



northern
beaches
council

AGENDA

NORTHERN BEACHES LOCAL PLANNING PANEL

Notice is hereby given that the Northern Beaches Planning Panel will be held via teleconference on

WEDNESDAY 16 JUNE 2021

Beginning at 12.30pm for the purpose of considering and determining matters included in this agenda.

Peter Robinson
Executive Manager Development Assessment

Panel Members

Peter Biscoe	Chair
Brian Kirk	Town Planner
Robert Hussey	Town Planner
Ray Mathieson	Community Representative

Quorum

A quorum is three Panel members

Conflict of Interest

Any Panel Member who has a conflict of Interest must not be present at the site inspection and leave the Chamber during any discussion of the relevant Item and must not take part in any discussion or voting of this Item.

Agenda for the Northern Beaches Local Planning Panel to be held on Wednesday 16 June 2021

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	A statutory Direction by the Minister of Planning and Public Spaces states the panel is only required to hold a public meeting where the development application has attracted 10 or more unique submissions by way of objection. There applications do not satisfy that criterion.	
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2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 2 JUNE 2021

The Panel notes that the Minutes of the Northern Beaches Local Planning Panel held 2 June 2021 were adopted by the Chairperson and have been posted on Council's website.

3.0 PUBLIC MEETING ITEMS

ITEM 3.1	DA2020/1597 - 67 PACIFIC PARADE, DEE WHY - DEMOLITION WORKS AND CONSTRUCTION OF A BOARDING HOUSE DEVELOPMENT
AUTHORISING MANAGER	Lashta Haidari
TRIM FILE REF	2021/410227
ATTACHMENTS	1 Assessment Report 2 Site Plan & Elevations 3 Design & Sustainability Advisory Panel Report

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PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is the subject of 10 or more unique submissions by way of objection.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2020/1597 for demolition works and construction of a boarding house development at Lot 25 DP 7002, 67 Pacific Parade, Dee Why subject to the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1597
Responsible Officer:	Anne-Marie Young
Land to be developed (Address):	Lot 25 DP 7002, 67 Pacific Parade DEE WHY NSW 2099
Proposed Development:	Demolition works and construction of a boarding house development
Zoning:	Warringah LEP2011 - Land zoned R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	Yes
Owner:	BL2093 Pty Ltd
Applicant:	Benson McCormack Architects Pty Ltd
Application Lodged:	19/12/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Other
Notified:	15/01/2021 to 29/01/2021
Advertised:	15/01/2021
Submissions Received:	53
Clause 4.6 Variation:	Nil
Recommendation:	Refusal
Estimated Cost of Works:	\$ 4,506,088.00

EXECUTIVE SUMMARY

The application seeks consent for demolition of the existing detached cottage and the construction of a three storey 26 room boarding house with basement parking for 13 vehicles using car stackers.

The application is the subject of a Class 1 appeal against the deemed refusal of the application and the matter is set down for hearing on the 4 and 6 August 2021.

The application was referred to the Design and Sustainability Advisory Panel (DSAP) who concluded that the proposal represents an over-development of the site with impacts on the streetscape and insufficient setbacks and landscaping which result in amenity issues for occupiers and neighbours.

Amended plans were received following the S34 Conciliation Conference which generally address issues raised by Council's Waste Officer, Transport Engineer and Landscape Officer. Issues remain outstanding with respect of side setbacks, wall heights, building envelope breaches, impacts on the streetscape and neighbouring amenity including acoustic and visual privacy and overshadowing. In addition, concern is raised about the 100% reliance of car stackers for the boarding house and insufficient information has been submitted to address operational and management concerns. The geotechnical report is inconclusive to confirm that the proposed earthworks will not impact on neighbouring properties, soil stability or drainage.

The public exhibition of the application resulted in fifty-one (51) submissions which raised concerns with the density of the development, traffic and parking, amenity impacts in terms of impacts on visual and acoustic privacy, overshadowing, security and safety issues and substandard accommodation being provided. The amended plans have been notified to all those that made a submission on the original application and fourteen (14) additional submissions have been received at the time of writing this report.

On balance, the assessment of the proposed development on this site against the applicable planning controls and related legislation reveals that there are significant breaches with the controls. The application is not in the public interest and is therefore recommended for refusal.

PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for the demolition of the existing dwelling and construction of a part three (3), part four (4) storey twenty-six (26) bedroom boarding house development, excavation to a depth of 9.9m and construction of three levels basement for thirteen (13) parking spaces (12 using car stackers) and associated landscaping. In detail, the proposed development provides:

Basement Level AHD +27.20

- Basement to accommodate car stacker pits, plant and pump room, lift pit and stair.

Lower Ground Level AND +30.00

- Car stacker with parking for 12 vehicles, one disabled parking space and parking for 5 motor bikes;
- Stair and lift core;
- Bin store located in the north-east corner built into the rock outcrop with a podium garden above;
- Forecourt / pedestrian entrance and lobby;
- Driveway to Pacific Parade with traffic signal;
- Planter and fire hydrant located in the north-west corner.

Upper Ground Floor AHD +33.00

- Three (3) boarding rooms to the front of the site (east);
- A manager's room with private open space and two (2) adjoining boarding room (west facing)

located in the centre of the site;

- Plant, bulk storage room and laundry room to the rear, and
- Circulation core located to the east including lobby, stair and lift core.

Level 1 AHD +35.90

- Three (3) boarding rooms to the centre (west);
- Three (3) boarding rooms to the front (north);
- Three (3) boarding rooms to the rear (south) each with a 7.5sqm area of private open space, and
- Circulation core located to the east including lobby, stair and lift core.

Level 2 AHD +38.80

- Three (3) boarding rooms to the centre (west);
- Three (3) boarding rooms to the front (north);
- Three (3) boarding rooms to the rear (south), and
- Circulation core located to the east including lobby, stair and lift core.

Level 3 AHD +41.7

- Three (3) boarding rooms to the rear (south);
- Common room (59.1sqm) with adjoining area of common open space (28.8sqm) to the front (north) with planter and non-trafficable terrace, and
- Circulation core located to the east including lobby, stair and lift core.

Roof +44.90 (max height)

- Eight (8) photovoltaic panels;
- A/C vent and lift overrun (+45.43) to the east.

External and materials

- One protected tree to be removed in addition to all exempt trees;
- The rock outcrop to the street frontage will be partially retained;
- Landscape work includes: Ground level - a planter bed adjacent to the north-west entrance, landscape strip to the east, south and part of western boundary. Upper ground level – a 28sqm central garden area adjacent to part of the western boundary and a podium level planer bed above the bin store, 7.5sqm private open space to 3 x rear level 1 rooms and 11sqm private

open space to managers room.

- Materials – Aluminium dark roof cladding and blinds, light colour off form concrete and light beige colour brick veneer, sandstone cladding, aluminium frames and frameless glass balustrade.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - Zone R3 Medium Density Residential
Warringah Local Environmental Plan 2011 - 6.2 Earthworks
Warringah Development Control Plan - A.5 Objectives
Warringah Development Control Plan - B1 Wall Heights
Warringah Development Control Plan - B2 Number of Storeys
Warringah Development Control Plan - B3 Side Boundary Envelope
Warringah Development Control Plan - B5 Side Boundary Setbacks
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - B9 Rear Boundary Setbacks
Warringah Development Control Plan - C2 Traffic, Access and Safety
Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
Warringah Development Control Plan - D3 Noise
Warringah Development Control Plan - D6 Access to Sunlight
Warringah Development Control Plan - D8 Privacy
Warringah Development Control Plan - D9 Building Bulk
Warringah Development Control Plan - D20 Safety and Security
Warringah Development Control Plan - D22 Conservation of Energy and Water
Warringah Development Control Plan - E10 Landslip Risk

SITE DESCRIPTION

Property Description:	Lot 25 DP 7002 , 67 Pacific Parade DEE WHY NSW 2099
Detailed Site Description:	<p>The site comprises one (1) allotment and is legally identified as Lot 25 in DP 7002. The site is located on the southern side of Pacific Parade 36m to the west of the intersection with The Crescent it is regular in shape with a frontage of 15.3m, a depth of 45.8m and a surveyed site area of 695.6sqm.</p> <p>The site is located within the R3 (Medium Density Residential) zone from the WLEP 2011 and accommodates a single storey brick and sandstone / tiled roof cottage and associated deck and retaining walls situated in the rear (south) of the site with vehicular access to Pacific Parade provided in the north-west corner.</p> <p>Large to medium trees are scattered throughout the site and a rock outcrop is present to the frontage at the north-east corner. The topography of the site slopes from the front (north) to the rear (south) with a level difference of approximately 9m, there is also a crossfall across the site is a westerly direction.</p> <p>Surrounding development</p> <p>Surrounding development to the north, east and west is characterised by predominantly three (3) to four (4) storey brick residential flat buildings of older stock (1960s, 1970s, 1980s and 1990s). More recent three (3) and four (4) storey residential flat developments are interspersed within the surrounding area including No. 65 Pacific Parade to the immediate west and 1-5 The Crescent to the immediate east. With the exception of No. 65 Pacific Parade to the immediate west, all buildings are set back from the street in a landscape setting of mixed quality. A pocket park, The Crescent Reserve, is located directly to the (south) rear of the site at 7 The Crescent. Dee Why Beach is located approximately 800m to the east, Pittwater Road is located approximately 500m to the west and Dee Why shopping centre 400m to the north.</p>

Map:



SITE HISTORY

Pre-lodgement meeting

On 4 August 2000, Council participated in a pre-lodgement meeting (PLM) in relation to the development of the site as a boarding house. The proposal discussed in the PLM sought demolition of the existing dwelling and construction of a part three (3) / part four (4) storey thirty (30) room boarding house including a managers residents, communal living areas, two (2) levels to basement car parking for thirteen (13) cars and landscape works.

Design and Sustainability Advisory Panel.

On 25 March 2021, the development application was presented to the Council's Design and Sustainability Advisory Panel for review. While the full suite of commentary is provided further in this report, the DSAP concluded:

The Panel does not support the proposal in the current form and considers it to be an overdevelopment of the site. A reduction in boarding house rooms and scale of the project is recommended to improve the amenity within the site and reduce the impacts on the adjoining residential flat buildings. The project has a number of other adverse impacts such as the streetscape treatment and façade compositions and these aspects should be considerably improved with the redesign of the project.

Class 1 Appeal 2021/0003433

On 16 January 2021, Class 1 proceedings were commenced in the Land and Environment Court appealing the Council's deemed refusal of the development application.

The court matter is set down for hearing on 4 and 6 August 2021.

On 4 May 2021, amended plans were submitted which included the following amendments:

- A reduction in the amount of excavation and change to car stackers to support 12 cars, plus one

- separate disabled parking space and modifications to the entrance driveway;
- Deletion of the ground level common open space from the rear and an increase in the size of the roof top common open space;
- Deletion of the double height common room from the rear and relocation of the common rooms to level 3;
- A reduction in one boarding space at ground level (central block) and a change in the location of the bulk waste storage area and plant;
- The deletion of the upper loft level to units (301, 302 and 303) located to the rear (south);
- Relocate laundry facilities, and
- Areas of private open space added to the rear of the 3 ground floor units (L07, L08 and L09).
- An increase in the size of the landscape planter to north-west boundary and the addition of 1m deep soil planting to top of bin store.
- Modification to the external open space at roof level, including an increase in the set back from the frontage and the addition of 1.65m high balustrades with obscure glazing to the eastern and western edge of the planters.

On 10 May 2021, all persons that made a submission to the original proposal were notified of the amended plans. The assessment report is based on the amended plans

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. Should the consent be granted this matter can be addressed via a condition of consent. <u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This

Section 4.15 Matters for Consideration'	Comments
	<p>clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. Should the consent be granted this matter can be been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered unsuitable for the proposed development as it represents over development of the narrow lot given the inconsistencies with the built form controls and its excessive excavation. The bulk and scale of the development is out of character with the area and will result in unreasonable amenity impacts to neighbouring residents in terms of overshadowing and acoustic and visual privacy impacts,
Section 4.15 (1) (d) – any	See discussion on “Notification & Submissions Received” in this

Section 4.15 Matters for Consideration'	Comments
submissions made in accordance with the EPA Act or EPA Regs	report.
Section 4.15 (1) (e) – the public interest	This assessment has found the proposal to be contrary to the relevant requirement(s) of the SEPP (ARH), the WLEP and the WDCP and will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 15/01/2021 to 29/01/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 53 submission/s from:

Name:	Address:
Mr Denis Charles Smith Mrs Lynne Kenning Smith	11 Knightsbridge Avenue BELROSE NSW 2085
Dymphna Micheline O'Donoghue	6 / 29 - 31 Richmond Avenue DEE WHY NSW 2099
Mr Brett Graeme Buffett Rayner	6 / 6 The Crescent DEE WHY NSW 2099
Peter Douglas Smyth	Address Unknown
Carolyn Eileen Smyth	19 / 6 The Crescent DEE WHY NSW 2099
Mr Jeremy Peter Ford	6 / 55 Pacific Parade DEE WHY NSW 2099
Mr Desmond John Mullen	17 / 64 Pacific Parade DEE WHY NSW 2099
Mr Bryce Niall Anderson	11 / 44 Pacific Parade DEE WHY NSW 2099
Mr Simone Medri	1 / 1 Denison Street MANLY NSW 2095
Derek Turner	Address Unknown
Mr Darren Edward Wardle	1 / 56 Pacific Parade DEE WHY NSW 2099
Mr David Biro	19 / 57 Delmar Parade DEE WHY NSW 2099
Alistair Grice	Address Unknown
Mrs Diana Wenban	18 / 6 The Crescent DEE WHY NSW 2099
Miss Nicole Crkvencic	11 / 64 Pacific Parade DEE WHY NSW 2099

Name:	Address:
Mr Tom Michael Andrews	7 / 1 - 5 The Crescent DEE WHY NSW 2099
Ms Helen Joy Arnold	8 Hendy Avenue COLLAROY NSW 2097
Mrs Frances Makeham	4 / 48 Pacific Parade DEE WHY NSW 2099
Ms Alison Sarah Boschen	477 / 16 Oaks Avenue DEE WHY NSW 2099
Mr Jean-Jacques Nicholls	4 / 47 Pacific Parade DEE WHY NSW 2099
Ms Sharon Ann Young	6 Dimitrios Close SKYE NSW 3977
Mrs Sheila Gordon Dickson	39 Norfolk Avenue COLLAROY NSW 2097
Gregory Philip O'Leary	10 / 48 Pacific Parade DEE WHY NSW 2099
David Mason	Address Unknown
Daphne Florence Rae	6 / 56 Pacific Parade DEE WHY NSW 2099
Mr Gordon Denby Coad	15 / 39 - 41 Pacific Parade DEE WHY NSW 2099
Sean Southwell	Address Unknown
Malcolm Allen Graham	5 / 1 - 5 The Crescent DEE WHY NSW 2099
Clare Irene Holder	5 / 65 Pacific Parade DEE WHY NSW 2099
Mrs Narelle Edith Kirby	4 / 65 Pacific Parade DEE WHY NSW 2099
Mr Owen John Mullen	7 / 38 The Crescent DEE WHY NSW 2099
Mr Steven John Newall	17 / 68 Pacific Parade DEE WHY NSW 2099
Miss Holly De Jong	6 / 1 - 5 The Crescent DEE WHY NSW 2099
Mrs Sharon Ellison Boin	9 Herbert Avenue NEWPORT NSW 2106
Mr Marc Francis Boin	9 Herbert Avenue NEWPORT NSW 2106
Sharon Anne Phillips	10 / 64 Pacific Parade DEE WHY NSW 2099
Mr Gregory John Jennings	1 - 5 The Crescent DEE WHY NSW 2099
Phillip Perrone	27 Epping Drive FRENCHS FOREST NSW 2086
Simone Marie McDonald	31 / 1 - 3 Sturdee Parade DEE WHY NSW 2099
Robyn Lesley McDonald	3 / 64 Pacific Parade DEE WHY NSW 2099
Miss Seok Kwan Tan	11 / 1 - 5 The Crescent DEE WHY NSW 2099
Diane Christensen	12 / 6 The Crescent DEE WHY NSW 2099
Ms Faya Mirvakili	15 / 1 - 5 The Crescent DEE WHY NSW 2099
Mary Elizabeth Keech	'The Strand' 402/21 Head Street FORSTER NSW 2428
Michelle Damasio	3 / 44 Pacific Parade DEE WHY NSW 2099
Nicholas Swerdlow	7 / 63 Pacific Parade DEE WHY NSW 2099
Eduardo Federico Fritz	3 / 65 Pacific Parade DEE WHY NSW 2099
Ms Megan June Taslaman	1 / 63 Pacific Parade DEE WHY NSW 2099
Adnan Taslaman	1 / 63 Pacific Parade DEE WHY NSW 2099
Mr Charles Bertram Yates Mrs Mary-Rose Blanche Yates	3 Coolawin Road AVALON BEACH NSW 2107
Edward Bailey	25 / 63 Pacific Parade DEE WHY NSW 2099
Mrs Jaclynn Nicole-Reinhard Kidd	4 / 82 Pacific Parade DEE WHY NSW 2099
Mr Tymon Shay Kidd	4 / 82 Pacific Parade DEE WHY NSW 2099

The following issues were raised in the submissions and each have been addressed below:

- **Non-compliance with controls**
- **Out of character**
- **Insufficient landscaping**
- **Poor internal amenity**
- **Traffic and parking issues**
- **Impacts on neighbouring amenity (overshadowing, visual and acoustic privacy issues)**
- **Insufficient information (acoustic assessment, plan of management and traffic)**
- **Excavation, geotechnical and construction impacts**
- **Distance to bus stops is non-compliant**
- **Precedent**
- **Devaluation of properties;**
- **Environmental impacts**
- **Reflection and glare from roof panels**
- **Stormwater issues**
- **Safety and issues with anti-social behaviour**
- **BCA and construction issues.**
- **Would result in short stay accommodation**

The matters raised within the submissions are addressed as follows:

- **Non-compliance with SEPP (HSD) (rooms are too large), SEPP 65 (poor internal amenity including cross ventilation) and WDCP built form controls (setbacks, building envelope).**
Comment:
The proposal, as amended, remains to be inconsistent with a number of planning provisions, including clause 30A of the SEPP (HSD) which requires the development to be compatible with the character with the local area. It is however noted that the room sizes have been amended to comply with the maximum 25sqm. SEPP 65 does not apply to boarding houses, notwithstanding this the internal amenity of some of the proposed boarding rooms is limited in terms of access to natural day light due to obscure glazing to side windows and the orientation of the development which results in central rooms having only one window. The proposal is also inconsistent with a number of WDCP built form controls including side setbacks, envelope and wall height controls. Refer to discussion within the WDCP section of this report.
- **Out of character with the surrounding residential area in terms of density for the lot size, height, front and eastern façade treatment.**
Comment:
The proposal is assessed as being out of character with the surrounding residential area in terms of the treatment of the front facade, insufficient side setbacks. Given the size and narrow width of the lot it is agreed that the density of the development, with excessive excavation, equates to over-development of the lot.
- **Insufficient landscaping.**
Comment:
The amended plan increases the amount of landscaping available within the front setback, however, the proposal remains to be inconsistent with the minimum 50% landscape open space requirement.

