

**STATEMENT OF  
ENVIRONMENTAL EFFECTS**

Alterations and Addition to an  
Existing Hospital

Delmar Private Hospital

**64 and 66 Quirk Street  
9 and 14 Patey Street  
Dee Why**



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# **Statement of Environmental Effects**

## **ALTERATIONS AND ADDITIONS TO AN EXISTING HOSPITAL**

### **DELMAR PRIVATE HOSPITAL**

Prepared under instructions from

**Delmar Private Hospital**

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## 1.0 INTRODUCTION

This document forms a component of a development application that proposes the demolition of 3 existing dwellings and the construction of a new accommodation wing incorporating 71 beds to the east of the existing surgical and rehabilitation hospital with basement parking for 48 cars accessed from Quirk Street. The increase in bed numbers will meet a clear demand for private patient beds on the Northern Beaches.

We note that a similar application proposing alterations and additions to the existing hospital (DA 2016/0737) was withdrawn following initial notification and assessment in response to concerns expressed by neighbours and Council including the bulk and scale of the works and their relationship to the side boundaries of the allotment. Since the withdrawal of this previous application the adjoining property to the east No. 66 Quirk Street has been purchased by the hospital to create additional setback and landscape opportunities to the eastern adjoining property.

This application represents a highly considered response to the issue raised by Council in its assessment of the previous scheme and the minutes arising from the original pre-DA discussions with Council. Particular attention has been given to the interface with the adjoining properties to the north and east of the site with increased landscaped setbacks provided to all side boundaries and a greater level of articulation and visual interest afforded to all building facades. As required by Council's traffic engineer all vehicles will enter and leave the proposed basement via a 2-way driveway from Quirk Street.

The patient rooms have been designed to prevent direct overlooking into the adjoining properties through the use of integrated fixed screening devices with light spill controlled by spatial separation, room design and bed orientation. Intervening landscape screening provides secondary privacy attenuation and will soften and screen the additions as viewed from the adjoining residential properties. The design outcome achieves a view sharing scenario having regard to the view sharing principles established by the Land and Environment Court in the matter of Tenacity Consulting v Warringah [2004] NSWLEC 140 as detailed within this report. In the preparation of this document consideration has been given to the following statutory planning documents:

- The Environmental Planning and Assessment Act, 1979 as amended ("The Act");
- The Environmental Planning and Assessment Regulation ("The Regulation");
- Warringah Local Environmental Plan 2011 ("The LEP"); and
- Warringah Development Control Plan ("The DCP").

Architectural drawings including floor plans, elevations and sections have been prepared in relation to the development proposed. The application is also accompanied by a survey plan, site analysis, shadow diagrams, traffic and parking report, landscape plan, schedule of finishes, waste management plan, concept drainage plans, access report, BCA report, perspectives and a preliminary geotechnical report.

This statement will detail the developments performance when assessed against the applicable statutory planning considerations. In this regard, we note that the provision of contemporary hospital additions on this site, which require large single level floor plates, will challenge the height of buildings development standards contained within Warringah Local Environmental Plan 2011 (PLEP 2011). This submission will demonstrate that the built form outcome is appropriately described as complimentary and compatible with the articulated building form not giving rise to unacceptable or jarring streetscape or residential amenity impacts. Further, it has been determined that there is more than adequate car parking on site to accommodate the car parking demand generated by the works proposed.

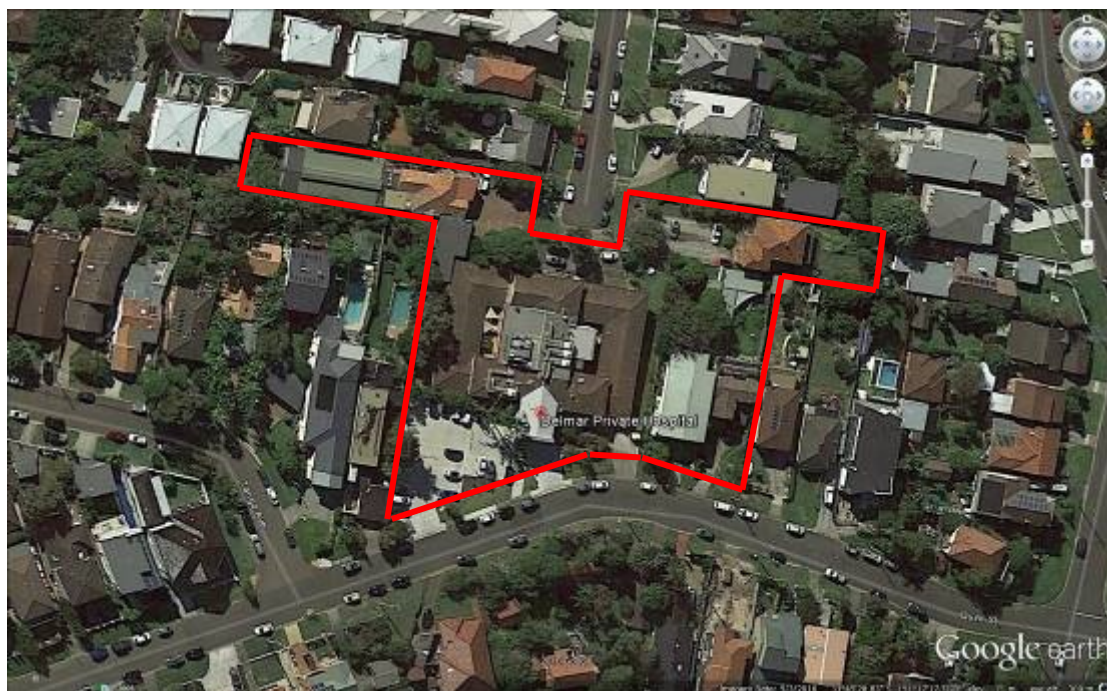
In this regard, we have formed the considered opinion that pursuant to clause 4.6 of WLEP 2011 the variation proposed to the height of buildings development standards succeeds on merit having regard to an assessment against the applicable objectives with sufficient environmental planning grounds to justify such departures. The clause 4.6 variation is well founded.

