

COUNCIL ASSESSMENT REPORT NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSNTH-172 – DA 22/0408
PROPOSAL	Construction of residential flat buildings comprising 78 residential apartments comprising of 3 x 4 storey buildings and 1 x 2 storey building with a common basement
ADDRESS	Lot 46 DP 1264557 – No 6 Grand Parade Casuarina
APPLICANT	Town Planning Alliance (NSW)
OWNER	Azure Project 35 Pty Ltd
DA LODGEMENT DATE	7 July 2022
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Clause 2, Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> : Development that has a capital investment value of more than \$30 million.
CIV	\$66,575,000.00 (excluding GST)
CLAUSE 4.6 REQUESTS	N/A
KEY SEPP/LEP	SEPP 65 (ADG) and Tweed LEP 2014
TOTAL & UNIQUE SUBMISSIONS & ISSUES	Seven (7) submissions (objections)
DOCUMENTS SUBMITTED FOR CONSIDERATION	<p><i>Additional information provided in respond to Record of Deferral</i></p> <ul style="list-style-type: none"> • Architectural plan set dated 15 December 2023 • Record of Deferral prepared by Town Planning Alliance dated 22 December 2022 • Civil Plans • Design Verification Statement • Environmental Noise Impact Assessment • Essential Energy Certified Design • Landscape Concept Plan • Natural Cross Ventilation Statement (Wind Engineering Commentary) dated 23 November 2023 • Additional Natural Ventilation Statement dated 20 February 2024 • Response to Record of Deferral • Stormwater Management Plan • Traffic Report • Visual Assessment Report • Waste Management Plan • Natural Ventilation Statement prepared by MEL Consultants and dated 20 February 2024 <p>Council Assessment Report (PPSNTH-172) prepared by Kim Johnston on behalf of Tweed Shire Council and dated 10 October 2023</p>
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	Not applicable

RECOMMENDATION	Refusal
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	13 March 2024
PLAN VERSION	Rev 2 dated 15 December 2023
PREPARED BY	Judith Evans
DATE OF REPORT	28 February 2024

EXECUTIVE SUMMARY

Development application (DA22/0408) seeks consent for the construction of a residential apartment development consisting of 78 apartments comprising of three 4 storey buildings and one 3 storey building with a common basement parking level of 174 car spaces. The proposal includes ancillary earthworks, relocation of electrical services, landscaping and services.

The development application was considered for determination at the Northern Regional Planning Panel (the Panel) meeting of 23 October 2023. The assessment report noted fundamental issues with the building design, deep soil zones (DSZ), natural ventilation, and apartment design concerns. Additionally, Essential Energy raised concerns with the development which remained unresolved at the time. Building separation, privacy impacts from the communal open space (COS) and streetscape issues were also noted as being of concern but were not as critical as the other issues.

Consequently, the assessment report recommended refusal based on the following key issues:

1. Building Design – Excessive bulk and mass
2. Deep Soil Zones (DSZ) - Insufficient to meet design criteria in the Apartment Design Guidelines (ADG)
3. Proximity to Electrical Infrastructure – Did not satisfy the electricity authority
4. Natural Ventilation - Insufficient number of units naturally cross ventilated
5. Apartment Design and Layout – a number of habitable rooms lacked windows
6. Building Separation – Achieved compliance only through the provision of blank large blank walls which was considered to be a poor design outcome
7. Privacy Impacts – Insufficient separation between communal opens spaces and units
8. Streetscape and front setback – Excess level changes at the streetscape
9. Bicycle Parking and Bulk Waste Storage – Insufficient provision

Following the meeting, the Panel agreed to defer the determination of the development application to allow for the provision and assessment of additional information and design refinement to address key issues identified in the assessment report. Specifically, the Record of Deferral issued by the NRPP requested that additional information be provided that:

- Amended the façade to reduce the bulk and scale of the buildings;
- Provided additional examples of the treatment of blank walls and fixed screening to meet building separation guidelines;

- Reviewed the provision of natural light and ventilation to all habitable areas that have no external wall, especially for the Type 3G apartments of Building D.
- Reviewed the provision of deep soil planting zones with regard to the requirement of a minimum 7% of the site be provided for DSZ (having a minimum dimension of 6m).

Amended plans and documentation were submitted to Council on 22 December 2023 to comply with the recommendation of the Panel. The amendments to the plans include alterations to design elements of the façade and blank walls, alterations to the basement to provide for additional deep soil zones, amended roof form for Building D, layout changes to some units, provision of bulk waste storage and additional bike storage. Additional information was also provided regarding cross ventilation and the use of the clerestory windows to provide ventilation in the penthouse units.

The applicant also provided additional information to address the key issues outlined in the original Council assessment report dated 10 October 2023. The additional information adequately addressed the matters in the Record of Deferral relating to blank walls, insufficient DSZ, and natural light and ventilation. The changes to design elements of the façade are a positive improvement and aid in reducing the bulk and scale of the development in comparison to the previous plans. However, it is considered that the bulk and mass of the buildings is still exacerbated by the design choices of the three storey columns and concrete render as the principal material. Also, the key issues relating to building separation, privacy, and streetscape remain unresolved.

On balance, while the amended plans are an improvement on those previously tendered to the panel, it is considered that the unresolved Key Issues will result in a poor amenity outcome for the future residents. Additionally, the failure to make adequate amendments to design elements that exacerbate the bulk and scale of the buildings, results in a development that is inconsistent with the current and desired character of the area and will be a poor streetscape outcome.

As such, the application is recommended for refusal subject to the reasons at **Attachment A**. Many of the reasons for refusal remain unaltered from the reasons provided in the original assessment report. This report is to be read in conjunction with the original Council Assessment Report dated 10 October 2023.

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1. BACKGROUND

1.1 Original Application

Development Application DA22/0408 seeks consent for the construction of a residential apartment development consisting of 78 apartments comprising of three 4 storey buildings and one 3 storey building with a common basement parking level of 174 car spaces. The proposal includes ancillary earthworks, relocation of electrical services, landscaping and services.

The DA was originally reported to the Northern Regional Planning Panel (the Panel) on the 23 October 2023. The assessment report for the proposal noted the proposal was inconsistent with various provisions of the planning controls including the following:

- *“Design quality principles of SEPP 65 including Principle 1 (Context and neighbourhood character), Principle 2 (built form and scale), Principle 4 (sustainability), Principle 5 (landscape), Principle 6 (amenity) and Principle 9 (aesthetics);*
- *Provisions of the Apartment Design Guide (‘ADG’) including*
 - **Part 3E: Deep Soil Zones (DSZ)** - *The proposal involves a DSZ comprising 328m² with a minimum dimension of 6m, which represents 4.46% of the site, a shortfall of 186.78m² of DSZ on the site in accordance with the requirements of the design criteria and a 775.1m² shortfall in the Design Guidance (sites >1,500sqm).*
 - **Part 3F: Visual Privacy** – *The required building separation is only achieved through blank walls and external fixed screening which compromises access to light, air and outlook from habitable rooms and private open space, reducing the amenity of the apartments. The communal open space and access paths are not adequately separated from private open space and habitable room windows.*
 - **Part 3G: Pedestrian access and entries** – *The access and entries to Building D are located above street level, resulting in stairs and retaining walls to the street.*
 - **Part 4B: Natural Ventilation** – *The proposal does not satisfy the design criteria in that only 51.8% of the proposed apartments are naturally cross ventilated, when a minimum is 60% is required.*
 - **Part 4D: Apartment Layout** - *The proposal involves various habitable rooms without windows, apartments with a window to a void area and apartments with room depths exceeding the maximum room depth of 8 metres.*
 - **Part 4F: Common Circulation Space** – *The proposal involves a number of living and bedroom windows which open directly onto common circulation spaces, including communal open spaces areas and void/circulation areas.*
 - **Part 4H: Acoustic Privacy** – *There are a number of proposed apartments which are proposed directly adjoining the communal open space and bedrooms directly adjoining the lift core.*
 - **Part 4M: Facades** - *The proposed facades are unsatisfactory as the faux heritage stylistic appearance accentuates the bulk and scale and is inconsistent with existing development. The facades also lack a defined base, middle and top and changes in materials to modify the prominence of elements.*

- **Part 4N: Roof Design** - *The proposed roof design adds significant bulk and scale to the development and is inconsistent with the prevailing character of the area which generally comprises sloping, lightweight metal roofs, particularly the roof of Building D which is of an excessive scale and encroaches into the front setback.*
- *Various controls of the TDCP 2008 in relation to building design, deep soil and impermeable area, streetscape and a lack of a bulk waste area and bicycle parking.”*

Consequently, the application was recommended for refusal with the following reasons provided:

