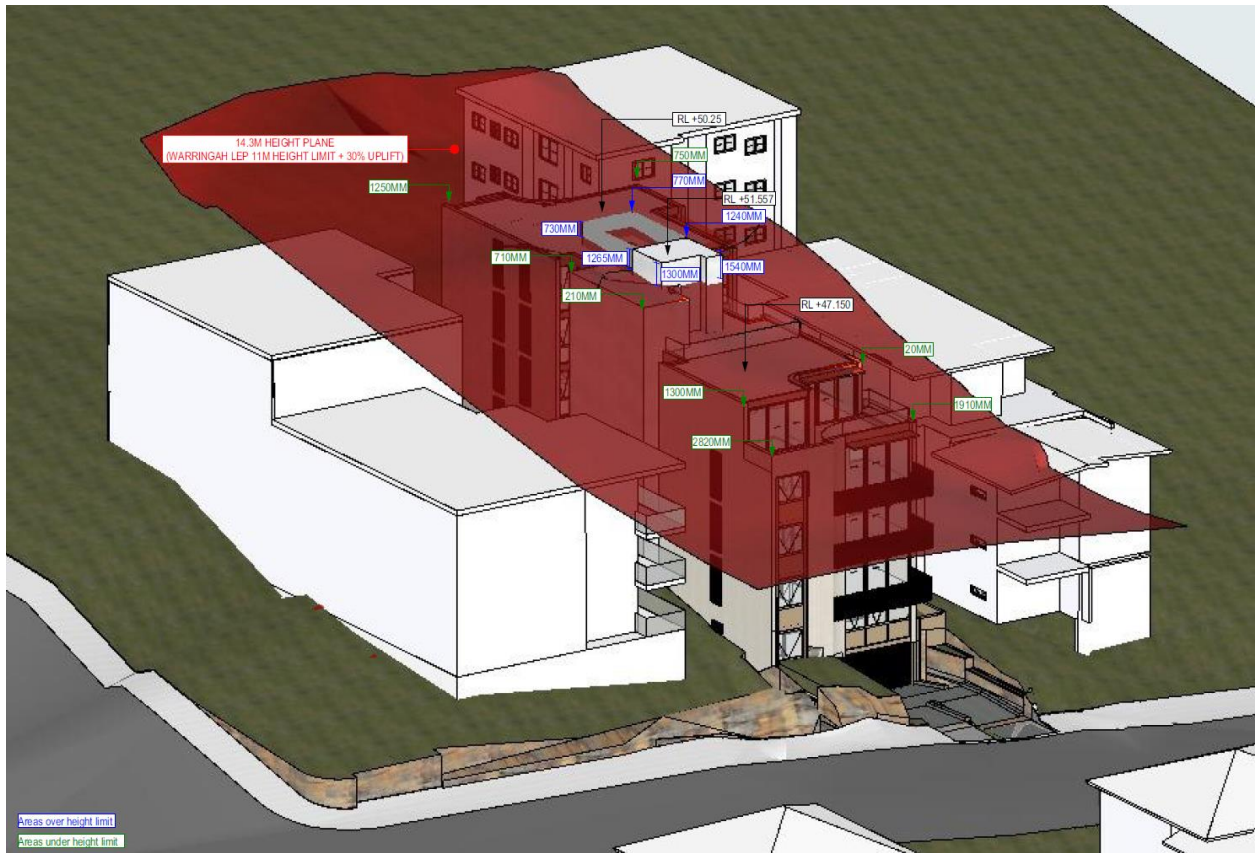


Figure 16 Height Blanket Diagram.

3. Clause 4.6 to WLEP 2011

The objectives and provisions of clause 4.6 are as follows:

(1) *The objectives of this clause are as follows—*

(a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

(b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

(3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*

(a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*

(b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

Note—

The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

(4) The consent authority must keep a record of its assessment carried out under subclause (3).

(5) (Repealed)

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note—

When this Plan was made it did not contain Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU6 Transition or Zone R5 Large Lot Residential.

(7) (Repealed)

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(ba) clause 4.4, to the extent that it applies to land identified on the Key Sites Map as Site F, Site G, Site H or Site I,

(c) clause 5.4,

(caa) clause 5.5.

(d) (Repealed)

(8A) Also, this clause does not allow development consent to be granted for development that would contravene a development standard for the maximum height of a building shown on the Height of Buildings Map on land shown on the Centres Map as the Dee Why Town Centre.

(8B) Despite subclause (8A), development on Site C or Site E may exceed the maximum height of building shown on the Height of Buildings Map if the maximum height is allowable under clause 7.14.

The development standards in Clause 4.3 are not “expressly excluded” from the operation of Clause 4.6.

4. Compliance is unreasonable or unnecessary in the circumstances of the case (Clause 4.6(3)(a))

Of relevance to Clause 4.6(3)(a), in *Wehbe V Pittwater Council (2007) NSW LEC 827* Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. It states, inter alia:

“An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”

The judgement goes on to state that:

“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”

Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Relevantly, in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* (paragraph 16), Preston CJ makes reference to *Wehbe* and states:

“...Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.”

Clause 4.6(3)(a) requires that the written request to vary a development standard demonstrate that compliance with the development standard is unnecessary or unreasonable in the circumstances of the case. Requiring strict compliance with the standard is unreasonable or unnecessary because the development is consistent with the standard objectives, even with the proposed variation, as discussed in further detail below.

The objectives and relevant provisions of Clause 4.3 of WLEP 2011 are as follows:

- (a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,



(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.

In order to address the requirements of subclause 4.6(3)(a), each of the relevant objectives of Clause 4.3 are addressed in turn below.

In addition, whilst it is noted that there are no objectives for the height bonus afforded by the Housing SEPP, the objective of Division 1 In-fill affordable housing of the Housing SEPP is also addressed.

(a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

It is noted that objective (a) refers to being “compatible” with height and scale of surrounding and nearby development. It is considered that “compatible” does not promote “sameness” in built form but rather requires that development fits comfortably with its urban context. Of relevance to this assessment are the comments of *Roseth SC in Project Venture Developments Pty Ltd v Pittwater Council [2005] NSWLEC 191*:

“22 There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.”

In accordance with the above and when considering the height and scale of surrounding developments, it is imperative to note that the subject site and surrounding locality is permitted an increase in density, per the Housing SEPP, to encourage affordable, transit orientated development.

The proposal has undertaken detailed site and contextual analysis to ensure that the proposed height variation is an appropriate response to the conditions of the site and surrounding context.

The proposal is best described as a residential flat building which is permissible in the zone and is consistent with the desired future character of the locality. The building height limit, inclusive of the Housing SEPP bonus, anticipates a four to five storey form, in which the proposal complies with. The proposed height encroachments, which are a direct result of the sites topography, are limited to the lift overrun and air conditioning units and surrounding palisades, and does not create a built form which is incompatible with the desired character and typology of developments throughout the locality, particularly on the backdrop of the Housing SEPP bonus.

These non-compliant elements are provided within a high-quality built form which is well articulated and is consistent with the objectives and principles of the LEP and DCP. The design has integrated various elements to reduce bulk and scale at the point of greatest variation, including appropriate setbacks, curved elements, balcony articulation and glazing, within a recessed floorplate. The built form, which is consistent with the intent of the Housing SEPP, is considered to respond to the existing and desired future character of the locality. As discussed, the non-compliant elements as they address Pacific Parade will not be visible from the streetscape due to the recessive design of the built form. Centrally, the non-compliances as they pertain to the building core and air conditioning units and surrounding palisades are setback from the compliant envelope below therefore mitigating impact and ensuring appropriateness of bulk and scale in the locality.

As detailed, the proposal provides a built form which is reflective of the objectives of the WDCP and character of the locality, in that the development will provide an articulated built form appropriately addressing the streetscape. This ensures that despite the non-compliance, the proposal is consistent with the desired building pattern in the locality. The burden on insisting on strict compliance would result in the removal of high quality, residential apartments which would



be an unreasonable and unnecessary outcome given the scale of the proposal is compatible with the character of the locality. Additionally, the proposal does not result in any adverse impacts to the amenity of the neighbouring properties as is discussed in objective (b).

As detailed, the proposal is designed with a maximum building height which ensures a consistency in streetscape and built form character of the locality. That is, as the built form addresses Pacific Parade, the proposal will comply with the development standard, and the uppermost level, whilst compliant with the height limit set by the Housing SEPP bonus, has been recessed into the site so that the street frontage height is compatible with the surrounding development, which was limited to the LEP height limit, and the well-designed form minimises visual bulk and impact. As a result, the perceived height, bulk and scale of the development is consistent with that which is existing and is appropriate to the locality. It is prudent to note that although the proposed development is subject to a greater building height than the adjoining developments, the proposal has been designed to mask the bonus height through the recessive design to ensure compatibility with the existing and desired character of the locality.

