

**JOINT REGIONAL PLANNING PANEL
(Sydney East Region)**

JRPP No	2012SYE069
DA Number	DA.47/11/3
Local Government Area	North Sydney
Proposed Development	To modify consent for demolition of existing structures, amalgamation of the three allotments and construction of a 22 storey mixed use building above basement car parking comprising commercial tenancies including a restaurant, 195 units, landscaping, a through-site-link and roof level communal facilities including a gym and swimming pool.
Street Address	136-142 Walker Street North Sydney
Applicant/Owner	Winten No.44 Pty Ltd
Number of Submissions	Nil
Recommendation	Approval with Conditions
Report by	Geoff Mossemenear, Executive Planner, North Sydney Council

Assessment Report and Recommendation

EXECUTIVE SUMMARY

This application is for a Section 96(2) modification of the consent granted by the JRPP at its meeting of 6 July 2011 for the Development Application allowing demolition of existing structures, amalgamation of the three allotments to make one site and construction of a 22 storey mixed use building above basement car parking. A Section 96 application was approved by the JRPP at its meeting of 15 December 2011 for minor modifications including an additional 2 apartments (Total 195) and changes to conditions C39 (height of loading dock).

The Council's notification of the proposal has attracted no submissions. The assessment has considered the performance of the application against Council's planning requirements. Following this assessment the application is recommended for **approval**.

MODIFICATION

In this Section 96 application, there have been essentially three types of change: Those which have resulted from design development towards producing a CC. Those which are proposed to improve the building architecturally, and also the amenity for future occupants. Those that have been client driven as a result of the marketing process.

The first have resulted from changes to the services, There have been changes that were required as a result of conditions set by the Electricity authority, and some modifications to services and their enclosures, and to the car entry to meet the Australian standards,

The second group includes re-planning some of the apartments to provide a better relationship to the views and balconies. There are additional pergolas, and balconies on a few of the west facing apartments modified to reduce heat loads by reducing glazed areas and in some cases balconies have been re-designed to better relate to other building elements.

These changes do not effect any of the neighbouring properties. The balconies on the south east corner have been partially added into the apartments as little of the screened areas would be ever used. Again, this is essentially an internal change as the balconies were always fully screened. The balconies of the apartments at level 10-14 along the northern boundary have also been partly enclosed to both improve the internal layouts, but also as they were excessive in terms of useability.

The Walker Street forecourt landscaping has been modified during design development and should present as a more attractive place for visitors.

There are a number of internal 'annotated' changes proposed in relation to the apartment planning which have been requested by prospective purchasers such as additional baths, amended apartment entries, study layouts and some privacy elements such as the planter on the observation level to stop overlooking and the screens to the L14 terrace.

The applicant requests a modification to Condition C35 Line Marking - that the condition is amended from 140 to 139 off street parking spaces as per the approved drawings.

The applicant also requests a modification to Condition C14 (d) Garbage and Recycling Facilities - that the requirement for garbage holding bay be deleted as a development of this scale has a larger serviced garbage room in the loading dock for this purpose. The street holding bay is not practical given the holding size requirements for the development.

Schedule of changes

- Drawing 5E - Minor change to carpark entry to improve pedestrian sightlines as required by AS 2890, Planters added to wall around the commercial tenancy and the forecourt landscaping changed in accordance with landscape plans.
- Drawing 6E - Changes to sub-station enclosure as required by the electricity authority for revised equipment selection.

