

11 December 2024

Independent Planning Commission of NSW
135 King Street
SYDNEY NSW 2000

Dear Members

[State Significant Development Application No. SSD-68230714 Mixed Use Development at 4 Delmar Parade and 812 Pittwater Road, Dee Why](#)

In February 2024 Landmark Group Australia Pty Ltd lodged a State Significant Development Application (SSDA) 68230714 for the purposes of a mixed use development comprising three commercial tenancies and 280 apartments over 3 basements levels, lot consolidation and subdivision, and 15% affordable housing at 4 Delmar Parade and 812 Pittwater Road, Dee Why.

The Department of Planning, Housing and Infrastructure (DPHI) has provided its support of the SSDA and prepared an assessment report recommending approval for the consideration Independent Planning Commission of NSW (IPC).

The applicant met with the IPC on 26 November 2024. The IPC raised several queries which are addressed in this correspondence. This submission also addresses several amendments that are requested in relation draft conditions of consent. Finally, the public submissions to the IPC are also summarised and addressed.

This correspondence is supported by the following documentation:

Document	Author
Clause 4.6 - Clause 7.12 - 4 Delmar Parade and 812 Pittwater Road, Dee Why (Dec 2024)	Sutherland & Associates Planning
Clause 4.6 - Podium Height - 4 Delmar Parade and 812 Pittwater Road, Dee Why (Dec 2024)	Sutherland & Associates Planning
Clause 4.6 - FSR - 4 Delmar Parade and 812 Pittwater Road, Dee Why (Dec 2024)	Sutherland & Associates Planning
Clause 4.6 - Height - 4 Delmar Parade and 812 Pittwater Road, Dee Why (Dec 2024)	Sutherland & Associates Planning
Legal Advice prepared by Mills Oakley dated 5 th December 2024	Mills Oakley
Monthly shadow diagrams	Rothelowman

[Clause 4.6 Requests](#)

In response to some queries from the IPC, the four Clause 4.6 requests which support the application have been amended and embellished. The amended Clause 4.6 requests accompany this submission.

Furthermore, the revised Clause 4.6 requests have been the subject of legal review undertaken by Mills Oakley, who have prepared a legal advice letter dated 5 December 2024 which reviews the amended CI 4.6 Requests for the SSDA and confirms that:

- *the objectives of each standard and zone are satisfied;*
- *it has been demonstrated that compliance with each development standard is unreasonable or unnecessary in the circumstances of this case; and*
- *there are sufficient environmental planning grounds to justify the contraventions;*

For these reasons, we are of the view that the amended CI 4.6 Requests for the SSDA satisfy the jurisdictional pre-requisites, are lawful, and thus appropriately support the approval of the SSDA.

Construction Traffic Management Plan

The IPC has queried the management of construction traffic.

It is firstly noted that a Construction Traffic Management Plan has already been approved by Northern Beaches Council in relation to Development Consent DA/2022/0145 and the amended Construction Traffic Management Plan for the subject SSDA maintains the same approach to construction traffic management as that which has been endorsed by Council.

Nonetheless, in order to address the specific queries raised by the IPC, it is recommended that draft Condition No. C2 is amended as follows (in italic and bold):

*C2. Prior to the commencement of any work, the Applicant must submit to the Certifier a final Construction Traffic and Pedestrian Management Sub-Plan (**CTPMP**) for the Development with measures to reduce environmental impacts and harm during construction of the Development arising from construction traffic, a copy of Council's owners consent to use the Council car park adjoining the site and which includes, at a minimum, the following information:*

(a) location of proposed work zone(s);

(b) construction vehicle access arrangements and haulage routes;

(c) predicted number and timing of construction vehicle movements and vehicle types;

(d) identification of potential conflicts between vehicle movements required for construction and general traffic, cyclists, pedestrians, bus services within the vicinity of the site from construction vehicles; and

*(e) details of measures to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site. (f) **details of measures to ensure that multiple large vehicles do not arrive at the same time within the Stony Range car parking area***

*(g) **details of signage and traffic control personnel proposed to manage the turning of vehicles within the prescribed work zone within the Stony Range car parking area***

Condition No. C24 – Right Turn to Delmar Parade from Pittwater Road

Draft Condition No. C24 requires that prior to the commencement of above ground works, the Applicant must submit for approval by the Planning Secretary details of roadworks to prevent right turn movements from Pittwater Road to Delmar Parade. There are several potential options.