- **Poor internal amenity, insufficient outdoor and internal common areas, generally inadequate cross ventilation and reliance of A/C;**
Comment:
As noted above, concern has been raised with the obscure glazing to the side windows of some units which will limit access to natural daylight. The proposal, as amended, provides a common room at level 3, insufficient information has been provided to confirm that the room will have compliant solar access.
- **Insufficient parking / impact on street parking, no visitor parking, driveway design reduces on street parking. Impact on traffic and pedestrian safety especially given its location at the crest of a hill and near an intersection. The traffic report is inadequate. The proposal does not comply with the minimum 0.5 spaces per apartment as required in the Affordable Housing SEPP.**

Comment

The proposal is inconsistent with the parking provision being short one space. Council's Transport Engineer has no objections to the amended proposal subject to condition. However, concern has been raised regarding the 100% reliance on car stackers for the boarding house and the management and operation of the system.

- **Impacts on neighbouring amenity in terms of:**

- **Overshadowing impacts.**

- **Visual and acoustic privacy - the planter beds on the side of the common open space are not sufficient to protect privacy and the acoustic assessment is insufficient as it fails to assess impacts from all affected neighbouring balconies. The Plan of Management is insufficient and the reliance of an on site 24 hour manager is not practical to manage the common roof top open space.**

- **Noise from plant and waste collection.**

- **Loss of outlook and access to cooling winds.**

Comment

Overshadowing - The amended proposal reduces the extent of shadow to neighbouring properties, however, insufficient information has been submitted to confirm that the proposal complies with the solar access provisions of the WDCP. Refer to discussion under Clause D6 of this report.

Visual and acoustic privacy - It is agreed the proposal has the potential to impact on the visual and acoustic privacy of the neighbouring units. An updated acoustic report has not been submitted to assess the revised plan or the impacts of the proposal from all the relevant sensitive noise receivers. It is agreed that the reliance on planter beds is not a reliable method of ensure visual privacy will be maintained. However, it is noted that the amended plans include 1.65m high obscure glazed balustrades along the east and west edge of the planter beds which will help reduce overlooking impacts to some degree.

An internal area of plant is proposed within the rear of the building and an A/C outlet vent located at level 3 on the eastern edge of the roof. Should the application be approved conditions can be imposed to ensure noise from plant will be managed to protect neighbouring amenity. It is not expected that noise from waste collection will result in unreasonable acoustic amenity impacts. Again, should the application be supported conditions can be imposed to manage this

concern.

Loss of outlook - While there are no significant views affected by the proposal the sheer bulk and scale of the development and insufficient side setbacks / building separation will result in an overbearing built form which will impact on outlook from neighbouring properties.

- **Excessive excavation raises potential structural and geotechnical concerns due to basement level side setback. Construction impacts - drilling/demolition on adjoining sites.**

Comment

Although the extent of excavation has been reduced it remains to be substantial with a maximum depth of 9.8m set back 2m from the side boundaries. Issues regarding impacts from the excavation and construction are therefore valid and the geotechnical report is inconclusive in its assessment.

- **Access to public transport - The distance from bus stops is not compliant - 159 bus to Manly runs from the two closest bus stops to the proposed development site in Pacific Parade. This service has been discontinued.**

Comment

The amended traffic report references the following bus services, route 177 and 177X which are immediately adjacent to the subject site and comply with the requirements of SEPP (AHD). A search of the Transport NSW confirms that Pacific Parade is a bus transport route.

- **Environmental impacts - Tree removal and pollution from units;**

Comment

Council's Landscape Officer has no objections to the tree removal subject to conditions. Council's Waste Officer has no objections to the proposal, as amended, subject to conditions including replacement planting.

- **The solar panels on the roof will cause reflection to neighbours.**

Comment

Should the application be approved conditions can be included to ensure that there are no unreasonable impacts as a result of reflection from the solar panels.

- **Insufficient stormwater system and infrastructure to support development.**

Comment

Council's Development Engineer has no objections to the proposal in terms of impacts on stormwater drainage subject to conditions.

- **Safety and security issues. Issues with respect to anti-social behaviour, noise and nuisance. Inadequate accommodation could lead to mental health issues.**

Comment

There is no evidence to suggest that the proposal represents a safety and security issue to neighbours. Issues in respect of the noise and nuisance are discussed above.

- **Devalue property values**

Comment

Impact on property value is not a material planning consideration.

- **Approval will set a precedence in the area.**

Comment

Agreed approval of the application could set an unwanted precedent for other similar developments in the area.

On 10 May 2021, letters were sent to all those that made a submission on the original DA notifying them that amended plans have been received and allowing seven (7) days to make a further submission. However, it became clear that the letters were not received until Friday 14 May 2021. Accordingly, an extension of time until Friday 21 May was allowed to make additional submissions. At the time of writing this report a total of fourteen (14) additional submissions were received that reiterated the issues above and raised the following additional issues:

- **The car stacking system is unsuitable and raises new concerns about its use and management. The stackers would require a building manager to be available to operate the stacker 24/7. This is particularly relevant given that average occupant would stay for four (4) months. Concern is also raised in respect of waiting vehicles queue while waiting to use the stacker and road safety.**

Comment:

It is agreed that there are significant issues relating to the operation and management of the car stacker particularly in view of the boarding house providing short to medium term accommodation. Insufficient information has been submitted to fully address these concerns. Refer to discussion under Clause C3 of this report.

- **The landscaping is still inadequate and non-compliant.**

Comment:

Agreed the proposal remains to be inconsistent with the landscape open space requirements.

- **The amended proposal is still over-development.**

Comment:

Agreed the amended proposal continues to represent overdevelopment and is inconsistent with the built form controls.

- **The location of the only area of common open space on the roof is unacceptable.**

Comment:

While an amended Plan of Management (POM) has not been submitted for the revised scheme it is noted that the original proposal and POM restricted access to the roof top open space to between five (5) and nine (9) residents after 6pm. With a total of fifty-two (52) residents occupying the development it is agreed that the proposal does not meet the requirements of the SEPP in terms of providing outdoor common space for all residents.

- **The proposal does not include an amended acoustic report, as such, it is not possible to properly consider the impacts which is fundamental to the application. An amended acoustic report will determine how many / few residents can use the roof top deck which is now the only communal area for the premise. The management of the roof space is still a crucial issue and the reliance on public complaints procedure in the Plan of Management confirms concerns regarding management of the roof deck and acoustic issues.**

Comment:

It is agreed that insufficient information has been submitted to properly assess the amended scheme and confirm that there will not be unreasonable acoustic impacts on neighbouring amenity.

- **The common roof top area will be used as a smoking area causing impacts on the health of neighbouring residents using their balconies.**

Comment:

Given that there is no alternative open space provided for the 52 residents of the boarding

house it is agreed that the roof top common open space could be used as a smoking area.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported with conditions</p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate stage.</p>
Environmental Health (Industrial)	<p>Not supported</p> <p><i>New Information - Additional Review 14.05.2021</i></p> <p>Amended plans of the proposed boarding house have been provided. The applicant has not provided any information if the updated plans will impact on the findings/recommendations within the acoustic report by Day Design Pty Ltd dated 9 December 2020 (Reference 7066-1.2R).</p> <p>An updated acoustic assessment by a suitably qualified and experienced acoustic consultant is required in accordance with NSW EPA Noise Policy for Industry in order to determine any acoustic impacts of the changes including but not limited to an assessment of the following changes:</p> <ul style="list-style-type: none"> • The inclusion of 3 rooms with open private space on the ground floor; and • The increase in size of the common room and outdoor common space on level 3. <p>Additionally, concerns have also been raised that no modelling was conducted on the potential acoustic impacts that may be felt by 9/65 Pacific Parade, Dee Why that is located on level 3. The assessment had only taken into account modelling for receptors located up to level 2 at 65 Pacific Parade. From a review of the elevations it appears that the residential units located on Level 3 of 65 Pacific Parade would be considered as impacted residences warranting an assessment of the potential impacts of the proposed development.</p>

Internal Referral Body	Comments
	<p>The updated acoustic assessment is to also include an assessment of the potential impacts on residences located on Level 3 of 65 Pacific Parade. In particular, any noise impacts from the Level 3 outdoor common space.</p> <p>It is also noted that Day Design conducted attend noise monitoring at the rear location of 67 Pacific Parade at first floor level to establish the noise level difference with varying height and established a 2dB increase between ground floor and first floor. However, Environmental Health recommends that an acoustic consultant reviews and determines if monitoring is needed from an elevation equivalent to Level 3 65 Pacific Parade. This is in order to determine if there is any major difference with varying height from Level 1 to Level 3.</p> <p>Recommendation</p> <p>REFUSAL</p>
Landscape Officer	<p>Supported with conditions</p> <p>The development application is for the demolition of existing structures and the construction of a part three, part four storey boarding house development, basement parking and associated landscaping.</p> <p>The application is assessed by Landscape Referral against State Environmental Planning Policy (Affordable Rental Housing) 2009, Division 3 Boarding Houses, and in particular clause 29 - Standards that cannot be used to refuse consent (2) (b) landscaped area, Warringah Local Environmental Plan 2011 and Warringah Development Control Plan 2011, including but not limited to the following clauses:</p> <ul style="list-style-type: none"> • D1 Landscaped Open Space and Bushland Setting • E1 Preservation of Trees or Bushland Vegetation • E6 Retaining Unique Environmental Features <p>The existing site contains natural rock outcrops at the frontage and rear that is retained in parts not impacted by development. Existing vegetation on the site is predominately Exempt Species by either species type or by height and therefore not protected by Council's DCP controls. One prescribed species (Bottlebrush), protected under the DCP and therefore requiring Council consent for removal is located within the frontage. All trees and vegetation within adjoining properties are to be protected.</p> <p>Amended Plans have been provided in response to Landscape Referral's initial response, and landscape amendments increase the landscaped area to the frontage including: increase to landscape strip adjacent to north western boundary by an additional 1 metre to provide adequate area for planting; and increase soil depth above garbage bin storage to 1 metre depth to provide adequate soil volume to support small tree planting and other planting.</p>

Internal Referral Body	Comments
	<p><i>Landscape Referral's initial response:</i></p> <p><i>A Landscape Plan and an Arboricultural Impact Assessment are provided with the application. The proposal includes deep soil areas of 6125mm to the rear setback, 2000mm to the side southern boundary, and 2000mm to the side northern boundary (in part only). Within the front setback deep soil planting is not provided apart from the southern side boundary area containing 2000m x 7095mm in area, and an insignificant garden area at the northern front corner. The front setback contains built elements including a driveway, pavement forecourt, and bin storage with a podium garden over, that excludes planting of any prominent size to be established within the front setback.</i></p> <p><i>Within the front setback, the landscape proposal fails to provide adequate landscape area treatment under the SEPP (ARH) clause 29 intent, as well as under DCP clause D1, where the landscape proposal within the site is not compatible with the landscape treatment of front setbacks of adjoining residential unit developments in Pacific Parade. It is noted that the adjoining residential flat building property at No. 65 does not provide landscape planting within the frontage, however on balance when the remainder of Pacific Parade is considered, the front setback areas typically contain tree planting and other vegetation to soften the built form, and this is not achieved by the proposed development.</i></p> <p><i>Landscaped Area under WLEP is defined as: a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area. The landscape plans indicate areas of landscaped area on slab that do not provide the required minimum soil depth of 1 metre to be included as landscaped open space.</i></p> <p><i>The inadequate provision of Landscaped Area deep soil within the front setback is not compatible with the streetscape in which the building is located, to be able to satisfy the provision of State Environmental Planning Policy (Affordable Rental Housing) 2009, Division 3 Boarding Houses, and in particular clause 29 - Standards that cannot be used to refuse consent (2) (b) landscaped area.</i></p>
NECC (Bushland and Biodiversity)	<p>Supported with conditions</p> <p>Councils biodiversity referrals team have assessed the development application for compliance against the following relevant provisions:</p> <ul style="list-style-type: none"> • Warringah DCP Clause E2 Prescribed Vegetation • Warringah DCP Clause E6 Retaining Unique Environmental Features <p>The proposed development seeks to clear the majority of vegetation from within the lot, most of which is considered exempt due to size,</p>

Internal Referral Body	Comments
	<p>species or location. Only one (1) prescribed tree (<i>Callistemon viminalis</i>) is proposed for removal. As such, the development is considered to be situated and designed to minimise the impact on prescribed vegetation, including remnant canopy trees, understorey vegetation, and ground cover species in accordance with WDCP cl. E2. To compensate for the removal of the <i>Callistemon viminalis</i>, replacement planting at a minimum ratio of 1:1 is required with a suitably native equivalent selected from the Native Plant Species Guide - Curl Curl Ward, which is available on Council's website.</p> <p>The development is considered to have been designed to address any distinctive environmental features of the site and on adjoining nearby land, and respond to these features through location of structures, outlook, design and materials in accordance with WDCP cl. E6, through the redesign to include the retention of the natural rock outcrop.</p>
NECC (Development Engineering)	<p>Supported (subject to conditions) The amended plan has been sent to Council on 4/5/2021.</p> <p>The internal and external driveways have been extended in the amended plan to address the previous comment. However, the extended driveway crossing will be encroached over Council's existing stormwater pit. The applicant proposed to build over the stormwater pit which is not acceptable to Council.</p> <p>The applicant shall relocate the stormwater pit at least 1 m away from the new layback in order to protect Council's stormwater pit. A condition has been placed to ask the applicant to lodge an Infrastructure work on Council roadway application to relocate the Council pit.</p> <p>As such, Development Engineering has no objection to the application subject to the following condition of consent.</p>
Parks, reserves, beaches, foreshore	<p>Supported with conditions The proposed development can be supported with conditions. No access to the construction site will be permitted from the adjacent reserve as there is adequate site access from Pacific Pde. A dilapidation report on the adjacent reserve is required to be submitted to Council prior to commencement of work.</p>
Strategic and Place Planning (Urban Design)	<p>Not supported</p> <p>The applicant has submitted amended documents dated 29 April 2021. The proposal has not responded to all the issues identified in the Section 34 conference, Design and Sustainability Advisory Panel and Pre-Lodgement Meeting comments:</p> <p>1. The proposed boarding house is a big increase in unit density and such, amenities to surrounding neighbours should be protected as if a residential flat building is going to be proposed. <i>Response:</i> The latest amended proposal does not comply with all the</p>

Internal Referral Body	Comments
	<p>built form controls and as such the amenities to the neighbouring residences and boarding rooms facing the west boundary are affected.</p> <p>2. Proposal should comply fully with the front building setback of 6.5m and side setback of 4.5m, 2m at basement levels and building envelope of 5m at 45 degree. Amenities such as sunlight and privacy to neighbouring residences should not be compromised. <i>Response:</i> The proposal has not complied with the side setbacks, side boundary envelope controls and basement setback. Amenities to neighbouring residences have been compromised.</p> <p>3. No building sections are provided. Building height should comply with the 11m control but concern is raised with the deep excavation of the two basement carpark levels, two levels of communal rooms and three level of boarding units at the rear of the site. Basement carpark should not protrude above natural ground by more than one metre. Communal rooms proposed at the rear in subterranean conditions could be redesigned to face a central courtyard to be located in the middle of the building. <i>Response:</i> The extent of the revised basement excavation is about 3 storeys for the car stacker area and is still a concern on a narrow site. Structure such as contiguous bore piles to the basement walls have not been indicated on drawings and will encroach into the 2m setback. The common areas are relocated to the roof area which should receive adequate solar access.</p> <p>4. Middle units facing the west boundary have overlooking issues, a suggestion will be to re-orientate to the north by creating central courtyard to look into. <i>Response:</i> Middle units are still facing the western boundary and not receiving adequate solar access.</p> <p>5. Building articulations could be improved with bigger gaps to preserve existing trees and by creating a central courtyard for middle units to face into. <i>Response:</i> These suggestions have not been explored.</p> <p>6. Landscape requirement of 50% site should be provided for adequate landscape buffer to soften the impact of the increase in density of living units. <i>Response:</i> Inadequate landscape (41.5%) has been proposed.</p> <p>7. The roof terrace should address the street primarily and to be setback from building edges and have landscape planters to minimise overlooking and noise nuisance issues to next door neighbours. <i>Response:</i> The proposed common open space terrace can be supported. The common room area proposed breaches the side boundary building envelope.</p> <p>8. Generally, 30 units is an overdevelopment of the site with the side boundaries and building envelope breaches. The façade treatment</p>

Internal Referral Body	Comments
	<p>consisting of mainly repetitive window boxes void of balconies could be softened with a more residential look with green walls and a variety of material finishes.</p> <p><i>Response:</i> The 26 rooms boarding house is still an over-development with excessive building control breaches. Facade articulations and finishes treatment could be improved and refine further.</p>
Traffic Engineer	<p>Supported with conditions</p> <p>The proposed development has been assessed and the car park design is deemed to generally comply with the intent of the standard, with initial concerns addressed include the end of aisle turning movement.</p> <p>The access control system configuration of the access driveway has addressed the concerns related to queuing in Pacific Parade. The operation management plan for the use of car stackers in the development can be conditioned and achieves the parking numbers required under the SEPP.</p> <p>The proposed changes can be supported on traffic and transport grounds subject to conditions.</p>
Waste Officer	<p>Supported with conditions</p> <p>Waste Management Updated Assessment (Amended master plans received 4 May 2021). Proposal is approved with conditions</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>
NSW Police – Crime Prevention Office (Local Command matters)	<p>A referral response was received from the NSW Police offering no objections subject to conditions.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

Division 3: Boarding houses

Clause 25: Definition

For the purposes of this Division, the Standard Instrument defines a 'boarding house' as a building that:

*"(a) is wholly or partly let in lodgings, and
(b) provides lodgers with a principal place of residence for 3 months or more, and
(c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
(d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,*

but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment".

