



STATEMENT OF ENVIRONMENTAL EFFECTS

Amendment to Approved Development Application DA2024/1009

67 Pacific Parade, Dee Why

Prepared for: Chris Brasler

REF M230303

DATE: 1 August 2025





Contents

1.	INTRODUCTION	3
2.	SITE DESCRIPTION	4
3.	DETAILS OF PROPOSED MODIFICATION	6
3.1	Background.....	6
3.2	Relationship of this DA to Previous Consent	7
3.3	The Proposal.....	9
3.4	Amendment to DA2024/1009.....	9
4.	STATUTORY AND POLICY COMPLIANCE	10
4.1	Preamble	10
4.2	SEPP (Housing) 2021	10
4.3	Warringah LEP 2011	14
4.4	Warringah DCP 2011	15
4.5	Section 4.15 Assessment	15
4.6	Impact of Proposed Amending Development.....	15
4.6.1	Natural and Built Environment	15
5.	CONCLUSION	15

©This document and the research reported in it remains the property of Planning Ingenuity Pty Ltd and are protected by copyright. Apart from fair dealings for the purposes of private study, research or review, as permitted under the Copyright Act 1968, no part of the document may be reproduced, by any process, without the written permission of the author. All inquiries in this regard are to be directed to the Managing Director, Planning Ingenuity Pty Ltd.





1. Introduction

We act for the applicant for this Development Application seeking to amend development consent for an approved development at No. 67 Pacific Parade, Dee Why under DA2024/1009. This Statement of Environmental Effects (SEE) details the request to amend that development consent, specifically the request to amend the development consent in relation to the affordable housing dedication within the development.

On 23 July 2025, consent was granted by the Land and Environment Court to DA2024//1009 for the construction of a residential flat building with in-fill affordable housing.

This proposal seeks to apply the most recent, or contemporary, planning controls to the approved development in order to provide an outcome that better aligns with current planning policy. That being, for the purpose of this amending DA, the Low and Mid-Rise Housing Policy (LMR Policy). The LMR Policy is a statewide policy that now forms part of the Housing SEPP, specifically at Chapter 6 of the SEPP. The policy changes local planning controls to encourage more housing to be built within 800m walking distance from a nominated town centre and train station.

In accordance with the available mapping, the Dee Why Town Centre is a nominated town centre, and the subject site is located within a 'low and mid rise housing area' as per the definition under Chapter 6 of the Housing SEPP being within 800m walking distance from the centre area.

The LMR allows for development within 800m of the Dee Why Town Centre to achieve increased residential density by applying a base height and FSR control which is greater than the current controls under the Warringah Local Environmental Plan 2011 (WLEP). Indeed, with regard to the subject site itself, the new LMR policy increases the base building density controls for the subject site from an 11m building height with no FSR control under the WLEP to 22m height and an FSR of 2.2:1. As such, the new provisions under Chapter 6 of the Housing SEPP allow for a greater scale of development on the site and surrounding sites alike, without any requirement for affordable housing.

Notably, the current WLEP commenced in 2011, almost 15 years ago, and therefore is at odds with the current planning system in terms of density. Indeed, the applicable planning controls for the site in 2011 have not changed since the commencement of the LEP, despite the growing demand for additional housing, particularly within close proximity to centres and public transport. The NSW Government has acknowledged this and sought to address the limits of local planning instruments by providing incentives under new planning policy, namely the Housing SEPP. Ultimately, the base controls under the WLEP are no longer appropriate for the site's location and context, and it is considered unreasonable to expect a development to continue to meet these requirements whilst it could achieve greater FSR and height under the new provisions of Chapter 6 of the Housing SEPP.

Overall, the proposal seeks to provide a development which is now permitted by the current applicable provisions under Chapter 6 of the Housing SEPP, that appropriately set aside the height and FSR provisions within the WLEP.

This proposal does not seek any physical changes to the approved development and only seeks to apply the new LMR provisions to the approved development by way of amendments to conditions of consent.

