

JOINT REGIONAL PLANNING PANEL

Sydney East Region

JRPP No:	JRPP Reference No 2016SYE011 DA
DA No:	MOD2015/0293
Proposed Development	Modification of Development Consent DA2014/1093 granted for <i>Construction of a Residential Flat Building being Stage 2 of Concept Approval of DA 2013/1519.</i>
Address / Property Description:	Lot 1 DP 776401, Nos 23 – 29 Pacific Parade, Dee Why
APPLICANT:	Dee Why Properties No 2 Pty Ltd
REPORT BY:	GLN Planning on behalf of Warringah Council (Council)

Section 96(2) Application to Modify Development Consent Assessment Report and Recommendation

Proposal:	Modify Development Consent DA2014/1093 to: i) Revise basement parking to respond to provision of engineering services, reorganise bicycle parking and storage, and propose 133 car parking spaces. ii) change the mix of 1 bed, 2 bed and 3 bedroom units and revised layouts of dwellings 4.03, 4.04, 4.08, 5.01, 6.01, 5.09 and 6.07, but keeping the total number of units at 103, the same as previously approved. iii) modify ground level communal and private open spaces iv) revised window sizes and locations to suit internal layout, provision of Juliet balconies to dwellings 5.05, 5.06, 6.04 and 6.05 and additional roof top balcony for dwellings 6.01 and 6.07.
Plans Reference:	<u>Architectural Plans</u> A02.002 BASEMENT 1 FLOOR PLAN P6 29/03/2016 A02.001 BASEMENT 2 FLOOR PLAN P6 29/03/2016 A02.003 GROUND FLOOR PLAN P6 29/03/2016 DA 1.05 LEVEL 1 & 2 PLAN H 17/12/15 DA 1.06 LEVEL 3 PLAN H 17/12/15 DA 1.07 LEVEL 4 PLAN H 17/12/15 DA 1.08 LEVEL 5 PLAN H 17/12/15 DA 1.09 LEVEL 6 PLAN H 17/12/15 DA 1.10 ROOF PLAN H 17/12/15 <u>Elevations</u> DA 2.01 NORTH & SOUTH ELEVATION H 17/12/15 DA 2.02 EAST AND WEST ELEVATION H 17/12/15 <u>Sections</u> DA 3.01 CARPARK FLOOR PLAN H 17/12/15 DA 3.02 SECTION THRU COURTYARD H 17/12/15
Owner:	Dee Why Properties No 2 Pty Ltd
Application Lodged:	22/12/2015

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) of the EPA Act, 1979. It is required to be determined by the JRPP.
SUMMARY	
Submissions Issues:	1 submission relating to non-compliance to the construction hours in the consent for the adjoining residential flat building under construction fronting Sturdee Parade.
Assessment Issues:	Bicycle, car parking and storage provision, communal open space and SEPP 65.
Recommendation:	Approve modification by amendment of conditions

LOCALITY PLAN (not to scale)



Site:	Lot 1 DP 776401, Nos 23 – 29 Pacific Parade, Dee Why.
Notified Residences:	The application was exhibited between 15 January 2016 and 18 February 2016 in accordance with the <i>Environmental Planning and Assessment Regulation 2000</i>, Warringah Local Environmental Plan 2011 and the Warringah Development Control Plan. At the close of exhibition, 1 submission was received.

SITE DESCRIPTION

The original site comprised 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.

The Concept Approval granted DA 2013/1519 included the proposed subdivision of the site to enable the construction of 2 residential flat buildings; the site of Stage 1 fronting Sturdee Parade; and the site of Stage 2 fronting Pacific Parade.

The site of Stage 2 has a 61m frontage to Pacific Parade and is 45m deep. The total site area is approximately 2,745m².

Site inspection reveals that all buildings and vegetation have been cleared from the site and basement construction has commenced as permitted by previous development consents.

RELEVANT BACKGROUND

Development Application No. DA2013/1519 (Original Staged Development Consent)

Development Application No. DA2013/1519 was granted for a 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.