Overall, the proposal provides a strategic response to the conditions of the site and neighbouring properties and is compliant with the development standard where it has the most bearing on character. Importantly, the proposed variation is minor and has been suitably designed so that it will not have any adverse visual or physical impact to the locality.

Therefore Objective (a) is achieved.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

In terms of visual impact, the bulk and scale of the proposed development has largely been addressed in responses to objectives (a), (c) and (d). For the reasons discussed in relation to those objectives, including setbacks, design and materiality, the proposed development represents a bulk and scale which is compatible with the existing and desired future character of the locality. Furthermore, when viewed from the public domain and neighbouring properties, the design and siting of the non-compliance provides considerable visual and physical separation thus mitigating any potential sense of enclosure or visual impact. That is, the proposal presents to the public domain as a predominantly compliant built form with the non-compliances located centrally and out of view. The contemporary design, including framing, balcony articulation, fenestration and setbacks, in conjunction with the modern materials and neutral colour scheme, ensures that the proposal is not visually jarring from the streetscape.

In the case of view loss, the proposed variation will not result in any significant loss of views or outlook compared to a building with a compliant height. Importantly, there are no significant views currently enjoyed across the subject site from the public domain or neighbouring properties and the applicable planning controls effectively anticipate a continuous 11m high built form along Pacific Parade, notwithstanding the bonus height afforded to the site and surrounding sites under the Housing SEPP. As the existing site is under-developed relative to the height control and the proposal is predominantly compliant as it presents to the public domain, the expectation to retain any views through the permissible building envelope is considered unreasonable. It follows that there is a reasonable expectation that the views would be lost with any redevelopment of the site and therefore loss of views must be considered against the back drop of the permissible planning controls. Accordingly, any potential loss of views created by the non-compliance is considered to be reasonable.

In terms of privacy, the height breach does not result in any adverse additional privacy impacts. The areas of non-compliance relate to the lift overrun and air conditioning enclosure, and therefore will not introduce any privacy impacts for neighbouring properties.

With regards to overshadowing, the proposed height breach will not result in any adverse overshadowing as opposed to an entirely compliant built form. The shadow diagrams submitted confirm that the proposal will not result in any significant additional overshadowing to the surrounding properties beyond what is permitted by the increase of density

envisaged by the WLEP and WDCP, and the bonus height afforded by the Housing SEPP. That is, despite the anticipated increase density, the proposal will retain appropriate solar access to the neighbouring properties during mid-winter as the majority of a shadows cast will be onto the public domain. As such, the additional overshadowing impact as a result of the height breach when compared to a compliant development are insignificant.

Therefore objective (b) is achieved.

(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

Objective (c) seeks to minimise adverse impacts of development on the scenic quality of Warringah's characteristic environments.

The subject site is not within close proximity to any coastal area or bush environment. Nevertheless, the proposal has been designed to maximise the provision of vegetation throughout the site by providing ample deep soil and landscaped areas. Importantly, the non-compliant building height will not compromise the provision of vegetation.

Further to the above, the variations are limited to lift overrun and air conditioning units and surrounding palisade. That is, the proposal is appropriately designed to respond to the topography of the site to provide a compliant built form as it presents to the public domain. Additionally, the proposal also incorporates relevant architectural features (such as setbacks, framing, balcony articulation and fenestration), materiality and colour scheme to reduce the impact created by the non-compliances.

The proposal is therefore consistent with objective (c), despite the height breach.

(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.

This objective seeks to manage the visual impact of the development as viewed from public places.

As detailed, the development is predominantly compliant with the building height development standard and it is only the lift overrun and air conditioning enclosure which encroaches the maximum height. As a result, and when viewed from the public domain, the non-compliance will not be visible and to the casual observer the proposal will appear as a height compliant development, as shown in **Figure 17**.



Figure 17 Perspective of development as viewed from Pacific Parade.



Importantly, the height of buildings control, inclusive of the Housing SEPP bonus, essentially anticipates that a four to five storey building can be constructed on the site, and surrounding sites, should they wish to provide affordable housing in accordance with the Housing SEPP. In this regard, the proposal has been designed to present to Pacific Parade as five storeys, and only four storeys when viewed from the rear adjoining reserve. The proposed development has been designed to provide a built form which appropriately transitions to the rear adjoining reserve, managing any potential visual impact of the development as viewed from the public domain.

Whilst the proposal is non-compliant, the proposal is designed to minimise the extent of non-compliances as far as practicable (in addition to their visual impact) and respond to the desired future character of the locality, as discussed in this Variation. That is, the non-compliant elements have been centrally located within the site and will not be visible when viewed from Pacific Parade or the adjoining reserve.

Overall, it is considered that the proposed height encroachments do not result in a development which will be incompatible with the desired medium density character of the R3 zone. The proposal will appropriately manage visual impact through a high quality built form and a coherent streetscape appearance with building elements that complement the topography of the site and are appropriately setback from the public domain.

The burden of insisting on strict compliance would result in the removal of the uppermost level which would be an unreasonable and unnecessary planning outcome given the nature of the non-compliance.

Therefore, the visual impact of the non-compliance as viewed from the public domain is appropriately managed and the proposal satisfies Objective (d).

The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

The proposed development, including the non-compliant building height, will facilitate the delivery of new in-fill affordable housing which will meet the needs of very low, low and moderate income households. To request strict compliance and require deletion of floor area, or associated private open space, will reduce the provision of affordable residential accommodation (and associated facilities), without any benefit to streetscape character or amenity of neighbouring properties. The proposed distribution of floor space is strategic and has considered the site constraints and relationship to neighbouring properties. The proposed non-compliance is a result of the site constraints and relationship to the neighbouring properties. As such, the proposal will satisfy the objective of *Division 1 In-fill affordable housing* despite non-compliance.

5. Sufficient environmental planning grounds (Clause 4.6(3)(b))

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard. Specifically, Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (paragraph 24) states:

*The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the*



development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31].

The assessment of this numerical non-compliance is also guided by the decisions of the NSW LEC in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 whereby Justice Pain ratified the original decision of Commissioner Pearson. The following planning grounds are submitted to justify contravening the maximum building height:

1. The proposal will deliver affordable housing in accordance with the Housing SEPP.

- a. The proposal will seek to benefit from the 30% bonus height and floor space afforded by the Housing SEPP, in lieu of delivering affordable housing. The proposed development, including the non-compliant building height, will seek to distribute floor space centrally within the site, to deliver the most appropriate streetscape outcome and balance the amenity of future residents and neighbouring properties. Whilst the development will result in non-compliance with the 14.3m standard, the non-compliance is centrally located and relate to the lift overrun and air conditioning enclosure which allow for necessary services to be provided on the site.
- b. Object 1.3(d) of the EP&A Act is to “*promote the delivery and maintenance of affordable housing*”. The proposal will deliver a distinctive public benefit through the provision of 5 affordable housing apartments, which will be allocated for a period of 15 years to a registered community housing provider, in accordance with the Housing SEPP. The considerable public benefit afforded by delivering a high quality contemporary development, with an appropriate quantum of affordable housing, must be considered in this variation request. To require strict compliance with the bonus height would significantly impact the provision of affordable housing, communal open space and high quality apartments.

2. The non-compliance is minor and will not have adverse impact to the character of the locality

- a. The height non-compliance is limited to the lift overrun and the air conditioning enclosure which are located centrally within the site to ensure they will not be visually jarring or obtrusive from the public domain. Both non-compliant elements relate to infrastructure serving the proposed development and does not relate to residential or habitable floor area. The non-compliant elements are well setback from the site boundaries to ensure that the extent of non-compliance will limit the visual and physical bulk and scale of the development as viewed from the public domain and neighbouring properties.
- b. When viewed from the streetscape and adjoining properties, the non-compliant elements will not be visible and the proposal will appear as a height-compliant development to the casual observer.

3. The non-compliance does not contribute to gross floor area

- a. The proposed height non-compliance does not constitute gross floor area and the proposal has been designed and sited to ensure that all floor space proposed on the site will sit below the maximum permissible building height of the site. As a result, the proposed height non-compliance does not add any significant bulk to the development, when compared to a compliant built form, and ensures that there will not be any amenity impacts on the surrounding locality as a result of the non-compliance.