The identified non-compliances with the building envelope and landscaped area Warringah Development Control Plan 2011 (WDCP) controls have been acknowledged and appropriately justified having regard to the associated objectives. Such variations succeed pursuant to section 79C(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of DCP standards for dealing with that aspect of the development.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 79C of the Environmental Planning and Assessment Act, 1979 as amended with public benefit derived from the approval of the application. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent.

## 2.0 SITE DESCRIPTION AND LOCATION

The subject property comprises Lot 1, DP 836109, No. 58 Quirk Street & No. 14 Patey Street Dee Why (Delmar Private Hospital), Lots 93 and 94, Section B, DP 8139 No's 64 and 66 Quirk Street, Dee Why, Lot 94, DP and Lot 12, Section B, DP 8270, No. 9 Patey Street, Dee Why. No. 58 Quirk Street & 14 Patey Street are occupied by Delmar Private Hospital which is a major provider of surgical, medical and rehabilitation services for Sydney's Northern Beaches. No's 64 and 66 Quirk Street and No. 9 Patey Street are occupied by dwelling houses, which are proposed to be demolished.



**Figure 1** – Aerial photograph of subject consolidated development site

The existing hospital is a 1 and 2 storey structure with 2 internal courtyard areas over basement and at-grade parking. A detached rehabilitation unit incorporating a hydrotherapy pool is located to the northwest of the main building. The main entrance to the hospital is located adjacent to the Quirk Street frontage however secondary access is provided to the site from the Patey Street frontage. The architectural form of the hospital is unremarkable, having evolved overtime to accommodate expansion as necessary, however recently completed additions at the front of the hospital have significantly enhanced its streetscape presentation.

The properties over which the proposed eastern ward is located are occupied by 1 and 2 storey dwelling houses purchased by the hospital in anticipation of future expansion works and are known as No's 64 and 66 Quirk Street and No. 9 Patey Street as depicted over page. These properties have a gentle fall to the north and do not contain any significant trees or landscape features.





**Figure 2** – Existing hospital as viewed from Quirk Street frontage



**Figure 3** – No's 64 and 66 Quirk Street and location of proposed eastern wing



**Figure 4** – Existing Hospital and location of proposed eastern ward, No. 9 Patey Street (screened by tree) as viewed from Patey Street frontage

The adjoining property to the east, No. 68 Quirk Street, is occupied by a 2 storey brick dwelling house with pitched and tile roof and various out buildings at the rear of the property. The property to the north, No. 7 Patey Street, is occupied by a 2 storey dwelling house with recently constructed secondary dwelling in the rear yard. The properties to the north of No. 9 Patey Street are occupied by 2 storey dwelling houses with frontage and address to Carew Street. These adjoining properties are depicted in Figures 5 and 6 over page.



**Figure 5** – Adjoining property to the east, No. 68 Quirk Street (cream brick)





**Figure 6** – Adjoining property to the north, No. 7 Patey Street

### **3.0 DEVELOPMENT PROPOSAL**

The application proposes the demolition of 3 existing dwellings and the construction of a new accommodation wing incorporating 71 beds to the east of the existing surgical and rehabilitation hospital with basement parking for 48 cars accessed from Quirk Street.

The proposed works are depicted on plans DA01 to DA 23 prepared by Delmar Private Hospital with the proposal providing for the following built form outcome:

#### **Carpark Level – RL 63.80 AHD**

This basement car parking level accommodates car parking for 48 vehicles, including 2 disabled car spaces, accessed from Quirk Street via a 2-way driveway and ramp. Internal stair and lift access is provided to the levels above.

#### **Lower Ground Floor – RL 66.80 AHD**

This “L” shaped floor plate incorporates 22 additional single bed private rooms, and 1 double private room, with ensuites. This level also incorporates nurse stations, utility and storage rooms, visitor toilet facilities and a hydrotherapy pool with associated amenities. A new pool changing room is located within the existing hospital building as is a new kitchen area. Internal access is provided to the existing hospital building to the west and internal stair and lift access to the levels above and below.

#### **Ground Floor – RL 69.80 AHD**

This “L” shaped floor plate incorporates 27 additional single bed private rooms, and 1 double private room, with ensuites. This level also incorporates a nurse stations, treatment room, visitor toilet facilities and utility and storage rooms. Internal access is provided to the existing hospital building to the west with the existing staff offices at this level refurbished and a new waiting room and café provided within a refurbished front foyer area. Internal stair and lift access to the levels above and below.

#### **First Floor – RL 72.80 AHD**

This floor plate incorporates 19 additional single bed private rooms, nurse stations, treatment room, visitor toilet facilities and storage and utility rooms. Internal stair and lift access to the levels below. A proposed second stage recovery room is located within the existing portion of the hospital.

The application also proposes the implementation of a perimeter landscape regime as depicted in the accompanying landscape plan prepared by Selena Hannan with stormwater disposed of to the Patey Street drainage system as depicted on the accompanying drainage plans prepared by Acor Consultants.