In this Division 'communal living room' means "a room within a boarding house or on site that is available to all lodgers for recreational purposes, such as a lounge room, dining room, recreation room or games room".

Clause 26: Land to which this Division applies

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone B1 Neighbourhood Centre, or (f) Zone B2 Local Centre, or	Consistent The site is located within the R3 Medium Density Residential zone and, as such, the proposed use is permissible with consent under WLEP 2011.

(g) Zone B4 Mixed Use.	
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Clause 27: Development to which this Division applies

(1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.

Requirement	Comment
<p>(2) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area.</p> <p>Note: Accessible area means land that is within:</p> <p>(c) 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.</p>	<p>Consistent</p> <p>The site is located within the R3 Medium Density Residential zone and is situated not more than 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.</p>
<p>(3) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.</p>	Not applicable.

Clause 28: Development may be carried out with consent

Requirement	Comment
Development to which this Division applies may be carried out with consent.	The development constitutes the construction of a boarding house, as defined by the Standard Instrument. Therefore, the development may be considered under this Division of the SEPP as development which may be carried out with consent.

Clause 29: Standards that cannot be used to refuse consent

Standard	Requirement	Proposed	Compliant/Comment
(1) Density and scale A consent authority must not refuse consent to development to which	(a) the existing maximum floor space ratio for any form of residential	Floor space ratios are not applied in WLEP 2011 or WDCP	Not applicable

this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:	accommodation permitted on the land, or		
	(b) if the development is on land within a zone in which no residential accommodation is permitted - the existing maximum floor space ratio for any form of development permitted on the land, or	Floor space ratios are not applied in WLEP 2011 or WDCP	Not applicable
	(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register - the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus: (i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or (ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.	R3 Medium Density Residential zone	Not applicable
(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:			
(a) building height	if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,	Permissible height 11m Proposed height 10.9m	Compliant
(b) landscaped area	if the landscape treatment of the front	The amended proposal increases the amount of	Consistent to the frontage.

	<p>setback area is compatible with the streetscape in which the building is located,</p>	<p>landscaping within the front setback and Council's Landscape Officer has no objections to the treatment of the frontage.</p> <p>It is noted that a waiting bay is provided within the front setback in lieu of extra deep soil zones to help address road safety issues which is assessed as acceptable given the location of the site at the crest of a hill and close to an intersection.</p> <p>The side setbacks are inconsistent with the predominate character of the area which consists of residential building set back approximately 3m from the side boundaries in landscape settings.</p>	
(c) solar access	<p>where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,</p>	<p>The proposal has been amended to allow for one 59sqm common room on level 3.</p> <p>No details have been provided to confirm that the room meets the solar access requirements of the SEPP.</p>	<p>Insufficient information submitted to assess compliance.</p>
(d) private open space	<p>if at least the following private open space areas are provided (other than the front setback area):</p> <p>(i) one area of at least 20m² with a minimum dimension of 3.0m is provided for the use of the lodgers,</p> <p>(ii) if accommodation is</p>	<p>The proposal has been amended to provide a 28.8sqm area of open space at roof level. While the size and dimensions of the open space complies with the numerical requirements of the SEPP concern is expressed regarding access to the space for all residents. It is noted that the POM / acoustic</p>	<p>Insufficient information submitted to assess compliance.</p>

	provided on site for a boarding house manager—one area of at least 8.0m ² with a minimum dimension of 2.5m is provided adjacent to that accommodation,	report for the original proposal restricted access to the space to between five (5) and nine (9) residents between 6pm and 10pm. Insufficient information has been submitted with the amended scheme to confirm that the space is accessible to all residents.	
(e) parking	<p>if:</p> <p>(i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and</p> <p>(ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</p> <p>(iia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</p>	<p>The SEPP requires a total of fourteen (14) car parking spaces (12.5 rounded up to 13 plus one (1) space for the on-site manager. The proposal provides a total of thirteen (13) spaces twelve (12) of which rely on the car stacker.</p> <p>The proposal falls short of the numerical car parking requirement by one (1) space. Given the context of the site, where street parking availability cannot be relied on, the non-compliance is not supported.</p> <p>Further, issues have been raised regarding the operation and management of the car stackers for a boarding house.</p>	Non-compliant.
(f) accommodation	if each boarding room	All boarding rooms	Compliant

size	has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least: (i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or (ii) 16 square metres in any other case.	provide a compliant GFA	
	(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.	All boarding rooms have private kitchens and bathrooms	Consistent
	(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).	Not relevant	Consistent

Clause 30: Standards for boarding houses

Standard requirement	Proposed	Compliant/Comment
(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:		
(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	A communal room is located on level 3	Compliant
(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25m ² ,	The amended proposal reduces all rooms to areas of less than 25sqm	Compliant
(c) no boarding room will be occupied by more than 2 adult lodgers,	Can comply by way of condition	Can Comply
(d) adequate bathroom and	Each boarding room has a	Consistent

kitchen facilities will be available within the boarding house for the use of each lodger,	private kitchen and bathroom	
(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,	A managers room is provided at ground level	Consistent
(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,	The site is zoned R3 Residential	Not relevant
(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	Complies	Compliant
(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	N/A	N/A

Clause 30AA: Boarding houses in Zone R2 Low Density Residential

A consent authority must not grant development consent to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone unless it is satisfied that the boarding house has no more than 12 boarding rooms.

Comment:

The site is located with a R3 Medium density zone therefore this clause does not apply.

Clause 30A: Character of the local area

The matter of assessing the character compatibility of development has been examined by the Land and Environment Court in *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC 268 and *Project Venture Developments v Pittwater Council (2005)* NSWLEC 191 where Senior Commissioner Roseth set out Planning Principles to better evaluate how a development should respond to the character of its environment. The following provides an assessment against the Planning Principles established in those two cases.

In the case of *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC 268 Senior Commissioner Roseth developed the following Planning Principles:

- *The first principle is that buildings in a development do not have to be single-storey to be compatible with the streetscape even where most existing buildings are single storey. The principle does not apply to conservation areas where single storey dwellings are likely to be the*

major reason for conservation.

Comment:

The surrounding area is characterised primarily by three and four storey brick residential flat buildings to the immediate north, west and south which are set back from the street frontage. The majority of the existing buildings are older apartment blocks dating from the 1960s, 1970s and 1980s. There is a consistent theme of the brick buildings being set back from the street frontages and side boundaries some with extensive landscaping including canopy trees.

More recent three (3) and four (4) storey residential flat developments are interspersed within the surrounding area including No. 65 Pacific Parade to the immediate west and 1-5 The Crescent to the immediate east. With the exception of No. 65 Pacific Parade, all buildings are set back from the street and side boundaries in a landscape setting. It is also noted that the facades of more recent developments are articulated with features such as light weight glazed balconies to reduce the visual bulk from the streetscape.

Amended Plans have been provided which increase the landscaped area to the frontage to the satisfaction of Council's Landscape Officer. Despite the improvement to the treatment of the front setback the amended proposal retains a 2m setback of the majority of the development to the east and west boundary which is inconsistent with the 4.5m setback required in the WDCP. As such, the side setback is inconsistent with the DCP control and the predominate pattern of development in the surrounding area and results in a bulk and scale which is incompatible with the streetscape and inconsistent with the first principle.

- *The second principle is that where the size of a development is much greater than the other buildings in the street, it should be visually broken up so that it does not appear as one building. Sections of a building, or separate buildings should be separated by generous breaks and landscaping.*

Comment:

As a result of the full height lobby and entrance to the basement the proposed development reads as a four storey structure from the streetscape. The finishes and treatment of the front elevation does not assist in reducing the visual dominance of the building or relate to the treatment of neighbouring residential developments which have a light weight balconies to the front facade. As such, the proposal is inconsistent with the built form of the streetscape/character of the local area.

In this regard, the development is considered to be incompatible with the scale of surrounding development and inconsistent with the second principle.

- *The third principle is that where a site has existing characteristics that assist in reducing the visual dominance of development, these characteristics should be preserved. Topography that makes development appear smaller should not be modified. It is preferable to preserve existing vegetation around a site's edges to destroying it and planting new vegetation.*

Comment:

The amended proposal retains more of the existing rock outcrop and additional landscaping is provided to the frontage in the form of a larger planted bed to the north west corner and 1m deep soil above the

bin store to allow for planting. As noted above, the majority of the development is setback 2m from the side boundaries which reduces the area available for planting along the side boundaries which would help reduce the visual dominance of the development as observed from adjoining properties.

In this regard, it is considered that effective methods have not been employed in the design of the development to reduce its visual dominance and is inconsistent (in part) with the third principle.

- *The fourth principle is that a development should aim to reflect the materials and building forms of other buildings in the street. This is not to say that new materials and forms can never be introduced only that their introduction should be done with care and sensitivity.*

Comment:

The materials are generally acceptable, however, the front (northern) facade lacks articulation to ensure that it is consistent with the light-weight materials (glass balustrades) to balconies evident on the other recent residential flat buildings in the surrounding area.

In this regard, the development is considered to be inconsistent (in part) with the fourth principle.

The above principles were further developed in *Project Venture Developments v Pittwater Council* (2005) NSWLEC 191 to include the following:

Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

Comment:

The physical impacts of the development on surrounding properties are assessed as consisting of constraints on the development potential of surrounding sites, privacy, overshadowing and noise.

Constraints on the development potential of surrounding sites

The sites to the immediate west and east have been re-developed over the last ten years and the site to the immediate south is a pocket park. As such, the proposal will not create a constraint on the development potential of surrounding sites.

Privacy

Windows in the western elevation are positioned 2m from the east and west boundary. Obscure glazing is proposed to these side windows, however, this is not considered to be an acceptable privacy device as it reduces the internal amenity of the boarding room in terms of access to sunlight. Windows in the proposed central block are positioned 3.6m from the western boundary / 5.6m from the windows in the neighbouring residential apartment block at No. 65 Pacific Parade. There is no privacy treatment to these windows. A search of Council records suggest that the affected eastern windows to No. 65 Pacific Parade are windows to a bedroom (a privacy screen has been installed to the level 3 bedroom window but not the level 2 window) and the entrance lobby to the rear units. Refer to discussion under Clause D8 (Privacy).

Overshadowing

Shadow diagrams have been submitted which illustrate that additional shadow will be cast on the adjoining sites to the south and east. The additional shadow impacts on 1-5 The Crescent from 1pm -

3pm on 21 June. Refer to discussion under Clause D6 (Access to Sunlight).

Noise

Significant concern has been raised from the owners and occupier of the adjoining residential flat buildings to the immediate east and west in terms of acoustic impacts as a result of the location of the roof top common private open space to the front of the site and its proximity to existing balconies. Insufficient information has been submitted to address this issue. Refer to comments from Council's Environmental Health Officer and discussion under Clause D3 (Noise).

Conclusion to character assessment

The above character assessment has found that, in the context of the Land and Environment Court Planning Principles, the proposal is incompatible with the character of the local area and surrounding wider locality.

This matter warrants the refusal of the Development Application.

Design and Sustainability Advisory Panel (DSAP)

The application was referred to DSAP on 25 March 2021 for review, the notes from which are attached to this report.

The amended proposal has somewhat responded to the following concerns raised:

- Insufficient landscaping to the streetscape to soften the proposal.
- The complicated car park which requires two ramps on the street to be redesigned to reduce impacts.
- The double storey common room to the rear should be relocated.

However, the amended proposal has not appropriately responded to the following concerns / recommendations:

- Provide compliant 4.5m side setbacks.
- Orientate the units to face into the site so they do not borrow the amenity from the adjoining sites;
- Use the side setbacks to provide deep soil planting which will provide a landscaped setting to the building and provide privacy and outlook to both the adjoining and subject sites.
- Redesigning the front façade to provide more visual interest and a contextually appropriate response to the site.
- The west facing units should be designed out of the project with units facing either the street or into the site with adequate separation distances provided.

Conclusion

The proposed development is not supported.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 114211M dated 29

April 2021).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Concession Target Pass
Energy	35	35

Should the application be supported a condition can be included requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	No
zone objectives of the LEP?	No

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	11m	10.8m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
6.2 Earthworks	No
6.4 Development on sloping land	No

Detailed Assessment

Zone R3 Medium Density Residential

The proposed development is inconsistent with the following objectives of Zone R3 Medium Density Residential of the Warringah Local Environmental Plan 2011. Objective 4 which requires low density residential environments to be characterised by landscaped settings that are in harmony with the natural environment of Warringah. Objective 5 which requires medium density residential environments are of a high visual quality in their presentation to public streets and spaces.

6.2 Earthworks

The proposal, as amended, requires excavation to a maximum depth of 9.9m with excavation occurring generally 2m from the side boundaries. The application is supported with a geotechnical survey which makes a number of recommendations including conditions relating to dilapidation surveys, vibration, retaining walls, anchoring, sub-soil drainage measures and water management. The report concludes

"that given the nature of the site conditions and proposed depth of excavation, we recommend that one more deep borehole should be carried out at the rear of the site to a depth of about 10-12m including rock coring to confirm the recommendation provided and the subsurface profile across the whole site is consistent with the current investigation."

In summary, no details have been given on the recommended additional testing, therefore, the geotechnical report is inconclusive and insufficient information has been submitted to confirm that the earthworks will not impact on the amenity of adjoining properties, drainage patterns and soil stability subject to compliance with the recommendations of the report. In accordance with Clause 6.2 (3) the consent authority can therefore not grant development consent for the earthworks.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	10.4m	44.4%	No
B2 Number of storeys	3	Part 3 / 4 (The front elevation reads as a four storey development)	33.33%	No
B3 Side Boundary Envelope	East 5m	The following elements breach the envelope: Lift over-run, upper portion of central core and upper portion of the rear units	Refer to details	No
	West 5m	The western top corner of the front unit, the upper portion of the rear units, the walls associated with the external roof	Refer to details	No

		top common open space and the upper portion of the central common room		
B5 Side Boundary Setbacks	East 4.5m	2m on all levels	55.56%	No
	West 4.5m	Basement - 7.3m Lower Ground Level - between 0.8m, 2m and 3.5m Upper level - between 2m, 2.2m and 4m Level 1 and 2 - between 2m and 4m Level 3 - between 2m and 4.3m	N/A up to 82.23% up to 55.5% on all levels	Yes No No
B7 Front Boundary Setbacks	6.5m	Lower Ground Level -1.7m to bin store (*Note: the DCP allows bin stores within the frontage) All other levels 6.5m	N/A N/A	Yes Yes
B9 Rear Boundary Setbacks	6m	With the exception of the walls enclosing the ground floor area of private open space associated with the units in the southern (rear) block.	N/A	Assessed as acceptable
D1 Landscaped Open Space (LOS) and Bushland Setting	50%	272.8sqm 39.21% (including the rock outcrop and the areas of private open space)	10.79%	No

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: 38/40 x 100 = 95 then 100 - 95 = 5% variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	No	No
B1 Wall Heights	No	No
B2 Number of Storeys	No	No
B3 Side Boundary Envelope	No	No
B5 Side Boundary Setbacks	No	No
B7 Front Boundary Setbacks	No	No
B9 Rear Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	No
C3(A) Bicycle Parking and End of Trip Facilities	Yes	Yes
C4 Stormwater	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	No
D3 Noise	No	No
D6 Access to Sunlight	No	No
D7 Views	Yes	Yes
D8 Privacy	No	No
D9 Building Bulk	No	No
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	No	No
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	No	No
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

A.5 Objectives

The proposed development is inconsistent with the objectives at cl.A.5 (Objectives) of WDCP as it does not:

- i. Respond to the characteristics of the site and the qualities of the surrounding neighbourhood, or
- ii. Create a unified landscape, contribute to the street and create an attractive design outcome.