4. The topography contributes to the extent of non-compliance

- a. The topography is a site-specific reason that contributes to the extent of this variation. Specifically, the topography falls from the rear boundary to Pacific Parade by approximately 8m. This topographical decline directly results in, and exacerbates, the extent of non-compliance centrally within the site. This is a specific condition that the LEP height limit does not contemplate, in that the height limit applies equally to a vast area of the LGA with distinctly different topography and contributes to the extent of non-compliance.
- b. Whilst the topographical variation increases the extent of non-compliance for a portion of the site, it is considered acceptable as the built form is designed to maintain the street frontage height of built form addressing Pacific Parade. Further to this, the non-compliances are recessed, pertain to minor elements and are integrated into the contemporary design to mitigate any adverse impact to bulk and scale of the site. The provision of appropriate setbacks and a stepped built form which responds to the topography of the site similarly mitigates impacts to the surrounding developments.

5. Deletion of a floor would not be orderly and economic use of land

- a. Object 1.3(c) of the EP&A Act 1979 is “*to promote the orderly and economic use and development of land*”. The social benefits of providing additional housing stock within a highly sought-after location should be given weight in the consideration of the variation request. It would be a loss to the community (and contrary to the public interest) to deny the variation and require the removal of apartments as a result of the height non-compliance which is limited to the lift overrun and air conditioning enclosure.
- b. A shorter building would unnecessarily result in a suboptimal provision of housing on the site. This would reduce the contribution of the development to meeting the R3 zone objective to ‘*provide for the housing needs of the community within a medium residential environment*’. Under-provision of housing within an R3 zone simply diverts people to be resident in areas with reduced opportunity for access to transport links or an urban environment well-suited for walking and cycling.

6. The impacts of the height breach will be imperceptible

- a. It is considered that there is an absence of any significant material impacts attributed to the breach on the amenity or the environmental values of surrounding properties, the amenity of future building occupants and on the character of the locality.
- b. The proposed shadow impacts are acceptable given they are compliant with the DCP despite the numeric variation. The shadow impact is therefore what would be reasonably expected of a fully height compliant development on the subject site and entirely consistent in scale with the development within the locality.
- c. The height non-compliance relates to the lift overrun and air conditioning enclosure only, and as such the non-compliant section of the building does not introduce any privacy impacts to the surrounding residential developments. Any privacy impacts resulting from the proposed development can be attributed to the height compliant portions of the built form.
- d. The height of building breach does not result in view loss which is not reasonably anticipated within the planning controls and site context. Given the minor extent of the non-compliant elements it is anticipated the extent of view loss caused by these elements would be insignificant or nil.

7. The impacts of the height breach will satisfy relevant environmental planning instruments

- a. The proposed development meets the objectives of the development standard and meets the objectives of the R3 Medium Density Residential zone.

- b. The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:
 - i. The proposal promotes the orderly and economic use and development of land through the redevelopment of an underutilised site for residential uses (1.3(c));
 - ii. The proposal promotes the delivery and maintenance of affordable housing (1.3(d));
 - iii. The proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context (1.3(g)).
- c. The variation to the height of buildings development standard will give better effect to the aim of Division 1 of *Chapter 2 Affordable Housing of State Environmental Planning (Housing) 2021* in that it will facilitate the delivery of new in-fill affordable housing.

The above environmental planning grounds are not general propositions and are unique circumstances to the proposed development, particularly the provision of affordable housing and the minor extent of the non-compliance. The additional height does not significantly impact the amenity of the neighbouring properties (when compared to a compliant development) and has been designed in such a way to ensure the additional height is not visible from the public domain.

It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

- 86. *The second way is in an error because it finds no basis in cl 4.6. Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development. This test is also inconsistent with objective (d) of the height development standard in cl 4.3(1) of minimising the impacts of new development on adjoining or nearby properties from disruption of views or visual intrusion. Compliance with the height development standard might be unreasonable or unnecessary if the non-compliant development achieves this objective of minimising view loss or visual intrusion. It is not necessary, contrary to what the Commissioner held, that the non-compliant development have no view loss or less view loss than a compliant development.*
- 87. *The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.*

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.

6. Conclusion

This application seeks to benefit from the building height bonus afforded by *Part 2, Division 1 In-fill affordable housing, Section 18(2)* of the Housing SEPP. This written request has been prepared in relation to the proposed variation to the



14.3m maximum building height, inclusive of a 30% bonus afforded by Section 18(2) of the Housing SEPP, to the base 11m development standard contained within Clause 4.3 of WLEP.

Having regard to all of the above, it is our opinion that compliance with the maximum height development standard, as increased by the Housing SEPP in-fill affordable housing bonus, is unreasonable and unnecessary in the circumstances of this case as the development meets the objectives of that standard. The proposal has also demonstrated sufficient environmental planning grounds to support the breach.

Therefore, insistence upon strict compliance with that standard would be unreasonable. On this basis, the requirements of Clause 4.6(3) are satisfied and the variation supported.



ANNEXURE D

Warringah DCP – Compliance Table



WARRINGAH DCP - COMPLIANCE TABLE			
Clause / Control	Requirement	Proposal	Complies?
Part B Built Form Controls			
B2 Number of Storeys	<p>1. Buildings on land shown coloured on the DCP Map Number of Storeys must comply with the maximum number of storeys identified on the DCP Map Number of Storeys.</p> <p>3 storeys</p>	<p>A three storey building height applies to the subject site. The proposal provides for a maximum storey height of four to Pacific Parade (where the upper levels are setback) and four to the rear. Centrally, the storey height is five however this is recessed from the street and rear. This is discussed at Section 5.2.6.1 of this Statement.</p>	On merit
B3 Side Boundary Envelope	<p>1. Buildings on land shown coloured on the DCP Map Side Boundary Envelopes must be sited within a building envelope determined by projecting planes at 45 degrees from a height above ground level (existing) at the side boundaries of:</p> <ul style="list-style-type: none"> • 5 metres <p>as identified on the map.</p> <p>2. On land within the R3 Medium Density Residential zone, above and below ground structures and private open space, carparking, vehicle access ramps, balconies, terraces, and the like shall not encroach the side boundary envelope. Fascias, gutters, downpipes, eaves, masonry chimneys, flues pipes or other services infrastructure may encroach beyond the side boundary envelope.</p>	<p>The proposed development does not comply with the side boundary envelope as a result of the constraints of the site. The width of the site would not allow for the side boundary envelope to be met whilst providing a suitable residential flat building development with high levels of amenity. Importantly, this control does not contemplate the height bonus afforded by the Housing SEPP. The additional height and subsequent floor space permitted on the site cannot be provided within the building envelope established by this control. Furthermore, this control does not support residential flat buildings and it is clear that existing development, including those adjoining the subject site, do not comply with the DCP envelope. This is also evident by the approved building envelope on the site, which did not comply with this control. The proposed development provides a similar building envelope to that approved on the site, with additional levels in accordance with the bonus height permitted. Since the proposal largely complies with the permissible building height on the site, it is considered that the proposal provides a suitable scale of development for the site. With regard to building setbacks, the proposal largely complies with the ADG separation requirements and where non-compliances are proposed all privacy impacts have been mitigated by</p>	On merit

WARRINGAH DCP - COMPLIANCE TABLE			
		thoughtful design. This is addressed in Section 5.2.4.1 of this Statement.	
B5 Side Boundary Setbacks	<p>1. Development on land shown coloured on the DCP Map Side Boundary Setbacks is to maintain a minimum setback from side boundaries as shown on the map. 4.5m</p> <p>2. Side boundary setback areas are to be landscaped and free of any above or below ground structures, car parking or site facilities other than driveways and fences.</p> <p>3. On land within the R3 Medium Density Residential zone, above and below ground structures and private open space, basement car parking, vehicle access ramps, balconies, terraces, and the like shall not encroach the side setback except as provided for under Exceptions below.</p> <p>Land Zoned R3 All development:</p> <ul style="list-style-type: none"> Light fittings, electricity or gas meters or other services infrastructure and structures not more than 1 metre above ground level (existing) (including steps, landings, pedestrian ramps and stormwater structures) may encroach beyond the required setback up to 2 metres from a side boundary; and Entrance and stair lobbies at ground floor level may encroach the required setback up to 2 metres from a side boundary. <p>Basement carparking structures, and private open space:</p> <ul style="list-style-type: none"> Variations will be considered for existing narrow width allotments, where compliance is unreasonable in the context of surrounding medium density development for basement carparking and private open space. Basement car parking may extend: <ul style="list-style-type: none"> Up to 2 metres from the side boundary, and No more than 1 metre above ground level (existing) 	<p>The proposal does not provide a 4.5m as required as a result of the width of the site. To provide compliant side setbacks, the remaining developable area for the residential flat building would not enable an appropriate redevelopment of the site. Importantly, the site is an isolated allotment and redevelopment is constrained by the site width and the adjoining residential flat buildings. The proposal has been designed to respond to the constraints of the site to provide a high quality residential flat building which offers high levels of amenity for residents without impacting the amenity of adjoining properties.</p> <p>The proposed siting and design of the development has taken cues from the approved building envelope under DA2020/1597, and provides setbacks which are largely consistent with the ADG requirements. Indeed, where the proposal does not comply with the side setback requirements it is consistent with the approved building envelope on the site.</p> <p>Furthermore, given the proposal is for a residential flat building, the ADG setbacks are considered to be more relevant than the standard DCP setback requirements which are blanketly applied across the R3 zone.</p> <p>The ADG setback requirements are addressed in further detail at Section 5.2.4.1 of this Statement.</p>	On merit