In doing so, the proposal will remove the requirement of the approved development to include an affordable housing dedication under Chapter 2 of the Housing SEPP. Indeed, the approved development under DA2024/1009 included a 15% affordable housing dedication in return for a 30% height and FSR bonus under Chapter 2 of the Housing SEPP. Despite the bonus height afforded by Chapter 2, DA2024/1009 was approved with a variation of 1.54m or 10.7% to the 14.3m maximum height permitted under the SEPP.

Following the commencement of the LMR policy, the height control applicable to the site, not including any bonus available for affordable housing dedication, is now 22m. When applying the LMR provisions to the site, the proposal would achieve compliance with the applicable controls with no requirement to include an affordable housing dedication.

Notwithstanding the density of development permitted by the current LMR controls, the proposal seeks to maintain the approved height and FSR on the site, being 15.84m and 1.45:1 respectively, and will therefore remove the height variation, as previously approved under DA2024/1009.

Ultimately, the proposal simply seeks to amend the approved development on the site to better align with the available density controls under the most current and relevant planning policy, which is now available to the site and surrounding sites alike. Whilst the proposal will remove the approved affordable housing dedication, by doing so, financial feasibility is better ensured and so too is the likelihood for the Applicant, and other developers alike, to continue developing residential properties to meet the current housing demand. Furthermore, the increase of housing supply, even of market priced housing, contributes to housing affordability through the increase in housing availability to match demand. This is underpinned by the aim of Chapter 6 of the Housing SEPP which seeks to encourage the development of low and mid rise housing in areas that are well located with regards to goods, services and public transport.

The purpose of this SEE is to address the planning issues associated with the amended proposal in accordance with the requirements of Sections 4.15 of the Environmental Planning & Assessment (EP&A) Act, 1979.

2. Site Description

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.

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.

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.

3. Details of Proposed Modification

3.1 BACKGROUND

DA2020/1597

The site was subject to a previous development application under DA2020/1597 which was approved by NSW Land Environment Court on 8 February 2022 for the *'Demolition of existing structures and construction of a part three (3), part four (4) storey boarding house with 26 boarding rooms over two levels of basement car parking for 13 cars with landscaping'*.

Demolition works in accordance with DA2020/1597 have been undertaken and the site remains vacant.

DA2024/1009

On 23 July 2025, consent was granted by the Land and Environment Court to DA2024//1009 for the ‘*Construction of a residential flat building with in-fill affordable housing*’.

DA2024/1009 was approved with a building height of 15.84m and an FSR of 1.45:1, with an affordable housing dedication of 19.7% of the total gross floor area of the development, to be managed by a community housing provider for 15 years in accordance with Chapter 2 of the Housing SEPP.

The development approved under DA2024/1009 varied the maximum building height permitted under Chapter 2 of the Housing SEPP by 1.54m or 10.7%.

Importantly, since the site is not subject to a maximum FSR under the WLEP 2011, it did not benefit from any additional gross floor area under the Housing SEPP, and instead only applied the bonus height available.

This application seeks to amend the most recent consent on the site being DA2024/1009.

3.2 RELATIONSHIP OF THIS DA TO PREVIOUS CONSENT

On 23 July 2025, consent was granted by the Land and Environment Court to DA2024//009 for the construction of a residential flat building with in-fill affordable housing.

This development application seeks consent to remove the affordable housing dedication within the approved development under DA2024/1009.

If a development consent is granted to this development application (the new consent), both development consents will apply concurrently to the subject site.

For practical reasons, it is desirable to avoid any apparent inconsistency between the terms of the two development consents.

Accordingly, the application seeks that a requirement be imposed (under the new consent) that DA2024/1009 must be modified in accordance with condition 4.17(1)(b) of the EP&A Act. The modification must be effected prior to the issue of an occupation certificate related to the new consent. This will ensure that there are no inconsistencies between the two development consents.