## 4.0 STATUTORY PLANNING FRAMEWORK

The following section of the report will assess the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 79C of the Environmental Planning & Assessment Act, 1979 as amended. Those matters which are required to be addressed are outlined, and any steps to mitigate against any potential adverse environmental impacts are discussed below.

### 4.1 Environmental Planning and Assessment Act 1979

Pursuant to Division 3 and Schedule 4A (6)(b) of the Environmental Planning and Assessment Act 1979 (The Act) development for the purpose of private health services facilities with a capital Investment value (CIV) in excess of \$5 million are to be determined by a Joint Regional Planning Panel. The proposal has a CIV in excess \$5 million and is therefore to be referred to the Sydney East Joint Regional Planning Panel (JRPP) for determination.

### 4.2 Warringah Local Environmental Plan 2011

#### 4.2.1 Zone and Zone Objectives

The subject property is zoned R2 Low Density Residential pursuant to the provisions of the Warringah Local Environmental Plan 2011 (WLEP). Hospitals are permissible with consent in the zone. The stated zone objectives are as follows:

- *To provide for the housing needs of the community within a low 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 low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

The proposed development provides health service facilities and services to meet the day to day health care needs of residents with the perimeter landscaping ensuring that the building will sit within a landscaped setting.

The Consent Authority can be satisfied that the development is permissible with consent and not antipathetic to the zone objectives as outlined. Accordingly, there is no statutory impediment to the granting of consent.

### 4.2.2 Height of Buildings

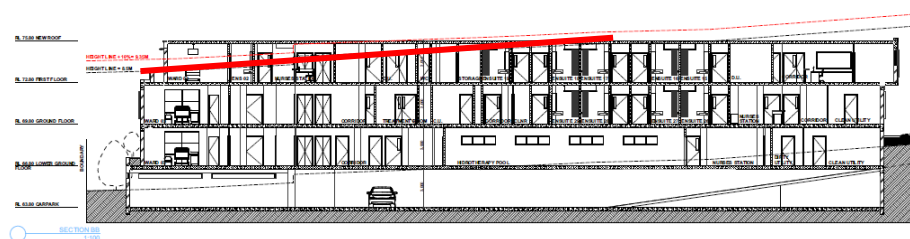
Pursuant to clause 4.3 WLEP the height of any building on the land shall not exceed 8.5 metres above existing ground level as detailed on the heights of building map. The stated objectives of this clause are as follows:

- (a) *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*
- (c) *to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,*
- (d) *to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.*

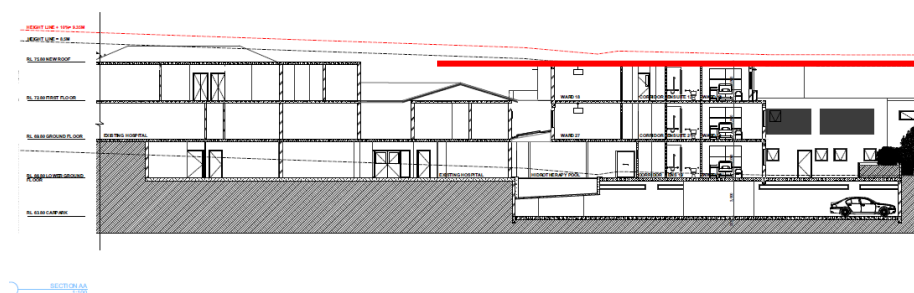
The dictionary to the LEP defines building height to mean:

***building height*** (or ***height of building***) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like

We confirm that the proposed works have a maximum building height of 10.7 metres in the north-western corner of the proposed additions with the extent of non-compliance quickly reducing as the land rises to the south as depicted in section BB at Figure 7 below. The diagram demonstrates that a majority of the breach is within 10% of compliance. The balance of eastern wing running in an east-west direction sits comfortably below the height control as depicted in Section AA in Figure 8 over page.



**Figure 7** – Section BB showing extent of building height standard



**Figure 8** – Section BB showing extent of building height breach and compliant east-west running wing

Clause 4.6 provides a mechanism by which a development standard can be varied. The objectives of this clause are:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Pursuant to clause 4.6(2) consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause. This clause applies to the clause 4.3 Height of Buildings Development Standard.

Clause 4.6(3) states that consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Clause 4.6(4) states consent must not be granted for development that contravenes a development standard unless:

- (a) *the consent authority is satisfied that:*



- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Director-General has been obtained.*

Clause 4.6(5) states that in deciding whether to grant concurrence, the Director-General must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.*

### **Claim for Variation**

#### **Zone and Zone Objectives**

The permissibility of the development and its consistency with the zone objectives has been addressed at section 4.2.1 of this report. The Consent Authority can be satisfied that the development is permissible with consent and not antipathetic to the zone objectives as outlined.

#### **Building Height Objectives**

The development responds to the building height objectives as follows:

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

**Comment:** Given the sites R2 Low Density Residential zone surrounding development is characterised by 1 and 2 storey detached dwelling houses. The site is also located within 150 metres of R3 Residential zone land on the northern side of Delmar Parade with such land occupied by 3, 4 and 5 storey residential flat buildings. St Lukes Grammar School is located 400 metres to the west of the site with such residential flat and institutional building forming components of the overall character of the immediate locality.

In this regard, I have formed the considered opinion that the height, bulk and scale of the development including its part 3 storey form is consistent with the height and scale of larger institutional and residential flat development located within proximity of the site.