1. *The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal does not comply with the deep soil zone, natural ventilation and apartment layout design criteria or the objectives of Parts 3E, 4B and 4D respectively of the Apartment Design Guide. Pursuant to Clause 30(2)(b) of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development, consent cannot be granted as the proposal does not demonstrate that adequate regard has been given to the objectives specified in the Apartment Design Guide for deep soil zone, natural ventilation and apartment layout (windows to habitable rooms and room depths) design criteria.*
2. *The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the design quality of the proposal when evaluated in accordance with the design quality principles is unacceptable, contrary to Clause 28(2)(b) of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development ('SEPP 65') and adequate regard has not been demonstrated to the design quality principles contrary to Clause 30(2)(a) of SEPP 65. In particular, the proposal is inconsistent with the following design quality principles:*
 - (a) *Principle 1: Context and neighbourhood character as the proposed development does not respond to its context given the inconsistencies with the building design in relation to the prevailing character of the area and therefore does not respond to the built features of the area. The proposed facades of the building are unsatisfactory and exacerbate the bulk and scale of the proposed building forms.*
 - (b) *Principle 2: Built form and scale as the proposed building form is inappropriate for the site as the faux heritage aesthetic is out of character with the area and the heritage detailing components adds bulk and scale to the development. There is also a lack of variety in the materials, with the rendered concrete a dominating presence on the site. The proposed built form does not contribute to the character of the streetscape as the design is incompatible with existing development in the area and the building bulk and massing are not acceptable in the context of the site.*
 - (c) *Principle 4: Sustainability as the proposal does not provide adequate natural cross ventilation to a large number of proposed apartments, which increases the reliance on heating and cooling systems. There is also a lack of skylights provided in the roof and there is also no sustainability measures beyond those required under BASIX for such a large development, including solar panels.*

- (d) *Principle 5: Landscaping as the proposal provides an inadequate amount of deep soil zone and the proposed landscape design is unsatisfactory due to an over-reliance on palm trees and podium planting, with a lack of depth in the layers to the landscaping.*
- (e) *Principle 6: Amenity as numerous apartments do not achieve sufficient amenity arising from some of the units including internal rooms without windows, units with narrow windows, numerous apartments lacking natural cross ventilation, privacy concerns from the communal open space and associated acoustic concerns. Numerous apartments also have compromised amenity arising from the measures to satisfy the required building separation within the site, including the provision of blank walls and external fixed screening.*
- (f) *Principle 9: Aesthetics in that the architectural expression of the proposed development is unsatisfactory as the proposed architectural faux heritage stylistic appearance and components accentuates the buildings overall bulk and scale and is incompatible with the existing character of the area. The proposed built form also does not have good proportions or a balanced composition of elements and has a lack of variety of materials and colours.*

Consent must not be granted as the proposal does not demonstrate that adequate regard has been given to the design quality principles.

- 3. *The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it has not adequately addressed the potential safety risks arising from the proposed development as Essential Energy consider that safe distances will not be maintained by the development, contrary to Section 2.48(2)(b) of State Environmental Planning Policy (Transport and Infrastructure) 2021. Therefore, the proposed development is unsatisfactory.*
- 4. *The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as there are numerous inconsistencies with the Apartment Design Guide pursuant to Clause 28(2)(c) of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development ('SEPP 65') which result in an unsatisfactory impact to amenity, adjoining properties and the streetscape, including the following:*
 - (a) *Part 3E: Deep Soil Zones in that the proposal involves a deep soil zone comprising 328m² with a minimum dimension of 6m, which represents 4.46% of the site, a shortfall of 186.78m² in accordance with the design criteria and a 775.1m² shortfall in relation to the Design Guidance of 15% of the site area.*
 - (b) *Part 3F: Visual Privacy in that the proposal is contrary to the objectives as the required building separation has only been achieved through the provision of blank walls and external fixed screening which reduces the amenity of the proposed apartments. Some apartments are also overlooked from the proposed communal areas resulting in privacy concerns.*
 - (c) *Part 3G: Pedestrian access and entries in that Building D is located 1.5 metres above the street level, which results in a large number of stairs and retaining walls to the street. This does not provide for the design of ground floors to minimise level changes along pathways and entries or the provision of steps*

which are integrated into the building design and therefore there is a poor relationship between the entry areas and the street.

- (d) Part 4B: Natural Ventilation in that proposal does not satisfy the design criteria of Part 4B-3 as only 51.8% of the proposed apartments are naturally cross ventilated. The proposal is also inconsistent with the design guidance of Part 4B-1 in that depths of some of the habitable rooms do not support natural ventilation, there are some windows which do not satisfy the area of unobstructed openings and there are some habitable rooms without a window to an external wall (internal rooms). There are also some apartments which rely on light wells as the primary air source for habitable rooms and there are a number of apartments which rely on fixed external aluminium screens to protect visual privacy due to the inadequate building separation which will adversely impact on natural ventilation.*
- (e) Part 4D: Apartment size and layout in that internal habitable rooms without windows are proposed and some apartments do not achieve the design guidance for distance to windows (room depths). Some apartments also rely on small, narrow windows to achieve compliance with the requirement for living areas and bedrooms to be located on the external face of the building, while other units have windows to void areas. The proposal is contrary to Objectives 4D-1 and 4D-2, which require room layouts which are functional, well organised and provide a high standard of amenity and that the environmental performance of the apartments is maximised.*
- (f) Part 4F: Common circulation space in that the proposal is inconsistent with the design guidance of Part 4F-1 as there are a number of living and bedroom windows which open directly onto common circulation spaces, including communal open spaces areas and void/circulation areas.*
- (g) Part 4H: Acoustic privacy in that there are several apartments located in close proximity to noise sources such as circulation and communal areas and bedrooms which directly adjoins the lift core.*
- (h) Part 4M: Facades in that the proposed building facades are unsatisfactory given the faux heritage stylistic appearance which accentuates the buildings overall bulk and scale and is inconsistent with the contemporary Australian coastal aesthetic which is emerging in the area. The proposal is also contrary to the design guidance as the design solutions for the front building facades such as a composition of varied building elements, a defined base, middle and top of buildings and changes in texture, material and colour to modify the prominence of elements has not been provided. The bulk and massing of the proposed buildings are exacerbated by the three-storey high (fluted) arches and heavy reliance on rendered painted concrete blockwork.*
- (i) Part 4N: Roof Design in that the proposed roof design adds significant bulk and scale to the development and is inconsistent with the prevailing character of the area which generally comprises sloping, lightweight metal roofs. The proposed roof for Building D is also out of character with the area and is excessive in its scale and encroaches into the front setback to Casuarina Way, adding unnecessary bulk and height to the development. The proposed roof treatments are not integrated into the building design and do not positively respond to the street.*

5. *The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with Section B5.2.2(2)(a) of the Tweed Development Control Plan 2008 in that the proposed front setback of the roof of Building D and the front walls adjoining the stairs encroach into the 6 metres front setback and result in an adverse impact on the streetscape. The proposed encroachment of the roofline of Building D which overhangs the lower levels is bulky and visually dominating in the streetscape and the proposed 1.8 metre high masonry walls perpendicular to the street boundary adjoining the individual entries to the proposed apartments within Building D prevent landscaping opportunities for larger trees and reduce the open vistas along the street.*

6. *The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with the Tweed Development Control Plan 2008 in that:*
 - (a) *A dedicated room or caged area for the temporary storage of bulky waste items pursuant to Section A15, Part D Clause 2.4(v) has not been provided;*
 - (b) *Adequate resident bicycle spaces have not been provided in accordance with Section A2, Clause A2.3 (Table 2);*
 - (c) *The proposed impervious site coverage exceeds the maximum of 60% of the site area by 1,811.85m² and is inconsistent with Section A1, Part C (Design Control 2: Site Configuration - Impermeable Site Area (g)) and the objectives of the control, which includes to allow for stormwater infiltration;*
 - (d) *Deep soil zones in accordance with Section A1, Part C (Design Control 2: Site Configuration – deep soil areas (a), (b) and (c)) have not been provided;*
 - (e) *The building lengths exceed the maximum of 35 metres pursuant to Section A1, Part C (Chapter 1: building Types) which is exacerbated by the lack of adequate building separation; and*
 - (f) *The location of the proposed communal open space adjoining numerous areas of private open space for the proposed apartments is contrary to Design Control 2 (site configuration – communal open space) of Section A1 which requires that communal open space is not to be located such that privacy and outlook to dwellings are reduced.*

7. *The proposed development is considered unacceptable pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 as the proposal is not in the public interest as it is inconsistent with numerous planning controls in relation to the adverse impacts on the streetscape and will negatively affect the character and nature of the neighbourhood.*

This report is to be read in conjunction with the Assessment Report for PPSNTH-172 – DA22/0408 prepared by Kim Johnston on behalf of Tweed Shire Council and dated 10 October 2023.

