

JOINT REGIONAL PLANNING PANEL

Sydney East Region

JRPP No:	JRPP Reference No 2015SYE100
DA No:	MOD2015/0163
Proposed Development	Modification of Development Consent DA2013/1519 granted for Staged Development Application (DA) involving a concept approval for the Development of the site and Stage 1 development comprising demolition of existing structures, tree removal, subdivision and construction of a residential flat building fronting Sturdee Parade.
Address / Property Description:	Lots 8 & 9, 23-25 Section E DP 8270 and Lot 1 DP 776401, Nos. 18-22 Sturdee Parade and Nos. 23-29 Pacific Parade, Dee Why.
APPLICANT:	ACN 601 384 712 Pty Ltd (16 SPD Pty Ltd)
REPORT BY:	GLN Planning on behalf of Warringah Council (Council)

S96(2) Application To Modify a Development Consent Assessment Report and Recommendation

Proposal:

Modify Development Consent DA2013/1519 to:

- i) delete part of a basement level, reducing car parking to 127 spaces and show provision of basement storage facilities and bicycle parking.
- ii) modify internal layout of stairs, lift core and minor amendments to the internal layout of dwellings.

Plans Reference:

Architectural Plans

COVER PAGE 26/06/15
 DA 1.02 LEVEL B1 PLAN G 03/07/15
 DA 1.03 LEVEL B2 PLAN G 03/07/15
 DA 1.04 LEVEL B3 PLAN G 03/07/15
 DA 1.05 GROUND FLOOR PLAN F 26/06/15
 DA 1.06 LEVEL 1 & 2 FLOOR PLAN F 26/06/15
 DA 1.07 LEVEL 3 FLOOR PLAN F 26/06/15
 DA 1.08 LEVEL 4 FLOOR PLAN F 26/06/15
 DA 1.09 LEVEL 5 FLOOR PLAN F 26/06/15
 DA 1.10 LEVEL 6 FLOOR PLAN F 26/06/15
 DA 1.11 ROOF PLAN F 26/06/15

Elevations

DA 2.01 SOUTH ELEVATION
 DA 2.02 EAST ELEVATION

Sections

DA 3.01 SECTION S
 26/06/15
 DA 3.02 SECTION THRU FIRE STAIR CORE F 26/06/15

Owner:

Aranda Properties & Dee Why Properties Pty Ltd

Application Lodged:

29/07/2015

Zone:	R3 Medium Density Residential
Permissible Development:	Residential Flat Building
Land and Environment Court Action:	No
Referred to JRPP:	The modification is lodged under Section 96(2). It is required to be determined by the JRPP

SUMMARY

Submissions Issues:	No submissions were received.
Assessment Issues:	Compliance with car parking, bicycle storage and storage in a smaller basement.
Recommendation:	Approve modification by amendment of conditions

LOCALITY PLAN (not to scale)



Site: Lots 8 & 9, 23-25 Section E DP 8270 and Lot 1 DP 776401, Nos. 18-22 Sturdee Parade and Nos. 23-29 Pacific Parade, Dee Why.

Notified Residences: The application was exhibited between 14 August 2015 and 17 September 2015 in accordance with the *Environmental Planning and Assessment Regulation 2000*, Warringah Local Environmental Plan 2011 and the Warringah Development Control Plan.

At the close of exhibition, no submissions were received.

SITE DESCRIPTION

The site comprises six (6) allotments located between Sturdee Parade and Pacific Parade, approximately 170 metres to the east of Pittwater Road, on the fringe of the Dee Why Town Centre. However, the residential flat building approved on Stage 1 is on that part of the site having a 60.96m frontage to Sturdee Parade and a depth of approximately 44.845m. The total site area for this residential flat building is 2,733.8m².

All buildings and vegetation have been cleared from the site and excavation of the basement structure has commenced in accordance with the consent granted.

RELEVANT BACKGROUND

Development Application No. DA2013/1519 (Current Approval DA)

Development Application No. DA2013/1519 was granted for Staged Development Application (DA) involving a concept approval for the Development of the site and Stage 1 development comprising demolition of existing structures, tree removal, subdivision and construction of a residential flat building fronting Sturdee Parade comprising 98 apartments. The application was determined by the JRPP as the Capital Investment Value of the development exceeded \$20 million.

PROPOSED MODIFICATION

On 29 July 2015, Modification Application MOD 2015/0163 was lodged with Council. The modification to the existing consent is made pursuant to Section 96(2) and consists of the following:

1. *Modifications to Overall Development*

The application to modify Development Consent DA2013/1519 proposes to:

- i) delete part of a basement level, reducing car parking to 127 spaces and amending provision of basement storage facilities and bicycle parking.
- ii) modify internal layout of stairs, lift core and minor amendments to the internal layout of dwellings.

2. *Modifications by Level*

Basement Level B1

Basement Level B1 is proposed to be reduced in size resulting in the deletion of 27 spaces to provide 29 spaces. This basement level now includes provision of bicycle storage for 26 bikes, storage and minor reconfiguration of lift and stairs. A mechanical services duct has been added outside the approved basement in the south-west corner and within the basement next to the stairs.

