

ATTACHMENT REFERRALS AMENDING CONCEPT PLAN STAGE 1:

DEVELOPMENT ENGINEER and Landscape Officer

An application has been received for an Amending DA to the Stage 1 Concept application to provide 15% affordable housing through increasing the overall development to a four-storey residential flat building, infill the north south through site connection and provide for the addition of a part basement level (Height variation) at the above site.

This report is based on the following plans and documentation:

- Architectural Envelope Plans by Hill Thalys Pty Ltd stamped by Council 11th June 2024;
- Statement of Environmental Effects by Beam dated 31-05-2024;
- Detail & Level Survey by RGM Property Surveys dated 22/02/2021;
- Landscape Design Concept by TURF, issue E dated May 2024.

General Comments

The original Concept DA approved under DA/698/2020 included general engineering conditions which will be equally applicable to the proposed amending DA. These conditions include requirements with regards to drainage, parking and waste management.

The subject amending DA will generally require the provision of 3 additional engineering conditions, which will supersede conditions 24, 26, 27 & 35 in the original concept DA consent.

With regards to condition 35 there is currently a typo error which refers to “subsequent stage 1 application whereas it should be referring to ‘subsequent stage 2 application’. This application may provide opportunity to correct this error while also updating the wording of the condition to Sydney Water’s current requirements. A suitable replacement condition has been provided,

Parking Comments

As an affordable housing component is included in the concept DA, the applicable parking rates will now relate to those specified in the Housing SEPP (2021) and/or Part B7 of the DCP as applicable.

Condition 24 in DA/698/2020 (copied below) will therefore need to be superseded as it currently only refers to the DCP;

It is also noted the amending concept DA appears to include another part level of basement parking. Condition 23 in the original consent DA/698/2020 relates to the parking layout will still apply and need not be superseded.

Waste Management Comments

To reflect the increase in number of dwellings from 83 to 98 in the amending concept DA the dedicated area for bulky waste shall be increased from 25m³ to 30m³ being consistent with Council’s Waste Management Guidelines. A suitable condition has been included in this report.

Geotechnical Comments

Since approval of the original concept DA further geotechnical information has been received included with the current DA that indicates there is very little seepage flows/groundwater on the site. A Section 4.56 application being DA/580/2022/A and approved by Council relaxed the tanking requirements to a degree. It is therefore recommended that this be reflected in the Concept DA as well. A suitable condition based on the condition provided for DA/580/2022/A has been included in this report.

Landscape Comments

Conditions 28-30 of DA/698/2020 require the inclusion of certain details on stand-alone Landscape Plans, with the set by TURF, issue E dated May 2024 that have been submitted with this Amending DA noted to address these matters by the inclusion of a combination of Sections, Elevations, Construction Details, 3D Imagery, Planting Plans and similar.

This results in a superior outcome when compared to the previous scheme given a substantial increase in the quantity & density of planting, as well as an improvement to the quality of open spaces to be provided to future occupants, so is supported.

Matters relating to the protection and/or removal of vegetation are already covered by other development consents so require no comment, with ecology matters related to ESBS, BDAR and similar already having been dealt with by other internal and external specialists in that discipline.

HERITAGE PLANNER

The Site

The subject site is known as 11 Jennifer Street Little Bay, and with a legal land parcel identity as Lot 11, D.P. 1237484.

This is a rectangular land parcel which fronts Jennifer Street to the west and falling slightly to the east. Its boundaries are approximately 112m to this west frontage; 80m to the north side and 110m to the south side, and then 138m at the rear east boundary. It has a total site area of approximately 1.161ha. The site has no built structures, and its existing vegetation comprises relatively undisturbed low scrub.

The precinct in which the item is located is primarily residential in character. The west side of Jennifer Street - opposite the item - is characterised by low-density single and double storey residential dwellings. To the east is *St. Michael's Golf Club*, which comprises a golf course and a single-storey club house building.

The site has no individual statutory heritage listing. However, it is located adjacent to several heritage items and conservation areas that are listed on the State Heritage Register under the NSW Heritage Act 1977, and also within Schedule 5 Parts 1 and 2 of the Randwick LEP 2012.