1.2 Record of Deferral

At the meeting of 23 October 2023, the Panel agreed to defer the determination of the development application to allow for the provision and assessment of additional information and design refinement to address key issues identified in the assessment report. The Panel noted that the key issues warranting further attention and information were façade design, treatment of blank walls, deep soil zones, and natural light and ventilation to all habitable areas.

The Record of Deferral includes the following directions to the applicant:

1. *The Applicant shall provide the following information and upload all documentation to the Planning Portal by 31 December 2023.*
 - a. *Amended façade design to reduce the impact of bulk and scale of the proposed buildings to that more complementary to the adjacent PAMA Development including balance of base, middle and top of building.*
 - b. *Further example renders of proposed detailing and treatment of blank walls and external fixed screening where these have been introduced to achieve building separation requirements of the ADG, to provide visual interest and address amenity.*
 - c. *Review of provision of natural light and ventilation to all habitable areas that have no openings to external walls in accordance with Part 4A 1-2 and Part 4B 1-3 of the ADG, especially in rooms such as the 03G unit media areas on the upper floor in Building D, where external lighting has to be borrowed from other rooms separated by doors.*
 - d. *Further review of proposed deep soil planting zones having regard to Objective 3E-1 of the ADG for sites over 1,500m², namely minimum of 6m dimension across 7% of the site and clear of overhang that might prevent landscape opportunities for large trees, such as Building D roof line.*
2. *Noting the application lodged on 07 July 2022 is likely to be amended, a formal written request to amend the application is required to be uploaded to Planning Portal by the Applicant by 31 December 2023 outlining:*
 - a. *Particulars sufficient to indicate the nature of the change of the development, as required under section 37 of the Environmental Planning and Assessment Regulation 2021*
 - b. *updated technical reports relied on in the amended application.*

The Record of Deferral also noted that a number of identified issues may be addressed by conditions. These included visual and acoustic privacy, Essential Energy requirements, bicycle parking, bulky waste management, EV charging and street planting.

This report is an assessment of the amended material provided by the applicant in response to the Record of Deferral.

2. AMENDED PROPOSAL

This section provides a description of the changes to the development as detailed in the amended architectural plan set. The table over summarises the changes to the development.

	Previous plans Dated 14/08/2023	Current plan Dated 15/12/2023
Yield	79 apartments	78 apartments
Gross floor area	10,851.1m ²	10,918.6m ²
FSR	1.48:1	1.48:1
Apartment Mix	2 beds – 55 (69.6%) 3 beds – 20 (25.3%) 4 beds – 4 (5.1%)	2 beds – 54 (69.2%) 3 beds – 20 (25.6%) 4 beds – 4 (5.1%)
Communal open space	<ul style="list-style-type: none"> • 1,947m² (26.2%) external comprising pool, seating areas, bocce lawn BBQ area, surfboard store and outdoor showers • 210m² internal areas comprising lounge areas, fitness room with sauna, spa and amenities. 	<ul style="list-style-type: none"> • 1,947m² (26.2%) no change to area however pathways have been removed in favour of additional lawn area and landscaping. • 230m² internal area comprising lounge areas, fitness room with sauna, spa and amenities.
Deep soil zones (minimum dimension 6m)	4.46% (328m ²)	7.3% (537m ²)
Impermeable site area	84.63%	82.04%
Parking spaces	175	174
Bicycle spaces	44	88

2.1 General layout changes

- The primary pedestrian entrance has been moved from Habitat Drive to Grand Parade and includes a portico leading into a lobby that in turn provides a connection to the communal open space.
- There is a reduction in the number of apartments from 79 to 78 apartments to accommodate the new lobby on the Grand Parade entrance.
- Minor increase in the area of the gym/fitness room as a result of the removal of one of the Habitat Drive pedestrian entrances.
- The pedestrian entry from Casuarina Way has been removed along with the pedestrian path in front of the south facing ground floor apartment of Building A (2E, 2F-1 and 2F-2).
- Increase in landscape area resulting from the removal of the Casuarina Way pedestrian entrance.
- Planters, approximately 250mm wide, are provided on the balconies of Level 2 apartment throughout the development.
- Traditional sun shade awnings and window shutters have been replaced in favour of more contemporary style shutters.
- Reduction to pitch of roof of Building D and change in materials from tile to metal.
- Altered layout of the following apartments:
 - Type 2H – Levels 2 and 3 Building B
 - Level 2 of apartments in Building D
 - Type 3C - Levels 1 to 4 Building C
- Minor reduction of void in roof of Building C to accommodate amended entrance to Type 3C apartments.

- The basement parking has been reconfigured to cater for the additional deep soil zones and resulting in a reduction in resident parking by one space (refer to Figure 6).
- Bicycle parking has been increased from 44 to 88 spaces.
- A bulky waste storage area is provided in the basement level near the waste storage area for Building C.
- Two EV charging parking spaces included in the visitor parking area.

2.2 Façade Buildings A, B, and C

- The columns supporting the roof on the fourth level of Buildings A, B, and C have been removed in favour of an open cantilevered roof over the upper level balconies.
- Panellised windows on the fourth level have been replaced with more contemporary style windows matching the levels below.
- Sliding screens have been provided in front of glass balustrades to the fourth level.
- A 250mm wide (approximate) planter has been added to the balconies of the second and fourth level in front of the balustrades to Buildings A, B, and C.
- Façade treatments have been removed to create a simpler, less embellished arch design.
- The Level 2 and 3 balustrades of Buildings A, B and C have been changed from a lattice style to a white contemporary white metal paling style (refer to Materials Palette in plans).
- A portico and entry foyer has been added to the street elevation of Building A facing Grand Parade.



Figure 1 Grand Parade street elevation of Building A - Previous plans (top) and current plans (bottom)

2.3 Façade Building D

- A reduction in the pitch of the roof D and change from dark tiles to a light coloured Colourbond roofing material (refer to Fig. 2 below).

- A planter has been added to the second level with a white metal balustrade behind to match Buildings A, B and C.
- Panellised windows on the upper level have been replaced with more contemporary style windows matching the levels below.
- Columns have been removed from the entry level on the street elevation. An alternate style external screen is provided to the entry window.
- The shutters to the window to the butler's pantry (entry level) have been replaced for a smaller window and fixed external screening that extends to the height of the arch to the upper level.
- It is noted that balustrading has not been shown for the street level entry. It is likely that balustrading will need to be provided to this level.



Figure 2 Building D streetscape Previous plans (top) and current plans (bottom)

2.4 Return walls Buildings B

- The side elevations of Building B (north and south elevations) now include an additional small window to a non habitable room (laundry) and external fixed white metal screens that extend from the second level to the top of the arches at the third level.
- Additional vertical windows with screens are provided to two bedrooms on the fourth level (refer to Fig. 3).
- Vertical faux columns have been removed from the fourth level.



Figure 3 North elevation of Building B - Previous plans (top) and current plans (bottom)

2.5 Return walls Building D

- The previous north and south blank elevations of the Building D now include additional vertical windows to bedrooms to the second level with white metal shutters as shown in Figure 4 below.

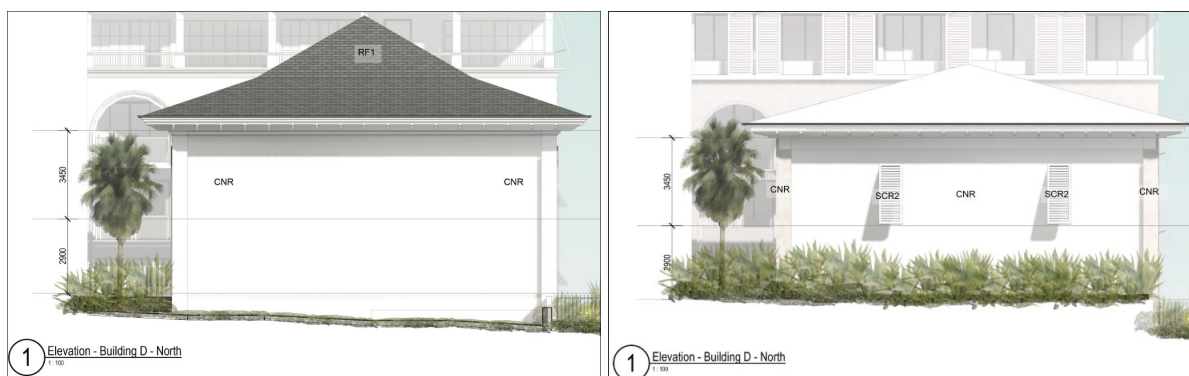


Figure 4 North elevation of Building D - Previous plans (left) and current plans (right)

2.6 Return walls Building A

- The interfacing wall of Building A to Building B (southern elevation of Building A) has been altered to remove the arched columns and screens over the windows in favour of individual shutters to the windows. There are relatively minor changes to the windows of the units at this elevation but no changes to the internal configuration of the units (refer to Fig. 5).