B1 Wall Heights

Description of non-compliance

B1 requires *wall heights not to exceed 7.2 metres from ground level (existing) to the underside of the ceiling on the uppermost floor of the building (excluding habitable areas wholly located within a roof space)*.

The proposed wall height of 10.4m exceeds the minimum requirement by 44.4%

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

The breach of the wall height contributes to the excessive mass and bulk of the development which appears to be visually dominate when viewed from adjoining properties.

- *To ensure development is generally beneath the existing tree canopy level .*

Comment:

Due to the topography of the site the building sits above the tree canopy of some existing trees.

- *To provide a reasonable sharing of views to and from public and private properties.*

Comment:

The proposal will not have unreasonable impacts on view sharing to and from private properties. Notwithstanding this the bulk and massing of the development will have an adverse impact on the adjoining properties in relation to outlook.

- *To minimise the impact of development on adjoining or nearby properties.*

Comment:

Due to insufficient setback and non-compliance with the built form controls, including wall height the proposal has the potential to result in unreasonable impacts on the amenity of adjoining properties. The proposal will increase the amount of shadow falling on the site to the immediate east, No. 1-5 The Crescent and insufficient information has been submitted to confirm that the proposal will meet the solar access requirements of clause D6. Due to insufficient setbacks the proposal has the potential to impact on the visual and acoustic privacy of adjoining properties.

- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*

Comment:

The proposal does not respond to the site topography and will result in excessive excavation to a depth of 9.9m which is between 0.8m and 2m from the side boundaries.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

Comment:

The proposed roof is flat which is similar to the roof design of more recent residential developments in the surrounding area.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B2 Number of Storeys

Description of non-compliance

The control requires that the number of storeys does not exceed three (3) storeys. The development presents a four (4) storey frontage to Pacific Parade which is in-consistent with the control.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To ensure development does not visually dominate its surrounds.*

Comment:

Due to insufficient side setbacks the four storey presentation of the development is visually dominant and out of character with the surrounds.

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

Due to insufficient side setbacks the four storey presentation of the development when viewed from adjoining properties and the public street is visually dominate.

- *To provide equitable sharing of views to and from public and private properties.*

Comment:

The proposal will not have unreasonable impacts on view sharing to and from private properties. Notwithstanding this the bulk and massing of the development will have an adverse impact on the adjoining properties in relation to outlook.

- *To ensure a reasonable level of amenity is provided and maintained to adjoining and nearby properties.*

Comment:

The proposal will increase the amount of shadow falling on the site to the immediate east No. 1-

5 The Crescent. Insufficient information has been submitted to confirm that the proposal will meet the solar access requirements of clause D6. Due to insufficient setbacks the proposal has the potential to impact on the visual and acoustic privacy of adjoining properties.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

Comment:

The proposed roof is flat which is similar to the roof design of more recent residential developments in the surrounding area.

- *To complement the height of buildings control in the LEP with a number of storeys control.*

Comment:

The proposal complies with the 11m maximum height limit prescribed in the WLEP.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B3 Side Boundary Envelope

Description of non-compliance

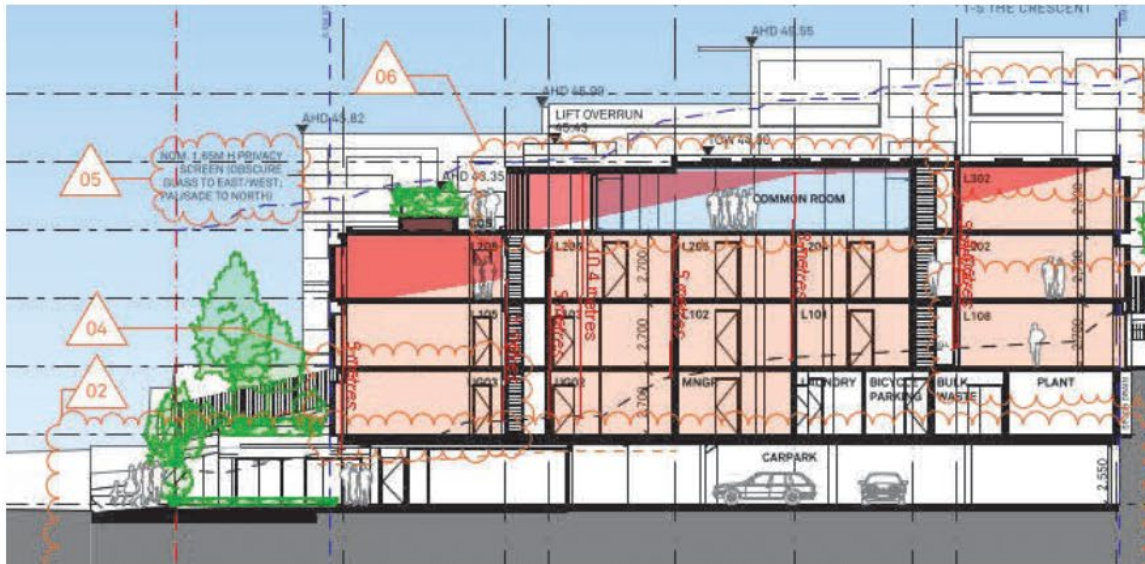
Western elevation

There are three (3) areas of envelope breach as detailed below:

Area 1 - (3m - 2.4m in height x 7.6m in length) which relates to unit L208 and the roof top planter.

Area 2 - (2.9m - 0m in height x 12m in length) which relates to the roof top common room.

Area 3 - (1.9m - 0m in height x 5.7m in length) which relates to unit L302



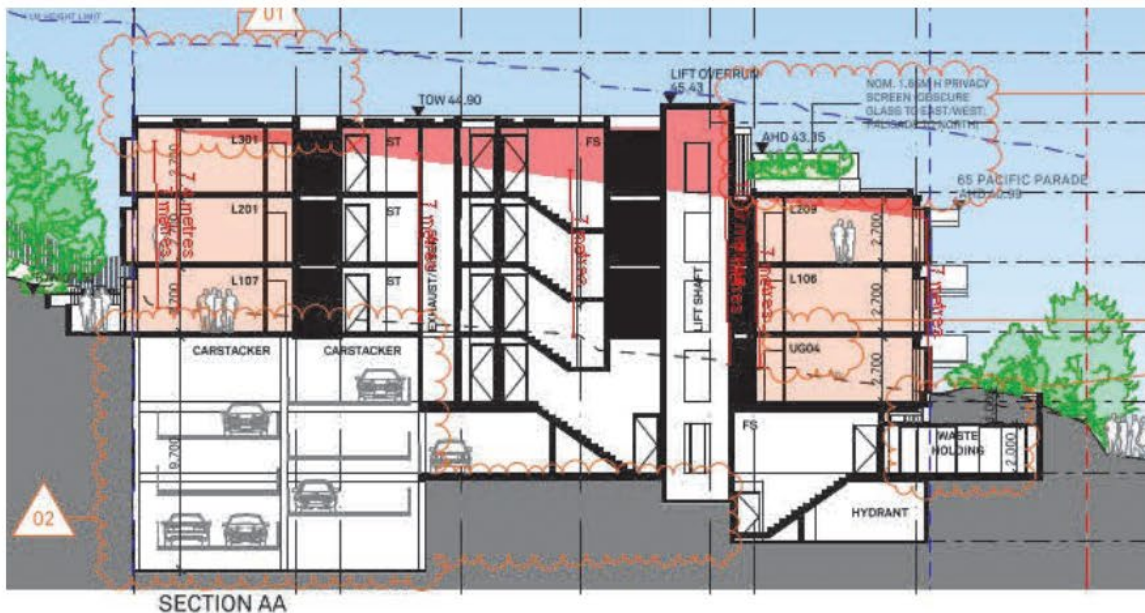
Section BB showing the side envelope breach (source Benson McCormack)

Eastern elevation

There are two (2) areas of envelope breach as detailed below:

Area 1 - (3.9m - 0m in height x 23m in length) which relates to the lift shaft, the top of the central service core and the top of unit L301

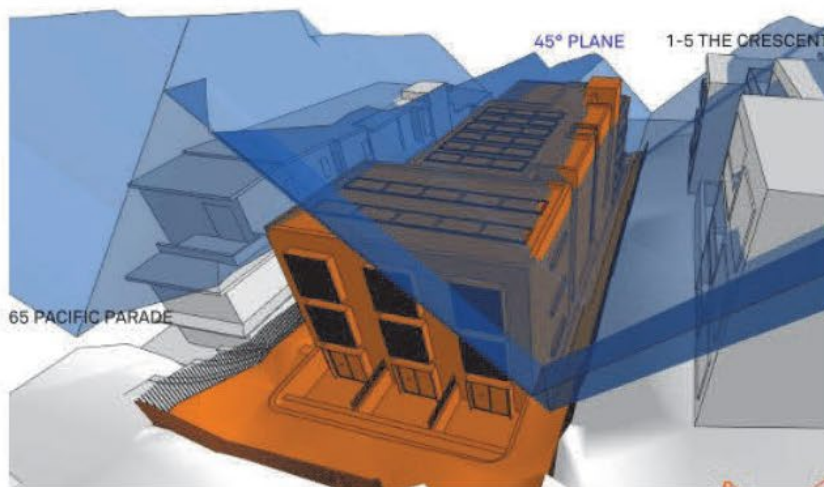
Area 2 - (1m - 0m in height - 6m in length) which relates to the top of unit L209



Section AA showing the side envelope breach (source Benson McCormack)



3D image of 45 degree plane showing envelope breach (source B McCormack)



3D image of 45 degree plane showing envelope breach (source B McCormack)

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To ensure that development does not become visually dominant by virtue of its height and bulk.*

Comment:

Due to insufficient side set backs the height, bulk and scale of the development is visually dominate particularly as viewed from the neighbouring properties to the immediate east and west.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

Comment:

Due to insufficient set backs and inadequate spatial separation between building, in particular No. 65 Pacific Parade to the immediate west, the proposal will result in unreasonable impacts on privacy. The development borrows amenity from the neighbouring site and screening devices are employed as a method to protect visual and acoustic privacy to the blocks to the front (east) and rear (south). It is noted that there is no screening provided to the windows in the central block which are located 3.6m from the western boundary.

- *To ensure that development responds to the topography of the site.*

Comment:

The proposal does not adequately respond to the topography of the site.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B5 Side Boundary Setbacks

Description of non-compliance

The control requires a 4.5m setback to the east and west side boundaries. The proposal provides a 2m set back on all upper floor levels to the eastern boundary (0.8m, 2m and 3.5m at basement level). A set back of between 2m and 4m is proposed to the western boundary on all levels.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To provide opportunities for deep soil landscape areas.*

Comment:

The side setbacks are insufficient. A compliant 4.5m side setbacks will allow for greater opportunities for deep soil areas to provide sufficient landscaping to reduce the visual dominance of the development from adjoining properties. Greater side setbacks will also ensure that the development is consistent with the predominate character of the surrounding area which includes residential developments which are sufficiently set backs from the side boundaries to provide deep soil areas to sustain screen planting.

- *To ensure that development does not become visually dominant.*

Comment:

As noted above, the insufficient side setbacks results in a development that is visually dominant from the adjoining properties to the east and west. The side setback is also inconsistent with the predominate side setback of existing developments in the surrounding area resulting in a development that is also visually dominate in the streetscape.

- *To ensure that the scale and bulk of buildings is minimised.*

Comment:

The insufficient side setback adds to the excessive scale and bulk of the building.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

Comment:

The insufficient side setbacks results in inadequate separation between buildings to ensure that a reasonable level of privacy, amenity and solar access is maintained.

- *To provide reasonable sharing of views to and from public and private properties.*

Comment:

As noted above, while there are no views impacts by the proposal the insufficient side setbacks combine with the excessive bulk and scale of the development will impact on the outlook from the adjoining properties.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B7 Front Boundary Setbacks

The control requires a 6.5m setback from the road frontage. *The front boundary setback area is to be landscaped and generally free of any structures, basements, carparking or site facilities other than driveways, letter boxes, garbage storage areas and fences.*

The proposal generally complies with the control with only the bin store, driveway and waiting bay, fire hydrant and planter bed being located within the 6.5m frontage. In order to ensure road safety the waiting bay is deemed to be preferred over a deep soil area given the location of the site at the crest of a hill and close to an intersection.

B9 Rear Boundary Setbacks

The control requires a 6m rear setback. With the exception of the walls separating the areas of private open space to units L201, L202 and L203 and the bay windows to the rear of the southern block the proposal complies with the rear set back control.

C2 Traffic, Access and Safety

Clause C2 requires:

Vehicular Access

- 1. Applicants shall demonstrate that the location of vehicular and pedestrian access meets the objectives.*
- 2. Vehicle access is to be obtained from minor streets and lanes where available and practical.*
- 3. There will be no direct vehicle access to properties in the B7 zone from Mona Vale Road or Forest Way.*
- 4. Vehicle crossing approvals on public roads are to be in accordance with Council's Vehicle Crossing Policy (Special Crossings) LAP-PL413 and Vehicle Access to Roadside Development LAP-PL 315.*
- 5. Vehicle crossing construction and design is to be in accordance with Council's Minor works specification.*

The amended vehicular access generally addresses the issues raised by Council's Transport Officer. The proposal has been amended to change the parking from conventional basement car parking to car stackers (for 12 car parking spaces). While Council's Transport Engineer has no objections to stackers, subject to conditions, concern is raised regarding the operation and management of car stackers for the boarding house given the short term nature of the accommodation. Issues have been raised in submissions regarding impacts of queuing on the public street and traffic, pedestrian and road safety issues and with respect of a loss of kerb side parking. Insufficient information has been submitted to address these concerns, as such, the proposal is inconsistent with the following objectives of Clause C2.

- *To minimise traffic hazards.*
- *To minimise vehicles queuing on public roads.*
- *To minimise traffic, pedestrian and cyclist conflict.*
- *To minimise the loss of "on street" kerbside parking.*

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

C3 Parking Facilities

Merit consideration

Requirement 3 of clause C3 states:

Car parking, other than for individual dwellings, shall avoid the use of mechanical car stacking space.

As discussed above, Council's Transport Officer has confirmed that subject to conditions, including an operational management plan for the car stackers, that the amended design addresses issues relating to access and road and pedestrian safety issues. Refer to Transport comments within this report.

Despite this, it is noted that the use car stackers for a boarding house is inconsistent to the part 3 of

clause C3 which states car stackers should only be considered for individual dwellings. The twelve (12) car parking spaces associated with the boarding house rely 100% on car stackers. Insufficient information has been submitted to justify an exception to Clause C3 and address issues in relation to the management and operation of the car stacker for the boarding house use. The issues raised in the submission relating to potential road safety and traffic issues with the use of car stackers for a boarding house, including queuing on the public street, are valid.

The development is considered against the underlying Objectives of the Control as follows:

- *To provide adequate off street carparking.*

Comment:

The car parking rates are specified in the SEPP (ARH) which requires 0.5 spaces per boarding room and one (1) car parking space for the boarding house manager. The proposal provides 26 rooms therefore a provision on 12.5 spaces is required. When this is rounded up it equals thirteen (13) space, plus one space for the one site manager (total of fourteen 14 spaces). The proposal provides a total of thirteen (13) spaces including one (1) accessible space. The proposal is therefore inconsistent with the parking provision being deficient by one (1) space and inconsistent with the objective of the control.

In addition, the 100% reliance on car stackers for the proposed boarding house is contrary to the requirements of the control and raises significant issues with regards to its operation and management, refer above.

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment:

The parking is at basement level and will not impact on the street frontage. Issues relating to the visual dominance of the driveway on the streetscape have generally been addressed with additional landscaping and the amended entrance design.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

As noted above, the parking is below ground and issues relating to the visual impact of the driveway have generally been addressed in the amended design.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D1 Landscaped Open Space and Bushland Setting

Clause D1 requires 50% landscape open space. The development provides for 272.8sqm 39.21% (including the rock outcrop and the areas of private open space).

Merit consideration

With regard to the consideration for a 10.7% variation, the development is considered against the underlying Objectives of the Control as follows:

- *To enable planting to maintain and enhance the streetscape.*

Comment:

The proposal has been amended to improve the front set back with additional landscaping, including 1m deep soil planting above the bin store area.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment:

The amended proposal retains more of the rock outcrop to the frontage. There are no issues raised from Council's Landscape Officer or Bushland and Biodiversity Officer subject to conditions.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

Comment:

A compliant 4.5m side set back would allow for additional deep soil zones to allow for the establishment of landscaping that will help mitigate the density, bulk and scale of the building.

- *To enhance privacy between buildings.*

Comment:

The 2m side setback restricts the available space for sufficient planting to help mitigate privacy between buildings.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment:

With the exception of private open space to four (4) units there are no areas of ground level outdoor recreational space. The development relies on the outdoor space at roof level which can only be used by a fraction of the residents after 6.00pm.

