

COUNCIL ASSESSMENT REPORT

SYDNEY EASTERN CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSEC-268 – DA/80/2023
PROPOSAL	Demolition of existing structures and construction of an 8 storey mixed use development with 3 basement levels comprising 56 units, retail and commercial tenancies, 90 car parking spaces, rooftop communal open space, and strata subdivision. (Integrated Development: Concurrence required from Water NSW).
ADDRESS	Lot 1 in DP506844 and Lot 2 in DP506844 138 Maroubra Road, Maroubra
APPLICANT	Mr Leigh Manser, Maroubra Property Developments Pty Ltd
OWNER	Bonrill Pty Ltd
DA LODGEMENT DATE	10 March 2023
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	\$44,330,000 (including GST)
CLAUSE 4.6 REQUESTS	Clause 4.3 Height of Building
KEY SEPP/LEP	Transport and Infrastructure SEPP Biodiversity and Conservation SEPP Resilience and Hazards SEPP Randwick LEP Housing SEPP & ADG
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	<p>Forty-Nine (49) submissions were received. The following issues were raised:</p> <ul style="list-style-type: none"> • Traffic Generation, Queueing/Congestion and Parking • Building Height and Storeys • Visual Bulk • Overshadowing • View Loss • Building Separation and Privacy • Lack of Sustainable Measures • Acoustic Impacts • Economic Impact to Pacific Square

	<ul style="list-style-type: none"> Conflicts with adjoining land uses (child care and police station)
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> Architectural plans Landscape Plans Statement of Environmental Effects Traffic and Parking Impact Assessment Noise Impact Assessment Access Report BASIX Certificate BCA Report Energy and Efficiency and Ecologically Sustainable Design Report Geotechnical Desktop Assessment Report Noise Impact Assessment Waste Management Plan Preliminary Site Investigation Survey Plans Solar Access Assessment & Surveyor's Certification
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)	No
RECOMMENDATION	REFUSAL
DRAFT CONDITIONS TO APPLICANT	No
SCHEDULED MEETING DATE	20 June 2024
PLAN VERSION	22 February 2024
PREPARED BY	GAT & Associates
DATE OF REPORT	29 May 2024

EXECUTIVE SUMMARY

Development Application 80/2023 (as amended) seeks consent for the demolition of existing structures and construction of an 8 (eight) storey mixed use development comprising 56 units, retail and commercial tenancies and 3 basement levels containing 90 car parking spaces and associated strata subdivision at 138 Maroubra Road, Maroubra. The proposal is Integrated Development requiring approval under the Water Management Act 2000 due to the extent of excavation that may affect an aquifer.

The site consists of 2 lots legally described as Lot 1 in DP506844 (760.6m²) and Lot 2 in DP506844 (756.8m²), fronting Maroubra Road to the south and Piccadilly Place to the north. The site is known as 138 Maroubra Road, Maroubra. Currently, the premises contains a 2 storey commercial premises with a single storey basement over both lots. The site (specifically Lot 1 in DP506844) benefits from, and relies upon, a right of carriageway over Lot 17 in DP 1150018 to obtain access to Piccadilly Place. The development site is within Zone E2 Commercial Centre (following the April 2023 employment zones reform) pursuant to the provisions of Randwick Local Environmental Plan 2012 ("RLEP 2012"). The proposed development is permissible with consent.

Development Application No. 80/2023, was lodged on 10 March 2023 and placed on public notification for twenty-eight (28) days from 23 March 2023 through to 20th April 2023. Forty-nine (49) unique submissions were received objecting to the proposal. The objections primarily relate to:

- Concerns over traffic generation and queuing/double-parking with in Piccadilly Place;
- Insufficient parking;
- Non-compliance with building height and storeys;
- Overshadowing, visual impact, ventilation and view loss as a result of the proposed height and storeys;
- Impact to the eastern child care centre;
- Impact to the western Police Station and the impact to its future development potential;
- Basement flooding;
- Acoustic and structural impacts;
- Insufficient sustainability measures and;
- The economic impact to “Pacific Square” (to the north and east).

On the 24th July 2023, the Applicant commenced proceedings in Class 1 of the Land and Environment Court, appealing against the deemed refusal of the development application. The Section 34 Conciliation Conference was held on the 20th of February 2024 and was terminated. The Hearing is scheduled for the 27th and 28th of August.

Two (2) Request for Information (RFI) letters were issued to the Applicant on the 17th of October 2023 and the 26th of March 2024 respectively. A meeting was held between the Applicant and Council’s consulting town planners on the 3rd of April 2024 to clarify the points raised in the RFI. Amended documents were received by Council on the 18th of April 2024, being the subject of this assessment report and referred to as *‘the proposed development (as amended)’*.

The application has an estimated cost of \$44,330,00.00. The Sydney Eastern City Planning Panel (SECPP) is the consent authority for the Development Application pursuant to Schedule 7 of the State Environmental Planning Policy (Planning Systems) 2021 as the development has a capital investment value in excess of \$30 million and is defined as Regionally Significant Development.

Following a thorough assessment of the proposed development (as amended), the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application cannot be supported for the following reasons:

- The proposal was not supported by the Design Excellence Advisory Panel;
- Traffic generation, congestion, and provision of off-street parking have not demonstrated compliance with Section B7 of the Randwick DCP 2013;
- Insufficient information to satisfy Section B6 Recycling and Waste Management of the Randwick DCP 2013;
- Incompatibility with the desired future character and envisioned extent of development pursuant to Section D4 (Maroubra Junction Centre) of the Randwick DCP 2013;
- Inadequate information to demonstrate that the deviations from building height and building envelope standards result in reasonable impacts to the amenity of existing neighbouring apartments/dwellings; the proposed apartments/dwellings; the existing child care centre to the east; and police station to the west.
- Non-compliance with the applicable aims and E2 zone objectives of the Randwick LEP 2013

- Non-compliance with the applicable aims and objectives of the Randwick Comprehensive Development Control Plan 2013, specifically Part D4 (Maroubra Junction Centre) applicable to the subject site.

The proposal has not satisfied the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, is contrary to the public interest and will result in substantial environmental amenity impacts to the locality.

1. THE SITE AND LOCALITY

1.1 The Site

The site of this development application (DA) consists of two (2) parcels of land at 138 Maroubra Road, Maroubra. The development site consists of the following land:

- Lot 1 in DP506844 (760.6m²)
- Lot 2 in DP506844 (756.8m²)

The site is regular in shape and has an overall area of 1,517.4m² (by survey calculation) and has the following dimensions:

- Primary frontage (south) to Maroubra Road of 24.83m;
- Secondary frontage (north) to Piccadilly Place of 24.83m;
- Side boundary (east) of 61.11m, adjacent to 737 Anzac Parade ("**Pacific Square**");
- Side boundary (west) of 61.11m, adjacent to 134-136 Maroubra Road ("**Police Station**").

Current improvements upon the site include a 2-storey commercial premises with a single-storey basement. The site is reasonably flat, with a modest slope from the Maroubra Road boundary down toward the Piccadilly Place boundary (south to north) of 320mm. There are no significant landscaped areas or trees currently on the site.

Refer to photographs of the site and surround provided below ("Figure 1" and "Figures 2a-2n"):

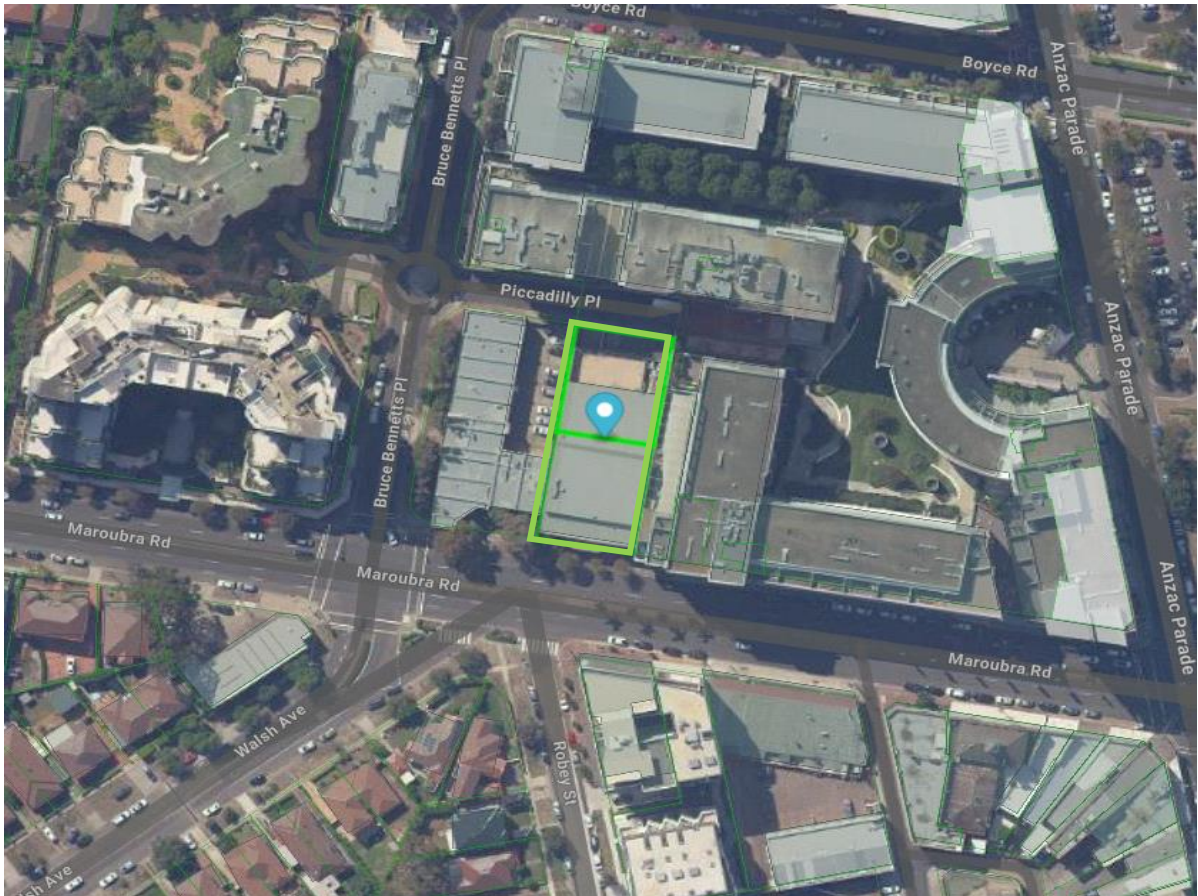


Figure 1: Locality Map (138 Maroubra Road outlined in green)



Figure 2a: 138 Maroubra Road: Maroubra Road Frontage



Figure 2b: Maroubra Road streetscape



Figure 2c: Context of the site adjacent to "Pacific Square"
(737 Anzac Parade, Maroubra)
Alternate view 1 from Maroubra Road

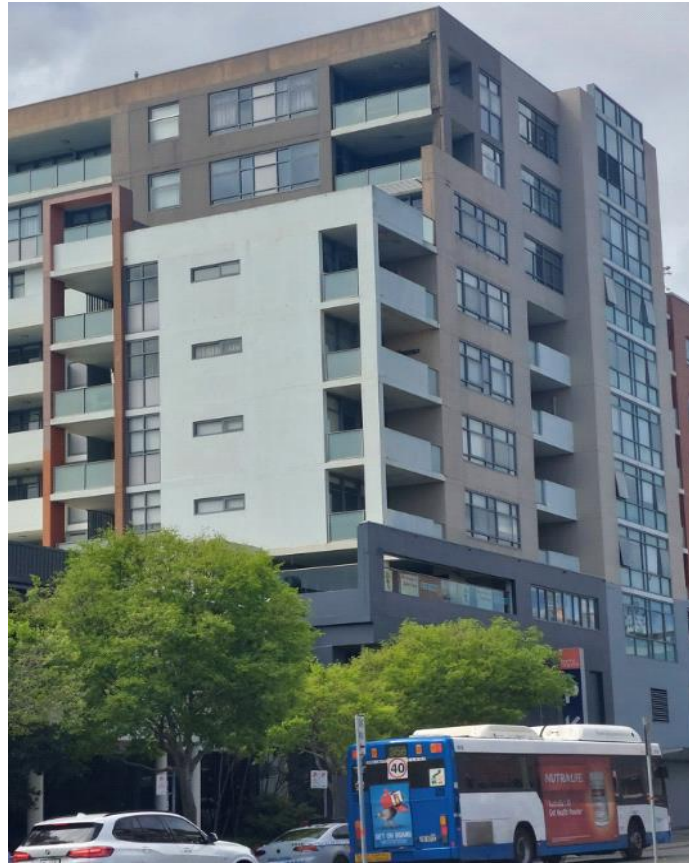


Figure 2d: Context of the site adjacent to “Pacific Square”
(737 Anzac Parade, Maroubra)
Alternate view 2 from Maroubra Road



Figure 2e: Context of the site adjacent to “Pacific Square”
(737 Anzac Parade, Maroubra)



Figure 2f: Context of the site adjacent to “Maroubra Police Station”
(134-136 Maroubra Road, Maroubra)



Figure 2g: Existing development at 116-132 Maroubra Road
(viewed from Maroubra Road)



Figure 2h: Existing development at 116-132 Maroubra Road (viewed from Bruce Bennetts Place; rear of the Police Station)



Figure 2i: Rear of the subject site (138 Maroubra Road) viewed from Piccadilly Place.



Figure 2j: Context of the site adjacent to “Maroubra Police Station”
(134-136 Maroubra Road, Maroubra)
Rear – From Piccadilly Place.



Figure 2k: Context of the site adjacent to “Pacific Square”
(134-136 Maroubra Road, Maroubra)

Rear – From Piccadilly Place.



Figure 2l: Northern side of “Pacific Square”
Viewed from Piccadilly Place.



Figure 2m: Context of the site
Rear – From Piccadilly Place.



Figure 2n: Existing development to the west.
(116-132 Maroubra Road)

Viewed from the intersection of Piccadilly Place and Bruce Bennetts Place

1.2 The Locality

The surrounding area to the north and east is within Zone E2 Commercial Centre and comprises of a large development commonly referred to as “Pacific Square” at 737 Anzac Parade, Maroubra (Lot 17 in DP1150018). The development is mixed-use with residential towers sitting upon podiums containing retail and commercial tenancies, presenting to both Maroubra Road and Piccadilly Place with up to 11 storeys. To the immediate west of the site is an existing 2-storey premises on Crown Land, operating as the “Maroubra Police Station”.

Development along the southern side of Maroubra Road and within Zone E2 typically comprises single storey commercial premises. A recent development on the corner of Maroubra Road and Robey Street, being 165-171 Maroubra Road, is a part 6 and part 7 storey mixed use development. To the south-west, over Maroubra Road, is land within Zone R2 Low Density, consisting of single storey original brick and tile dwelling houses, recent 2-storey developments and the Maroubra Presbyterian Church.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The development application (DA-80/2023) (as amended) seeks consent for the demolition of existing structures and construction of an 8 (eight) storey mixed use development with rooftop communal open space, comprising 56 units, retail and commercial tenancies and 3 basement levels containing 90 car parking spaces and associated strata subdivision at 138 Maroubra Road, Maroubra.

Development Application 80/2023, as amended, seeks consent for:

- Demolition of all existing structures
- Construction of an 8 (eight) storey mixed-use building incorporating:
 - 2 x retail tenancies on the ground floor, together with a loading bay, bin collection zone and commercial/retail waste storage room.
 - 56 apartments, including:
 - 24 x 1 bed apartments
 - 13 x 2 bed apartments
 - 19 x 3 bed apartments
- 3 basement levels with driveway access via a right of carriageway providing access to Piccadilly Place, including:
 - 90 car parking spaces:
 - Residential: 60
 - Adaptable: 11 (unspecified user)
 - Visitor: 7
 - Commercial: 12
 - 24 bicycle racks;
 - 5 motorcycle parking spaces;
 - 56 storage lockers;
 - Services and residential waste storage rooms.
- Level 1 open space for the commercial tenants;
- Level 2 and rooftop open space for residents.
 - Infrastructure accommodating access to the rooftop communal open space results in the development being partially 9 storeys.

The 3D perspectives submitted with the development application are provided below (Figure 3, Figure 4 & Figure 5):



Figure 3: Conceptual Images (Drawing No. DA9.150 – Maroubra Road Perspective)



Figure 4: Conceptual Images (Drawing No. DA9.151 – Piccadilly Place Perspective)

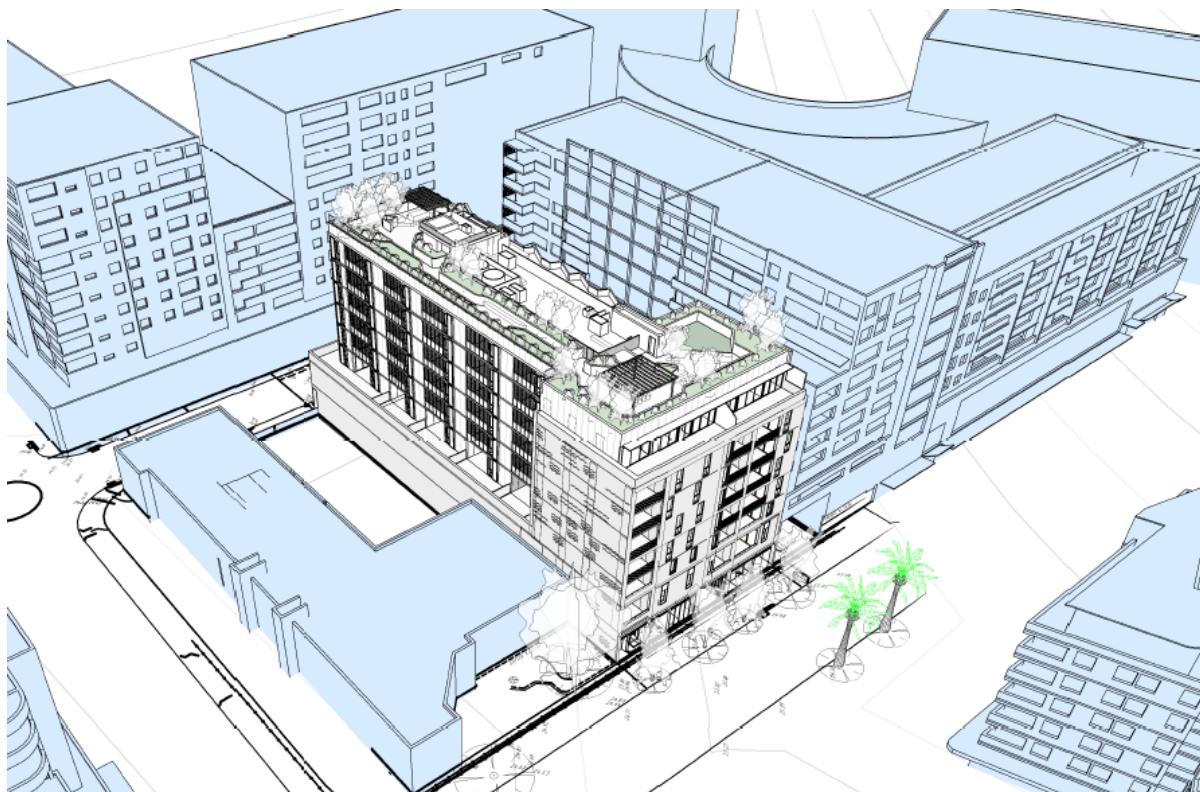


Figure 5: Conceptual Images (Drawing No. DA9.100 – 3D Views)

The table below provides key data points for the proposed development based on the applicant's submission and calculations taken by the assessing officer.

Table 1: Development Data

Control	Proposal
Site area	Total site area: 1,517.4m ² Lot 1: 760.60m ² Lot 2: 756.80m ²
GFA	Total: 7,050m ² Ground: 995m ² First: 1,180m ² Second: 815m ² Third: 815m ² Fourth: 815m ² Fifth: 815m ² Sixth: 815m ² Seventh: 775m ² Eighth (Rooftop): 25m ²
FSR	4.65:1 Note: Site does not have a maximum FSR under the RLEP12

Maximum Building Height	Maximum: 25m Proposed Maximum: 31.75m Variation: 6.75m (27% variation)
Clause 4.6 Requests	Yes: <ul style="list-style-type: none"> Building Height (Clause 4.3)
No. of units / tenancies	Retail: Two (2) Tenancies on Ground Floor Commercial: One (1) Tenancy on First Floor Residential: 56 apartments, including: <ul style="list-style-type: none"> 24 x 1 bed apartments 13 x 2 bed apartments 19 x 3 bed apartments
Deep Soil Landscaped Area	Nil Deep Soil. Landscaping on structure: 416m ² (27.4%)
Communal Open Space (Residential)	Minimum Required: 25% Level 1: 138m ² Rooftop: 582.5m ² Total: 720.5m ² (47.5%)
Car Parking spaces	Required: <ul style="list-style-type: none"> Residential: 68 Visitor: 14 Commercial: 38 Total Required: 120 Proposed: <ul style="list-style-type: none"> Residential: 60 Adaptable: 11 Visitor: 7 Commercial: 12 Total Proposed: 90 (shortfall of 30 or 25%)
Setbacks Separation	ADG Separation does not strictly comply to proposed western elevation. Reliance on enclosed "winter garden" balconies.

2.2 Background to DA/80/2023

The development application was lodged on **10 March 2023**. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc.) with the application:

Table 2: Chronology of the DA

Date	Event
10 March 2023	DA lodged.
13 March 2023	DA referred to internal officers and external authorities.
23 March 2023	Exhibition of the application for 28 days.
11 April 2023	SECPP Panel briefing (kick-off meeting) to discuss preliminary issues.
13 May 2023	DA referred to the Design Excellence Advisory Panel.
11 July 2023	SECPP Panel briefing.
24 July 2023	Commencement of Class 1 proceedings in the Land and Environment Court of NSW.
4 August 2023	The Panel was notified of the filing of the Class 1 appeal.
17 October 2023	Request for Information from Council to Applicant
12 December 2023	Without Prejudice meeting with the Applicant
8 February 2024	Panel (Chair) Briefing
20 February 2024	Section 34 Conciliation Conference
1 March 2024	Amended DA Package Lodged to the NSW Planning Portal
7 March 2024	Council and Applicant Briefing with Panel
26 March 2024	(Updated) Request for Information sent to the Applicant
3 April 2024	Meeting with Applicant to discuss the RFI and Requested Amendments
18 April 2024	Amended DA Package Lodged to NSW Planning Portal
16 May 2024	Panel (Chair) briefing

2.3 Request for Information for DA/80/2023

Two (2) Requests for Information were issued to the applicant on the 17th October 2023 and the 26th March 2024 in response to key concerns raised during the planning assessment, internal referrals, external authorities and the Design Review Panel, which consisted of the following:

OCTOBER 2023

A Request for Information was issued to the applicant on 17 October 2023 in response to key concerns raised by the Assessing Officers and Sydney Eastern City Planning Panel during the assessment of the development application. The following matters were raised to allow the Applicant an opportunity to amend the proposal and provide a response:

(1) Design Advisory Excellence Panel (DEAP)

- Comments were to be addressed, including issues raised with the extent of services within the Maroubra Road streetscape; How the proposed building envelope, height and storeys impacts surrounding amenity; Inclusion of sustainability measures within the design; Inadequate setbacks and separation to the western side of the proposed building envelope; Insufficient deep soil and utilisation of landscaping as a means to address privacy; Address privacy, view sharing, views of the sky and outlook, solar access; Provision of internal stair circulation, social interaction opportunities and passive surveillance; Improvements to the detailing of the flank walls, especially to the south.

(2) Inconsistency with the Randwick LEP 2012 - Building Height

- The submitted Clause 4.6 to vary the standard does not adequately identify adequate environmental planning grounds as to why the additional height (and storeys) are necessary, or that the objectives of the control are met. The non-compliance is exacerbated by the proposed scale and density and non-compliances with ADG and the specific controls for Block 6 (Maroubra Junction) within the RDCP13.

(3) Inconsistency with the Randwick Comprehensive Development Control Plan 2013 (Maroubra Junction Controls & Objectives):

- The submitted Statement of Environmental Effects prepared by Ethos Urban, dated 1 March 2023; as well as the addendum submitted on the 1 March 2024, state: *“The GFA of the proposed ground and first floors does not exceed 80% of the maximum building envelope. The GFA of the proposed residential floors does not exceed 70% of the maximum building envelope”*. However, no breakdown of the maximum building envelope compared to the proposed residential and commercial GFAs has been provided. It is to be demonstrated that there is compliance with this standard, and thus the building envelope requirements.
- As there is no FSR standard, the Block 6 controls provide controls relevant to a suitable building envelope for development on the site, including percentages of GFA dedicated to commercial and residential uses. The height and scale of the development is to be reduced.
- The DCP requires the first two levels to be solely commercial. The proposal includes three (3) residential units on the first floor (second storey).
- The Block 6 (Part D4 of the RDCP13) limits development to six (6) storeys; The proposal is eight (8) storeys, plus a rooftop storey for access to the communal rooftop (i.e. 9 storeys). The height and scale of the development is to be reduced.
- The western elevation of the “Pacific Square” development is six-storeys in height and initiates the transition desired by the height and storeys controls in both the LEP and DCP. The height and scale of the development is to be reduced.
- The relationship between the proposed development and both the eastern “Pacific Square” and western “Police Station” building separation requirements outlined in both the DCP and ADG are to be addressed. The amenity outcome (solar access; acoustic and visual privacy; views and outlook) is poor between the proposed

development and existing land uses, including an existing child care centre within Pacific Square.