Relevantly, Section 4.17(b) of the Environmental Planning and Assessment Act 1979, states:

***“(1) Conditions—generally* A condition of development consent may be imposed if—**

(a) ..

(b) it requires the modification or surrender of a consent granted under this Act or a right conferred by Division 4.11 in relation to the land to which the development application relates, or”

Furthermore, Section 4.17(5) states:

“(5) Modification or surrender of consents or existing use rights

If a consent authority imposes (as referred to in subsection (1)(b)) a condition requiring the modification or surrender of a consent granted under this Act or a right conferred by Division 4.11, the consent or right may be modified or surrendered subject to and in accordance with the regulations”

And Section 67 of the Regulations states:

“67 Modification or surrender of development consent or existing use right—the Act, s 4.17(5)

(1) A development consent or existing use right may be modified or surrendered by written notice to the consent authority.

(2) The notice must contain the following information—

(a) the name and address of the person giving the notice,

(b) the address and folio identifier of the land to which the consent or right relates,

(c) a description of the consent or right to be modified or surrendered,

(d) whether the consent or right will be modified, including details of the modification, or surrendered,

(e) if the person giving the notice is not the owner of the land—a statement signed by the owner of the land that the owner consents to the modification or surrender of the consent or right.

(3) The notice takes effect when the consent authority gives written notice to the person giving the notice that the consent authority received the notice.

(4) The notice operates, according to its terms, to modify or surrender the development consent or existing use right to which it relates.

(5) The consent of the owner is not required under subsection (2)(e) if the consent of the owner of the land was not required under section 23 to make the application for the development consent.

(6) In this section—

existing use right means a right conferred by the Act, Division 4.11.”

Section 4.17(1)(b) allows a condition to be imposed as part of a new consent which requires 'the modification ... of a consent'. This provision exists to deal with the possibility that more than one development consent may be in operation on a site at a given point in time as addressed in the matter of *Waverley Council v C M Hairis Architects* [2002] NSWLEC 180 at [30].

The planning purpose of a condition imposed under section 4.17(1)(b) is to eliminate the inconsistencies that would otherwise exist if multiple consents applied to the site (*Lindsay Bennelong Developments v City of Sydney Council* [2016] NSWLEC 1064 at [45]).

Section 4.17(1)(b) of the EP&A Act, so far as it relates to modification, operates independently of section 4.55 of the Act: *Hairis Architects* at [25]. The 'substantially the same' test does not apply in these situations *Hairis Architects* at [27].

The procedure for giving effect to a condition imposed under section 4.17(1)(b) is set out in Clause 67 of the *Environmental Planning and Assessment Regulation 2021*. The modification of an existing development consent is achieved by delivery of a notice to the consent authority and consent authority confirms that it has received the notice as described in *Hairis Architects* at [26].

The consequence is that an earlier consent may be modified, under these provisions, without any necessity for there to be an application under section 4.55 [*Hairis Architects* at [27]].



This streamlined procedure for modification necessitates that there should be a great deal of certainty about the actual modification that will be effected when a notice is given to the consent authority under Clause 67.

Essentially, the most appropriate way forward is for the new consent to include the actual intended modification to the earlier consent. This change is detailed at Section 3.4 of the Statement below.

3.3 THE PROPOSAL

The proposed modification seeks to amend the approved development to provide a development on the site which reflects the current and available planning controls to provide high quality market housing as permitted by the planning provisions stipulated within the *SEPP (Housing) 2021* (Housing SEPP).

At the time of the submission of DA2024/1009, the LMR policy had not been released and the base FSR and building height under the WLEP 2011 applied to development on the subject site.

The LMR policy started on 28 February 2025 and is now included at Chapter 6 of the Housing SEPP.

In accordance with the LMR provisions, the base FSR control which applies to the development is now 2.2:1 and the base height is 22m. These controls for density apply equally to those immediately surrounding sites without any dedication for affordable housing.