Development Application No. DA2014/1093 (Stage 2 Development Consent)

Development Application No DA2014/1093 was granted on 12 March 2015 for construction of a Residential Flat Building, being Stage 2 of the Concept Approval of DA 2013/1519. The residential flat building approved comprises 103 residential apartments, including 2 x studio apartments, 80 x 1 bedroom apartments and 21 x 2 bedroom apartments and two levels of basement car parking comprising 134 car spaces and 57 bicycle spaces.

PROPOSED MODIFICATION

On 21 December 2015, Modification Application MOD2015/0293 was lodged with Council. Amended Plans showing bicycle parking relocated back into the basement levels were submitted on 29 March 2016. The modification to the existing consent is made pursuant to Section 96(2) and comprises the following elements:

1. *Modifications to Overall Development*

The application to modify Development Consent DA2014/1093 proposes to:

- i) Revise basement parking to respond to provision of engineering services, reorganise bicycle parking and storage, and decrease the number of spaces from 134 to 133 spaces to match the new mix of units.
- ii) Change the mix of 1 bed, 2 bed and 3 bedroom units and revised layouts of dwellings 4.03, 4.04, 4.08, 5.09 and 6.07, but keeping the total number of units at 103, the same as previously approved (See **Table 1** below).
- iii) Modify to ground level communal and private open spaces.
- iv) Revise window sizes and locations to suit internal layout, provision of Juliet balconies to dwellings 5.05, 5.06, 6.04 and 6.05 and additional roof top balcony for dwellings 6.01 and 6.07.

Table 1 below shows the proposed changes to the apartment mix:

Apartment Type	Approved	Modification Proposed
Studio apartments	2	2
1 bedroom apartments	80	76
2 bedroom apartments	21	23
3 bedroom apartments	0	2
TOTAL APARTMENTS	103	103

2. Modifications by Level

Basement Levels B1 and B2

Basement Levels (B1 & B2) parking and services layout has been reconfigured and bicycle parking and storage re-organised. This has resulted in the loss of 1 space for a total of 133 car parking spaces. Only 130 car spaces are required for the Stage 2 development under Council's Car Parking requirements. There a 9 paired tandem spaces (18 spaces) for allocation to 2 and 3 bedroom dwellings.

Ground Level

At ground level, the communal open space has been reduced by amendments to the stairwell to a larger rectangular shape and provision of hydraulic boosters now nominated adjacent to the driveway entry. Overall the changes at ground level have reduced the communal open space by 45m², although the total space across both sites well exceeds the 25% requirement in the Apartment Design Guide (ADG).

The modification request also includes minor changes to the private front courtyards by providing stairs to directly access the street and re-orienting the stairs within the rear courtyards to access the communal open space. This is consistent with Condition 2a attached to the consent. All courtyards still exceed the minimum area under the ADG ensuring the usability of these areas.

The plans submitted with the modification also nominate minor changes to internal corridor windows and door locations and sizes and/or some unit layouts (Units G.10, G.11, G.03, G.04, G.05, G.06, G.07 and G.08). These changes also include the deletion of a window along the western elevation of Unit G.10 adjacent to the entry path, which will improve privacy. 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 at this level.

Levels 1 to 3

The amendments through Level 1, 2 and 3 are identical and include the stairwell and minor changes to internal corridor windows and door locations and sizes and/or some unit layouts (Units 03, 04, 05, 09 13, 14, 15, 18 and 19 across these levels). The minor change proposed to bathroom windows in the western elevation of Units 1.01, 2.01 and 3.01 will improve privacy. 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 at these levels.

Level 4

The amendments to the stairwell are reflected through this level. The plans nominate minor changes to internal corridor windows and door locations and sizes and/or some unit layouts ((Units 4.02, 4.05,

4.07, 4.09, 4.10, 4.11, 4.12, 4.14 and 4.15 across these levels). A minor change to a bathroom window in the western elevation of Unit 4.06 is also proposed. All amendments to the plans for these units are minor and do not adversely change any of the assessment criteria from the previous approval.

Units 4.03, 4.04 and 4.08 on this level have been modified from a 1 bed to a 2 bedroom unit.

Level 5

The amendments to the stairwell are reflected through this level. The plans nominate minor changes to internal corridor windows and door locations and sizes and/or some unit layouts ((Units 5.02, 5.03, 5.04, 5.07, and 5.08).

