

## Statement of Environmental Effects

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Section 4.55(2) modification to development consent DA-125/2012, relating to design amendments, including to roof design, ground floor entry, basement parking, façades and penthouse design

20 Illawong Avenue, Tamarama



PREPARED FOR

**The owners of Strata Plan 1731**

DECEMBER 2019

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## 1.0 Introduction

This Statement of Environmental Effects (SEE) is submitted to Waverley Council (Council) as part of a proposed Section 4.55 Modification Application seeking to modify development consent DA-125/2012, approved for alterations and additions to an existing multi-storey residential flat building, including two new penthouses, underground car parking, plus land subdivision to create 3 lots, at 20 Illawong Avenue, Tamarama.

The proposal seeks various amendments to the design of the approved development, pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (the Act) and relevant state and local planning instruments.

This SEE has been prepared by Creative Planning Solutions Pty Limited (CPS) on behalf of the client, the owners of Strata Plan 1731. It is based on the architectural plans prepared by Group GSA as well as the following additional information:

- Supporting letter from hydraulic engineer, prepared by TNA Consulting Group.
- Supporting letter from structural engineer, prepared by James Taylor and Associates.

This SEE describes the site, its environs and the proposed development, and provides an assessment of the proposal in terms of the matters for consideration under Section 4.55(2) of the Act. Within this report, references to “the site” mean the land to which this Section 4.55(2) application relates.

## 1.1 Background

The following relevant approvals have been issued at the site:

### DA-125/2012

Development consent (125/2012/01) was issued by the previous Sydney East Joint Regional Planning Panel in October 2012 for alterations and additions to an existing multi-storey residential flat building including two new penthouses, underground carparking, and land subdivision to create 3 lots (DA 125/2012). Specifically, this included:

- Alterations and additions to the existing residential flat building:
  - New balconies to the eastern façade;
  - New common walkway and entry porches to the western façade;
  - Additional penthouse level containing two units;
  - Demolition of existing stair and lift on western elevation and demolition of southern stair;
  - Two new lifts and fire stairs adjacent to the new walkway on the western façade; and
  - Transformative improvements to the building aesthetic.
- Torrens title subdivision to create three lots, including a rectangular lot to Tamarama Street;
- Demolition of the existing detached laundry building;
- Basement car park over 2 levels including laundry facilities;
- New at grade car parking (including 2 spaces for loading area); and,

- Tree removal, tree transplanting and landscaping.

#### DA-125/2012/A

The consent was first modified on 30 June 2017, pursuant to the former S96(1A) of the Act. The effect of this approved modification is as follows:

- Basement footprint reconfigured;
- Bin room relocation;
- Balustrade changes;
- Lift and stair cores relocated to suit revised basement layouts;
- New openings in blade walls on northwest and southwest corners of the building;
- Planter box modification;
- Lift over run heights increased by 740mm (due to engineering advice), and to rectify errors on plans;
- Car parking reconfigured;
- Bicycle parking configuration;
- Modifications to following conditions:
  - Condition 1 (approved plans);
  - Condition 7 (security deposit);
  - Condition 20 (construction vehicle and pedestrian plan of management);
  - Condition 21 (modification to basement car park);
  - Condition 22 (covenant for parking);
  - Condition 32 (landscape plan);
  - New Condition 69 (marking of parking spaces); and
- Amended Landscape Design to respond to change in basement footprint.

#### DA-125/2012/B

The consent was modified for a second time, with the regional panel approving a modification on 17 October 2019, pursuant to S4.55(2) of the Act. The modification provided six (6) additional parking spaces at the site, as well as several other minor changes to the existing car park and ground floor layout. The modifications can generally be described as follows:

- Two additional car parking spaces at each basement level and at the ground floor;
- Rearrangement of storage cages, bicycle parking, visitor parking, motorbike parking, and a reduction in the basement laundry space.
- Reduction in the dimensions of the stairwells to the minimum dimensions permitted by the BCA.
- Minor rearrangement of services, to account for recent changes to the BCA, namely the requirement for a 1m circulation area surrounding the hydrant pump.

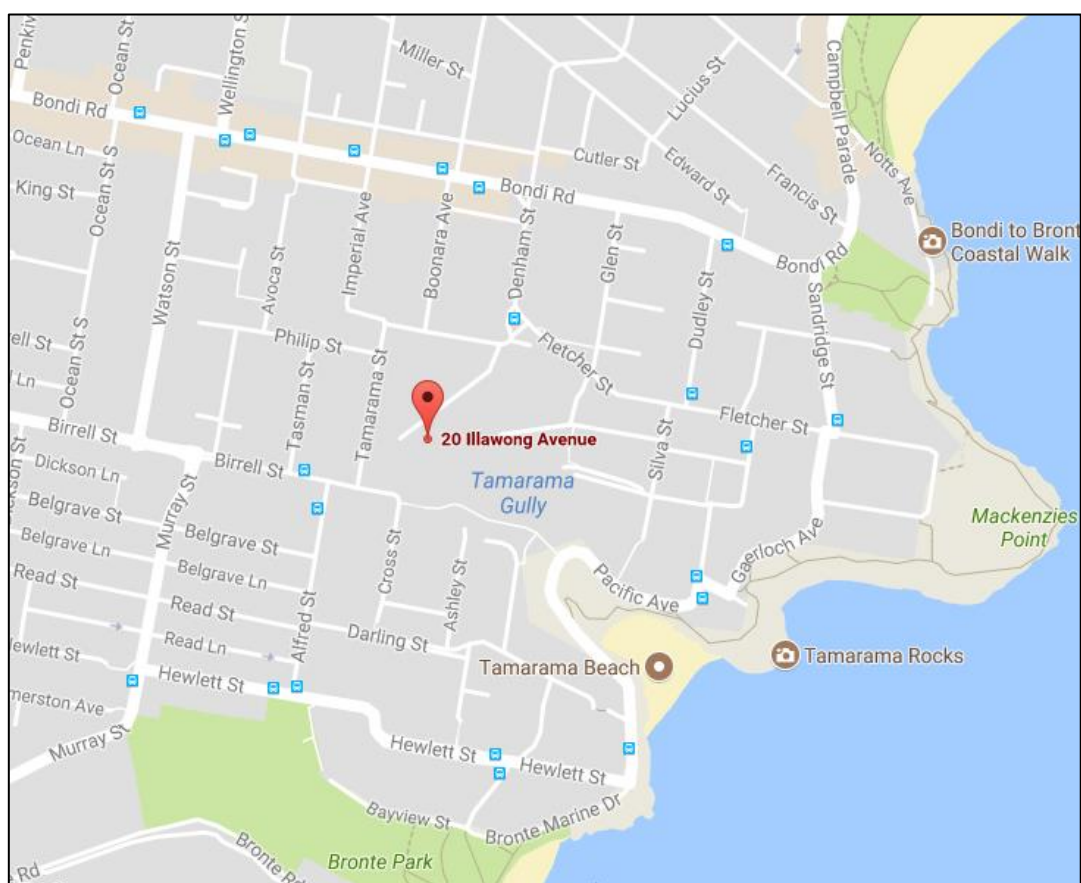
### Status of Works

Although physical commencement occurred several years earlier, the building was vacated in June 2019 to allow for the completion of the works associated with the development consent. Construction works have since commenced on the site, including removal of the south-eastern stairwell, commencement of excavation, and commencement of works to external facades.

## 2.0 Site Analysis

### 2.1 Site Description

The subject site is located in the suburb of Tamarama, within the Waverley Local Government Area (LGA). Refer to Figure 1 for a locality map of the subject site.



**Figure 1 – Location Map – 20 Illawong Avenue, Tamarama – Subject Site Identified by Red Pin**

Source: Google Maps

The legal description of the subject land is Strata Plan 1731, and the land is known as 20 Illawong Avenue, Tamarama NSW 2026.

The subject site consists of an irregular shaped parcel of land with an area of 4,353m<sup>2</sup> (survey) and the property shares a boundary with 17 properties. The site is currently occupied by an eight (8) storey residential flat building, known as “Glenview Court”, and includes eighty (80) units, with a southwest to northeast orientation. Each apartment has dual aspects towards Bondi Junction (northwest) and Tamarama Beach (southeast), with uninterrupted views to Tamarama Beach and surrounds.