Notwithstanding the density of development permitted by the current controls, the proposal seeks to maintain the approved height and FSR under DA2024/1009, being 15.84m and an FSR of 1.45:1. Therefore, the proposal does not rely on any FSR or height bonus associated with an affordable housing dedication, and simply seeks to maintain the approved built form on the site, in a way which aligns with the current and available planning policy.

As such, since no bonus density is sought or required, the amended proposal is not required to provide any affordable housing allocation and instead will achieve a fully compliant built form under Chapter 6 of the Housing SEPP.

The proposed modification to the affordable housing provision will be dealt with by way of amendment to the conditions of consent, as detailed below.

The proposal does not seek to make any changes to the approved built form.

3.4 AMENDMENT TO DA2024/1009

The proposed amendment to development consent DA2024/1009 requires the deletion of a condition No. 59 which relates to the affordable rental housing requirements for the approved development.

Since the proposal no longer relies on the bonus height afforded under Chapter 2 of the Housing SEPP, the requirement for an affordable housing dedication is no longer applicable, hence why Condition 59 is to be deleted from the consent.

Furthermore, in order to remove any inconsistencies between this proposal and DA2024/1009, the development description within the consent for DA2024/1009 is to be amended as follows:

Construction of a residential flat building ~~with in-fill affordable housing~~

No other amendments to the approved development are proposed as part of this amending DA, noting that the approved plans remain applicable.





4. Statutory and Policy Compliance

4.1 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. The proposed amendment to the existing development consent does not make any material changes to the approved land use, built form, or operational matters. The original approval of DA2024/1009 considered the relevant objectives and controls under the applicable SEPPs, the Warringah LEP 2011 and Warringah DCP 2011, and found that the development was supportable subject to conditions of consent. The main aspect of the approved development that is altered from the approval under DA2024/1009 is the removal of the affordable housing condition to remove the dedication of units as affordable housing, which is discussed in detail in Section 3 above.

So, it follows, given that the proposed amending development does not make any changes to the approval, other than in respect of the affordable housing provision, the amended development remains supportable in respect of these matters.

Nevertheless, an assessment against the relevant provisions of the applicable environmental planning instruments is provided below.

4.2 SEPP (HOUSING) 2021

The Housing SEPP commenced on 26 November 2021, repealing and replacing five former SEPPs related to housing including ARH SEPP.

It is important to note that Schedule 7A of the Housing SEPP sets out the savings and transitional provisions. There are no provisions within Schedule 7A of the Housing SEPP which would exclude the proposed development, or any development, from the application of Chapter 6 Low and mid rise housing, which came into effect on 28 February 2025.

Of relevance to the proposed development are the following chapters:

- Chapter 2 Affordable Housing
- Chapter 4 Design of Residential Apartment Development
- Chapter 6 Low and Mid-rise Housing

Chapter 2 Affordable Housing

Division 1 of Chapter 2 in Part 2 of the Housing SEPP contains provisions relating to in-fill affordable housing. Clause 15C provides the following in relation to where the 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, Chapter 5, Chapter 6 or another environmental planning instrument, and

(b) the affordable housing component is at least 10%, and

(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 or Port Stephens 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 approved development under DA2024/1009 was approved with consent in accordance with Chapter 2 of the Housing SEPP since it met the above criteria. Whilst this proposal continues to satisfy the above criteria, the introduction of Chapter 6 of the Housing SEPP allows for a greater development density to be achieved on the site, without the requirement to include an affordable housing component.

Since the proposal seeks consent under Chapter 6 of the Housing SEPP, the provisions under Chapter 2 are no longer relevant and further consideration under this part of the Housing SEPP is not required.

It is however important to highlight that Division 1 of Chapter 2 of the Housing SEPP specifically applies to development permitted by Chapter 6 of the SEPP, which contains the development standards that reflect the new LMR policy. Therefore, the available affordable housing bonus permitted under this division would be applied to the base controls set by the new LMR policy. As such, any development within the surrounding locality seeking to provide a 15% affordable housing dedication would be permitted a maximum permissible floor space ratio of 2.86:1 and building height of 28.6m.