Apartment 5.01 has been modified from a 1 bed to a 2 bedroom unit and Apartment 5.09 has been modified from a 2 bed to a 3 bedroom unit.

Juliet balconies have been added to bedrooms of Apartments 5.05 and 5.06.

An additional window and minor changes to other windows have been made in the east and west elevations.

Level 6

The amendments to the stairwell are reflected through this level. The plans nominate minor changes to the internal corridor windows and door locations and sizes and/or some unit layouts (Units 6.02, 6.03, 6.05 and 6.06). Apartment 6.07 has been modified from a 2 bed to a 3 bedroom unit and apartment 6.10 has increased in area due to efficiencies in the stairwell and aisle design. Both balconies to Units 6.07 and 6.01 have much larger balconies by extending over the roof space of the level below.

Juliet balconies have been added to bedrooms of apartment 6.04 and 6.05.

An additional window has been added to the western elevation and minor changes to other windows have been made in the east and west elevations.

Roof

The roof plans are nominated to reflect the amendments to the stairwell.

Elevations and Sections

In respect to the external appearance of the building, the changes nominated are primarily revised window location and detailing as depicted on the elevation plans prepared by Marchese Partners.

3. *Modifications to Conditions*

The proposal to modify the Stage 2 residential flat building fronting Pacific Parade is as follows:

Condition 1 – Approved Plans and Supporting Documentation. Amend architectural plan, and report references to reflect the modified plans as they relate to the Stage 1 development.

Condition 65 – Allocation of Spaces. Amend the parking allocation provision.

NOTIFICATION AND SUBMISSIONS RECEIVED

The modification application was notified between 15 January 2016 and 18 February 2016 in accordance with the Act, accompanying Regulation and Warringah Development Control Plan 2011. After the close of exhibition, 1 submission had been received relating to non-compliance to the

construction hours approved for the adjoining residential flat building under construction fronting Sturdee Parade and requesting that suitable conditions be included in the modified application.

There is already a condition limiting the hours of operation in the current consent (refer to Condition No. 5 of the Consent). Any breaches of consent conditions applying to other developments occurring in the area is a separate matter for Council to pursue to ensure enforcement.

REFERRALS

External Referrals

AUSGRID
The application was referred to Ausgrid on 7 January 2016 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.
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 advised that a report has been submitted for this development. There does not appear to be any issues with these modifications.

Internal Referrals

Building Assessment
Council's Building Assessment Officer has reviewed the proposal and has advised: <i>No objections to the subject proposal.</i>
Development Engineers
Council's Development Engineers have reviewed the proposal and provided the following comments: <i>The proposed modifications to the approved Development Application are not considered to impact on the flood risk. No flood related development controls applied.</i> <i>Recommended for approval</i>
Traffic Engineers
Council's Traffic Engineer has reviewed the proposal and has provided the following comments: <i>The proposed modification seeks to amend the make-up of the apartments and modifications to the car parking. The following aspects of the car parking are noted:</i> <i>Tandem spaces are only acceptable when both spaces are allocated to the same unit.</i> <i>The disabled spaces on Basement Level 1 and Basement Level 2 have a column located between the vehicle space and the shared area. This is not acceptable as there should be no obstructions between the parking space and the shared area.</i> Note: Condition 65 already contains a requirement relating to the allocation of tandem spaces to the same unit.

Recommended Traffic Engineer Conditions (To be satisfied Prior to the Issue of the Construction Certificate)

- **Disabled Parking**

That there is to be no obstruction between the parking space and the shared area for any of the identified disabled parking spaces.

Reason: To comply with Australian Standards

Note: The amended plans submitted now address the recommended condition from the traffic engineer and hence this condition does not need to be incorporated in the consent.

Waste Management Officer

Council's Waste Management Officer has reviewed the proposal and has provided the following comments:

- *The waste conditions imposed on DA2013/1519 still apply.*

Environmental Investigations Officer

Council's Environmental Investigations Officer has reviewed the proposal and has provided the following comments:

- *The proposed modification is not considered to increase flood risk. No flood related development controls applied.*

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)(iiia) – Provisions of any planning agreement	None Applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	The EPA Regulations 2000 requires the consent authority to consider: The provisions of the Building Code of Australia. <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 DA2014/1093.