In relation to the proposals compatibility with adjoining 2 and 3 storey building forms we note that the design, operational requirements and floor space needs of a contemporary private hospital are disparate to those of a dwelling house with both and uses permissible with consent in the zone. Compatibility and its assessment is dealt with in the planning principle established by the Land and Environment Court in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191. In this judgement Senior Commissioner Roseth indicated:

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

*Where compatibility between a building and its surroundings is desirable, its 2 major aspects are physical impact and visual impact. In order to test whether a proposal is compatible with its context, two questions should be asked. Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of *Project Venture Developments v Pittwater Council (2005) NSW LEC 191* we are of the opinion that the impacts arising from the building height to neighbouring dwellings in terms of overshadowing, privacy and visual bulk are acceptable given the design initiatives adopted including appropriate spatial separation, deep soil perimeter landscape opportunity, fixed privacy screening and the highly articulated and modulated building facades proposed.

The development is fully compliant with the building height standard where it adjoins Quirk Street and the properties to the east of the site. The non-compliant building element will be visible from Patey Street and surrounding properties however given its location to the south of these properties it will not give rise to any shadowing impact at any time throughout the day. In fact compliant levels of solar access are maintained to all surrounding development on 21<sup>st</sup> June.

We have also formed the considered opinion that the non-compliant portion of building height will not give rise to any unacceptable or unmanageable visual privacy impacts nor will it impact on any views available from surrounding properties. The proposed building height breach will not impact the reasonable development potential or amenity of any adjoining property.

Further, we are of the opinion that most observers would not find the non-compliant building height portion of the development offensive, jarring or unsympathetic in a streetscape context. Accordingly, it can be reasonably concluded that the proposal is compatible with its surroundings.

Having regard to the planning principle established by *Veloshin v Randwick City Council [2007] NSWLEC 428* this is not a case where the difference between compliance and non-compliance is the difference between good and bad design.

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

**Comment:** This objective is clearly not defeated as discussed in response to objective (a) above.

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

**Comment:** The non-compliant building height will not be readily discernible as viewed from the street and is not visible from any coastal or bush environments.

In this regard, it is considered that the proposal, where it exceeds the 8.5 metre height limit to the rear of the site on Patey Street it is consistent to and compatible with the height of the recently constructed surrounding buildings and is representative of the desired future character of the area. The proposal is such that there will be no adverse scenic quality or visual amenity impacts arising. This objective is not defeated.

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

**Comment:** The non-compliant building height to the will not be readily discernible as viewed from the primary road frontage with the building compliant with the 8.5 metre height limit to Quirk Street. The visual impact of the development as viewed from Patey Street is considered acceptable given the articulation and modulated building facade and recessed upper level building element as depicted in Figure 9 below. This objective is not defeated.



**Figure 9** – Proposed additions as viewed from Patey Street

Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191 we have formed the considered opinion that most observers would not find the proposed development, in particular the area of non-compliance, offensive, jarring or unsympathetic in a streetscape context.

We have formed the considered opinion that the proposal will maintain appropriate residential amenity in terms of solar access and privacy and will not give rise to any adverse public or private view affectation. In this regard, the development satisfies the objectives of the height of buildings standard.

Further, having regard to the judgement in the matter of *Four2Five Pty Limited v Ashfield Council* [2015] NSWCA 248 we have formed the considered opinion that there are sufficient environmental planning grounds to justify contravening the development standard.

In this regard, we note that the development is generally compliant with the building height along Quirk Street, with the non-compliance to a significant extent, arising as the consequence of the landform falling away towards Patey Street and the need to match the existing hospital floor levels.

In accordance with Clause 4.6(5) the contravention of the development standard does not raise any matter of significance for State or regional environmental planning with the public benefit maintained by Council's adoption of a application specific merit based assessment as it relates to building height within the 8.5 metre height precinct in which the site is located.

### **Conclusions**

Having regard to the clause 4.6 variation provisions we have formed the considered opinion:

- (a) that the site specific and contextually responsive development is consistent with the zone objectives, and
- (b) that the site specific and contextually responsive development is consistent with the objectives of the building height standard, and
- (c) that there are sufficient environmental planning grounds to justify contravening the development standard, and
- (d) that having regard to (a), (b) and (c) above that compliance with the building height development standard is unreasonable or unnecessary in the circumstances of the case, and
- (e) that given the design quality of the development, and the developments ability to comply with the zone and building height standard objectives that approval would not be antipathetic to the public interest, and



- (f) that contravention of the development standard does not raise any matter of significance for State or regional environmental planning; and

As such, we have formed the highly considered opinion that there is no statutory or environmental planning impediment to the granting of a building height variation in this instance.

#### **4.2.3 Earthworks**

Pursuant to clause 6.2(3) WLEP 2011, as the land is identified as being located within a Class B area 2011 before granting development consent for earthworks, the consent authority must consider the following matters:

- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality;*
- (b) the effect of the proposed development on the likely future use or redevelopment of the land;*
- (c) the quality of the fill or the soil to be excavated, or both;*
- (d) the effect of the proposed development on the existing and likely amenity of adjoining properties;*
- (e) the source of any fill material and the destination of any excavated material;*
- (f) the likelihood of disturbing relics;*
- (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

The application is accompanied by a preliminary Geotechnical Assessment prepared by Jack Hodgson Consultants Pty Limited which confirms that based on a preliminary assessment, the proposed development works will be considered satisfactory from a Geotechnical perspective subject to the application of good engineering practice for the structural design and construction methods and the recommendations contained within the report.

No objection is raised to such recommendations forming conditions of development consent.