- *To provide space for service functions, including clothes drying.*

Comment:

The proposal does not nominate any external communal areas for service functions such as clothes drying and relies on the internal common laundry room and private laundries within each room.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

Due to insufficient landscape open space being retained there are reduced options for water infiltration.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D3 Noise

Clause D3 requires:

- 1. Noise from combined operation of all mechanical plant and equipment must not generate noise levels that exceed the ambient background noise by more than 5dB(A) when measured in accordance with the NSW Industrial Noise Policy at the receiving boundary of residential and other noise sensitive land uses.*
- 2. Development near existing noise generating activities, such as industry and roads, is to be designed to mitigate the effect of that noise.*
- 3. Waste collection and delivery vehicles are not to operate in the vicinity of residential uses between 10pm and 6am.*
- 4. Where possible, locate noise sensitive rooms such as bedrooms and private open space away from noise sources. For example, locate kitchens or service areas closer to busy road frontages and bedrooms away from road frontages.*
- 5. Where possible, locate noise sources away from the bedroom areas of adjoining dwellings/properties to minimise impact.*

Significant concern was raised in the submissions received in response to the original proposal in regards to the location of the external common areas of open space proposed to the rear of the building at ground level and towards the front of the roof. In addition, valid issues were raised in terms of the quality of the acoustic assessment given that no modelling was conducted on the potential acoustic impacts that may be felt by 9/65 Pacific Parade, Dee Why that is located on level 3.

The amended proposal re-locates all of the common open space to the roof level (the eastern (front) edge of the building). In addition, areas of private open space are proposed to the rear of the three (3) southern ground floor units.

The 28.8sqm roof top open space is located 5.2m to the western boundary and 4.4m to the eastern boundary. A solid wall is proposed along part of the western edge of the space in addition to 1.65m high glass balustrade with obscure glazing to the eastern and western edge of the area. A planter bed is proposed around the periphery and a non-trafficable roof below. While the amended proposal attempts to improve the visual privacy issues between the occupants of the boarding house and the neighbouring properties there has been no amendment to the acoustic report.

An updated acoustic assessment by a suitably qualified and experienced acoustic consultant is required in accordance with NSW EPA Noise Policy for Industry in order to determine any acoustic impacts of the changes including but not limited to an assessment the changes detailed above.

The amended application is not supported with a revised acoustic report or a sufficient Plan of Management. The amended Plan of Management (POM) has not address issues with respect of how the roof top open space will be used. It is noted that the original POM recommended that the roof top

common open space be used by a maximum of five (5) to nine (9) people between the hours of 6.00pm and 10.00pm. This represents 9.6% - 17.3% of the occupants of the boarding house. Valid concern has been raised in submissions in respect of the management of this space and the fact that the design fails the SEPP requirements in providing external space for all resident

In summary, insufficient information has been submitted to ensure that the proposal meets the objectives of the noise control which requires *"that noise emission does not unreasonably diminish the amenity of the area or result in noise intrusion which would be unreasonable for occupants, users or visitors."* As such, the potential acoustic impacts of the proposal cannot be assessed and Council's Health Officers do not support the application.

D6 Access to Sunlight

Clause D6 requires

1. *Development should avoid unreasonable overshadowing any public open space.*
2. *At least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.*

The proposal has been amended to delete the upper loft level to the units to the rear (south) which will help reduce shadow impacts. Despite this the amended shadow diagrams in plan show that the development continues to cast additional shadow on the adjoining site to the east, 1-5 The Crescent from 1pm - 3pm. It is noted that this portion of No. 1-5 The Crescent is already cast in shadow between 9am and 10am. The diagrams do not show the shadow in elevation to confirm whether 3 hours of sunlight will be retained between 9am and 3pm to at least 50% the private open space (west facing balconies) to the apartments in No. 1-5 The Crescent.

In addition, insufficient information has been submitted to confirm that 50% of the private open space associated with the managers room and boarding rooms L07, L08 and L09 wil have access to sunlight for 3 hours between 9am and 3pm on June 21. It is noted that the diagrams in plans suggest that the private open space, located within the western boundary, will be impacted by shadow cast by the subject development and the neighbouring site at No. 65 Pacific Parade.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To ensure that reasonable access to sunlight is maintained.*

Comment:

As discussed above, the shadow diagrams confirm that the private open space to the manager's room is cast in shadow contrary to the control. Insufficient information has been submitted to confirm the minimum solar access will be retained to the west facing balconies to No. 1-5 The Crescent.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The design could be improved by reducing the bulk and scale and increasing the set backs to address the provisions relating to access to sunlight.

- *To maximise the penetration of mid winter sunlight to windows, living rooms, and high use indoor and outdoor areas.*

Comment:

Insufficient information has been submitted to confirm that the proposal will maximise sun penetration to windows, living rooms and the ground level outdoor areas, especially to the west facing units.

- *To promote passive solar design and the use of solar energy.*

Comment:

Solar panels are proposed at roof level.

- *To minimise the need for artificial lighting.*

Comment:

Due to the orientation of the development and the design it is expected that there will be reliance on artificial lighting. Access to sunlight for the majority of boarding rooms will be limited to one window in the frontage. This will include all boarding rooms located within the centre of each block and the boarding rooms on either side which have obscure glazing to the windows in the side elevation.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D8 Privacy

Clause D8 requires:

1. *Building layout should be designed to optimise privacy for occupants of the development and occupants of adjoining properties.*
2. *Orientate living areas, habitable rooms and windows to private open space areas or to the street to limit overlooking.*
3. *The effective location of doors, windows and balconies to avoid overlooking is preferred to the use of screening devices, high sills or obscured glass.*
4. *The windows of one dwelling are to be located so they do not provide direct or close views (ie from less than 9 metres away) into the windows of other dwellings.*
5. *Planter boxes, louvre screens, pergolas, balcony design and the like are to be used to screen a minimum of 50% of the principal private open space of a lower apartment from overlooking from an upper apartment.*

Bedroom windows to the front (northern) and rear (southern) block are positioned 1.9m to the western and eastern boundary. In order to address privacy issues obscure glazing is proposed in the side windows in the front and rear blocks.

Living room windows are proposed to the middle block on all three levels which are positioned 3.6m from the boundary with clear glazing (no privacy treatment).

As noted above, the proposal has been amended to relocate all of the common open space to the front of the roof level. The area equates to a 28.8sqm area, it is set back 5.2m from the western boundary and 4.4m from the eastern boundary with a planter bed provided around the periphery of the space to the front and side. A full height solid wall is proposed along part of the western edge of the open space and a 1.65m high balustrade with obscure glazing is proposed along the eastern and western edge of the planter bed. While the amended proposal helps reduce concerns relating to visual privacy to neighbouring residents issues regarding the use of the space and acoustic privacy remain outstanding. Refer to discussion under Clause D3 (Noise).

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

Comment:

Due to insufficient side setbacks the siting and design with windows between 1.9m and 3.6m from side boundaries fails to provide a high level of visual and acoustic privacy for occupants and neighbours. The obscure glazing to some of the side windows is not considered to be an appropriate means of protecting privacy as it will reduce the internal amenity of the proposed units in terms of access to natural light and cross ventilation. The effective location of windows with appropriate building separation is preferred to avoid overlooking is preferred to such screening devices (refer to requirement 3 of the control as detailed above).

The windows in the central block do not have any privacy treatment and windows to L101, L201 and L203 are positioned approximately 6.4m to a window to the entrance lobby / kitchen and 7m at an oblique angle to a bedroom window within No. 65 Pacific Parade. Only one bedroom window on the eastern elevation of No. 65 Pacific Parade (level 2) has a privacy screen attached.

The location of the common open space 5.2m from the western boundary and 4.4m from the eastern boundary cannot be supported as insufficient information has been submitted to by way of an amended acoustic report to consider the acoustic impacts on the existing balconies to the units within No. 65 Pacific Parade. It is noted that the original acoustic report did not make an assessment of impacts to the top floor balcony to unit 9, No. 65 Pacific Parade and the Plan of Management restricts access to the roof terrace to between five (5) and nine (9) residents after 6pm.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

Due to the over-development of the site the design will not improve the urban environment and is inconsistent with the objectives relating to acoustic and visual privacy.

- *To provide personal and property security for occupants and visitors.*

Comment:

The Plan of Management is incomplete and therefore there is insufficient information to satisfy this objective.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D9 Building Bulk

Clause D9 requires

1. *Side and rear setbacks are to be progressively increased as wall height increases.*
2. *Large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief.*
3. *On sloping land, the height and bulk of development (particularly on the downhill side) is to be minimised, and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope. In particular:
The amount of fill is not to exceed one metre in depth.
Fill is not to spread beyond the footprint of the building.
Excavation of the landform is to be minimised.*
4. *Building height and scale needs to relate to topography and site conditions.*
5. *Orientate development to address the street.*
6. *Use colour, materials and surface treatment to reduce building bulk.*
7. *Landscape plantings are to be provided to reduce the visual bulk of new building and works.*
8. *Articulate walls to reduce building mass.*

The proposal is inconsistent with the requirements of clause D9 which require excavation to be minimised. The proposal also fails to reduce the bulk and massing by stepping down the slope, it lacks articulation and sufficient side set backs to allow for landscaping to reduce the visual bulk.

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To encourage good design and innovative architecture to improve the urban environment.*

Comment:

The proposal is assessed as over-development and fails to respond to the context or improve the urban environment.

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

There is no increased in the side setbacks as the wall height increases and the proposal results in large areas of continuous wall planes with little visual relief or articulation especially along the eastern elevation. The bulk and scale of the development is excessive and the building presents as a three storey development to the street with minimal articulation or reference to the light weight treatment of the surrounding residential flat buildings.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D20 Safety and Security

Merit consideration

A Plan of Management (POM) has been received which is incomplete and does not provide sufficient details for the management of the boarding house with particular reference to managing acoustic impacts associated with the roof top common open space. Concern has been raised from neighbours in respect of security and safety issues. These issues are generally unfounded and the proposal allows for casual surveillance.

the development is considered against the underlying Objectives of the Control as follows:

- *To ensure that development maintains and enhances the security and safety of the community.*

Comment:

While there is no specific safety and security issue with the regard to the boarding house, the POM is incomplete and insufficient to ensure the boarding house is managed appropriately to address amenity issues with neighbouring properties and road safety issues with regard to the use of the car stacker.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D22 Conservation of Energy and Water

Clause D22 requires

1. *The orientation, layout and landscaping of sites is to make the best use of natural ventilation, daylight and solar energy.*
2. *Site layout and structures are to allow for reasonable solar access for the purposes of water heating and electricity generation and maintain reasonable solar access to adjoining properties.*
3. *Buildings are to be designed to minimize energy and water consumption.*
4. *Landscape design is to assist in the conservation of energy and water.*
5. *Reuse of stormwater for on-site irrigation and domestic use is to be encouraged, subject to*

consideration of public health risks.

6. All development must comply with Council's Water Management Policy.

Comment

The front (northern) and rear (southern) units have obscure glazing to the side windows which will have the effect of compromising the internal amenity of the units with respect to access to daylight. The orientation and layout of the development means that the central boarding rooms to all three (3) block, nine (9) units in total, rely on access to daylight and natural ventilation via one window. The western and southern ground level areas of private open space will be cast in shadow.

The proposal is inconsistent with clause D1 which requires 50% of the site to be landscaped open space which will have the effect of limiting the option for on natural site irrigation.

E10 Landslip Risk

The proposal requires excavation to a maximum depth of 9.9m with excavation occurring generally 2m from the side boundaries and 0.8m, in part, to the west. As discussed under Clause 6.2 (Earthworks) of the WLEP insufficient geotechnical information has been submitted to ensure that the earthworks will not impact on the amenity or stability of adjoining properties, drainage patterns and soils stability and the consent authority cannot therefore grant consent to the development.

Merit consideration:

Insufficient geotechnical testing has been carried out to ensure that the underlying Objectives of the Control are met. Refer to discussion under Clause 6.2 of the WLEP. The objectives are as follows:

- *To ensure development is geotechnically stable.*
- *To ensure good engineering practice.*
- *To ensure there is no adverse impact on existing subsurface flow conditions.*
- *To ensure there is no adverse impact resulting from stormwater discharge.*

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$45,061 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$4,506,088.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the objectives of the DCP
- Inconsistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- Inconsistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

In summary, a detailed assessment has been required for the following specific issues:

Character of the area

Due to insufficient side setbacks and articulation the development is not compatible with the surrounding landscape or built form character contrary to the provisions of the SEPP (ARH).

Bulk, scale and massing

The proposal represents over-development of the site and is inconsistent with the built form controls of the WDCP. The bulk, scale and massing insufficient side setbacks and landscape open space and excessive excavation fails to respond appropriately the context of the site.

Amenity

The proposal provides an inadequate level of amenity for future residents in terms of solar access, cross ventilation, access to natural light and acoustic and visual privacy. Insufficient information has been submitted to confirm that the roof top common open space can be accessed by all residents after

6pm.

The proposal will have unreasonable amenity impacts on neighbouring residents in terms of solar access and visual privacy. Insufficient information has been submitted to confirm that the proposal will not result in unreasonable impacts on acoustic privacy.

Traffic and Road Safety

Insufficient information has been submitted to address management and operational issues with regards to 100% reliance on car stackers for the boarding house use.

Excavation

The geotechnical assessment is incomplete and inconclusive and the excessive excavation close to the boundaries can not be supported.

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council, as the consent authority REFUSE Development Consent to Development Application No DA2020/1597 for the Demolition works and construction of a boarding house development on land at Lot 25 DP 7002,67 Pacific Parade, DEE WHY, for the reasons outlined as follows:

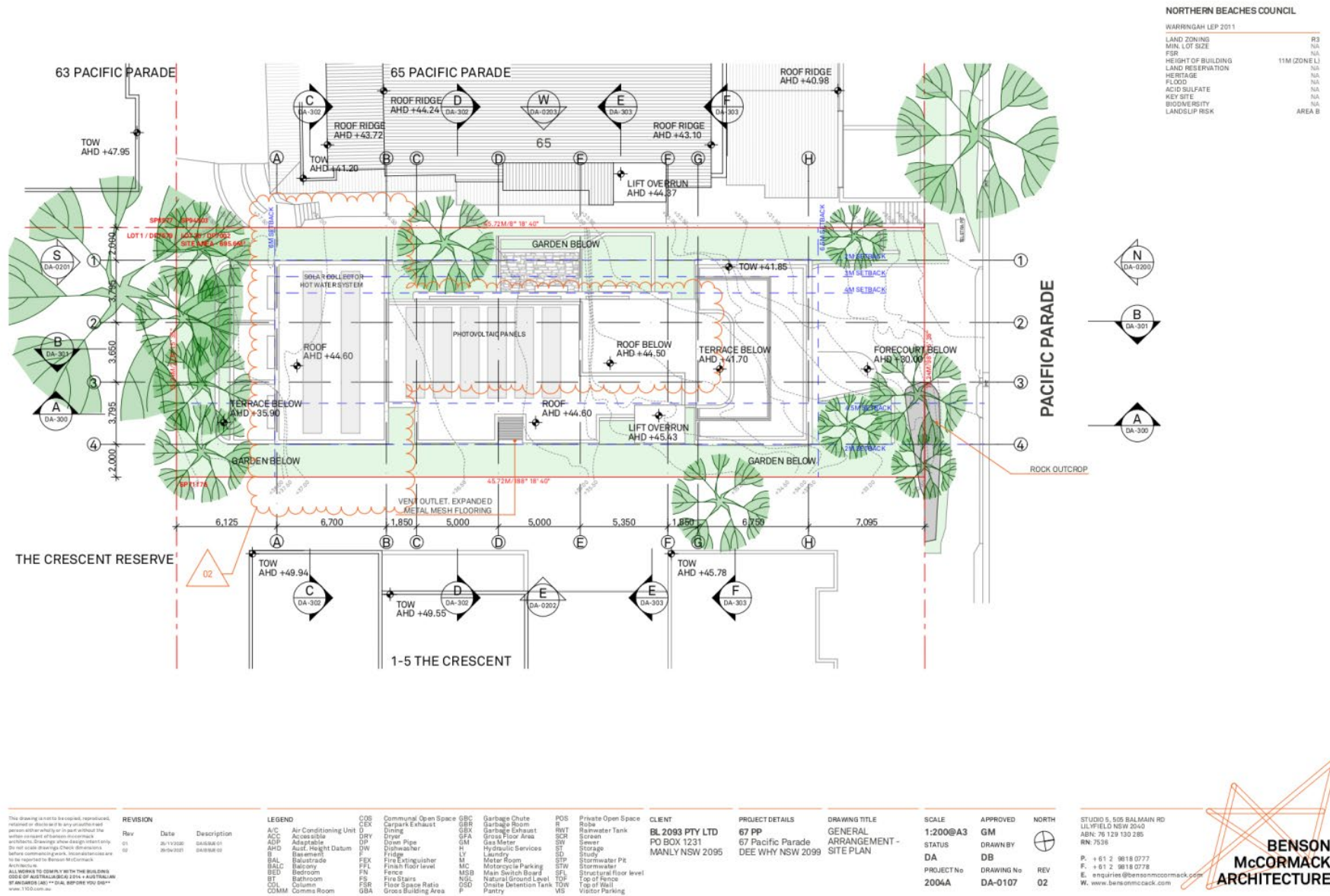
1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the aims and requirements of SEPP (Affordable Rental Housing) (ARH) 2009, in terms of the following:
 - Insufficient information has been submitted to satisfy Clause 29(c) which required a minimum solar access to the common living room.
 - Insufficient information has been submitted to satisfy Clause 29(d) which requires at least 20sqm of private open space to be used by lodgers. Insufficient information has been submitted to confirm that the common open space at roof level will be available to all lodgers as required under the SEPP (ARH).
 - The proposal is inconsistent with Clause 29(e)(iia) which required a total of fourteen (14) car parking spaces. Thirteen (13) car parking spaces have been provided, twelve (12) of which rely on car stackers.
 - The proposal is inconsistent with Clause 30A (Character of the local area) as the development does not provide sufficient side set backs or articulated facades.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Warringah Local Environmental Plan 2011.
3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the following objectives of Zone R3 Medium Density Residential of the Warringah Local Environmental Plan 2011. Objective 4 which requires low density residential environments to be characterised by landscaped settings that are in harmony with the natural environment of Warringah. Objective 5 which requires medium density residential environments are of a high visual quality in their presentation to public streets and spaces.
4. Pursuant to Clause 6.2 (3) (Earthworks) and Clause 6.4 (Development on sloping land) of the Warringah LEP the consent authority cannot grant development consent for the earthworks as insufficient information has been submitted to confirm that the earthworks will not impact on adjoining properties, drainage patterns and soil stability.