	<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.
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	(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. (ii) The proposed development as modified, will continue to allow for the provision of housing, including adaptable housing in the locality. (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.
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 consent as originally granted was modified (if at all), and	The development as proposed to be modified would still be substantially the same development as the development for which consent was originally granted. Whilst the proposed package of amendments would still result in a building substantially the same as that granted consent, each of the various amendments proposed requires assessment to ensure appropriate built form and amenity outcomes.
(b) it has consulted with the relevant Minister, public authority or approval	The original application was not integrated and does not require amendment of a condition requiring concurrence.

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	
(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. At the close of exhibition, 1 submission had been 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.

The following environmental planning instruments and development control plans provide a framework for that assessment.

STATE ENVIRONMENTAL PLANNING POLICIES

State Environmental Planning Policy (State and Regional Development)

Clause 20 of the SEPP 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 had an estimated capital investment value of \$54.5 million (Stages 1 and 2 combined) and Council was (at that stage) the owner of part of the land. Therefore, the JRPP was 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.

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

The proposed development (Stages 1 and 2) was previously assessed against the requirements of State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004. The modification application includes updated BASIX assessments. These can be referenced in the plans and documents referenced in Condition 1 of the consent.

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 for Residential Flat Development

Clause 30(2) of State Environmental Planning Policy No. 65 (**SEPP 65**) 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**).

As per Clause 50 of the Regulations, the Applicant submitted 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 for the original application.

The modification application is supported by a supplementary statement confirming that Steve Zappia of Marchese Architects:

- *Directed the modification of the design, comprising the enclosed 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 Flat Development and has been designed in accordance with the Apartment Design Guide.*

The Apartment Design Guide now referenced through SEPP No 65 provides the current standards that should apply to the assessment of residential flat buildings. Overall, the application of the ADG to the current modification application is as follows:

1. The standards that established the building envelope and building separation approved as part of previous applications has not changed. The minor amendment to window sizes in the east and west facades do not raise new planning issues and generally improve privacy and the amenity of the rooms.
2. The standards applied to design and amenity of apartments approved as part of the previous application have not changed. The proposed internal changes including the provision of Juliet balconies provide better amenity for the dwellings as they open up views toward the street only.

Similarly, the larger balconies to Units 6.01 and 6.07 are over existing approved roofs and increase balconies toward the centre of the development overlooking the street.

3. The standards for communal open space and ground level communal courtyards have reduced from 25 to 30% for communal open space, to 25% for communal open space (3D-1). The private courtyards at ground level have reduced to 16m², and a minimum dimension in one direction of 3m (4P-2). The proposed modifications including changes to the stairs in the private courtyards and amount of communal open space still comply.

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)		Residential Flat Building 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.	21m	Yes – No change in height proposed.
Relevant Miscellaneous and Additional Local Provisions			
Provision		Comment/Compliance	
Flood Planning		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: 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> Council's Natural Environment Unit has previously assessed this aspect of the application and have no requirements in respect to the modification.
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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 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	Appendix 1 – Car Parking Requirements provides that residential flat buildings shall provide: ▪ 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. For the 103 dwellings, a total of 129.2 rounded to 130 car parking spaces are required to be provided for the Stage 2 development, ie (103 Apartments = 108.6 spaces plus 20.6 visitor spaces for a 129.2 spaces). The proposed modification includes reconfiguration of the basement to enable 133 car spaces, of which 21 (including the 2 spaces for persons with a disability) will be allocated to visitors.