The applicant does not object to exploring the various options and obtaining approval from TfNSW, however, this process will likely take at least several months. The current wording of the draft Condition No. C24 is such that no above ground works under the consent can proceed whilst approval from TfNSW and the Planning Secretary is being achieved.

Construction on the site is already well advanced and so the current requirement represents an unreasonable and unacceptable risk to the ability for construction to continue seamlessly on site. It is very likely that the capacity to continue works on site will be prevented and construction will be stalled. There is no planning purpose which is served by requiring this approval prior to above ground works, rather than prior to release of the first Occupation Certificate.

The final design and approval of a suitable treatment in relation to the right turn into Delmar Parade from Pittwater Road is completely divorced and independent from construction works on site, and so there is no need to prevent above ground works from progressing until this issue is resolved.

In order to remedy this, it is requested that draft Condition No. C24 is amended as follows (*italic, bold and strikethrough*):

*C24. Prior to the ~~commencement of above ground works~~ **the issue of the Occupation Certificate**, the Applicant must submit for approval by the Planning Secretary details of roadworks to prevent right turn movements from Pittwater Road to Delmar Parade. Written endorsement of the roadworks from the relevant roads authority must be provided in the submission to the Planning Secretary and roadworks must consist of either:*

(a) the addition of a PM peak right turn ban to be added to the existing AM peak right turn ban from Pittwater Road to Delmar Parade; or

(b) the closure of the median on Pittwater Road at Delmar Parade to prevent right turns into Delmar Parade from Pittwater Road; or

(c) an alternative measure endorsed by the relevant road's authority.

Note:

- *Approval must be obtained for the roadworks under section 138 of the Roads Act 1993.*
- *All costs associated with the roadworks must be borne by the Applicant.*

Condition No. B1 – Design Amendments

Draft Condition No. B1(c) requires a reduction of 35 residential car parking spaces (from 335 to 300 spaces), a reduction of 2 commercial car parking spaces (from 34 to 32 spaces), an increase in one residential visitor space (from 56 to 57 spaces) and updated development summary plans to reflect these changes.

The basis for this is not identified or explained in the Department's assessment report. On the contrary, the assessment report identifies that the proposal:

...is anticipated to have minimal impacts on the surrounding road network given the low additional movement associated with the proposal when compared to the approved DA.

This is based on the traffic modelling which supported the application which includes the car parking as proposed (i.e. not a reduced car parking provision).

The applicant requests that this condition is deleted on the following grounds:

- There is no statutory basis for the IPC to require the reduction in car parking. Specifically, the proposed car parking provision is compliant with minimum car parking controls contained within SEPP Housing, noting that these are a non-discretionary development standard that if complied with (as is the case for the subject application) prevent the consent authority from requiring a more onerous requirement.
- There is no adverse impact as a consequence of the proposed car parking provision which requires a remedy by the reduction in car parking. In particular, the subject proposal only results in an additional vehicle trip every

4 minutes compared with the approved development and this increase is minor and will not result in any discernible difference to the performance of the local road network.

- Whilst the site is in close proximity to public transport, which is the Department’s argument for reduced car parking, this only comprises a bus service and not a train or metro service. It is the quality of the public transport not the provision of residential parking which encourages public transport use. Residents who commute to work by public transport, still want a car for social / leisure uses where public transport doesn’t provide adequate service. If parking is not provided on site, residents will simply park on street. The parking rates proposed for this development are therefore appropriate for the site context and also consistent with the approved development.
- Finally, a consistent theme in the public submissions is that if the proposal does not provide sufficient parking there will be an increase in demand on surrounding public parking, and so the car parking provision within the development is also intended to alleviate this concern.