**Figure 2 – View of eastern façade of Glenview Court building (prior to the commencement of works), shown in the background and viewed from the south**

*Source: CPS*

The building is located adjacent to the eastern boundary of the site bordering Tamarama Park (also referred to as Tamarama Gully). The site has a single vehicle entry point from Illawong Avenue and previously contained open bitumen car park which – prior to the vacation of the premises - accommodated 58 car parking spaces. The subject site has a street frontage of approximately 20m to Illawong Avenue (east) and a street frontage of approximately 12m to Tamarama Street (west) (survey).



**Figure 3 – Aerial Photograph – 20 Illawong Avenue, Tamarama**  
Source: [maps.six.nsw.gov.au](https://maps.six.nsw.gov.au)



**Figure 4 – View of south-western façade from the former open grade carpark**  
Source: CPS



## 2.2 Surrounding Development

The site is located within the R3 Medium Density Residential zone, and directly adjoins land to the east and north-east that is also within the R3 zone, as well as land within the RE1 Public Recreation zone, generally to the south-east, and a large portion of land within the R2 Low Density Residential zone. The character of surrounding development reflects this zoning pattern.

Surrounding development to the west, south-west and north-west, located within the R2 zone and including Tamarama Street, is characterised primarily by single and double storey dwelling houses and semi-detached dwellings. The majority of these dwellings contain driveways and parking spaces, with landscaping concentrated within rear yards.

Development to the east, and north-east towards Tamarama Beach and Bondi Beach, located within the R3 zone and including Illawong Avenue, is comprised primarily of 3-4 storey brick walk-up residential flat buildings with tiled pitched roofs, and limited parking located at the ground floor, either within garaged spaces, or within open hard stand areas. Very limited landscaping is provided to these developments, and some older flat buildings contain no parking. Many single dwellings are also located within the R3 zone, particularly along Dudley Street.



Figure 5 – View of neighbouring flat buildings– Illawong Avenue - Looking northwest

Source: CPS

Further to the north of the subject site, along Bondi Road, is a B4 Mixed Use zone comprising of cafes, restaurants, grocers, a medical centre, church and other business orientated developments.

Apartment developments are common along Bondi Road, both within the B4 zone, and further to the east within the R3 zone.

Adjoining to the south and east respectively are 10A Illawong Avenue and 12 Illawong Avenue, which contain single dwellings located on unusually shaped allotments, and sitting significantly lower than the subject site, within the higher portions of Tamarama Gully.

Located to the south-east of the subject site is Tamarama Park, which contains the majority of Tamarama Gully and is public open space which eventually connects to Pacific Avenue, adjacent to Tamarama Beach. Tamarama Park is located within the RE1 zone, and is part of a continuous network of open space along the coastline.

The site is located approximately 300m to the north-west of Tamarama Beach, 1.85km to the south-east of Bondi Junction Railway Station and approximately 6km to the east of the Sydney CBD.

## 3.0 Proposed Development

The proposed modification seeks several changes that have been borne about by the ongoing design development that has been carried out since the original development consent was issued. Specifically, the following modifications are proposed:

- Rationalisation of the roof design through the removal of the approved curved roof with vaulted ceilings, and replacement with a flat roof design. This will result in a curved roof profile providing a similar visual presentation to that of the approved development.
- New ground floor entry lobby fronting Illawong Avenue, which will provide internalised mailboxes, parcel delivery boxes and access ramp. The access ramp is required to account for an existing variation in levels.
- Extension of side blade walls, so as to satisfy Condition 2.
- Minor alterations to distribution of approved façade finishes.
- Minor reconfiguration of the south-west stairwell and provision of a single storey roof above.
- Changes to the layout of the approved penthouses, including relocation of roof services to increase the internal area of the penthouses.
- Introduction of vertical car stackers to 12 parking spaces.

The modification also seeks changes to condition 62 and condition 64 to enable staged occupation of the development, i.e. floor-by-floor. Further discussion is provided within Section 4.2 of this SEE.

## 4.0 Regulatory Framework

### 4.1 Modification of consents

The proposed modification to development consent D/125/2012 is sought pursuant to Section 4.55(2) of the Act.

In accordance with Section 4.55(2) of the Act the Consent Authority must consider the following requirements:

- (a) *It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and***

**Comment:** The proposed modification seeks to maintain the land use and general building layout to which consent was originally granted. The modified development would be essentially or materially the same development as the development for which the consent was originally granted. The proposed modifications closely relate to the approved works.

- (b) *It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and***

**Comment:** It is not expected that any such consultation will be required.

- (c) *It has notified the application in accordance with:***  
**(i) *the regulations, if the regulations so require, or***  
**(ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and***

**Comment:** It is understood that the modification application will be notified in accordance with Council notification procedures.

- (d) *It has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.***

**Comment:** Council to consider any submissions made concerning the proposed modification.

It should also be noted that Section 4.55(3) requires that the consent authority must also take into consideration the reasons given for the grant of the consent that is sought to be modified. These

reasons largely relate to the overall site improvements that are to be made to the development as a consequence of the original development consent.

## 4.2 Occupation Certificates

The modification seeks the deletion of condition 62, as well as modifications to the wording of condition 64, to enable occupation of the development, on a floor-by-floor basis.

### Condition 62

This condition requires that a final occupation certificate be issued by the Principal Certifying Authority and provides as follows:

#### 62. FINAL OCCUPATION CERTIFICATE

*The Principle Certifying Authority prior to occupation or use of the development must issue a final Occupation Certificate In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of Section 109H of the Environmental Planning & Assessment Act 1979 have been satisfied.*

At the time the original development consent was issued, in October 2012, section 109H of the Act, described two types of occupation certificates, being an interim occupation certificate, and a final occupation certificate. This terminology is no longer referred to within the Act, and the Planning Legislation Amendment Bill 2019, passed by the Legislative Assembly on 31 July 2019, indicates that a note is proposed to be added after the equivalent section of the Act, s6.4(c)(i), to clarify that a building also includes part of a building, pursuant to the existing definition within section 1.4(1) of the Act. The Amendment Bill will also clarify that:

*An occupation certificate can therefore authorise the occupation and use of part of a building. It can also authorise the occupation and use of part of a partially completed building because a partially completed building is a structure.*

Given the changes to the Act, and that s6.9 of the Act mandates that an occupation certificate be issued, this condition is requested to be deleted.

### Condition 64

This condition requires fire safety upgrading works to be completed and submitted to Council prior to the issue of an occupation certificate. The building was vacated in June 2019 to enable completion of the approved works. This modification seeks to enable the building to be gradually re-occupied, as each level is completed. To remove any uncertainty within the consent, the proposal seeks to modify condition 64 as follows (text sought for inclusion is shown in **bold**, and text sought for deletion is shown in ~~striketrough~~):

64. FIRE SAFETY UPGRADE WORKS

*Prior to the issue of an Occupation Certificate ~~by the accredited certifier~~ **for each level of the building**, all **relevant** fire safety upgrading works are to be completed and a Final Fire Safety Certificate is to be submitted to Council, certifying that each required essential fire safety measure;*

- (a) has been assessed by a properly qualified person; and*
- (b) has been found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the Certificate is issued.*



## 4.3 Environmental Planning Instruments

### 4.3.1 State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65)

The *State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings* aims to improve the design quality of residential apartment development in New South Wales.

The approved development was subject to the Residential Flat Design Code (RFDC), which pre-dated the Apartment Design Guide (ADG). However, the proposed modification requires consideration of certain requirements of the ADG, and these matters are discussed below.

#### **3C Public domain interface**

The existing residential flat building contains a poor public domain interface and the building entry has very little relationship with the street frontage from Illawong Avenue. The modification application seeks to incorporate a new building entry at ground floor in order to improve that relationship. The ground floor entry will improve the presentation to Illawong Avenue, as well as partly screen the lift well behind it.

The proposal also seeks to incorporate mail boxes, a parcel delivery facility, and accessibility ramps internally within the building entry, consistent with the following design guidance contained within Part 3C:

- *Mail boxes should be located in lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided*
- *Ramping for accessibility should be minimised by building entry location and setting ground floor levels in relation to footpath levels*

#### **3G Pedestrian access and entries**

As indicated above in relation to Part 3C, the proposal seeks to improve the pedestrian interface and provide an entry and lobby area that is not currently available on site. The new entry will meet the objectives of Part 3G, providing building entries and pedestrian access points that connect to and address the public domain and that are easily identified from the street. It should be noted that during its assessment of the original proposal in 2012, the Waverley Design Review Panel had suggested that improvements be made to the character of the entrance to the building. This change also requires that the egress points be relocated closer to the boundary; this requirement has been incorporated into the design of the new entry.