### 4.3 Warringah Development Control Plan

#### 4.3.1 Built Form Controls

The following built form controls are applicable to the development as proposed pursuant to Part B and C of WDCP:

Standard	Control	Proposed	Complies
Side boundary envelope	5 metre 45 degrees	<p>The proposal complies with the 5 metre side boundary envelope to the eastern side boundary and the southern boundaries of No's 68 and 70 Patey Street (refer to sections DA 23). The building envelope cuts through the top of the recessed first floor level along the northern boundary of the site to a minor extent as depicted in the section on plan DA 23.</p> <p>We have formed the considered opinion that the boundary setbacks and wall heights proposed are reasonable and appropriate given the absence of unacceptable residential amenity impacts and the deep soil landscape opportunities afforded around the perimeter of the building.</p>	No – Variation Required

Standard	Control	Proposed	Complies
		<p>The shadow diagrams demonstrate that compliant levels of solar access will be maintained to the neighbouring residential dwellings on 21<sup>st</sup> June.</p> <p>Such setbacks and building envelope maintain an appropriate spatial relationship with the neighbouring dwellings at 68 and 70 Quirk Street and 7 Patey Street and provide opportunity for landscaping which will minimise the impact of the development when viewed from these neighbouring properties.</p> <p>Accordingly, strict compliance has been found to be both unreasonable and unnecessary under the circumstances.</p> <p>Such variations succeed pursuant to section 79C(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of controls/ standards for dealing with that aspect of the development.</p>	

Standard	Control	Proposed	Complies
Front Setback	6.5m	The proposed addition following the existing front building alignment and complies with the 6.5m front setback control with appropriate landscape treatments softening and screening the development in a streetscape context.	YES
Side boundary setback	0.9m	<p>The proposed addition provides a minimum of 2 metre deep soil landscaped setback to the landscaped basement roof and a minimum 13.1 metre setback to the 2 and 3 storey building façade above along the eastern side boundary to number 68 Quirk Street. As the building wraps around to the rear, a variable side boundary setback of between 1.5 and 2 metres is maintained to the 2 storey form.</p> <p>Side boundary setbacks to the northern boundary where the development adjoins No. 7 Patey street from the 2 storey building element range from between 3.110 and 3.960 metre with an increased setback to the partial 3<sup>rd</sup> storey element of 4.7 metres.</p>	YES

Standard	Control	Proposed	Complies
Rear boundary setback	6.0m	The proposed addition sits in what constitutes a L-Shape lot. We consider that the rear boundary be defined to the eastern end of the L-Shape lot to Paley Street. A setback of 6 metres is proposed to this rear boundary.	YES
Traffic, Access and Safety	To minimise: a) traffic hazards; b) vehicles queuing on public roads c) the number of vehicle crossings in a street; d) traffic, pedestrian and cyclist conflict; e) interference with public transport facilities; and f) the loss of “on street” kerbside parking.	The traffic and parking assessment report prepared by Varga demonstrates that the proposed net increase in the traffic activity as a consequence of the development proposal is statistically insignificant, and will clearly not have any unacceptable traffic implications in terms of the road network capacity.	YES
Parking Facilities	The DCP does not nominate an off street parking requirement for hospitals.  An assessment has been made based on RMS Guidelines based on	The traffic and parking report prepared by Ray Dowsett Traffic and Transport Planning Pty Limited contains the following conclusions:  1. The development scheme proposes additions to Delmar Private Hospital providing 71 additional beds and basement parking for 48 cars with vehicle access to Quirk	YES



Standard	Control	Proposed	Complies
	extensive surveys of a wide range of land uses.	<p>Street.</p> <p>2. The proposal will result in a nett increase of approximately 22 &amp; 19 peak hour vehicle trips in the morning and evening commuter peak periods respectively with minimal impact on existing traffic conditions in Quirk Street or on the surrounding road network nor present any capacity implications for nearby intersections.</p> <p>3. The proposed vehicle access arrangements are compliant with the relevant requirements in 'AS/NZS 2890.1:2004' and are considered satisfactory for the development.</p> <p>4. The parking provision and layout arrangements either meet or exceed the relevant design and numerical standards.</p> <p>5. The proposal will have no impact on the existing waste collection and servicing arrangements for the hospital.</p> <p>6. It is concluded that there will not be any adverse traffic, parking or traffic related environmental implications resulting from the development.</p>	

Standard	Control	Proposed	Complies
Stormwater	<p>To ensure the appropriate management of stormwater.</p> <p>To minimise the quantity of stormwater run-off.</p> <p>To incorporate Water Sensitive Urban Design techniques and On-Site Stormwater Detention (OSD) Technical Specification into all new developments.</p> <p>To ensure the peak discharge rate of stormwater flow from new development is no greater than the Permitted Site Discharge (PSD).</p>	<p>Please refer to Stormwater Drainage Plan prepared by Acor.</p> <p>The stormwater is to be disposed to the Patey Street drainage system as depicted on the accompanying drainage plans.</p>	Yes
Erosion and Sedimentation	<p>To reduce the potential for soil erosion and adverse sedimentation impacts upon the environment.</p> <p>To prevent the</p>	<p>Please refer to the erosion and sediment control plan accompanying the application.</p>	Yes

Standard	Control	Proposed	Complies
	migration of sediment off the site onto any waterway, drainage systems, public reserves, road reserve, bushland or adjoining private lands. To prevent any reduction in water quality downstream of the development site.		
Excavation and Landfill	Excavation and landfill works must not result in any adverse impact on adjoining land.	A geotechnical report prepared by Jack Hodgson Consultants accompanies the application and considers that the site is suitable for the proposed development works.	Yes