WARRINGAH DCP - COMPLIANCE TABLE			
	<ul style="list-style-type: none"> Private open space may extend: <ul style="list-style-type: none"> Up to 3.5 metres from a side boundary 		
B7 Front Boundary Setbacks	1. Development is to maintain a minimum setback to road frontages. 6.5m	The proposal achieves full compliance with the 6.5m setback control with the entire built form setback at least 6.5m from the front boundary.	Yes
	2. The front boundary setback area is to be landscaped and generally free of any structures, basements, carparking or site facilities other than driveways, letter boxes, garbage storage areas and fences.	The front setback area is generally free of structures, with the driveway, landscaping, pedestrian access and mailboxes covering the front setback at the ground level. It is noted that the basement level will extend into the front setback area, however, this is for a generally small portion of the front setback and allows for easy access to services including the bin storage area to allow for efficient waste collection. Importantly, the basement is located entirely below ground level and will not be visible from the public domain. Furthermore, landscaping is proposed above the basement within the front setback to soften the built form and enhance the visual appearance of the site when viewed from the streetscape.	Yes
	3. Where primary and secondary setbacks are specified, buildings and structures (such as carparks) are not to occupy more than 50% of the area between the primary and secondary setbacks. The area between the primary setback and the road boundary is only to be used for landscaping and driveways.	Not applicable.	N/A
B9 Rear Boundary Setbacks	1. Development is to maintain a minimum setback to rear boundaries. 6m 2. The rear setback area is to be landscaped and free of any above or below ground structures. 3. On land zoned R3 Medium Density where there is a 6m rear boundary setback, above and below ground structures and private open space, including basement carparking, vehicle access ramps, balconies, terraces, and the like shall not encroach the rear building setback.	The proposal largely complies with the 6m setback requirement with the exception of the basement parking areas. This is addressed in Section 5.2.6.2 of this Statement.	On merit
Part C Siting Factors			



WARRINGAH DCP - COMPLIANCE TABLE			
C2 Traffic, Access and Safety	<p>Vehicular Access</p> <ol style="list-style-type: none"> 1. Applicants shall demonstrate that the location of vehicular and pedestrian access meets the objectives. 2. Vehicle access is to be obtained from minor streets and lanes where available and practical. 3. There will be no direct vehicle access to properties in the B7 zone from Mona Vale Road or Forest Way. 4. Vehicle crossing approvals on public roads are to be in accordance with Council's Vehicle Crossing Policy (Special Crossings) LAP-PL413 and Vehicle Access to Roadside Development LAP-PL 315. 5. Vehicle crossing construction and design is to be in accordance with Council's Minor works specification. <p>On-site loading and unloading</p> <ol style="list-style-type: none"> 6. Facilities for the loading and unloading of service, delivery and emergency vehicles are to be: appropriate to the size and nature of the development; screened from public view; and designed so that vehicles may enter and leave in a forward direction. 	<p>Refer to architectural plans which demonstrate the location of the driveway which will meet the objectives.</p> <p>The site has one frontage.</p> <p>Not applicable.</p> <p>Noted.</p> <p>Noted.</p> <p>Waste will be collected from Pacific Parade in a similar manner to other properties in the subject site vicinity.</p>	<p>Yes</p> <p>N/A</p> <p>N/A</p> <p>-</p> <p>-</p> <p>N/A</p>
C3 Parking Facilities	<ol style="list-style-type: none"> 1. The following design principles shall be met: <ul style="list-style-type: none"> • Garage doors and carports are to be integrated into the house design and to not dominate the façade. Parking is to be located within buildings or on site.; • Laneways are to be used to provide rear access to carparking areas where possible; • Carparking is to be provided partly or fully underground for apartment buildings and other large scale developments; • Parking is to be located so that views of the street from front windows are not obscured; and • Where garages and carports face the street, ensure that the garage or carport opening does not exceed 6 metres or 50% of the building width, whichever is the 	<p>The garage door to the basement level parking is integrated into the design and will not be visually dominant from the public domain.</p> <p>Not applicable</p> <p>Carparking is proposed predominantly below ground level as detailed on the architectural plans.</p> <p>Car parking is proposed predominantly below ground level and there will be no impact to the views from the street.</p> <p>The basement garage entry will not exceed 50% of the building width.</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>



WARRINGAH DCP - COMPLIANCE TABLE

	<p>lesser.</p> <p>2. Off street parking is to be provided within the property demonstrating that the following matters have been taken into account:</p> <ul style="list-style-type: none"> • the land use; • the hours of operation; • the availability of public transport; • the availability of alternative car parking; and • the need for parking facilities for courier vehicles, delivery / service vehicles and bicycles. <p>3. Carparking, other than for individual dwellings, shall :</p> <ul style="list-style-type: none"> • Avoid the use of mechanical car stacking spaces; • Not be readily apparent from public spaces; • Provide safe and convenient pedestrian and traffic movement; • Include adequate provision for manoeuvring and convenient access to individual spaces; • Enable vehicles to enter and leave the site in a forward direction; • Incorporate unobstructed access to visitor parking spaces; <ul style="list-style-type: none"> • Be landscaped to shade parked vehicles, screen them from public view, assist in micro-climate management and create attractive and pleasant places; • Provide on site detention of stormwater, where appropriate; and • Minimum car parking dimensions are to be in accordance with AS/NZS 2890.1. <p>4. Carparking is to be provided in accordance with Appendix 1 which details the rate of car parking for various land uses. Where the carparking rate is not specified in Appendix 1 or the WLEP, carparking must be adequate for the development having regard to the objectives and requirements of this clause. The rates specified in the Roads and Traffic Authority's Guide to Traffic Generating Development should be used as a guide where relevant.</p> <p>5. Adequate provision for staff, customer and courier parking, and parking and turning of vehicles with trailers must be provided if appropriate to the land use.</p>	<p>Off street parking for the residential development is in accordance with the requirements of the DCP.</p> <p>No stackers are proposed.</p> <p>Parking will be hidden from the public domain.</p> <p>Safe pedestrian movement is permitted throughout the site.</p> <p>Parking is in accordance with the Australian Standards per the Traffic Report.</p> <p>Vehicles will enter and exit in a forward direction.</p> <p>Unobstructed visitor parking is provided. Access to the basement will be via intercom.</p> <p>Not applicable.</p> <p>Refer to Stormwater Plans.</p> <p>Refer to Traffic Report.</p> <p>Parking is in accordance with the requirements contained within the DCP.</p> <p>Not applicable</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
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WARRINGAH DCP - COMPLIANCE TABLE												
	<p>6. For bulky goods premises adequate on-site parking spaces for service/delivery vehicles at a convenient location, separated from customer parking must be provided.</p> <p>7. Where appropriate, car parking which meets the needs of people with physical disabilities must be provided in accordance with the relevant Australian Standard.</p>	<p>Not applicable.</p> <p>Adequate accessible parking is provided.</p>	<p>N/A</p> <p>Yes</p>									
C3(A) Bicycle Parking and End of Trip Facilities	<p>1. Bicycle parking facilities must be provided for new buildings and for alterations or additions to existing buildings. In the case of alterations or additions to existing buildings bicycle parking facilities are required for the additional floor area only.</p> <p>2. Bicycle parking shall be designed and constructed in accordance with Australian Standard AS 2890.3 – Bicycle Parking Facilities.</p> <p>3. Bicycle parking facilities shall be designed to be an integral part of the development and where visible from public places or streets, will complement the visual quality of the public domain.</p> <p>4. Bicycle parking shall be provided in accordance with the generation rates in the following table and is determined by adding Column 1 and Column 2 requirements and rounding up.</p> <table><tr><th colspan="3">MINIMUM BICYCLE PARKING REQUIREMENTS</th></tr><tr><th>Land Use</th><th>Column 1 High-Medium Security Level*</th><th>Column 2 High-Low Security Level**</th></tr><tr><td>Residential Accommodation containing 3 or more dwellings (excluding group homes; boarding houses; hostels; seniors housing)</td><td>1 per dwelling</td><td>Visitors: 1 per 12 dwellings</td></tr></table>	MINIMUM BICYCLE PARKING REQUIREMENTS			Land Use	Column 1 High-Medium Security Level*	Column 2 High-Low Security Level**	Residential Accommodation containing 3 or more dwellings (excluding group homes; boarding houses; hostels; seniors housing)	1 per dwelling	Visitors: 1 per 12 dwellings	<p>Bicycle parking is provided within the parking areas and at the ground floor as shown in the architectural plans.</p> <p>Bicycle parking will be constructed in accordance with the Australian Standards and can be imposed as a condition of consent.</p> <p>Bicycle parking will not be visible from the street.</p> <p>The proposal will provide 9 resident and 1 visitor bicycle spaces as required.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
MINIMUM BICYCLE PARKING REQUIREMENTS												
Land Use	Column 1 High-Medium Security Level*	Column 2 High-Low Security Level**										
Residential Accommodation containing 3 or more dwellings (excluding group homes; boarding houses; hostels; seniors housing)	1 per dwelling	Visitors: 1 per 12 dwellings										
C4 Stormwater	<p>Stormwater runoff must not cause downstream flooding and must have minimal environmental impact on any receiving stormwater infrastructure, watercourse, stream, lagoon, lake and waterway or the like.</p> <p>The stormwater drainage systems for all developments are to be designed, installed and maintained in accordance with Council’s Water Management for Development Policy.</p>	<p>Refer to Stormwater Plans prepared by <i>CAM Consulting</i> as is submitted in this application.</p>	<p>Yes</p>									
C7 Excavation and Landfill	<p>1. All landfill must be clean and not contain any materials that are contaminated and must comply with the relevant legislation.</p> <p>2. Excavation and landfill works must not result in any adverse impact on adjoining land.</p>	<p>Noted, fill will comply with the relevant Australian Standards.</p> <p>The proposed earthworks will have no adverse impact to the surrounding properties per the Geotechnical Report.</p>	<p>Yes</p> <p>Yes</p>									