Basement Level B2

Basement Level B2 is proposed to provide 1 additional space increasing parking on this level to 54 car spaces (including 2 disabled parking spaces on this level). This basement now includes 15 bicycle storage spaces as well as storage and minor reconfiguration of lift and stairs. Mechanical services ducts have been added outside the approved basement in the south-west corner and north-east corner and within the basement in the south-east corner and adjacent to the stairs. There are 2 new disabled car parking spaces nominated at this level.

Basement Level B1

Basement Level B1 is proposed to provide 5 new spaces increasing parking on this level to 44 car spaces. This will be achieved by re-locating storage areas, reconfiguring the lift core and deletion of the bulky goods store. This basement now includes 16 bicycle storage spaces. Mechanical services ducts have been added outside the approved basement in the south west corner and north east corner and within the basement in the south east corner and adjacent to stairs.

Level Ground Plan

At ground level, the communal open space has been reduced by inclusion of a new booster pump room adjacent to the entry ramp, an electrical substation adjacent to the garbage driveway and mechanical services stacks within the central courtyard and at the building perimeter. The booster pump room replaces 2 trees shown on the landscape plans. Letterboxes are shown at the pedestrian entry to the building.

Within the central courtyard the lift and stairs have been reconfigured and an electricity room added, which amends the previous wide entry into the central courtyard to now comprise two separate doors.

The plans nominate a S96 amendment to the internal layout of 3 unit types comprising Dwellings G.03, G.04, G.09, G.10, G.11, G.12, G.13, G.14, G.15 and G.16. All amendments to the floor plans of units are minor and do not change bedroom numbers or adversely change any of the assessment criteria from the previous approval.

Level 1 and 2 Plan

The amendments to the lift core and stairs are reflected through these levels. The plans nominate a S96 amendment to the internal layout of 3 unit types comprising Dwellings 1.10, 1.12, 1.13, 1.14, 1.15.1.18, 1.19. It is noted that Dwellings 1.03, 1.04, 1.05 and 1.06 have also been modified. All amendments to the floor plans of units are minor and do not change bedroom numbers or adversely change any of the assessment criteria from the previous approval.

Level 3 Plan

The amendments to the lift core and stairs are reflected through this level. The plans nominate a S96 amendment to the internal layout of 3 unit types comprising Dwellings 3.05, 3.06, 3.11, 3.12, 3.16 and 3.17. All amendments to the floor plans of units are minor and do not change bedroom numbers or adversely change any of the assessment criteria from the previous approval.

Level 4 Plan

The amendments to the lift core and stairs are reflected through this level. The plans nominate a S96 amendment to the internal layout of 5 unit types comprising Dwellings 4.08, 4.09, 4.10, 4.12 and 4.13. It is noted that Dwelling 4.05 has also been modified. The skylight toward the Sturdee Parade frontage has been deleted. All amendments to the floor plans of units are minor and do not change bedroom numbers or adversely change any of the assessment criteria from the previous approval.

Level 5 Plan

The amendments to the lift core and stairs are reflected through this level. The plans nominate a S96 amendment to the internal layout of 4 unit types comprising Dwellings 5.01 5.03, 5.04 and 5.09. All amendments to the floor plans of units are minor and do not change bedroom numbers or adversely change any of the assessment criteria from the previous approval. The skylight toward the Sturdee Parade frontage has been deleted.

Level 6 Plan

The amendments to the lift core and stairs are reflected through this level. The plans nominate a S96 amendment to the internal layout of 3 unit types comprising Dwellings 6.01 5.03, and 5.05. All

amendments to the floor plans of units are minor and do not change bedroom numbers or adversely change any of the assessment criteria from the previous approval.

Roof Plan

The roof plans are nominated to reflect the amendments to the lift core and stairs. The skylights on this level appear to have been deleted.

Elevations and Sections

In respect to the external appearance of the building, the changes nominated are primarily to the internal layout resulting in no change to the external appearance of the building.

3. Modifications to Conditions

The proposal to modify the Stage 1 residential flat building fronting Sturdee Parade is as follows:

Condition 7 - Amend architectural plan, landscaping plan and report references to reflect the modified plans as they relate to the Stage 1 development.

Condition 15(d) – Amend the landscape plan references to reflect the modified plans.

Condition 48 - Amend the landscape plan references to reflect the modified plans.

NOTIFICATION AND SUBMISSIONS RECEIVED

The DA was notified between 14 August 2015 and 17 September 2015 in accordance with the Act accompanying Regulation and Warringah Development Control Plan 2011.

No submissions were received at the end of the exhibition period.