Background

A November 2020 initial concept DA (DA 698/2020) was refused by Council. However, in a subsequent appeal the LEC granted consent on 19 October 2022 for the development of a part 3, part 4 storey complex across the northern portion of the site, subject to specific delineated environmental considerations for the overall land parcel. In early 2024 site preparation works commenced in accordance with that consent.

In December 2023 the NSW Government introduced reforms to incentivise the delivery of additional affordable housing in response to the Housing Crisis.

This further proposal aims to take advantage of those reforms by seeking to amend the approved DA on the site to deliver 15% affordable housing within the development in return for a 30% uplift in FSR and a minor increase in height under Section 4.22 of the EP&A Act, as well as a proportionate increase in basement space.

Proposal

This DA seeks approval for amendments to the existing development consent for the following:

- An additional storey to the consented development at one portion of the build. This will increase the total number of residential units from 76 to 98.
- An increase in basement level construction to accommodate the additional car parking - from 169 to 222 – as well as an increase to waste requirements space.
- Proposed materials and finishes are contemporary in construction and appearance including metal roof sheeting (light grey); Cladding in metal and solid masonry; Concrete surfaces; Aluminium framed glazing; metal handrails and balustrading.

Submission

For the purposes of the heritage assessment of the Development Application the following documentation is submitted:

- A Full set of Architectural Plans prepared by *Hill Thalys Architecture & Urban Projects*, Foster Street Surry Hills, dated as 28 May 2024 (and received by Council 11 June 2024)
- A professional Statement of Environment Effects (SEE) prepared by *Beam Planning Pty Ltd*, dated as 31 May 2024 (and received by Council 11 June 2024)
- A professional Heritage Impact Statement prepared by *Weir Phillips Heritage and Planning*, dated as May 2024 (and received by Council 11 June 2024)
- A Schedule of External Colours and Finishes, prepared by *Hill Thalys Architecture & Urban Projects*, Foster Street Surry Hills, dated as 28 May 2024 (and received by Council 11 June 2024)
- Character Study Design Approach, prepared by *Hill Thalys Architecture & Urban Projects*, Foster Street Surry Hills, dated as 28 May 2024 (and received by Council 11 June 2024)
- A Public Domain Interface Study prepared by *Hill Thalys Architecture & Urban Projects*, Foster Street Surry Hills, dated as 28 May 2024 (and received by Council 11 June 2024)
- A professional Photomontage prepared by *Hill Thalys Architecture & Urban Projects*, Foster Street Surry Hills, dated as 28 May 2024 (and received by Council 11 June 2024)

Controls

Clause 5.10(1) of Randwick Local Environmental Plan 2012 includes an Objective of conserving the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views.

Clause 5.10(4) of Randwick Local Environmental Plan 2012 requires Council to consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area.

The Heritage section of Randwick Development Control Plan 2023 provides Objectives and Controls in relation to heritage properties.

Comments

This Heritage Impact Statement (HIS) has been prepared in conjunction with a Development Application (DA) for amendments to an existing development consent for residential flat buildings at No. 11 Jennifer Street, Little Bay, New South Wales. The site has no statutory listings, however, lies adjacent to items and Conservation Areas listed on the State Heritage Register and by Schedule 5 Parts 1 and 2 of the Randwick LEP 2012.

The proposed works will have no impact on the adjacent heritage items and Conservation Areas as these will continue to be generously separated from any elements of heritage significance and will not impact on any significant view corridors to and from them.

The proposed works retain the approved form, design and materiality of the buildings including their well-designed and articulated facades, which will continue to be consistent with the scale and density of contemporary style of infill that characterizes the setting of the items and HCAs.

The proposed works therefore fulfil the aims and objectives of the Randwick LEP 2012 and the Randwick DCP 2023 by improving the quality and diversity of housing options in Little Bay while respecting the heritage significance of the area in which it lies.