#### 4C Ceiling heights

Section 4C requires minimum ceiling heights of 2.7m to all habitable areas within apartments. The approved development contained vaulted ceilings within the new penthouse level apartments. By their nature, vaulted ceilings require variable ceiling heights, and as a result, the approved development provides ceiling heights of between 2.35m – 3.155m.

As indicated within Section 3.0, the vaulted ceilings provide poor internal amenity, creating areas with unusually low ceiling heights, and limiting the options for window placement. This modification seeks to provide constant ceiling heights of 2.8m, which will remain compliant with the requirements of Section 4C. The ADG precludes any further lowering of these ceiling heights below 2.7m.

#### 4M Facades

The proposal will create some change to the presentation of the approved building façades. The proposed size of the lift shaft is not unexpected for a residential flat building of this size and creates a variation to the original scheme which is mostly indiscernible. The changes to the southern columns are required to satisfy Condition 2.

The changes to the roof form are intentionally designed to accommodate a similar architectural expression, despite significant changes to the structural composition of the roof. The design represents a suitable compromise between maintaining the design intent of the original proposal, and converting the roof to a flat-roofed structure.

#### 4N Roof design

In order to add architectural interest to the existing Glenview Court building, the development incorporates a recessed penthouse level, with a curved roof form. The curved roof form is approved throughout the entire penthouse level, resulting in there being a complete absence of flat roof portions, as well as requiring that all internal areas of the penthouses contain complex curved ceilings. The complexity of the approved roof form can be seen on the approved elevations, as shown below.

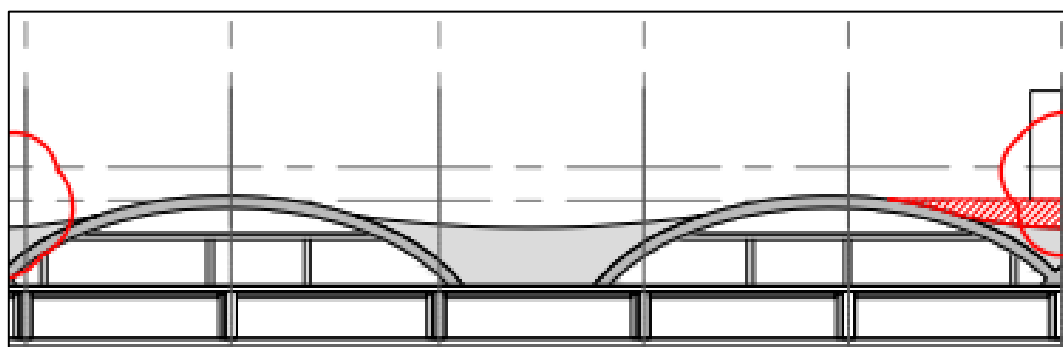


Figure 6 – Extract from approved eastern elevation, showing the complexity of the approved roof form

Source: Group GSA

As part of the design development phase, the owner's corporation have investigated options for changes to the roof form, which could meet the following objectives:

- Enable the installation of photovoltaic panels.
- Rationalise the ceiling arrangements so as to improve internal amenity.
- Incorporate the specific recommendations of the various consultants engaged within the design development phase.

Based on the above criteria, it is evident that there is little utility in retaining a curved roof throughout the entirety of the penthouse level. The proposed modification therefore seeks to incorporate a flat roof throughout the majority of the roof level. However, noting the visual prominence of the existing development, the amended design seeks to largely retain the curved roof appearance of the development, with the external roof elements designed to be in keeping with the overall design intent of the approved development. From surrounding areas, the appearance of the proposed roof form will be commensurate with that already approved.

The following objectives are contained within Part 4N:

- *4N-1: Roof treatments are integrated into the building design and positively respond to the street.*
- *4N-2: Opportunities to use roof space for residential accommodation and open space are maximised.*
- *4N-3: Roof design incorporates sustainability features.*

In relation to the first objective, the roof treatment continues to be well integrated into the building design, particularly noting that the appearance will be commensurate with the approved development. Although neither the approved nor proposed roof space are used for residential accommodation, the proposal incorporates penthouse apartments as suggested within Part 4N, and these apartments will continue to provide a visual contrast between the larger floor plates at the lower levels. Lastly, the roof form is necessary to incorporate sustainability features, including photovoltaic panels. Given the roof will enjoy generous sunlight throughout the year, the panels will be installed flush with the roof, so as to minimise the additional height required; however, it should be noted that photovoltaic systems, installed up to 0.5m above the roof height, are exempt from requiring development consent, pursuant to clause 39 of *State Environmental Planning Policy (Infrastructure) 2007*.

#### 4.3.2 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* (Vegetation SEPP) has been taken into consideration as part of this modification. The Vegetation SEPP provides approval pathways for the removal of vegetation in non-rural areas and matters for consideration in the assessment of applications to remove vegetation. This application of this policy includes land in the Local Government Area of Waverley within land zoned R3 Medium Density Residential.

To accommodate the new building entry, the proposal will require the removal of some shrubs and ferns. None of these plantings are captured by Part B5 Tree Preservation within the *Waverley Development Control Plan 2012*, as they are each under 5m in height, have a canopy spread of less than 5m, and none of the plantings have a trunk width in excess of 300mm.

The approved development features a substantial increase in vegetation across the site, and the removal of these small plantings would not be expected to detract from the improved landscaped outcome.

#### 4.3.3 Waverley Local Environmental Plan

The *Waverley Local Environmental Plan 2012* (WLEP 2012) applies to the subject site. The matters of relevance within the WLEP 2012 are considered as follows:

##### **Zoning and Permissibility**

The land is within Zone R3 Medium Density Residential pursuant to the provisions of the WLEP 2012. (**Figure 13**). Residential flat buildings are permitted with consent in the zone. However, there is no change proposed to the land use considered and approved under DA-125/2012.

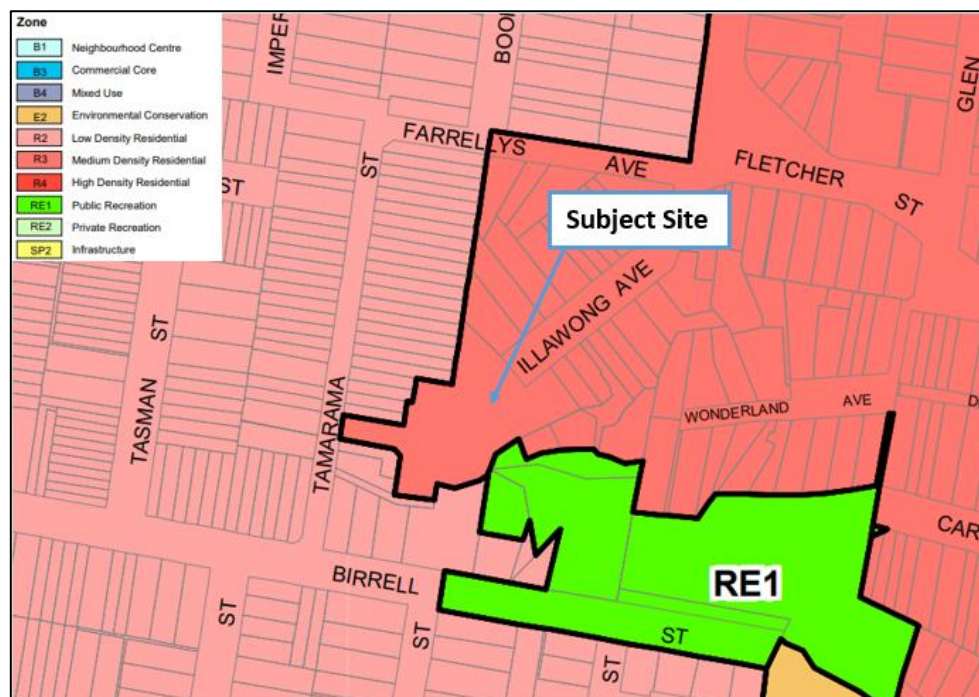


Figure 7 – WLEP 2012 Zoning Map extract

Source: [legislation.nsw.gov.au](http://legislation.nsw.gov.au)

The objectives of the R3 Medium Density Residential Zone, as well as commentary on how the proposal satisfies these objectives, are provided below:

- *To provide for the housing needs of the community within a medium density residential environment.*

The proposal seeks to improve the amenity of the existing apartments as well as the approved new apartments that are yet to be constructed. The proposal maintains the existing residential density that is approved at the site, although the new building entry would result in additional gross floor area (refer to later discussion of floor space ratio standard).