REFERRALS

External Referrals

AUSGRID
The application was referred to Ausgrid to determine the energy supply requirements for the modified development and also with regards to Clause 45 (2) of SEPP (Infrastructure) 2007. No response has been received from Ausgrid in relation to the proposed modifications. Hence, the original conditions provided by Ausgrid still apply.
Roads and Maritime Services
The application was re-referred to the RMS in accordance with State Environmental Planning Policy (Infrastructure) 2007. No response has been received from RMS in relation to the proposed modifications. The RMS had no objections or conditions to the original proposal.
NSW Police Force
The application was referred to NSW Police in accordance with Section 79C the Environmental Planning and Assessment Act, 1979 for an assessment against the Crime Guidelines, a Safer by Design Crime Risk Evaluation. The NSW Police advise that given the nature of the modification for the already consented development, it is considered a Crime Risk Assessment and CPTED (Crime Prevention through Environmental Design) assessment is not required.

Internal Referrals

Landscape Officer

Council's Landscape Officer has reviewed the proposal and has advised:

- *No objections in general terms, however it is recommended that clarification be sought indicating that there is no proposed amendment to approved landscape outcomes with reference to Drawing DA 3.01 Rev F - Section Thru Communal Open Space.*
- *It is assumed that the central landscape area between the two buildings as indicated is the Stage 1 interim solution with the final landscape outcome between the buildings to be implemented as during Stage 2 development as per the approved plans. Similarly that landscape areas within the internal courtyard to the building is essentially the same as the approved plan with the exception of the minor building changes the subject of this modification.*

Subject to clarification of the above, no objections are raised to the proposed modification.

(Note the completion of the landscaping to the central landscaped area between buildings will be completed during development of Stage 2)

Building Assessment

Council's Building Assessment Officer has reviewed the proposal and has advised:

- *The design as proposed is capable of complying with the Building Code of Australia, and can be subject to construction documentation that will provide appropriate details to demonstrate compliance. Accordingly it is recommended that the original conditions from Building Certification & Health for DA2014/1093 be re-applied and therefore there are no objections subject to these conditions being applied.*
- *Recommended Building Assessment Conditions (To be complied with Prior to the Issue of the Occupation Certificate)*

Fire Safety Matters

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

(Note this condition has already been imposed on the original consent – Condition 62)

Development Engineers

Council's Development Engineers have reviewed the proposal and provided the following comments:

- *The proposed modifications do not impact upon the previously approved drainage system. The proposed booster pump room has been located adjacent to the existing right of way (ROW) along the eastern boundary of the site. It is unclear from the plans if this room conflicts with the ROW. It is considered that the applicant must confirm that there is no conflict between the room and the ROW prior to approval.*
substation adjacent to the ROW along the boundary to Sturdee Pde. This area of the site is potentially subject to overland flow and is considered inappropriate for a substation. The plans must be amended to relocate the substation to another location clear of the overland flow path.
- *No objection to approval, subject to confirmation from the applicant that the proposed booster pump room is clear of the ROW and the relocation of the substation out of the overland flow*

<p><i>path.</i></p> <p>Based on the above comments, the Applicant submitted additional information to address the proposed kiosk location. The Development Engineers have reviewed the additional information and provide the following comments:</p> <ul style="list-style-type: none"> ▪ <i>The submitted comments by the applicant's engineer regarding the proposed kiosk location have been assessed and are satisfactory.</i> ▪ <i>No objection to approval and no additional or amended conditions are recommended.</i>
Traffic Engineers
<p>Council's Traffic Engineer has reviewed the proposal and has provided the following comments:</p> <ul style="list-style-type: none"> ▪ <i>There are no objections to the proposed modification subject to the car park design complying with the Standards Australia AS2890.1-2004.</i>
Waste Management Officer
<p>Council's Waste Management Officer has reviewed the proposal and has provided the following comments:</p> <ul style="list-style-type: none"> ▪ <i>Waste has no issues with the proposal to reduce the number of parking spaces. The waste conditions imposed on DA2013/1519 still apply.</i>
Natural Environment Unit Officer
<p>Council's Natural Environment Unit Officer has reviewed the proposal and has provided the following comments:</p> <ul style="list-style-type: none"> ▪ <i>The proposed modification is not considered to increase flood risk. No flood related development controls applied.</i>

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

In accordance with Section 96(3) of the Environmental Planning and Assessment Act 1979, in determining a modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application. The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None Applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment	The EPA Regulations 2000 requires the consent authority to consider:

Regulation 2000 (EP&A Regulation 2000)	<p>The provisions of the Building Code of Australia.</p> <p><u>Clause 92</u> of the EPA Regulations 2000 relating to the Demolition of Structures under AS 2601- 1991. This matter has already been addressed by imposition of a condition on consent DA2013/1519.</p> <p><u>Clause 50(1A)</u> of the EPA Regulations 2000, which requires the submission of a design verification certificate from the designer at lodgement of the DA. A revised Design Verification Statement has been submitted.</p>
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the modified development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. In summary the modification is minor and impacts acceptable.</p> <p>(ii) The proposed development as modified, will not have a detrimental social impact in the locality and continues to allow for the provision of housing, including adaptable housing in the locality.</p> <p>(iii) The proposed modification will not have a detrimental economic impact on the locality and will support a development that will provide residents in close proximity to shops and public transport.</p>
Section 79C (1) (c) – the suitability of the site for the development	The proposed modifications do not alter the suitability of the site as previously assessed.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion under “Notification and Submissions Received” in this report.
Section 79C (1) (e) – the public interest	The proposed modifications to the development are consistent with the various planning controls and previous assessment of the application. The development will continue to provide housing close to the Dee Why Centre and public transport. The proposed modification continues to meet these objectives and is still considered to be in the public interest.

