

## SYDNEY NORTH PLANNING PANEL

### SUPPLEMENTARY REPORT

<b>Panel Reference</b>	2017SNH082
<b>DA Number</b>	DA2017/1183
<b>LGA</b>	Northern Beaches Council
<b>Proposed Development</b>	Demolition works and construction of a Mixed Use Development, comprising retail shops and shop top housing
<b>Street Address</b>	Lot 1 DP 710661, 2 Delmar Parade, Dee Why
<b>Applicant</b>	2dpd Pty Ltd
<b>Owner</b>	Margaret Mary Wells Simon Andrew Wykeham Wells Timothy William Wykeham Wells Peter Guilford Leonard Yvette Maree Leonard
<b>Date of DA Lodgement</b>	4 December 2017
<b>Number of Submissions</b>	Public Exhibition No. 1- Original scheme (11 December 2017 to 23 January 2018) - 23 submissions received.  Public Exhibition No. 2 – Amended Plans (18 July 2018 to 12 August 2018) - 2 additional submissions received.
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	Development with a Capital Investment Value (CIV) of more than \$20 million  Total Cost of the Development is \$20,303,314.00 (Application lodged prior to 1 March 2018)
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979</li> <li>• Environmental Planning and Assessment Regulation 2000</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX)</li> <li>• State Environmental Planning Policy – Infrastructure 2011</li> <li>• State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development</li> <li>• Warringah Local Environmental Plan 2011 (WLEP 2011)</li> <li>• Warringah Development Control Plan 2011 (WDCP)</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Attachment 1 : Amended Plans</li> <li>• Attachment 2: Revised Landscape Design</li> <li>• Attachment 3: Draft Conditions of Consent</li> </ul>
<b>Report by</b>	David Kerr – General Manager for Planning Place & Community
<b>Report date</b>	12 September 2018

### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

**Yes  
(See Relevant  
Sections)**

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### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarized, in the Executive Summary of the assessment report?  
*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

**Yes  
(see Original  
Assessment  
Report)**

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### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

**Yes**

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### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

**Not Applicable**

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### Conditions

Have draft conditions been provided to the applicant for comment?

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

**Yes**

## PURPOSE OF THIS REPORT

The purpose of this Supplementary Report is to provide the Sydney North Planning Panel (SNPP) with an assessment of revised plans and further information in accordance with the decision at the SNPP meeting of 13 June 2018. The report also provides details of the further consultation carried out.

This report does not revisit any matter raised in the previous Assessment Report prepared by Council and considered by the SNPP at its meeting of 13 June 2018.

## RELEVANT BACKGROUND

The Development Application was considered at the SNPP on 13 June 2018. In the Assessment Report forwarded to the Panel, Council made a recommendation for refusal of the application for the following reasons:

1. Site isolation of the adjoining property to the south, 814-816 Pittwater Road, Dee Why (known as the Avis site);
2. Approval from the NSW Roads and Maritime Services (RMS) was not provided;
3. Non-compliances with the requirements of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and associated Apartment Design Guide (ADG);
4. Non-compliance with the Building Height - Clause 4.3 Height of Buildings development standard of the Warringah Local Environmental Plan 2011;

5. Non-compliance with the requirements of Warringah Development Control Plan (WDCP 2011), in relation to site amalgamation, number of storeys, Clause C2 - Traffic, Access and Safety and Clause C4 – Stormwater.

At the meeting, the Panel concurred with the reasons for refusal in the Assessment Report, however made the decision to defer the determination of the application to allow the Applicant to attend to and respond to the following:

- *“An offer of purchase submitted to the owner of the adjoining Avis site based on an independent valuation and a response from the owner including the valuation (or evidence of lack of response);*
- *In case of a negative or no response, the provision of a right-of-way through the subject site that could be utilised as access to the Avis site in case it gets redeveloped in the future;*
- *Evidence of support from the RMS for the traffic impact of the proposal;*
- *A minimum setback of 6m from the front southern boundary above podium level and from the rear southern boundary from the ground;*
- *Improved access to and quality of the communal open space at podium level, which is to be achieved by the deletion of Unit 45 and above;*
- *Provision of deep soil planting along the eastern boundary at ground level to a minimum area of 5m x 5m;*
- *Re-calculation of the GFA on the basis that garbage facilities not in the basement and corridors which are enclosed on their long side are included as floor space;*