- *To provide a variety of housing types within a medium density residential environment.*

The approved development contributes to the provision of a variety of housing types, and the proposed modification would not detract from the attainment of this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

This objective relates to the various non-residential uses that are permissible within the zone and does not strictly apply to the proposed development. However, the proposal would not negatively affect the viability of non-residential uses within the locality.

#### **Clause 4.3 – Height of buildings**

The subject site is affected by a maximum building height of 9.25m. Sites located to the south and west of the subject site are affected by a maximum building height of 8.5m, as illustrated in Figure 14. Surrounding properties consist of single storey and double storey dwellings, as well as multi-storey residential flat buildings.

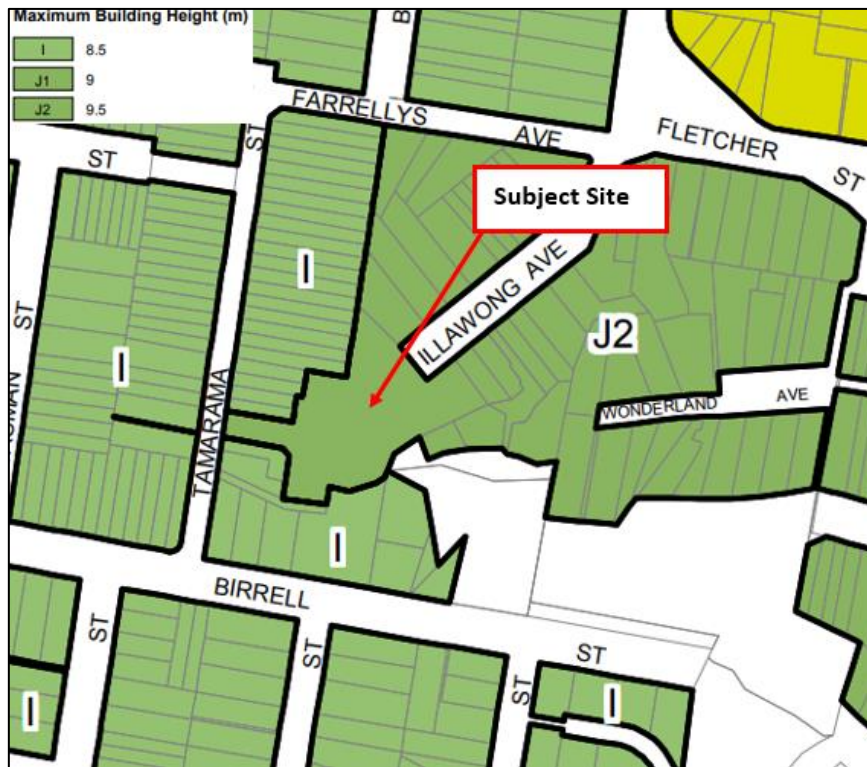


Figure 8 – Height of Buildings Map extract

Source: [legislation.nsw.gov.au](http://legislation.nsw.gov.au)

The Council Assessment Report to DA-125/2012/A indicated that the original development had an overall height of 27.2m (82.725 AHD) measured to the top of the building roof, and that this was increased to 27.9m (83.465 AHD) by the approval of DA-125/2012/A, but that the approved maximum height is now measured to the top of the lift shaft. The existing building does not comply with the development standard, and thus the approved development has remained non-compliant with the development standard.

The proposal seeks to increase the height of the building roof, which consequently requires increases in the size of the lift shaft (refer to reasons for the approval of DA-125/2012/A). The height of the building would increase to 84.08 AHD measured at the top of the lift shaft, and 83.42 AHD, measured to the top of the parapet of the new roof.

Further, it is intended that telecommunications equipment will be erected above the stair shaft, and adjacent to the lift overrun. This will be relocated from the existing roof. A decorative shroud is proposed to surround the telecommunications equipment, at a height sufficient to screen the equipment. It is the intention that the future telecommunications equipment (as well as the future solar panels to be provided on the roof) will be erected on the site, pursuant to the respective relevant provisions of the *Telecommunications Act 1997 (C'wealth)* and *State Environmental Planning Policy (Infrastructure) 2007*. Approval is therefore not sought for the communication equipment (or the solar panels), but only for the decorative shroud. The shroud represents the maximum level of the development, being at a height of 84.77 AHD. It is estimated that the overall height of the development would therefore be increased by approximately 1.31m, to be approximately 29.19m in



total. Note that this shroud is provided solely for the purpose of screening the relocated telecommunications equipment.

The NSW Land and Environment Court has established that written statutory variation requests are not a requirement for modification applications, as they are only a precondition for the granting of development consent. This was initially established by the decision in *North Sydney Council v Michael Standley & Associates Pty Ltd* [1998] NSWSC 163. The Court's decision in *Gann & Anor v Sutherland Shire Council* (2008) NSWLEC 157 further clarified that:

*"This does not mean development standards count for nothing. Section 96(3) still requires the consent authority to take into consideration the matters referred to in s 79C, which in turn include the provision of any environmental planning instrument. That is, any development standard in an environmental planning instrument must be taken into consideration by the consent authority, but the absolute prohibition against the carrying out of development otherwise than in accordance with the instrument in s 76A(1) does not apply."*

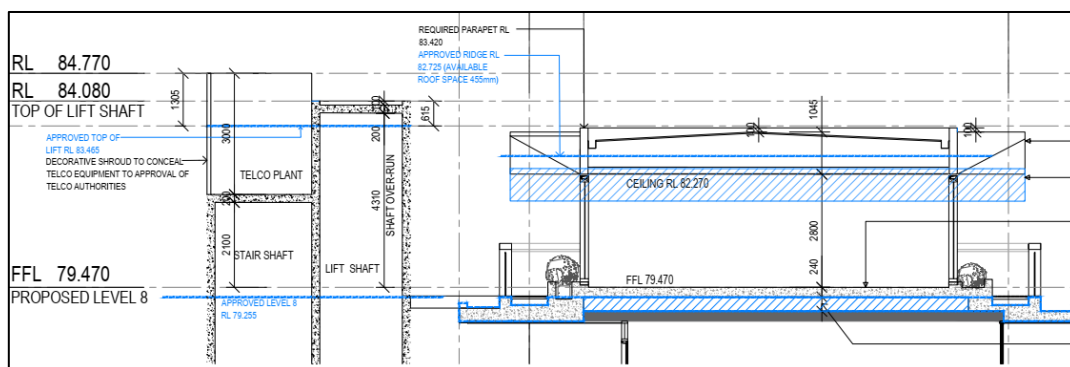
Note that the previous judgements concerned *State Environmental Planning Policy No 1—Development Standards* (SEPP 1), an environmental planning instrument that is now rarely used, given the breadth of application of clause 4.6 within LEPs prepared under the Standard Instrument. However, the same rationale should apply to 4.6 variations (for instance in *SDHA Pty Ltd v Waverley Council* [2015] NSWLEC 65). Note also that the numbering system of the Act was revised on 1 March 2018, and the legislation cited within the quote above refers to what is now obsolete numbering. However, the content of the relevant parts of the Act was largely unchanged as a consequence of the 1 March 2018 amendment.