The relevant matters for consideration under Section 96(2) of the Environmental Planning and Assessment Act, 1979, are:

Section 96(2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that	<p>The development as modified is considered to be substantially the same development as the development for which consent was originally granted.</p> <p>The modification proposed will continue to provide the required parking and includes minor internal alterations to</p>

consent as originally granted was modified (if at all), and	the layout of a number of apartments. The proposed modifications do not alter the height or scale of the approved development. Minor changes are proposed to the communal open space to incorporate services required for the development. However, the quantum of communal open space required still exceeds the minimum requirements.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) 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, and	The original application was not integrated and did not require concurrence.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local Environment Plan 2011 and the Warringah Development Control Plan. No submissions were received.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	The assessment of this application has considered the submissions made in response to the notification of this application (see 'Public Exhibition' in this report) where it was found that the matters raised did not warrant the refusal or further amendment of the application.

STATE ENVIRONMENTAL PLANNING POLICIES

State Environmental Planning Policy (State and Regional Development)

Clause 20 of the and Schedule 4A of the EP&A Act provides that the JRPP exercise the consent authority functions of Council where development has a capital investment value of more than \$20 million, or \$5 million if Council is the owner of any land on which the development is proposed.

The original DA has an estimated capital investment value of \$54.5 million (Stages 1 and 2 combined) and Council is the owner of part of the land. Therefore, the JRPP is the consent authority for the determination of the Application.

Clause 21(1) requires the JRPP to determine applications for modification made under Section 96(2) of the Act that were originally considered by the Panel.

State Environmental Planning Policy (Infrastructure) 2007

Clause 45 of the ISEPP applies to development:

- *Within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists);*
- *Immediately adjacent to an electricity substation; or*
- *Within 5 metres of an overhead power line.*

The application was referred to AUSGRID and no reply was received.

The original application was referred to the RMS under Clause 104 of the ISEPP as Stages 1 and 2 provide more than 200 car parking spaces (collectively). The RMS previously advised it had no objection to the DA. No reply was received from RMS to the modified proposal.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The proposed development (Stages 1 and 2) has been assessed against the requirements of State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004. By letter dated 6 October 2015, the architect has confirmed, *'although there have been changes to the internal configuration of some units, the plans submitted with the S96 application are still consistent with the original BASIX certificates and assumptions.*

There have been no additions or alteration to the original glazing sizes which would have a significant impact on the BASIX Calculations.'

State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 (**SEPP 55**) provides that Councils must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated and/or requires remediation for the intended land use.

The original application included a Phase 1 and Phase 2 assessment under the SEPP. A number of conditions were recommended to ensure that the site is validated for its intended use.

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

Clause 29 of State Environmental Planning Policy No. 65 (**SEPP 65**) and Clause 115(3A) of the Environmental Planning and Assessment Regulation requires consideration of the design quality of the residential flat development when evaluated in accordance with the "Design Quality Principles", and the Apartment Design Guide (**ADG**).

A Design Verification Statement prepared by a qualified architect, Mr Steve Zappia (Principal Architect) of Marchese Partners International Pty Ltd responding to each of the Design Quality Principles was submitted with the original application. The modification application was supported by a supplementary statement confirming that Steve Zappia of Marchese Architects:

- Directed the modification of the design, comprising the s96 application
- The proposed modifications do not diminish or detract from the design quality or design intent of the development for which the original council consent was granted
- The enclosed documentation achieves the principles set out in State Environmental Planning Policy 65 – Design Quality of Residential Apartment Developments and has been designed in accordance with the Apartment Design Guide.

The application, as modified, does not materially alter the design of the development such that it deviates from the original assessment and conclusions made under DA2013/1519. In this regard, further assessment of the following relevant principles has been carried out:

Principle 5 – Resource, Energy and Water

The architect has confirmed no additions or alteration to the original glazing sizes that would have a significant impact on the BASIX calculations submitted for Stage 1 or original commitment for sustainable water use, thermal comfort and energy efficiency.

Principle 6 – Landscape

The proposed modification has a minor impact by incorporating building services within the communal open space area, including removal of proposed tree planting. The quantum of communal open space is 28% of the site area which still exceeds the minimum requirement of 25% and a revised landscape plan shows the amended treatment.

Principle 7 – Amenity

The proposal includes minor alterations to a number of units within the Stage 1 building. In general, these apartment layouts improve amenity including relocating kitchens closer to a window.