Notwithstanding the density of development permitted by the current controls, the proposal seeks to maintain the approved height and FSR under DA2024/1009, being 15.84m and an FSR of 1.45:1. Therefore, the proposal does not rely on any FSR or height bonus associated with an affordable housing dedication, and simply seeks to maintain the approved built form on the site, in a way which aligns with the current and available planning policy. As such, since no bonus is sought or required, the amended proposal is not required to provide any affordable housing allocation.

Furthermore, through the application of the current planning controls permitted under Chapter 6 of the Housing SEPP (LMR policy), the proposal achieves compliance with the permissible height limit and will therefore remove the FSR variation, as previously approved under DA2024/1009.

Chapter 4 Design of Residential Apartment Development

On 14 December 2023, SEPP No.65 – Design Quality of Residential Flat Buildings was repealed and its provisions transferred to the State Environmental Planning Policy (Housing) 2021.

The requirements of the former SEPP No.65 and an assessment of the development against the Apartment Design Guide (ADG) was provided with the original development application submission under DA2024/1009.

There is no physical change proposed to the approved development and as such any non-compliance has already been justified and approved under DA2024/1009. Whilst the proposal seeks to reduce the number of units, as approved, that are allocated as affordable rental housing, it will not change the physical aspects of the development in relation to internal apartment size, room areas and dimensions and private open space. Additionally, the proposal does not preclude the proposal from continuing to meet the requirements of communal open space, solar access and cross ventilation.

It is noted that since Chapter 2 of the Housing SEPP no longer applies, the applicable parking rate for the development is that detailed within the ADG. Section 3J of the ADG requires parking to be provided in accordance with local council requirements, which in this case is the Warringah DCP 2011 (WDCP). As detailed below, the proposal achieves compliance with the applicable parking requirement without any changes to the approved built form.

As has been demonstrated, the proposal will allow the building to continue to function in the same manner and meet the requirements of Chapter 4 of SEPP (Housing) 2021 and the design guidance contained within the supporting ADG.

Chapter 6 Low and Mid Rise Housing

Chapter 6 of the Housing SEPP came into effect on 28 February 2025 and incorporates controls relating to the new government led LMR policy which seeks to encourage more housing to be built within 800m walking distance from a nominated town centre and station by changing local planning controls.

In accordance with the available mapping, the Dee Why Town Centre is a nominated town centre, and the subject site is located within a 'low and mid rise housing area' as per the definition under Chapter 6 of the Housing SEPP being within 800m walking distance from the centre area.

As such, Part 4 of Chapter 6 applies to the development and Clause 180, which is reproduced below, is applicable:

180 Non-discretionary development standards—residential flat buildings and shop top housing in Zone R3 or R4

(1) This section applies to development for the purposes of residential flat buildings or shop top housing on land in a low and mid rise housing area in Zone R3 Medium Density Residential or R4 High Density Residential.

(2) The following non-discretionary development standards apply in relation to development on land in a low and mid rise housing inner area—

(a) a maximum floor space ratio of 2.2:1,

(b) for residential flat buildings—a maximum building height of 22m,

(c) for a building containing shop top housing—a maximum building height of 24m.

(3) The following non-discretionary development standards apply in relation to development on land in a low and mid rise housing outer area—

(a) a maximum floor space ratio of 1.5:1,

(b) a maximum building height of 17.5m.

Since the development is for a residential flat building within a low and mid rise housing area within the R3 Medium Density Residential zone, it is subject to the abovementioned development standards.

The site is located within an 'inner area' being between 0m and 400m from the town centre and therefore is permitted a maximum FSR of 2.2:1 and building height of 22m.

As previously stated, the proposal seeks to maintain the approved height and FSR under DA2024/1009, being 15.84m and 1.45:1, thereby achieving full compliance with the LMR density controls which are now available to the development.