(4) Non-Compliances with ADG to be resolved/clarified

- Inadequate solar access diagrams (scaling/detailing) to allow an assessment of the proposed solar access into the proposed apartments, as well as loss of sunlight to “Pacific Square”.
- Additional dimensions to be provided on floor plans, particularly for balconies that do not meet the minimum ADG sizes.
- The development falls short of the required 60% of units achieving cross-ventilation; compliance is to be demonstrated.
- The development falls short of the required storage space for each unit. Compliance is to be demonstrated.

(5) View Loss Analysis

- The view loss analysis has not been accompanied by photographs and photomontages from impacted units within “Pacific Square”, and it is unclear how the submitted images were generated. Additionally, the view loss analysis should include an overlay of the proposed built form, and a compliant built form to enable adequate assessment of the potential for view loss.

(6) Traffic Engineering and Parking

- Insufficient parking for cars and motorcycles has been provided for the scale of the development.
- The proposal should consider the use of car-sharing facilities.
- A Green Travel Plan should be prepared.
- The basement arrangement required further refinement including security measures separation of residential and commercial parking spaces; access and management of waste services; provision of adequate sightlines and swept paths from entry and exit points; meeting the minimum requirements of AS2890.1; note ramp gradients on the architectural plans.

(7) Other Matters

- The site area is inconsistent across the survey plan; architectural plans and the Statement of Environmental Effects.
- Lot 2 in DP 506844 does not appear to benefit from the carriageway right over Lot 17 in DP 1150018. The development application does not address this in detail, nor whether there is a need for the consent of the servient tenement to the lodging of the subject application or a further development application to authorise the intensification of the use of the right of carriageway.
- Insufficient information has been provided as to whether Piccadilly Place and the proposed basement is prone to flooding, and as to how any flooding will be mitigated. Council cannot be satisfied nor properly consider the matters specified in clauses 5.21(2) and (3) of RLEP 2012 in the absence of further information as to the potential for flooding in Piccadilly Place and the proposed basement.
- A Plan of Management is to be prepared including details on:

- Management of waste and conflicts between users of the basement/loading facilities;
- Management of communal landscaped areas;
- Implementation of visual/warning lights for when the loading dock is in use.
- Insufficient detail has been provided in relation to stormwater drainage and rainwater collection within the development.
- It is recommended that a GIPA be lodged to obtain the public submissions made against the development application, and a response to the concerns raised be provided to Council.

Summary of Response to October 2023 Request for Information

The information to be provided for assessment was requested to be lodged by the 27th of October 2023 prior to the Panel briefing scheduled for the 2nd November 2023. No information was submitted by the Applicant prior to the 2nd November 2023.

Preliminary amendments were presented for discussion with Council and the Panel on the 2nd November 2023. Draft amendments included:

- Winter gardens to the western elevation to alleviate privacy between the site and Police Station;
- Reconfigured internal layout to accommodate additional solar access to living rooms;
- Removal of one storey and centralised the lift overrun and rooftop access;
- General modifications to basement layout.

The Class 1 Application continued concurrently, and while Without Prejudice materials were presented and discussed through December 2023 and February 2024, they do not form part of the assessment of Development Application DA/80/2023.

Amended documents were formally lodged on the NSW Planning Portal on the 1st March 2024. Of note is that the proposal introduced two (2) x one (1) bedroom apartments as affordable rental housing.

The scope of the proposal was modified by:

- Basement layouts slightly modified to accommodate:
 - 1 (one) additional car space
 - Additional storage cages;
 - Flipped the location of northern lift core.
- Ground floor layout modified to:
 - Reconfigure the fire stairs and added internal circulation/fire stair;
 - Reduction in overall retail GFA
- Layouts of Levels 1 – 7 modified generally to accommodate internal stair access and unit layouts adjusted to improve solar access.
 - Introduction of affordable rental housing with the nomination of two (2) units, 102 & 202, as affordable rental housing.
 - Western-facing unit facades modified to push living rooms closer to western boundary to improve solar access to living areas; balconies converted to winter gardens.

- Level 7 reduced separation to the eastern side (was 7.5m to window pop-out – amended to be 5.0m)
- Uppermost level/storey (Level 8) of residential accommodation deleted;
- Converted Level 8 to rooftop communal open spaces, access lobby, outdoor structures, plant and associated plant screening.

Despite the amendments made to the plans and documents, most concerns outlined in the October 2023 RFI were unaddressed.

MARCH 2024

Following a review of the documents received on the 1st March and the subsequent Panel briefing on the 7th March, the original October 2023 RFI letter was updated to incorporate additional concerns and comments raised at the meeting by Council and the Panel, and reissued to the Applicant on the 26th March 2024.

The updated RFI included additional matters pertaining to:

- Addressing Design Excellence (LEP Clause 6.11), as Council’s appointed Urban Design Expert raised concerns with the extent of the unarticulated wall length of the western elevation (western flank), as well as the eastern elevation adjacent to the existing apartments of “Pacific Square”.
- The plans need to reflect the desired internal floor-to-ceilings due to commercial land uses and the recent changes to NCC (minimum of 3.15m -3.2m, rather than 3.1m to accommodate waterproofing); which would further exacerbate a variation to building height.
- Incorporation of the ESD measures recommended in the Applicant’s Energy Efficiency & Ecologically Sustainable Design Report;
- Provide an updated Clause 4.6 as the submitted Clause 4.6 and development as proposed does not adequately demonstrate the objectives of the standard of zone have been met and; that insufficient environmental planning ground has been established to warrant the variation to the height of the building, particularly as it has been illustrated that the additional building height results in view loss.
- Additional acoustic assessment is required to establish the amenity impact between the existing child care centre at Pacific Square; the existing Police Station and; the proposed development.
- Insufficient demonstration and written response that the proposed deviation from the intended DCP outcomes and building envelope results in a better environmental and planning outcome.
- Solar access diagrams are to be amended to show the full context of the development; hourly sun-eye diagrams and the amended Solar Access Assessment provided by the applicant is to include the data calculations (previously not attached to the report in error).
- Given the proposal relies on both sites deviating from the DCP envelope, a separate set including the future indicative Police Station site development (similar to the two typologies illustrated on DA0.150) and in the form of hourly sun-eye diagrams (rather than shadows) is to be provided.
- Compliance with ADG storage requirements to be demonstrated.
- The applicant was advised that the development in the form submitted is representative of overdevelopment of the site in view of the applicable objectives and controls outlined in the RLEP12 and RDCP13.

Summary of Response to March 2024 (Updated) Request for Information

A meeting was held between the Applicant and Council's Assessing Officers on the 3rd April 2024 to clarify the points raised in the RFI and to enable the applicant to clarify and affirm Council's position on the application. Subsequently, amended documents were received by Council on the 18th April 2024. Minor modifications to the Architectural Plans were identified, including:

- Reinstate architectural detail (previous drafting error) of basement parking spaces and rearrangement of basement storage cages to accommodate a total of 56.

The request was otherwise responded to within supporting documentation to assist in the assessment of the proposal with respect to acoustic amenity, view affectation, extent of overshadowing and solar access, and to further outline the Applicant's position on the proposed building envelope and height.

The submitted documentation in response to the updated Request for Information included:

- RFI Response Letter (comments provided in response to all points raised in the March 2024 RFI)
- Solar Access Assessment
- Amended Acoustic (Noise Impact) Assessment
- Additional View Analysis and DCP Comparison
- Amended Plans (DA0.151, DA8.305, DA9.900, DA8.321, DA0.149, DA0.150, DA8.323, DA3.324, DA8.325, DA8.326, DA8.327, DA8.328, DA1.108, DA8.250, DA1.101, DA 1.102, DA1.104, DA2.100) consisting of updated solar access and sun-eye diagrams; development studies for Police Site and building envelope; reconfigured basement and ground floor plans with dimensions; and updated section A.

Generally, the proposed development had not been amended any further, with the Applicant's principal amendments and response to Council's concerns being the reduction of the development by one storey and integration of internal stair access.

The RFI Response Letter (18th April 2024) relied heavily on the introduction of affordable rental housing under the State Environmental Planning Policy (Housing) 2021, specifically the *State Environmental Planning Policy Amendment (Housing) 2023*, to justify the building envelope and variation to the height of building standard.

The *State Environmental Planning Policy Amendment (Housing) 2023* does not apply to this development application. The recent amendment ("*State Environmental Planning Policy Amendment (Housing) 2023*") commenced on the 14 December 2024. The amendment **DOES NOT** apply to the subject application DA/80/2023 as it was lodged on the 10th March 2023. The savings provisions, pursuant to Schedule 7A, Section 8 of SEPP (Housing) 2021, render the amendment to the SEPP **not applicable** to the subject development application.

Further, the Applicant's claim of the relevant calculation for the bonus building height and affordable component required for the development is incorrect. In the first instance, Section 16 of Chapter 2, Part 2, Division 1 of the SEPP does not apply as there is no applicable FSR standard for the site. Second, Section 18 has a minimum affordable housing gross floor area of the overall development, not just the residential component, (per definitions outlined in Chapter 2) that are required to be achieved to apply the building height bonus. In its current form, the proposal does not demonstrate any substantial benefit in its provision of two (2) units at a total GFA of 102m² (being approximately 1.52%

of the overall ~6,723m²), where a minimum of 10% is required to meet the requirements of the SEPP for the height bonus. To reiterate – the bonus does not apply, however even if it did, the development does not meet the requirements in the first instance.

For the reasons articulated above, *State Environmental Planning Policy Amendment (Housing) 2023* is not considered in the assessment of this application.

The amended plans and documents received in response to the March 2024 RFI are the subject of this development assessment, being the ‘proposed development (as amended)’.

2.4 Site History

A Pre-Lodgement meeting (PL/26/2022) was held between the Applicant with Randwick Council on 30 August 2022, with minutes provided on the 18th October 2022. In summary, the following correspondence was provided to the Applicant for consideration prior to formal lodgement of the Development Application:

- The objectives of the B2 Local Centre are to be addressed in any submitted Clause 4.6;
- No FSR development standard applies to the site, noting that the DCP Section 4D applies building envelope controls that anticipate development for both the subject site and the western Police site.
- The proposed development seeks a “T” shape, contrary to the DCP “C” shape and is an additional three (3) storeys above the six (6) storey control, increasing the density envisaged by the DCP.
- The proposed size and scale to the height of buildings standard would be difficult to support unless it is demonstrated that the objectives of the standard are satisfied noting that the key objectives relate to ensuring the built form is compatible with the desired streetscape character and does not result in adverse impacts on the amenity of neighbours.
- The DCP’s lower building envelope controls applying to the edge of the urban centre (the subject site and the Police site) are lower to ideally create a transition to the surrounding residential areas (R2 to the south-west). The transition follows through from the development at 116-132 Maroubra Road, which is part single, part 4 and part 8 storey within the streetscape; up to 14 storeys.
- The proposed number of storeys will exceed that of the 7-storey building immediately to the east (Pacific Square) which was lowered in anticipation of the future development of 138 (subject site) and 136 – 134 Maroubra Road (Police Site).

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (‘EP&A Act’). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the*

- proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) any development control plan, and*
- (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) the suitability of the site for the development,*
- (d) any submissions made in accordance with this Act or the regulations,*
- (e) the public interest.*

These matters are further considered below.

It is noted that the proposal is considered to be (which are considered further in this report):

- Integrated Development (s4.46) – **Water NSW**

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *State Environmental Planning Policy (Housing) 2021*
 - *Apartment Design Guide “ADG”*
- *Randwick Local Environmental Plan 2012.*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

Table 3: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration <i>(Brief summary)</i>	Comply (Y/N)
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State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 2: Vegetation in non-rural areas <ul style="list-style-type: none"> No compliance issues identified subject to the imposition of conditions on any consent granted. 	Y
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and Regional Development <ul style="list-style-type: none"> In this case the proposal is a regionally significant development as it has a development cost over \$30 million. 	Y
SEPP (Resilience & Hazards) 2021	Chapter 4: Remediation of Land <ul style="list-style-type: none"> Section 4.6 – The development application has only been supported by a Preliminary Site Investigation (PSI), recommending that further investigation is required through a Detailed Site Investigation (DSI). This has not been done, however can form conditions of consent should the application be approved. 	N
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2: Infrastructure <ul style="list-style-type: none"> Section 2.119(2) - Development with frontage to classified road Section 2.120 - Impact of road noise or vibration on non-road development <p>Note: No change to Maroubra Road frontage and the development is not traffic generating per SEPP (Transport and Infrastructure).</p>	Y
Proposed Instruments	Nil.	N/A
Randwick Local Environmental Plan 2012	<ul style="list-style-type: none"> Clause 4.3 – Height of buildings Clause 5.21 – Flood Planning Clause 6.8 – Protection of Airspace Clause 6.11 – Design Excellence <p>In consideration of the Applicant's written submission to vary the height of building standard under Clause 4.3(2), it has not been demonstrated that the development achieves the objectives of the standard, or that there are sufficient environmental planning grounds to vary the standard.</p> <p>Design Excellence has not been demonstrated.</p>	N
RCDP 2013	<ul style="list-style-type: none"> The proposal is inconsistent with the main controls of RCDP13, particularly the Maroubra Junction Centre DCP (Part D4). 	N
Water Management Act 2000	<ul style="list-style-type: none"> The application was referred to WaterNSW (DPIE), as required under s90(2) of the Water Management Act 2000. WaterNSW has granted concurrence and General Terms of Approval (GTA). 	Y

Consideration of the relevant SEPPs is outlined below.

- State Environmental Planning Policy (Biodiversity and Conservation) 2021***

Chapter 2 Vegetation in Non-Rural Areas

Chapter 2: Vegetation in Non-Rural Areas aims to protect the biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas through the preservation of trees and other vegetation. This policy is applicable as the site is within Randwick City Council and the E2 Commercial Centre zone.

There is no noteworthy tree removal sought under this application, thus no further considerations under Chapter 2.

- **State Environmental Planning Policy (Planning Systems) 2021 ('Planning Systems SEPP')**

Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 2 of Schedule 6 of the Planning Systems SEPP as the proposal is development with a capital investment value of more than \$30 million. Accordingly, the Sydney Eastern City Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

- **State Environmental Planning Policy (Resilience and Hazards) 2021**

Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. In order to consider this, a Preliminary Site Investigation ('PSI') was submitted with the development application (*Preliminary Site (Contamination) Investigation prepared by Douglas Partners, Ref. 20854.02, dated November 2022*).

The PSI identified several recommendations, including:

- *Detailed Site Investigation - A detailed site investigation (DSI) for contamination with intrusive soil and groundwater (and possibly soil vapour) sampling to evaluate the potential contamination status of the site and assess the site's suitability (from a contamination standpoint) for a more sensitive land use. The need for soil vapour sampling would predominantly be informed by results of groundwater sampling. Soil vapour sampling could be undertaken following interpretation of groundwater results or could pre-emptively be undertaken concurrently with soil and groundwater sampling, subject to project budgetary and timeline constraints. In addition, the DSI should provide recommendations on the need for any further targeted investigation(s) and / or site remediation if deemed necessary;*
- *Acid Sulfate Soils (ASS) Investigation - An ASS investigation is recommended to determine the presence (or otherwise) and extent of possible acid sulfate soils at the site. The minimum depth of this investigation should be 0.5 m beyond the maximum depth to be excavated. This investigation would most efficiently be conducted in conjunction with the DSI recommended above;*
- *Hazardous Building Materials (HBM) Assessment - Prior to demolition of the existing building, a HBM assessment should be undertaken. Subsequently the HBM to be disturbed during the*

works is to be removed and disposed of by an appropriately licensed and qualified contractor, at an appropriately licensed disposal facility; and

- *Dewatering Management Plan (DMP) - In the likely case that excavations extend beyond the water table, a dewatering management plan is recommended to detail geotechnical and environmental considerations and requirements associated with dewatering at the site.*

It is acknowledged that the site is heavily built upon currently, and opportunities to carry out a thorough investigation require demolition of existing improvements. Should the application be approved, conditions of consent will ensure data gaps are investigated.

- **State Environmental Planning Policy (Transport and Infrastructure) 2021**

Chapter 2 Infrastructure

The provisions of Chapter 2 of *State Environmental Planning Policy (Transport and Infrastructure) 2021* (the Transport and Infrastructure SEPP) have been considered in the assessment of the development application.

The proposed development has a frontage to a classified road under **Section 2.119** of the SEPP. The proposed development does not modify the existing access arrangement for vehicles, being from Piccadilly Place (being in excess of 100m from the intersection of Maroubra Road). However, there are two matters unresolved.

- (1) The matter of whether or not the circumstance or benefit of the easement for access from Piccadilly changes as a result of the lot amalgamation and intensification of the site remains unresolved.
- (2) The matter of a civil/in-principle agreement with Maroubra Police Station (western site) for temporary on-street parking on Maroubra Road (being the classified road), including footpath modifications, changes to line-marking and temporary 55-degree angled car parking. These works were included in the updated Transport Impact Assessment (prepared by JMT Consulting, dated 19 February 2024) however no plans, updated statement of environmental effects or separate development application for this arrangement were provided for assessment. Further, given these works would be to the classified road (Maroubra Road); or not directly related to the proposed development site and; concurrence from Transport for NSW would be required, which has not been granted at the time of preparing this assessment report.

Section 2.120 (Impact of road noise or vibration on non-road development) is also applicable to the development as the proposal includes residential accommodation adjacent to a classified roadway, and is a land use likely to be adversely affected by road noise. A Noise Impact Assessment prepared by SLR Consulting Australia Pty Ltd (Ref. 610.31029.00000-R01-v4.0, dated April 2024) that adequately addresses noise generated from Maroubra Road, and the implementation of recommendations to mitigate road traffic noise. Further, Council's Environmental Health team have no issues with the recommendations of the report, subject to the implementation of recommended conditions on the granting of any consent.

Section 2.48 is relevant to the proposed development as there is an electricity substation immediately adjacent to the development. The application was referred to Ausgrid, who responded with no objection to the proposed development. As a standard condition of consent on the granting of any approval, the applicant will be required to correspond with Ausgrid to facilitate Ausgrid's requirements.

- **State Environmental Planning Policy (Housing) 2021**

The proposal has been evaluated against the provisions of Chapter 4 [*Design of Residential Apartment Development*] of the SEPP (Housing) 2021, which aims to improve the design quality of residential apartment development, in addition to Schedule 8, which incorporates 9 key design quality principles and; the guidelines of the associated Apartment Design Guide (ADG). The ADG provides additional detail and guidance for applying the design quality principles outlined in SEPP (Housing) 2021.

Table 4: Apartment Design Guide Assessment

Objective	Requirement	Compliance/Comment
3C Public Domain Interface	Transition between private and public domain is achieved. without compromising safety and security.	<p>Yes.</p> <ul style="list-style-type: none"> • South-facing balconies overlook the Maroubra Road public domain. • No balconies or living areas overlook the northern Piccadilly Place. • Maroubra Road residential entry is not architecturally defined or legible for residents/visitors.
3D Communal Open Space	Communal open space has a minimum area equal to 25% of the site.	<p>Yes.</p> <ul style="list-style-type: none"> • Level 1: 138m² • Rooftop: 582.5m² • Total: 720.5m² (47.5%)
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid-winter).	<p>Yes.</p> <ul style="list-style-type: none"> • Rooftop communal open space achieves year-round direct sunlight access.
3E Deep Soil Zones	On sites with areas greater than 1,500m ² , 7% of the site area is to be deep soil with a minimum 6m dimension.	<p>No.</p> <ul style="list-style-type: none"> • ADG permits development within centres (i.e. Maroubra Junction Centre) to have no deep soil. • The proposal consists of 416m² (27.4%) landscaping on structure, with planters depths capable of supporting plant and tree growth. • Acceptable stormwater management has not been demonstrated.
3F Visual Privacy	<p>The ADG prescribes minimum separation distances between buildings:</p> <ul style="list-style-type: none"> • Up to 12m (4 storeys) - 6m (habitable) / 3m (non-habitable) • Up to 25m (5-8 storeys) - 9m (Habitable) / 4.5m (non-habitable) 	<p>No.</p> <ul style="list-style-type: none"> • Levels 4 (5th Storey) to Level 7 (8th Storey) do not meet the minimum 9m separation/setback required on the eastern elevation; the proposed eastern elevation relies on “snorkel” or “pop-out” windows from bedrooms to compensate for privacy. • Level 2 extends the principal private open spaces for 6 (six) units to the western elevation, placing

Objective	Requirement	Compliance/Comment
	<ul style="list-style-type: none"> Over 25m (9+ storeys) - 12m (Habitable) / 6m (non-habitable) <p>No separation is required between blank walls.</p>	<p>the onus on future development of 136 Maroubra Road (Police Station) to implement additional separation or privacy measures.</p> <ul style="list-style-type: none"> Residential Levels 3 through to Level 7 are proposed with a 3.0m setback from the western elevation, a shortfall from the 6 to 9m otherwise required. The inadequate setback further burdens future development at 136 Maroubra Road (Police Station) and has implications on the solar access received by the proposed development when 136 Maroubra Road is redeveloped (particularly if it were to align with the built form suggested for 136 by the Applicant). There is inadequate separation between the proposed Level 2 communal open space and the bedroom window of unit 206. There is an immediate relationship and inadequate separation between private open spaces, living rooms and bedrooms from the child care centre on Level 1 of "Pacific Square", which extends to the shared side boundary. The inadequate separation in addition to the extensive unarticulated flank walls to the eastern and western side elevations is a poor urban outcome. As outlined in 3F: <i>"Visual privacy balances site and context-specific design solutions with views, outlook, ventilation and solar access. The adjacent context, site, site configuration, topography, the scale of the development and the apartment layout all need to be considered"</i> – There has been inadequate consideration of the site context and delivery of amenity to existing adjacent land uses. The site is not constrained to the extent that fixed louvres, screen panels and pop-out windows are an appropriate solution – A compliant Building Envelope (including building separation) provides opportunities for shared amenity within the Maroubra Junction Centre. <p>Refer to detailed discussion on pages 56-81 of this assessment report.</p>
3G Pedestrian Access and Entries	Building entries and pedestrian access connects to and addresses the public domain.	<p>No.</p> <ul style="list-style-type: none"> Maroubra Road residential entry is not architecturally defined or legible for residents/visitors.
3H Vehicle Access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians	<p>No.</p> <ul style="list-style-type: none"> The proposed development has not demonstrated that there is a safe and efficient vehicle ingress/egress including adequate splays

Objective	Requirement	Compliance/Comment
	and vehicles and create high quality streetscapes.	<p>for sightlines; warning measures for other users of Piccadilly Place; or clearance and swept paths to accommodate a 10.5m long waste collection vehicle.</p> <ul style="list-style-type: none"> A Plan of Management was requested to outline how the development manages conflicts between waste, delivery/loading or other residential/commercial users of the loading dock. No information has been provided for assessment.
3J Bicycle and Car Parking	The minimum car parking requirement for residents and visitors is set out by the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.	<p>No.</p> <ul style="list-style-type: none"> Required Car Parking: Residential: 68 Visitor: 14 Commercial: 38 Total Required: 120 Proposed Car Parking: Residential: 60 Adaptable: 11 Visitor: 7 Commercial: 12 Total Proposed: 90 (shortfall of 30 or 25%) Motorcycle Parking (5% of total car req.): Six (6) motorcycle spaces are required. Four (4) are provided Shortfall of two (2) motorbike parking spaces. Bicycle Parking: Residential: 34 Commercial: 4 Total: 38 Total Proposed: 24 (shortfall of 14 or 37%) <p>The RFI requested a Green Travel Plan and consideration of car share services. No information was provided by the applicant. The proposal relies on utilising the residential storage cages for bicycle storage.</p>
4A Solar and Daylight Access	Living rooms and private open space areas of at least 70% of apartments receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter.	<p>Yes.</p> <ul style="list-style-type: none"> The proposal (as amended) has addressed concerns raised with respect to improving the internal amenity of the proposed apartments. However, as discussed on pages 56-81 of this assessment report, the building envelope is not conducive to solar amenity when the adjoining lot (136) redevelops, particularly if it were to develop to the building envelope relied on by the development application.
	A maximum of 15% of apartments in a building receive no direct sunlight	Yes.