*If the above issues are satisfactory resolved, the panel may accept that an increase in the height of the development above the current control may be acceptable. Similarly, the panel may accept that a four-storey has merit on this site”.*

#### **ADDITIONAL INFORMATION PROVIDED BY THE APPLICANT**

On 9 July 2018, the applicant submitted to Council the following information:

1. Amended plans, which incorporate the following changes as per the accompanying statement from the architect:
  - *Basement retaining wall location on Southern-East corner is updated to accommodate deep soil zone at Ground floor.*
  - *Basement Parking layout, lift core, stair design and location updated.*
  - *Arrangement of Sub-station, Pump room, loading bay area, Garbage collection,*
  - *Bulky goods and services at ground floor updated.*
  - *Parking layout updated on Ground floor with access to Avis site.*
  - *Deep soil zone proposed on Southern-Eastern corner of the site.*
  - *Common public siting area increased for Café / Retail on Ground floor at the North*
  - *West corner of the site (i.e. Delmar parade and Pittwater road corner).*

- 6m setback proposed from the front Southern boundary above podium level and from the rear southern boundary from the Ground.
  - Communal open space increased at level-4 by deleting three units from Podium level on North-West corner.
  - Roof level plan updated with provision of various services/plant equipment. All services are contained below 52m RL; inclusive of the lift overrun.
  - GFA calculation updated after inclusion of Garbage collection area and corridors which are enclosed on their long side.
  - Minor design change in lift core to accommodate 6m setback on South boundary.
  - SEEP 65 compliance drawings updated with regards to new development yield (of 71 units; loss of 3 from previous).
2. Revised Traffic and Parking Report, prepared by Transport & Urban Planning Pty Ltd, dated 4 July 2018;
  3. Flood Assessment Report, prepared by Taylor Consulting, dated 6 July 2018;
  4. Revised Landscape Design, prepared by David Loudon, dated 26 June 2018; and
  5. Valuation Report, Letter of Offer, and Valuation Fee Proposal as it relates to the adjoining Avis site.

## **ASSESSMENT OF THE ADDITIONAL INFORMATION IN RESPONSE TO PANEL RESOLUTIONS**

***An offer of purchase submitted to the owner of the adjoining Avis site based on an independent valuation and a response from the owner including the valuation (or evidence of lack of response.***

### Comment:

The documents submitted (which includes independent valuation) by the applicant and a submission received on behalf of the owners of the Avis Site has confirmed that the applicant has made an offer to purchase the adjoining Avis site. The offer was rejected by the owners of the Avis site.

Accordingly, the applicant has provided sufficient evidence that they made a reasonable attempt to purchase the adjoining site which was rejected. Accordingly, the applicant has addressed this resolution of the Panel.

***In case of a negative or no response, the provision of a right-of-way through the subject site that could be utilised as access to the Avis site in case it gets redeveloped in the future.***

### Comment:

As no agreement was reached to purchase the adjoining site, a condition is recommended to be included in the consent should the Panel be mind to approve the application that requires access in the form of right-of-way be created for access over Lot 1 DP 710661 (subject site) which benefits Lot 1 DP 220220 (Avis site).

As the offer of purchase has not been accepted, a condition for the right of way will address the panel's resolution.

***Evidence of support from the RMS for the traffic impact of the proposal***

Comment:

The RMS by letter dated 13 August 2018 has raised no objection to the proposed development (as amended) subject to conditions as detailed in a letter dated 13 August 2018. The conditions provided by the RMS have been included in the draft consent should this application be approved.

This matter has now been addressed.