The site itself is not listed as a heritage conservation area, however, heritage was a contention during the Concept DA proceedings, on the basis of the potential impacts on the surrounding heritage conservation areas, namely the Kamay Botany Bay National Park Conservation Area (listed C5 in Schedule 5 of the RLEP) and Prince Henry Hospital Conservation Area (listed C6 in Schedule 5 of the RLEP). It is especially noted that in her judgement, Commissioner Bish concluded the following in relation to heritage:

'I did not perceive that the visibility of the upper levels of the future RFB, as positioned on the site, would likely have an adverse impact to the view or setting. This is due to the significant separation of the building envelope from the National Park across the proposed biodiversity conservation area, and its positioning on the site. There is an extensive and expansive depth/height of native vegetation between the conceptual building and within the National Park. I also consider that the view (northward) from the National Park is generally towards an existing urban streetscape. A person standing in the National Park would unlikely find the screened view of the upper stories of a future building on the site as unexpected or out of visual place. I am satisfied there is no adverse impact to the setting, view or fabric of the National Park Conservation Area.

An updated Heritage Impact Statement (HIS) has been prepared by *Weir Philips*. The HIS notes that whilst visible from the National Park in certain locations, the application of 4-storeys plus roof terrace consistently across the site does not change any of the original conclusions of Commissioner Bish regarding the extent of impact or the appropriateness of being able to see an urban streetscape to the north from the national park.

The proposed additional half basement level will have no impact as the basement footprint will continue to be well removed from the boundaries of the item, with entry and exit via the approved roads, for there to be no physical impact on the item.

The proposed works will continue to be substantially separated from any listed items and will have no impact on the adjacent heritage items and Conservation Areas as they will continue to be generously separated from any elements of heritage significance and will not impact on any significant view corridors to and from them.

Therefore, for all the above reasons, there will be no impact on the ability of the public to understand and appreciate any heritage significance of this precinct.

Recommendation

The following conditions should be included in any consent:

- The colours, materials and finishes of the external surfaces to the building are to be in accordance with the Proposed Schedule of Materials, finishes and colours prepared by *Hill Thalys Architecture & Urban Projects*, Foster Street Surry Hills, dated as 28 May 2024 and received by Council 11 June 2024. Details of any changes to the proposed colours, materials and textures are to be submitted to and approved by Council, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.
- This site is relatively undisturbed, and in proximity to areas of indigenous provenance. Therefore, all contractors/trades persons involved in excavation works must be formally made aware of at least the possibility of archaeological remains or Aboriginal objects. In the unlikely event that such historical archaeological remains or deposits are exposed during the works, all work should cease while an evaluation of their potential extent and significance is undertaken, and the NSW Heritage Office notified under the requirements of the Heritage Act.

11 Jennifer Street,
Little Bay, NSW, 2036
18th October 2024

RE: Amending Concept DA – 11 Jennifer Street, Little Bay.

Dear Ferdinando,

This letter is provided to address a query from Randwick City Council regarding the approval process for the proposed Amending Concept DA (DA/598/2022) at 11 Jennifer Street, Little Bay, NSW, 2036.

The Stage 2 Plans by Hill Thalys (Job # 22.27, Drawing A 2.402-A 2.408) Shadow Diagram indicates that an increase of the building height will only affect a small extended portion of the protected vegetation, for a small increase in time. The extent of light reduction should not significantly affect the viability, structure or health of the Eastern Suburbs Banksia Scrub (ESBS), community.

A study of Australian coastal shrublands (Bond & Ladd, 2001) found that low light levels may limit the species richness of the understory. The article suggests that a long-lived overstorey causes an attrition of understorey species. Which is evident in long unburnt stands of ESBS that are dominated by *Leptospermum laevigatum*. Few, if any of the understorey species present in ESBS, prefer shade, and species richness beneath overstorey shrubs decreased in proportion to the shade cast from dominant canopy species.

The study also states that species diversity can be increased in low light situations with the use of a suitable fire regime.

It is Abel Ecology's belief that an increase in the height of the buildings will not adversely affect the listed vegetation community, Eastern Suburbs Banksia Scrub (ESBS), in relation to shadows and light exposure.

Therefore, Abel Ecology is of the opinion that the additional overshadowing from the proposed design is minor and should not trigger further assessment.

Kind Regards



Nicholas Tong
BAM Accredited Assessor
BAAS22012

Chris Ferreira
Head of Planning
Urban Property Group
Level 10/11-15 Deane Street
BURWOOD NSW 2134

21st August 2024

RE: Amending Concept DA – 11 Jennifer St, Little Bay

Dear Chris,

This letter is provided to address a query from Council regarding biodiversity and the proposed Amending Concept DA for the residential flat buildings approved for 11 Jennifer Street Little Bay.