Apartment Design Guide (ADG)

The proposal was originally assessed against the Residential Flat Design Code, which has now been superseded by the Apartment Design Guide (ADG) with the last amendment to SEPP No 65. The proposed modifications do not significantly alter the consistency of the proposal with the key design guidelines or acceptable solutions in the ADG.

The key changes are to communal open space where the quantum of open space has been reduced to 28% against the ADG recommended 25%, and where a number of minor modifications to apartment layouts improve the location of the kitchen closer to a window. These amendments confirm the proposal continues to comply with the communal open space and improves the amenity of a number of dwellings consistent with the ADG.

Based on the analysis provided with the application, the changes remain consistent with the performance criteria in the ADG and are therefore considered to be satisfactory.

LOCAL ENVIRONMENT PLANS

Warringah Local Environmental Plan 2011

The following reviews the Application against the relevant sections of the Warringah Local Environment Plan 2011 (**WLEP**):

The fundamentals	
Definition of proposed development: (ref. WLEP Dictionary)	<i>Residential Flat Building</i> means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.
Zone:	R3 Medium Density Residential Zone
Permitted with Consent or Prohibited:	Permitted with Consent
Objectives of the Zone	

Objectives of Zone:

- *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 development is considered to be consistent with the above listed objectives of the zone as the scope and nature of the modifications do not to any significant extent alter the developments consistency with respect to these matters.

Principal Development Standards:

Standard	Permitted	Proposed	Complies
Height of Buildings:	21 metres.	24.5m	No change proposed to the height of the building.

Relevant Miscellaneous and Additional Local Provisions

Provision	Comment/Compliance
Flood Planning	<p>Clause 6.3(3) provides that development consent must not be granted to development on land to which this Clause applies unless the Council is satisfied that the development:</p> <ul style="list-style-type: none">a) <i>Is compatible with the flood hazard of the land, and</i>b) <i>Is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties,</i>c) <i>Incorporates appropriate measures to manage risk to life from flood, and</i>d) <i>Is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</i>e) <i>Is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</i> <p>The Draft Dee Why Flood Study has not identified the site within the 1 in 100 year floodplain but it is affected by the Probable Maximum Flood and this issue was assessed in detail as part of the original application by Council's Natural Environment Unit and found to comply with the relevant flood related development</p>

	controls outlined in the WLEP and Part E11 – Flood Prone Land of the WDCP.
--	--

Warringah Development Control Plan 2011

The following provides consideration of the Application against the relevant sections of the Warringah Development Control Plan 2011 (**WDCP**):

Part A Introduction

Part C: Siting Factors

Control	Comment/Compliance
C1. Subdivision	The proposed lot consolidation and subsequent subdivision comply with the requirements of this clause.
C2. Traffic, Access and Safety	The proposal will not alter the access arrangements or parking provision from the original development.
C3. Parking Facilities	<p>Appendix 1 – Car Parking Requirements provides that residential flat buildings shall provide:</p> <ul style="list-style-type: none"> 1 space per 1 bedroom dwelling 1.2 spaces per 2 bedroom dwelling 1 visitor space per 5 units or part of dwellings. <p>Based on the above, 103 resident car spaces are required for Stage 1. However, 19 single bedroom units contain study rooms large enough to be used as an additional bedroom. Therefore, a total of 107 car spaces are required for Stage 1.</p> <p>Additionally, based on the 98 residential apartments proposed in Stage 1, a total of 20 visitor spaces are required.</p> <p>Therefore a total of 127 car parking spaces are required to be provided for Stage 1. The proposed reduced basement car park will continue to provide sufficient car parking for the Stage 1 development.</p>
C3(A) Bicycle Parking and End of Trip Facilities	<p>Residential accommodation containing 3 or more dwellings shall provide:</p> <ul style="list-style-type: none"> 1 bicycle parking space per dwelling, and 1 visitor bicycle parking space per 12 dwellings. <p>The rate of bicycle storage parking was varied and conditioned as 1 per 2 dwellings.</p> <p>The proposal complies with Condition 64 of the consent requiring 57 spaces. A total of 58 spaces are proposed.</p>
C4. Stormwater	The proposed development will require the creation of a new inter-allotment stormwater drainage system through the Stage 2 Pacific Parade site for the benefit of the Stage 1 Sturdee Parade site. Existing conditions of consent ensure this requirement will be satisfied.
C5. Erosion and Sedimentation	Existing conditions of consent will ensure erosion and

	sedimentation continues to be controlled.
C6. Building over or adjacent to Constructed Council Drainage Easements	Refer to C4 above. Minimum floor levels have been set for buildings adjacent to the overland flow path.
C7. Excavation and Landfill	No change to the existing consent conditions is recommended. The modifications are relatively minor and reduces excavation
C8. Demolition and Construction	No change to the existing consent conditions is recommended
C9. Waste Management	No change to the existing consent conditions is recommended