***A minimum setback of 6m from the front southern boundary above podium level and from the rear southern boundary from the ground***

Comment:

The front portion of the building adjoining the southern boundary, above podium level has been amended to have setback of 6m. However, it is noted that the stair core has a setback of 4.5m. Whilst the amended design does not strictly comply the resolution, it is noted that the stair core is a minor element of the overall southern side of the building and does not have any windows. Therefore, on the basis that it is not a non-habitable room, it is consistent with the ADG separation distance of half the 9m required.

Accordingly, the setback provided in the amended plans is considered acceptable and the applicant has addressed the Panel's resolution.

***Improved access to and quality of the communal open space at podium level, which is to be achieved by the deletion of Unit 45 and above***

Comment:

The amended plans show that Unit 45 (as per the original numbering) and the units above have been deleted to improve access to and quality of the communal open space at podium level.

Accordingly, the applicant has addressed the Panel's resolution.

***Provision of deep soil planting along the eastern boundary at ground level to a minimum area of 5m x 5m***

Comment:

The provision of a minimum area of 5m x 5m of deep soil planting along the eastern boundary at ground level has been achieved.

Accordingly, the applicant has addressed the Panel's resolution.

***Re-calculation of the GFA on the basis that garbage facilities not in the***

***basement and corridors which are enclosed on their long side are included as floor space***

Comment:

The revised Floor Space Ratio calculation, taking into account the deletion of the garbage room and enclosed corridors from the FSR calculation, reveals the FSR to be 2.83:1, which is below the 3.2:1 proposed in the Dee Why Town Centre Planning Proposal.

Accordingly, the applicant has addressed the Panel's resolution.

**INTERNAL REFERRALS IN RESPONSE TO THE AMENDED INFORMATION**

Internal Referral Body	Recommendation/ Comments
<b>Development Engineers (Assessment by external consultant)</b>	The revised documentation noted above has been assessed in accordance with the relevant Northern Beaches Council Planning controls and our previous assessment dated 910212018. The proposal, in my opinion, provides information suitable for DA concept approval, subject to development consent conditions.
<b>Traffic Engineer</b>	<p>Council Traffic section concurs with the rates adopted by the applicant regarding the retail and commercial traffic generation. As per RMS Technical Direction 'Guide to Traffic Generating Developments; Updated traffic surveys (TDT2013/04a)' the office use generates 1.6 vehicles per 100m<sup>2</sup> GFA whilst the retail component for a GFA less than 10,000m<sup>2</sup> will generate 12.5 vehicles per 100m<sup>2</sup>. This equates to a current site generation of 75 (Retail) and 13 (Commercial) which total 88 vehicles in the peak hour. The value adopted by the applicant being 85 is generally consistent with this figure.</p> <p>Notwithstanding the above generation rates, the proposed development (based on Council Traffic section interpretation) is still deemed to be decreasing the net generation rate by 59 vehicles when applying the worst case scenario in the PM peak.</p> <ul style="list-style-type: none"> <li>➤ 71 residential apartments x 0.23 (as a worst case scenario noting that RMS updated the rates to reflect 0.19) = 21 vehicles</li> <li>➤ 229.5 GFA office Space x 1.6/100 = 4</li> <li>➤ 75 GFA restaurant x 5/100 = 4</li> </ul> <p>Total = 21+4+4 = 29 vehicles in the peak hour.</p> <p>Therefore, it can be expected that the proposed site will improve the traffic scenario. In this regard, Traffic Section</p>

Internal Referral Body	Recommendation/ Comments
	raises no objection to the vehicles being generated from the proposed site, subject to RMS concurrence.
<b>Urban Designer</b>	The SNPP's recommendations have not been strictly achieved but the applicant has made a reasonable attempt. It is recommended that the SNPP should satisfy themselves that the above outcomes are acceptable in order to grant the increase in height of the development above the current control and similarly the four-storey podium has merit to be supported.

#### **EXTERNAL REFERRAL IN RESPONSE TO THE AMENDED INFORMATION**

External Referral Body	Comments
<b>NSW Roads and Maritime Services (RMS) - (SEPP Infrastructure. Traffic generating development)</b>	RMS has reviewed the application and has raised no objection to the proposed development subject to conditions. The conditions as recommended by RMS have been included in the attached draft conditions of consent.