2.7 Return walls of Building C

- Similar to the above changes, the interfacing wall of Building C to Building B (southern elevation of building C) has been altered to remove the arched columns and screens over the windows in favour of individual fixed screens to the windows. There are relatively minor changes to the windows of the units at this elevation but no changes to the internal configuration of the units.



Figure 5 Southern elevation of Building A where it interfaces with Building B – Previous plans (left) and current plans (right). The design is mirrored for the northern elevation of Building C where it interfaces with Building B

2.8 Building D apartment layout

- The upper level of the apartments in Building D (Type 03G) have been reconfigured so that the secondary living area on this level has access to natural light and ventilation. The secondary living area is oriented to the north and the internal pool area. There are no changes to the number of bedrooms or bathrooms.

2.9 Other amendments – Ventilation

- A ventilation statement has been provided to support the use of the clerestory windows for light and ventilation of the fourth floor units of Buildings A and C. The plans have been amended to provide details regarding minimum height (450mm) and width (1100mm) of the clearstory windows which provides a minimum area of 0.495m². The plans have not otherwise been amended in this regard and the roof plans remain the same as the previously submitted plans dated 14 August 2023.
- Skylights to penthouse apartments on Level 4 of Buildings A, B and C remain the same as the previously submitted plans dated 14 August 2023.
- Glazing to apartments in Buildings A, B and C has been amended to full height glazing.

2.10 Deep soil zones

- The area of deep soil zones has increased by removing some areas of the basement parking level to provide additional areas for deep planting. The change is illustrated in Figure 6 and the table below (as reported in the plans):

Minimum Dimension	Area m ²	Percentage (%) of site area (7,354m ²)
Less than 3m	187	2.5%
3m – 6m	468	6.4%
Greater than 6m	537	7.3%
Total	1192	16.2%

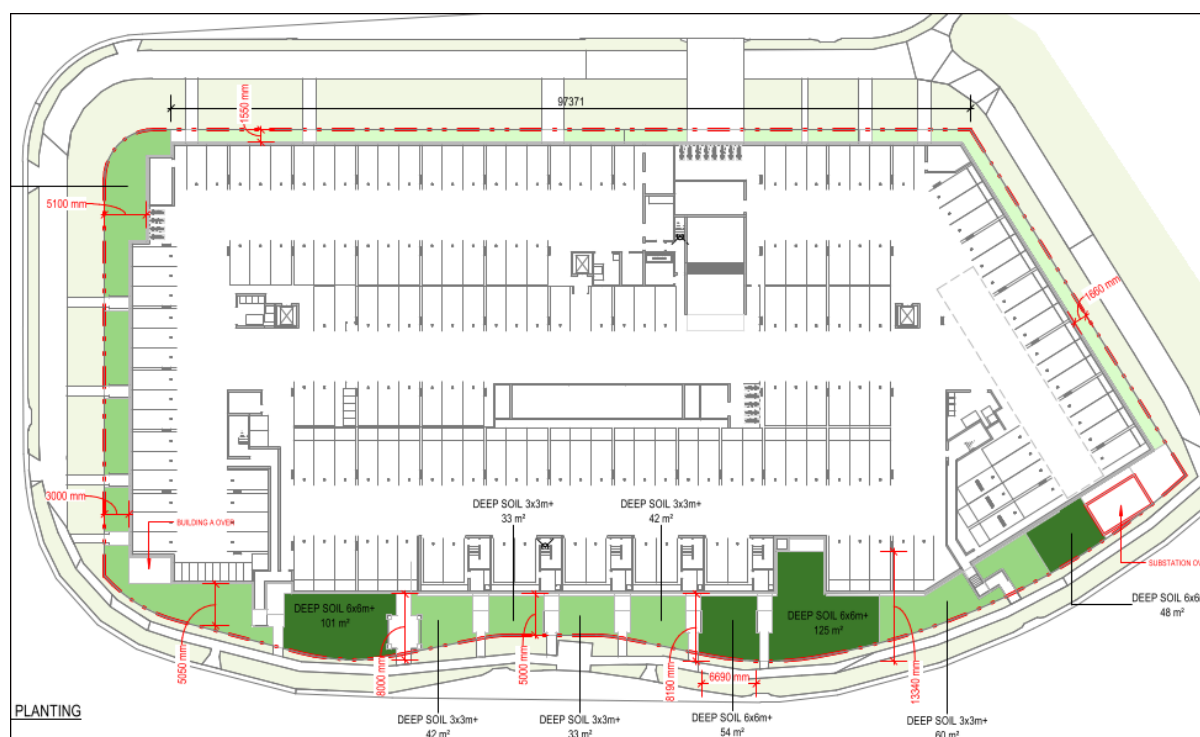




Figure 6 Deep soil zone provision - Previous plans (top) and current plans (bottom)

2.11 Other amendments – Layout – Visual and acoustic privacy

- Removal of seating area and footpath in front of the south facing ground floor units of Building A.
- Additional communal open space located approximately 2.4m from the balconies of apartments 2F-1 and 2F-2 on the ground floor of Building A. The landscape plans indicate that this area is to be landscaped with palms, shrubs and ground covers.

3. COMPARITIVE ASSESSMENT

This section provides a comparative assessment of the changes to the plans and includes discussion with respect of the matters raised in the Record of Deferral issued by the Panel.

3.1 Façade

The previous assessment report noted the following issues with the façade of the proposal:

- The repeating arch design contributed to the bulk and scale of the development;
- The facades lacked a defined bottom, middle and top to modify the bulk of the proposal;
- The facades include faux heritage elements which are not consistent with the coastal character of the area;
- Steep hipped roof and dark materials of Building D is bulky and visually dominating;
- The external building materials lacked changes in materials, colour and texture;
- All of the above contributed to a design that was not consistent with the prevailing or desired character of the area.

The three storey arch forms have remained, with the applicant indicating they are a key part of the buildings architectural vision and desired built form character. Some design measures have been made to reduce the visual dominance of these arches.

A key change has been the removal of the columns to the top level of Buildings A, B and C and the inclusion of more contemporary style sliding screens. The discontinuation of the vertical elements, being the columns above the arch supports, provides a more defined roof edge and emphasizes the recessed fourth level. This element and the provision of planters to the balcony edges of top level, provide a more distinctive building top.

Additional planters to the external edge of Level 2 balconies, more contemporary balustrades to all levels and removal of faux heritage detailing including fluting, corbelling, and panelled windows have resulted in a more contemporary and cohesive architectural design.

The reduction in the pitch of the roof of Building D, the lighter roof colour and the more contemporary materials is more in keeping with the character of the area.

The addition of a pedestrian entry on the Grand Parade elevation contributes to the street presentation and connectivity of the development with the streetscape of Grand Parade.

Generally, the changes to the façade are a positive contribution to the design.

Assessment - Record of Deferral

The Record of Deferral issued by the NRPP requested amended plans to as per the following:

- a. Amended façade design to reduce the impact of bulk and scale of the proposed buildings to that more complementary to the adjacent PAMA Development including balance of base, middle and top of building.*

As discussed above, positive changes have been made to the façade of the development to define the top, middle and base of the building. However, a comparison with the PAMA development at No. 5 Grand Parade demonstrates that the three storey arches are still a dominating visual feature of the development that contribute to the bulk and scale of the buildings.

Whilst the PAMA design also uses a repeating arch design in its façade, these arches are of a light weight visually permeable material. The PAMA arches only extend to the second level with a wider arch span. The curved detailing of the roof and upper level balcony of PAMA aid in providing vertical differentiation to the top and middle levels of the building. These features, together with a variety of materials and colours, and a more balanced solid to void ratio results in a design in which the arches serve to break up the bulk and scale of the building.

By contrast, the three-storey high, narrower (relative to PAMA), concrete rendered arches is a dominating feature of the façade. The limited material palette and reliance on white concrete render further emphasize this dominance.

The applicant has stated that the three storey arches are a key part of the building's architectural vision and desired built form character. It is considered that these design choices contributes unnecessarily to the overall bulk and mass of the buildings and is not compatible with the coastal character of the locality.



Figure 7 PAMA at No. 5 Grand Parade (Grand Parade elevation - top) and proposed development at No. 6 Grand Parade (Grand Parade elevation - bottom)

3.2 Treatment of blank walls

The previous development plans relied on blank walls to the north and south elevations of Buildings B and D, where they interfaced with Buildings A and D, to achieve compliance with building separation requirements Section 3F-1 of the Apartment Design Guide (ADG). Whilst Section 3F-1 specifies separations distances for habitable and non-habitable windows and openings, no separation distance is required for blank walls.