WARRINGAH DCP - COMPLIANCE TABLE			
	<p>3. Excavated and landfill areas shall be constructed to ensure the geological stability of the work.</p> <p>4. Excavation and landfill shall not create siltation or pollution of waterways and drainage lines, or degrade or destroy the natural environment.</p> <p>5. Rehabilitation and revegetation techniques shall be applied to the fill.</p> <p>6. Where landfill is necessary, it is to be minimal and shall have no adverse effect on the visual and natural environment or adjoining and surrounding properties.</p>	<p>Noted, refer to Geotechnical Report.</p> <p>Noted.</p> <p>Noted, this will be in accordance with the Landscape Plan where necessary.</p> <p>Noted, this is not significant and will not impact the character of the locality.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
C8 Demolition and Construction	1.All development that is, or includes, demolition and/or construction, must comply with the appropriate sections of the Waste Management Guidelines and all relevant Development Applications must be accompanied by a Waste Management Plan	Refer to Waste Management Plan submitted with this application.	Yes
C9 Waste Management	All development that is, or includes, demolition and/or construction, must comply with the appropriate sections of the Waste Management Guidelines and all relevant Development Applications must be accompanied by a Waste Management Plan.	Refer to Waste Management Report submitted within this application.	Yes
Part D Design			
D1 Landscaped Open Space and Bushland Setting	<p>1. The required minimum area of landscaped open space is shown on DCP Map Landscaped Open Space and Bushland Setting. 50%</p> <p>To measure the area of landscaped open space:</p> <p>a) Driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks, etc, and any open space areas with a dimension of less than 2 metres are excluded from the calculation;</p> <p>b) The water surface of swimming pools and impervious surfaces which occur naturally such as rock outcrops are included in the calculation;</p> <p>c) Landscaped open space must be at ground level (finished); and</p> <p>d) The minimum soil depth of land that can be included as landscaped open space is 1 metre.</p>	The proposal will provide a landscaped area of 232m ² which equates to 33% of the total site area. Whilst this does not meet the 50% requirement under the DCP, it is considered appropriate for the subject site when considering the context of the site and the proposed land use. Indeed, a provision of 50% landscaping is excessive for a residential flat building, as evidenced by the ADG which only requires 7% of the site to be deep soil. Furthermore, given the steep topography of the site, it is difficult to provide the required landscape area at the ground level. Instead, the proposal has been designed to maximise deep soil where possible and provide additional podium planting to soften the built form. Notably, the proposal has been designed to maximise deep soil area at the rear of the site where it adjoins The Crescent Reserve to allow for a transition	On merit.

WARRINGAH DCP - COMPLIANCE TABLE											
	<p>2. Where land is shown on DCP Map Landscaped Open Space and Bushland Setting as "Bushland Setting", a minimum of 50% of the site area must remain undisturbed by development and is to be kept as natural bushland or landscaped with locally indigenous species.</p>	<p>between the proposed development and the parkland. Importantly, no site within the immediate locality which contains a residential flat building achieves 50% landscaped area, since this is difficult to achieve for the land use type. Indeed, this control is likely intended for dwelling houses and dual occupancies which naturally have larger landscaped open space. As such, the proposed landscape provision is considered to be appropriate for the site.</p> <p>Not applicable.</p>	N/A								
D2 Private Open Space	<p>1.Residential development is to include private open space for each dwelling.</p> <p>2.The minimum area and dimensions of private open space are as follows:</p> <table><tr><th>DWELLING Type</th><th>Area and Minimum Dimensions per dwelling</th></tr><tr><td>Dwelling houses (including dual occupancy) and attached dwellings with 1 or 2 bedrooms</td><td>A total of 35m2 with minimum dimensions of 3 metres</td></tr><tr><td>Dwelling houses (including dual occupancy) and attached dwellings with 3 or more bedrooms</td><td>A total of 60m2 with minimum dimensions of 5 metres</td></tr><tr><td>Multi dwelling housing (not located at ground level); residential flat buildings and shop top housing</td><td>A total of 10m2 with minimum dimensions of 2.5 metres</td></tr></table> <p>3. Private open space is to be directly accessible from a living area of a dwelling and be capable of serving as an extension of the dwelling for relaxation, dining, entertainment, recreation and children’s play.</p> <p>4. Private open space is to be located and designed to ensure privacy of the occupants of adjacent buildings and occupants of the proposed development.</p> <p>5. Private open space shall not be located in the primary front building setback.</p> <p>6. Private open space is to be located to maximise solar access.</p>	DWELLING Type	Area and Minimum Dimensions per dwelling	Dwelling houses (including dual occupancy) and attached dwellings with 1 or 2 bedrooms	A total of 35m2 with minimum dimensions of 3 metres	Dwelling houses (including dual occupancy) and attached dwellings with 3 or more bedrooms	A total of 60m2 with minimum dimensions of 5 metres	Multi dwelling housing (not located at ground level); residential flat buildings and shop top housing	A total of 10m2 with minimum dimensions of 2.5 metres	<p>Each dwelling contains private open space.</p> <p>Private open space is provided in accordance with the ADG per Annexure A.</p> <p>Private open spaces are directly accessible from living areas.</p> <p>Private open spaces are adequately setback from neighbouring properties to ensure privacy is maintained.</p> <p>Private open spaces are not located in the front setback with a minimum setback of 6.5m provided as required.</p> <p>Private open spaces are orientated to the north as far as practicable.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
DWELLING Type	Area and Minimum Dimensions per dwelling										
Dwelling houses (including dual occupancy) and attached dwellings with 1 or 2 bedrooms	A total of 35m2 with minimum dimensions of 3 metres										
Dwelling houses (including dual occupancy) and attached dwellings with 3 or more bedrooms	A total of 60m2 with minimum dimensions of 5 metres										
Multi dwelling housing (not located at ground level); residential flat buildings and shop top housing	A total of 10m2 with minimum dimensions of 2.5 metres										
D3 Noise	<p>1. Noise from combined operation of all mechanical plant and equipment must not generate noise levels that exceed the ambient background noise by more than 5dB(A) when measured in accordance with the <u>NSW Industrial Noise Policy</u> at the</p>	<p>Refer to Acoustic Report prepared by <i>ADP</i> as is submitted with this application.</p>	Yes								