Objective	Requirement	Compliance/Comment
	between 9am and 3pm at midwinter.	<ul style="list-style-type: none"> 8 proposed units (14.2%) receive no direct solar access.
4B Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	<p>No.</p> <ul style="list-style-type: none"> 31 of 56 units (55%) of units achieve cross-ventilation. <p><i>Note: corner units 209, 309, 409, 509, 609, 709 do not achieve cross ventilation in accordance with Figure 4B.8 of the ADG.</i></p>
	Overall depth of a cross-over or cross-through apartment does not exceed 18m measured glass line to glass line.	Yes.
4C Ceiling Heights	Habitable rooms: 2.7m. Non-habitable: 2.4m. If located in mixed use areas: 3.3m for ground and first floor to promote future flexibility of use.	<p>No.</p> <ul style="list-style-type: none"> Given recent changes due to the NCC and Building Commissioner a minimum of 3.15-3.2m is now required for floor-to-floor height in residential levels to achieve 2.7m ceiling heights. The proposal does not accommodate the required internal heights, and would further increase the variation to building height. Detail on all floor levels and the ultimate height of the development is required.
4D Apartment Size and Layout	Apartments are required to have the following minimum internal areas: Studios: 35m ² 1 bedroom: 50m ² 2 bedroom: 70m ² 3 bedroom: 90m ² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² .	Yes.
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8 metres from a window.	Yes.
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space). Bedrooms are to have a minimum dimension of 3m.	<p>No.</p> <ul style="list-style-type: none"> Fully dimensioned plans were requested within the RFI and not provided. Master bedrooms have been calculated at less than the required 10m² and secondary bedrooms at less than 9m².

Objective	Requirement	Compliance/Comment
	Living rooms or combined living/dining rooms have a minimum width of: 3.6m for studio and 1 bedroom apartments, 4m for 2 and 3 bedroom apartments.	<p>No.</p> <ul style="list-style-type: none"> Fully dimensioned plans were requested within the RFI and not provided. Combined (open-plan) living/kitchen/dining rooms have been calculated at widths of less than 4m.
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	Yes.
4E Private Open Space and Balconies	<p>All apartments are required to have primary balconies as follows:</p> <p>Studios: 4m² minimum area.</p> <p>1 bedroom apartments: 8m² minimum area, 2m minimum depth.</p> <p>2 bedroom apartments: 10m² minimum area, 2m minimum depth.</p> <p>3+ bedroom apartments: 12m² minimum area, 2.4m minimum depth.</p> <p>Ground level or podium apartments are to have a minimum POS area of 15sq.m and minimum depth of 3m.</p>	Yes.
4F Common Circulation and Spaces	<p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>Where design criteria 1 is not achieved, no more than 12 apartments should be provided off a circulation core on a single level.</p>	Yes.
4G Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <p>Studio: 4m³</p> <p>1 bedroom: 6m³</p> <p>2 bedroom: 8m³</p> <p>3+ bedroom: 10m³</p> <p>At least 50% of the required storage is to be located within the apartment.</p>	Yes.

Objective	Requirement	Compliance/Comment
4J Noise and Pollution	In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.	<p>No.</p> <ul style="list-style-type: none"> 138 Maroubra Road is adjacent to an existing child care centre to the east, and an operational Police Station to the west. Referral to Council's Environmental Health identifies shortfalls in the information provided within the amended acoustic report with respect to these two adjoining land uses. In conjunction with inadequate building separation and the deviation from the intended building envelope, noise pollution has been compounded and design solutions (i.e. enclosed balconies on the west façade) are inappropriate as they take away from future residential amenity (solar, ventilation) and add to the visual bulk of the western elevation.
4K Apartment Mix	A variety of apartment types are provided.	Yes.
4P Planting on Structures	<p>Plants are suited to site conditions, considerations include drought and wind tolerance, seasonal changes in solar access, modified substrate depths for a diverse range of plants plant longevity.</p> <p>A landscape maintenance plan is prepared.</p>	<p>Yes.</p> <ul style="list-style-type: none"> Acceptable subject to conditions of consent if approval is granted.
4S Mixed Use	<p>Mixed use developments positively contribute to the public domain. Design solutions may include:</p> <ul style="list-style-type: none"> development addresses the street active frontages are provided diverse activities and uses avoiding blank walls at the ground level live/work apartments on the ground floor level, rather than commercial 	Yes.
	<p>Residential circulation areas should be clearly defined. Design solutions may include:</p> <ul style="list-style-type: none"> residential entries are separated from commercial entries and directly accessible from the street 	Yes.


Objective	Requirement	Compliance/Comment
	<ul style="list-style-type: none"> commercial service areas are separated from residential components residential car parking and communal facilities are separated or secured security at entries and safe pedestrian routes are provided concealment opportunities are avoided 	

Table 5: Design Principles for Residential Apartment Development (Schedule 9 of SEPP (Housing) 2021)

Design Principle	DEAP Minutes and Recommendations (12 May 2023)	Planning and Urban Design Comment (Including Class 1 Appeal discussions)
1 Context and neighbourhood character	<p>The quality and amenity of the public domain.</p> <p>The proposed development presents eight storeys to Maroubra Road, two more than the 6-storey DCP envelope. It is similar in height to the part of the Pacific Square complex that it abuts to the east.</p> <p>The Panel supports this continuation and reinforcement of the existing street wall height, noting that it is a relatively low component of the current and envisioned future streetscape. However, the additional size impacts the nearby resident's amenity.</p> <p>The brick and perforated metal screens are easily maintained materials and have good longevity when well-detailed.</p> <p>An excessive amount of the street front is given over to services, including a substation, fire hydrant booster assembly, and fire exits.</p>	<p>The proposed development (as amended) was reduced one (1) storey with rooftop communal open space on the ninth storey.</p> <p>The six-storey street wall height of Pacific Square initiates the intended transition in scale specified by the Maroubra Junction Centre DCP.</p> <p>The additional storeys as well as "infill" of the courtyard envisioned by the DCP impacts the existing adjacent residential amenity of Pacific Square with respect to solar access, visual and acoustic privacy, and views.</p> <p>The proposed development required further refinement of the external colours and materials. There are extensive flank walls, particularly on the western elevation that could remain in the public view for an extended period of time. The Applicant suggested the proposal could incorporate public artwork, however no formal details have been provided to date.</p> <p>The proposed Maroubra Road façade consists of two fire exit doors and the electrical substation. The Applicant's response to further information on whether services could be relocated was that repositioning the existing substation is difficult given Piccadilly Place relies on an easement. Should the application be approved, the location of the substation is subject to recommended conditions of consent on the granting of any approval, including confirmation of its location from Ausgrid.</p>
2 Built form and scale	<p>The scale of the proposed building rises to nine storeys behind the eight-storey street frontage, three levels higher than the DCP envelope for</p>	<p>The western elevation provides little articulation despite its considerable length and full presentation to the western boundary where it borrows amenity over the adjacent Police Station site. This façade is a combination of metal panels and precast panels relying</p>

	<p>block 6, however lower than the surrounding built forms. The rear wing has a single apartment deep floorplate, which sits well within this context of bulky buildings.</p> <p>However, the side setbacks allow insufficient separation with future development to the west.</p>	<p>on a colour palette of beige and grey, which does not successfully alleviate the considerable building length, proximity, lack of articulation and bulk.</p>
3 Density	<p>The proposal increases the density of the site beyond that envisaged by the DCP envelope, albeit commensurate with the surrounding development. The impact on the many dwellings close to this site could be severe unless adroitly handled.</p> <p><i>Whether the site is developed in the form envisaged by the DCP or the proposed T-shaped scheme, the design must meet the design minimum ADG requirements to safeguard the amenity of the existing neighbourhood as well as the future occupants. Therefore, the maximum density of the new building will need to comply with the ADG at the very least.</i></p> <p><i>The proposal amounts to an increase in density for this well-serviced area. However, the additional floor space results in sub-standard amenity of internal spaces at lower levels and a bulky presence, closely packed with its neighbours, excessively impacting their outlook.</i></p>	<p>The proposed development does not align with the scale prescribed by the RLEP 2012 and RDCP 2013 in terms of height, building envelope (storeys), building depth or building use. The deviation from the RDCP 2013 objectives and controls, including the Proposed Centre Model illustrated in Sections 2.5, 3.1, and 3.2.6 of Part D4 of RDCP 2013, will create an urban design outcome that departs from the desired future character of the Maroubra Junction Centre.</p> <p>The development heavily relies on privacy screening to justify non-compliant separation from existing developments, resulting in poor amenity for future residents of the development.</p> <p>There are opportunities to improve and comply with the building separation requirements of the ADG, and the height of the development, that will balance amenity and environmental outcomes with design excellence, as well as the intended outcomes of the DCP controls applicable specifically to the site.</p> <p>For example, a compliant envelope offers opportunities to improve the overall outlook between the site, Pacific Square and the future redevelopment of the Police Station site.</p> <p>Further, the provided view loss assessment indicates that a compliant form can achieve the retention of views to distant horizon water views. In achieving the DCP envelope and height, the central atrium would reduce the visual impact to “Pacific Square”, improve upon visual privacy, passive sunlight (including to the child care centre) and has the potential to retain water horizon views from adjoining properties.</p> <p>Refer to detailed assessment on pages 56-81 of this assessment report</p>
4 Sustainability	<p>The proposal's density compromises sustainable aspects such as solar access; see discussion in 6. Amenity, below.</p> <p>The Panel would like to see sustainability measures included in the design to alleviate the impact of the new development on the existing neighbours. In addition, the Panel believes</p>	<p>Insufficient information and detailing to ascertain how stormwater is collected (and if from the roof to be stored within the basement floor); how it is treated; and how it is reused/accessed, presumably, to water the proposed landscaping; or how it is intended to re-used after capture).</p> <p>This information was requested within the RFI and is also necessary to satisfy the consent authority in its consideration of whether the proposal meets the criteria for design excellence. The ESD report mentions the provision of a 12,000L tank for irrigation purposes, for example.</p>

	<p>landscaping will be critical to the success of future development.</p> <p>Given the extreme site coverage proposed, the development should harvest, store, treat and re-use all rainwater falling onto the site.</p>	<p>The proposal (as amended) has not illustrated or confirmed the extent of ESD recommendations incorporated.</p>
5 Landscape	<p><i>The panel does not support the site's lack of deep soil area, which becomes a critical amenity in such a dense urban area.</i> The communal space to the street is well located for views and privacy. The applicant should consider other ways in which landscape delivery could be satisfied on-site, including climbing plants and low maintenance vertical accessible gardens – these might also contribute to solving some of the environmental issues, as well as providing the means to address some of the privacy concerns that result from the shift in DCP envelope.</p>	<p>The development is within a dense urban area, and given the intended DCP outcomes, cannot be expected to provide for any significant deep soil – therefore the nil deep soil is acceptable on merit on the proviso landscaping on structure has been provided with a depth that accommodates tree growth.</p> <p>The deviation from the Maroubra Centre (Block 6) building envelope results in a poor urban outcome by infilling the anticipated central courtyard/atrium between the two building towers. The internal courtyard/atrium is an anticipated urban design outcome that contributes to a landscaped open space;</p> <p>The building envelope configuration to create a shared courtyard with high quality landscaped outlook as a shared amenity has also been ignored in preference for constrained outlooks, insufficient separation and poor amenity.</p>
6 Amenity	<p>Privacy, view sharing, views of the sky, and outlook are issues of great importance to the surrounding residents, which the applicant does not fully address in comparing its proposed envelope and the DCP's</p> <p>The 3m setback on the western boundary only allows for sufficient building separation with a future building on the police site compromising that site's development potential. At the very least, the scheme should comply with ADG building separation requirements. There may be potential to achieve proper separation setbacks with the T-shaped plan if the eastern side only contains non-habitable rooms or the windows are angled to the north on the upper levels, as shown on the east side lower levels.</p> <p>The proposal's height and setbacks compromise the neighbours' solar access, view</p>	<p>The accumulation of all the above comments results in a development that is of a poor amenity outcome for both the subject site and existing adjoining developments. The intended/expected development, as outlined within the DCP, has not been realised in the proposal. The transition in height and storeys has been ignored. Further, the DCP footprint intended to create a shared central courtyard with high quality landscaped outlook, ultimately being a shared amenity with Pacific Square, has also been ignored in preference for constrained outlooks, insufficient separation, limited landscape and poor amenity.</p> <p>Consequently, the proposed building envelope results in additional overshadowing and poor visual and acoustic amenity. The additional height and central bulk diminishes a share amenity outcome and removes of water views currently experienced by the residents of Pacific Square.</p> <p>It is reinforced that the height of the proposed development undermines the street wall maximum, with the intent that the greatest height should be located on the junction of Anzac Parade and Maroubra Road, and not continue further along Maroubra Road. The proposal adversely impacts the hierarchy of scale along the two streets and extends the scale emphasis all the way along Maroubra Road despite the vision of RDCP 2013.</p>

	<p>sharing, and privacy. The height should be lowered where it impacts the neighbours' mid-winter solar access.</p> <p>The communal space at the rear of the building should be further setback and have privacy screening.</p>	<p>The development is therefore contrary to envisaged amenity and environmental outcomes for development on the site.</p> <p>Additionally, the proposed development (as amended) does not achieve the minimum 60% of units to be cross-ventilated; and has not demonstrated appropriate room dimensions (specifically for bedrooms and living room sizes).</p>
7 Safety	<p><i>The plans should be developed to allow for passive surveillance of the dead-end lane and delivery area.</i></p> <p>The fire stair circulation is not safe enough to allow for daily use.</p>	The proposed development (as amended) introduced an internal stair corridor proximate to the lift cores.
8 Housing diversity and social interaction	The applicant has considered lobby area adjacencies with visibility between ground floor retail and apartment foyers and building lobby. The stairs are not designed for daily use or incidental interaction.	As above.
9 Aesthetics	<p>Architectural Design, Materials and Detailing.</p> <p>The proportions, fenestration, and ordering of the façade sit well in their context. Using relatively high-quality materials such as brick and perforated aluminum screens is a welcome inclusion in this streetscape. The southern flank wall, likely to remain visible for a long time, could be more deeply modelled or used for Public Art.</p>	<p>The use of prefinished fibre cement sheets (and face-brick) require further refinement and consideration of alternate materiality or inclusion of public art (to the unbroken expanses of wall to both the western and eastern flank walls), given their prominence within the public domain and immediate visual impact to surrounding residences. This is particularly evident in 'Viewpoint 18', pages 85 to 100 of the View Impact Renderings, which illustrate views from units of Pacific Square adjacent to the development.</p> <p>CURRENT CONDITION WITH PROPOSED DEVELOPMENT (REVISED SCHEME)</p>  <p>In the RFI Response provided by the Applicant, integration of public artwork was considered a reasonable response to improving the presentation of the flank walls, however no detail (or indicative locations) has been provided.</p>
SUMMARY	The panel welcomes considered challenges to DCP envelopes where property	Amalgamation of sites is not necessary to facilitate development on the subject site (see discussion on pages 56-81 of this assessment report).

	<p><i>ownership patterns assumed in the DCP are not achievable.</i></p> <p>The applicant has addressed some of the Panel's concerns raised at the pre-lodgement meeting, however some remain, and the bulk has been increased.</p> <p>The T-shaped block proposal would be suitable providing it:</p> <ul style="list-style-type: none"> - <i>achieves compliant solar access to the subject site and all the adjacent apartments.</i> - <i>is amended to achieve compliant building separation between the subject site and all adjacent apartments, including potential future habitable rooms on the police site to the west.</i> - <i>Improves landscape areas, communal open space and deep soil planting</i> - <i>Does not negatively impact on privacy and views, both on-site and on neighbouring sites</i> 	<p>The proposed building envelope is not suitable for the following reasons:</p> <ul style="list-style-type: none"> - The proposed building envelope diminishes solar amenity and direct sunlight to the east. The proposed apartments rely heavily on the western elevation for sunlight and outlook; and to compensate for unsatisfactory building separation, the private open spaces/balconies are enclosed with screening devices. The Applicant's suggested building envelope for the Police Station (#136) mimics that of the proposed development, resulting in a domino, or compounding, loss of amenity to the subject site itself. - Separation to the west is proposed at 3.0m, requiring future development of the Police Station (#136) to accommodate additional separation, and further deviate from the expected outcomes of the Maroubra Junction Centre DCP. - The central courtyard/atrium is an amenity benefit shared between all three sites (being the subject site, Pacific Square and the Police Station). The courtyard offers a break in built form that contributes to visual relief; passive sunlight; improved ventilation/cross-winds. <p>Redevelopment in this area that aligns with the vision of the Maroubra Junction Centre DCP has the potential to contribute to the overall well-being of residents across multiple lots.</p>
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Additional Information and Response to the Provision of Affordable Rental Housing

On the 18th April 2024, the applicant submitted a response to Council's RFI implying that the development application sought to apply the building height bonus introduced in the State Environmental Planning Policy Amendment (Housing) 2023. The recent amendment ("State Environmental Planning Policy Amendment (Housing) 2023") commenced on the 14th December 2024. The amendment **DOES NOT** apply to the subject application DA/80/2023 as it was lodged on the 10th March 2023. The savings provisions, pursuant to Schedule 7A, Section 8 of SEPP (Housing) 2021, render the amendment to the SEPP **not applicable** to the subject development application.

Notwithstanding, in its current form, the application does not meet the requirements introduced in the Amendment, and does not dedicate a substantial percentage of the development as affordable housing (2 units to approximately 102m² (1.52%) are proposed as affordable housing, substantially below the 10% required) and thus does not warrant any further assessment in this regard.

- **Water Management Act 2000**

The application was referred to WaterNSW (DPIE), as required under s90(2) of the Water Management Act 2000. WaterNSW granted General Terms of Approval (GTA) on the 1 May 2023. The GTA forms part of the recommended conditions of consent should the application be determined by way of approval.

- **Randwick Local Environmental Plan 2012**

The relevant local environmental plan applying to the site is the **Randwick Local Environmental Plan 2012** ('the LEP'). The aims of the LEP include:

- (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) *to foster a liveable city that is accessible, safe and healthy with quality public spaces, connections to open space and attractive neighbourhoods and centres,*
- (b) *to support a diverse local economy and business and employment opportunities for the community,*
- (c) *to support efficient use of land, vibrant centres, integration of land use and transport, and an appropriate mix of uses,*
- (d) *to achieve a high standard of design in the private and public domain that enhances the quality of life of the community,*
- (e) *to promote sustainable transport, public transport use, walking and cycling,*
- (f) *to facilitate sustainable population and housing growth,*
- (g) *to encourage the provision of housing mix and tenure choice, including affordable and adaptable housing, that meets the needs of people of different ages and abilities in Randwick,*
- (h) *to promote the importance of ecological sustainability and resilience in the planning and development process,*
- (i) *to protect, enhance and promote the environmental qualities of Randwick,*
- (j) *to ensure the conservation of the environmental heritage, aesthetic and coastal character of Randwick,*
- (k) *to acknowledge and recognise the connection of Aboriginal people to the area and to protect, promote and facilitate the Aboriginal culture and heritage of Randwick,*
- (l) *to promote an equitable and inclusive social environment,*
- (m) *to promote opportunities for social, cultural and community activities.*

The proposal (as amended) is **inconsistent** with these aims, as the proposal:

- Does not appropriately contribute to the quality of open space or Maroubra Junction Centre;
- Does not contribute to the intended local economy or business and employment opportunities as it deviates from the intended outcomes of the site with respect to the density balance of residential accommodation and commercial gross floor area;
- While the proposal offers a mix of commercial and residential uses, the proposal, with respect to its scale and envelope, fails to offer a reasonable level of amenity for those uses, and is not to a standard of design that enhances the quality of life for the community – particularly with respect to retention of views, solar access and visual/acoustic privacy.
- The proposal has not facilitated or promoted public transport use, walking or cycling strategy to compensate for the significant deficiency in the provision of vehicle parking spaces; motorcycle parking spaces and; bicycle parking spaces.
- The proposal has not demonstrated the facilitation of ecologically sustainable development.
- The environmental qualities of Randwick have not been addressed by the proposal, particularly as the proposed development (as amended) results in view loss, loss of sunlight to adjacent residences and land uses, and has not appropriately considered its context given adjoining land uses include an existing child care centre and Police Station.
- The proposed development diminishes the social environment (open spaces) envisioned for the site.

Zoning and Permissibility (Part 2)

The site is located within the E2 Commercial Centre pursuant to Clause 2.2 of the LEP. Refer to the zoning map below.

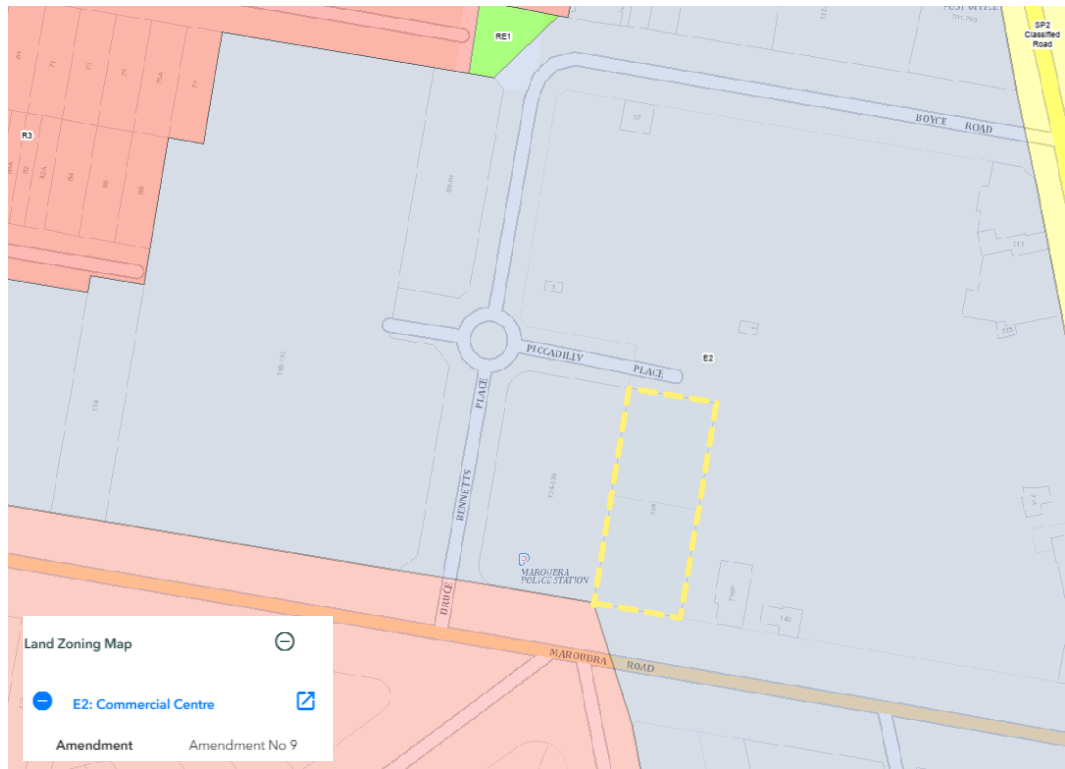


Figure 6: LEP zoning of the subject site and surrounds (Source: NSW Planning Portal Spatial Viewer)

According to the definitions contained in the Dictionary of the Randwick LEP 2012, the proposal satisfies the definitions of **commercial premises** and **shop top housing** which are permissible uses with consent in the Land Use Table in Clause 2.3 for the E3 Commercial Centre zoning.

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- *To strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity.*
- *To encourage investment in commercial development that generates employment opportunities and economic growth.*
- *To encourage development that has a high level of accessibility and amenity, particularly for pedestrians.*
- *To enable residential development only if it is consistent with the Council's strategic planning for residential development in the area.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To facilitate a high standard of urban design and pedestrian amenity that contributes to achieving a sense of place for the local community.*
- *To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones.*
- *To facilitate a safe public domain.*
- *To support a diverse, safe and inclusive day and night-time economy.*

The proposal (as amended) is considered to be **inconsistent** with these zone objectives for the following reasons:

- The proposed development diminishes the role of the Maroubra Junction Centre and deviates from the intended outcomes of the site with respect to the density balance of residential accommodation and commercial gross floor area;
- Similarly to the above point, the proposed building envelope and density of development is inconsistent with Council's strategic planning for residential development in the Maroubra Junction Centre area;
- The excessive building height, exceedance in number of storeys permitted and variation to the building footprint and envelope expected under both the LEP and DCP results in a development that does not contribute to the street or public space, and does not minimise the impact of development or protect the amenity of residents in the zone.
- The unresolved basement layouts and loading area do not demonstrate that public safety is achieved.

General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 6** below. The proposal does not comply with the development standard for Height of Building in Part 4 of RLEP 2012, being Clause 4.3 and accordingly, a Clause 4.6 request has been provided with the application for the exceedance of the maximum height standards.

Table 6: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Height of buildings (CI 4.3(2))	25 metres	Proposed: 31.75m Variation: 6.75m (27%)	No. Subject to CI 4.6.
FSR (CI 4.4(2))	N/A	N/A	N/A Refer to discussion on building envelope on pages 56-81 of this assessment report
Heritage (CI 5.10)	The site is not within a heritage conservation area and is not a heritage listed item.	The site is proximate to a heritage item (2 Robey Street, Maroubra / Item I227) Heritage Management Document is not required.	Yes.
Flood Planning (CI 5.21)	N/A	The site has not been mapped as within a flood planning area. Suitable conditions can be imposed to address public concerns should the application be approved.	Yes.
Acid sulphate soils (CI 6.1)	N/A	N/A	N/A

Earthworks (CI 6.2)	Development consent required.	Addressed in the submitted Geotechnical Desktop Assessment. Suitable conditions can be imposed should the application be approved.	Yes.
Stormwater Management (CI 6.4)	Minimise stormwater impacts; improve water quality	The development has not demonstrated that the impacts of stormwater runoff have been minimised, nor has the incorporation of water-sensitive design principles.	No.
Airspace Operations (CI 6.8)	The consent authority must not grant development consent for the development if the relevant Commonwealth body advises that the development will penetrate the Limitation or Operations Surface and should not be constructed.	Referral to the Sydney Airport Corporation was made and no objection was raised to the development to a maximum height of 45.72m above existing ground height.	Yes.
Design Excellence (CI 6.11)	Development consent must not be granted to development to which this clause applies unless the consent authority is satisfied that the proposed development exhibits design excellence.	The amended DA scheme has not been referred to the DEAP, as the application was subject to Class 1 LEC proceedings. The proposal has yet to be amended or demonstrate design excellence in accordance with comments from council's Urban Design Team or the first DEAP. Suitable conditions can be imposed should the application be approved.	Yes.