- Drawing 7E - Changes to sub-station enclosure as required by the electricity authority for revised equipment selection Internal planning changes to kitchen/study area of unit 2.09 .
- Drawing 8E, 9E - Internal planning changes to kitchen/study area of units 3-4 and 6-9.09
- Drawing 10E, 11E - Part of the balcony of apartment 10-12.05 has been included into the apartment to avoid wind channelling and to improve the apartment layout. Part of the balcony of apartment 10-12.10 (N,W. Corner) has been included into the apartment to improve the apartment layout and to reduce the excessive area of the terrace, Some minor internal re-planning of this unit relating to service risers
- Drawing 12E - Part of the balcony of apartment 13,05 has been included into the apartment to avoid wind channelling and to improve the apartment layout, Some minor internal re-planning of unit 13,10 relating to service risers
- Drawing 13E - Part of the balcony of apartment 14,05 has been included into the apartment to avoid wind channelling and to improve the apartment layout, Some minor internal re-planning of 14.02 to include bath Re-planning of 14,01 and 14.02 to improve layout of 14,02. The revised layout incorporates some of the N.W balcony area and includes changes to the plant room which has increased in size. There is less west facing glass which will assist with heat load,
- Drawing 14E - Part of the balcony of apartment 15-18,05 has been included into the apartment to avoid wind channelling and to improve the apartment layout, Some minor internal re-planning of 15-18.02 to include bath Re-planning of 15-18.0.1 to improve layout, The revised layout incorporates some of the N,W. balcony area, There is less west facing glass which will assist with heat load,
- Drawing 15E, 16E - Re-planning of 19-20.01 to improve layout. The revised layout incorporates some of the N,W. balcony area, There is less west facing glass which will assist with heat load, Some minor internal re-planning of 19-20.02 to include bath,
- Drawing 17E - Minor change to 21,01 balcony to improve use of main bedroom terrace
- Drawing 18E - New planter box added to observation area to stop overlooking to apartment below
- Drawing 19E - Changes to L10-21 balcony/ planning and L14 plant room elevation.
- Drawing 20E - SE balcony screen amended reflect internal changes
- Drawing 21E - SE balcony screen amended reflect internal changes. Changes to L14 plant room and balcony changes shown
- Drawing 22E - Changes to L14 plant room and balcony changes shown Changes to sub-station enclosure added

CHECKING OF PLANS.

This application has been checked to ensure that the changes being sought are the only changes included in the submitted plans.

STATUTORY CONTROLS

North Sydney LEP 2001

- Zoning – Mixed Use

- Item of Heritage - No
- In Vicinity of Item of Heritage - Yes
- Conservation Area - No

S94 Contribution

Environmental Planning & Assessment Act 1979

SREP (2005)

Draft LEP 2009

POLICY CONTROLS

DCP 2002

CONSENT AUTHORITY

As this proposal has a Capital Investment Value (CIV) of greater than \$20 million the consent authority for the development application is the Joint Regional Planning Panel, Sydney East Region (JRPP).

DESCRIPTION OF LOCALITY

The property is located on the western side of Walker Street north of Berry Street. The combined site is essentially rectangular in shape excluding a small protrusion at the end of Harnett Street at the rear (north-western corner). It has a frontage to Walker Street of 43.86m; and a maximum depth of 40.36m resulting in a total site area of 1740.21m².

Directly to the north are four x two-storey residential buildings listed as heritage items (No's 144- 150 Walker Street). These heritage listed properties are not within the "North Sydney Centre" as defined (but are within the mixed use zone). No's 144-150 Walker Street are the subject of DA 50/07 for partial demolition of and alterations to the heritage buildings on the site and the construction at their rear of an eight-storey mixed use building.

To the west is No's 3-11 Ward Street consisting of a vacant excavated site. No's 3-11 Ward Street have been purchased by Energy Australia for use as a large sub-station.

To the north-west is a three-storey car park, the upper levels of which are accessed via Ward Street.

To the south is No. 76 Berry Street consisting of an 11-storey commercial building ("the People Telecom Building") with an elevated landscaped terrace adjacent to the common boundary with the subject site.

To the east of the site beyond Walker Street are three-storey residential flat buildings (No's 173- 177 Walker Street). To the south-east is Century Plaza (No.171 Berry Street), a multi-storey residential flat building primarily oriented south-east towards Sydney Harbour with its north western elevation (containing bedrooms, or bedrooms used as studies) facing towards the site, diagonally across Walker Street.

RELEVANT HISTORY

DA.316/10

On 29 July 2010, Winten Developments Pty Ltd lodged a Section 96(2) application with Council seeking consent to modify the above consent for a multi-storey mixed use development with basement parking. The modifications include a substantial increase in the density, an additional storey (within the approved building envelope) and three additional levels of basement parking with substantial increase in car spaces.

The Section 96 application was initially discussed to allow some modification to the development on the lower levels due to the proposed electricity sub station in Ward Street. The reduction in non-residential floor area required a Planning Proposal to alter the relevant control. It was not envisaged that the density would be increased to the degree proposed. The increase in density to over 75 dwellings required referral of the application to the RTA for comment. Council considered that the proposal cannot be considered as substantially the same development as approved by Council which is the basic requirement for a Section 96 application. The applicant was advised to withdraw the application and lodge the proposal as a fresh application.