Figure 8 Previous blank walls on the north and south elevations of Buildings B and D (shown in purple)

The amended plans now show window openings and screen detailing to the north and south elevations of Building B as previously detailed in this report. The openings on Levels 2 & 3 of

stated that operable rooftop clerestory windows are a viable design approach for the roof non-crossflow fourth level apartments provided that some general principles are observed being:

- *The two operable vertical sides at the rooftop rectangular clerestory windows are on perpendicular adjacent surfaces (DA 105 drawing) so that the owner can choose the more negative pressure side (for example).*
- *These two operable clerestory windows should be able to be opened independently. This will allow the owner to optimize internal flows and assist the process for the rarer reverse case of westerly winds.*
- *The size of the operable clerestory windows should be maximized within the other architectural design constraints. The flow area of the entry and exit building envelope penetrations (balcony doors and clerestory windows) should not be significantly mismatched (as suggested in SEPP65) - for example, an open, or partially open, balcony door (an operational owner choice) and the clerestory windows would all have openings of at least two square metres. In the case of the clerestory windows the operable louvres on the two perpendicular sides should both comply with this approximate two-square-metres suggestion, to allow for a wind azimuth operability choice by the owner.*

The plans have been amended to provide further details to demonstrate compliance with the recommendations above.

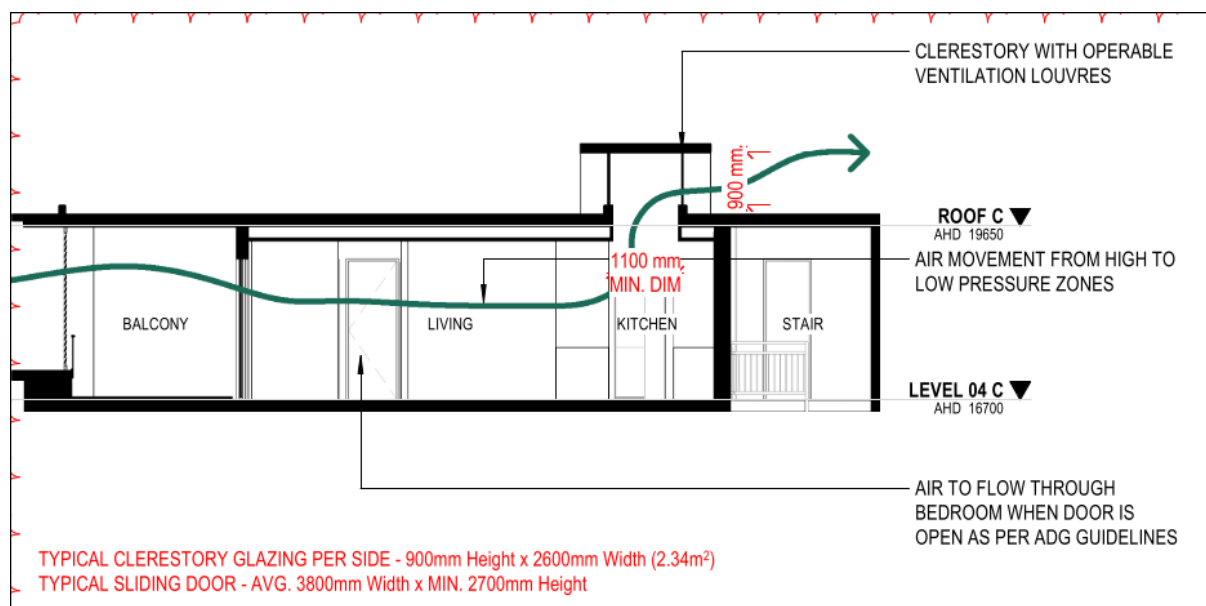


Figure 10 Details of clerestory window openings Drawing No. DA 323 Revision 3 dated 19 February 2024

Further amendments to the plans to increase natural light and ventilation to the apartments includes full height glazing to the apartments in Buildings A, B and D

Assessment - Record of Deferral

- Review of provision of natural light and ventilation to all habitable areas that have no openings to external walls in accordance with Part 4A 1-2 and Part 4B 1-3 of the ADG, especially in rooms such as the 03G unit media areas on the upper floor in Building D, where external lighting has to be borrowed from other rooms separated by doors.*

Part 4A-1 Design Criteria specifies that at least 70% of the apartments receive a minimum of three hours direct sunlight between 9am and 9m at mid-winter. The previous Council

assessment report determined that the proposal was compliant with this design criteria in that 70.8% (56 of 79) apartments achieve the minimum 3 hours of solar access. There have been no alterations to the plans to alter this assessment.

Part 4B 1-3 specify controls relating to natural ventilation of apartments. The Design Criteria at 4B-3 requires that at least 60% of apartments are naturally cross ventilated. The additional supporting information provided confirms that the proposed clerestory windows for nine (9) of the fourth level apartments satisfy the requirements for cross ventilation. As such the proposal complies with the Design Criteria in that 54% (50 of 78) apartments are naturally cross ventilated. Any consent issued will require that the design and construction of the clerestory windows complies with the recommendations of the wind engineering statement.

Other than the amendments noted above, the addition of windows to non-habitable rooms (laundry) in Building B and secondary narrow vertical windows to some habitable rooms in Buildings B and D, no other significant changes to apartment layouts with regard to natural cross ventilation and solar access. The amendments have satisfied the request in the Record of Deferral.

3.4 Deep soil zones and landscaping

Additional deep soil zones (DSZ) with a 6m minimum dimension have been added by removing parts of the basement to allow for six (6) discrete deeper planting areas. As shown on the landscape plan below, the landscaping treatment for these areas include feature palms, screening planting and lawn areas. These deep planting areas are supplemented by additional areas for deep planting that do not meet the minimum 6m dimension requirement, at the perimeter of the site.



Figure 11 Deep soil zones with a minimum dimension of 6m as adapted from the Landscape Plan - Level 01 DA-L-9001 prepared by Laud Ink and dated 15 December 2023.

Assessment - Record of Deferral

The Record of Deferral specified that:

- d. Further review of proposed deep soil planting zones having regard to Objective 3E-1 of the ADG for sites over 1,500m², namely minimum of 6m dimension across 7% of the site and clear of overhang that might prevent landscape opportunities for large trees, such as Building D roof line.

The proposal now complies with the Design Criteria in Part 3E for DSZ of the Apartment Design Guide which requires that a minimum of 7% of the site, with a minimum dimension of 6m, should be provided for deep planting. The above requirement specifies that these areas are clear of overhangs such the roof line of Building D.

Building D includes eaves approximately 1.2m deep on all sides which are approximately 7.6m above natural ground level. This reduces the area of DSZ available for planting of large trees (over 7.6m in height) by approximately 200m² noting that the areas previously counted between Buildings A & D and Building D & C no longer meet the minimum 6m width due to the eaves of Building D. Area of DSZ clear of overhangs therefore is reduced to approximately 336m² or 4.6% of site area.

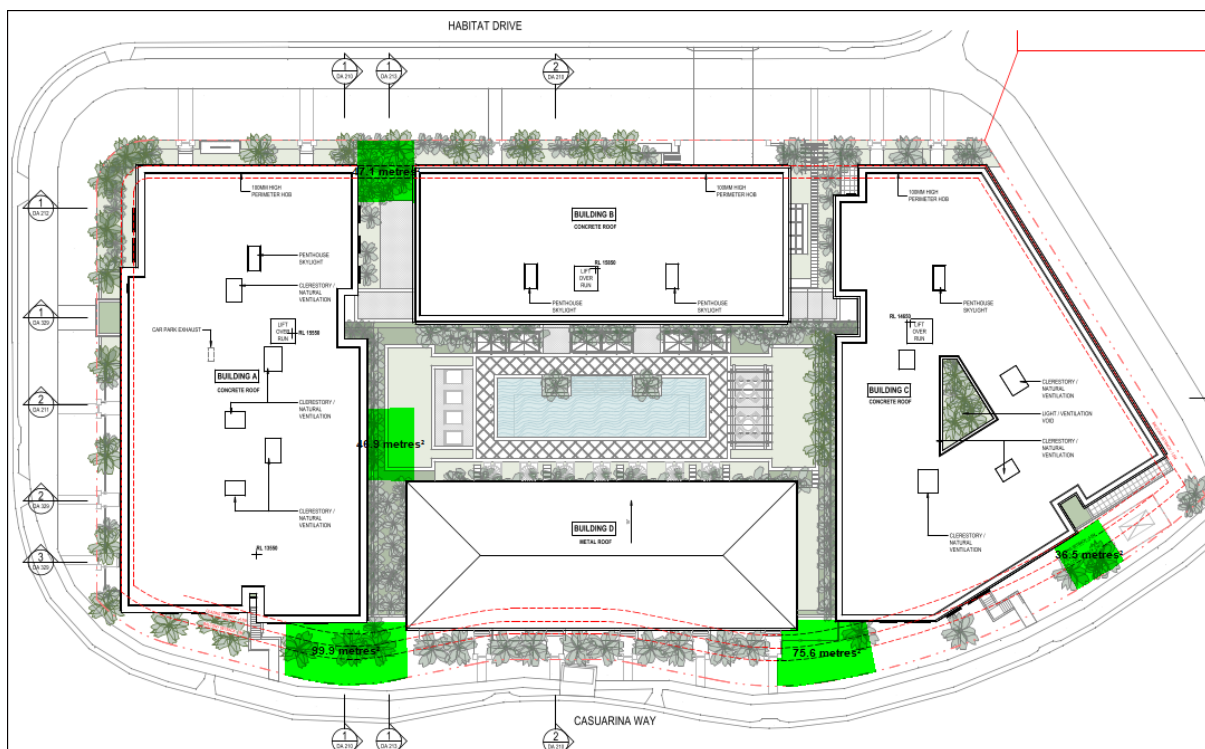


Figure 12 Approximate area of DSZ with a minimum dimension of 6m and clear of overhangs

However, as shown on by the Landscape Plan – Sections -Sheet 3 DA-L-9052 (Revision 8) prepared by Laud Ink and dated 15 December 2023, trees with a height at maturity of greater than 7.6m (the height of the eaves Building D) would not be planted within 1.5m of the building footprint.