Accordingly, it is proposed that draft Condition B1 is amended as follows (bold, italic, strikethrough):

B1. Prior to the issue of the first Construction Certificate, the Applicant must provide evidence to the Certifier that the revised plans detailing the following revisions have been submitted to and approved by the Planning Secretary:

(a) details of treatment to the façade of Building B which demonstrate that a blank façade is not presented to 816 Pittwater Road, Dee Why;

(b) provision of planter boxes and/or window screening to the eastern façade of apartments 421 and 422 to prevent overlooking of 8 Delmar Parade; and

~~*(c) a reduction of 35 residential car parking spaces (from 335 to 300 spaces), a reduction of 2 commercial car parking spaces (from 34 to 32 spaces), an increase in one residential visitor space (from 56 to 57 spaces) and updated development summary plans to reflect these changes*~~

Submissions

The Applicant’s response to the 26 public submissions received by the IPC as published on the IPC website as of 11 December 2024 are outlined in the table below:

Summary of Issues in Public Submissions	Response
<p><i>Shadow to Stony Range Reserve</i></p> <p>Concern regarding shadow impacts to Stony Range Reserve on several important sections of the Garden, including the BBQ area, children’s play area and the entrance, which will be detrimental to visitor use.</p>	<p>The proposed development results in less shadow than that which results from a compliant height at the southern boundary of the site and therefore the shadow resulting from the proposal is as anticipated by the incentivised planning controls for the site.</p> <p>Nonetheless, whilst the shadow resulting from the proposal does extend further into the Reserve than that which occurs as a result of the approved development, this is a worst case scenario at mid-winter.</p> <p>Monthly shadow diagrams prepared by Rothelowman accompany this submission which demonstrate that the overwhelming majority of the Reserve is completely unaffected by shadow from the proposal throughout the year, and in particular from September until March (i.e. 7 months of the year) there is essentially zero shadow on the Reserve. The diagrams</p>

Summary of Issues in Public Submissions	Response
	<p>also show that the proposal does not exceed the overshadowing of the allowable LEP envelope.</p> <p>In addition to the above comments, it is noted that the vast majority of the shadow already occurs as a result of the previously approved development DA2022/0145 and the shadow resulting from the proposal is only a minor increase which does not result in any meaningful further impact which would warrant refusal of the application. If there is no tolerance for a minor increase in shadow, this would directly result in a loss of affordable housing within the proposed development which is contrary to the NSW State Government objective for delivering additional housing supply in NSW and in particular affordable housing. Finally, the Applicant has met with the Stony Range Regional Botanic Garden Committee on site to discuss alternative locations for the BBQ area including assistance with this relocation, based on the shadow diagrams and an optimal location.</p>
<p><i>Visual Impact to Stony Range Reserve</i></p> <p>The proposed towers' increased height would drastically alter the visual landscape surrounding the garden, overshadowing its tranquil and natural character.</p>	<p>The Visual Impact Assessment includes a series of images from within the Reserve.</p> <p>The proposed development will be clearly visible from areas at the northern edge of the Reserve, as expected as a result of the planning controls which apply to the site. The vast majority of the visual impact occur as a result of the previously approved development on the site, and the subject application does not result in any significant change to this impact with only one additional floor to the majority of the southern elevation and two additional floors towards the Pittwater Road end.</p> <p>Nonetheless, the southern elevation has been amended based on feedback from Northern Beaches Council to reduce the extent of white finishes and to achieve a greater variety of colours and materials and also an improved architectural outcome. These changes assist in mitigating the visual impact of the proposal as viewed from the Reserve.</p>
<p><i>Heritage Impact to Stony Range Reserve</i></p> <p>The proposal does not respect the important heritage values associated with the Gardens and the amenity it provides for the local and regional area.</p>	<p>The additional storeys do not result in any significant impact in relation to the relationship of the approved development with Stony Range Reserve, not its heritage values. For the majority of this interface, there is only one additional storey. Nonetheless, the materiality and façade design along the southern elevation has been amended to alleviate the concerns regarding the dominance of white finishes.</p>
<p><i>Flora and Fauna Impacts to Stony Range Reserve</i></p> <p>The shadow impacts will result in an adverse impact to the flora and fauna within the Stony Range Reserve.</p>	<p>The shadow cast by the proposed development does not result in any unacceptable ecological impacts to the Reserve as demonstrated in the Flora and Fauna</p>