Development Application No.316/2010 (2010SYE063) for 104 apartments (15 studio, 18 one-bedroom, 42 two-bedroom and 29 three-bedroom) and basement parking for 91 cars was determined by the JRPP on 11 November 2010 and the consent was issued on 20 December 2010 following receipt of the necessary certification from the DG of the Department of Planning.

DA.47/11

Development Application No.47/2011 (2011SYE019) for 193 units (made up to 35 studio units, 61 one bedroom units, 80 two bedroom units and 17 three bedroom units) and basement parking for 140 cars on 136-142 Walker Street was approved by the JRPP on 6 July 2011. Construction has commenced on site.

A Section 96 application was approved by the JRPP at its meeting of 15 December 2011 for minor modifications including an additional 2 apartments (Total 195) and changes to conditions C39 (height of loading dock).

REFERRALS

Building

The application has not been assessed specifically in terms of compliance with the Building Code of Australia (BCA). It is intended that if approved, Council's standard condition relating to compliance with the BCA remains on the consent and should amendments be necessary to any approved plans to ensure compliance with the BCA, then a further Section 96 application to modify the consent may be required.

Engineering/Stormwater Drainage/Geotechnical

The modifications do not warrant further referral.

Heritage

The modifications do not warrant further referral.

Design Excellence Panel

The modifications do not warrant further referral.

External Referrals

Nil required

SUBMISSIONS

The application was notified to the Stanton and CBD precincts and surrounding owners and residents from 22/6/2012 to 6/7/2012. No following submissions received:

CONSIDERATION

The proposal is required to be assessed having regard to the following matters.

Section 96(2) of the Environmental Planning and Assessment Act 1979 enables a consent authority to modify a development consent upon application being sought by the applicant or any person entitled to act on the consent, provided that the consent authority:

- is satisfied that the development to which the consent as modified relates is substantially the same development;
- has consulted the relevant Minister, public authority or approval body in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent;
- has notified the application in accordance with the regulations and has considered any submissions made concerning the proposed modification; and
- in determining the application for modification, has taken into consideration such matters referred to under Section 79C(1) as are relevant.

Therefore, assessment of the application to modify the subject development consent must consider the following issues:

Is the proposed development as modified substantially the same development approved?

The proposed development as modified is considered to be substantially the same development as approved.

Whether the application required the concurrence of the relevant Minister, public authority or approval body and any comments submitted by these bodies.

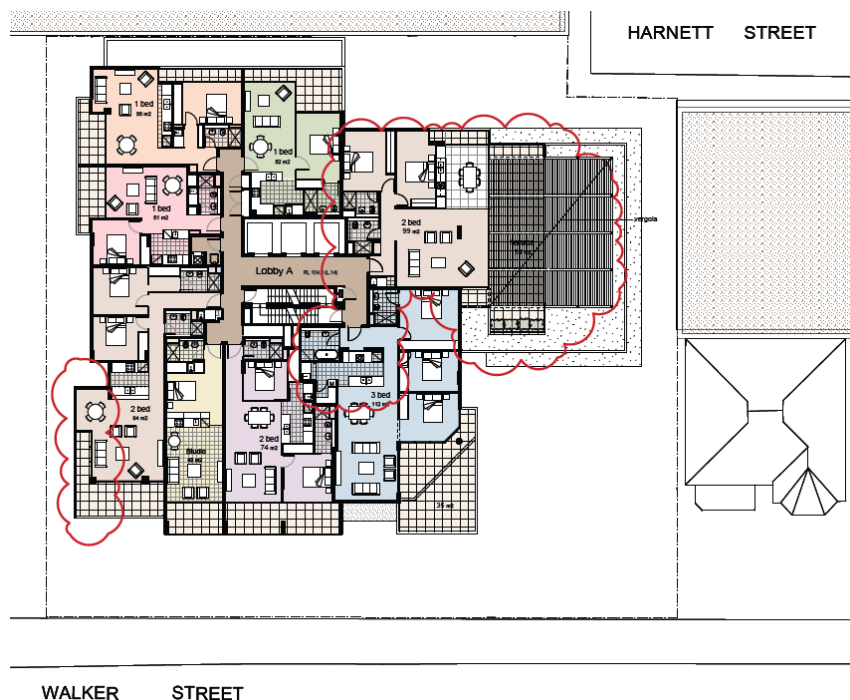
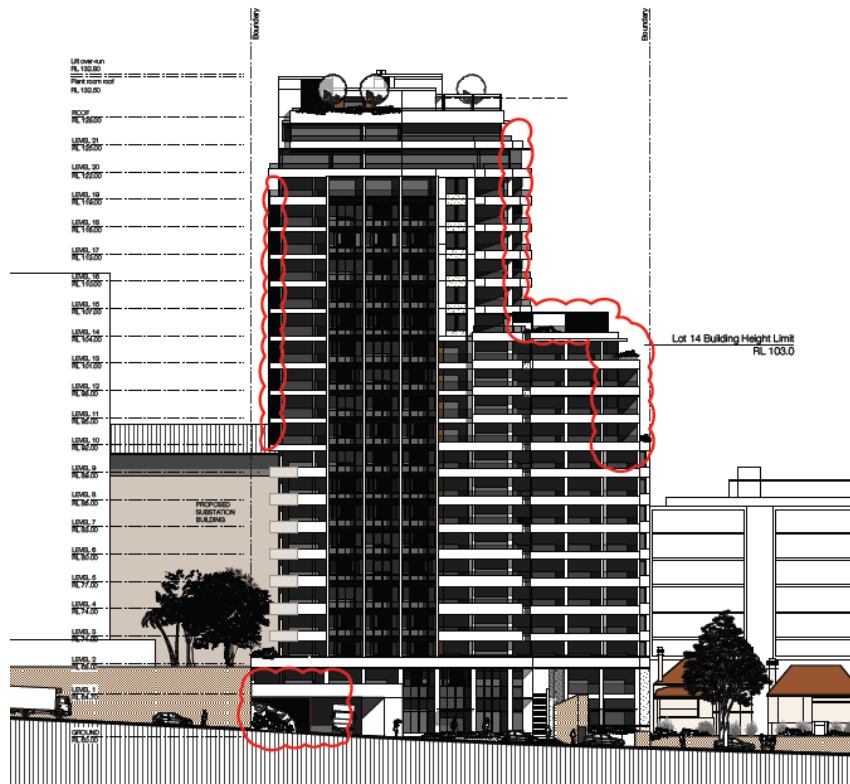
The application does not require the concurrence of the Minister, public authority or approval body.