WARRINGAH DCP - COMPLIANCE TABLE			
	<p>receiving boundary of residential and other noise sensitive land uses.</p> <p>2. Development near existing noise generating activities, such as industry and roads, is to be designed to mitigate the effect of that noise.</p> <p>3. <u>Waste</u> collection and delivery vehicles are not to operate in the vicinity of residential uses between 10pm and 6am.</p> <p>4. Where possible, locate noise sensitive rooms such as bedrooms and private open space away from noise sources. For example, locate kitchens or service areas closer to busy road frontages and bedrooms away from road frontages.</p> <p>5. Where possible, locate noise sources away from the bedroom areas of adjoining dwellings/properties to minimise impact.</p>	<p>As above, refer to Acoustic Report.</p> <p>Waste collection will rely on Council's services.</p> <p>Refer to architectural plans.</p> <p>Refer to architectural plans.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
D6 Access to Sunlight	<p>1. Development should avoid unreasonable overshadowing any public open space.</p> <p>2. At least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.</p>	<p>The proposal will not create any significant overshadowing impacts on the adjoining public open space or neighbours. Refer to Section 5.3.6 of this Statement.</p>	<p>Yes</p>
D7 Views	<p>1. Development shall provide for the reasonable sharing of views.</p>	<p>No significant views are obtained across the subject site from the public domain or neighbouring properties.</p>	<p>Yes</p>
D8 Privacy	<p>1. Building layout should be designed to optimise privacy for occupants of the development and occupants of adjoining properties.</p> <p>2. Orientate living areas, habitable rooms and windows to private open space areas or to the street to limit overlooking.</p> <p>3. The effective location of doors, windows and balconies to avoid overlooking is preferred to the use of screening devices, high sills or obscured glass.</p> <p>4. The windows of one dwelling are to be located so they do not provide direct or close views (ie from less than 9 metres away) into the windows of other dwellings.</p> <p>5. Planter boxes, louvre screens, pergolas, balcony design and the like are to be used to screen a minimum of 50% of the principal private open space of a lower apartment from overlooking from an upper apartment.</p>	<p>The proposed development is designed with appropriate separation and the orientation of views to protect privacy. This is discussed in Section 5.3.8 of this Statement.</p> <p>Where possible windows and rooms have been orientated to the streetscapes to minimise overlooking.</p> <p>The proposal is setback appropriately from the site boundaries to minimise the extent of overlooking.</p> <p>Refer to Section 5.2.4.1 of this Statement.</p> <p>Planter boxes and solid balustrades have been proposed to minimise overlooking. This is further supported by vegetation as shown in the Landscape Plans.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

WARRINGAH DCP - COMPLIANCE TABLE			
D9 Building Bulk	1. Side and rear setbacks are to be progressively increased as wall height increases.	The proposed setbacks respond to the sites constraints and have been selected to provide a balance between reducing the building bulk and protecting privacy, as discussed in this Statement.	Yes
	2. Large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief.	No large continuous wall planes are proposed. The proposal is appropriately articulated as shown in the architectural set.	Yes
	3. On sloping land, the height and bulk of development (particularly on the downhill side) is to be minimised, and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope. In particular: The amount of fill is not to exceed one metre in depth. Fill is not to spread beyond the footprint of the building. Excavation of the landform is to be minimised.	The proposal is designed to ensure that the built form steps with the topography of the site. The extent of excavation and fill has been minimised as far as practicable. Refer to Geotechnical Report submitted within this application.	Yes
	4. Building height and scale needs to relate to topography and site conditions.	The proposed development responds to topography of the site, as outlined above.	Yes
	5. Orientate development to address the street.	The buildings are orientated to front Pacific Parade.	Yes
	6. Use colour, materials and surface treatment to reduce building bulk.	Refer to materials and finishes within architectural plans which demonstrates the provision of a contemporary development with neutral colour scheme.	Yes
	7. Landscape plantings are to be provided to reduce the visual bulk of new building and works.	Landscaping has been designed to reduce the bulk of the building as shown in the submitted Landscape Plans.	Yes
	8. Articulate walls to reduce building mass.	The proposed built forms are highly articulated with building undulations, balcony recesses, fenestration and framed elements.	Yes
D10 Building Colours and Materials	1. In highly visible areas, the visual impact of new development (including any structures required to retain land) is to be minimized through the use of appropriate colours and materials and landscaping.	The proposal is a contemporary residential flat building that utilises materials and landscaping to minimise the visual impact. Materials are of an appropriate neutral colour scheme.	Yes
	2. The colours and materials of development on sites adjoining, or in close proximity to, <u>bushland</u> areas, waterways or the beach must blend in to the natural landscape.	The proposal does not use any bright colours or materials and utilises a neutral colour scheme with natural cues.	Yes
	3. The colours and materials used for <u>alterations and additions</u> to an existing structure shall complement the existing external building façade.	Not applicable.	N/A

WARRINGAH DCP - COMPLIANCE TABLE			
	4. The holiday/fisherman shack character of the waterfront of Cottage Point is to be enhanced by the use of building materials which are sympathetic to the small timber and fibro cottages currently in existence on the waterfront. All buildings visible from the water are to utilise materials such as weatherboard, fibre cement, corrugated steel and timber. The use of masonry is discouraged.	Not applicable.	N/A
D11 Roofs	1. Lift overruns, plant and other mechanical equipment are not to detract from the appearance of roofs.	The lift overrun and air conditioning units have been setback into the site and will not be visually obtrusive from street level or adjoining properties.	Yes
	2. Roofs should complement the roof pitch and forms of the existing buildings in the streetscape.	The proposed flat roof form is consistent with the roof form of the adjoining residential flat buildings. The height non-compliances are discussed in the Clause 4.6.	Yes
	3. Articulate the roof with elements such as dormers, gables, balconies, verandahs and pergolas.	Not applicable given the flat roof.	Yes
	4. Roofs shall incorporate eaves for shading.	Roof overhangs are provided where necessary to provide shading.	Yes
	5. Roofing materials should not cause excessive glare and reflection.	Roof materials are appropriately allocated. This can be imposed as a condition of consent.	Yes
	6. Service equipment, lift overruns, plant and other mechanical equipment on the roof shall be minimised by integrating as many services, etc as possible into the building.	The roof form only includes a lift overrun and air conditioning units which are located centrally and obscured from the public domain. Notably, the air conditioning units are screened by metal balustrades so that they do not detract from the architectural design.	Yes
D12 Glare and Reflection	3. Sunlight reflectivity that may impact on surrounding properties is to be minimised by utilising one or more of the following: <ul style="list-style-type: none"> • Selecting materials for roofing, wall claddings and glazing that have less reflection eg medium to dark roof tones; • Orienting reflective materials away from properties that may be impacted; • Recessing glass into the façade; • Utilising shading devices; • Limiting the use of glazing on walls and glazed balustrades and avoiding the use of highly reflective glass; and 	Materials have been proposed to minimize glare and reflectivity. An appropriate balance of glazing and solid surfaces is proposed. Furthermore, glass is recessed into the façade, shaded by balconies and roof forms, solid balustrades and orientation.	Yes