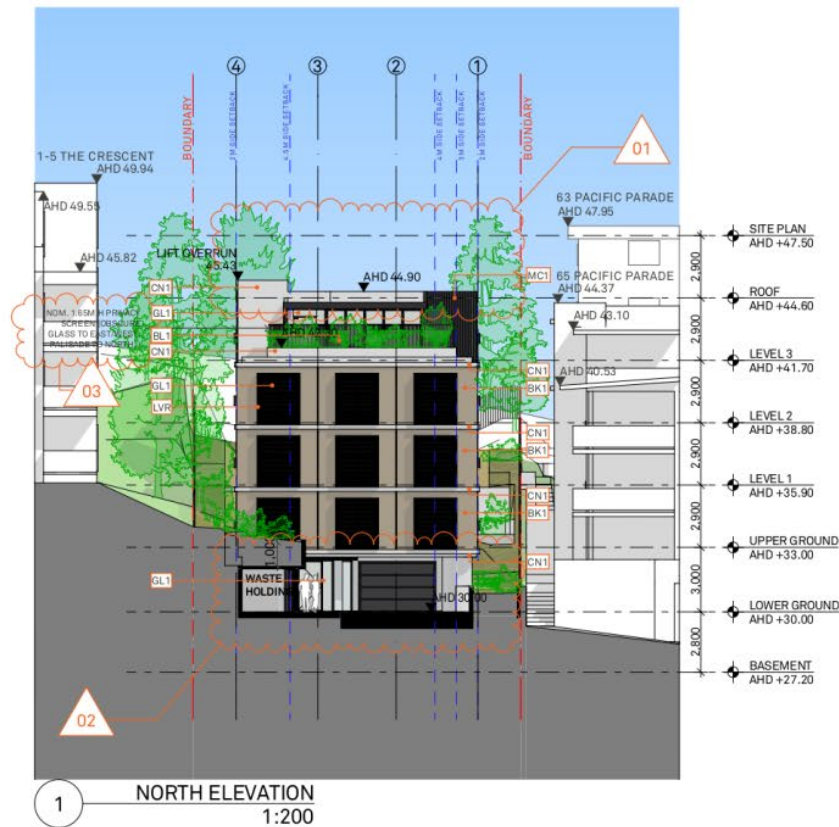
In addition, the proposal is inconsistent with Clause E22 Landslip Risk of the WDCP as insufficient information has been provided to ensure the development is geotechnical stable and will not impact on subsurface water flow and stormwater discharge.

5. The proposed development is inconsistent with the objectives at cl.A.5 (Objectives) of WDCP as it does not:
 - i. Respond to the characteristics of the site and the qualities of the surrounding neighbourhood,
 - or

- ii. Create a unified landscape, contribute to the street and create an attractive design outcome.
6. The proposal represents over development and is inconsistent with the requirements and objectives of the following Clauses of the Warringah DCP 2011:
- **Clause B1 Wall Heights.** The breach of the wall height contributes to visual impacts associated with the excessive bulk and mass of the development when viewed from adjoining properties. The excessive wall height also contributes to unreasonable amenity impacts on neighbouring properties in terms of solar access.
 - **Clause B2 Number of Storeys.** The four storey development presents a building which is visually dominate in the streetscape and as viewed from neighbouring properties. The front facade lacks sufficient articulation to reduce the visual bulk of the four storey frontage and is inconsistent with the predominate character of other residential developments in the area.
 - **Clause B3 Side Boundary Envelope.** Due to insufficient side setbacks the proposal breaches the side building envelope and is visually dominant by virtue of bulk and scale which is out of character with the area.
 - **Clause B5 Side Boundary Setbacks.** The development is set back 2m from the east and west side boundaries which reduces opportunities for deep soil landscape areas to the side that would allow for planting to reduce the bulk and scale of the development and provide for external amenity for future residents. Due to insufficient side setbacks the proposal will result in unreasonable level of amenity to future residents in terms of privacy and solar access.
 - **Clause C3 Parking Facilities** The proposal does not meet the numerical car parking requirements specified in the SEPP (ARH). Insufficient information has been submitted to address issues in relation to the operation and management of the car stackers.
 - **Clause D1 Landscaped Open Space and Bushland Setting.** The proposal fails to provide space on site to enable sufficient planting to mitigate the bulk and scale of the building along the side boundaries. There is no outdoor recreational opportunities provided at ground level. The development relies on the roof top common open space, however, access to the space will be restricted and not available to all residents. The amenity for the future residents in terms of access to open space is therefore assessed as inadequate.
 - **Clause D3 Noise** The proposal has the potential to result in unreasonable acoustic impacts to surrounding neighbours. Insufficient information in the form of a revised Acoustic Report and Plan of Management have been submitted to assess impacts.
 - **Clause D6 Access to Sunlight.** The proposal will result in unreasonable impacts upon the amenity of the surrounding neighbours and poor amenity for future occupants in terms of access to sunlight.
 - **Clause D8 Privacy.** The siting of the development will have unreasonable impacts on the visual and acoustic privacy for occupants and neighbours.
 - **Clause D9 Building Bulk.** The proposed development will result in overdevelopment due to its excessive bulk and scale and non-compliance with the built form controls including side setbacks, wall heights and side boundary envelope.

- **Clause D22 Conservation of Energy and Water.** There is inadequate planning to address cross ventilation and solar access to the majority of rooms given that the side windows have obscure glazing and rooms in the centre of each block have only one window.
7. Pursuant to Section 4.15 (1) (e) of the Environmental Planning and Assessment Act 1979 the proposal is not in the public interest.





FINISHES LEGEND:

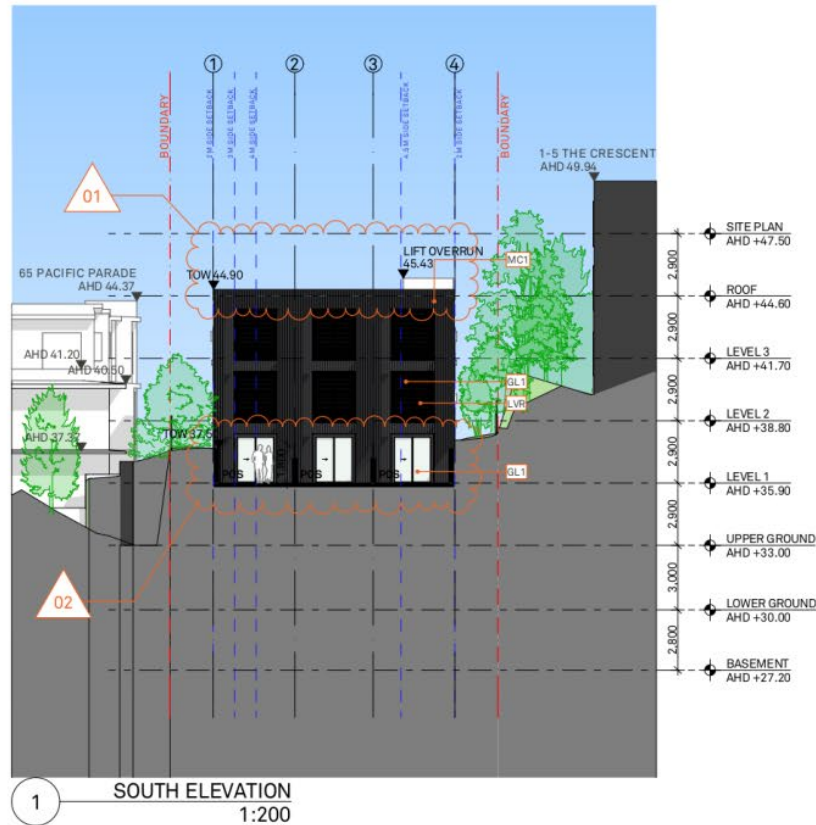
CN1 - OFF FORM CONCRETE NATURAL LIGHT COLOUR
 BK1 - BRICK VENEER - LIGHT BEIGE COLOUR
 MC1 - ANODISED ALUMINIUM CLADDING - DARK COLOUR
 LVR - ANODISED ALUMINIUM BLINDS - DARK COLOUR
 STN - STONE CLADDING SAND STONE
 GL1 - POWDERCOATED ALUM. FRAME & CLEAR GLAZING
 GL2 - POWDERCOATED ALUM. FRAME & OBSCURE GLAZING
 BL1 - BALUSTRADE: OBSCURE GLASS TO EAST/WEST; PALISADE TO NORTH



SUMMARY OF CHANGES

- 01 DELETE LOFT BEDROOMS; REPLACE TYPE E ROOM WITH TYPE B
- 02 REPLACE GARBAGE STORE WITH HOLDING AREA; WIDEN DRIVEWAY; REDUCE GARAGE DOOR WIDTH; INCREASE LANDSCAPED AREA AT THE NW BOUNDARY; INCREASE SOIL DEPTH ABOVE WASTE ROOMS.
- 03 PRIVACY SCREEN TO COMMUNAL OPEN SPACE

REVISION			LEGEND	
Rev	Date	Description	A/C	COMM
01	26/11/2020	04/08/2021	ACC	ADP
02	26/11/2021	04/08/2021	ADP	ADP
<p> A/C - Air Conditioning Unit ACC - Accessible ADP - Adaptable AHD - Aust. Height Datum S - Balustrade BAL - Balcony BED - Bedroom COL - Column COMM - Comm. Room COS - Communal Open Space CEX - Carpark Exhaust DRY - Dryer DP - Down Pipe DW - Dishwasher FEX - Fire Extinguisher FFL - Finish floor level PN - Fence PS - Fire Stairs FSR - Floor Space Ratio GBA - Gross Building Area GBC - Garbage Chute GBR - Garbage Room GEX - Garbage Exhaust GFA - Gross Floor Area GM - Gas Meter H - Hydrant LVR - Laundry M - Motor Room MC - Motorcycle Parking MSB - Main Switch Board NGL - Natural Ground Level OSD - On-site Detention Tank P - Pantry POS - Private Open Space R - Roofs RWT - Rainwater Tank SCR - Screen SW - Sewer ST - Storage SD - Study STW - Stormwater P.E. SFL - Structural floor level TOP - Top of Wall VTP - Visitor Parking </p>				



FINISHES LEGEND:

ON1 - OFF FORM CONCRETE NATURAL LIGHT COLOUR
BK1 - BRICK VENEER - LIGHT BEIGE COLOUR
MC1 - ANODISED ALUMINIUM CLADDING - DARK COLOUR
LVR - ANODISED ALUMINIUM BLINDS - DARK COLOUR
STN - STONE CLADDING SAND STONE
GL1 - POWDERCOATED ALUM. FRAME & CLEAR GLAZING
GL2 - POWDERCOATED ALUM. FRAME & OBSCURE GLAZING
BL1 - BALUSTRADE: OBSCURE GLASS TO EAST/WEST; PALISADE TO NORTH



SUMMARY OF CHANGES

- 01 DELETE LOFT BEDROOMS; REPLACE TYPE E ROOM WITH TYPE B
- 02 REPLACE COMMON ROOM AND COMMUNAL OPEN SPACE WITH 3x ROOMS AND PRIVATE OPEN SPACE

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REVISION	Rev	Date	Description
	01	26/11/2020	04/08/2021
	02	26/11/2021	04/08/2021

LEGEND	LEGEND	LEGEND	LEGEND
A/C Air Conditioning Unit	CCX Carpark Exhaust	GBC Garbage Chute	POS Private Open Space
ACC Accessible	DYR Dryer	GBR Garbage Room	R
ADP Adaptable	DP Down Pipe	GEX Garbage Exhaust	RMT Rainwater Tank
AHD Aust. Height Datum	DW Dishwasher	GFA Gross Floor Area	SCR Screen
B Balustrade	FEX Fire Extinguisher	GM Gas Meter	ST Storage
BALC Balcony	FFL Finish Floor level	LY Laundry	STP Stormwater P.T.
BED Bedroom	PN Fence	M Master Room	STW Stormwater
BT Bathroom	PS Fire Stairs	MC Motorcycle Parking	SFL Structural Floor level
COL Column	FSR Floor Space Ratio	MSB Main Switch Board	TOP Top of Fence
COMM Comm. Room	GBA Gross Building Area	NSL Natural Ground Level	TOW Top of Wall
		OSD On-site Detention Tank	VP Visitor Parking
		P Pantry	

CLIENT
BL 2093 PTY LTD
PO BOX 1231
MANLY NSW 2095

PROJECT DETAILS
67 PP
67 Pacific Parade
DEE WHY NSW 2099

DRAWING TITLE
**ELEVATIONS - SOUTH
ELEVATION**

SCALE
1:200@A3

APPROVED
GM

NORTH

STATUS
DA

DRAWN BY
DB

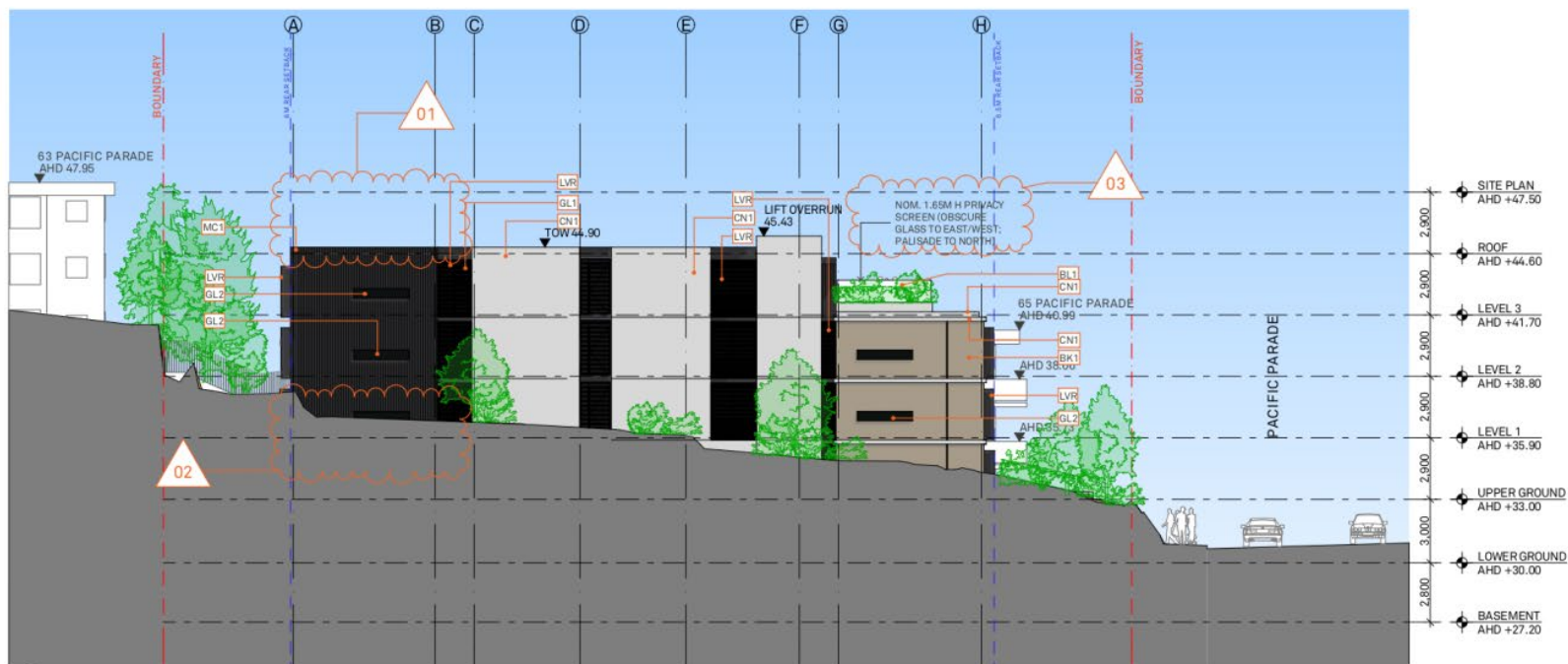
PROJECT No
2004A

DRAWING No
DA-0201

REV
02

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1 EAST ELEVATION
1:200



2 3D VIEW - EAST ELEVATION

SUMMARY OF CHANGES

- 01 DELETE LOFT BEDROOMS; REPLACE TYPE E ROOM WITH TYPE B
- 02 REPLACE COMMON ROOM AND COMMUNAL OPEN SPACE WITH 3x ROOMS AND PRIVATE OPEN SPACE
- 03 REDUCE AREA OF COMMUNAL OPEN SPACE; PRIVACY SCREEN TO COMMUNAL OPEN SPACE