Although a 4.6 variation request is not a statutory requirement for a modification application, justifications to the departures from the development standard accompany this application in order to properly demonstrate the reasons why the departure from the standard is acceptable. The proposed additional departure from the height of buildings standard is borne about primarily for two reasons: to accommodate services underneath the penthouse slab, and to rationalise the roof design. The additional departure to the height of buildings standard should be supported for the following reasons:

- The approved development contains vaulted ceilings to the penthouse level, which were initially provided as a means of providing the curved roof aesthetic that was contained within the original scheme. However, the vaulted ceilings provide poor internal amenity to the penthouse levels, for the following reasons:
  - Parts of the approved penthouse level contains ceiling heights as low as 2.35m, which is not compliant with the requirement of the ADG.
  - The approved curved elements place limitations on potential window locations.
  - The approved curved elements require additional structural elements which interrupt the continuous width of the southern and northern balcony areas.
- The curved roof interferes with the capacity of the development to provide solar panels on the roof. Solar panels attached to the proposed roof are able to be placed flush on the roof and still receive excellent sunlight access. However, panels on the approved roof would need

- to be raised above the curved roof form, providing a poor response to the roof form that would sit beneath it.
- As indicated in the letter provided by the project hydraulic engineer, TNA Consulting Group, to enable the penthouse level sewer to drain via gravity to the service stacks within the development, the penthouses require a minimum of 250mm space between the roof of the existing building and the penthouse level slab. The drawings approved within the development application, being conceptual in nature, did not account for this requirement, and it has been identified as part of the design development phase of the project. Similarly, the letter provided by the project structural engineer, James Taylor and Associates, indicates that no part of this sewer can be accommodated within the penthouse slab, and that additional space is required.
  - Furthermore, as indicated in the structural engineer's letter, the structural zone required to accommodate the roof form, is equal to 800mm, exclusive of gutter fall and ceiling framing.
  - The shroud that is provided above the stair shaft allows for the screening of the relocated telecommunications equipment. The telecommunication equipment would otherwise be provided on the roof, which would increase the overall height, affect the placement of solar panels, and eliminate any opportunities for providing effective screening. The shroud that is provided will integrated with the stair and lift shafts, and will completely screen the telecommunications equipment from view.
  - The proposed height increase to the building roof height is considered minor and would not be discernible when viewed from the street levels or adjoining properties noting the overall height of the building and the upper level penthouse is setback from the building edges by 1.5m at the northern and southern building edge, and 4.7m from the eastern and western building edge.
  - The minor increase in height of the lift shaft would also not be discernible when viewed from the street level or adjoining properties noting the overall height of the building.
  - The proposed building height increase will not result in increased building yield from that already approved.
  - The proposed additional height will not create any undue impacts in relation to view loss or overshadowing. Refer to discussions within Section 4.3.4 of this SEE.

The matters contributing to the height non-compliances are explained diagrammatically, within the detailed section that is submitted with this modification application, and reproduced below.



Source: Group GSA



It should be noted that the additional height proposed within this modification application, as within the previous modification applications, do not relate to any associated increases in yield. Additionally, it should also be noted that the ceiling heights vary between 2.35m – 3.155m, and in removing low ceilings within the development, the proposal does not seek to achieve a ceiling height which is the average of the two extremes. Instead, in order to minimise the additional height, the proposal seeks a lower constant ceiling height of 2.8m, only marginally above the minimum required by the ADG of 2.7m.

#### Clause 4.4 – Floor space ratio

The subject site is affected by a maximum floor space ratio of 0.60:1, as illustrated in **Figure 15**.

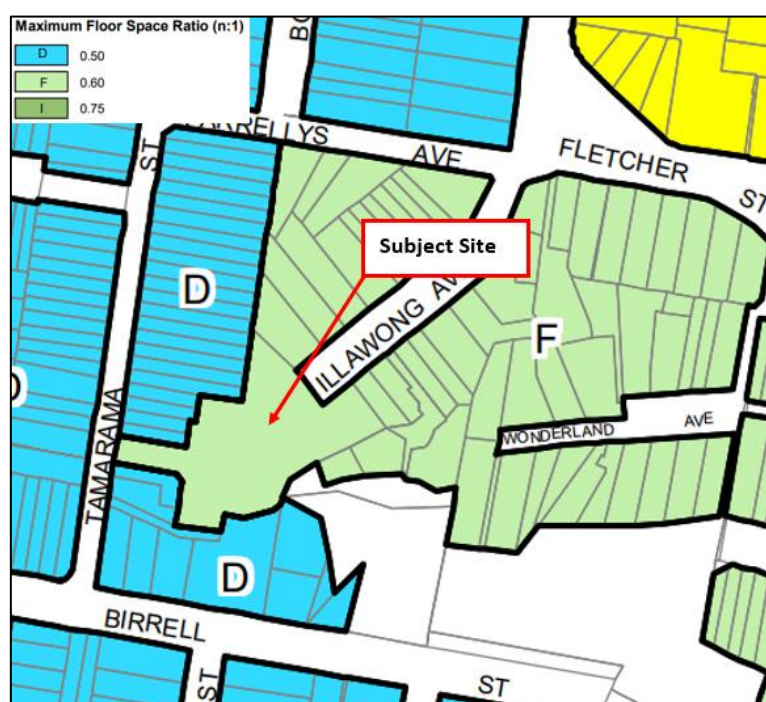


Figure 10 – Floor Space Ratio Map extract

Source: [legislation.nsw.gov.au](http://legislation.nsw.gov.au)

The Council Assessment Report associated with DA-125/2012/B, stated that the approved gross floor area (GFA) at the site was previously calculated to be 6,350sqm, giving an FSR of 1.6:1. The proposal seeks additional gross floor area, relating to the replacement of the service areas at the penthouse level, with additional apartment floor area (service areas are excluded from the calculation of GFA), and the new entry feature at the ground floor. The proposal will provide approximately 44.5sqm of additional GFA at the penthouse level. With regards to the ground floor entry area, the internalised area that is proposed to be added to the development equates to approximately 61sqm (excluding areas used for common vertical circulation); however, this area is open on the south-eastern side. Notwithstanding, the proposal seeks to increase the non-compliance with the FSR standard.

Although a clause 4.6 variation request is not a statutory requirement for a modification application, justifications to the departures from the development standard accompany this application in order to properly demonstrate the reasons why the departure from the standard is acceptable. Additional departures from the FSR standard should be supported for the following reasons:

- The original departure to the FSR standard was largely a consequence of an existing building which currently far exceeds the requirement of the development standard, and is not consistent with the character of the area. The approved development represented an opportunity to improve the aesthetic of the building, its visual relationship with surrounding locality, as well as the amenity of the individual apartments. The approved façade improvements resulted in an aesthetic design that is appropriate to modern standards, with the rooftop penthouses, lift shafts and balconies providing a façade variation which was otherwise unable to be provided on the site. The additional FSR was a necessary bi-product of this process.
- The additional FSR ‘created’ by the removal of the service areas from the penthouse level would be as a result of the reclassification of approved services space to habitable floor space, rather than as a consequence of any actual increase to the size of the development. There have otherwise been only minimal changes to the building envelope at this level.
- The new entry feature should be regarded as a positive addition to the Illawong Road streetscape, given the entry will improve the presentation to Illawong Avenue, and partly screen the lift well behind it, as well as provide internal mail boxes and internalised ramping. Each of these elements are supported by the ADG and/or the WDCP 2012, as discussed elsewhere within this SEE.

#### **Clause 5.10 – Heritage Conservation**

The WLEP 2012 maps indicate that an item of environmental heritage is not situated on the land. The nearest heritage items are I290, I62, 125 and A547, all of which are identified in **Figure 16**. The area to the southeast, including Tamarama Gully and Tamarama Beach is part of a landscape conservation area.