WARRINGAH DCP - COMPLIANCE TABLE			
	<ul style="list-style-type: none"> Selecting windows and openings that have a vertical emphasis and are significantly less in proportion to solid massing in walls. 		
D14 Site Facilities	<p>1. Site facilities including <u>garbage</u> and recycling enclosures, mail boxes and clothes drying facilities are to be adequate and convenient for users and services and are to have minimal visual impact from public places. In particular:</p> <ul style="list-style-type: none"> <u>Waste</u> and recycling bin enclosures are to be durable, integrated with the building design and site landscaping, suitably screened from public places or streets and located for convenient access for collection; All dwellings which are required to have landscaped open space are to be provided with adequate open air clothes drying facilities which are suitably screened from public places or streets; <u>Garbage</u> areas are to be designed to avoid common problems such as smell, noise from collection vehicles and the visibility of containers; Landscaping is to be provided to reduce the impact of all <u>garbage</u> and recycling enclosures. They are to be located away from habitable rooms, bedrooms or living areas that may detract from the amenity of occupants; and Mail boxes are to be incorporated into the front fence or landscaping design. They are to be easily accessible and clearly identifiable. 	<p>The proposal provides bin store within the basement which will be easily accessible for collection on the street.</p> <p>Appropriate balcony spaces provided for each apartment. Clothes drying will be provided internally.</p> <p>Bin store provided in the basement to minimise noise and odour.</p> <p>The bin store will not be visible from the public domain and is integrated into the built form. The space is located away from the proposed apartments.</p> <p>Mailboxes are integrated into the built form and landscaping.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
D15 Side and Rear Fences	<p>1. Generally, side and rear boundary fences are to be no higher than 1.8 metres on level sites, or 1.8 metres measured from the low side where there is a difference in either side of the boundary.</p> <p>2. For sloping sites, the height of fences may be averaged and fences and walls may be regularly stepped.</p> <p>3. All fencing materials are to complement the existing neighbourhood. The use of corrugated metal, barbed wire or broken glass is not permitted.</p>	<p>The fences will not be higher than 1.8m.</p> <p>Noted.</p> <p>The proposed fencing complements adjoining properties.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
D18 Accessibility and Adaptability	<p>1. The design is to achieve a barrier free environment with consideration given to the design of door handles and switches, entrances and corridors. Steep, rough and slippery surfaces, steps and stairs and narrow paths should be avoided.</p> <p>2. There are to be continuous, independent and barrier-free access ways incorporated into the design of buildings.</p>	<p>Refer to Access Report prepared by <i>BM+G</i>.</p> <p>As above, refer to Access Report.</p>	<p>Yes</p> <p>Yes</p>

WARRINGAH DCP - COMPLIANCE TABLE			
	<p>3. Pathways are to be reasonably level with minimal cross fall and sufficient width, comfortable seating and slip-resistant floor surfaces.</p> <p>4. Where there is a change of level from the footpath to commercial or industrial floor levels, ramps rather than steps should be incorporated.</p> <p>5. There is to be effective signage and sufficient illumination for people with a disability.</p> <p>6. Tactile ground surface indicators for the orientation of people with visual impairments are to be provided in accordance with the relevant Australian Standard.</p> <p>7. Access for people with a disability is to be provided at the main entrance to the development.</p> <p>8. Development is to comply with Australian Standard AS1428.2.</p> <p>9. Where a development comprises at least five (5) dwellings, 10% (rounded up to next whole number) of dwellings shall be capable of being adapted (Class C) under AS4299</p>	<p>As above.</p> <p>Not applicable.</p> <p>Noted.</p> <p>Noted.</p> <p>Provided with access from the public domain.</p> <p>Refer to the submitted Access Report.</p> <p>1 apartment (11%) is provided as adaptable.</p>	<p>Yes</p> <p>N/A</p> <p>-</p> <p>-</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
D19 Site Consolidation in the R3 and IN1 Zone	<p>1. Development shall not result in adjacent allotments that have areas or dimensions, or are constrained in other ways, that would render such allotment(s) incapable of being developed in accordance with Warringah Local Environmental Plan.</p> <p>2. Lots are to be consolidated where necessary to ensure the development of one allotment will not render an adjoining one unsuitable for future development.</p> <p>3. For residential development in the R3 zone private open space may extend to a minimum of 3.5 metres from a side boundary.</p> <p>4. For residential development in the R3 zone basement carparking structures may be positioned up to a minimum of 2 metres from the side boundary but not be more than 1 metre above ground level.</p>	<p>The proposed development will not result in any allotments being isolated and incapable of redevelopment. Instead, the proposal will actually develop what could be considered an isolated allotment.</p> <p>Not applicable.</p> <p>Private open spaces extend closer to the boundaries due to the constraints of the site. This is addressed throughout this SEE. The basement does not protrude above natural ground given the steep topography of the site. The car parking areas are setback more than 2m from the site boundaries with the exception of the western side boundary where the parking areas and car lift are setback 1.37m. This represents a minor and insignificant non-compliance and will not have any adverse impacts on the adjoining allotments. The proposed setback will allow for sufficient parking provision and manoeuvring on the site, without having an adverse impact on the provision of deep</p>	<p>Yes</p> <p>N/A</p> <p>On merit</p> <p>On merit</p>



WARRINGAH DCP - COMPLIANCE TABLE			
		soil, which is in excess of the ADG requirement. Importantly, the approved development under DA2020/1597, provided a basement setback to the western side boundary as little as 1m, which was considered acceptable. As such, the proposed setbacks are considered acceptable too.	
D20 Safety and Security	1. Buildings are to overlook streets as well as public and communal places to allow casual surveillance.	Windows and balconies are facing streets and communal open spaces, where possible. Refer to Architectural Plans.	Yes
	2. Service areas and access ways are to be either secured or designed to allow casual surveillance.	Service areas and access ways are designed for casual surveillance from the street or in common areas. The basement is also secured as is standard.	Yes
	3. There is to be adequate lighting of entrances and pedestrian areas.	Adequate lighting will be provided throughout entries, pedestrian areas and communal spaces.	Yes
	4. After hours land use activities are to be given priority along primary pedestrian routes to increase safety.	Not applicable.	N/A
	5. Entrances to buildings are to be from public streets wherever possible.	The entrance to the buildings is via Pacific Parade.	Yes
	6. For larger developments, a site management plan and formal <u>risk</u> assessment, including the consideration of the 'Crime Prevention through Environmental Design' principles may be required. This is relevant where, in Council's opinion, the proposed development would present a crime, safety or security <u>risk</u> . See <u>Crime Prevention and Assessment of Development Applications – Guidelines under Section 79C of the Environmental Planning and Assessment Act 1979</u> prepared by the Department of Urban Affairs and Planning (now Department of Planning).	Not applicable to the proposed development.	Yes
	7. Buildings are to be designed to allow casual surveillance of the street, for example by: <ul style="list-style-type: none"> a) Maximising the glazed shop front on the ground level so that views in and out of the shop can be achieved; b) Providing openings of an adequate size in the upper levels to maximise opportunities for surveillance; c) Locating high use rooms to maximise casual surveillance; 	Not applicable. Balconies and windows are designed to maximise casual surveillance of the streetscape and public domain. As above.	N/A Yes



WARRINGAH DCP - COMPLIANCE TABLE			
	<p>d) Clearly displaying the street number on the front of the building in pedestrian view; and</p> <p>e) Ensuring shop fronts are not obscured by planting, signage, awnings and roller shutters.</p> <p>8. Casual surveillance of loading areas is to be improved by:</p> <p>a) Providing side and rear openings from adjacent buildings that overlook service areas and clear sight lines; and</p> <p>b) Providing adequate day and night lighting which will reduce the <u>risk</u> of undesirable activity.</p> <p>9. Design entrances to buildings from public streets so that:</p> <p>a) Building entrances are clearly identifiable, defined, lit and visible;</p> <p>b) The residential component of a shop top housing development has a separate secure pedestrian entrance from the commercial component of the development;</p> <p>c) Main entrances are clearly identifiable;</p> <p>d) Pavement surfaces and signage direct pedestrian movements; and</p> <p>e) Potential conflict between pedestrians and vehicles is avoided.</p>	<p>Street number is located on the front of the building.</p> <p>Not applicable</p> <p>Not applicable. No loading bay proposed. It is noted that the basement will be secured as is standard.</p> <p>The proposed building entries will be clearly identifiable and well-lit.</p> <p>Not applicable.</p> <p>These are clearly identifiable from the public domain.</p> <p>Noted.</p> <p>Pedestrian and vehicle entries are appropriately separated.</p>	<p>Yes</p> <p>N/A</p> <p>N/A</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>-</p> <p>Yes</p>
D21 Provision and Location of Utility Services	<p>1. If a proposed development will involve a need for them, <u>utility services</u> must be provided, including provision of the supply of water, gas, telecommunications and electricity and the satisfactory management of sewage and drainage.</p> <p>2. Service structures, plant and equipment are to be located below ground or be designed to be an integral part of the development and suitably screened from public places or streets.</p> <p>3. Where possible, underground <u>utility services</u> such as water, gas, telecommunications, electricity and gas are to be provided in a common trench.</p> <p>4. The location of <u>utility services</u> should take account of and minimise any impact on natural features such as <u>bushland</u> and natural watercourses.</p> <p>5. Where natural features are disturbed the soil profile should be restored and landscaping and <u>tree</u> planting should be sited and selected to minimise impact on services, including existing overhead cables.</p>	<p>As the site is within an established area, electricity, telephone, gas, water and sewerage is readily available to the subject site.</p> <p>Service structures are proposed within the basement levels. Air conditioning units are proposed at the roof and will be screened from the public view due to siting and the use of metal balustrades.</p> <p>Noted.</p> <p>Building services are located within the basement to minimise impacts to landscaped areas.</p> <p>The proposed development provides extensive deep soil landscaping throughout the site.</p>	<p>Yes</p> <p>Yes</p> <p>-</p> <p>Yes</p> <p>Yes</p>