FINISHES LEGEND:

CN1 - OFF FORM CONCRETE NATURAL LIGHT COLOUR
BK1 - BRICK VENEER - LIGHT BEIGE COLOUR
MC1 - ANODISED ALUMINIUM CLADDING - DARK COLOUR
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BL1 - BALUSTRADE: OBSCURE GLASS TO EAST/WEST; PALISADE TO NORTH

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ALL WORKS TO COMPLY WITH THE BUILDING CODE OF AUSTRALASIA 2011 + AUSTRALIAN SPANDED LAM. + FAL. BEFORE YOU SIGN

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REV	DATE	DESCRIPTION
01	26/11/2020	04/08/2021
02	26/06/2021	04/08/2021

LEGEND	DESCRIPTION
A/C	Air Conditioning Unit
ADP	Adaptable
AHD	Asst. Height Datum
B	Basement
BAL	Balustrade
BALC	Balcony
BED	Bedroom
BTH	Bathroom
COL	Column
COMM	Commons Room

COS	Communal Open Space
CEX	Carpark Exhaust
D	Dining
DP	Down Pipe
DW	Dishwasher
FEF	Fire Extinguisher
FFL	Finish floor level
FN	Fence
FS	Fire Stairs
FBR	Floor Space Ratio
GBA	Gross Building Area

GBC	Garbage Chute
GBR	Garbage Room
GEX	Garbage Exhaust
GFA	Gross Floor Area
GM	Gas Meter
H	Hydraulic Services
LY	Laundry
M	Master Room
MC	Motorcycle Parking
MSB	Main Switch Board
NGL	Natural Ground Level
OSD	On-site Detention Tank
P	Pantry

POS	Private Open Space
R	Rainwater Tank
RWT	Rainwater Tank
SCR	Sewer
SW	Sewer
ST	Storage
STP	Stormwater Pit
STW	Stormwater
SFL	Structural floor level
TOP	Top of Fence
TOP	Top of Wall
VP	Visitor Parking

CLIENT
BL 2093 PTY LTD
PO BOX 1231
MANLY NSW 2095

PROJECT DETAILS
67 PP
67 Pacific Parade
DEE WHY NSW 2099

DRAWING TITLE
ELEVATION - EAST
ELEVATION

SCALE	1:200@A3
STATUS	GM
DA	DB
PROJECT No	2004A
DRAWING No	DA-0202
REV	02

APPROVED
NORTH

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3D VIEW - WEST ELEVATION

SUMMARY OF CHANGES

- 01** DELETE LOFT BEDROOMS; REPLACE TYPE E ROOM WITH TYPE B; REMOVE 2x ROOMS IN FAVOUR OF ENLARGED COMMON ROOM AND COMMUNAL OPEN SPACE
- 02** REMOVE BASEMENT FLOOR, LOWER LEVEL COMMON ROOM (LWR GRD); INSTALL CAR STACKERS
- 03** REDUCE AREA OF COMMUNAL OPEN SPACE; PRIVACY SCREEN TO COMMUNAL OPEN SPACE

FINISHES LEGEND:

CN1 - OFF FORM CONCRETE NATURAL LIGHT COLOUR
BK1 - BRICK VENEER - LIGHT BEIGE COLOUR
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GL2 - POWDERCOATED ALUM. FRAME & OBSCURE GLAZING
BL1 - BALUSTRADE: OBSCURE GLASS TO EAST/WEST; PALISADE TO NORTH

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Design + Sustainability Advisory Panel Meeting 25 March 2021

4.4 DA2020/1597 – 67 Pacific Parade Dee Why

PANEL COMMENT AND RECOMMENDATIONS

General

Demolition of existing dwelling and construction of a part 3 / 4 storey 26 room boarding house with basement parking for 13 cars.

The site is rectangular in shape having a combined frontage of 15.3 metres, a depth of 45.8 metres and a total area of 695.6².

It should be noted both the applicant and architect declined to present this project due to legal advice. The applicant joined the meeting for the preliminary briefing however excused himself for the discussions and recommendations which followed.

Strategic context

The site is zoned Medium Density Residential R3 under the provisions of Warringah Local Environmental Plan 2011 and the proposed development is permissible with consent.

Urban context: surrounding area character

Adjoining development is characterised by three and four storey Residential Flat Building (RFB) with older brick and tiled hipped roof RFBs interspersed with more recent cement rendered flat roof developments including the development to the immediate west at No. 65 Pacific Parade (DA2015/1164) and to the east at 1-5 The Crescent. With the exception of No. 65 Pacific Parade, the RFBs within the vicinity of the site are generally set back from the street in landscape settings.

Scale, built form and articulation

The building does not comply with the required 4.5m setbacks. This creates significant amenity and privacy and sunlight issues with both the subject site and the adjoining RFB's. The long blank wall to the property at 1-5 The Crescent results in a very poor outcome for the residents of this building.

Recommendations

1. Provide compliant setbacks in addition to orienting the units to face into the site so they do not borrow the amenity from the adjoining sites;
2. Use these setbacks to provide deep soil planting which will provide a landscaped setting to the building and provide privacy and outlook to both the adjoining and subject sites.

Landscape area and carparking

The project is in a site which has the opportunity to provide a building with a good landscape setting. There is insufficient landscaping to the front of the building due to the façade treatment, services and car parking. This is a poor streetscape outcome.

**Recommendations**

3. Re design the streetscape to provide significant landscaping to soften the proposal.
4. Provide sufficient landscaping to the side setbacks as mentioned previously;
5. The complicated car parking solution which require two ramps on the street should be redesigned to reduce the impact of the parking on the street. Alternatives such as car lifts could be incorporated to improve the streetscape of the building.

Façade treatment

The façade treatment to the street is very monotonous and does not relate to the context in any way.

Recommendation

6. Consider redesigning the front façade to provide more visual interest and a contextually appropriate response to the site.

Amenity

Due to the siting of the building longitudinally into the site and the orientation of the units to the boundary the amenity of the west facing units are poor.

The double story common room to the rear of the site suffers from poor amenity and should be relocated.

Recommendation

7. The west facing units should be designed out of the project with units facing either the street or into the site with adequate separation distances provided.

PANEL CONCLUSION

The Panel does not support the proposal in the current form and considers it to be an overdevelopment of the site. A reduction in boarding house rooms and scale of the project is recommended to improve the amenity within the site and reduce the impacts on the Adjoining RFB's. The project has a number of other adverse impacts such as the streetscape treatment and façade compositions and these aspects should be considerably improved with the redesign of the project.

ITEM 3.2**DA2021/0166 - 532 PITTWATER ROAD, MANLY -
DEMOLITION WORKS AND CONSTRUCTION OF A
BOARDING HOUSE****AUTHORISING MANAGER** Anna Williams**TRIM FILE REF** 2021/410240**ATTACHMENTS**
1 Assessment Report
2 Site Plan & Elevations
3 Design & Sustainability Advisory Panel Report

Click or tap here to enter text

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is the subject of 10 or more unique submissions by way of objection.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2021/0166 for demolition works and construction of a Boarding House at Lot 40 DP 7027, 532 Pittwater Road, Dee Why subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0166
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Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot 40 DP 7027, 532 Pittwater Road NORTH MANLY NSW 2100
Proposed Development:	Demolition works and construction of a Boarding House pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Ali Mehfooz
Applicant:	Ali Mehfooz

Application Lodged:	11/03/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Other
Notified:	24/03/2021 to 14/04/2021
Advertised:	Not Advertised
Submissions Received:	19
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 900,000.00
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Executive Summary

The proposal is for a Boarding House with 10 lodger rooms (including a managers room) and is referred to the *Northern Beaches Local Planning Panel* for determination as the development application received more than 10 submissions. The proposal has been lodged pursuant to *SEPP (Affordable Rental Housing) 2009* and except for some minor elements the design satisfies the SEPP controls. The non-compliances with the SEPP are recommended to be addressed by conditions as they relate to minor elements of balcony width and manager accommodation.

The proposal includes a minor non-compliance with the side boundary envelope, front boundary

setback and wall height built form controls of the *Warringah Development Control Plan 2011*, but on merit consideration the variations are supported. With regard to issues raised within public submissions the principle concerns relate to the type of occupancy, existing urban character, privacy (visual & acoustic), traffic, parking, operational management and location / setting. Subject to conditions, the proposal addresses the submission issues and satisfies internal referral requirements of Council; including conditions relating to waste services, stormwater management, landscaping, traffic safety and building accessibility.

The design of the proposal is supported for approval as it is considered to satisfy the relevant planning controls, including the 'character test' in terms of the low density residential environment and maintaining a landscape setting within detached style housing development that is suitable for the location along Pittwater Road.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks development consent for the construction of a part two/part three-storey Boarding House, (pursuant to SEPP (Affordable Rental Housing) 2009), containing 10 boarding rooms (including one accessible room) configured as:

- **Ground Floor** - Level RL5.4 to RL7.0 - Car parking for 5 cars and 4 motorcycles, bicycle storage (8 bikes), stair access, driveway, communal room and outdoor area, services / storage room, bin enclosure, accessible boarding room (1).
- **First Floor Level** – RL7.85 to RL8.75 - Nine (9) lodger rooms with internal bathroom and kitchenettes, balcony / walkway access, balcony / terraces, storage and stair access.
- **Loft Level** – RL10.8 to RL11.85 - Loft areas containing bedrooms, storage and living space as the upper level to each boarding room.
(Note: Unit L10 is not a true "loft" design due to its square brick tower building shape).
- **Roof Level** – RL13.7 to RL14.4 Roof ridge.

Ancillary site works include:

- Demolition of existing structures, excavation, site preparation and ancillary site works.
- Driveway and front entry structure with bin storage / letter box's and landscaping and fencing works.
- On-site detention drainage system and connection works to drain stormwater (north) to Pittwater Road system.
- Footpath access connection works.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;

- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B1 Wall Heights
Warringah Development Control Plan - B3 Side Boundary Envelope
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - D8 Privacy
Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot 40 DP 7027 , 532 Pittwater Road NORTH MANLY NSW 2100
Detailed Site Description:	<p>The site is located on the eastern side of Pittwater Road at the intersection between Hope Street and Corrie Road. The site has a total area of 789.7 square metres (sqm) with a frontage of 15.2 metres (m) and a depth of 51.8m. The site is rectangular in shape and with a fall of some 3.5 metres from north (rear) toward Pittwater Road.</p> <p>Vehicular access to the site is from Pittwater Road which has a concrete pedestrian path link to Warringah Mall / Brookvale (700m north). The site has not been identified as a heritage item, and is not in a heritage conservation area, nor in proximity to a heritage item or heritage conservation area.</p> <p>A mixture of single and two storey dwellings are generally the predominant land use in the area near the site (within 100m) and the Warringah Golf Course is opposite the site. Detached dwelling houses adjoin the site to the west and north. A child care facility adjoins the site on the eastern boundary. Other land uses in the vicinity of the site (within 200m) include a service station / carwash and sports facilities.</p> <p>The existing site is currently occupied by a dwelling house with parking facilities and domestic outbuildings.</p>

Map:



SITE HISTORY

The site currently contains a dwelling house constructed pre-1970's and an outbuilding in a landscaped setting.

Development Application No.DA2020/0512 for a 12 room Boarding House was withdrawn by the applicant on 11.9.2020

Pre-lodgement Meeting (No.PLM2020/0294) for the construction of a 12 room Boarding House was reviewed Council's *Design and Sustainability Review Panel* on 17.12.2020.

Design & Sustainability Review

The current proposal was reviewed for by Council's *Design & Sustainability Advisory Panel* (DSAP) on 22.4.2021. The DSAP made the following conclusion in reviewing the development:

"The Panel is in general very supportive of the proposal and the overall approach to the site planning and building massing, however the Panel does not support the Proposal in its current form due to the range of issues identified. The recommended amendments to the design are relatively minor and should be incorporated in any revision to the design."

The applicant provided amended plans to Council on 28.5.2021 and relevant internal referrals were also reviewed. The applicant provided the following summary of the changes made:

"We welcome the comments from the Panel. They are all minor changes to our plans. Aside from a couple of recommendations, which we have carefully considered and given a better alternative / explanation, we have amended our application to align with panel recommendations."

Planning Comment

The changes made are considered satisfactory to address the DSAP advice. this includes better design details to address amenity outcomes for surrounding land and future occupants of the building. Minor amendments to the plans include building design considerations, water management, landscaping quality, waste management and livability considerations (natural light / ventilation / private open space) within the Boarding House. The proposal remains consistent with SEPP ARH and the Warringah LEP / DCP controls as detailed within this report.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report. Including, <i>State Environmental Planning Policy (Affordable Rental Housing) 2009 ("SEPP ARH")</i> and <i>Warringah Local Environmental Plan 2011 (WLEP 2011)</i>
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	<p>During the period of assessment a draft amendments to SEPP ARH were gazetted (the 2018 and 2019 the relevant amendments in particular, are referred to as "parking for boarding houses", and "Boarding House Development" in the SEPP).</p> <p>Provisions of any draft environmental planning instrument <i>Draft State Environmental Planning Policy (Remediation of Land)</i> seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.</p>
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan (DCP) 2011 applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p>Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters may be appropriately addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000. Council requested additional information which has been considered the number of days taken in this assessment in light of this clause within the Regulations. The additional information requested relates to minor changes to the plans to include design issues recommended by Council's DSAP. The changes made did not alter the setbacks, principal layout and any primary elements and could otherwise be achieved by conditions. Therefore plans changes and supplementary information does not warrant additional notification pursuant to the <i>Community Participation Plan</i>. The revisions to the plans remain accessible for public viewing online during the assessment and are considered in context of any submissions and any general enquiries regarding the application.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. These matters</p>

Section 4.15 Matters for Consideration'	Comments
	<p>may be appropriately addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). These matters may be appropriately addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. These matters may be appropriately addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). These matters may be appropriately addressed via a condition of consent.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the <i>Warringah Development Control Plan (DCP)</i> section in this report. In summary, the proposal is considered to be consistent with the <i>State Environmental Planning Policy (SEPP) for Affordable Rental Housing (ARH) 2009</i> and the <i>Warringah DCP 2011</i>.</p> <p>Details are provided within the relevant sections of this assessment report and summarised in the Conclusion.</p> <p>(ii) Social Impact Subject to conditions and the effective implementation of an Operational Plan of Management (OPM), the proposed development will not have a detrimental social impact in the locality.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the proposed residential land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the type of land use proposed.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on "Notification & Submissions Received" in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>This assessment has found the proposal to be consistent with the relevant provisions of the Warringah LEP 2011 and Warringah DCP 2011, particularly in relation to setbacks, building bulk, landscaping and privacy considerations, noting that in the event of any inconsistency, the State Policy for ARH prevails and overrides the local planning controls.</p>

Section 4.15 Matters for Consideration'	Comments
	<p>The proposal is consistent with the provisions of SEPP ARH in relation to local character and will not create an undesirable precedent for housing or undermine the achievement of the desired future character of the area.</p> <p>In this regard, the development, as proposed, is considered to be in the public interest as the issues raised in submissions have been addressed by the design response (including supporting documents such as the Operational Management Plan) and satisfying relevant considerations addressed by conditions.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 24/03/2021 to 14/04/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 19 submission/s from:

Name:	Address:
Ms Krystal Anne Barter	580 Pittwater Road NORTH MANLY NSW 2100
Mr Randall Edwyn Lumbewe	9 Hope Avenue NORTH MANLY NSW 2100
Lesley Ann Crawford	534 Pittwater Road NORTH MANLY NSW 2100
Peter Rankin	4 A Hope Avenue NORTH MANLY NSW 2100
Mrs Kimberley Michelle Rankin	4 A Hope Avenue NORTH MANLY NSW 2100
Mr Jayson Dean McDonald	5 Kulgoa Road PYMBLE NSW 2073
Mr Anthony Michael May	3 Hope Avenue NORTH MANLY NSW 2100
Gareth Lee Butler	16 A Hope Avenue NORTH MANLY NSW 2100
Ms Ava Thyrza Shirley	37 Bank Street NORTH SYDNEY NSW 2060
Mr Michael Charles Popplewell	536 Pittwater Road NORTH MANLY NSW 2100
Isobel Minack	Address Unknown
Mr Geoffrey Wayne Dunstan	5 Hope Avenue NORTH MANLY NSW 2100
Mrs Karen Annette Sonneman	544 Pittwater Road NORTH MANLY NSW 2100
Mrs Judith Mary Ann Nicholson	524 Pittwater Road NORTH MANLY NSW 2100

Name:	Address:
Mr Jurgen Ernst Heinrich Schmechel	7 Hope Avenue NORTH MANLY NSW 2100
Mrs Stephanie Bury	23 Carrington Parade FRESHWATER NSW 2096
Mr Andrew Otto Kovacs Mrs Lucy Christine Flanagan	524 Pittwater Road NORTH MANLY NSW 2100
Samia Asim	Address Unknown
Playhouse Learning Centre	530 Pittwater Road NORTH MANLY NSW 2100

The following key issues were raised in the submissions:

- a) Traffic generation
- b) Lack of street parking
- c) Neighbourhood character
- d) Occupancy
- e) Housing design
- f) Development precedent
- g) Building bulk
- h) Inadequate landscaping
- i) Affordable Housing Rents
- j) Overshadowing
- k) Accessibility
- l) Existing dwelling use
- m) Safety
- n) Privacy

The matters raised within the submissions are addressed as follows:

a) Concern that the boarding house will contribute to increased local traffic for adjacent streets such as Pittwater Road and connecting local streets in terms of traffic and safety impacts, including clearways and car parking.