Summary of Issues in Public Submissions	Response
	Assessment prepared by Aquila Ecological Surveys which supported the submitted application.
<p><i>Social Impact</i></p> <p>Concern about social impact to Stony Range Reserve</p>	<p>The proposal is not considered to result in any significant adverse social impact for visitors to the Reserve. On the contrary, the Social Impact Assessment which supports the application demonstrates the following positive impacts associated with the proposal:</p> <ul style="list-style-type: none"> • Construction of a residential development on a site earmarked and zoned for such development, in an area that has been identified as a growth area; • The provision of more diverse housing types in the area, on a site that has easy access to bus, and which is being developed with retail and services nearby; • Provision of affordable housing for those on very low, low to moderate incomes in a location that is close to public transport, shops and services; • Employment generation in the planning, implementation, and construction of the proposed development, and in the operation of the retail and commercial spaces; and • There is nothing about the proposed development that is likely to generate any negative impacts in terms of community cohesion. • The proposed site location meets the accessibility requirements of SEPP Housing in relation to bus service.
<p><i>Pedestrian Link</i></p> <p>Request for a publicly accessible link from Stony Range Reserve through the site to Delmar Parade.</p>	<p>The proposed development adopts the same ground floor plane arrangement as that which has already been approved under D2022/0145 and does not include any public access through the site. There is no obligation on the development to provide public access, and this is not proposed due to design implications in navigating the fall into the site at the southern edge, and also due to safety and security requirements for the development.</p>
<p><i>Parking</i></p> <p>The proposal will result in less parking for people accessing Stony Range Reserve.</p>	<p>The proposed development provides the required car parking provision for the commercial component of the development, and also provides in excess of the minimum required residential car parking and visitor parking. In this regard, the proposal is not expected to result in an adverse impact to the public car park to the south of the subject site.</p> <p>Furthermore this cover letter addresses the current draft conditions of consent that seek to reduce carparking on the proposed site. The proposed revision to the draft conditions of consent will seek to</p>

Summary of Issues in Public Submissions	Response
	mitigate impacts to street parking and the car park of Stony Range Reserve
<p><i>Traffic</i></p> <p>Excessive traffic on Delmar Parade causing long queues of cars trying to enter Pittwater Road especially at peak times, making exiting from 2 Delmar time consuming and stressful.</p>	<p>The proposal does not result in any meaningful difference in traffic impacts when compared with the previously approved development DA2022/0145.</p>
<p><i>Public Transport</i></p> <p>Various comments and requests for improved public transport for Dee Why.</p>	<p>The improvement of public transportation in Dee Why is beyond the scope of the applicant to address.</p>
<p><i>Utilities</i></p> <p>The supply of utilities to the area is problematic, electricity has frequent disruptions at peak times, water mains pressure is minimal with several chronic leaks in the mains under the streets, internet is almost unusable at peak times, and mobile network coverage overloaded.</p>	<p>There are sufficient utilities to service the proposed development as demonstrated by the Hydraulic and Electrical Infrastructure Report prepared by JHA which supported the application.</p>
<p><i>Commercial Floor Space</i></p> <p>The previously development on the site was for two storey commercial development (including medical services). The current proposal would result in less commercial floor space than previously</p>	<p>The subject proposal maintains an identical provision of commercial floor space as that which was supported by Council under the approved development DA2022/0145. The proposal remains acceptable in relation to commercial floorspace and maintains the commitment to this floorspace established by DA2022/0145.</p>

Should you have any questions concerning the above, please contact Aaron Sutherland on [REDACTED], or alternatively at [REDACTED]

Yours faithfully

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Aaron Sutherland
Sutherland & Associates Planning Pty Ltd