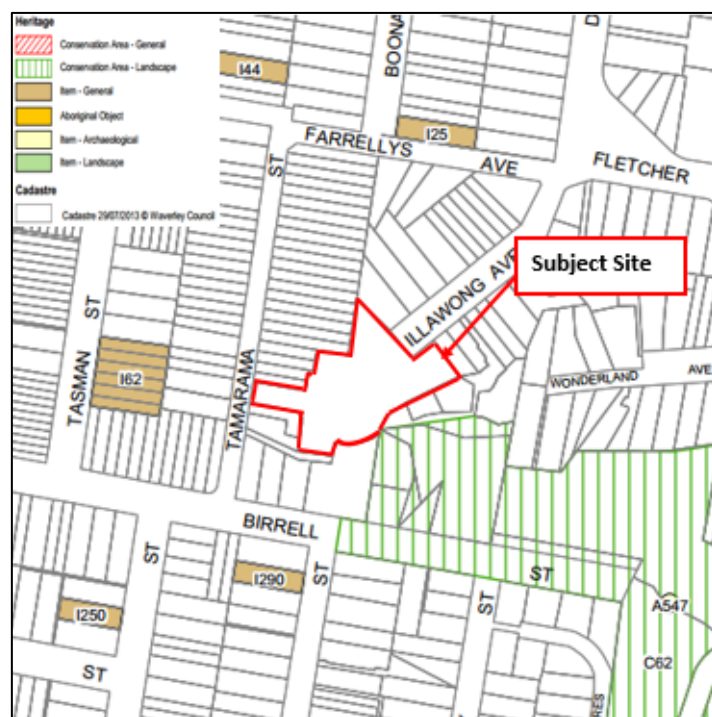


Figure 11 – Heritage Map extract, showing nearby heritage items, with subject site outlined in red

Source: [legislation.nsw.gov.au](http://legislation.nsw.gov.au)

The existing building is largely regarded as presenting a poor backdrop to the Tamarama Gully and to surrounding smaller buildings, and this has been acknowledged previously by the applicant, the Council, the Design Review Panel, and the regional panel. For instance, when considering the original proposal in 2012, the Waverley Design Review Panel noted that:

*The existing modernist eight storey slab building is completely out of scale to its context and, as recognized in the application, is prominently sited.*

Consent was issued on the basis that the development assisted in minimising the visual impact of the proposal, as well as improving the amenity of the building. The proposed modifications are largely associated with additional improvements to occupant amenity, and it unlikely that these improvements will create any further impacts on nearby heritage items or conservation areas.

### Clause 6.3 – Flood planning

The WLEP2012 flood planning maps show the subject site and properties surrounding the subject site as being unaffected by flooding.

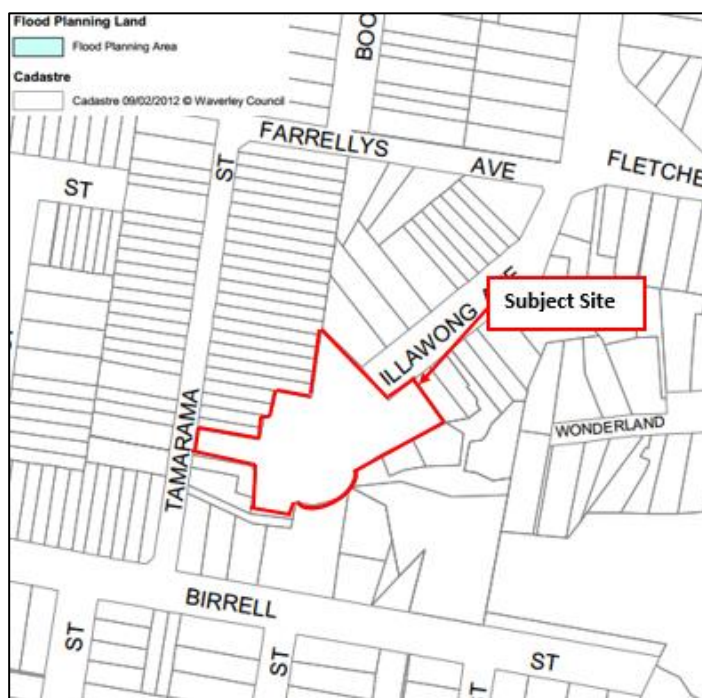


Figure 12 – Flood Planning Map extract, with subject site outlined in red

Source: NSW legislation

#### 4.3.4 Waverley Development Control Plan 2012

The *Waverley Development Control Plan 2012* (WDCP 2012) applies to the subject site. The parts of the WDCP 2012 that are relevant to the proposed modification are discussed below.

#### B8 – Transport

Amendment 6 to the WDCP 2012 was formally adopted by Council on 4 September 2018 and became effective on 1 November 2018. One of the major components of the amendment related to an imposition of maximum car parking rates, set generally in line with the minimum rates prescribed by the *RMS Guide to Traffic Generating Development*.

The proposed modification seeks approval for an additional 12 car spaces via installation of double loaded vertical car stackers within existing car spaces at Basement Level 2. The following table outlines the car parking history at the site as it relates to the DCP in force at the time.

State of Development	DCP requirement	Provided/proposed	Outcome
Existing Development	Minimum of 56 and maximum of 84 (original DCP)	58 overall	Compliant
Approved DA	Minimum of 56 and maximum of 84 (original DCP)	79 resident and 10 visitor	Compliant
Approved modification	WDCP2012 requires 108 for residents and 16 for visitors	88 resident and 10 visitor	Not compliant
Approved Modification	Minimum of nil resident parking 17 visitor; maximum resident parking rates.	94 resident parking spaces and 10 visitor	Not compliant
Proposed modification	Minimum of nil resident parking 17 visitor; maximum resident parking rates.	106 resident and 10 visitor	Proposed further non-compliance

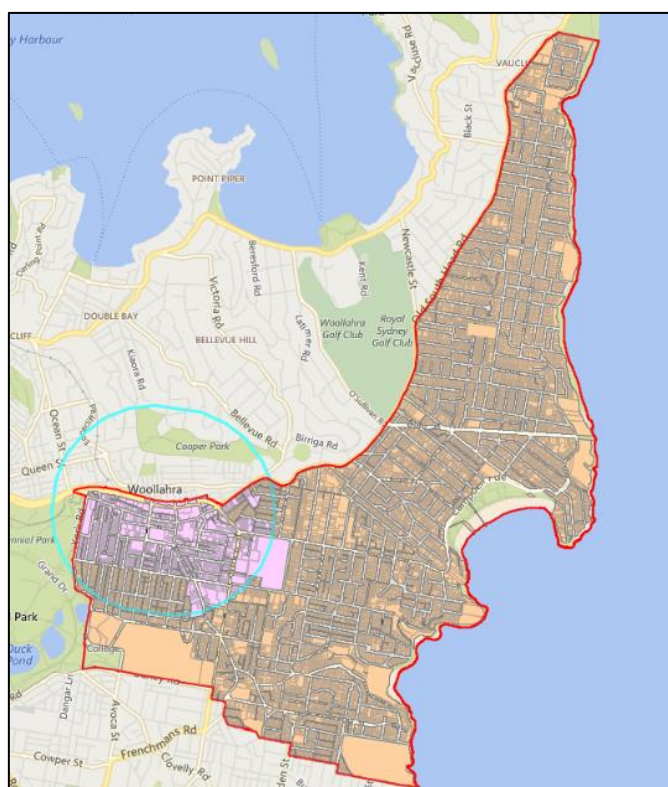
**Table 1 – Car parking approval history at the site in relation to various DCP amendments**

Within the WDCP 2012, Control 8.2.2(h) indicates that the car parking rates are based on the *RMS Guide to Traffic Generating Developments* (“the RMS Guide”). It is not clear exactly how the RMS Guide has informed the DCP amendment. Some aspects of the DCP amendment that are not made clear include:

- The RMS Guide prescribes minimum car parking rates. It is not made clear how these minimum rates have informed the maximum rates that are now contained within WDCP 2012. There is no inference made within the RMS Guide implying that minimum rates can in anyway be used to inform maximum rates, and it would be expected that a maximum rate would be significantly higher than a minimum rate.
- The research which informed the RMS Guide was undertaken in 2002 through surveys of existing developments. It is understood that the sites selected to inform this research met particular characteristics. Although it is not suggested that these rates have *no* relevance in 2019, a further interrogation of the data that informed these rates would reveal that some of the characteristics that informed the rates may not apply across all developments.

Within WDCP 2012, the parking rates vary depending on the location of the site, and the number of units within an individual development. The locational criteria are presented through the separation of the entire LGA into two “parking zones”. Parking Zone 1 somewhat reflects an 800m radius stemming from Bondi Junction Station, but excludes land within the R2 zone. Parking Zone 2 accounts for all other land within the LGA, including the R2 zone land that is excluded from the 800m radius surrounding Parking Zone 1. Each parking zone is split into two categories – medium density residential development (2-19 dwellings) and high density residential development (20+ dwellings).