### 4.3.2 Design Factors

#### D1 Landscaped Open Space

The control requires a minimum 40% site landscaping. The development provides for a landscaped area of 19% across the entire consolidated site area, which is under the minimum requirement. The objectives of the control are as follows:

- *To enable planting to maintain and enhance the streetscape.*
- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*
- *To enhance privacy between buildings.*
- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*
- *To provide space for service functions, including clothes drying.*
- *To facilitate water management, including on-site detention and infiltration of stormwater.*

A landscape plan has been prepared by Selena Hannan Design, which details the proposed landscape enhancements to the perimeter of the proposed additions and to the Quirk Street and Patey Street frontages. The proposed landscape strategy accords with the objectives of the Control D1 as follows:

- Proposed landscaping improvements to both the Quirk Street and Patey Street frontages, including significant native tree planting to enhance the streetscape;
- Proposed deep soil landscaped areas to the perimeter of the proposed additions and the on-slab planting opportunities over the basement are sufficient to enable planting of shrub and trees, providing privacy to neighbouring properties and screening to the proposed additions;

The landscape plan provides for a landscape outcome that will ensure that the development sits within a landscaped setting and that the development is softened and screened when viewed from outside the site. It is considered the development satisfies the objectives of the control.

### **D3 Noise**

It is considered the performance obligation in relation to the operation of plant associated with the development can be conveniently conditioned as a component of any consent.

#### **D4 Electromagnetic Radiation**

There are no generating facilities within the immediate vicinity of the site.

#### **D6 Access to Sunlight**

The accompanying shadow diagrams indicate the shadowing effects of the development in relation to the neighbouring properties. The shadow diagrams confirm that compliant levels of solar access will continue to be received by all adjoining properties (notably numbers 68 and 70 Quirk Street between 9:00am and 3:00pm on 21<sup>st</sup> June).

#### **D7 Views**

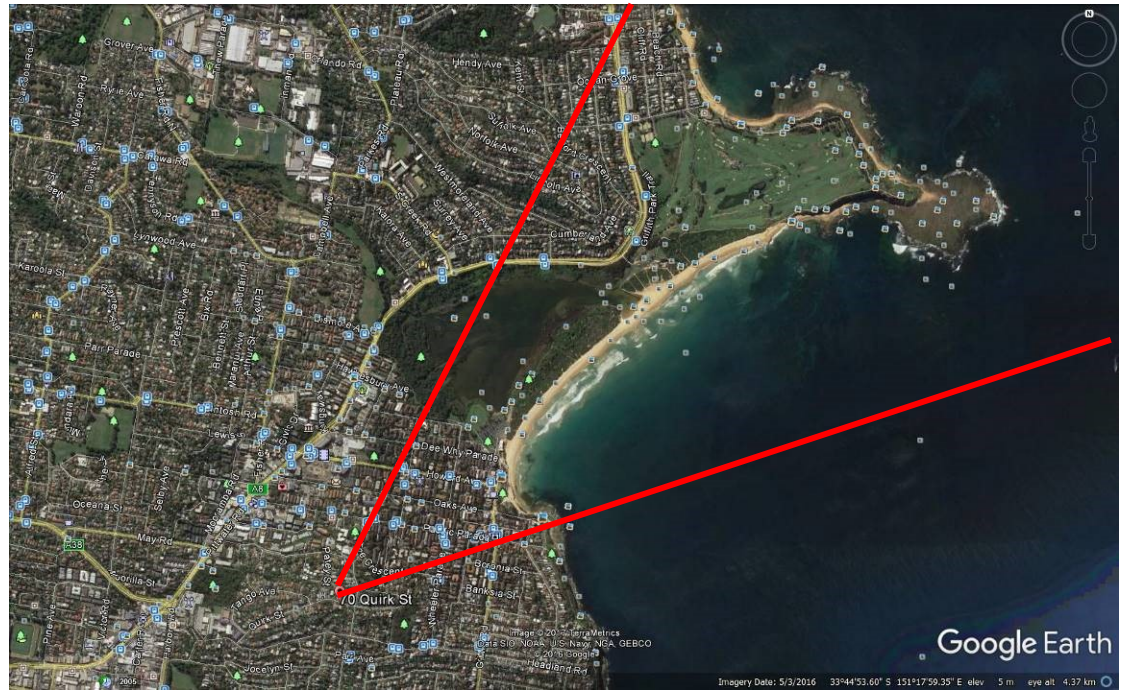
Having regard to the view sharing principles established by the Land and Environment Court of NSW in the matter of Tenacity Consulting v Warringah [2004] NSWLEC 140 as they relate to an assessment of view impacts from No's 68 and 70 Quirk Street we have formed the following opinion:

##### **First Step - Assessment of views to be affected**

*An assessment of the view to be affected. The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

The photograph at Figures 10 and 11 over page shows that these properties obtain relatively uninterrupted sweeping views, generally in a north easterly direction across Dee Why and Dee Why Lagoon towards Long Reef and the Pacific Ocean. These views are best described as whole and expansive. These views are available from living areas and adjacent south north facing balconies from both a standing and seated position.





**Figure 10** – Aerial photograph showing primary view corridor from No's 68 and 70 Quirk Street.



**Figure 11** – Aerial photograph showing primary view corridor from No's 68 and 70 Quirk Street.

### **Second Step - From what part of the property are the views obtained**

*The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

Comment: These views are available from living areas and adjacent north facing balconies from both a standing and seated position across the rear and eastern side boundaries of the properties and over the roofs of the houses located to the north east.