Part D: Design	
Control	Comment
D2. Private Open Space	No change to the existing consent conditions is recommended
D3. Noise	The existing conditions of consent are satisfactory to address the requirements of this clause.
D6. Access to Sunlight	No change anticipated by the proposed modification.
D7. Views	No change anticipated by the proposed modification.
D8. Privacy	The proposed modification does not provide any significant new openings which would cause unreasonable direct overlooking of habitable rooms and principal private open spaces of adjoining dwellings and is considered satisfactory in addressing this Clause.
D9. Building Bulk	No change anticipated by the proposed modification
D10. Building Colours and Materials	No change anticipated by the proposed modification
D11. Roofs	No significant perceptible changes are proposed to the approved roof of the building and the deletion of skylight awnings is unlikely to impact significantly of build appearance.
D12. Glare and Reflection	No change anticipated by the proposed modification
D13. Front Fences and Front Walls	No change anticipated by the proposed modification
D14. Site Facilities	Garbage storage and clothes drying have been addressed in the original consent.
D18. Accessibility	No change anticipated by the proposed

	modification
D19. Site Consolidation in the R3 and IN1 Zone	No change anticipated by the proposed modification
D20. Safety and Security	The minor changes proposed to communal open space areas will not compromise casual surveillance.
D21. Provision and Location of Utility Services	An electrical substation is proposed near the eastern boundary of the site. Concern was raised whether this infrastructure was appropriate in an area where overland flows may occur. The applicant has provided a flood report to show that the substation is not in an overland flow path. Council's Engineers reviewed the additional information and have considered the proposed location to be satisfactory.
D22. Conservation of Energy and Water	The modified proposal continues to meet the BASIX commitments demonstrating compliance with the requirements of this Clause. Water infiltration is enhanced by permeable paving and decking in landscaped areas.

Part E: The Natural Environment	
Control	Comment/Compliance
E1. Private Property Tree Management	The modifications do not result in the removal of any trees. Council's Landscape Officer has reviewed the proposal and has no objection.
E2. Prescribed Vegetation	Not applicable
E6. Retaining unique environmental features	Not applicable
E10. Landslip Risk	Yes, subject to conditions – The site is located within the Landslip Risk Area A – Slope <5°, however it is not a mapped site. The Geotechnical Investigation was submitted with the application supporting the reduced excavation.

Part G: Special Area Controls	
Control	Comment/Compliance
G2. R3 Medium Density Residential bound by Sturdee Parade, Pacific Parade and land zoned B4 Mixed Use	
G2.1 - The area will remain primarily a medium density residential area. The scale of development at the street frontage is not to be overbearing, and is to be consistent with the	The overall scale of the proposed development at the Sturdee Parade will remain unaltered by the proposed modification.

scale of existing nearby residential buildings when viewed by pedestrians on either side of Pacific or Sturdee Parades.	
G2.2 - Within the central part of the block, the height of building may be greater.	No change anticipated by the proposed modification
G2.3 - The design and arrangement of buildings are to recognise and preserve existing significant public views (from parks, streets, etc.) and significant views from private properties.	No change anticipated by the proposed modification
G2.4 - Buildings are to be articulated and modulated to reduce the apparent building mass and reflect the existing pattern of development in the street. The streetscape and public domain shall incorporate consistent building setbacks being free of any structures, vehicle parking areas or site facilities other than driveways, letterboxes and fences.	No change anticipated by the proposed modification
G2.5 - Future development will address public streets, create visual interest and enable the establishment of substantial landscaping in the spaces between buildings.	No change anticipated by the proposed modification
G2.6 - Development is to be designed to enclose and define mid-block open spaces connected by open space linkages both within the block and to and from the surrounding public street system.	The proposed mid-block open spaces link to the central open courtyard in each building and to the public pedestrian path adjacent to the Dee Why Grand development will be maintained.
G2.7 - Site amalgamation will be encouraged to facilitate new development and car parking is to be provided below ground, using shared driveways where possible. The upgrading of existing buildings will be encouraged to give them a more contemporary and attractive appearance.	No change anticipated by the proposed modification
G2.8 - Building height is to fall within an envelope defined by a sight line taken from 1.5m above ground level at the footpath on the opposite side of the street, intersecting with the maximum street frontage height and on to where that line intersects with the maximum allowable height.	No change anticipated by the proposed modification
G2.9 - Buildings at the street frontage are not to exceed 3 storeys.	No change anticipated by the proposed modification
G2.10 - Lightweight structures that do not add to the visual mass of the building, such as pergolas and balconies, may penetrate the building envelope.	No change anticipated by the proposed modification
G2.11 - The minimum floor to ceiling height for all storeys is 2.7 metres.	No change anticipated by the proposed modification
G2.12 - All buildings are to be setback 8 metres from the street kerb.	No change anticipated by the proposed modification