The proposal is considered to be generally **inconsistent** with the outcomes and objectives of the LEP.

Clause 4.6 Request to Vary Clause 4.3 Height of Buildings Standard

Pursuant to Clause 4.3 of RLEP 2012, a maximum height of 25.0m is applicable to the subject site. The proposal seeks a maximum overall building height of 31.75m (6.25m or 27% variation). The section drawings indicate a maximum RL to the top of the lift overrun of RL56.5m and an existing ground level of RL24.75. Additionally, the following elevation and massing diagram shows the height exceedance (25m height is in red).

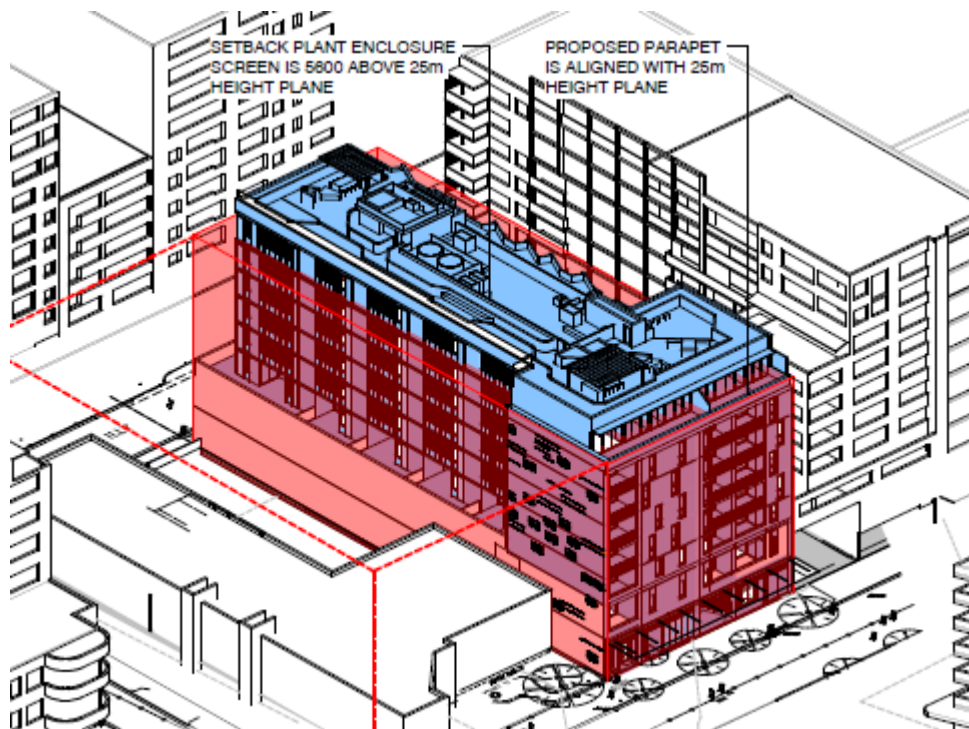


Figure 7: Height Plane Analysis (Drawing DA8.320, DJRD Architects)

At the time the development application was lodged in March 2023^{*(see note)}, Clause 4.6(3) and Clause 4.6(4) of the LEP established preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard. The three (3) preconditions include:

- whether compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
- whether there are sufficient environmental planning grounds to justify contravening the development standard; and
- whether the proposal is in the public interest because it is consistent with the objectives of the standard and the objectives for development in the zone.

**Note: The Environmental Planning and Assessment Amendment (Exceptions to Development Standards) Regulation 2023 came into force during the assessment of the application, however, it only applies to development applications made on or after 1 November 2023 per savings provisions. The subject application was made on 10 March 2023. The amendment removed the need for a proposed development/variation to demonstrate that development was in the public interest. This application is required to demonstrate that the proposed development is in the public interest.*

The submitted Clause 4.6 has been provided as an attachment to this report (**ATTACHMENT C**).

(i) Clause 4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The Applicant applies the first method outlined by Wehbe, being that the three (3) objectives ((a)-(c)) of the standard (Clause 4.3) are achieved.

(a) to ensure that the size and scale of development is compatible with the desired future character of the locality,

- (b) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,*
- (c) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.*

A summary of the key points provided by the applicant (*italics*) in demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstance, and the assessing officer's comments, are provided below:

Objective (a)

- *The additional height does not deliver additional habitable gross floor area above the LEP control.*
- *The proposed development contributes to the diversity of use in Maroubra Junction, comprising retail, commercial and residential floor space. The additional height allows access to the rooftop for amenity for residents that reinforce the role of Maroubra Junction as an economic centre with housing in easy access to job and services.*
- *In the Randwick City Local Strategic Planning Statement (prepared in 2020), the precinct is anticipated for additional density. Council's action is to undertake strategic studies (including the Town and Strategic Centres Transition Heights Review and Eastgardens-Maroubra Junction Strategic Centre Review) to integrate land use and transport to reflect Maroubra Junction's economic importance as a Strategic Centre.*
- *The proposed development anticipates the critical need for integrated land uses with a density that is commensurate to the anticipated growth of Maroubra Junction.*
- *As noted, the LEP was made in 2012 and the surrounding buildings were already developed and therefore there was little opportunity to increase density in the centre to deliver additional job and housing density. The subject site however is one of the few undeveloped sites in the centre that has scope to achieve these directives.*
- *There is therefore a compounding deficit of housing delivery in the LGA.*
- *The lower height applied to the subject site is anomalous in this context. The existing built form adjacent the site is compliant with the taller, adjacent LEP height, and any compliant redevelopment of this site would be inconsistent with its context.*
- *With respect to current and future urban design outcomes, lower development on the subject site is in fact incompatible with the planning context and would result in an incongruous street wall and poor amenity (solar, privacy) for future residents on the subject site particularly if strict adherence to the DCP block planning was to be adhered to.*
- *Part D4 Maroubra Junction Centre in the Randwick DCP also outlines the desired future character for the precinct "to provide a mix of commercial, retail and residential uses that serve the needs of the local community".*
- *The site is in the DCPs "Block 6". The most prominent development in this block is Pacific Square, which bounds both the north and east of the site. Development to the west of the site across Bruce Bennetts Place (Newington Towers) steps in height to be taller than the Pacific Square development.*
- *The street elevation of Maroubra Road represented in Figure 8 [not extracted] below clearly illustrates that the predominant height of development to the east and west of the site (and north of the site) is greater than the proposed development. The proposed development provides additional setback to the top floor to further reinforce the scale transition. The proposed development is compatible with the desired future character of the locality. As per the objective of the Height of Buildings Control.*

- In terms of the LEP Height of Buildings control, it is only to the site's south that the LEP does not permitted additional building height. However, as can be seen from Figure 9 [not extracted] below, the street elevation of Bruce Bennetts Place shows that the proposed development provides a transitional scale between the Pacific Square development to the north and 165-167 Maroubra Road opposite the site.
- The proposed development therefore meets the objectives set out for Block 6 of the Maroubra Junction centre
- The proposed development is consistent with the adjacent built form (not anomalous) and provides a transition in scale from the development immediately north and east to the south, addressing the DCP objectives.

Assessing Officer's Comment

It is considered that the development is inconsistent with objective (a). The desired future character, specific for this site and as supported by the controls within the RCDP13 (Part D4 – Maroubra Junction Centre), is for development on the subject site to be transitional in scale. It has not been demonstrated that the objectives of Block 6 have been achieved by the development.

The following is noted in response to the provided justification:

- The development does provide floor area above the maximum 25.0m building height:



- There is a discrepancy in the commercial/retail and residential GFA proposed compared to the applicable building envelope standards within the RCDP13, indicative of excessive built form considering there is no FSR standard for the site.
- The existing circumstance of surrounding development, that are subject to the higher building height standard under the LEP are acknowledged as development that was built or approved prior to the current standards applicable to the site. The underlying desired future character for the subject site is to be of a lesser height and scale; offer a mutually beneficial open space in the middle of the Maroubra Junction Centre; and be transitional in scale towards other surrounding development. The proposed development does not achieve this desired character.

- The significant shortfall in the provision of off-street parking for both the commercial and residential parts of the proposed development is indicative of a scale of development that is not suited for the site, and thus there is no grounds for the additional residential floors and resulting building height.

Objective (b)

- *The site does not contain any Heritage items of either State or local significance. The site is also not in a Heritage Conservation Area (HCA). Heritage Item (I227 in LEP schedule) at No. 2 Robey Street is located around 45m to the south of the site and is not affected by the proposal. As such the proposal is not inconsistent with this objective.*

Assessing Officer's Comment

It is considered that the development is consistent with objective (b).

Objective (c)

- *The proposed additional height does not adversely impact on the amenity of adjoining and neighbouring properties.*
- *The C-shape volume anticipates two blank wall ends to the "C" immediately adjacent the eastern neighbour – and the windows and balconies contained within Pacific Fair. Conversely, the proposed development presents one 'end', which is a continuation of the Maroubra Road street wall. To the rear of the site, the proposed volume is setback from the eastern boundary and provided with façade articulation. Further, communal open space at both Level 2 and Level 8 present a landscaped buffer to the eastern neighbour.*
- *The C-shape volume anticipates a continuous street wall along Piccadilly Place. The proposed development provides setback to both side boundaries, as well as to Piccadilly Place. In this manner, the extent of facade facing Piccadilly Place is limited to a "finger" within its site boundaries, offering breaks to the visual mass of the volume as viewed by the northern neighbour.*
- *It is acknowledged that there will be additional mass in the middle part of the site when compared to the 'C' shape of the DCP. Notwithstanding, this part of the site complies with the Design Criteria of Objective 3F-1 regarding Visual Privacy as it provides a setback greater than the requisite 4.5m for non-habitable rooms. This is further in accordance with the Design Guidance items of the ADG listed below:*
 - *New development should be located and oriented to maximise visual privacy between buildings on site and for neighbouring buildings.*
 - *Direct lines of sight should be avoided for windows and balconies across corners.*
- *The massing of the proposed envelope is compliant with the following envelope controls and development provisions prescribed in the Randwick DCP, demonstrating that the additional height does not effect the visual bulk of the proposal:*

3.1.3 Building Envelope	<ul style="list-style-type: none"> The GFA of the proposed ground and first floors does not exceed 80% of the maximum building envelope. The GFA of the proposed residential floors does not exceed 70% of the maximum building envelope
3.1.5 Building Depth	<ul style="list-style-type: none"> The depth of the proposed residential floors (glass line to glass line) does not exceed 18 metres, or 22 metres between perimeter walls
3.1.6 Building Separation	<ul style="list-style-type: none"> The proposed development achieves the ADG objective for visual privacy either by meeting the design criteria or through alternate solutions where required, as detailed above.
3.1.7 Articulation	<ul style="list-style-type: none"> The development is articulated on all facades, through the methods prescribed in this control. This includes balconies of varying depths, variations in floor-to-floor height at lower levels, recessed entries, vertical elements, fenestration that responds to use and a clear definition of the base, residential floors and recessed top floor.
4.1.4 Open Space	<ul style="list-style-type: none"> The development has four landscaped zones. The area of communal open space exceeds the ADG minimum design criteria.

- *The proposed additional height has been designed to avoid loss to neighbouring privacy.*
- *The site has existing residential apartments to both the north and east. The Police Station to the west is considered a future development site and as such separation has been provided in conjunction with an indicative scheme prepared for that site.*
- *In addition, the proposed scheme has only bedrooms on the east side and pop-out windows control the view to the north to provide enhanced privacy.*
- *The proposal has a side boundary setback of 3m. This is considered acceptable as the analysis of the Police Station site on DA9.900 indicates that a tower on that site could setback 9m (totalling 12m) without compromising the development potential of that site.*
- *The proposed additional height does not result in adverse additional overshadowing of neighbouring properties and the public domain when considered against the DCP scheme. The architect has provided a detailed comparison against a compliant envelope on the site in the resubmitted drawing set.*
- *To assess loss to viewing experienced by the adjacent existing development, a view sharing analysis has been conducted.*

Assessing Officer's Comment

It is considered that the development is inconsistent with objective (c). The proposed development (as amended) adversely impacts the amenity of adjoining land in terms of visual bulk, loss of privacy, overshadowing and views.

The additional building height that is proposed adversely impacts amenity due to the unarticulated length of walls and insufficient building separation resulting in visual bulk toward residents of Pacific Square as well as the public domain and future potential redevelopment of the Police Station site (illustrated in Figures 22 and 23); particularly as if the outcomes predetermined by both the LEP and DCP building envelope controls are unrealised by the development and thus remove of the cross-site mutually beneficial central open space that provides the opportunity for improved visual relief and landscaped outlook.

Reliance on achieving visual privacy through alternate means (enclosed balconies and pop-out windows) as a result of inadequate building separation is not sufficient grounds to vary building height. The design solutions sought also diminish internal amenity for future residents, particularly as the western elevation screening is described within supporting documentation as “... provided only in response to the NSWPF request for restricting opportunities for throwing objects from private balconies – they are not for privacy reasons”, further inferring that separation is

inadequate and unsuitable for the site context. Additionally, this enclosure adds to the visual bulk of the western façade.

To compensate for poor building separation, the application relies on a potential development building envelope for the Police NSW site, however, this ultimately compounds the impacts on solar access, visual privacy and overall amenity between sites as in the designs presented, the Police NSW site would also significantly deviate from the building height standard, and DCP building envelope requirements. The development application has not demonstrated that future redevelopment of the police site in the alternate scheme provided would not ultimately reduce direct sunlight into the apartments on the western elevation and thus compliance with ADG.

There is a clear removal of horizon water views and amenity loss from reduction of passive sunlight experienced by the the apartments of Pacific Square as a result of exceeding building height (Figures 22 and 23).

As discussed under the assessment of DCP controls, the controls stipulated under the Maroubra Junction DCP (RCDGP13, Part D4) have not been complied with.

(ii) Clause 4.6(3)(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant submits that non-amalgamation with the Police Station site (136 Maroubra Road), that the objectives of the building height standard and the EP&A Act have been met, as environmental grounds that justify contravening the development standard.

As amalgamation is not a prerequisite for the development of the site, and each may be developed independently, there is not sufficient environmental grounds to support the variation to the maximum height of building standard. Further, as detailed above, the proposed development (As amended) is inconsistent with the objectives (a) and (c) of Clause 4.3.

(ii) Clause 4.6(4) that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

The zone objectives are outlined and discussed in **Section 3.1(a)** of this report (**Page 39**). The Applicant has provided the following response to each zone objective:

Objective 1:

- *The proposed development is consistent with this objective as it includes non-residential floor space that will contribute to meeting the needs of residents, workers and visitors in Maroubra. The additional proposed height does not affect the provision of non-residential floor space.*

Objective 2:

- *As identified above, the non-residential floor space contributes to the provision of employment opportunities in Maroubra Junction. The additional proposed height does not affect the provision of non-residential floor space.*

Objective 3:

- *The site is in close proximity to the major bus routes on both Anzac Parade and Maroubra Road. Projected future public transport connectivity through the LGA (including potential future light rail extension) will reinforce the accessibility of the site. The additional height proposed allows for additional dwellings, increasing the number of residents in the highly accessible Strategic Centre. These residents can take advantage of public transport, walking and cycling to meet their everyday need for work, recreation and shopping.*
- *The proposal delivers lower than required parking numbers, thus seeking to maximise public transport patronage.*

Objective 4:

- *The proposed mixed-use development prioritises non-residential floor space on the lower levels. The residential upper floors facilitate an increase to the population of Maroubra within the Strategic Centre, contributing to the economic vitality of the precinct.*

Objective 5

- *As the subject site has not been amalgamated with the NSW Police Station site as anticipated in Council's DCP, the proposal follows a detailed envelope design process that makes best use of the site in accordance with the LEP and relevant SEPP provisions (particularly the ADG that is given weight through the Housing SEPP). This process included due consideration to the environmental impacts to adjoining existing development, as well as to the future development of the NSW Police Station site and to the public domain. The final envelope that formed the basis of the resolved architectural design minimises adverse impact as outlined in **Section 3.3** of this Clause 4.6 Variation Request. This section identifies how the following has been addressed:*
 - *Overshadowing of existing adjacent development.*
 - *Overshadowing of the public domain.*
 - *Viewing impact to the outlook experienced by adjacent residential.*
 - *Privacy impact to adjacent residential.*
 - *Envelope massing in the context of the adjacent streetscapes; and*
 - *Consideration of the future desired character of Maroubra Junction.*
- *Following assessment of these matters, it is considered that the proposed development with additional height does not impose additional adverse environmental impact when compared to a compliant envelope.*

Objective 6

- *As discussed above, this proposed development with additional height is consistent with this objective. The amenity of adjoining residents within the zone, as well as to the public domain, has been considered and minimised on the proposed.*
- *Where necessary, mitigating features are incorporated into the design, as well as alternate methods to achieve ADG privacy objectives.*

Objective 7

- *The proposed development is consistent with this objective. Two retail tenancies at ground floor have direct access to the street, with a glazed frontage. Residential floors above provide passive surveillance of both Maroubra Road and Piccadilly Place.*

The proposal (as amended) is **inconsistent** with these aims, as the proposal:

- Does not appropriately contribute to the quality of open space or Maroubra Junction Centre;
- Does not contribute to the intended local economy or business and employment opportunities as it deviates from the intended outcomes of the site with respect to the density balance of residential accommodation and commercial gross floor area – particularly the residential GFA that exceeds that expected by the maximum building envelope controls;
- While the proposal offers a mix of commercial and residential uses, the proposal, with respect to its scale and envelope, fails to offer a reasonable level of amenity for those uses, and is not to a standard of design that enhances the quality of life for the community – particularly with respect to retention of views, solar amenity and visual/acoustic privacy.
- The proposal has not facilitated or promoted public transport use, walking or cycling strategy to compensate for the significant deficiency in the provision of vehicle parking spaces; motorcycle parking spaces and; bicycle parking spaces.
- The proposal has not demonstrated the facilitation of ecologically sustainable development.
- The environmental qualities of Randwick have not been addressed by the proposal, particularly as the proposed development (as amended) results in view loss, loss of sunlight to adjacent residences and land uses, and has not appropriately considered its context given adjoining land uses include an existing child care centre and Police Station.
- The proposed development diminishes the social environment (open spaces) envisioned for the site.

Further, the reasons presented by the application are inadequate, as:

- Amalgamation is not a prerequisite established by the DCP – each site (both 138 and 136 Maroubra Road) is still capable of being individually redeveloped to meet the desired character established by the DCP.
- The below assessment the application has concluded that additional building height does result in additional visual bulk, view loss and loss of solar amenity to the residents of Pacific Square as a result of the additional building height of 6.25m.

Assessing Officer's Conclusion:

The proposed height variation is not supported, and the submitted Clause 4.6 is not considered well founded, nor conducive to the objectives of Clause 4.6 particularly as the development does not result in a better environmental or planning outcome. No environmental grounds have been established that support the need for additional height based on site context and circumstance. The amenity impacts resulting from the variation to the maximum building height standard are not in the public interest.

(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

Several proposed instruments have been the subject of public consultation under the EP&A Act, and are relevant to the proposal, including the following:

- *Draft Remediation of Land SEPP*
- *Draft SEPP (Environment)*
- *Draft Randwick Comprehensive Planning Proposal*

The assessment of the proposal is not altered by the draft provisions within the above proposed instruments. The Draft Randwick Comprehensive Planning Proposal seeks to amend the RLEP12 to align with the Randwick Local Strategic Planning Statement. It was submitted to the Department of Planning and Environment in 2022 and is in the process of finalisation. The proposed amendments to the LEP do not affect the proposed development with respect to zoning or key applicable LEP clauses such as height of building, floor space ratio, or heritage.

(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- ***Randwick Comprehensive Development Control Plan 2013 ('the DCP')***

The relevant sections of the DCP that apply to the development application are:

- Part B – General Controls
- Part D4 – Maroubra Junction Centre

The proposal is considered to be **inconsistent** with the main controls and objectives of the RCDCP as discussed below:

PART B – GENERAL CONTROLS

B1 Design

The DCP reiterates the requirements under SEPP (Housing) 2021 and the former SEPP 65 provisions, including the Design Quality Principles. Comments with respect to design have been provided in **Table 4 (Page 28)**. The proposed development is not considered to be of a good design, nor meet the objectives of the DCP, for the following reasons:

- The proposed development (as amended) has not demonstrated an understanding of, and an appropriate response to, the existing form of the locality, or the specific conditions of both the site itself, and its surrounds. This is primarily evident in the disregard of appropriate setbacks, apartment design, building height and building footprint that significantly impacts the adjoining land uses (child care centre, police station and existing residential apartments adjoining the site).
- The design has not been well-articulated to facilitate a necessary break in the built form for visual relief, passive solar access or an appropriate design response for building separation. There is a high reliance on pop-out windows and enclosure of balconies to facilitate visual and acoustic amenity at the loss of good cross-ventilation, sunlight, and relationship between the site and the two adjoining developments.
- The proposed building envelope and design relies on non-amalgamation with the police station (136 Maroubra Road) and suggests that future development of #136 would mimic that of the proposed development (as amended). This is a very poor

urban outcome that compounds issues with residential amenity and environmental outcomes including that both sites would exceed the building height and building envelope controls and thus further reduce the extent of sunlight, privacy and ventilation experienced across both sites, as well as Pacific Square.

- An appropriate response to the surrounding form has not been demonstrated. The site is subject to a six (6) storey maximum building envelope control, intended to facilitate a transition in height between existing development and the proposed infill development for both 136 and 138 Maroubra Road (police station and the subject site). Pacific Square (eastern development) has initiated the transition on its western elevation (adjacent to the subject site), which has been ignored by the proposed development.
- The criteria for Design Excellence (Clause 6.11 of the LEP) has not been demonstrated.
- The criteria for the Design Principles for Residential Apartment Development has not been demonstrated.

B2 Heritage

This section of the DCP does not apply.

B3 Ecologically Sustainable Development

The proposed development is not considered to demonstrate sustainable development, nor meet the objectives of Part B3 the DCP, for the following reasons:

- Reliance solely on the BASIX commitments is not a demonstration that the proposal meets the objectives of ecologically sustainable development.
- It has not been demonstrated how irrigation or maintenance of landscaped areas will occur.

B4 Landscaping and Biodiversity

The development is generally acceptable in this regard. Should the development be approved, a maintenance regime for landscaped areas will need to be prepared as a condition of consent, particularly as it is unclear how the landscaped areas will be irrigated through water-efficient means.

B5 Preservation of Trees and Vegetation

No significant trees or vegetation are removed by the proposed development. The development is generally acceptable in this regard.

B7 Transport, Traffic, Parking and Access

The proposed development (as amended) has not provided sufficient off-street parking within the basement. There is a combined shortfall of thirty (30) car parking spaces, being 25% of the minimum requirement. The proposed development is not considered to demonstrate appropriate management of car parking within the broader transport network; effective car parking provisions (including motorbikes and bicycles); or demonstrate that the parking arrangements proposed facilitate user and pedestrian amenity and safety.

The extent of parking provided is a poor outcome for the development, and contributes to an apparent overdevelopment of the site for the following reasons:

- Significant shortfall in parking for both the commercial and residential parts of the proposed development:

Required Car Parking:

Residential: 68
Visitor: 14
Commercial: 38
Total Required: 120

Proposed Car Parking:

Residential: 60
Adaptable: 11
Visitor: 7
Commercial: 12
Total Proposed: 90 (shortfall of 30 or 25%)

Motorcycle Parking (5% of total car req.):

Six (6) motorcycle spaces are required.
Four (4) are provided
Shortfall of two (2) motorbike parking spaces.

Bicycle Parking:

Residential: 34
Commercial: 4
Total: 38
Total Proposed: 24 (shortfall of 14 or 37%)

- Council requested a Green Travel Plan within both RFI Letters sent to the Applicant, in addition to recommending consideration of car share services. The Applicant did not respond with a Green Travel Plan nor with the inclusion of any car share space(s).

In the RFI response, the Applicant references developments approved with less than the required parking spaces. The sites referenced are located in the Randwick LGA suburbs of Kingsford and Kensington, are less than 100m walk from a light rail station, and were acceptable on merit given the *nature, location and site-specific circumstance* (i.e. directly adjacent to a light rail station). The subject site does not have the benefit of being directly adjacent to a light rail station (though there are a couple of nearby bus stops) and therefore the acceptability of such a shortfall cannot be accepted on merit in this case.

The proximity of the site to public transport (bus stops) is acknowledged. However, the proposed development represents a significant departure from the parking controls and it is considered that the number of parking spaces provided will not cater for the demand generated by future residents and commercial tenancies, and will result in an unacceptable impact on the amenity of residents in the locality due to the additional demand for on-street parking generated by the proposed development.