In our opinion, the proposal will not obscure any existing view elements.

### **Third Step – Assessment of extent of the impact**

*The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

Comment: We have formed the considered opinion that the view impact is appropriately described as negligible.

### **Fourth Step – Reasonableness of the proposal**

*The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them.*

*Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

The adjoining properties will continue to obtain district views towards Collaroy Plateau over the fully compliant 2 storey east-west running wing and uninterrupted views across Dee Why Lagoon towards Long Reef and the Pacific Ocean. Any resultant view impact does not arise as a consequence of a non-compliant building element.

***With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.***

This application represents a highly considered response to the issues identified in the assessment of the previous development application on the site (DA 2016/0737) including issues raised in relation to view loss.

Having reviewed the detail of the application we have formed the considered opinion that a view sharing scenario is maintained between adjoining properties in accordance with the principles established in *Tenacity Consulting Pty Ltd v Warringah Council* [2004] NSWLEC140 and *Davies v Penrith City Council* [2013] NSWLEC 1141.

## **D8 Privacy**

The patient rooms have been designed to prevent direct overlooking into the adjoining properties through the use of integrated fixed screening devices with light spill controlled by spatial separation, room design and bed orientation. Intervening landscape screening provides secondary privacy attenuation and will soften and screen the additions as viewed from the adjoining residential properties.

## **D9 Building Bulk**

Particular attention has been given to the interface with the adjoining properties to the north and east of the site with increased landscaped setbacks provided to all side boundaries and a greater level of articulation and visual interest afforded to all building facades. Increased setbacks have been provided to the upper level of the building, where it presents to Patey Street, to ensure that this level is perceived as recessive as viewed from the public domain and adjoining residential properties. The built form outcome is entirely complementary and in character with the existing hospital with the integrated site landscape regime ensuring that the building sits within a landscape setting.

## **D10 Building Colours and materials**

The building displays a contemporary palette of colours, materials and finishes which will ensure a visually attractive presentation in the round.

## **D11 Roofs**

The parapeted roof form appropriately responds to the architectural design of the existing building and will not be perceived as inappropriate in its context.

## **D12 Glare and Reflection**

The indicated materials and colouring will not give rise to reflected light and glare nuisance.

## **D13 Front fences and front walls**

The application does not propose any front fencing however does propose access structures and associated retaining walls within the front setback. Such structures are reasonably anticipated for a development of this nature and will not be perceived as inappropriate or jarring in a streetscape context.

## **D18 Accessibility**

The application is accompanied by an access report prepared by Access Mobility Solutions and which addresses the particular requirements of the BCA and the relevant Australian Standards relating to accessibility. The report contains the following conclusion

*“The proposed alterations and additions at Delmar Private Hospital meets the access requirements in accordance with the relevant building code, premises standards and Australian*

*Standards relating to the accessibility for people with disabilities.”*

## **D20 Safety and Security**

The building addresses the street and provides for casual surveillance of the public spaces adjacent to the site. The basement has been designed to prevent areas of potential entrapment with all publicly accessible areas appropriately lit at night.

## **D 21 Provision and Location of Utility Services**

The site has access to all reticulated services.

### **4.7 Section 79C(1) EP&A Act Considerations**

Following is an assessment pursuant to guidelines prepared by the former Department of Urban Affairs and Planning. Relevant matters nominated for consideration are:

#### **4.7.1 The provision of any planning instrument, draft environmental planning instrument, development control plan or regulations.**

This statement will detail the developments performance when assessed against the applicable statutory planning considerations. In this regard, we note that the provision of contemporary hospital additions on this site, which require large single level floor plates, will challenge the height of buildings development standards contained within Warringah Local Environmental Plan 2011 (PLEP 2011). This submission will demonstrate that the built form outcome is appropriately described as complimentary and compatible with the articulated building form not giving rise to unacceptable or jarring streetscape or residential amenity impacts. Further, it has been determined that there is more than adequate car parking on site to accommodate the car parking demand generated by the works proposed.

#### **4.7.2 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economical impacts in the locality.**

#### *Context and Setting*

- i) *What is the relationship to the region and local context on terms of:*
  - *the scenic qualities and features of the landscape?*

- *the character and amenity of the locality and streetscape?*
- *the scale, bulk, height, mass, form, character, density and design of development in the locality?*
- *the previous and existing land uses and activities in the locality?*

These matters are addressed in detail in the body of this report. The proposed development is contextually appropriate and will not give rise to any unacceptable residential amenity or streetscape consequences.

ii) *What are the potential impacts on adjacent properties in terms of:*

- *relationship and compatibility of adjacent land uses?*
- *sunlight access (overshadowing)?*
- *visual and acoustic privacy?*
- *views and vistas?*
- *edge conditions such as boundary treatments and fencing?*

There is no unreasonable impact apparent with respect to any of these matters.

- *Access, transport and traffic*

*Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:*

- *travel demand?*
- *dependency on motor vehicles?*
- *traffic generation and the capacity of the local and arterial road network?*
- *public transport availability and use (including freight rail where relevant)?*
- *conflicts within and between transport modes?*
- *traffic management schemes?*
- *vehicular parking spaces?*

The proposed development has good access to services and facilities with transport within immediate proximity of the site. The development provides adequate car parking facilities as assessed in the accompanying traffic report.

- *Public domain*

The proposed development will have no adverse impact on the public domain and addresses the design recommendations of the DCP.