G2.13 - Minor variations to this setback will be considered to allow buildings to be articulated with strong vertical and horizontal elements to reduce building mass and add visual interest.	No change anticipated by the proposed modification
G2.14 - The side boundary setback is 4.5 metres	No change anticipated by the proposed modification
G2.15 - The minimum amount of landscaped open space on the land is 40% of the site.	The landscaped open space including communal and private open space at ground level is 1005m ² which is 36.8% of the site. This minor variation is reasonable given compliance with the control in the ADG
G2.16 - Build-to-lines have been established to ensure future development defines the streets and public spaces. In this case the build to lines require that between 40-60% of the relevant building façade is to be built on this line (ie 8m from street kerb).	No change anticipated by the proposed modification
G2.17 - Lightweight structures that do not add to the visual mass of the building, such as pergolas and balconies, may also penetrate the build-to line.	No change anticipated by the proposed modification
G2.19 - The following controls are to apply: <ul style="list-style-type: none"> ▪ The preferred built form for the block is a perimeter block where buildings are oriented toward the street, enclosing semi-private spaces within the interior. ▪ The building wall addressing the street is to be articulated and fragmented into a module which is reflective of the nearby residential context. 	No change anticipated by the proposed modification
G2.20 - In cases where sites are amalgamated, interior portions of the block may be built upon subject to the following provisions: <ul style="list-style-type: none"> ▪ A distance of at least 9m is required between the rear façade of any building fronting a street and the façade of any building located within the central portion of the block. ▪ The siting of individual buildings within the buildable area in the central portion of the block must be guided by the controls applying to open spaces and access. Under no circumstances may development within the central portion of the block be comprised by a single tower. 	No change anticipated by the proposed modification
G2.21 - Development proposals need to provide practical pedestrian/cycle circulation system through the central portions of the site/s, as well as to and from the surrounding streets and the Dee Why Hotel.	No change anticipated by the proposed modification

Warringah Section 94A Development Contribution Plan:

The proposal is subject to the application of Council's Section 94A Development Contributions Plan. No change to the building cost has been identified and therefore the condition does not require amendment.

CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 79C in terms of Section 96 (2) of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy No.55 – Remediation of Land, State Environmental Planning Policy No 65 Design Quality of Residential Flat Development, Warringah Local Environmental Plan 2011, Warringah Development Control Plan and the relevant codes and policies of Council.

The modification proposed under this application seeks to reduce the extent of basement excavation while still meeting the required car parking, storage and bike facilities required for the development of this part of the site. The modification application also proposes minor changes to the internal layout of a number of dwellings to improve the amenity. Facilities to service the development are indicated and reduces the quantum of communal open space to a minor extent, but still in compliance with the minimum set by the ADG. As the proposed modifications are to dwelling design and basement areas, there is changes to the external appearance or massing of the building.

The changes proposed do not compromise the original design concept and are generally consistent with the relevant planning controls which apply to the site under WLEP 2011 and the WDCP.

It is considered that the proposed modification satisfies the relevant controls and that all processes have been followed. Accordingly, subject to consideration of the matters detailed within this report it is recommended that the Joint Regional Planning Panel (JRPP) for the Sydney East Region, as the consent authority, grant approval to the modification application as outlined in the attached modified conditions.

RECOMMENDATION - (Section 96 Approval)

THAT the Joint Regional Planning Panel (JRPP) as the consent authority grant approval to Mod2015/0163 for Section 96 (2) Modification of Development Consent No. 2013/1519 granted for the re-subdivision of the land into two parcels (one with frontage to Sturdee Parade and one with frontage to Pacific Parade) and construction of the Stage 1 residential flat building fronting Sturdee Parade as well as demolition of existing structures and tree removal over the entire site and nominated trees on the footpath at Lots 8 & 9, 23-25 Section E DP 8270 and Lot 1 DP 776401, Nos. 18-22 Sturdee Parade and Nos. 23-29 Pacific Parade, Dee Why NSW, in accordance with the following modified conditions:

7. Approved Plans and Supporting Documentation

Development is to be carried out in accordance with the concept plan development consent, and the following Stage 1 plans and supporting documentation:

Engineering Plans			
Drawing Title	Drawing No.	Dated	Prepared By
Stormwater Services Cover Sheet & Legend	SW-000 Issue B	29/11/2013	Insync Services Pty Ltd
Site Stormwater Services Plan	SW-001 Issue	29/11/2013	Insync Services Pty

	B		Ltd
In-ground Basement 3 Stormwater Services Plan	SW-002 Issue B	29/11/2013	Insync Services Pty Ltd
Basement 3 Stormwater Services Plans	SW-003 Issue B	29/11/2013	Insync Services Pty Ltd
Basement 2 Stormwater Services Plans	SW-004 Issue B	29/11/2013	Insync Services Pty Ltd
Basement 1 Stormwater Services Plans	SW-005 Issue B	29/11/2013	Insync Services Pty Ltd
Ground Level Stormwater Services Plan	SW-006 Issue B	29/11/2013	Insync Services Pty Ltd
Level 1 Stormwater Services Plans	SW-007 Issue B	29/11/2013	Insync Services Pty Ltd
Level 2 Stormwater Services Plans	SW-008 Issue B	29/11/2013	Insync Services Pty Ltd
Level 3 Stormwater Services Plans	SW-009 Issue B	29/11/2013	Insync Services Pty Ltd
Level 4 Stormwater Services Plans	SW-010 Issue B	29/11/2013	Insync Services Pty Ltd
Level 5 Stormwater Services Plans	SW-011 Issue B	29/11/2013	Insync Services Pty Ltd
Level 6 Stormwater Services Plans	SW-012 Issue B	29/11/2013	Insync Services Pty Ltd
Level 7 Stormwater Services Plans	SW-013 Issue B	29/11/2013	Insync Services Pty Ltd
Site Stormwater Catchment Plan	SW-015 Issue B	29/11/2013	Insync Services Pty Ltd
Sturdee Parade Site Sediment and Erosion Control Plan	SW-016 Issue B	29/11/2013	Insync Services Pty Ltd