Whether any submissions were made concerning the proposed modification.

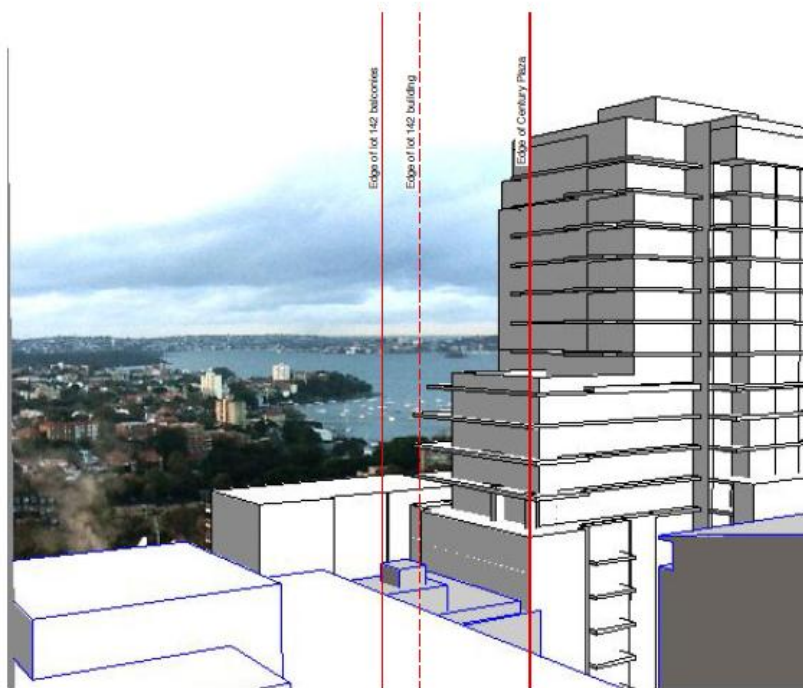
No submissions.

Any relevant considerations under Section 79C(1) of the Environmental Planning and Assessment Act 1979.

The changes are generally within the approved envelope and there is no increase in height other on level 14 where there has been an increase in the size of the plant at the northern corner as shown below (eastern street elevation).