**Figure 13 – Parking Zone 1 and Parking Zone 2**  
Source: Waverley Council Planning Maps Online

The table below shows the origins of each of the parking rates having regard to where these rates are listed within the RMS Guide (within the RMS Guide, refer to Section 5.14 Summary table of the RMS Guide for parking requirements):

Maximum Parking Rate (WDCP 2012)	Related minimum parking rate within RMS Guide
Parking Zone 1 – Medium Density	High density development within Metropolitan Regional Centres
Parking Zone 1 –High Density	High density development within Metropolitan Regional Centres
Parking Zone 2 – Medium Density	Medium density residential flat buildings
Parking Zone 2 – High Density	High density development within Metropolitan Sub-regional Centres

**Table 2 – WDCP 2012 parking rates and their origins within the RMS Guide to Traffic Generating Development**

All parking within Parking Zone 1, is required at a rate given for high density development within Metropolitan Regional Centres. As Bondi Junction has consistently been defined as a Metropolitan Regional Centre or similar within various strategic planning documents, the rates within WDCP 2012 for Parking Zone 1 would be consistent with the RMS Guide (although higher rates for medium density development are not in place).

Furthermore, the rate applied to the medium density development within Parking Zone 2 also directly correlates with the rate given for medium density development within the RMS Guide. This rate would apply to the majority of multi-unit developments surrounding the subject site, which typically contain 3-4 storey walk-up apartment developments.

However, as the subject development contains greater than 19 dwellings, it is subject to the requirements derived from the rates within the RMS Guide for 'high density development within Metropolitan Sub-regional Centres'.

"Sub-regional centres" are generally regarded as areas surrounding smaller train stations, and these areas would ordinarily be expected to contain a commercial precinct of some description. The subject site is located amongst predominately medium and low-density developments, within a medium density zone, and well removed from commercial areas. It is clear that the medium density rates are more appropriate to the subject site.

The anomalies of the selective use of figures within the RMS Guide becomes more obvious once the rates for single dwellings are considered. The RMS Guide recommends parking rates of between 1 -2 spaces for single dwellings, and the DCP amendment has adopted this recommendation. This gives the odd scenario whereby small dwellings within the R2 zone and located less than 800m from Bondi Junction station, will be permitted to provide two parking spaces, whereas the approved penthouses within the subject development, well removed from any major commercial centres, are able to provide no more than 1.4 parking spaces on average. Were these two apartments proposed as part of the current modification, they would be permitted to provide no more than 3 spaces between them. Dwellings located along Tamarama Road – adjacent to the development site - will also be permitted to provide up to 2 parking spaces, irrespective of the dwelling size.

Furthermore, given the lack of clarity relating to the use of the RMS Guide, there is less information still on why a blanket maximum parking rate is appropriate within the Waverley LGA in the first instance. It is understood that the amendment is purported to be informed by the recent report prepared by Bitzios and the UTS Institute for Sustainable Futures, entitled *Waverley's People, Movement and Places*. This report recommends imposing maximum parking rates within Parking Zone 1, and reducing the minimum parking rate within Parking Zone 2, but does not recommend maximum parking rates for Parking Zone 2. The report states that maximum rates should only be considered elsewhere within the LGA (through expansion of Parking Zone 1), if high frequency, high capacity public transport, such as light rail or bus priority, is implemented from Bondi Junction to Bondi Beach. The basis for the maximum rates within Parking Zone 2 is not clear, and appears to be largely ideological.

The proposal seeks an additional 12 residential car parking spaces. This results in a minor increase to car parking provision on site. In consideration of this non-compliance, in addition to noting the anomalies within this part of WDCP 2012, it should also be noted that there a number of unusual circumstances that apply to this development and it would not be expected that these circumstances could be reproduced across the Waverley LGA.

- The existing development contains an unusually large open-air car parking area. This car parking area is physically separated from the apartment building, meaning that changes can

be made to the parking area without affecting the apartment building. No increase in sit coverage is required in order to accommodate the car stackers with the approved basement car park.

- The owners of the building have agreed to finance the construction of the new basement (along with the other approved works) and the cost of the construction of the additional parking spaces is to be borne by the owner's corporation, and not by a developer, who would ordinarily seek to minimise construction costs.
- Applicants would typically obtain little private benefit in providing parking above the new maximum rates, and the additional purchase price associated with parking spaces within new apartments is typically only enough to offset the cost of construction of the basement, and within lower/deeper basement levels, it is often not sufficient to offset that cost. Maximum parking rates within areas surrounding Bondi Junction, as well as those applying to non-residential uses, are likely to be welcomed by developers and would also better translate to an increased uptake in alternative modes of transport.

In addition, given the proposed car stacker spaces are located towards the end of the aisle within the lower basement level, it would not be expected that there would be any undue impact in relation to noise or manoeuvrability.

Part B8.2.3 outlines the following considerations for variations to Parking Rates, which are each discussed individually below:

- a) ***Variations to the relevant parking standards will only be accepted where the applicant can demonstrate that the requirement cannot be reasonably achieved (provision of less than the standard); or that exceeding the standard is in the public interest.***

**Response:** The proposal is in the public interest as it will reduce parking demand on surrounding streets.

- b) ***Matters that the Council may consider in assessing variations include, but are not limited to, any of the following as are relevant:***

- ***Particular site design requirements such as setbacks, landscaping, solar access and streetscape controls.***

**Response:** The additional parking will not influence any of the matters described above.

- ***Site and building constraints such as the physical and topographical nature of the site.***

**Response:** These constraints will not affect the provision of additional car parking within the basement.

- ***Impacts of any increased building bulk on the streetscape or adjoining land, including overshadowing and loss of views.***



**Response:** The additional car parking is within the existing basement car parking and will not influence any of the matters described above.

- ***Compliance with deep soil landscape area requirements (side and rear boundary setbacks).***

**Response:** The proposal will not impact on deep soil landscaping as approved and creates no impacts on landscaped area, or boundary setbacks.

- ***Impacts of excavation, including land form, structural integrity of buildings and structures on adjoining land, and stability of land on the subject site and adjoining sites.***

**Response:** Minor additional excavation will be required to accommodate the car stacker. A geotechnical report has previously been furnished to Council to indicate that the site could accommodate a third basement level, and similar conclusions are able to be drawn for the minor additional excavation required for the car stackers.

- ***Impacts from any increase in hard surface driveways and the building footprint on the availability of water permeable ground spaces.***

**Response:** The proposal will create no impacts on landscaped area at the site.

- c) ***Variations to the car parking standards will only be supported where the applicant can demonstrate that the development is unlikely to create significant additional demand for on-street car parking in surrounding streets. When a development application seeks to vary the car parking provisions, the following priority is to be adopted:***

1. ***Residential parking***
2. ***Visitor parking***
3. ***Commercial Parking (i.e. business, office, retail)***

**Response:** Priority has been given to resident parking over visitor parking.

The development will not create significant additional demand for on-street parking, the proposal provides additional residential car parking which will necessarily reduce the demand placed on on-street parking within the locality.

#### Motorcycle Parking

The WDCP 2012 requires 1 motorcycle space for every 3 car parking spaces, rather than 3 for every 15 spaces as was required in the previous amendment. It is not clear why this abnormally high figure was selected for inclusion within WDCP 2012. Whilst the proposal seeks an increase in the provision of car parking, no increase is proposed in the provision of motorcycle parking.

The proposal will not comply with this requirement, and therefore a consideration of the objectives to Part B8.2.5 of WDCP 2012 are relevant. These objectives are reproduced below:

- (a) *To encourage alternative forms of transport.*
- (b) *To ensure the quantity of motorcycle parking available is enough to meet growing demand.*

There is no evidence to indicate that the abnormally high requirement for motorcycle parking has any empirical relationship with a potential growing demand for motorcycle parking. The provision of 12 motorcycle spaces would be expected to be sufficient for an 82-unit development. Moreover, there are no barriers to parking motorcycles in the existing and proposed new parking spaces.

Further, given this application seeks to provide parking in excess of the maximum car parking rate, it would be counterintuitive to also expect that extra motorcycle parking be provided at the same rate as would be expected for a development that is compliant with the maximum parking rate. The provision of extra vehicle parking would be sufficient to accommodate an increased demand for motorcycle parking, and would not interfere with the uptake of this form of transport. Note that the provision of excessive bicycle parking is able to further assist with meeting objective (a).

#### Bicycle Parking

Table 4 within Part 8.2.6 outlines bicycle parking requirements for different development types. Two rates are given in relation to residential development: one rate for resident parking within low density development (1 space per dwelling) and one rate for visitor parking within medium or high density developments (1 space per 10 dwellings). No bicycle parking rate is given for resident parking within medium or high density developments, and based on the information within Table 4, only 8 visitor bicycle parking spaces would be required for this development, and the proposal would comfortably comply with that requirement. Notwithstanding, the approved development provided greater than 1 bicycle parking space per dwelling.