- Further, the application suggests that there is a range of public parking available near the site, however in the instance this is in reference to the “Pacific Square” commercial parking area – the carpark is not a public facility and it is a disservice

to rely on the parking provided for the visitors and commercial premises within Pacific Square. Alternative parking (i.e. on the street) is generally otherwise limited to twenty minutes to 2 hours, or reserved for the Police Station and delivery vehicles. It is therefore concluded there is insufficient available public parking to accommodate such a significant shortfall in parking.

- The Applicant also stated in their response that *“The commercial and retail floor space of the site is ancillary in nature and will draw in a mostly walk-up trade, with visitors unlikely to be reliant on car parking.”* However, this cannot be confirmed until such a time a use of the commercial spaces is approved. For example, these spaces can still be used (subject to DA approval) as food-and-drink premises, restaurants, and have the potential to accommodate indoor recreational facilities and entertainment facilities, which generate higher demands for parking. Thus, the shortfall in parking has the potential to jeopardise future potential land uses and overall utility of the commercial spaces. The potential for a food-and-drink premises is implied on the architectural plans, as there are proposed grease traps and kitchen exhausts on the floor plans (note: use for the ‘commercial spaces’ has not been sought within this proposed application).
- The Applicant is arranging a civil agreement (“in principle”) with Police NSW at 136 Maroubra Road to modify parking arrangements within Maroubra Road and the provision of a new carport to 136 Maroubra Road on the proviso the application is approved. While some information was submitted with the application (specifically within the submitted Traffic Impact Assessment), this cannot form part of this development application as it is not strictly relevant to the subject site; works is on a Classified Road and required approval from TfNSW and; the comments provided by Council’s Integrated Traffic team have identified that the impacts to the on-street parking require further review, analysis, followed by the relevant applications for permits and approvals.
- Original comments provided by Council’s Development Engineer and Integrated Traffic teams identified design issues with the car parking area, including:
 - *Pedestrian sight splays must be provided in accordance with AS2890.1*
 - *Blind aisles shall be designed in accordance with AS2890.1.*
 - *Bicycle parking shall be designed in accordance with AS2890.3:2015, being a 500mmx1800mm envelope for horizontal spaces, and a 500mmx1200mm envelope for vertical spaces. A minimum allocation of 20% of bicycle parking spaces must designed as horizontal parking for each component respectively (residents, retail & commercial)*
 - *A 1.5m x 1.5m splay for sightlines should be provided at the north-west corner of the site at ground level adjacent to the driveway ramp to ensure pedestrian safety is maintained.*
 - *The loading dock and associated swept paths must be designed to accommodate a 10.5m long collection vehicle (with an associated head clearance of a minimum 4.5m).*
- In addition to the above, conflicts with waste management and the loading dock have been identified (see points raised under DCP Part B9, below).

B8 Water Management

The proposed development has a 12,000L rainwater tank located within the basement. The ESD Report (SLR, February 2024) recommends utilising this rainwater tank for landscape irrigation. With respect to the provided Civil Design Report (SCP, February 2023) there is no indication of stormwater treatment or how the rainwater tank is used for irrigation purposes. The rainwater tank appears to be solely for stormwater capture and release into Maroubra Road.

The submitted Desktop Geotechnical Assessment (Douglas Partners, November 2022) identifies that the subject site is located over Botany Sands Beds, over a groundwater system known as the Botany Sands Aquifer. The report recommends confirmation of groundwater levels by long term monitoring following further investigation of the site, though suggests groundwater is anticipated at depths of RL18 to RL20. Notably, the application was referred to Water NSW who have granted General Terms of Approval.

With respect to flooding, the site is not mapped as within a flood planning areas, however, the residents of Pacific Square have raised concerns with overland flows and the resulting flooding of basements. Should the application be approved, site specific conditions will need to be arranged by re-referral to Council's development engineer.

B9 Management Plan

A Plan of Management was requested in both RFI Letters to address:

- *The management of waste (including the path of travel for the bin tug, and consideration of the number of trips required to accommodate the minimum required number of bins between the two waste storage areas and the bulky waste).*
- *Management of landscaped communal spaces.*
- *Management of services to accommodate both the commercial/retail and residential components (including in terms of loading/unloading, removalist trucks, delivery vans, contractors, and management of conflict with waste services).*
- *Implementation of a visual indicator/warning light for when the loading dock is in use.*

The intention behind requesting a Plan of Management for assessment was to assist in resolving concerns with waste management, public safety and to clarify conflicting information provided by the Applicant with respect to maintenance of waste and loading areas and landscaped areas. A Plan of Management was not provided for assessment. Consequently, the consent authority cannot be satisfied that the development results in appropriate management outcome for the following reasons:

- The function of the car park, loading dock and basement have not been adequately demonstrated.
- There are no security measures separating residential and commercial parking and nothing limiting the use of commercial spaces by residential visitors and vice versa;
- There are conflicts in users and access to waste management services and no detail as to how bins/bulky waste are transported between holding areas;
- There are inadequate sightlines and swept paths from entry and exit points.

- Public safety cannot be guaranteed without a warning signal, or adequate management of the use of the loading dock given it facilitates several users (commercial deliveries, residential deliveries and moving vans, waste collection etc).

It is not appropriate in this circumstance to condition a plan of management to be prepared, as the information is required to enable an appropriate level of assessment for the safety and amenity of residents, tenants of the site, and the public – particularly as Piccadilly Place is only accessible via a right-of-way to the subject site, and Piccadilly Place is otherwise a no throughfare road that services an existing high density residential development and the loading dock of Pacific Square; the Police Station; and thus can be subject to queueing, as illustrated in the photograph below (submitted by one of the Pacific Square residents).



B10 Foreshore and Scenic Protection Area

This section of the DCP does not apply.

B11 Development in laneways nominated for widening

This section of the DCP does not apply.

PART D4 – MAROUBRA JUNCTION CENTRE

The Maroubra Junction Centre DCP outlines the primary development controls that apply to all sites in the centre, as well as detailed building envelope controls for each block. The Maroubra Junction Centre is divided in 12 blocks, with specific controls for each. 138 Maroubra Road, Maroubra (the subject site) is located within Block 6 (Figure 8).



Figure 8: Maroubra Junction Centre (subject site marked with a star)

The urban strategy for the Maroubra Junction Centre is outlined within Part D4 of the DCP, as follows:

- *Central to the vision of Maroubra Junction Centre is an emphasis on Anzac Parade as the centre's main street, and creation of a smoother transition between the centre and its surrounds;*
- *The intersection of Anzac Parade and Maroubra Road has historically been and still is the main focus of the Maroubra Junction Centre;*
- *As the main east west street, Maroubra Road is less dominant than Anzac Parade, owing to its lesser width. Therefore, the building heights recommended along this street are lower than the ones recommended on Anzac Parade (6 storeys).*

The proposed development ignores the urban strategy for the centre and seeks a building height and envelope that deviates from the applicable controls, and therefore does not provide the transition and lower height intended by the DCP and LEP.

The Centre Model (DCP Part D4, Section 2.5)

Proposed Centre Model

The proposed town centre model (Figure 9) illustrates the expected development outcome, in terms of a 3D building envelope, for the Maroubra Junction Centre. A transition in height from the Maroubra Road and Anzac Parade intersection is an intended urban design outcome for

the subject site, with a purposeful lowering of scale facilitated by the Height of Building control in the LEP. The Block 6 controls further refine the controls for the site, including the provision of a central open space, as discussed below and detailed in Figure 10.

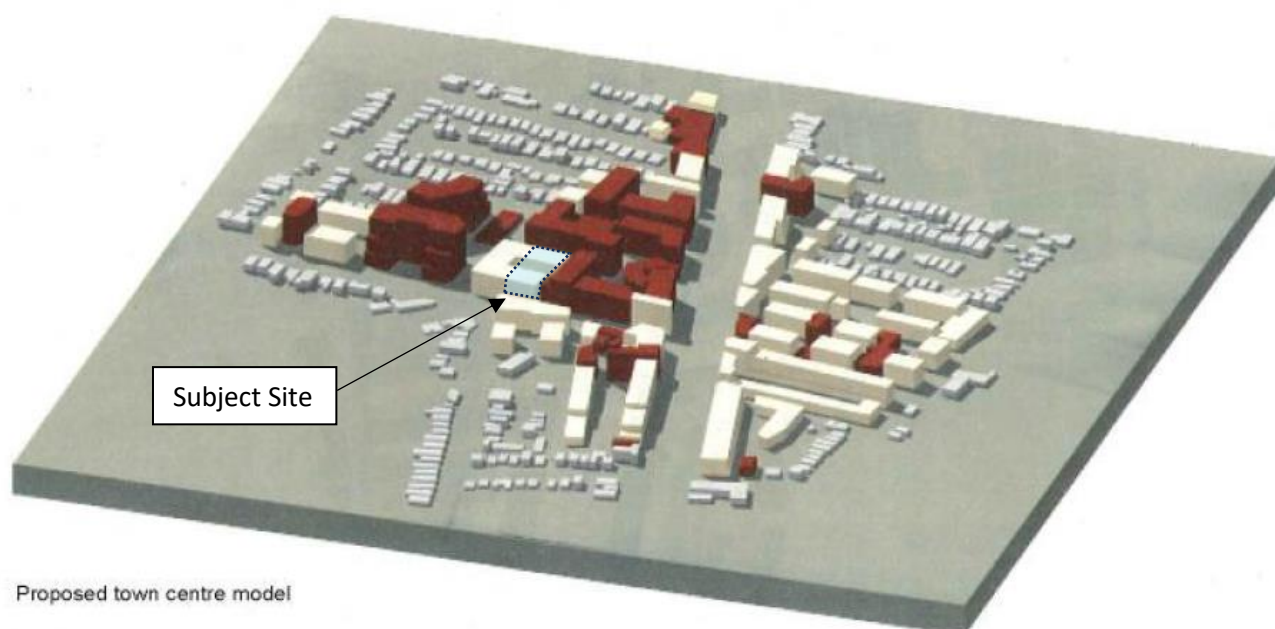


Figure 9: Maroubra Junction Centre (subject site marked outlined and highlighted in blue)

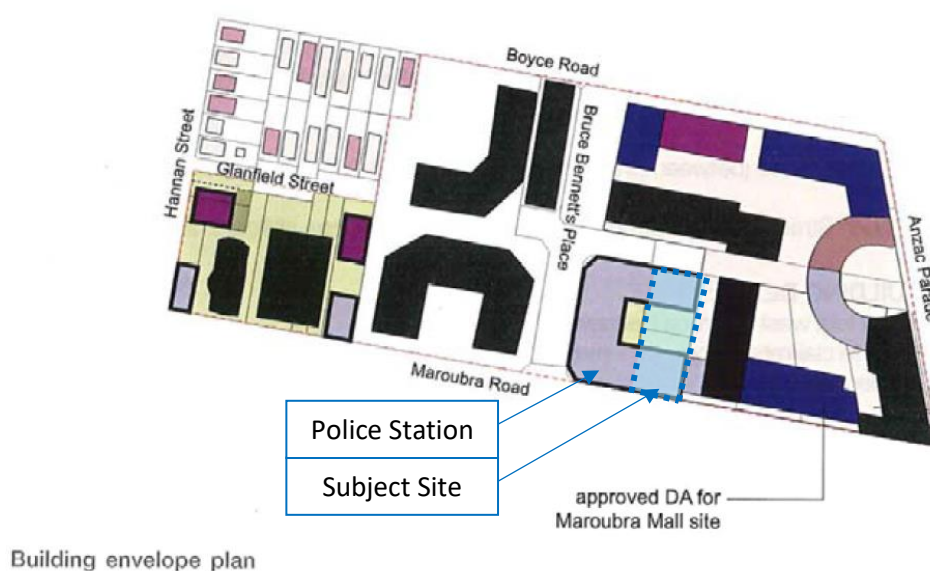


Figure 10: Maroubra Junction Centre – Block 6 Building Envelope Plan

Building Heights

The site is subject to a six (6) storey building height (Figure 11). The proposed development exceeds this standard by two (2) storeys, with a proposed development of eight (8) storeys inclusive of one residential level and rooftop communal open space (partial 9th storey). Additionally, the centre of the site is identified as a future 'open space'. This is further discussed below with respect to the Block 6 objectives and controls.

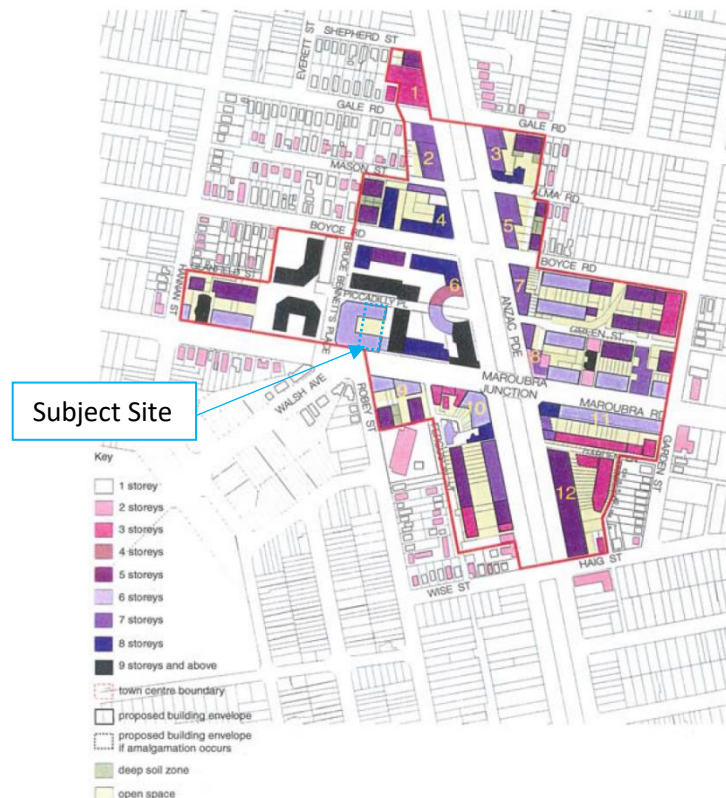


Figure 11: Maroubra Junction Centre - Height (subject site outlined and highlighted in blue)

Development Controls (DCP Part D4, Section 3.0)

Amalgamation

The Applicant has provided written and genuine confirmation of attempts to consolidate with 136 Maroubra Road (the Police Station) and responses confirming that 136 Maroubra Road is not for sale given it is Crown land, and thus the Applicant cannot amalgamate with the western lot. However, 138 Maroubra Road and 136 Maroubra Road do not explicitly need to be amalgamated in order to achieve the objectives and desired outcomes for each site – each site can still be developed independently.

The minimum required site width for development in the Maroubra Junction Centre is 20.0m. The subject site achieves this with a site width of 24.83m. There is no minimum site area or site depth requirement. The building envelope plan, as illustrated in Figure 11 and Figure 9 (i.e. two towers on a commercial podium), accommodates a built form with a central courtyard that can comply with the building envelope controls of building height and building depth, as well as the maximum commercial/retail and residential gross floor areas, whilst promoting greater amenity with respect to direct and passive solar access, passive ventilation, building separation and visual relief in the built form; all of which are a shared amenity between Pacific Square, the subject site, and the future redevelopment of the Police Station.

As the sites have not amalgamated, there is no evidence that this results in either site being isolated. Each site is capable of being developed independently, while achieving the envisaged development on each site.

On the contrary, the application is supported by a proposed building envelope for the Police Station (136 Maroubra Road) that mimics that of the proposed development, resulting in a worse and negatively compounding environmental and urban outcome – refer to the discussion below (**Page 69**), particularly as in this scenario, both developments exceed both the height of building standard.

Concluding Comment: Amalgamation with the Police Station is not a necessary prerequisite for the redevelopment of either of these two sites. Both may be developed independently without resulting in site isolation, and achieve the desired character of built form envisioned by the DCP. The application's reliance on non-amalgamation with the Police Station is not sufficient enough grounds for substantially deviating from the built form intended by the Maroubra Junction DCP, which has specified outcomes for the site (e.g. visual relief, greater amenity including passive sunlight).

Subdivision

Not applicable to the development.

Building Envelope

The objectives of this control are as follows:

- *To define the bulk, height and scale of development throughout the centre.*
- *To create a transition between the centre and the surrounding residential area.*

The building envelope control ties in together with the additional building height, building depth, building separation, articulation and setback controls (discussed individually below in this report).

The proposed development (as amended) is contrary to the objectives of the building envelope standard. The bulk, height and scale are a significant deviation from the envisioned building footprint and envelope illustrated in the DCP, and coupled with exceeding the maximum building height and storeys controls, do not align with the intended transition in scale between existing and new infill development.

The anticipated building envelope for the site is illustrated in Figures 9 and 10. The desired envelope across 136 and 138 Maroubra Road is typically referred to a "C"-shaped, with 138 Maroubra Road (the subject site) envisioned to provide most of the central open space (also referred to as the 'courtyard' or 'atrium') and two primary towers of shop-top housing. The proposed development has significantly deviated from the "C"-shape, and proposes a "T"-shape that extends through the entire length of the lot, without the break in the built form.

The development (as amended) exceeds the six-storey height control by two storeys, inclusive of access to rooftop communal open space. Further, it has not been demonstrated that controls pertaining to the maximum gross floor area (GFA) for the commercial/retail and residential components are compliant. The assessment of the application has found that the residential GFA proposed exceeds double the maximum permitted under the maximum building envelope controls.

As the site does not have a Floor Space Ratio (FSR) control pursuant to Clause 4.4 of the LEP, the building envelope controls and objectives are the key regulating standards to ensure that development on the site is of a suitable bulk, height and scale; particularly as the intention is for the infill development on the subject site to be transitional in nature and of a lower density and scale.

The exceedance in residential GFA, overall deviation from the building envelope standards, paired with the significant shortfall in parking are indicative of overdevelopment for this site.

The proposed building envelope is thoroughly discussed below (**Page 69**), as well as under the heading for the Block 6 Controls (**Page 67**).

Concluding Comment: There are insufficient grounds for justification in varying the DCP Building Envelope, and the building envelope proposed should not be supported. The “T”-shape envelope sought in addition to the building height proposed has compounding impacts on visual bulk, view loss, overshadowing/sunlight retention, and acoustic and visual privacy. The proposed building envelope is thoroughly discussed below (**Page 69**), as well as under the heading for the Block 6 Controls (**Page 67**).

Building Height

The objectives of this control are as follows:

- *To ensure future development within the centre responds to the desired scale and character of the street and the centre.*
- *To ensure development at the edges of the centre responds to the scale and character of development and the streets surrounding the centre.*
- *To allow reasonable daylight and solar access to all developments and the public domain.*

The building height control (6 storeys) is one component of determining an appropriate building envelope for the site. The proposed development exceeds this control by two (2) storeys, inclusive of one residential storey and the communal open space on the rooftop. The desired scale for the site, as determined by the building envelope controls and objectives, is to provide a transition in height. An appropriate response to the desired scale and character (i.e. a transitional 6 storeys) to Maroubra Road has not been achieved by the proposed development.

Further, there is an intention and clear objective within the Maroubra Junction Centre DCP to retain the intersection of Maroubra Road and Anzac Parade (i.e. Pacific Square) as the prominent buildings with respect to height. The proposed development’s intention to match heights of pre-existing buildings, rather than provide the sought-after transition in scale, is contrary to the intended outcomes of the DCP, and the desired character of development on the subject site. The transition has been initiated by “Pacific Square”, which has lowered its westernmost wing (i.e. the eastern side of the subject site) to 6/7-storeys; Refer to Figures 2d and 2e for context.

In exceeding both the height of building standard (LEP) and the building envelope/height controls (DCP), the proposed development ultimately removes of views, and inhibits

reasonable daylight and solar access to all developments. Therefore the objectives of the building height control have not been met by the proposed development.

Concluding Comment: There are insufficient grounds for justification in varying the DCP Building Envelope, and the building height and number of storeys proposed should not be supported. The excessive height has also resulted in view loss (horizon water views).

Building Depth

The building depth control (22m for residential and 25m for commercial/retail) is one component of determining an appropriate building envelope for the site. It has not been demonstrated that the proposed development complies with these controls. Compliance with the building depth standard would achieve the envisaged building envelope, with two towers of shop-top housing. The two-tower building footprint is conducive to achieving the objectives of the building depth standard, which enhances opportunities for:

- A built form that is in scale with the desired future context;
- Improves adequate amenity for building occupants (sun and ventilation) – this would also offer passive amenity improvements to Pacific Square through passive sunlight ventilation and visual relief through the centre of the “C”-shape development.
- Improved amenity of dual aspect apartments (Figure 12)

As demonstrated in Figure 12, compliance with the building depth and building envelope controls offers opportunities for two towers with dual-aspect apartments [*indicated with yellow arrows*] as well as a central courtyard/open space that provides visual relief and passive sunlight and ventilation through the centre between Pacific Square and 136 Maroubra Road (Police Station) [*indicated with blue arrow*].

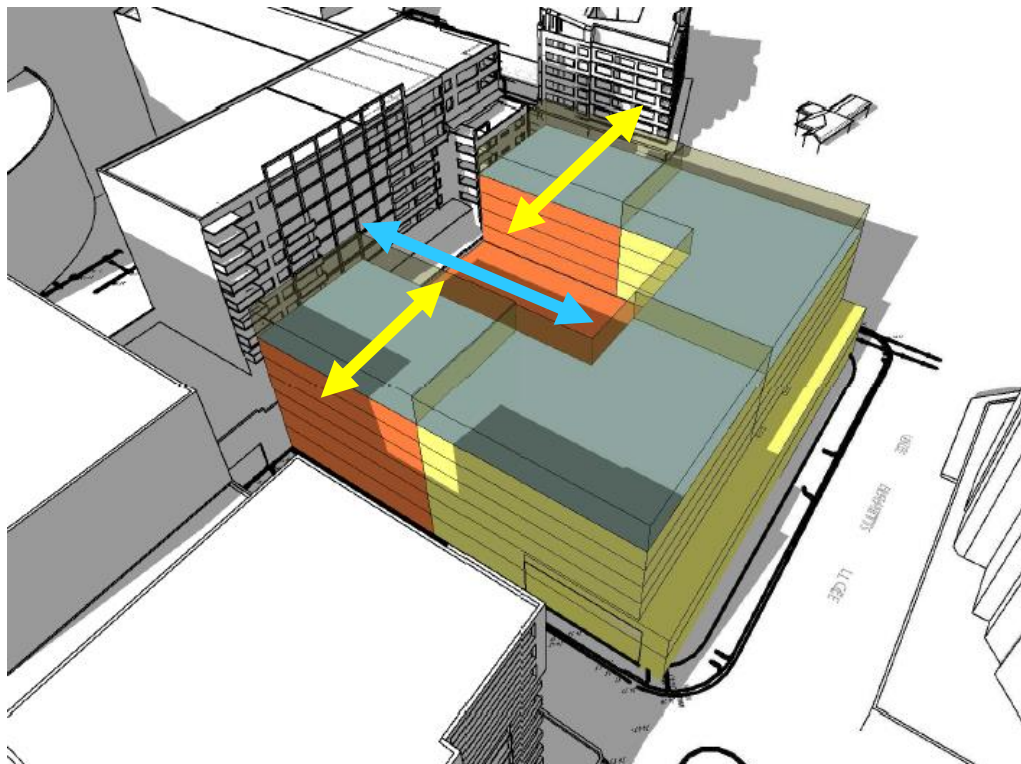


Figure 12: Excerpt of ‘DCP Envelope Analysis Sheet 2’ (Drawing DA0.150 by DJRD Architects)

Concluding Comment: There are insufficient grounds for justification in varying the DCP Building Envelope, and the building depth proposed should not be supported.

Building Separation

The DCP requirements for building separation align with those under the ADG. The proposed development does not achieve minimum separation requirements, specifically to the western side of the development (proposed at between 0.0 to 3.0m – refer to comments on **Page 28**), and consequently places unreasonable onus on the potential future redevelopment of 136 Maroubra Road (Police Station) to increase the internal separation to resolve privacy and to comply with the building depth standards – whereas the proposed development itself does not.

The proposed development (as amended) incorporates pop-out windows on its eastern elevation, and enclosed balconies on the western elevation to compensate for inadequate separation between adjoining sites, which are not suitable design solutions for the site given significant deviations from all other relevant planning standards.

Further, the RFI Response letter outlines that *“The enclosed balconies have been provided only in response to the NSWPF request for restricting opportunities for throwing objects from private balconies – they are not for privacy reasons.”* This further brings to question if privacy will be achieved given the nil to 3.0m setback on the western elevation to the private open spaces of the proposed west-facing apartments.

Concluding Comment: There are insufficient grounds for justification in varying the required building setbacks/building separation.

Articulation

The proposed development (as amended) consists of unarticulated walls on the boundary of both the western and eastern elevations that feature very little visual interest for residents and the public domain that will be exposed to these flank walls. Unarticulated and exposed flank walls, coupled with the non-compliant building height and number of storeys proposed, is contrary to achieving the objective of *“...promote articulated building facades that contribute to the character of the street”*.