Accordingly, the amended plans are considered satisfactory with regard to the provision of DSZ and compliance with Design Criteria in Part 3E.

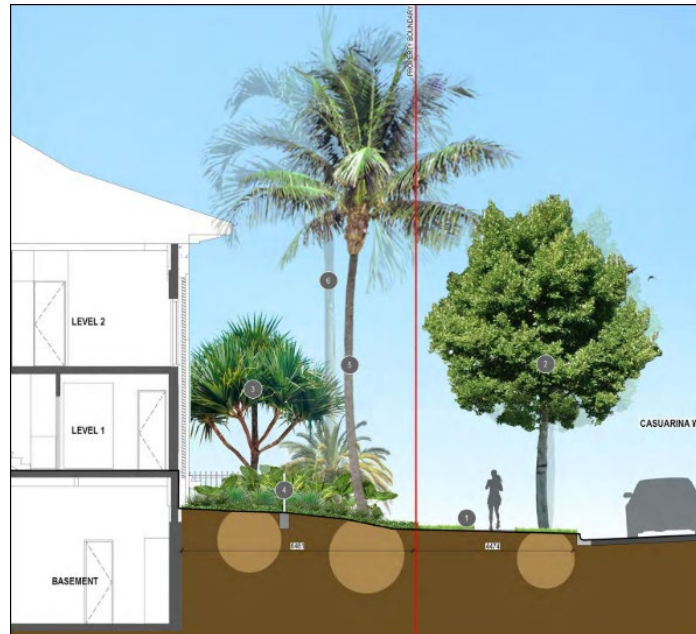


Figure 13 Excerpt from Landscape Plan – Sections -Sheet 3 DA-L-9052 (Revision 8) prepared by Laud Ink and dated 15 December 2023.

3.5 Summary of Assessment of Record of Deferral response

The applicant has submitted sufficient information to satisfy the requests made by the Record of Deferral relating to the treatment of blank walls, natural light and ventilation, and deep soil zones.

However, it is not considered that the amendments to the plan have fully satisfied the requirements for façade amendments. Contrary to the applicant's submissions, the proposal is not considered to be complementary to the PAMA development.

4. KEY ISSUES

The original assessment report for the development prepared by Kim Johnston for Tweed Shire Council and dated 10 October 2023 noted various Key Issues with the proposal which rendered the proposal unsatisfactory. A brief review of the amended material is provided below with respect to the previously identified Key Issues. This section is to be read in conjunction with the original assessment report.

4.1 Building Design

The matters relating to building design have been discussed in an earlier section of this report. The faux heritage styling including the panelised windows, fluted arches, and excess columns have been removed in favour of more contemporary, pared down styling elements. However, the three storey arches and reliance on concrete rendering as the primary material remain as a significant design feature. This remains in contrast to a prevailing character in the area where building use a mix of materials including light weight elements such as cladding and weatherboard.

There remains concern that the repeating three storey arch design contributes to the massing and scale of the development. The high reliance on concrete render further contributes to the bulk and mass of the buildings.

4.2 Deep Soil Zones and Landscaping

The plans have been amended to provide additional deep soil zones that achieve the 6m minimum dimension criteria. The proposal now meets Section 3E-1 Design Criteria which requires 7% of the site area be provided for deep soil zones.

Some concerns remain regarding the fragmentation of the DSZ in that they are not provided in one contiguous area, but six (6) disconnected areas. The DSZs are located immediately adjacent to the buildings footprint which also raises concerns regarding the practicality of utilizing these DSZ for large trees. Trees at maturity will likely encroach into the airspace in front of upper level balconies and will obscure outlook (refer to Section H-H and Landscape Plan Drawing No. DA-L-9053 Revision 8 dated 15 December 2023). It is also noted that some areas will be further fragmented by proposed fencing as shown on the Landscape Fencing Plan DA-L-9010.

Irrespective of the concerns raised regarding the fragmentation of the DSZ (leading to concerns with practicality for the planting of large trees) the proposal has demonstrated that it meets the Design Criteria of the ADG and as such is considered to be acceptable.

4.3 Proximity to Electrical Infrastructure

The original assessment report noted that Essential Energy raised concerns that the proposal did not comply with the required safety requirements of AS2067. Specifically, the building is required to provide a minimum safety distance from the relocated padmount substation of 7.5m. Alternatively, Essential Energy advised that a fire engineering report could be provided stating which reduction in the distance in AS20637 should be reduced.

The applicant has provided additional documentation to Essential Energy (EE) in response to EE's concerns regarding safety of the proposal with regard to proximity of the development to the relocated padmount substation. The additional documentation includes:

- Installation of Padmount Substation (ST-0004649 Rev. A Sheets 1-5) prepared by DEP Consulting and dated 13 October 2023;
- Consultant Advice Notice (Subject: Council RFI (Essential Energy)) prepared by ADP Consulting and dated 16 February 2024.

Essential Energy provided advice that they have reviewed all recent documentation and again raised concerns that the proposal has not demonstrated compliance with AS2067.

The following comments were provided on 23 February 2023:

Further information has been provided. This includes statements that G1 and G2 clearances are maintained and that the operable windows and sliding doors within the 7.5 metre horizontal clearance areas are close-able if a fire was to occur.

I note it was also stated that this development is not aimed at the elderly or disabled, and any purchaser should be able to close a window or door should it be required.

Based on all the information provided, Essential Energy is not satisfied that the requirements of AS2067 are met, this is based on the following

- *There are no control measures in place for combustible items within the 7.5 metre horizontal and vertical clearance areas. This includes within the building itself as the windows and doors are operable.*
- *A Fire Risk Assessment has not been provided or completed to state this development is fire safe with the 1500kVA substation in its proposed location. Must be completed by a suitably qualified person such as a fire engineer.*
- *Drawings provided are based on 6 metres and not the 7.5 metres.*

- *A certificate must be provided stating the windows and doors are non-combustible and meet the required Australian Standard.*
- *A construction certificate has not been provided clearly stating any part of the building that requires a 2-hr fire rating meets these requirements.*

The Record of Deferral noted that the Panel were satisfied that matters relating to Essential Energy (EE) requirements could be conditioned. As such it is recommended that, should the Panel choose to approve the proposal, a Deferred Commencement condition be applied to any consent issued. The Deferred Commencement condition will require the applicant to address the concerns raised by EE and provide evidence to Council that EE are satisfied with the proposal. Essential Energy has confirmed that do not object to this approach to address the matter.

4.4 Natural Ventilation

As discussed previously in this report, the development is now considered to meet the Design Criteria that requires 60% of apartments to be naturally cross ventilated in accordance Section 4B-3 of the ADG.

The plans have been amended to replace the fixed external privacy screens on windows of Building A and C where they interface with Building B with coastal style shutters. Provided that these shutters are operable by the occupants, this change addresses previous concerns that the fixed screens limit access to natural light and ventilation to these affected bedrooms.

Further concern was raised that the following apartments in Building D did not provide adequate access to natural light and ventilation:

- Type 3C includes a bedroom that relies on a window to a light well; and
- Type 3D contains a bedroom the relies on a narrow recessed window for light and ventilation.

The layout to the above apartments has not been altered to address the above concerns.

The development has demonstrated that it now complies with the cross ventilation requirements of the ADG. As such the above remaining concerns are not considered to be a substantive reason for refusal of the application.

4.5 Apartment Design and Layout

Design Criteria in Section 4D-1 requires that every habitable room must have a window in an external wall and that light and air may not be borrowed from other rooms.