	There are 18 resident spaces provided in a tandem configuration. Each set of tandem spaces is required to be allocated to one unit only. This means that 9 of the three and two-bedroom units will be provided with two spaces each, which reduces the available parking for the other residents and visitors to 112 spaces. Based on the above rates, there is a requirement for 113 spaces to be provided for the remaining residents and visitors. This represents a shortfall of one (1) parking space. This shortfall of 1 space is the same as previously considered by the JRPP and is considered to be acceptable given the additional parking allocated to other units. Condition 65 will require amendment to reference the total of 133 spaces now proposed and allocation to resident and visitor car parking.
C3(A) Bicycle Parking and End of Trip Facilities	Residential accommodation containing 3 or more dwellings shall provide: 1 bicycle parking space per dwelling, and 1 visitor bicycle parking space per 12 dwellings. The rate of bicycle storage parking was varied with the original assessment to require 1 space per 2 dwellings or 58 bicycle spaces, most of which were provided in the basement. The amended basement design nominates the storage for 58 bicycles in areas adjacent to the lifts where bikes can be secured by locks. This is considered acceptable given the bike spaces are within a secure basement.
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 proposed or required.
C8. Demolition and Construction	No change to the existing consent conditions is proposed or required.
C9. Waste Management	No change to the existing consent conditions is proposed or required.

Part D: Design	
Control	Comment
D2. Private Open Space	No change to the existing consent conditions is

	required.
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	The only change to building bulk is utilising some roof top space as balconies, which will require extension of the hand rail. This is considered to be minor.
D10. Building Colours and Materials	No change to the existing consent conditions is proposed or required.
D11. Roofs	No change to the existing consent conditions is proposed or required.
D12. Glare and Reflection	No change anticipated by the proposed modification
D13. Front Fences and Front Walls	Gates and stairs will be incorporated in the front boundary fence/screen to provide direct access to Pacific Parade. No change anticipated by the proposed modification
D14. Site Facilities	No change to the existing consent conditions is proposed or required.
D18. Accessibility	No change anticipated by the proposed modification
D19. Site Consolidation in the R3 and IN1 Zone	No change to the existing consent conditions is proposed or required.
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	No change to the existing consent conditions is proposed or required.
D22. Conservation of Energy and Water	The modified proposal continues to meet the BASIX commitments demonstrating compliance with the requirements of this Clause.

Part E: The Natural Environment	
Control	Comment/Compliance
E1. Private Property Tree Management	No change to the existing consent conditions is proposed or required.
E2. Prescribed Vegetation	Not applicable
E6. Retaining unique environmental features	Not applicable
E10. Landslip Risk	No change to the existing consent conditions is proposed or required.

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 scale of existing nearby residential buildings when viewed by pedestrians on either side of Pacific or Sturdee Parades.	The overall scale of the proposed development will remain unaltered by the proposed modification.
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.	No change to the existing consent conditions is proposed or required.
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	No change anticipated by the proposed modification

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.	
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.	No, but acceptable - The landscaped open space is reduced by 45m ² . The approved development provided for 40.1% collectively for Stages 1 and 2. The reduction in landscaped open space will result in less than 40% as required by the DCP but well in excess of the 25% required by 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: ▪ 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	No change anticipated by the proposed modification

context.	
G2.20 - In cases where sites are amalgamated, interior portions of the block may be built upon subject to the following provisions: ▪ 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 proposed modification includes a package of changes to the original plans including:

- i) Revised basement parking to respond to provision of engineering services, including the reduction of 1 space to 133 car parking spaces.
- ii) Change to the mix of 1 bed, 2 bed and 3 bedroom units and revised layouts for dwellings 4.03, 4.04, 4.08, 5.01, 6.01, 5.09 and 6.07, but keeping the total number of units at 103, the same as previously approved.
- iii) Modification to ground level communal and private open spaces.
- iv) Revised window sizes and locations to suit internal layout, provision of Juliet balconies to dwellings 5.05, 5.06, 6.04 and 6.05 and additional roof top balcony for dwellings 6.01 and 6.07.

The proposed modifications to the apartment layouts including relocation of external windows, mix of apartments and private open space stairs are acceptable, do not create any unreasonable amenity

impacts and improve the design outcomes. These changes proposed do not compromise the original design concept and are generally consistent with the relevant planning controls which apply to the site under SEPP 65, WLEP 2011 and the WDCP.

The changes to the reconfiguration of the basement can be approved subject to requiring 133 car parking spaces with 48 bicycle parkings spaces to be provided. This is included in the recommendation.