- *Utilities*

Existing utility services will adequately service the development.

- *Flora and fauna*

The integrated landscape regime proposed incorporates perimeter and on-slab landscape planting which will collectively soften the edges of the development and ensure the development sits within a relatively informal landscape setting.

- *Waste*

Commercial waste collection applies to this development and will proceed accordingly.

- *Natural hazards*

We are unaware of any natural hazards affecting the site.

- *Economic impact in the locality*

There will be an economic benefit derived during the construction phase. No adverse impact will be apparent from any other perspective.

- *Site design and internal design*

i) *Is the development design sensitive to environmental conditions and site attributes including:*

- *size, shape and design of allotments?*
- *the proportion of site covered by buildings?*
- *the position of buildings?*
- *the size (bulk, height, mass), form, appearance and design of buildings?*
- *the amount, location, design, use and management of private and communal open space?*
- *landscaping?*

I refer to the detailed considerations in the report and the accompanying material which covers matters related to design, building location, height, visual impact, landscaping and open space.

ii) *How would the development affect the health and safety of the occupants in terms of:*

- *lighting, ventilation and insulation?*
- *building fire risk – prevention and suppression/*
- *building materials and finishes?*

- *a common wall structure and design?*
- *access and facilities for the disabled?*
- *likely compliance with the Building Code of Australia?*

Compliance with the provisions of the BCA can be achieved as detail in the accompanying BCA report prepared by BCA Vision.

#### *Construction*

i) *What would be the impacts of construction activities in terms of:*

- *the environmental planning issues listed above?*
- *site safety?*

Normal site safety measures as required by Council will ensure that no site safety or environmental impacts will arise during construction. It is envisaged that appropriate conditions of consent will be applied.

#### **4.7.3 The suitability of the site for the development.**

*Does the proposal fit in the locality?*

- *are the constraints posed by adjacent developments prohibitive?*
- *would development lead to unmanageable transport demands and are there adequate transport facilities in the area?*
- *are utilities and services available to the site adequate for the development?*

The site is very well located with regards to public transport and the full range of required urban services utility services. The development will not cause an excessive or unmanageable level of transport demand.

The site has been designed with respect to site analysis which takes into account the relationship of the building to adjacent and abutting development with which it will integrate sympathetically.

- *Are the site attributes conducive to development?*

The site has no special physical or engineering constraints that preclude its development and as such the site is suitable for the proposed development.

#### **4.7.4 Any submissions received in accordance with this Act or the regulations.**

It is envisaged that Council will appropriately regard any submissions made in relation to the proposed development.



#### **4.7.5 The public interest.**

The architect has responded to the client brief to provide for alterations and additions to the existing Delmar Private Hospital, improve the function and layout of the hospital, whilst maintaining reasonable amenity to the adjoining and nearby residential properties.

The built form outcome is highly articulated and modulation in both the horizontal and vertical planes with the integrated site landscape regime ensuring that the building sits within a landscape setting.

This report demonstrates that such outcome can be achieved without adverse streetscape or unanticipated amenity impacts. Accordingly, it can be demonstrated that the proposal is complimentary and compatible in an urban design context.

It is considered that the public interest is best served in providing certainty in the planning process through encouraging development of good design that satisfies the outcomes and controls contained within the adopted legislative framework. The increase in bed numbers will meet a clear demand for private patient beds on the Northern Beaches. Accordingly approval of the development would be in the public interest.

## 5.0 CONCLUSION

A similar application proposing alterations and additions to the existing hospital (DA 2016/0737) was withdrawn following initial notification and assessment in response to concerns expressed by neighbours and Council including the bulk and scale of the works and their relationship to the side boundaries of the allotment. Since the withdrawal of this previous application the adjoining property to the east No. 66 Quirk Street has been purchased by the hospital to create additional setback and landscape opportunities to the eastern adjoining property.

This application represents a highly considered response to the issue raised by Council in its assessment of the previous scheme and the minutes arising from the original pre-DA discussions with Council. Particular attention has been given to the interface with the adjoining properties to the north and east of the site with increased landscaped setbacks provided to all side boundaries and a greater level of articulation and visual interest afforded to all building facades. As required by Council's traffic engineer all vehicles will enter and leave the proposed basement via a 2-way driveway from Quirk Street.

The patient rooms have been designed to prevent direct overlooking into the adjoining properties through the use of integrated fixed screening devices with light spill controlled by spatial separation, room design and bed orientation. Intervening landscape screening provides secondary privacy attenuation and will soften and screen the additions as viewed from the adjoining residential properties. The design outcome achieves a view sharing scenario having regard to the view sharing principles established by the Land and Environment Court in the matter of *Tenacity Consulting v Warringah* [2004] NSWLEC 140 as detailed within this report.

We have formed the considered opinion that pursuant to clause 4.6 of WLEP 2011 the variation proposed to the height of buildings development standards succeeds on merit having regard to an assessment against the applicable objectives with sufficient environmental planning grounds to justify such departures. The clause 4.6 variation is well founded.

The identified non-compliances with the building envelope and landscaped area Warringah Development Control Plan 2011 (WDCCP) controls have been acknowledged and appropriately justified having regard to the associated objectives. Such variations succeed pursuant to section 79C(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of DCP standards for dealing with that aspect of the development.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 79C of the Environmental Planning and Assessment Act, 1979 as amended with public benefit derived from the approval of the application. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent.

A handwritten signature in black ink, appearing to read 'Greg Boston', is positioned above the printed name and title.

**Greg Boston**  
**Director**