The extent of services and fire stair doors fronting Maroubra Road is contrary to achieving the objective of *“To provide active, continuous commercial retail frontages.”*

In deviating from the anticipated DCP Envelope (“C”-shape), and the exclusion of the central open space (courtyard/atrium) from the proposed development, the objectives *“...to promote buildings with high quality amenity and usable private outdoor spaces”* and *“...to promote integration of building and private open space”* are not fulfilled, as the development ultimately provides a poorer amenity outcome across three (3) sites (Pacific Square; Subject Site; Police Station) by:

- Removing of the central share amenity offered by the central open space:-
 - Shared passive sunlight;
 - Shared passive ventilation;
 - Shared building separation offering privacy (both acoustic and visual);

- Shared visual relief through the centre.

Concluding Comment: There proposed development is not well-articulated, and in deviating from the anticipated “C”-Shape envisioned by the DCP, results in a poorer amenity outcome for both the development and adjoining sites.

Street Setbacks

No front setback is required to Maroubra Road. The development is acceptable in this regard.

Side and Rear Setbacks

Development on Maroubra Road has no side or rear setback requirement. Notwithstanding, the proposed development is required to comply with the building separation requirements (as well as Part 3F of the ADG). The proposed development (as amended) is non-compliant in the following respect:

- Levels 2 extends the principal private open spaces for 6 (six) units to the western elevation, placing the onus on future development of 136 Maroubra Road (Police Station) to implement additional separation or privacy measures. Refer to Figure 13.
- Residential Levels 3 through to Level 7 are proposed with a 3.0m setback from the western elevation, a shortfall from the 6m to 9m otherwise required. The inadequate setback further burdens future development at 136 Maroubra Road (Police Station) and has implications on the solar access received by the proposed development when 136 Maroubra Road is redeveloped (particularly if it were to align with the built form suggested for 136 by the Applicant – Figure 13).

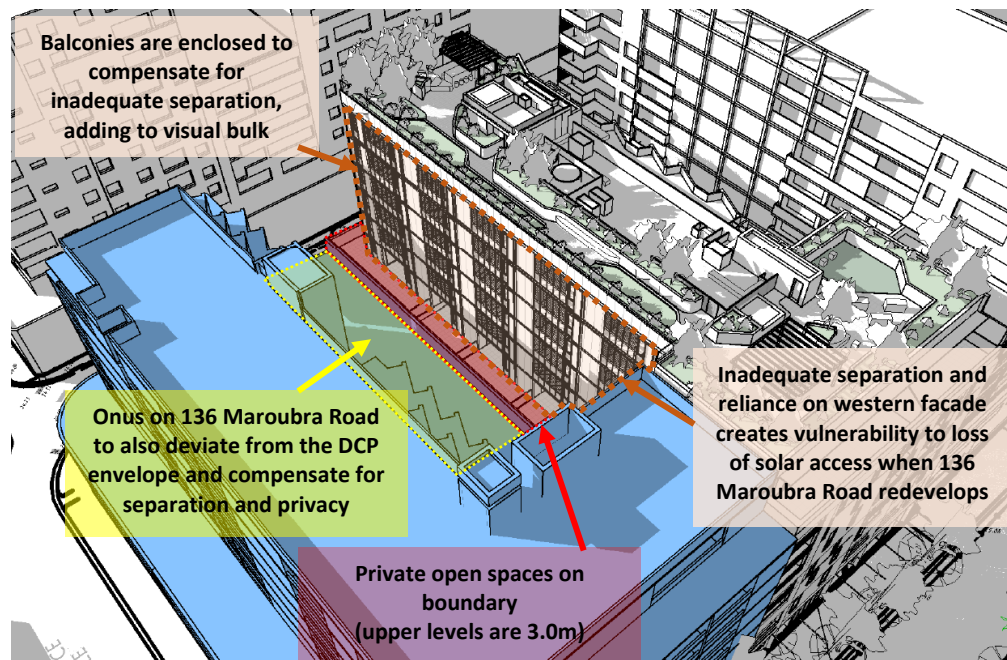


Figure 13: Notated excerpt of ‘Police Station – Potential Development Study’ (Drawing DA0.151 by DJRD Architects)

- Levels 4 (5th storey) to Level 7 (8th storey) do not meet the minimum 9m separation/setback required on the eastern elevation; the proposed eastern elevation relies on “snorkel” or “pop-out” windows from bedrooms to compensate for privacy

and inadequate separation of the upper two storeys. There is potential for overlooking into the bedrooms, living areas and balconies of the adjoining Pacific Square apartments (Figure 16).



Figure 14: Excerpt of view impact renderings and methodology report (Viewpoint 13 – Eastern Pacific Square Unit [unspecified])

- There is an immediate relationship and inadequate separation between private open spaces, living rooms and bedrooms from the child care centre on Level 1 of “Pacific Square”, which extends to the shared side boundary (Figure 14 and 15).



Figure 15: Relationship of the child care centre and Pacific Square apartments with 138 Maroubra Road (Source: Image courtesy of Corona Projects)

- The inadequate separation in addition to the extensive unarticulated flank walls to the eastern and western side elevations, in addition to the excessive building height, is a poor urban outcome (Figure 16 and Figure 17). The western flank wall is likely to be exposed and dominate the public domain for a long period of time, until 136 Maroubra Road is redeveloped, and therefore requires further treatment and design refinement.



Figure 16: Eastern flank wall adjacent to Pacific Square (Source: View Impact Renderings and Methodology Report – Viewpoint 18)



Figure 17: Western flank wall adjacent to Police Station and visible from within Maroubra Road/Bruce Bennetts Place and Piccadilly Place (Source: View Impact Renderings and Methodology Report – Viewpoint 02)

Concluding Comment: The proposed development has not achieved minimum building separation requirements, thus impacting the visual and acoustic privacy of both the future residents and existing residents of Pacific Square, results in a poorer amenity outcome for both the development and adjoining sites.

Rights of Carriageway

There is an existing right-of-way benefitting the subject site, being a right of carriageway from Piccadilly Place. Lot 2 in DP 506844 does not have the benefit of the right of carriageway over Lot 17 in DP 1150018. The development application does not address whether there is a need for the consent of the servient tenement to the lodging of the subject application or a further development application to authorise the intensification of the use of the right of carriageway.

Clarification and additional information was requested to further understand the terms of the easement within the RFI Letter, and no response was received on this matter from the applicant.

Block by Block Controls

Though the DCP controls are generally addressed above, the specific block-by-block controls and objectives are further outlined and discussed below.

Block 6 (DCP Part D4, Section 3.2.6)

Controls

- Building Envelope

Controls:

- > A maximum of 6 (six) storeys applies to the site (Figure 11).
- > Minimum site width of 20m (subject site is 24.83m)
- > Maximum building depth for residential envelopes is 22m (max 18m glass line to glass line);
- > Maximum building depth for commercial/retail is 25m (max 23m glass line to glass line above the ground floor);
- > Residential floors: All developments are to demonstrate that the gross floor area achieved occupies not more than 70% of the maximum building envelope for residential floors.
- > Commercial floors: All developments are to demonstrate that the gross floor area achieved occupies not more than 80% of the maximum building envelope for commercial floors above the ground floor;

Compliance:

No - The proposal exceeds the storey control by two (2) storeys.

Yes – Compliance with minimum lot size.

No - The Applicant states that *“The GFA of the proposed ground and first floors does not exceed 80% of the maximum building envelope. The GFA of the proposed residential floors does not exceed 70% of the maximum building envelope”*. However, no breakdown of the maximum building envelope compared to the proposed residential and commercial GFAs has been provided. In the assessment of the application, it has been calculated that the proposed residential GFA greatly exceeds the maximum permissible area of 70% of the maximum building envelope (70% is approx. 2,500m²). The proposed development (as amended) proposes approximately 5,200m² of residential GFA, being more than double the control. Coupled with

non-compliances with other DCP controls, this is a clear indication of overdevelopment on the site.

The maximum building envelope is established by applying the maximum height, width and depth standards. This would also achieve the building envelope desired by the DCP (Figure 9 and 10).

Summary of Building Envelope Control – GFA That Applies To The Site

Height:	6 storeys (2 commercial, 4 residential)
Width:	24.83m
Depth:	Ground Floor Commercial: 25m First Floor Commercial: 23m Residential: 18m
Maximum envelope:	Ground Commercial: 25m depth x 24.83m width x 1 storey x 2 buildings = 1,241.5m ² Ground Floor; Max 80% GFA = 993.2m² First Floor Commercial: 23m depth x 24.83m width x 1 storey x 2 buildings = 1142.18m ² Level 1; Max 80% GFA = 913.74m² Residential: 18m depth x 24.83 width x 4 storeys x 2 buildings = 3,575.52m ² Levels 3-6; Residential Max 70% GFA = 2,502.86m²

- Building Use

Control:	Two levels of retail commercial with residential above.
Compliance:	No - Residential units are proposed on Level 1 (the second storey).

- Building Depth

Compliance:	No - It has not been demonstrated that the proposed development complies with these controls as outlined above and with respect to the building envelope controls, including building depth.
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- Setbacks

Control:	Nil requirement under the DCP, however ADG requirements still apply.
Compliance:	No - building separation does not comply with the requirements under ADG.

- Deep Soil Zone

Control:	Nil requirement under the DCP, however ADG requirements still apply.
Compliance:	No – however, acceptable on merit based on site context within a centre and the provision of landscaping on structure.

The proposed development is inconsistent with the development and design controls relating to the Proposed Centre Model, building height, number of storeys, building envelope, building depth, building separation, articulation and building use. Consistency with the Centre Model and building envelope plan in Part D4 of RDCP 2013, given the context of the site and its surrounds, would provide better amenity outcomes for both the proposed development, and existing surrounding developments, as is discussed in detail below.

The development is found to be **inconsistent** with key provisions of the DCP and is not supported.

DISCUSSION OF THE PROPOSED DEVIATION FROM THE PROPOSED CENTRE MODEL AND BUILDING ENVELOPE FOR 138 MAROUBRA ROAD, MAROUBRA (BLOCK 6 CONTROLS AND OBJECTIVES)

The following discussion includes comments received from the Applicant in their response to the March 2024 Request for Information Letter, and Council's subsequent response following the assessment of that information. It is considered that the development, proposed in the "T"-Shape rather than conforming to the "C"-Shape anticipated by the DCP is a poor design response and results in inferior amenity outcomes for Pacific Square, the subject site (#138) and the Police Station (#136). Further, the deviation from the expected building envelope is contrary to achieving the vision and urban outcomes defined within the Maroubra Junction Centre DCP.

The vision for Maroubra Junction Centre is described as (**emphasis added**):

*"Maroubra Junction Centre will continue its role as the main centre within Randwick City, and will provide a mix of commercial, retail and residential uses that serve the needs of the local community. A mix of high quality medium and higher density built forms that enhance the centre **and provide better amenity for residents** and the public domain is envisaged, and **the controls and performance criteria in this DCP have been designed to facilitate this.**"*

*Also central to the vision for the Maroubra Junction Centre is an emphasis on Anzac Parade as the centre's main street, and creation of a smoother transition between the centre and its surrounds. **This will be achieved through building height and scale controls which vary throughout the centre under the LEP and DCP.**"*

The urban strategy, specifically for Maroubra Road, being 'the cross street' is outlined within the DCP to achieve the following (**emphasis added**):

*"As the main east west street, Maroubra Road is less dominant than Anzac Parade, owing to its lesser width. Therefore, **the building heights recommended along this street are lower than the ones recommended on Anzac Parade (6 storeys). This strategy reinforces the existing hierarchy of these two main streets.**"*

The building height and scale controls are specifically in place to enable a transition from the existing buildings within the centre (*inclusive of 116-132 Maroubra Road to the west and 737 Anzac Parade ('Pacific Square')*) and this has been reflected in the LEP – particularly the 25.0m building height standard – and DCP controls (i.e. 6 storey building height control), as raised throughout this assessment report. Further, the proposed centre model and "C"-shape building envelope applicable to 138 Maroubra Road (Figures 9, 10, 12) has been adopted to facilitate shared amenity for residents (both existing and future).

The significant deviation from the anticipated "C"-Shape building envelope, maximum building height, and the dual tower arrangement with central courtyard expected to be delivered by 138 Maroubra Road, Maroubra, results in a development that does not achieve the objectives of Block 6 and

consequently ignores the vision statement and urban strategy in place for the Maroubra Junction Centre. The two RFI letters issued by Council to the Applicant requested that the development was to demonstrate the transitional height as well as provide evidence that the proposed development (as amended) resulted in a better planning and environmental outcome to warrant the disregard of the building envelope controls under the DCP.

In response to the RFI, the application relied on the Clause 4.6 (for the LEP Building Height), *which is a different standard to building envelope*, to justify varying the DCP Building Envelope. The Applicant's response also sought to rely on infill development and a height bonus introduced under SEPP (Housing) 2021, specifically the December 2023 amendment, which does not apply to this development application (refer to **Page 38**) and therefore has not been considered in this assessment.

The key points of justification provided by the development application can be divided into the following headings:

- Amalgamation & Site Yield
- Visual bulk
- Privacy
- Overshadowing
- Views

The development application's reasoning for varying the anticipated Maroubra Junction Centre and Block 6 Building Envelope has been extracted from the submitted documentation and the additional response to the RFI letter submitted to Council, with the assessing officer's comments and assessment provided below.

AMALGAMATION & SITE YIELD

Applicant's Justification:

- *"The application makes clear that compliance with the DCP is not achieved as the subject site cannot be amalgamated with the adjoining NSWPF site at 136 Maroubra Road, Maroubra."*
- *"Compliance with the DCP cannot be achieved as the site cannot be amalgamated with the adjoining 136 Maroubra Road site. It has been established in this response that the DCP envelope cannot be delivered due to the unavailability of the NSWPF site. It is therefore unreasonable to analyse the proposal against these provisions."*
- *"Please see below DJRD table Maroubra Road DCP area comparison, providing potential yield analysis for the proposed development (orange) and remaining DCP envelope (yellow). Note that the NSWPF site delivers approximately 60% of the yield of the envisaged DCP envelope. Development of 138 Maroubra Road to the DCP parameters is of questionable viability when a combined site cannot be delivered, in addition to not being ADP compliant, which further affected yield."*
- *"It has been demonstrated that the site cannot be amalgamated with the adjoining NSWPF site for a number of reasons. Specifically, the site is subject to an undetermined Aboriginal Land Claim, is one of the busiest police stations in the Eastern Suburbs and a fair offer to purchase the site has been refused - refer appendix O of original SEE (1 March 2023). As a result, The C shape DCP envelope is not achievable, as the police station site is not available for amalgamation as demonstrated."*
- *"Therefore compliance with this control is unreasonable in the circumstance considering the inequitable distribution of yield across the two sites as outlined which delivers 60% of the DCP envelope over the NSWPF site. It is not unreasonable that the site can be developed in isolation".*

Assessing Officer Comments:

- There has been no written justification provided within the development application that outlines environmental or planning reasoning (beyond non-amalgamation) that the DCP envelope cannot be delivered. The applicant relies on the yield between the subject site and the Police Station site, and ultimately a re-massing in to two “T”-shape forms that seeks to place non-compliant built forms across both sites as a result.
- While the application has been submitted with written and genuine confirmation of attempts to consolidate with 136 Maroubra Road (the Police Station) and responses confirming that 136 Maroubra Road is not for sale given it is Crown land, and thus the Applicant cannot amalgamate with the western lot; 138 Maroubra Road and 136 Maroubra Road do not explicitly need to be amalgamated in order to achieve the objectives and desired outcomes for each site – each site can still be developed independently.
- The minimum required site width for development in the Maroubra Junction Centre is 20.0m. The subject site achieves this with a site width of 24.83m. There is no minimum site area or site depth requirement. The building envelope plan, as illustrated in Figure 11 and Figure 9 (i.e. two towers on a commercial podium), accommodates a built form with a central courtyard that can comply with the building envelope controls of building height and building depth, as well as the maximum commercial/retail and residential gross floor areas, whilst promoting greater amenity with respect to direct and passive solar access, passive ventilation, building separation and visual relief in the built form, which is a shared amenity between Pacific Square, the subject site, and the future redevelopment of the Police Station.
- There is no evidence that this results in either site being isolated. Each site is capable of being developed independently, while achieving the envisaged development on each site, and ultimately the “C”-Shape.
- The yield (number of units) is not a relevant planning consideration, given the intended yield of the site is dictated by compliance with the building envelope controls, inclusive of the maximum gross floor area for commercial/retail and residential components of the development.
 - Documentation provided with the application reiterates a general statement stating *“The GFA of the proposed residential floors does not exceed 70% of the maximum building envelope”* and; *“The GFA of the proposed ground and first floors does not exceed 80% of the maximum building envelope.”*

However, no calculations or summary of this claim has been provided. An assessment of the gross floor area finds that, based on the **maximum building envelope** for the site (i.e. compliance with the DCP), the residential GFA is more than double what is permitted by the DCP Building Envelope standard.

The non-amalgamation with the adjoining site at 136 Maroubra Road is therefore not sufficient grounds to vary the building envelope standards.

VISUAL BULK

Applicant's Justification:

- *“Multiple landscaped spaces soften the upper edges of the proposed form, and mitigate the overall visual bulk of the development. This includes large scale planting from ground level adjacent the eastern neighbour and communal roof spaces above the commercial floor and at the rooftop.”*
- *“The C-shape volume anticipates two blank wall ends to the “C” immediately adjacent the eastern neighbour – and the windows and balconies contained within Pacific Fair. Conversely, the proposed development presents one ‘end’, which is a continuation of the Maroubra Road street wall. To the rear of the site, the proposed volume is setback from the eastern boundary*

and provided with façade articulation. Further, communal open space at both Level 2 and Level 8 present a landscaped buffer to the eastern neighbour.”

- “The C-shape volume anticipates a continuous street wall along Piccadilly Place. The proposed development provides setback to both side boundaries, as well as to Piccadilly Place. In this manner, the extent of facade the volume as viewed by the northern neighbour.”
- “It is acknowledged that there will be additional mass in the middle part of the site when compared to the ‘C’ shape of the DCP. Notwithstanding, this part of the site complies with the Design Criteria of Objective 3F-1 regarding Visual Privacy as it provides a setback greater than the requisite 4.5m for non-habitable rooms. This is further in accordance with the Design Guidance items of the ADG listed below:
 - New development should be located and oriented to maximise visual privacy between buildings on site and for neighbouring buildings.
 - Direct lines of sight should be avoided for windows and balconies across corners.”
- “The massing of the proposed envelope is compliant with the following envelope controls and development provisions prescribed in the Randwick DCP, demonstrating that the additional height does not effect the visual bulk of the proposal:

3.1.3 Building Envelope	<ul style="list-style-type: none"> The GFA of the proposed ground and first floors does not exceed 80% of the maximum building envelope. The GFA of the proposed residential floors does not exceed 70% of the maximum building envelope
3.1.5 Building Depth	<ul style="list-style-type: none"> The depth of the proposed residential floors (glass line to glass line) does not exceed 18 metres, or 22 metres between perimeter walls
3.1.6 Building Separation	<ul style="list-style-type: none"> The proposed development achieves the ADG objective for visual privacy either by meeting the design criteria or through alternate solutions where required, as detailed above.
3.1.7 Articulation	<ul style="list-style-type: none"> The development is articulated on all facades, through the methods prescribed in this control. This includes balconies of varying depths, variations in floor-to-floor height at lower levels, recessed entries, vertical elements, fenestration that responds to use and a clear definition of the base, residential floors and recessed top floor.
4.1.4 Open Space	<ul style="list-style-type: none"> The development has four landscaped zones. The area of communal open space exceeds the ADG minimum design criteria.

Assessing Officer Comments:

- The anticipated building envelope is still required to incorporate appropriate building separation and visual articulation and relief in the instance it was fulfilled – that is, the “C”-shape does not necessarily facilitate “blank” walls.
- Improved communal open space and landscaped outcome are achieved through the incorporation of the central open space. As demonstrated in Figure 18 [a copy of previous Figure 12], compliance with the building depth and building envelope controls offers opportunities for two towers with dual-aspect apartments [indicated with yellow arrows] as well as a central courtyard/open space that provides mutual visual relief (that presents the opportunity to be landscaped) and passive sunlight and ventilation through the centre between Pacific Square and 136 Maroubra Road (Police Station) [indicated with blue arrow].
- This is further illustrated when comparing a DCP ‘compliant’ envelope and the proposed development; renders of which were provided within the View Impact Renderings and Methodology Report (Figure 19).
- The central courtyard/atrium facilitates the following:
 - Shared passive ventilation;
 - Shared building separation offering privacy (both acoustic and visual);
 - Shared visual relief through the centre.

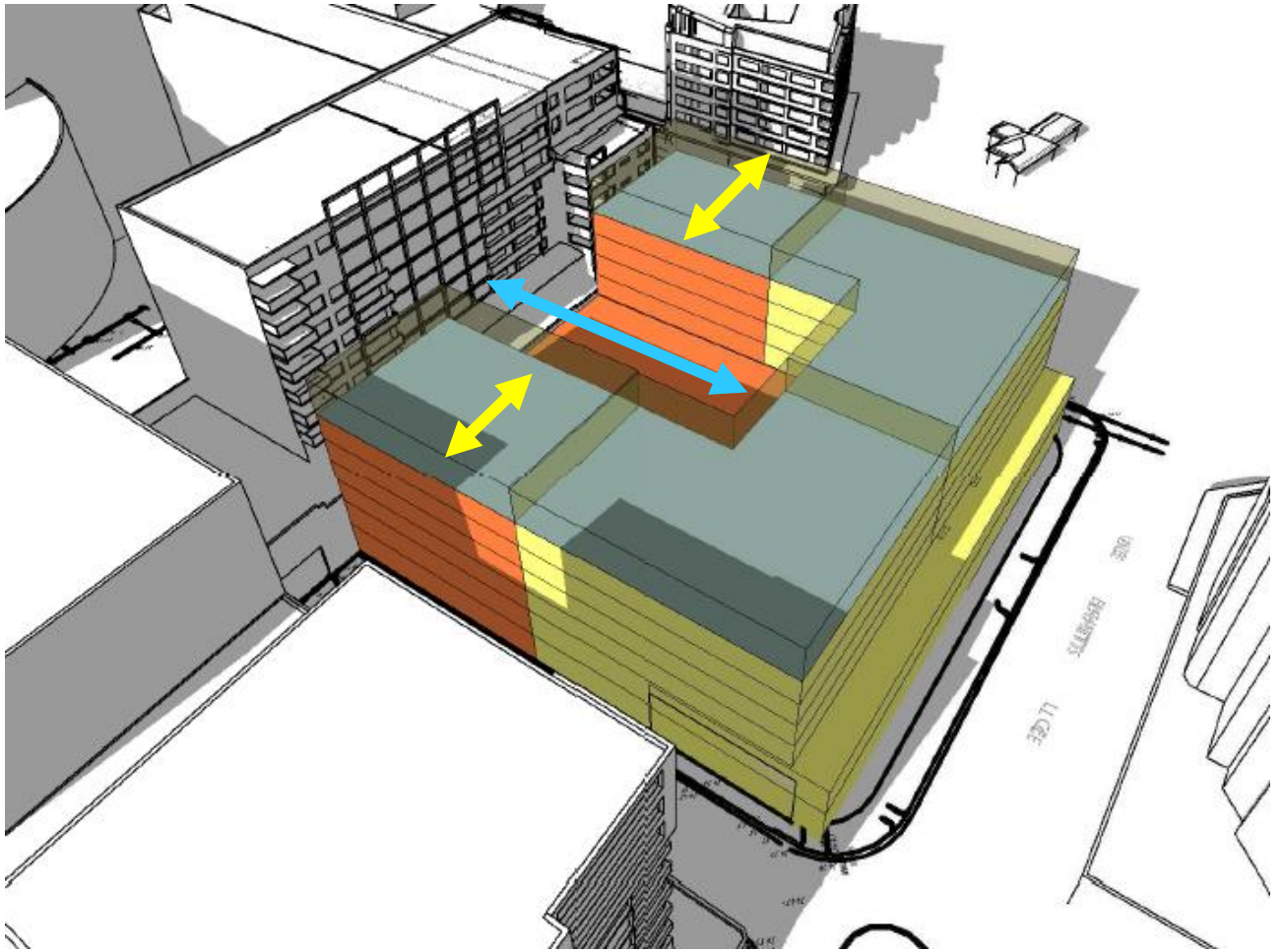
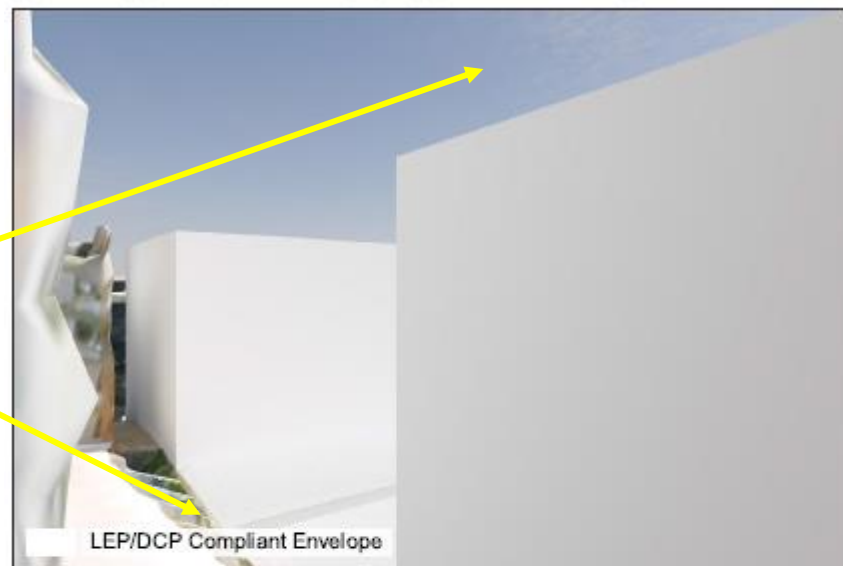


Figure 18: Excerpt of 'DCP Envelope Analysis Sheet 2' (Drawing DA0.150 by DJRD Architects) [Copy of Fig. 12]

CURRENT CONDITION WITH LEP/DCP COMPLIANT ENVELOPE



CURRENT CONDITION WITH PROPOSED DEVELOPMENT (REVISED SCHEME)



Figure 19: Excerpt of 'Viewpoint 13' (Page 65 of the View Impact Renderings and Methodology Report)

- Achieving privacy (despite also not meeting minimum setback/separation requirements to the upper two residential levels) does not inadvertently present a reason as to why the DCP Building Envelope cannot be accommodated in the first instance.
- It is considered that the proposed footprint and siting of the proposed building has not been oriented to maximise privacy between adjacent buildings (Figure 14) given that the "C"-shape building envelope offers the opportunity for two building towers that could accommodate north-south dual-aspect residential units (Figure 18).
- As articulated within this assessment report, the proposed development (as amended) does not comply with the building envelope controls or objectives:
 - The residential floor area is in excess of 70% of the maximum building envelope and therefore the proposal does not comply with DCP D4 Part 3.1.3;
 - The building depth proposed is a floorplate that extends nearly the whole depth of the site from both Maroubra Road and Piccadilly Place and therefore the proposal does not comply with DCP D4 Part 3.1.5;

- The alternate solutions adopted to achieve privacy (pop-out windows and enclosed balconies) are not conducive to maximising the residential amenity outcomes for solar access, outlook and visual bulk from the public domain, particularly compared to the opportunities that a DCP compliant “C”-shape offers. The western elevation, with the inclusion of balcony screening (Figure 13) has been described within the development application as *“These screens obscure overlooking and present as solid when fully closed.”* The presentation of the western façade, which also does not comply with the required building separation, therefore contributes to visual bulk.