Landscape Plans			
Drawing Title	Drawing No.	Dated	Prepared By
Title Page	LAN_A_000 Issue H	07/10/2015	360 Degrees Landscape Architects
Landscape Plan	LAN_D_100 Issue G	07/10/2015	360 Degrees Landscape Architects
Planting Schedule and Palette	LAN_D_101 Issue G	07/10/2015	360 Degrees Landscape Architects

Subdivision Plans			
Drawing Title	Drawing No.	Dated	Prepared By
Proposed Plan of Consolidation of Lots 8, 9, Section E, DP 8270 and Lot 100 in DP X and Stratum Subdivision of Lot 102 in DP Y Plans	D1737-D1759 - Stratum	6/11/2013	Project Surveyors
Plan of proposed subdivision of Lot 1 in DP 776401 (DPX)	D1737-D1759 - PROPSUB	6/11/2013	Project Surveyors
Plan of proposed consolidation of Lot 101 in DP X and Lots 23,24 and 25 Section E in DP 8270 (DP Y)	D1737-D1759 - PROPCON	6/11/2013	Project Surveyors

Reports / Documentation – All Recommendations and Requirements Contained Within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Statement of Environmental Effects	December 2013	Boston Blyth Fleming Pty Ltd
DA Acoustic Assessment	11/12/2013	Acoustic Logic Consultancy Pty Ltd
Waste Management Plan	13/11/2013	Elephants Foot Waste Compactors Pty Ltd
Hydraulic Services DA Report	02/12/2013	Insync Services Pty Ltd
S96 Traffic and Parking Assessment Report	03/07/2015	Varga Traffic Planning Pty Ltd
Arboricultural Impact Assessment	25/11/2013	Footprint Green Pty Ltd
Geotechnical Investigation Report	02/12/2013	JK Geotechnics
Geotechnical Investigation (14/2647)	Dec 14	SMEC Testing Services
Access Report	26/11/2013	Accessibility Solutions (NSW) Pty Ltd
Building Code of Australia Assessment Report	10/12/2013	City Plan Services Pty Ltd
Overland Flow / Flood Study	December 2012	CPM Engineering

Reason: To ensure that the Stage 1 Development is carried out in accordance with the determination of the JRPP and approved plans and supporting documentation.

15. Amendment of Plans

The approved plans are to be amended as follows:

- (a) Each dwelling within the development must have a minimum area for storage (not including built-in storage) of 6m³ for one bedroom units and 8m³ for two bedroom units.
- (b) Separate courtyard entries are to be provided to each of the Stage 1 ground floor apartments, except for those with a wintergarden.
- (c) All glass louvers associated with the wintergardens of Units Nos. 1.01-1.08 on Levels 1 & 2 and Units Nos. 3.05-3.08 on Level 3 must not be opaque. Details to be included on amended plans.
- (d) The approved Landscape Plans, Drawing Nos. LAN_A_000, Issue H and LAN_D_100 and LAN_D_101, Issue G dated 7 October 2015 are to be amended to incorporate planting up to 1 metre in height along the Sturdee Parade frontage of the site as follows:
 1. Planting to be located in the road reserve between the property boundary and the footpath.
 2. Planting to be incorporated along the length of the site frontages, with the exception of areas required for vehicular or pedestrian access.
 3. Details are to be provided to the nominated Certifying Authority for approval prior to issue of a construction certificate.

Reason: To improve the streetscape appearance to Sturdee Parade.

48. Required Planting

The tree/s listed in the following schedule shall be planted in accordance with the following schedule:

No. of Trees Required	Species	Location	Minimum Pot Size
All trees	As indicated on Landscape Plans Drawing Nos. LAN_A_000, Issue H and LAN_D_100 and LAN_D_101, Issue G dated 7 October 2015	As indicated on the Landscape Plans	As indicated on the Landscape Plans
5	<i>Tristaniopsis laurina</i>	Within the Sturdee Parade road reserve between the western boundary of the site and the entry/driveway at the eastern end, generally in alignment with other street trees.	75 litre
2	<i>Lophostemon conferta</i>	Within the Pacific Parade road reserve, generally in alignment with other street trees.	75 litre

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

Reason: To maintain environmental amenity. (DACLAF01)