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 MOD2015/0293 for Section 96 (2) Modification of Development Consent No. DA2014/1093 granted for the Construction of a Residential Flat Building, being Stage 2 of the Concept Approval of DA 2013/1519. Nos. 23-29 Pacific Parade, Dee Why NSW, subject to modified conditions in Schedule A

DRAFT CONDITIONS OF CONSENT – DA2014/1093

A. Modify Condition No 1- Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA 0.01 – Rev. B	28/08/2014	Marchese Partners International Pty Ltd
DA 0.02 – Rev. B	28/08/2014	Marchese Partners International Pty Ltd
DA 0.03 – Rev. A	04/12/2013	Marchese Partners International Pty Ltd
DA 0.04 – Rev. A	19/11/2013	Marchese Partners International Pty Ltd
DA 1.01 – Rev. H	17/12/2015	Marchese Partners International Pty Ltd
A02.001 – Rev. P6	29/03/2016	Marchese Partners International Pty Ltd
A02.002– Rev. P6	29/03/2016	Marchese Partners International Pty Ltd
A02.002– Rev. P6	29/03/2016	Marchese Partners International Pty Ltd
DA 1.05 – Rev. B	17/12/2015	Marchese Partners International Pty Ltd
DA 1.06 – Rev. B	17/12/2015	Marchese Partners International Pty Ltd
DA 1.07 – Rev. B	17/12/2015	Marchese Partners International Pty Ltd
DA 1.08 – Rev. B	17/12/2015	Marchese Partners International Pty Ltd
DA 1.09 – Rev. B	17/12/2015	Marchese Partners International Pty Ltd
DA 1.10 – Rev. B	17/12/2015	Marchese Partners International Pty Ltd
DA 1.12 – Rev. B	28/08/2014	Marchese Partners International Pty Ltd
DA 1.13 – Rev. A	19/11/2013	Marchese Partners International Pty Ltd
DA 2.01 – Rev. H	17/12/2015	Marchese Partners International Pty Ltd
DA 2.02 – Rev. H	17/12/2015	Marchese Partners International Pty Ltd
DA 3.01 – Rev. H	17/12/2015	Marchese Partners International Pty Ltd
DA 3.02 – Rev. H	17/12/2015	Marchese Partners International Pty Ltd
DA 3.03 – Rev. A	19/11/2013	Marchese Partners International Pty Ltd
DA 4.04 – Rev. C	28/08/2014	Marchese Partners International Pty Ltd
DA 4.05 – Rev. C	28/08/2014	Marchese Partners International Pty Ltd
DA 4.06 – Rev. C	28/08/2014	Marchese Partners International Pty Ltd
DA 5.01 – Rev. B	28/08/2014	Marchese Partners International Pty Ltd

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
Request for S96(2)Modification of Stage 2 Development Consent Reference DA 2014/1093	17 December 2015	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	17/12/2015	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
BASIX Certificate (692592M)	17/12/2015	AGA Consultants

- a) Any plans and / or documentation submitted to satisfy the Conditions of this consent.
- b) No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.
- c) The development is to be undertaken generally in accordance with the following:

Landscape Plans			
Drawing Title	Drawing No.	Dated	Prepared By
Title Page and Drawing Schedule	LAN_A_000 Issue F	12/12/2013	360 Degrees Landscape Architects
Site Plan	LAN_D_100 Issue E	02/12/2013	360 Degrees Landscape Architects
Stage 1 Landscape Plan	LAN_D_101 Issue F	12/12/2013	360 Degrees Landscape Architects

Stage 2 Landscape Plan	LAN_D_102 Issue F	12/12/2013	360 Degrees Landscape Architects
Planting Schedule and Palette	LAN_D_103 Issue E	02/12/2013	360 Degrees Landscape Architects

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.

B. Modify Condition 65 Allocation of Spaces to read as follows:

65. Allocation of Spaces

Car parking spaces shall be provided, made accessible and maintained at all times. The spaces shall be allocated as follows:

112 - Residential

21 – Residential – Visitors

2 – Spaces for persons with a disability

Carparking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space allocated to a particular unit / tenancy shall be line marked and numbered or signposted to indicate the unit / tenancy to which it is allocated.

Tandem/stacked parking spaces are not acceptable unless both spaces are allocated to the one unit.

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

Reason: To ensure that adequate parking facilities to service the development are provided on site. (DACPLG01)