#### **PUBLIC EXHIBITION AND ADDITIONAL MATTERS RAISED IN SUBMISSIONS**

Upon the Panel deferring the matter, it was agreed that the revised plans required a further public exhibition. The Applicant provided a set of notification plans and paid the additional notification/advertising fees.

##### Public Exhibition No. 2

The amended application was publicly exhibited in accordance with the Environmental Planning & Assessment Regulation 2000 and the WDCP 2011.

The application was notified to adjoining and surrounding land owners and occupiers and those who made submissions under Public Exhibition No. 1 for a period, which commenced on 18 July 2018 and ended on 12 August 2018.

Furthermore, an advertisement was placed in the Manly Daily on 21 July 2018 and a notice was placed upon the site.

As a result, two (2) additional submissions were received.

The additional issues raised within the submissions are as follows:

##### **Traffic and Parking Issues**

A submission has been received which claims that the Traffic and Parking Report submitted with the application is incorrect in analysing the traffic impact of the development on the surrounding road network.

The submission states that in reality, the impact of the development will worsen the already congested situation.

Comment:

The amended application is accompanied by a Supplementary Traffic Report prepared Transport & Urban Planning Pty Ltd. The report provides an assessment of the impact of the traffic increase by the development (as revised) based upon the traffic generation rates produced by the Roads and Maritime Services. The report finds that the development will improve the traffic generation when compared to the existing uses on site.

In this regard, the applicant's traffic engineer concludes that:

- *That the traffic impacts of the revised proposal will be of the same order and marginally lower than the impacts of the existing retail and commercial uses that occupy the site;*
- *That there are no valid traffic reasons to restrict the vehicle entrance in Delmar Parade to left in/left out restrictions; and*
- *That the revised proposal including its traffic generation and vehicle access will not have any adverse impacts on Pittwater Road and therefore the RMS concerns as outlined in their letter of 19 January 2019 have been fully addressed.*

Council's Traffic Engineer has reviewed the Supplementary Traffic Report and the submission received and has found that the development will not have an adverse impact on the surrounding road system or the operating capacities of nearby intersections. In this regard, the conclusions reached by the consulting traffic engineer are concurred with by Council's Traffic Engineer.

Furthermore, the RMS has raised no objection to the proposed development in relation to traffic impact. Therefore, this issue should not be given determining weight.

**Submission on behalf of 814-816 Pittwater Road, Dee Why (Avis Site)**

The submission received by Tomasy Planning on behalf of the owners of the Avis site, has raised the following issues in relation to the amended proposal:

- *Requested that a condition be imposed that is legally binding for the right-of-way to be on title benefitting the Avis site prior to the issue of a strata subdivision.*

Comment:

A condition has been included to ensure that a legal access is provided over the subject site from Delmer Parade to the Avis site at the appropriate time.

Accordingly, this issue has been addressed.

- *The submission states that amended proposal does not comply with all the reasons of deferral as stipulated by the SNPP, particularly the minimum setback for the front southern boundary and the concurrence from the RMS has not been obtained.*



Comment:

All of the reasons for deferral have been addressed in detail within this report. In summary, the only component of the revised proposal that does not strictly achieve compliance with the Panel's resolution relates to the stair core, which is considered satisfactory for the reasons mentioned above.

The approval of the RMS has been obtained.

## **CONCLUSION**

The revised plans and additional information have been considered against the resolution of the Panel and relevant matters for consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979.

This assessment has taken into consideration all referral responses received from relevant stakeholders and all community submissions received during the public exhibition period.

The information provided by the applicant to address the decision of the SNPP has been assessed and the outcomes are detailed in this report for the consideration of the Panel.

## **RECOMMENDATION**

- a) The reasons for deferral of the matter by the SNPP have been satisfactorily addressed by the Applicant and the outstanding approval of the RMS has been supplied.
- b) Draft conditions have been prepared which cover the remaining matters, should the Panel be minded to approve the application.
- c) The application is referred back to the SNPP, as the consent authority, for its determination.