In deviating from the anticipated DCP Envelope (“C”-shape), and the exclusion of the central open space (courtyard/atrium) from the proposed development, the objectives *“...to promote buildings with high quality amenity and usable private outdoor spaces”* and *“...to promote integration of building and private open space”* are not fulfilled, as the development ultimately provides a poorer amenity outcome across three (3) sites (Pacific Square; Subject Site; Police Station) as a result of the proposed bulk and scale (as proposed) by:

- Removing of the central share amenity offered by the central open space:-
 - Shared passive sunlight;
 - Shared passive ventilation;
 - Shared building separation offering privacy (both acoustic and visual);
 - Shared visual relief through the centre.

PRIVACY

Applicant’s Justification:

- *“The proposed additional height has been designed to avoid loss to neighbouring privacy.”*
- *“The site has existing residential apartments to both the north and east. The Police Station to the west is considered a future development site and as such separation has been provided in conjunction with an indicative scheme prepared for that site.”*
- *“Privacy has been achieved as follows:*
 - North (Pacific Square)**
 - Up to 12m (4 storeys): ADG Design Criteria Compliant: > 6m to centre of Piccadilly Lane
 - Up to 25m (5-7 storeys): 6m to centre of Piccadilly Lane. Alternative Solution: A retractable screen is provided to balconies, and a sliding screen to habitable windows on this façade.
 - For L8 Rooftop: Perimeter planting is provided to the rooftop terrace. The landscape architect has included a detail to illustrate the proposed height and arrangement of the planter to achieve privacy...”
 - East (Pacific Square)**
 - Up to 12m (4 storeys): 5.04m to ‘slot windows’. ADG Design Criteria Compliant: Windows to habitable rooms have been oriented to face the northern boundary by means of a pop-out in the façade.
 - Up to 25m (5-7 storeys): 5.04m to ‘slot windows’. Alternative Solution: Windows to habitable rooms have been oriented to face the northern boundary by means of a pop-out in the façade.
 - Over 25m (9+ storeys): Alternative Solution: Perimeter planting is provided to the rooftop terraces. The landscape architect has included a detail to illustrate the proposed height and arrangement of the planter to achieve privacy.
 - In addition, the proposed scheme has only bedrooms on the east side and pop-out windows control the view to the north to provide enhanced privacy.

West (Police Station – future development site)

- Up to 12m (4 storeys): 3m to boundary Alternative Solution: A screen is provided to balconies and habitable windows on this façade. These screens obscure overlooking and present as solid when fully closed. Further, the indicative scheme produced for the NSW Police Station site achieves ADG privacy design criteria without compromise to its indicative yield, which is comparable to the proposed development.
- Up to 25m (5-7 storeys): 3m to boundary Alternative Solution: A screen is provided to balconies and habitable windows on this façade. These screens obscure overlooking and present as solid when fully closed. Further, the indicative scheme produced for the Police Station site achieves ADG privacy design criteria without compromise to its indicative yield, which is comparable to the proposed development.
- Over 25m (9+ storeys): 3m to boundary Alternative Solution: Perimeter planting is provided to the rooftop terraces. The landscape architect has included a detail to illustrate the proposed height and arrangement of the planter to achieve privacy to the NSW Police station site adjacent.
- The proposal has a side boundary setback of 3m. This is considered acceptable as the analysis of the Police Station site on DA9.900 indicates that a tower on that site could setback 9m (totalling 12m) without compromising the development potential of that site."

Assessing Officer Comments:

- There remains potential for direct overlooking (notwithstanding insufficient building separation on the upper storeys) between the proposed bedrooms and existing balconies of Pacific Square, and child-care centre. Though the eastern elevation incorporates "pop-out" windows, they are directed towards the northern-most balconies of Pacific Square and are floor-to-ceiling glazed windows (refer Figures 14 and 15).
- The DCP "C"-shape building envelope provides opportunities to provide north-west dual aspect residential apartments to both towers that do not result in direct overlooking (Figure 18).
- The indicative Police Station building envelope, which relies on mimicking the proposed development – inclusive of additional height and varying the DCP Envelope – has the onus of additional separation placed on its redevelopment given that the proposed development (as amended) has inadequate separation to the western façade and terrace-style balconies directly on the boundary. There will also be a compounding solar access impact as a result. The Applicant was requested to provide hourly sun-eye diagrams of the indicative "Police Station" building so that a proper assessment of the compounding impact could be undertaken, considering the application's reliance on the alternate building envelope for the Police Station, however, these documents were not provided.
- It is reiterated that a DCP compliant building form (Figure 18 and 19) offer improved shared amenity through Block 6.
- The proposed development has not thoroughly considered its siting and context, being adjacent to a Police Station to the west, and a child care centre to the east, resulting in unresolved acoustic impacts and inadequate separation from existing land uses.

OVERSHADOWING

Applicant's Justification:

- "The solar amenity of apartments in the C-shape volume is compromised by being self-shadowed (taller adjacent development is additional to the self-shadowing). "
- "The amended SEE (27 February 2024) states that the detailed diagrammatic analysis provided by the architect demonstrates that the proposed additional height does not result in adverse additional overshadowing of neighbouring properties and the public domain. The study

includes comparison with both the envelope prescribed in the DCP (across two lots) and a compliant envelope on the subject lot."

- "The proposed development overshadows one additional apartment when compared to the DCP compliant envelope, but allows sunlight to three more apartments than the DCP envelope."
- "The DCP envelope overshadows an additional 6 apartments."
- "The assessment produced excludes consideration of the childcare at Level 2 (above the podium) as there is a fabric shading awning that extends from the building across the terrace. We also refer to the Education and Care Services National Regulations which require outdoor spaces to be shaded, however according to the SLR Consulting Solar Access Report indicates that the Childcare space will receive 2 hours of sunlight at a minimum."
- "The analysis identifies that 74% of living rooms and balconies on the west façade of 140 Maroubra Road retain 2 hours solar, exceeding the ADG minimum."
- "In summary, the proposed development overshadows one less apartment when compared to the DCP compliant envelope however solar access per the ADG to Pacific Square is maintained."
- "The sun eye view diagrams submitted with the amended DA pack demonstrate that the terrace to Pacific Square immediately east of the site received better solar access than what would be ordinarily achieved by a DCP compliant envelope and as per ADG 4A Solar and daylight access, which prescribes a minimum of 2 hours direct solar (minimum of 1sqm of direct sunlight, measured at 1m above floor level)."

Assessing Officer Comments:

- The sun-eye diagrams compare a 7-storey "C"-shape building envelope to the proposed development (as amended) – this is not a true representation of comparing a DCP-compliant envelope (6-storeys) to the proposed development (Figure 20), and it could be surmised that the impact of a DCP compliant development would provide additional direct sunlight to the units of Pacific Square, however, it is acknowledged that the LEP building height of 25.0m would permit a 7-storey form.
- The DCP Building Envelope is capable of accommodating rooftop communal open space in addition to the anticipated central open space without dissolving residential amenity.
- Hourly shadow diagrams were requested and have not been submitted for assessment. It is therefore unclear what the extent of the comparative overshadowing impact is between a DCP compliant envelope, and the proposed development. The application only provides information for 2pm (Figure 21) – thus the applicant's justification cannot be confirmed.
- Notwithstanding this, the DCP "C"-Shape envelope has been through the process of community work-shopping in 2001 (Pacific Square was recently approved when the DCP came into force) and through the process of extensive site and built form analysis undertaken by the Urban Design Advisory Service (as detailed in the introduction to Maroubra Junction Centre DCP (Part D4)). The DCP "C"-Shape Envelope is therefore an expected and known outcome for the site.

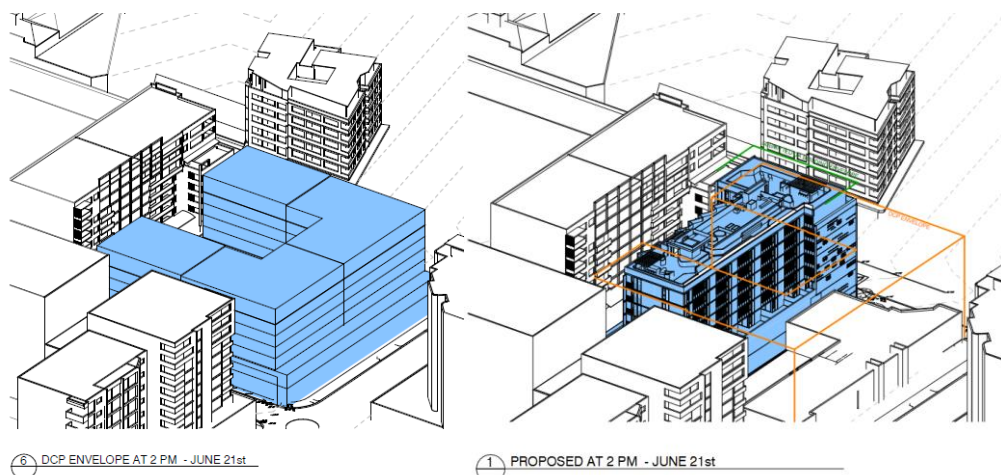


Figure 20: Excerpt of 2pm sun-eye diagrams (DA8.324 (left) and DA8.327 (right))

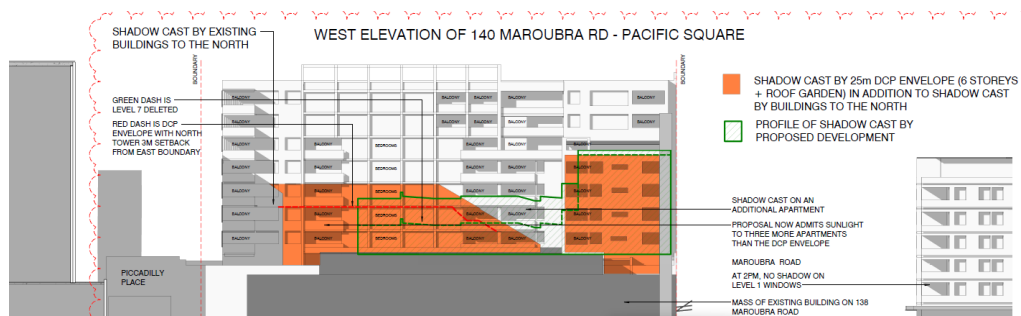


Figure 21: Excerpt of 2pm shadow diagram (DA8.321)

- As detailed in Figure 18, there is a clear benefit to the delivery of the “C”-shape building envelope, including:
 - Shared passive sunlight;
 - Shared passive ventilation;
 - Shared building separation offering privacy (both acoustic and visual);
 - Shared visual relief through the centre.

- Both the DCP compliant and proposed development achieve the minimum 2.0 hours to the childcare centre. However, as previously mentioned, the proposed development (as amended) has not thoroughly considered its siting and context, being adjacent to a Police Station to the west, and a child care centre to the east, resulting in unresolved acoustic impacts and inadequate separation from existing land uses, warranting additional building separation to the proposed development in its current form.
- The application’s reliance on re-massing both the subject site and Police Station (136 Maroubra Road) site will result in compounding solar access and privacy (both visual and acoustic) should the Police NSW redevelop. As the proposed development (as amended) has insufficient building separation; incorporates screening to the western elevation balconies; and presents a non-compliant height to 136 Maroubra Road, there will ultimately be overshadowing to the western elevation, which will reduce the amenity of the apartments proposed on the western façade (note: sun-eye diagrams including the potential future Police Station redevelopment were requested, and not provided for assessment).
- No planning concern is raised with respect to overshadowing toward Maroubra Road/public domain, 165-167 Maroubra Road or 2 Robey Street.
- In view of Figure 18 and Figure 20, the anticipated DCP Envelope, being the two residential towers, would benefit from the northern aspect to two façades

VIEWS

Applicant’s Justification:

- *“Viewing from the development to the west of Bruce Bennetts Place is considered to be unaffected by the proposed development, given the proposed height does not exceed the existing Pacific Square development to the east. As such, the existing distant viewing past and above the Pacific Square development will not change.”*
- *“It has been identified that those viewing locations most effected will experience some impact, however there are only two view locations that will experience a moderate to severe impact as the distant views of Port Botany will be lost as a result of the additional height.”*
- *“In most cases, the compliant envelope precludes distant views. Compliant development on the subject site will significantly change the viewing currently experienced and considering the urban nature of the site, the proposed development is not considered to present a significant change to this experience in comparison. Mitigating features of landscaped rooftops at both a high and low level, proposed windows obscured by pop-outs, additional setback to the upper*

floor and a provision of setback at the north end of the site compared to the DCP envelope demonstrate a considered architectural and volumetric response to viewing loss."

- *"As the site has not been amalgamated with the Police Station, the development outcome across both sites is a significant improvement to the viewing from apartments to the north, as each development is separated with landscape between."*

Assessing Officer Comments:

- The submitted view analysis concludes in nearly all cases, that "....A DCP compliant envelope would maintain a long term view". This is concurred.
- An assessment of the submitted View Impact Renderings and Methodology Report illustrates the loss of outlook and water (horizon) views from the existing development to the east ("Pacific Square") as a result of exceeding the height and storeys controls (Figure 22).
- A compliant building height would be at approximately RL50.00. Pacific Square units at around this level and above are negatively affected by the additional bulk proposed by the development (Figure 22), with horizon water views completely removed.
- As previously addressed, the amalgamation of the sites is not necessary to facilitate the outcomes anticipated by the DCP "C"-Shape Building Envelope. The central open space provides passive sunlight and visual relief through the break in the built form (as evident in Figure 22).
- The renders provided also clearly show large extents of unarticulated blank walls that the existing south-western units will have an outlook to, compared to an LEP/DCP compliant scheme (Figure 23), demonstrating the proposed height and envelope variation results in excessive visual bulk.



Figure 22: Excerpts from Page 55 (View from RL55.47; left) and Page 75 (View from RL52.72; right) of the View Impact Renderings – both view points lose water views as a result of non-compliant building envelope.

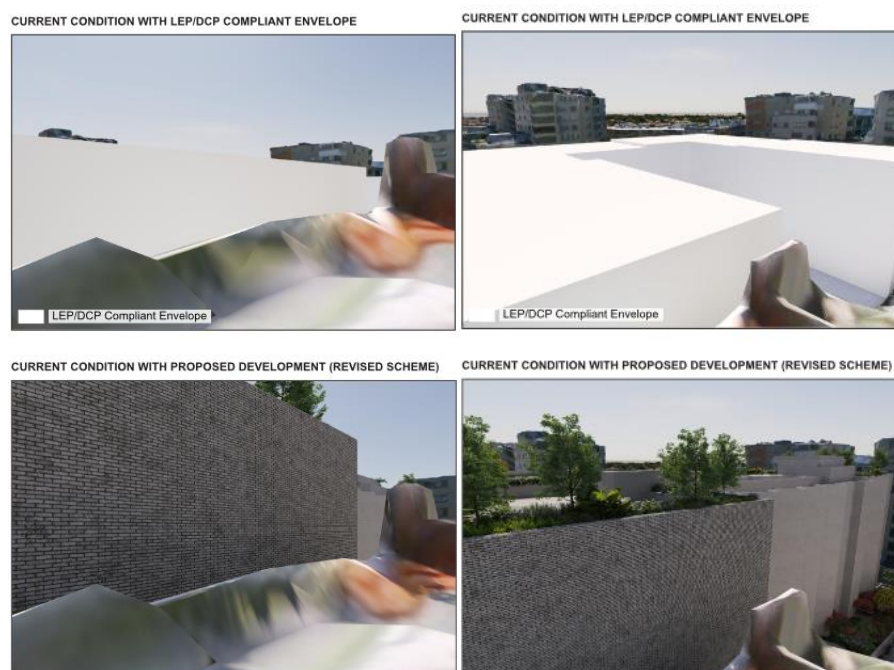


Figure 23: Excerpts from Page 90 (View from RL49.72; left) and Page 100 (View from RL55.81) of the View Impact Renderings – demonstrating excessive visual bulk as a result of deviating from a compliant building envelope.

It is therefore not demonstrated that the proposed development (as amended) offers a better outlook or retention of views compared the DCP “C”-Shape Building Envelope.

BLOCK 6 OBJECTIVES

The objectives of Block 6 are discussed below.

Objectives

- Reinforce Anzac Parade as the main street
- Reinforce Maroubra Road as the cross street.
- Reinforce the ‘Junction’ of Maroubra Rd and Anzac Pde as the main focus of the Maroubra Junction Centre.
- Encourage a mix of commercial/retail uses within the retail core.
- Provision of an open space in the middle of the centre away from the traffic noise and surrounded by shopping activity providing the focus for the centre.
- Provide a transition in scale from the centre along Boyce Rd, Maroubra Rd and Glanfield St to the lower scale residential buildings on the periphery.
- Maintain the amenity of the residential buildings by providing a green buffer between the busy commercial/retail activities on Anzac Parade and adjacent low scale residential uses.

The proposed development (as amended) does not demonstrate consistency with the objectives of Block 6 within the Maroubra Junction Centre DCP (RCDPC13 Part D4). The documentation provided with the development application fails to address the above-mentioned objectives and generalises that the proposed development is consistent with the objectives.

In proposing to align with surrounding building heights along Maroubra Road, the proposed development diminishes the intentions to firstly reinforce the intersection of Maroubra Road and Anzac Parade as the main focus of the centre, and secondly, provide the transition in scale along Maroubra Road and thus reinforce Maroubra Road as the cross street.

While the proposed development does facilitate a mix of commercial/retail uses within the core, there is a significant discrepancy in the GFA dedicated to the commercial/retail floor compared to the proposed residential floors – also not achieving the controls set out in Section 3.1.3 of the DCP with respect to maximum building envelopes and the dedicated of GFA, being a key consideration given that there is no FSR standard for the site. Further, the excessive GFA results in a significant shortfall of on-site parking, thereby burdening potential future uses of the commercial and retail premises.

Lastly, the objective of *‘Provision of an open space in the middle of the centre away from the traffic noise and surrounded by shopping activity providing the focus for the centre’* has been ignored. It is evident within the proposed centre model and the building envelope diagrams for Block 6 (Figures 9, 10 and 12) that there is a cross-lot shared amenity between 737 Anzac Parade (Pacific Square, to the east), the subject site, and 136 Maroubra Road (Police Station, to the west) when the central open space is provided. As has been presented in the discussion above, the DCP Envelope, being in the form of two-towers and a central open space, offers mutual amenity in the form of passive sunlight, air circulation and ventilation, acoustic and visual privacy while achieving the objectives for the locality.

CONCLUSION

It can therefore be concluded that the departure from the anticipated “C”-Shape DCP Envelope results in the following:

- Excessive visual bulk, particularly from the existing apartments of Pacific Square;
- Loss of a shared amenity in the form of visual relief;
- Loss of water views and a reduction to experienced outlook through the centre of the site;
- Loss of a shared amenity in the form of passive solar access;
- Loss of a shared amenity in the form of passive ventilation and air circulation;
- Inadequate building separation, particularly from the existing child care centre resulting in poor solar amenity and ventilation;
- Objectives of the RCDP13, specifically those in Part D4 and relevant to Block 6 have not been achieved.

(d) Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

(e) Section 4.15(1)(a)(iv) - Provisions of Regulations

The Environmental Planning and Assessment Regulation 2021 requires the consent authority to consider the provisions of the NCC, which have been taken into account in the assessment of the application. There is a potential NCC compliance matter that has not yet been resolved with respect to internal floor-to-floor heights, and that could result in additional building height non-compliance.

3.2 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard,

potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

(a) Natural and Built Environment

The impacts of the development on the natural environment are minimal, given the site is mostly built upon already. Insignificant palm trees will be removed and replaced by proposed landscaping around the site.

The built form and proposed envelope is considered to be excessive. Inadequate building separation, inadequate setbacks, and the non-compliant building height places the burden of mitigating the scale of development on the future redevelopment of the Police Station site; and results in compounding impacts to the existing Pacific Square development located at 737 Anzac Parade. Further, the significant divergence from the intended building envelope anticipated by the DCP is contrary to the desired future character of the site and dissolves the environmental benefits of the central open space illustrated within the Block 6 building envelope.

The development in its current form is not supported for the impact on the built environment.

(b) Social Impacts and Economic Impacts

The subject site is adjacent to an existing mixed use development to the east (Pacific Square, consisting of an existing child care centre and residential apartments) and a NSW Police Station to the west. The proposed development (as amended) has not demonstrated consideration of its circumstance and context, and the design response is one that results in poor amenity for existing and future residents and users of all sites.

The inadequate building separation and design response for “pop out” windows to bedrooms, which are adjacent to the operational child care centre; and enclosed balconies to the west to accommodate safety (and outlined by supporting documents) and privacy is indicative of inappropriate building siting.

The resulting compliance with the Education and Care Services National Regulations due to the proposed built form has been brought into question, noting that the Regulations mandate compliance for the operation of child care centres to comply with natural lighting and ventilation. Given the orientation of the southern unit balconies and angle of floor-to-ceiling pop-out windows, the privacy of children playing in the outdoor play area (which extends to the boundary) has also not been considered.

Lastly, the proposal does not comply with the DCP with respect to the maximum dedication of commercial and residential gross floor area, and does not achieve full compliance with the provision of only commercial/retail gross floor area to the first two storeys (3 units are proposed to the second storey). No detailed economic impact assessment was provided, and therefore there is potential for an economic impact on the desired function of the Maroubra Junction Centre.

In view of the above, it is considered that the proposal may result in any adverse impacts in the locality.

3.3 Section 4.15(1)(c) - Suitability of the site

The site is considered suitable for mixed-use development, and can accommodate commercial/retail premises and shop-top housing. However, in its current form the proposal is of a visual bulk, and excessive scale/massing when compared to the anticipated desired future character, controls, objectives and outcomes facilitated by the LEP and the DCP.

The extent and cumulative impact of non-compliances proposed are indicative of the overdevelopment of the site, as evidenced by:

- exceedance in building height and storeys;
- loss of views;
- insufficient separation resulting in winter gardens and pop-out windows;
- cross ventilation not meeting minimum requirements;
- significant deviation from the DCP building envelope standards (applicable floor area; building depth);
- insufficient parking;
- inadequate assessment of the child care centre and police station on the amenity of future residents; and
- insufficient grounds to establish that the proposed development is a better environmental outcome and that there are environmental grounds that warrant the variation to the building height standard.

The proposed development (as amended) not considered suitable for the site.

3.4 Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 5 of this report.

3.5 Section 4.15(1)(e) - Public interest

The proposal is not consistent with the land use table, zone objectives and otherwise lacks key information to enable a full assessment of all uses and their impacts on adjoining properties.

The proposed development is not in the public interest.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in **Table 7**.