With regard to building height, Clause 175 under Chapter 6 of the Housing SEPP has also been considered since it refers to a specific number of storeys permitted by the provisions.

Clause 175 is reproduced below:

175 Development standards—low and mid rise housing inner area

(1) This section applies to land in a low and mid rise housing inner area in Zone R3 Medium Density Residential or R4 High Density Residential.

(2) Development consent must not be granted for development for the purposes of residential flat buildings with a building height of up to 22m unless the consent authority is satisfied the building will have 6 storeys or fewer.

(3) Development consent must not be granted for development for the purposes of a building containing shop top housing with a building height of up to 24m unless the consent authority is satisfied the building will have 6 storeys or fewer.

(4) In this section, a storey does not include a basement within the meaning of the standard instrument.

The proposal will maintain the approved built form which does not exceed 6 storeys in height.

The only other clause under Chapter 6 of the Housing SEPP which is of relevance to this proposal is Clause 177 which is reproduced below:

177 Landscaping—residential flat buildings or shop top housing

(1) This section applies to land in a low and mid rise housing area in Zone R3 Medium Density Residential or R4 High Density Residential.

(2) Development consent must not be granted for development for the purposes of residential flat buildings or shop top housing unless the consent authority has considered the Tree Canopy Guide for Low and Mid Rise Housing, published by the Department in February 2025.

In accordance with Clause 177, the Tree Canopy Guide for Low and Mid Rise Housing has been considered as part of this application.

Guidance for residential flat buildings where the ADG applies is as follows:

- Provide deep soil and tree canopy in line with Table 6.
- Seek to enhance tree canopy outcomes by providing deep soil and either the tree canopy percentage targets or the tree planting rates in Table 7.
- Locate contiguous deep soil areas to maximise the number of trees that can be planted.

The approved development under provided a total of 140sqm or 20.1% of the site area as deep soil landscaped area, which far exceeds the 7% requirement within Table 6 of the Guide and as stipulated within the ADG.

With regard to tree canopy outcomes, in accordance with the Guide the proposal is either required to achieve the nominated tree canopy percentage or the tree planting rate, which is 15% or one medium tree per 350m² of site area, respectively.

Based on a site area of 695.6m², a total of two (2) medium trees is required in accordance with the applicable tree planting rate.

Importantly, in accordance with the guidance, a development can meet the objectives of the guide by planting trees in line with the tree planting rate OR by planting a combination of trees that achieve the tree canopy percentage target, based on the assumed canopy spread and area of small, medium and large trees in the below table.

Size category	Min. diameter spread	Min. canopy area
Small	6 m	28 m ²
Medium	8 m	50 m ²
Large	12 m	113 m ²



Based on the above tree planting rate, a minimum diameter spread of 16m is required for the site to achieve the minimum canopy area of two (2) medium trees. Whilst the proposal will not plant two (2) medium trees it will achieve the minimum canopy spread in accordance with the guidance. As per the approved Landscape Plan under DA2024/1009, a total mature spread of 54m is achieved by the 15 trees proposed to be planted across the deep soil area on the site.

Therefore, the proposal will satisfy Clause 177 without any amendments to the approved landscape arrangements under DA2024/1009.

4.3 WARRINGAH LEP 2011

The site is located within the R3 Medium Density Residential zone pursuant to the Warringah Local Environmental Plan 2011 (WLEP). The proposal will not alter the approved uses on the site and continues to meet the objectives of the zone.

The objectives of the R3 Medium Density Residential zone are:

- 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 proposal will continue to provide the same quantum of residential floor space on the site which will contribute to the housing needs of the community. The proposal will not alter the layout of units and will continue to provide a mix of residential units, including accessible units, to ensure that a variety of housing types are provided within the zoning to meet the needs of the community, including those with a disability. The proposal will not alter the architectural design of the approved development, nor will it alter the landscaped arrangements approved on the site. The proposal will continue to provide a high quality redevelopment of the R3 zoned site to address the housing demands of the community and the greater Sydney population.