Council has posited that the additional overshadowing of the Eastern Suburbs Banksia Scrub (ESBS) imposed by the proposed modification may require a revised Biodiversity Development Assessment Report (BDAR) and an additional offset commitment.

The Amending Concept DA plans prepared by Hill Thallis, dated 2nd August 2024 show the shadow from the proposed buildings falling on the adjacent retained ESBS and regenerated native vegetation at the equinox (showing the minimum impacted area) and in mid winter (showing the maximum impacted area). They also helpfully detail the area of maximum impact that has already been approved along with the additional maximum area of impact to be imposed by the modified building.

The differences between the shadow cast by the approved and the proposed building throughout the shortest day of the year illustrate that even at the time of maximum possible impact at 9 a.m. on the 21st June, shadows will extend only a few extra metres. This extra shadow retreats significantly only an hour later

Given this small extension, any impacts that may arise from this additional shadow are considered to be trivial to those impacts already assessed and approved. Importantly, the area of adjacent vegetation in this brief added shadow is currently managed under an approved Management Plan with its overarching objective being conservation. Notwithstanding their low likelihood an inconsequential scale, any additional impacts through suppression of native plant growth or favouring of additional weed growth that might occur will be controlled, as the affected area is within an actively managed patch.

Thus it is concluded that, given the minor nature and low likelihood of potential impacts, no additional biodiversity assessment or offset actions are required.

Yours sincerely,



Elizabeth Ashby
Principal Consultant

Chris Ferreira
Head of Planning
Urban Property Group
Level 10/11-15 Deane Street
BURWOOD NSW 2134

21st August 2024

RE: Amending Concept DA – 11 Jennifer St, Little Bay

Dear Chris,

This letter is provided to address a query from Council regarding the approval process for the proposed Amending Concept DA for the residential flat buildings approved for 11 Jennifer Street Little Bay. In providing this response, I have considered the Amending Concept DA plans prepared by Hill Thallis, dated 2nd August 2024.

Specifically, Council has requested clarification whether the proposal has been referred to and / or approved by the Commonwealth pursuant to the *Environment Protection and Biodiversity Conservation (EPBC) Act 1999*.

The decision to refer a proposed action to the Commonwealth under the *EPBC Act 1999* is initiated via a self-assessment procedure, as detailed in the guidelines issued by the Australian Government. If an impact to a Matter of National Environmental Significance (MNES) is considered likely to occur, then a formal Referral is required for adjudication and imposition of potential conditions. However, if it is considered by a proponent that a proposed action is not likely to impose a significant adverse impact, then there is no obligation that a Referral be made.

The original proposal was not referred to the Commonwealth as the development was considered not to impose a significant impact on Eastern Suburbs Banksia Scrub (ESBS), which is the relevant MNES.

The subsequent consent gained via the NSW Land and Environment Court appeal, the comprehensive ecological assessment provided pursuant to the NSW Biodiversity Offset Scheme, the on-site mitigations explicitly detailed in a comprehensive management plan for the retained and regenerated ESBS, all of the other conditions of consent imposed by Council relevant to ESBS, and the off-site offset obligations have both supported that initial decision and further ensured its outcome.

I note also that the NSW Biodiversity Offset Scheme has been formally endorsed by the Commonwealth government as part of an active harmonisation and streamlining of assessment processes between the different levels of government. The “Condition-setting Policy” issued in 2020 by the then Commonwealth Department of Agriculture, Water and the Environment aims explicitly to “*streamline the regulatory process by avoiding duplicative or unnecessary approval conditions between jurisdictions*”.

Notwithstanding the initial decision that a Referral is not required, as the project was assessed and approved via an accredited assessment process and consent conditions were imposed that relate directly to the MNES, this is an explicit example recognised by the Policy where a Referral would represent an unnecessary duplication.

Under separate cover I have provided an opinion that the impacts to ESBS from additional overshadowing are very minor and not consequential enough to trigger further assessment. Moreover, any such impacts are adequately managed by the current consent conditions in place and being acted upon.

Thus, the decision not to refer the proposal remains valid for the Amending Concept DA.

Yours sincerely,



Elizabeth Ashby
Principal Consultant