The excess bicycle parking largely meets the intent of DCP Amendment 6, which is to encourage the use of sustainable transport. The provision of additional bicycle parking and car parking will provide the opportunity for all residents to store bicycles and motorcycles within the basement as may be desired. The ample opportunities for bicycle parking at this site will provide an actual alternative mode of sustainable transport, which is not otherwise required by WDCP 2012.

#### Disabled Parking

Part B8 requires that 10% of all car spaces are to be accessible in accordance with Part B7 Accessibility and Adaptability. However, Part B7 requires only that accessible parking be provided for adaptable dwellings.

Given the existing dwellings within the development are not accessible, no disabled parking is included within the approved development. Council has supported the deletion of Condition 21 as part of DA-125/2012/A, and this condition partly related to the provision of disabled parking. Given no new accessible dwellings are proposed, and that no changes are proposed to the overall dwelling layout, no new disabled parking spaces are proposed as part of this modification application.

### Visitor Parking

No additional visitor car spaces are proposed. As is the case with motorcycle parking, given the proposal does not seek to provide any additional apartments, there is no genuine trigger for additional visitor parking, and the total number of visitor parking is proposed to be unchanged, relative to the approved development.

### ***B12 - Design Excellence, C4.4 – Streetscape & C4.5 – Building Design and Streetscape***

Refer to discussion of SEPP 65.

### ***B16 – Improving the Public Domain and C3.13 Solar Access and Overshadowing***

B16.1 requires consideration of the impacts of overshadowing on publicly accessible open space. Specifically, control (a) requires the following:

*Overshadowing effects of new buildings on publicly accessible open space is to be minimised between 9am – 3pm on 21 June.*

In addition, C3.13(c) contains the following provision relating to overshadowing to adjacent dwellings:

*Direct sunlight to north facing windows of habitable rooms and all private open space areas of adjacent dwellings should not be reduced to less than 3 hours between 9.00am and 3.00pm on June 21.*

For simplicity each of these controls are considered concurrently.

The proposed increase in the height of the building will create some additional shadows to Tamarama Park to the south-east. Shadow diagrams have been prepared to accompany this application and the shadow diagrams demonstrate the following:

- At 9am at the winter solstice, new shadows will primarily fall on the roofs and front yards of properties which front Birrell Street (Nos. 354-358), as well as Birrell Street itself. Some additional overshadowing will also be created over heavily vegetated portions of Tamarama Gully.
- At 12pm at the winter solstice, new shadows will primarily fall on the roofs and front yards of properties which front Birrell Street (Nos. 358-364).
- At 3pm at the winter solstice, new shadows will primarily fall on the roofs of properties which front Wolaroi Crescent, but are addressed to Birrell Street (Nos. 283-289). Parts of these dwellings typically contain multiple private open space areas over multiple levels. Parts of the shadows cast to these properties may fall within private open space areas. Given the separation distance between the subject site and these properties, such an impact would be limited to a very short time period, and would fall on northern oriented areas of each dwelling, which would otherwise be provided with excellent solar access.

The submitted shadow diagrams demonstrate that there is no unreasonable additional overshadowing expected to Tamarama Park, nor any surrounding dwellings. It should be noted that additional overshadowing associated with this development has been largely offset by the reduction in overshadowing caused by the approved demolition of the western stairwell. Moreover, the dwellings on Thompson Street which may be overshadowed by the proposal, contain private open spaces areas which are oriented towards the north-east and are therefore likely to receive ample sunlight during the morning and middle of the day.

Part B16 also requires that buildings be designed to address the street, utilise high quality finishes and to enhance the public domain and pedestrian interface. The proposal seeks to provide a new building entry which would directly address these requirements. Refer to further discussion in relation to Part 3C and 3G of the ADG.

#### **C4.10 Views and View Sharing**

The original development application had received submissions relating to potential view loss from 9 properties to the west of the subject site. Part C4.10 of WDCP 2012, and the previous Council Assessment Reports, each refer to the planning principle for view loss established within *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140.

The original Council Assessment Report had noted some issues with substantiated views from 5 different nearby properties. With reference to *Tenacity*, the report had sought refusal on this basis, but the application was ultimately approved by the regional panel.

It is understood that the views in question are partial views of the ocean. Step 1 of *Tenacity* indicates that these views would be less valued than whole views, for instance views which also take in the shoreline. It is also understood that the two of the properties with substantiated views were located in Bennett Street, which is 600m, and six blocks from the subject site. Step 2 of *Tenacity* implies that views are difficult to retain under these circumstances.

Notwithstanding, based on the information within the Council Assessment Report, it is possible that the proposal may create some impacts on views from properties in the locality. With regard to Step 2 in *Tenacity*, it is apparent that a more skilful design, which could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours, does not exist, and this is detailed throughout this SEE, particularly in relation to the height of the building.

However, should concerns be raised with the view impacts of the proposal, then the applicant requests the opportunity to respond to any view loss concerns once they are better understood. It is not possible to understand the extent of any impact (Step 3 in *Tenacity*) until submissions are received by Council.

#### **C4.11 Visual Privacy and Security**

Pursuant to clause 6A of SEPP 65, privacy controls contained within this part are of no effect. Notwithstanding, the proposal will not create any additional overlooking impacts. Similarly, there would not be expected to be any security impacts arising from the approval of this modification.

Notwithstanding, Condition 2 of the consent had required that the side blade walls to east facing balconies be deleted to maintain privacy to neighbouring properties. The proposal has incorporated this change, which would satisfy the condition, and allow for its deletion.

#### **C4.13 Building Services**

The proposed modification seeks various changes related to the provision of services to the building, including:

- The building services contained within the centre of the penthouse level are proposed to be relocated to the north-western side of the building.
- The penthouse slab has been increased to accommodate sewer drainage, as indicated elsewhere within this SEE.
- The dimensions of the telecommunications zones have been rearranged.
- A flat roof is proposed to accommodate future solar panels.
- A new internalised mail area is proposed at the ground floor.

All relocated service areas will be screened from view and the development remains compatible with the controls within this section of WDCP 2012.

## **4.4 Planning Agreements**

No planning agreement has been found to apply to the subject site.

## **4.5 The Regulations**

The pertinent considerations identified within the EPA Regulation 2000, are concerning conformity with the Building Code of Australia. The existing development consent, DA 125/2012, inclusive of BCA conditions, shall apply to the proposal.

## **4.6 Likely Impacts of the Development**

The likely impacts of the proposed modification have been thoroughly considered, and the proposal is found to have reasonable and acceptable impacts on the natural and built environment. As such, the proposal is worthy of Council support.

## 4.7 The Suitability of the Site

The proposed modifications are considered to be suitable in the context of the existing and approved development. The proposed modification would create minimal further visual impacts above those already created by the existing building. The design changes can be accommodated within the site without creating significant impacts on the streetscape, views surrounding the site, or the amenity of nearby residential buildings.

## 4.8 Any Submissions

Council to consider any submissions received in respect to the proposed modification application.

## 4.9 The Public Interest

The public's interest is considered to have been satisfied by the proposal, as the modifications have been considered against the planning controls of Waverley Council and are found to be consistent with their intent.

## 5.0 Conclusion

The modification proposal been assessed against the provisions of s4.15 and s4.55(2) of the Act. On balance, it is concluded that the proposal is satisfactory and warrants approval, having regard to the following matters:

- The proposed development is permissible under the prevailing land use zone.
- The proposal is generally consistent with the relevant objectives and controls of SEPP 65, WLEP 2012 and WDCP 2012. Where non-compliances have been identified, sufficient justification has been provided.
- The additional departure to the height of buildings and floor space ratio standards are suitable in the context of the approved development.
- The proposed modification is anticipated to have a positive impact on the amenity of the building, through the provision of an entry lobby, and improvements in internal amenity to the new approved apartments.
- No unreasonable external impacts will result from the development proposal, particularly in relation to streetscape and amenity impacts.
- It is considered there are no matters that warrant refusal of the proposal on the grounds of it being contrary to the public interest.

Accordingly, the proposed modification should be recommended for approval.