For the reasons the proposal is considered to be consistent with the objectives of the R3 zone.

Since the proposal will not result in any physical works and the previous applications have been assessed and approved having regard to the provisions of the relevant controls within the WLEP, further assessment against the WLEP is not considered necessary as part of this application.

Notably, the current WLEP commenced in 2011, almost 15 years ago, and therefore is outdated and does not reflect the current planning system or needs of the community. Indeed, the applicable planning controls for the site in 2011 have not changed since the commencement of the LEP, despite the growing demand for additional housing, particularly within close proximity to centres and public transport. The NSW Government has acknowledged this and sought to address the limits of local planning instruments by providing incentives under state-wide planning policy, namely the Housing SEPP. Ultimately, the base controls under the WLEP are no longer appropriate for today's society, given the site's location and context, and it is considered unreasonable to expect a development to continue to meet these requirements whilst it could receive greater FSR and height under the new provisions of Chapter 6 of the Housing SEPP.



4.4 WARRINGAH DCP 2011

The original application was assessed and approved having regard to the provisions of the relevant controls within the Warringah DCP 2011 (WDCP).

The proposed amendments to the approved development do not alter the assessment and conclusions from the original development application assessment report which are still valid. Indeed, the proposal will retain the approved building envelope and does not seek any physical changes to the approved development which would alter compliance with the WDCP.

It is noted that since Chapter 2 of the Housing SEPP no longer applies, the applicable parking rate for the development is that detailed within the ADG. Section 3J of the ADG requires parking to be provided in accordance with local council requirements, which in this case is the WDCP.

The WDCP requires parking for residential flat buildings to be provided in accordance with the following rates:

- 1 space per 1 bedroom dwelling
- 1.2 spaces per 2 bedroom dwelling
- 1.5 spaces per 3 bedroom dwelling
- 1 visitor space per 5 units or part of dwellings

The proposal maintains the approved number and type of apartments under DA2024/1009, being for 3 x 2 bedroom dwellings and 6 x 3 bedroom dwellings. Based on this dwelling configuration, the proposal would be subject to a total parking requirement of 14.6 spaces, including visitor parking requirements. The proposal maintains the approved parking provision of 15 spaces and therefore complies with the relevant controls.

Further assessment against the provisions of the WDCP is not considered necessary as part of this application.

4.5 SECTION 4.15 ASSESSMENT

4.6 IMPACT OF PROPOSED AMENDING DEVELOPMENT

4.6.1 Natural and Built Environment

The proposed amended development does not propose any physical changes to the approved with regard to the quantum of floor space, parking arrangements, or building envelope and will maintain compliance with the approved conditions of consent that are imposed to minimise all environmental impacts during construction and upon completion of the development.

Accordingly, the proposed amended development will have no adverse impact on the built and natural environment.

5. Conclusion

The proposed amended development will result in a proposal that is identical to the approved application under DA2024/1009. The proposed deletion of Condition No. 59 under DA2024/1009 will have no adverse impact on the amenity of adjoining properties, will not alter the approved built form and will not alter the existing natural or built environment from what currently exists.



The proposal seeks to provide a residential flat building that reflects the current expectation for residential developments under the current government-led planning policies that balance the provision of affordable housing and development feasibility to ensure that developers can continue to produce residential developments to address the continuing housing demand. The proposal represents a reasonable contemporary response to the current climate, as reflected in the recent planning policy changes, which permit greater residential density without the need for an affordable housing dedication.

The deletion of Condition No. 59 of DA2024/1009 is not inconsistent with the approval in terms of WLEP and WDCP objectives and controls as discussed above. Therefore, the proposed amending development is worthy of Council's support and Council are respectively requested to remove the affordable housing requirement that has been imposed pursuant to Condition No. 59 of DA2024/1009.