WARRINGAH DCP - COMPLIANCE TABLE

	<p>6. Where utilities are located above ground, screening devices should include materials that complement the streetscape, for example fencing and landscaping. The location of service structures such as electricity substations should be within the site area.</p> <p>7. Habitable buildings must be connected to Sydney Water's sewerage system where the density is one dwelling per 1050 square metres or greater.</p> <p>8. On land where the density is less than one dwelling per 1050 square metres, and where connection to Sydney Water is not possible, Council may consider the on-site disposal of effluent where the applicant can demonstrate that the proposed sewerage systems or works are able to operate over the long term without causing unreasonable adverse effects.</p>	<p>Screening is provided to the air conditioning units provided on the roof.</p> <p>Development will connect to sewage systems.</p> <p>Development will connect to sewage systems.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
D22 Conservation of Energy and Water	<p>1 The orientation, layout and landscaping of sites is to make the best use of natural ventilation, daylight and solar energy.</p> <p>2 Site layout and structures are to allow for reasonable solar access for the purposes of water heating and electricity generation and maintain reasonable solar access to adjoining properties.</p> <p>3 Buildings are to be designed to minimize energy and water consumption.</p> <p>4 Landscape design is to assist in the conservation of energy and water.</p> <p>5 Reuse of stormwater for on-site irrigation and domestic use is to be encouraged, subject to consideration of public health risks.</p> <p>6 All development must comply with Council's Water Management Policy.</p>	<p>The proposed development achieves solar access and ventilation in accordance with the ADG.</p> <p>The proposal will not adversely overshadow adjoining properties and will therefore maintain heating and cooling.</p> <p>Refer to supporting documentation.</p> <p>The proposal will provide considerable landscaping throughout the site which will improve energy and water consumption.</p> <p>Refer to stormwater documentation.</p> <p>Refer to stormwater documentation.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Part E The Natural Environment			
E1 Preservation of Trees or Bushland Vegetation	<p>1. Authority to clear a tree or other vegetation is regulated in this plan in accordance with State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 i.e. 'Vegetation SEPP'. In particular, Part 2 of the Vegetation SEPP sets out the authority to clear vegetation and Part 3 provides for Council to declare under this DCP when a Vegetation Clearing Permit may be issued for clearing of vegetation.</p>	<p>Refer to Arborist Report prepared by <i>Growing My Way Tree Consultants</i> which is submitted with this application.</p>	<p>Yes</p>
E2 Prescribed Vegetation	<p>1. The following is prescribed for the purposes of clause 5.9(2) of Part 2 of the Vegetation SEPP:</p>	<p>Refer to Arborist Report which is submitted within this application.</p>	<p>Yes</p>

WARRINGAH DCP - COMPLIANCE TABLE			
	<p>All native vegetation identified on:</p> <p>a) DCP Map Threatened and <u>High Conservation Habitat</u></p> <p>b) DCP Map Wildlife Corridors</p> <p>c) DCP Map Native Vegetation</p> <p>d) known or potential habitat for threatened species, populations or ecological communities as listed under the NSW <u>Threatened Species Conservation Act 1995</u> and/or the Commonwealth <u>Environment Protection and Biodiversity Conservation Act 1999</u>.</p> <p>2. Development is to be situated and designed to minimise the impact on prescribed vegetation, including remnant canopy trees, understorey vegetation, and ground cover species.</p>	Refer to the submitted Arborist Report.	Yes
E5 Native Vegetation	<p>1. For modification of native vegetation where the area of land supporting the vegetation to be modified is greater than 100m2 or the land supporting the vegetation to be modified forms part of an allotment where vegetation has been modified in the last five years:</p> <p>i. The applicant must demonstrate that the objectives have been achieved through a <u>Flora and Fauna Assessment</u> prepared in accordance with Council guidelines; and</p> <p>ii. The applicant must demonstrate that the objectives have been achieved through a <u>Biodiversity Management Plan</u> prepared in accordance with Council guidelines that will protect native vegetation on the subject property.</p> <p>2. For modification of native vegetation in all other cases, the applicant must demonstrate that the objectives have been achieved.</p>	<p>Refer to Arborist Report which determines that the loss of vegetation will have no adverse impact to the flora and fauna network. Where vegetation is lost, this will be replaced according to the Landscape Plan.</p> <p>As above.</p>	<p>Yes</p> <p>Yes</p>
E6 Retaining unique environmental features	<p>1. Development is to be designed to address any distinctive environmental features of the site and on adjoining nearby land.</p> <p>2. Development should respond to these features through location of structures, outlook, design and materials</p>	<p>The proposal responds to the topography and features of surrounding properties.</p> <p>The proposed development has been articulated to respond to the environmental features as discussed in this Statement.</p>	<p>Yes</p> <p>Yes</p>
E7 Development on land adjoining	<p>1. Development on land adjoining public open space is to complement the landscape character and public use and enjoyment of the adjoining parks, <u>bushland</u> reserves</p>	<p>The proposal has been designed to respond to and address The Crescent Reserve at the rear of the site.</p>	Yes

WARRINGAH DCP - COMPLIANCE TABLE				
public space	open	<p>and other public open spaces.</p> <p>2. Public access to public open space is to be maximised.</p> <p>3. Buildings are to be located to provide an outlook to public open space, without appearing to privatise that space.</p> <p>4. Development is to provide a visual transition between open space, <u>bushland</u> reserves or other public spaces and buildings, including avoiding abutting public open space with back fences.</p> <p>5. Development is to protect views to and from public open space.</p> <p>6. Development is to provide buffers for bushfire protection on private land, not on public land.</p> <p>7. If the adjoining parks, <u>bushland</u> reserves or public open space contain <u>bushland</u>, development is not to threaten the protection or preservation of the <u>bushland</u>.</p> <p>8. Development should be designed to maximise opportunities for casual surveillance of the public open space.</p> <p>9. Development is to utilise landscaping or existing landscape elements to screen development.</p>	<p>The proposal has no bearing on public access to the Crescent Reserve.</p> <p>The proposal has been designed to address the Crescent Reserve.</p> <p>The proposal has been designed to provide an appropriate rear setback with quality deep soil plantings to allow for a visual transition to the Crescent Reserve.</p> <p>There are no views to the public open space impacted by the proposal.</p> <p>Not applicable.</p> <p>The proposal will not have any impact on the vegetation at the Crescent Reserve.</p> <p>The proposal has been designed to address the Crescent Reserve through the orientation of private open spaces.</p> <p>The proposal provides deep soil landscaping at the rear of the site to screen the proposed built form as far as practicable.</p>	<p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
E10 Landslip Risk		<p>1. The applicant must demonstrate that:</p> <ul style="list-style-type: none"> • The proposed development is justified in terms of geotechnical stability; and • The proposed development will be carried out in accordance with good engineering practice. <p>2. Development must not cause detrimental impacts because of stormwater discharge from the land.</p> <p>3. Development must not cause detrimental impact on the existing subsurface flow conditions including those of other properties.</p> <p>4. To address Requirements 1 to 3:</p> <p>ii) For land identified as being in Area B or Area D:</p> <p>A preliminary assessment of site conditions prepared in accordance with the Checklist for Council's assessment of site conditions (see Notes) must be carried out for development. The preliminary assessment must be prepared by a suitably</p>	<p>A Geotechnical Report is submitted with this application which addresses the impact created by the excavation.</p> <p>The proposal will not have any adverse impacts to stormwater. Refer to submitted Stormwater Plans.</p> <p>As above, refer to the relevant supporting documentation.</p> <p>The subject site is identified as within Area B. This application is submitted with a Geotechnical Report.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>



WARRINGAH DCP - COMPLIANCE TABLE

	<p>qualified geotechnical engineer/ engineering geologist and must be submitted with the development application.</p> <p>If the preliminary assessment determines that a geotechnical report is required a report must be prepared by a suitably qualified geotechnical engineer / engineering geologist and must be submitted with the development application.</p> <p>Also, if the preliminary assessment determines that a geotechnical report is required a hydrological assessment of stormwater discharge and subsurface flow conditions, prepared by a suitably qualified geotechnical/ hydrological engineer, must be submitted with the development application.</p>		
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