The assessment of the original application had regard to the impact on views from apartments to the north west of the site. The following photo shows the view from the balcony:



136-142 Walker Street view analysis • Unit 1104 south - proposed RL 110.0
Spence Pearson Architects P/L 20.04.11

Having regard to the above plan and elevation and the view photo, the majority of the plant would not cause any further impact. The eastern edge of the plant is likely to block a small amount of the water (not the water/land interface). The impact is considered to be negligible and therefore acceptable.

Modification to Conditions

The applicant requests a modification to Condition C35 Line Marking - that the condition is amended from 140 to 139 off street parking spaces as per the approved drawings.

The applicant requests a modification to Condition C14 (d) Garbage and Recycling Facilities - that the requirement for garbage holding bay be deleted as a development of this scale has a larger serviced garbage room in the loading dock for this purpose. The street holding bay is not practical given the holding size requirements for the development.

These modifications are satisfactory.

CONCLUSION

The proposed development as modified is considered to be substantially the same development as approved. The modifications do not create additional impacts on

surrounding development. The envelope of the building remains basically the same as approved other than a minor increase in the plant room on level 14.

RECOMMENDATION

THAT the Joint Regional Planning Panel, as the consent authority, modify its consent dated 8 July 2011 in respect of a proposal for demolition of existing structures, amalgamation of the three allotments to make one site and construction of a 22 storey mixed use building above basement car parking at 136-142 Walker Street North Sydney under the provisions of Section 96 of the Environmental Planning and Assessment Act with regard to 2012SYE069 – North Sydney - Development Application No.47/11/3, only insofar as will provide for the following.

To delete condition A1, A3, C14 and C35 of the consent and insert in lieu thereof the following new conditions namely:

Development in Accordance with Plans

A1. The development being carried out in accordance with landscape drawings numbered SK10C to SK14C, all dated 1 February 2011, drawn by Clouston Associates Landscape Architects, received by Council on 9 February 2011, drawings numbered 5A, dated 23 February 2011, 6B to 8B, 8.1B, 9B to 17B, all dated 17 March 2011, drawn by Spence Pearson Architects, received by Council on 22 March 2011, drawings numbered 1C to 4C, 18C to 22C, all dated 5 May 2011, drawn by Spence Pearson Architects, received by Council on 25 May 2011, as amended shown by clouding on drawings numbered 1D to 8D, 8.1D to 23D, all dated 1 September 2011, drawn by Spence Pearson Architects, received by Council on 4 November 2011, **as amended shown by clouding on drawings numbered 5E to 8E, 8.1E to 22E, all dated May 2012, drawn by Spence Pearson Architects, received by Council on 12 June 2012** and endorsed with Council's approval stamp, except where amended by the following conditions.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Approved Landscaping Plan

A3. Landscaping works on the site are to be undertaken generally in accordance with the landscaping plan **numbered 1 - 3, all dated 22 May 2012, drawn by Paul Bangay Garden Design, received by Council on 12 June 2012.**

(Reason: To ensure appropriate landscaped area and landscaping amenity at the final inspection stage of the development)

Garbage and Recycling Facilities

C14. An appropriate area shall be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises. The following requirements shall be met:

- (a) All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained with a tap in close proximity to facilitate cleaning;
- (b) Include provision for the separation and storage in appropriate categories of material suitable for recycling;
- (c) The storage area shall be adequately screened from the street, with the entrance to the enclosures no more than 2m from the street boundary of the property;
- (d) deleted**
- (e) Garbage enclosures serving residential units are not to be located within areas designated for non-residential uses; and
- (f) Garbage enclosures serving non-residential uses are not be located within areas designated for dining purposes.

Details of the storage area are to be provided to, and approved by the Certifying Authority prior to issuing of the Construction Certificate.

Note: The applicant may wish to discuss bin storage requirements and location with Council prior to finalisation of the required detail.

(Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste by collection contractors)

Line Marking

C35. **One hundred and thirty nine (139)** off-street car-parking spaces, together with access driveways, shall be constructed, paved, line marked and signposted in accordance with the approved development plans, appropriate Australian Standards and industry best practice as appropriate. The plans shall also nominate the allocation of parking spaces for specific purposes as required by conditions of this consent. A certificate prepared and certified by an appropriately qualified and practising Civil Engineer for the construction of these areas in accordance with this requirement shall be submitted to the Certifying Authority for approval with the Construction Certificate.

(Reason: To ensure ongoing compliance with this development consent and Australian Standards relating to manoeuvring and access of vehicles)

Geoff Mossemenear
EXECUTIVE PLANNER