The original assessment report noted that 44 apartments did not meet this criteria as they included habitable rooms that had no windows. These rooms are indicated on the plans as possibly being for a study or secondary living area/media and are included in the following apartments:

- Building A - Types 3A, 2A, 2C, 2E, 2F-1, 2F-2, 2G, 4A (27 units);
- Building B – Type 2H (2 units);
- Building C – Types 2J, 2M, 2N, 2I and 4D (15 units).

The applicant has addressed these concerns in the Response to Record of Deferral dated 22 December 2022:

While the study areas and media/TV areas are not separate rooms in that they form part of the open plan living space, Conrad Gargett have undertaken an assessment to confirm that the subject study areas and media / TV areas would achieve compliance with the natural light and natural ventilation requirements under the NCC where natural light can be borrowed from an adjoining room to achieve the natural light requirements. The purpose of this assessment is to show that natural light and ventilation into these

spaces is not compromised and has been optimised and maximised within the design by substantially exceeding the minimum requirements of the NCC.

The rooms that do not include external windows are limited to secondary living areas and smaller ancillary rooms. Provided that the apartments are able to meet requirements of the National Construction Code, this does not warrant refusal of the development.

Additional non-compliances noted in the original assessment report that have not been addressed by the amended plans include:

- Apartment Type 3C in Building C contains a bedroom window to a light well rather than the external face of the building (Design Guidance 4D-2);
- Eight apartments (Building A Type 2A and 2B) exceed the 8m maximum room depth (Design Guidance 4D-2);
- Type 3D apartment in Building C includes a narrow window set into the building façade that does not comply with Design Guidance 4B-2.

There are additional concerns related to apartment layout and amenity for the occupants and these are discussed the following sections of this report.

4.6 Building Separation

The original assessment of the proposal noted that the proposal largely complied with the building separation requirements of the ADG. However, this was achieved by providing large expanses of blank elevations on the north and south elevation of Building B and D. The blank elevations were considered to be a poor visual amenity outcome and reduced the opportunity for natural light and ventilation to units on these elevations.

The blank walls have been addressed as discussed earlier in this report by additional design elements and additional windows. However, the addition of windows to habitable rooms results in some newly created non-compliances with minimum building separation Design Criteria 3F-1 of the ADG.

The amended plans now show openings to north and south elevation of Building B as previously detailed in this report. The openings on Levels 2 & 3 of Building B are to a laundry (non-habitable room) (refer to Fig. 14). The openings on Level 4 are narrow vertical windows to bedrooms with external shutters. These windows are secondary windows and are not the primary source of natural ventilation or light.

Building D now includes two narrow vertical windows with external shutters to bedrooms on the upper level. Similarly, to the changes to Building B, these additional windows secondary windows and are not the primary source of natural ventilation or light.

The areas of compliance/non-compliance with the ADG separation distance criteria are illustrated in the below table.

BUILDING	REQUIRED ADG (DESIGN CRITERIA OF PART 3F-1)	PROPOSED	COMPLIANCE	PREVIOUS COMPLIANCE
Building A to Building B				
Up to 12m (4 storeys)	6m (hab) + 0m (blank) = 6m	N/A	N/A	Yes
Levels 2 & 3	6m (hab) + 3m (non-hab) = 9m	7.8m	No	N/A
Level 4	6m (hab) + 6m (non-hab) = 12m	7.8m	No	N/A
Building B to Building C				
Up to 12m (4 storeys)	6m (hab) + 0m (blank) = 6m	N/A	N/A	Yes

Up to 12m (4 storeys)	6m (hab) + 3m (non-hab) = 9m	6.6m	No	N/A
Level 4	6m (hab) + 6m (non-hab) = 12m	6.6m	No	N/A
Building C to Building D				
Levels 1	6m (hab/POS) + 0m (blank) = 6m	6.6m	Yes	Yes
Level 2	6m (hab/POS) + 6m (hab) = 12m	6.6m	No	N/A
Building A to Building D				
Levels 1	6m (hab/POS) + 0m (blank) = 6m	6.6m	Yes	Yes
Level 2	6m (hab/POS) + 6m (hab) = 12m	6.6m	No	N/A



Figure 14 Interfacing windows of Building B to Buildings A and C for Levels 2 & 3

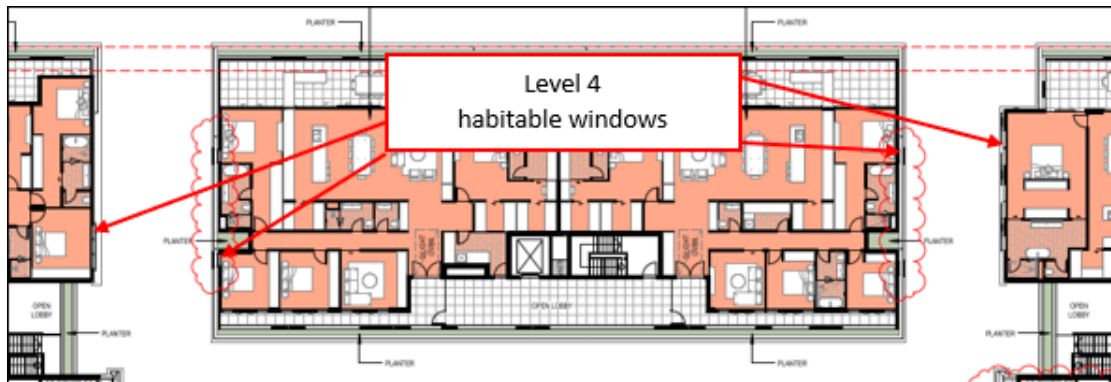


Figure 15 Interfacing windows of Building B to Buildings A and C for Level 4

No changes have been made to the physical separation distances of the various buildings. As such, measures to address visual amenity impacts from blank wall has resulted in non-compliances with building separation criteria.

Visual connection between the windows of Building B where they interface with Buildings A and C is mitigated by the inclusion of shutters to each of the elevation as shown in Figure 5 in an earlier section of this document.

Visual connection between the habitable windows of Level 2 of Building D and the balconies of Buildings A and C is mitigated by the inclusion of external shutters to the exterior of the windows in Building D.

The original assessment report also notes that the buildings exceed the 35m maximum length of buildings as required by the Tweed Development Control Plan Section A1 Part C. As noted in the original assessment, the inadequate building separation exacerbates the bulk of these

building lengths to the street. Increased separation between the buildings would reduce the bulk and mass of the building from the streetscape.

4.7 Privacy Impacts from Communal Open Space

The centrally located communal open space (COS) adjoins the balconies and windows of a significant number of apartments. The previous assessment noted that the plans did not comply with the following criteria:

- Objective 3F-2 – communal open space should be separated from private open space (POS) and habitable windows;
- Design Guidance 4H-1 – noise sources such as COS are to be located at least 3m from bedrooms.

The current plans show some changes have been made to communal areas. The changes relate to alternate pedestrian connections which include the removal of the east-west pedestrian path from Casuarina Way and the inclusion of a pedestrian entry and lobby from Grand Parade. There remains a significant number of areas where communal areas adjoin private open space or habitable room windows:

- The entry path between Buildings B and C is approximately 2.5m from bedroom and living room windows of apartment in Building C;
- The sun lounges on the western side of the pool are approximately 1.5m from the POS of the Building D apartments;
- The BBQ seating area adjoins bedroom and living room windows of Building A;
- The bocce lawn area directly adjoins the private open space of apartments in Building C; and
- The palm lawn is approximately 2.5m from the POS of apartments in Building A.

In addition to the above, there is a visual connection between the communal access of Building C and the window of apartment C.03 (all levels) that overlooks the light well.

The applicant has addressed these matters by pointing out the landscaping buffers provided between communal areas and habitable room and POS.



Figure 16 Response to Record of Deferral (Figure 15) illustrating setbacks from communal areas and POS and habitable windows.

Shutters are provided to the units of Building A and C adjacent to the BBQ area and the Habitat Drive access. However, the occupants of the ground floor apartments will need to compromise access to natural ventilation and light in favour of visual privacy and acoustic amenity.

The Environmental Noise Impact Assessment prepared by TTM and dated 18 December 2023 has recommended glazing treatment for all windows, on all levels, that face the communal pool area. As such, these internal apartments will need to compromise natural ventilation with acoustic amenity.

Given that the previous concerns raised in the original assessment report largely remain, the recommendation that this matter warrants refusal of the application remains.

4.8 Streetscape and front setback

Casuarina Way is considered to be the primary street frontage and the original assessment report noted some encroachments into this front setback which were considered to be acceptable.

The streetscape impact of the previous roof design on Building D was considered to be unsatisfactory. The large hipped roof, dark materials and overhang into the street setback area were considered to be overly bulky and visually dominating.