Table 7: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Ausgrid	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	No objections subject to conditions.	Yes
Sydney Airport Corporation	Clause 6.8 Airspace Operation – <i>Randwick Local Environmental Plan 2012</i>	No issues raised.	Yes
Water NSW	As per s89, 90 or 91 of the Water Management Act 2000	No objections subject to conditions (GTA) and appropriate approvals after granting of consent.	Yes
Design Review Panel	Clause 6.11 – <i>Randwick Local Environmental Plan 2012</i> SEPP (Housing) 2021 Advice of the Design Review Panel ('DRP')	The advice of Council's Design Review Panel and Urban Design Team has been considered in this assessment and the proposed development is not considered to exhibit Design Excellence nor consistency with the Design Principles pursuant to the SEPP (Housing) 2021.	No
Transport for NSW	Section 2.119 and 2.121 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development with frontage to a classified road.	No change to Maroubra Road frontage – access remains from Piccadilly Place. No works are to be approved within Maroubra Road.	Yes

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 8**.

Note: In the instance the application is to be approved, a deferral will be required to enable additional time for additional site and discipline-specific conditions of consent to address issues outlined below. The comments provided below are against the development as submitted, not as amended in 2024.

Table 8: Consideration of Council Referrals

Officer	Comments	Resolved
Landscape	Nil.	Yes.
Traffic	<p>Additional information was requested, including:</p> <ul style="list-style-type: none"> • Pedestrian sight splays must be provided in accordance with AS2890.1 • Blind aisles shall be designed in accordance with AS2890.1. • Bicycle parking shall be designed in accordance with AS2890.3:2015, being a 500mmx1800mm envelope for horizontal spaces, and a 500mmx1200mm envelope for vertical spaces. A minimum allocation of 20% of bicycle parking spaces must be designed as horizontal parking for <i>each</i> component respectively (residents, retail & commercial) • All ramp gradients must be annotated on the Architectural plans. • Motorcycle/Motor scooter parking is to be provided as per the rates outlined in Table 1 of Section 3.2 B7 of the Randwick DCP. Parking provisions fall considerably short of the DCP requirements. The Integrated Transport Strategy does outline an objective to review parking rates in areas with access to regular public transport services. Notwithstanding, a review of the DCP parking rates has not yet been completed, that a 70% reduction for the retail/commercial component may not be practical and could have implications on nearby on-street and off-street parking. Please note that no on-street parking modifications shall be made to support the site, noting that the Maroubra Road frontage is currently utilised by Police vehicle parking. • In accordance with Part B7 of the RDCP 2013, a Green Travel Plan is to be prepared for the consideration of any parking shortfall, including detail on the essential components of a travel plan: <ul style="list-style-type: none"> ▪ Methods of supporting walking, cycling, public transport and car-sharing. ▪ Site audit and data collection, which is crucial for understanding the starting point; ▪ Objectives and targets that define the direction and purpose of the travel plan. Targets should be specific, measurable, achievable and time-bound; ▪ Actions that will help achieve the objectives. Actions should provide incentives for using sustainable transport modes; ▪ A strategy for promoting and marketing the actions; ▪ A commitment of resources, including financial support and human resources to allow for implementation, monitoring, review and continual improvement of the travel plan; • The DCP indicates that car share spaces should be considered for large development. Car Share does not appear to have been considered, despite its potential to reduce the residential parking component, and thereby allowing additional parking for the staff/visitors of the retail/commercial component. 	No.
Strategic Planning	<p>Concerns were raised, including:</p> <ul style="list-style-type: none"> • A significant 53% increase in density for the residential component above what is envisaged in the DCP 	No.

	<ul style="list-style-type: none"> Shadow diagrams need to be provided hourly from 10am to 4pm at Winter Solstice The Overshadowing Comparison at Winter Solstice 12noon shows no difference between the DCP 'C' and Proponent 'T' plans, at 2pm a minor advantage to the 'T' shaped plan is 1 less balcony affected Maroubra Rd frontage/street wall increased to 7 storeys (inconsistent with DCP) Exceeds maximum height limit of 25m (9 storeys, 30.7m is proposed, a 23% increase) Potential overshadowing of 2 Robey St heritage property Potential overshadowing of south Maroubra Rd commercial footpath outdoor dining area Many apartments within the block have an outlook directly into existing or future adjoining apartment buildings resulting in significant privacy issues Landscaped/deep soil replacement area wholly inadequate (106m²) No landscaping is indicated in the W, N and E building setbacks No details of communal roof garden landscaping Reduces future combined (with Police Station site) west courtyard to 12m wide (non-ADG compliant) – needs to be 18m minimum North Piccadilly Place ADG building-to-building setback non-compliant (is 18m, needs to be 24m) No commercial (Level 1) lobby provided Single lift for each residential block - adequacy questioned Laneway truck service access/parking should be wholly on the site (not using footpath area) 	
Environmental Health – General/Land Contamination	No objection, subject to conditions, noting that a Detailed Site Investigation (DSI) will be required.	Yes.
Environmental Health - Acoustics	<p>Further information requested, including:</p> <ul style="list-style-type: none"> An acoustic assessment should be undertaken to assess the noise emanating from the childcare centre into the proposed development and in particular, consideration of noise impacts to the residential units with balconies and windows that look directly upon the childcare centre. Modelling of the potential noise impacts should be provided with the assessment to Council confirming predicted noise levels for such noise. Unattended noise loggers were located at 138 Maroubra Road (front and rear balcony) for over a seven-day average period. This type of noise assessment would normally pick up siren and visitor noise during this assessment, however siren noise is intermittent noise for short periods and may not have had an impact on the assessment. The acoustic consultant has not provided any comments on siren noise increasing the background noise or causing sleep disturbances impacts. As the siren noise was not considered in the assessment, it is recommended to request the acoustic consultant to provide 	No.

	<p>comments on his recorded logged data for this period to advise on the frequency of such noise and advise as to whether such noise may cause noise impacts and sleep disturbance impacts to the proposed development.</p> <ul style="list-style-type: none"> • The acoustic assessment prepared by SLR outlines that category 3 facade construction (i.e., special construction) is required to achieve suitable internal noise levels. This includes the requirement to keep windows, doors and other openings closed. Design plans have now been amended to include winter gardens to allow the residential units on the southern side to meet the noise criteria (with windows and doors left open). • However, there has been no amended acoustic assessment provided to support this or to confirm that the design of the winter gardens provides the additional acoustic measures to achieve the project noise criteria with windows and doors permitted to be open. • Furthermore, there has been no amended ADG report confirming that the amended plans for the south facing units (with winter gardens) meet the criteria of the Planning and Environment Apartment Design Guide objective 4B Natural Ventilation and cross ventilation requirements. • It is recommended that the acoustic consultant reviews the amended plans and undertakes an acoustic assessment to verify that the proposed development internal noise objectives are achievable without having to close all windows and doors. • In addition, it is recommended that the SEPP 65 / ADG report and Verification Statement is reviewed and updated to reflect the amended changes and to confirm as to whether objective 4B ventilation requirements of the ADG can be achieved. • Noise emanating from the use of the communal courtyard on level 1 and roof top communal area has not been considered as part of the SLR noise impact assessment. • It is noted that the central courtyard is located near residential apartments with balconies facing this courtyard and, in this regard, consideration should be given to noise emanating from this area as such communal areas can create noise emissions that may impact surrounding residents. • Noise from communal areas should be considered and the noise impacts to internal residents and neighbouring residents should be assessed. The acoustic assessment should assess and confirm whether any of the outdoor communal areas (including the rooftop area) will have noise impacts to residents. Any predicted modelling for such assessment should be outlined in the report. 	
Engineering	<p>Further information requested, including:</p> <ul style="list-style-type: none"> • The end car space adjacent to the basement wall at the north-west corner on all basement levels does not meet the minimum requirements of AS 2890.1 • These spaces would be difficult to access due to the intrusion of the columns into the adjacent parking aisle and car space. • Their location at the end of a blind aisle (especially on basement level 3) requires it to be setback a minimum of 1m for the 	No.

	<p>basement wall in accordance with AS 2890.1. This has not been provided.</p> <ul style="list-style-type: none"> • Section B (Drawing DA2.101) indicates the minimum head clearance of 2.2m as required by AS 2890.1. This will not be achieved on the ramp traversing between basement levels 1 & 2 and between the ground floor and basement level 1. • The proposed 12 bicycle spaces on basement level 2 adjacent to the motorbike spaces are placed within an area only 2.16m x 0.80m. This is far too small to accommodate 12 spaces and does not meet the minimum dimensions required by Figures 2.1-2.5 in AS 2890.3. • A 1.5m x 1.5m splay for sightlines shall be provided at the north-west corner of the site at ground level adjacent to the driveway ramp to ensure pedestrian safety is maintained. • The loading dock and associated swept paths must be designed to accommodate a 10.5m long Council Collection vehicle (with an associated head clearance of a minimum 4.5m). 	
Waste	<p>Further information requested, including:</p> <ul style="list-style-type: none"> • Section 4 in Part B6 'On-Going Operation' of RDCP 2013 provides the following relevant control: <i>"i) Provide suitable and sufficient waste storage facilities for all development, in accordance with Council's Guideline.</i> • The proposed development has not provided sufficient waste chutes with only one chute appearing to be provided adjacent to each of the separate lift lobby's. Separate waste chutes must also be provided for the recycling. Appropriate provision for convenient use by residents has not been made. • The loading dock appears to have been designed for the swept paths of a 8.5m long MRV (Medium Rigid Vehicle) to facilitate on-site waste collection. This is not satisfactory as the Council Collection vehicle will be in the order of 10.5m long (with an associated head clearance of minimum 4.5m). The loading dock and swept paths must, therefore, be redesigned as required to accommodate Council's Collection vehicle. • The main waste bin room on basement level 1 is only accessible through the FOGO bin storage room. They should be accessed separately or combined. • The bulky waste storage area is proposed to be situated on basement level 2 making it impractical for transporting large items up two levels to the loading dock for collection. It should be relocated to as close to the loading dock on the ground floor as possible. • The format and information included in the Waste Management Plan are not satisfactory. Council's standard template for Waste Management Plans as per the guidelines must be used. 	No.
Heritage	Nil.	N/A
Building Compliance	No objection, subject to conditions.	Yes.

The proposed development (as amended) has not adequately addressed the matters and concerns raised above.

4.3 Community Consultation

Development Application No. 80/2023, was lodged on 10 March 2023 and placed on public notification for twenty-eight (28) days from 23 March 2023 through to 20th April 2023. Forty-nine (49) unique submissions were received objecting to the proposal. The objections primarily relate to:

The issues raised in these submissions are considered in **Table 10**.

Table 9: Community Submissions

Issue	No of submissions	Council Comments
Concerns over traffic generation and queuing/double-parking with in Piccadilly Place; Insufficient parking;	42	<p>The proposed development (as amended) results in insufficient parking for cars and motorcycles for the scale of the development. It was requested that:</p> <ul style="list-style-type: none"> • The proposal should consider the use of car-sharing facilities. • A Green Travel Plan should be prepared. • Plan of Management for parking and waste be prepared. <p>This information was not provided.</p> <p>Additionally, the basement arrangement requires further refinement including security measures separation of residential and commercial parking spaces; access and management of waste services; provision of adequate sightlines and swept paths from entry and exit points; meeting the minimum requirements of AS2890.1; note ramp gradients on the architectural plans.</p> <p>The application should not be supported, as it provides insufficient parking and has not resolved pedestrian and vehicle safety, nor users of the loading dock and waste collection.</p>
Non-compliance with building height and storeys;	20	<p>The development does not comply with the 25m LEP building height standard, nor the building envelope controls (including 6 storeys) under the DCP. While there may be scope for a 7-storey development that sits within the 25m height limit, the proposed development in its current form is not supported as result of exceeding the building height standard resulting in view loss and the inadequate separation associated with that building height.</p>
Amenity: Overshadowing, visual impact, ventilation and acoustic/visual privacy as a result of the proposed height and proximity (inadequate separation)	37	<p>The proposed development is not supported on the grounds that it significantly deviates from the controls, objectives and intended outcomes stipulated by the LEP and DCP.</p> <p>As thoroughly detailed within this assessment report, the proposed building envelope, in addition to the variation to building height and implied future redevelopment of the Police Station results in impacts to solar access, visual bulk, visual and acoustic privacy, has not demonstrated that amenity impacts have been minimised.</p> <p>One submission mentioned that there was an expectation that the site would eventually be redeveloped, however not to the massing and extent that that has been submitted.</p>

		The amenity impacts as a result of the disregard for the DCP Building Envelope of the proposed development and are not supported.
View loss;	11	<p>Submissions have been received from residents raising view loss as a major concern. It is acknowledged that the submission does include a View Impact Rendering Report prepared by Virtual Ideas, however it is evident that the additional height and departure from the anticipated DCP envelope results in view loss (refer to discussion on Page 69) and excessive visual bulk when viewed from eastern Pacific Square balconies/habitable rooms.</p> <p>The application should not be supported, as it removes of water and horizon views by exceeding the height of building standard without sufficient environmental ground, and varies the DCP envelope.</p>
Impact to the eastern child care centre;	17	<p>The visual and acoustic impacts between the proposed development and child care centre remain unresolved. Additional acoustic modelling and information has been requested by Council's Environmental Health Officer.</p> <p>It is also unclear if the proposed development would result in operational issues for the existing child care centre, with respect to sunlight and ventilation requirements under the National Regulations; it is noted that a DCP compliant envelope, with the central open space, would greatly improve overall passive sunlight and ventilation, and ultimately provide physical separation of the built forms from the existing child care centre.</p> <p>The potential impacts and relationship between the existing child care centre and proposed development are not supported.</p>
Impact to the western Police Station and the impact on its future development potential (including safety and privacy concerns raised by the Maroubra Police Station);	5	<p>Police NSW (and four other submissions) raised concerns that the proposed development would inhibit the current operations and potential future redevelopment of the site.</p> <p>The proposed development (as amended) incorporated enclosed balconies (or winter garden-style balconies) to the western façade to compensate for inadequate building separation and to accommodate additional safety and privacy measures to the Police NSW site. However, this has inadvertently resulted in additional visual bulk to the western elevation. Coupled with the application's reliance on the future redevelopment of the Police Station being similar in footprint and scale to the proposed development, it is likely that the western façade of the subject site would ultimately be overshadowed – this it can be concluded that the separation to the west is inadequate and a poor design outcome for the site.</p> <p>Noise generated by the Police NSW operations required further detailing within the acoustic report.</p> <p>The matter of a civil/in-principle agreement with Maroubra Police Station (western site) for temporary on-street parking on Maroubra Road (being the classified road), including footpath modifications, changes to line-marking and temporary 55-degree angled car parking. These works were included in the updated Transport Impact Assessment (prepared by JMT Consulting, dated 19 February 2024) however no plans, updated statement of environmental effects or separate development application for this arrangement were provided for assessment. Further, given these works would be to the classified road (Maroubra Road); or not directly related to the proposed development site and; concurrence from Transport for NSW would be</p>

		<p>required, which has not been granted at the time of preparing this assessment report.</p> <p>The proposed development has not thoroughly considered its site context and places the burden on the future redevelopment of the police station to compensate for inadequate separation, and incorporated inappropriate design solutions for the siting of the proposed building envelope – thus it cannot be supported.</p>
Basement flooding;	6	While the subject site is not mapped as a flood prone area, it has been identified as over an aquifer. Water NSW have granted their General Terms of Approval (dewatering is subject to other approvals).
Insufficient sustainability measures	1	This can be addressed within conditions of consent, if the application is to be approved.
The economic impact to “Pacific Square” (to the north and east).	1	<p>The development does deviate from the intended distribution of commercial/retail and residential gross floor area, exceeding the maximum building envelope by nearly 50% additional residential floor area.</p> <p>An economic impact assessment was requested and not provided.</p> <p>It is also reiterated that the parking to 747 Anzac Parade (Pacific Square) is not public parking, and the shortfall of parking may have flow-on impacts to the parking availability and therefore economic impact on Pacific Square.</p>
Construction disturbance (noise, dust, stability)	24	This can be addressed within conditions of consent, if the application is to be approved.

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail.

- Building Envelope** – The development application is not supported by any valid environmental or planning reasoning (beyond non-amalgamation) that the DCP envelope cannot be delivered. The applicant relies on the yield between the subject site and the Police Station site, and ultimately a re-massing in to two “T”-shape forms that seeks to place non-compliant built forms across both sites as a result. The application relies on the provision of privacy measures to mitigate inadequate building separation and the deviation from the DCP Building Envelope, however in doing so, creates unarticulated and extensive expanses of walls that result in vulnerability to future overshadowing (from western redevelopment) and angled pop-out windows on the eastern elevation that create overlooking and acoustic amenity concerns, particularly with respect to the existing child care centre. The proposed development has not thoroughly considered its site context and places the burden on the future redevelopment of the police station to compensate for inadequate separation, and incorporates inappropriate design solutions for the siting of the proposed building envelope.

The central courtyard is a shared amenity and an anticipated outcome of the Maroubra Junction Centre DCP. By eliminating the central courtyard from the building envelope on the site there is a cumulative reduction of amenity, including shared passive sunlight; shared

passive ventilation; shared building separation offering privacy (both acoustic and visual); shared visual relief through the centre.

As there is no FSR standard, the Block 6 controls provide controls relevant to a suitable building envelope for development on the site, including percentages of GFA dedicated to commercial and residential uses. In the assessment of the application, it has been calculated that the proposed residential GFA greatly exceeds the maximum permissible area of 70% of the maximum building envelope (70% is approx. 2,500m²). The proposed development (as amended) proposes approximately 5,200m² of residential GFA, being more than double the control.

- ***Building Height and Storeys*** – The underlying desired future character and objective behind the applicable building height standard for the subject site is to be of a lesser height and scale; offer a mutually beneficial open space in the middle of the Maroubra Junction Centre; and be transitional in scale towards other surrounding development. The proposed development does not achieve this desired character. The additional building height that is proposed adversely impacts amenity due to the unarticulated length of walls and insufficient building separation resulting in visual bulk toward residents of Pacific Square as well as the public domain and future potential redevelopment of the Police Station site. The excessive building height, exceedance in number of storeys permitted and variation to the building footprint and envelope expected under both the LEP and DCP results in a development that does not contribute to the street or public space, does not minimise the impact of development or protect the amenity of surrounding residents, and is not in the public interest.

The submitted Clause 4.6 to vary the height of building standard (Clause 4.3) does not substantiate reasonable environmental grounds to vary the building height control, nor identify that additional building height is in the public interest.

- ***Poor Amenity Outcomes (Separation, Privacy, Solar Amenity)*** – Residential Levels 3 through to Level 7 are proposed with a 3.0m setback from the western elevation, a shortfall from the 6 to 9m otherwise required (Figure 13). The inadequate setback further burdens future development at 136 Maroubra Road (Police Station) and has implications on the solar access received by the proposed development when 136 Maroubra Road is redeveloped (particularly if it were to align with the built form suggested for 136 by the Applicant). Inadequate information was provided to ascertain what the impact of the indicative redevelopment of 136 Maroubra Road would have on the solar amenity of the proposed development (as amended). Coupled with the enclosed balconies to the majority of apartments that rely on the western elevation for solar amenity, there is a poor solar amenity outcome as result of deviating from the DCP Building Envelope.

It was requested that a comparison of a compliant building height (of the proposed T-shape) was provided to assess the solar access impact of the additional height (not just a comparison of the building envelope sought), and this was also not provided for assessment. This comparison is relevant to understanding the impact of the additional building height to Clause 4.3.

Proximity of the central “infill” building massing to Pacific Square results in potential overlooking and acoustic nuisance between the existing child care centre and future residents of the proposed development, with bedroom windows adjacent. The owner of the child care centre has also raised concern with respect to operations being burdened by non-compliance

with passive sunlight and ventilation requirements stipulated by the Regulations. The proposed development demonstrates inadequate consideration of surrounding land uses.

The proposed development does not comply with the minimum 60% of units to be cross-ventilated pursuant to the ADG.

- **View Loss** – It has been illustrated within the submitted View Impact Renderings that the proposed building height in excess of 25m removes of horizon water views, which is contrary to the objectives of the E2 Commercial Centre zone as well as the objectives of Clause 4.3 Height of Buildings standard.

There is a benefit demonstrated (Figure 19) that the anticipated massing, which has not been delivered by the proposed development, improves visual relief and outlook for residents of the eastern Pacific Square development.

- **Design Excellence and Inconsistencies with SEPP (Housing) 2021 & ADG** – The development was not supported by the DEAP and is not supported by Council’s Urban Design Team in its current form.

The proposed development does not align with the scale prescribed by the RLEP 2012 and RDCP 2013 in terms of height, building envelope (storeys), building depth or building use. The deviation from the RDCP 2013 objectives and controls, including the Proposed Centre Model illustrated in Sections 2.5, 3.1, and 3.2.6 of Part D4 of RDCP 2013, will create an urban design outcome that departs from the desired future character of the Maroubra Junction Centre.

The development heavily relies on privacy screening to justify non-compliant separation from existing developments, resulting in poor amenity for future residents of the development.

There are opportunities to improve and comply with the building separation requirements of the ADG, and the height of the development and the DCP building envelope, that will balance amenity and environmental outcomes with design excellence, as well as the intended outcomes of the DCP controls applicable specifically to the site that have not been taken into consideration by the proposed development.

For example, a compliant envelope offers opportunities to improve the overall outlook between the site, and Pacific Square. Further, the provided view loss assessment indicates that a compliant form can achieve the retention of views to distant horizon water views. In achieving the DCP envelope, the central open space would reduce the visual impact to “Pacific Square”, improve upon visual privacy, passive sunlight (including to the child care centre) and has the potential to retain water horizon views from adjoining properties.

The provision of two (2) units of affordable housing (introduced following from a Panel briefing) is inadequate and does not demonstrate sufficient reason to significantly vary the height of building standard, nor DCP Envelope. No assessment of the Housing SEPP (2021) was otherwise submitted with the development application.

The RFI Response Letter (18th April 2024) relied heavily on the introduction of affordable rental housing under the State Environmental Planning Policy (Housing) 2021, specifically the *State Environmental Planning Policy Amendment (Housing) 2023*, to justify the building envelope and variation to the height of building standard.

The *State Environmental Planning Policy Amendment (Housing) 2023* does not apply to this development application. The recent amendment ("*State Environmental Planning Policy Amendment (Housing) 2023*") commenced on the 14 December 2024. The amendment **DOES NOT** apply to the subject application DA/80/2023 as it was lodged on the 10th March 2023. The savings provisions, pursuant to Schedule 7A, Section 8 of SEPP (Housing) 2021, render the amendment to the SEPP **not applicable** to the subject development application.

- **Car Parking and Loading** – The proposed development (as amended) has not provided sufficient off-street parking within the basement(s). There is a combined shortfall of thirty (30) car parking spaces, being a shortfall of 25%. The proposed development is not considered to demonstrate appropriate management of car parking within the broader transport network; effective car parking provisions (including motorbikes and bicycles); or demonstrate that the parking arrangements proposed facilitate user and pedestrian amenity and safety.

The shortfall of parking provided is a poor outcome for the development, and contributes to an apparent overdevelopment of the site, particularly as the proposed residential GFA exceeds 50% of the maximum building envelope and adds to the burden of alternative parking. The proposal has not facilitated or promoted public transport use, walking or cycling strategy to compensate for the significant deficiency in the provision of vehicle parking spaces; motorcycle parking spaces and; bicycle parking spaces.

- **Insufficient Information** – The RFI has not been adequately responded to.
 - Refinement of external materials, finishes, colours and inclusion of public artwork;
 - Refinement of basement layout (see Traffic and Waste referral comments, above)
 - Provision of an updated Clause 4.6 to the Height of Building standard (Clause 4.3);
 - Updated Acoustic Report to appropriately address the existing noise-generating land uses adjacent to the subject site (see Environmental Health comments, above);
 - Plans of Management to assess:
 - Basement parking (including consideration of car sharing and security measures), loading and waste management;
 - Stormwater and Landscape irrigation/maintenance;
 - Provision of a Green Travel Plan;
 - Whether the proposed development retains the benefit of the Piccadilly Place carriageway;
 - Stormwater reuse on the site and integration of ESD measures;
 - Resolution of civil discussions with Police NSW and the provision of carport/modified parking arrangements within the public domain (not covered by this DA).

6. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application cannot be supported.

The proposal as presented is representative of a development that does not conform with the desired future character of the Maroubra Junction Centre locality with respect to height and building envelope, does not appropriately address concerns with traffic management or the provision of parking (including access) on the site, and otherwise has a substantial shortfall of information to enable a detailed assessment of the potential impacts.

It is considered that the key issues as outlined in Section 5 of this assessment report are unresolved and are reasons to refuse the development application as recommended by the draft reasons for refusal in **Attachment A**.

7. RECOMMENDATION

The Development Application DA-080/2023 (as amended) for the demolition of existing structures and construction of an 8 (eight) storey mixed use development with rooftop communal open space, comprising 56 units, retail and commercial tenancies and 3 basement levels containing 90 car parking spaces and associated strata subdivision at 138 Maroubra Road, Maroubra be **REFUSED** pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979* subject to the reasons for refusal attached to this report at **Attachment A**.

The following attachments are provided:

- Attachment A: Draft reasons for refusal
- Attachment B: Architectural Plans
- Attachment C: Clause 4.6 to Vary Height of Building (Clause 4.3)
- Attachment D: Landscape Plans
- Attachment E: Statement of Environmental Effects
- Attachment F: Addendum Statement of Environmental Effects
- Attachment G: Final RFI Issued to the Applicant