As discussed in a previous section of this report, the roof of Building D has been amended to reduce the pitch of the roof and use lighter materials which is more consistent with the character of the area. The approximate 1.2m overhang into the street setback remains, however this now considered to be more acceptable as the visual prominence of the roof in the streetscape has been reduced by the other changes.

The original assessment report also raised concerns regarding the level difference between street and the floor level of Building D. The proposal is not compliant with Design Guidance 3G-2 which requires that level changes between ground floor and street entries be minimised, and steps and ramps be integrated into the overall building and landscaping design. Rather than integrating the entry steps into the street elevation of Building D, large prominent steps are proposed which include 1.8m high masonry walls perpendicular to the front boundary.

Additionally, the proposal does not comply with Design Guidance 3J-4 that advises that basement parking should not extend more than 1m above ground level. Elevation plans (Dwg. No. DA210) indicates that the basement level will be approximately 1.3m above natural ground level and approximately 1.8m above street level.

The proposed 1.8m masonry walls to the entry steps for Building D apartments (5 apartments), and the two sets of emergency stairs also on the Casuarina Way elevation will, be a dominating feature at this elevation.

As the matters raised in the original report relating to the height of Building D above street level and the prominence of the masonry walls within the front setback area have not been satisfactorily addressed in the amended documentation, the proposal remains unsatisfactory in this regard.

It is noted that no cross sections have been provided in either the architectural plans or the landscaping plans which provide accurate details of these 1.8m masonry walls to the entrance stairs. If the Panel choose to approve the proposal, a condition is recommended that requires further detail including sections of the proposed masonry walls.

4.9 Bicycle Parking and Bulk Waste Storage

The original proposal did not comply with the TDCP Section A2 with regard to bicycle storage or Section 15 with regard to bulk waste storage.

The amended plans show additional bike storage in the basement level as well as visitor bike parking adjacent to the pedestrian entries from Grand Parade and Habitat Drive.

A bulky waste storage area has been provided in the basement adjacent the bin storage area under Building C.

5. CONCLUSION AND RECOMMENDATION

The original assessment of the development found that the façade feature of three storey arches accentuates the vertical scale of the development and contributes to excessive bulk and scale of the buildings. The repeating archway motif together with the variation to the DCP controls for maximum building length along the street elevation, also contribute to the exaggerated mass and scale of the development.

Whilst some positive changes have been made to some design elements of the façade to somewhat reduce the visual bulk and massing of the development, the primary features of the façade that contribute to the mass and scale of the development remain.

Previous concerns relating to blank walls have been addressed. However, this has resulted in non-compliance with the building separation Design Criteria 3F-1 of the ADG. In addition to these matters, there are concerns with amenity impacts arising from the proximity of the COS with windows to bedrooms and POS. These issues result from the layout of the development and physical separations of the buildings.

The above issues, as well as matters relating to habitable rooms without a window, and the level of Building D above street level, cumulatively result in a development that will result in amenity impacts for future residents and a development that is not compatible or sympathetic to the local character.

The proposal is recommended for refusal with many of the reasons for refusal as included in the original Council assessment report remaining valid. Recommended Reasons for Refusal are included in **Attachment A**.

It is noted that the applicant has substantially addressed the issues raised by the panel in their deferral of the determination and should the Panel determine to approve the application, recommended conditions are included in **Attachment B**.

Attachment A: Reasons for Refusal

1. *The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal does not comply with the apartment layout design criteria or the objectives of Parts 4D respectively of the Apartment Design Guide. Pursuant to Clause 30(2)(b) of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development, consent cannot be granted as the proposal does not demonstrate that adequate regard has been given to the objectives specified in the Apartment Design Guide for apartment layout (windows to habitable rooms and room depths) design criteria.*
2. *The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the design quality of the proposal when evaluated in accordance with the design quality principles is unacceptable, contrary to Clause 28(2)(b) of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development ('SEPP 65') and adequate regard has not been demonstrated to the design quality principles contrary to Clause 30(2)(a) of SEPP 65. In particular, the proposal is inconsistent with the following design quality principles:*
 - (a) *Principle 1: Context and neighbourhood character as the proposed development does not respond to its context given the inconsistencies with the building design in relation to the prevailing character of the area and therefore does not respond to the built features of the area. The proposed facades of the building are unsatisfactory and exacerbate the bulk and scale of the proposed building forms.*
 - (b) *Principle 2: Built form and scale as the proposed building form is inappropriate for the site as it is out of character with the area and three storey arch designs adds bulk and scale to the development. There is also a lack of variety in the materials, with the rendered concrete a dominating presence on the site. The proposed built form does not contribute to the character of the streetscape as the design is incompatible with existing development in the area and the building bulk and massing are not acceptable in the context of the site.*
 - (c) *Principle 6: Amenity as numerous apartments do not achieve sufficient amenity arising from some of the units including internal rooms without windows, units with narrow windows, privacy concerns from the communal open space and associated acoustic concerns.*
 - (d) *Principle 9: Aesthetics in that the architectural expression of the proposed development is unsatisfactory as design elements and components accentuates the buildings overall bulk and scale and is incompatible with the existing character of the area. The proposed built form also does not have good proportions or a balanced composition of elements and has a lack of variety of materials and colours.*

Consent must not be granted as the proposal does not demonstrate that adequate regard has been given to the design quality principles.

3. *The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as there are numerous inconsistencies with the Apartment Design Guide pursuant to Clause 28(2)(c) of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development ('SEPP 65') which result in an unsatisfactory impact to amenity, adjoining properties and the streetscape, including the following:*
- (a) Part 3F: Visual Privacy in that the proposal is contrary to the objectives as the required building separation has only been achieved through the provision of external screening which reduces the amenity of the proposed apartments. Some apartments are also overlooked from the proposed communal areas resulting in privacy concerns.*
 - (b) Part 3G: Pedestrian access and entries in that Building D is located 1.5 metres above the street level, which results in a large number of stairs and retaining walls to the street. This does not provide for the design of ground floors to minimise level changes along pathways and entries or the provision of steps which are integrated into the building design and therefore there is a poor relationship between the entry areas and the street.*
 - (c) Part 4D: Apartment size and layout in that internal habitable rooms without windows are proposed and some apartments do not achieve the design guidance for distance to windows (room depths). Some apartments also rely on small, narrow windows to achieve compliance with the requirement for living areas and bedrooms to be located on the external face of the building, while other units have windows to void areas. The proposal is contrary to Objectives 4D-1 and 4D-2, which require room layouts which are functional, well organised and provide a high standard of amenity and that the environmental performance of the apartments is maximised.*
 - (d) Part 4F: Common circulation space in that the proposal is inconsistent with the design guidance of Part 4F-1 as there are a number of living and bedroom windows which open directly onto common circulation spaces, including communal open spaces areas and void/circulation areas.*
 - (e) Part 4H: Acoustic privacy in that there are several apartments located in close proximity to noise sources such as circulation and communal areas and bedrooms which directly adjoins the lift core.*
 - (f) Part 4M: Facades in that the proposed building facades are unsatisfactory given design elements which accentuates the buildings overall bulk and scale and is inconsistent with the contemporary Australian coastal aesthetic which is emerging in the area. The proposal is also contrary to the design guidance as the design solutions for the front building facades such as a composition of varied building elements, a defined base, middle and top of buildings and changes in texture, material and colour to modify the prominence of elements has not been provided. The bulk and massing of the proposed buildings are exacerbated by the three-storey high (fluted) arches and heavy reliance on rendered painted concrete blockwork.*
4. *The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with Section B5.2.2(2)(a) of the Tweed Development Control Plan 2008 in that the proposed front setback of the roof of Building D and the front*

walls adjoining the stairs encroach into the 6 metres front setback and result in an adverse impact on the streetscape. The 1.8 metre high masonry walls perpendicular to the street boundary adjoining the individual entries to the proposed apartments within Building D prevent landscaping opportunities for larger trees and reduce the open vistas along the street.

5. *The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with the Tweed Development Control Plan 2008 in that:*
 - (a) *The proposed impervious site coverage exceeds the maximum of 60% of the site area by 1,811.85m² and is inconsistent with Section A1, Part C (Design Control 2: Site Configuration - Impermeable Site Area (g)) and the objectives of the control, which includes to allow for stormwater infiltration;*
 - (b) *The building lengths exceed the maximum of 35 metres pursuant to Section A1, Part C (Chapter 1: building Types) which is exacerbated by the lack of adequate building separation; and*
 - (c) *The location of the proposed communal open space adjoining numerous areas of private open space for the proposed apartments is contrary to Design Control 2 (site configuration – communal open space) of Section A1 which requires that communal open space is not to be located such that privacy and outlook to dwellings are reduced.*
6. *The proposed development is considered unacceptable pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 as the proposal is not in the public interest as it is inconsistent with numerous planning controls in relation to the adverse impacts on the streetscape and will negatively affect the character and nature of the neighbourhood.*

Attachment B: Recommended conditions