Comment:

The proposal has been assessed by Council's Traffic Engineer and Development Engineer in terms traffic safety, parking and driveway access, including local road conditions (such as Pittwater Road / Corrie Road / Hope Street). Detailed consideration of this issue includes review of the context of the present surroundings and assessment of the building design, consideration of the Parking and Traffic Assessment Report and supporting information provided with the development application. The proposal was also referred to *Transport NSW* (TNSW) and no comments or conditions were recommended regarding Pittwater Road from TNSW. In summary, the proposal provides a compliant number of carparking spaces required by SEPP ARH for 10 boarding rooms (including an accessible parking space, motorbike parking and bicycle racks). Council's Traffic Engineer and Development Engineer have assessed the vehicle access, traffic impact issues, driveway access and parking and have not raised any traffic concerns with the proposal that warrant refusal. Engineering conditions to address relevant traffic, access and parking considerations have been provided.

In summary, the proposal is a compatible residential land use for the R2 Low Density Residential zone and is permissible under the Warringah LEP 2011 and SEPP ARH. The site has convenient access to public transport and fronts a major road with convenient bus stop locations nearby and transport links to

local service centres. Therefore, the scale and intensity of the development will not cause an unreasonable impact on the surrounding road system. Appropriate conditions are applied to address traffic management during construction, vehicle access, safety and parking allocation.

Therefore, this issue has been addressed by the design response and does not warrant refusal of the application.

b) Concern that the proposal will create increased parking demand and loss of kerbside parking in the surrounding streets due to the intensity of use.

Comment:

The development will be provided with a carparking area within the ground floor level (semi-open undercroft area) and includes a compliant number of off-street parking spaces pursuant to SEPP ARH. The site is also located within 100m of a bus stop (southbound services) and signalised intersection (within 250m near Kentwell Road) for safe pedestrian crossing to a bus stop (for northbound services) on the opposite side of Pittwater Road. The proposal has been assessed by Council's Traffic Engineers in terms of potential parking impacts on the adjacent available street parking and is supported, subject to conditions. The proximity to the adjacent childcare centre business does not warrant refusal of the application as this site has its own parking allocation and uses short periods of pick-up drop, off whereas the boarding house is for residents that generally use overnight or short term casual parking (visitors) rather than daily 'peak' AM/PM times.

The proposal includes an appropriate provision of parking to comply with SEPP ARH requirements as detailed within this report. In this regard, the provision of car parking is a standard that cannot be used to refuse consent pursuant to clause 29 of the SEPP if the parking provisions are satisfied.

Therefore, this issue has been addressed by the design of the building (including provision for motorbike, bicycle and accessible parking) and does not warrant refusal of the application.

c) Concern that a boarding house of this scale that is not suitable because of the current Low Density neighbourhood surroundings for family homes and boarding houses should only be in more densely populated zones.

Comment:

The subject site for the proposed boarding house development is within the R2 Low Density Residential zone and Boarding Houses are "Permitted with Consent" in the R2 zone under the WLEP 2011. Boarding houses are also permissible in certain areas of the broader R2 zone under Clause 26 of the SEPP ARH and this site is within the criteria that permits the use on the subject site. There is no inconsistency between the SEPP and the WLEP in this case in terms of permissibility.

The proposal is limited to 10 boarding rooms including a manager's room and is therefore consistent with provisions of the SEPP ARH for low density residential areas, to ensure it is of a density that is compatible with the surrounding land use pattern of development. In consideration of this issue, the proposal is regarded as satisfactory in terms of its design response that is not 'jarring' or out of character with the urban setting, provides appropriate landscape setbacks, suitable external colours and materials, acceptable residential amenity and a visual impact that is consistent with various housing development the local surroundings.

Therefore, the proposal is a suitable and compatible residential use for the site and this issue is not considered to warrant refusal of the application.

d) Concern that the boarding house will be used for transient occupants in an area predominantly used for permanent family residences and the development may add to social issues, potentially

involving police and ambulance call outs, substance abuse, alcohol or smoking and the like, including domestic disturbances associated with the boarding house. This will be similar to the existing house occupants and the boarding house may create complaints.

Comment:

"Transient occupancy" is considered to be occupation of rooms for less than 3 months, as the definition of a boarding house includes a stipulation that it "*provides lodgers with a principal place of residence for 3 months or more*". In this case, the boarding house will require a minimum 3 month lease (*Occupancy Agreement*) and resident commitment in accordance with the requirements of the operational *Plan of Management* (OPM). The boarding house will also have a resident building manager to address issues that may breach the OPM or occupancy agreement that will enable the associated rental agreement to be terminated if warranted. This includes 'house rules' regarding alcohol, smoking and any activities that are not acceptable to the operator / owner of the boarding house, as per the OPM. The OPM for the boarding house include complaints management procedures, including recording and communication details to ensure that complaint are dealt with appropriately and quickly. The behaviour of existing tenants within the existing house that is to be demolished is not relevant to the proposal.

The issue of transient occupancy, including tenant management of social issues such as noise or undesirable tenant behaviour, and the like, is therefore addressed by the OPM and does not warrant refusal of the application.

e) Concern that the boarding houses in the local area are unsuited to the streetscape location and the proposal is inconsistent with the local character, including solar amenity and privacy impacts.

Comment:

Consideration in terms of the streetscape and the design presentation of the building with regard to density, scale and bulk have been addressed under the heading '*Local Character*' within this report. In summary, the building bulk, scale, setbacks and ratio of landscaping to building footprint are discussed in detail within this report. In terms of maintaining a landscaped front setback the minor non-compliance with the front setback is addressed under the heading *Part B7 Front Boundary Setbacks*. The proposed design has included recessed wall sections, gable roof forms, screens, modulated building sections, landscaped setbacks, a ground level common rooms\ and appropriate window placement to ensure no unreasonable impact on the amenity of the neighbourhood character and adjoining land. The proposal does not create an unreasonable overshadowing impact on the adjacent child care centre or unreasonable residential impacts toward adjacent dwellings.

Overall, an appropriate design response has been proposed to ensure the development is in keeping with the existing character of the area in terms of the size and scale of the proposal, including building bulk, overshadowing, privacy and location of communal space.

Therefore, this issue has been addressed and does not warrant refusal of the application.

f) Concern that this boarding house will create an undesirable precedent for more boarding houses due to the design response proposed and if approved.

Comment:

Boarding house development is permissible with consent in the surrounding low density residential area under the NSWSEPP *Affordable Rental Housing (ARH) 2009* and the *Warringah Local Environmental Plan (WLEP) 2011*. Notwithstanding that boarding house development is permissible in the R2 zone, it must also meet the requirements of the SEPP, WLEP and WDCP. This includes the zone objectives and development standards and other controls to ensure a suitable and appropriate character, design, scale and density. The proposal is considered to be consistent with the objectives for landscaped open space, front and side setbacks, including building envelope and height. The building incorporates

variations in roof form and style, including articulation and appropriate materials used to provide visual interest and elements that are acceptable for the residential character (roof form, materials and general appearance).

Therefore, this issue has been addressed and does not warrant refusal of the application.

g) Concern that the building bulk is excessive for the site and will adversely affect the surrounding amenity by being inconsistent with the pattern and scale of existing residential housing near the site.

Comment:

This issue is discussed in detail under the heading *Part D9 Building Bulk* of the WDCP and Clause 30 of the SEPP within this report. The bulk and scale of the proposal is considered to be consistent with the surrounding residential character along Pittwater Road (visual catchment near the site) and when viewed from properties adjacent. It is considered that the proposal satisfies the SEPP ARH and DCP design requirements including building bulk, landscaped open space and side and rear setbacks. In summary, the proposal has addressed building bulk considerations and its 'detached style' scale and character does not create an unreasonable visual streetscape impact.

This issue has been addressed and does not warrant refusal of the application.

h) The boarding house is not consistent with the need for 'green space' and landscaping area for the neighbourhood.

Comment:

The proposal has been designed to satisfy the character controls / objectives under the SEPP, WLEP and WDCP and as a permissible use boarding houses are considered to be a compatible residential style of accommodation for low density areas within a landscape setting. The proposal includes a wide landscaped front and rear setback with comprehensively landscape buffers around the perimeter of the site as detailed on the Landscape Plan, D-S-02, dated May 2021.

This issue has been addressed to ensure compliant landscape area, including quality of landscaping and does not warrant refusal of the application.

i) Concern that the SEPP Affordable Rental Housing (2009) is being used to create inferior studio style apartments that are not the same as other accommodation such as 'The Fred Hutley Village'.

Comment:

The proposed development is designed as a "new generation" style boarding house in that each room has its own kitchenette and ensuite, which is therefore a more expensive style of boarding house accommodation than if bathroom and kitchen facilities are shared between multiple tenants (similar to some traditional boarding houses). The building is not permitted to be Strata subdivided and therefore all other common areas of the building are associated with being shared or partly shared space for the Boarding house occupants. Even though the Boarding house will attract rental returns that are commensurate with market demand, boarding house accommodation is generally less cost than a private independent apartment. The SEPP ARH 2009 does not require the applicant to nominate a rental rate as a mandatory requirement for the proposed boarding house. The Boarding house is not purpose built to be an aged care facility like Fred Huntly Village and therefore persons of any suitable age may reside within a boarding house as a more affordable independent living option to a traditional larger apartment or dwelling house.

The proposal is subject to the provisions of the SEPP which contains development standards and planning controls that override the WLEP and WDCP in relation to specific matters. Additionally, where there are inconsistencies between the SEPP and the local planning controls, the SEPP prevails. The SEPP includes specific planning controls, which cannot be used as reasons for refusal where they are complied with.

Therefore, this issue cannot be prescribed or levied with the current application and does not warrant refusal of the application.

j) Concern that the proposed boarding house will overshadow adjacent land.

Comment:

The applicant has provided shadow diagrams which demonstrate compliance with Council's solar access requirements under Warringah DCP 2011 that apply to the site. In addition, the proposal meets the solar access requirements within SEPP ARH 2009. Overall, the building complies with the maximum building height, side boundary envelope and wall heights and the proposal steps/transitions down the slope of the site to break-up the scale and mass of the building and assist in maintaining solar access / minimising the shadow cast from the building modules. In summary, the proposal is compliant with *Part D6 Access to Sunlight* of the WDCP 2011 to ensure no unreasonable overshadowing..

Therefore, this issue does not warrant refusal of the application.

k) Concern that the proposal does not show that all accessibility requirements have been met for occupants.

Comment

The proposal has been designed to enable *Building Code of Australia (National Construction Code)* and access requirements to be satisfied with the details required at Construction Certificate stage. This is appropriate for a development application. Notwithstanding, this application has been submitted with BCA / NCC revision notes on the plans to demonstrate compliant access and living space consideration has been adequate to achieve compliance requirement for construction. The plans show ramp and graded access points to the accessible unit plus footpath links and accessible car parking and room layouts to demonstrate accessibility / BCA considerations.

Therefore, this issue has been addressed by conditions and design considerations and does not warrant refusal of the application.

l) Concern that the existing dwelling contains backpackers and the proposal will have similar occupants and create issues such as waste bin service management.

Comment:

Backpacker accommodation is defined as short term accommodation, being typically less than 12 months. A Boarding house is for longer term accommodation and requires a formal lease / tenancy agreement, normally 3 months or longer. The proposal will have a building manager to assist with ensuring appropriate residential waste bin service use that complies with Council's Waste Service operations. The existing property has a residential waste service provided by Council and the behaviour of existing rental tenants not using correct bins / not placing bins out for collection etc, given the existing house will be demolished for the redevelopment of the site, is not relevant to the proposal.

Therefore, this issue is not considered to warrant refusal of the application.

m) Concern that the proposal will create safety concerns for vehicle and pedestrian access around the site frontage along Pittwater Road.

Comment:

The proposed access will comply with *Australian Standards* to ensure safe access, sight distances and acceptable engineering gradients. This includes an appropriate driveway design, regrading of the front setback area and associated minor works. Council's Traffic Engineer and Development Engineer have assessed the proposal with regard to vehicles and works in the road reserve area and have provided conditions. Final construction requires minimal works within road reserve are subject to separate approval under *Section 138 - Roads Act 1993*.

In relation to traffic, parking and safety issues along Pittwater Road (including the pedestrian safety, bus routes, parking restrictions) by Council Engineers and *Transport NSW* have considered and no objection to the proposal is raised, subject to engineering conditions to address traffic / road safety considerations.

Therefore, this issue is addressed by conditions and does not warrant refusal of the application.

n) Concern with regard to privacy impacts to adjacent land including visual and acoustic impacts.

Comment:

The northern (rear) boundary is much higher than the front of the site due to a 3.5m difference in site levels. Therefore, it is recommended that a suitable condition be applied to ensure existing ground levels are maintained within 1.0m of the adjacent boundary. The boundary fencing and landscaped setback buffer for the subject property is of adequate height / spacing to maintain appropriate ground level separation to adjoining land, including single dwellings and the childcare centre at No.532 Pittwater Road .

Therefore, this issue relating to "cross-boundary" matters is addressed by conditions and does not warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported with conditions.</p> <p><u>Amended Building Assessment June 2021</u> The applicant has provided further details as requested. There is no objection to the proposal subject to the attached conditions.</p> <p><u>Initial Building Assessment Referral:</u> The applicant is to provide details on how compliance with Clause F3.1, Vol. 1 of the BCA - "Heights of Rooms and Other Spaces" has been achieved in respect to this proposal. Areas of particular concern being habitable room head height; vertical head height above nosings of the stairs and head height of the sleeper platform. The details should be submitted to enable a BCA comment from Building Assessment - Fire and Disability upgrades.</p> <p><u>Planning Comment</u> The above issues were addressed following DSAP review and amended plans (including BCA compliance notes on the plans) from the applicant.</p>

Internal Referral Body	Comments
Environmental Health (Industrial)	<p>Supported with conditions.</p> <p><i>Environmental Health reviewed a similar proposal DA2020/0512 for the site and have no objections. Similarly no objections to the current proposal.</i></p>
Landscape Officer	<p>Supported with conditions.</p> <p><i>This application is for the demolition of an existing residential dwelling, and the construction of a new boarding house development, comprising of 10 individual units.</i></p> <p><i>Councils Landscape Referral section has considered the application against the following relevant controls and policies:</i></p> <ul style="list-style-type: none"> <i>State Environmental Planning Policy (Affordable Rental Housing) 2009,</i> <i>Warringah Local Environment Plan 2011,</i> <i>Warringah Development Control Plan 2011 - D1 Landscaped Open Space; and E1 Preservation of Trees or Bushland Vegetation.</i> <p><i>A Landscape Plan has been provided with the application and proposed works include the in-ground planting of trees, shrubs, grasses and groundcovers, as well as the on-slab planting of trees, grasses and groundcovers.</i></p> <p><i>With regards to landscape and its relationship to the State Environmental Planning Policy (Affordable Rental Housing) 2009, the key criteria to be assessed is Clause 30A - Character of Local Area. This clause seeks to ensure the development is compatible with the character of the local area, with particular emphasis on the front setback, ensuring it is consistent and complimentary to the existing streetscape. The proposal seeks to plant a variety of shrubs and a single tree in the front setback which is viewed as a positive addition to the overall streetscape, as the existing site as it stands is largely clear of trees and shrubs, with landscape areas typically turfed. It is however recommended that the proposed tree species be substituted for a locally native canopy tree to compliment the existing riparian zone which is located on the opposite side of the road, and to provide increased built form mitigation.</i></p> <p><i>Generally, the proposed landscape treatments are acceptable as they provide a variety of heights and styles, which largely utilises native species. Additional information is however needed to fully understand the proposed treatments, specifically plant quantities and locations. This is necessary to ensure privacy and vegetative screening is provided between the proposed development and its neighbours to the north, east and west. This is inline with the comments provided by the Design and Sustainability Advisory Panel, which noted the current Landscape Plan is fundamental but provides little detail. It is</i></p>

Internal Referral Body	Comments
	<p><i>recommended that an amended Landscape Plan be provided prior to the issue of a construction certificate in order to address these concerns. The implementation of these landscape works is vital to satisfy control D1, as key objectives include "to provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building", as well as "to enhance privacy between buildings".</i></p> <p><i>Despite the proposed site being largely clear of trees and significant vegetation, it is evident that large, significant trees are located within close proximity to the east and west boundaries within adjoining properties. Although the proposed works appear to be clear from these existing trees and large amounts of excavation appear to not be required, it is noted that proposed works are likely to have minor encroachments into the Tree Protection Zone's (TPZ) of these trees. As these trees are located in neighbouring properties they are required to be protected and retained throughout the development, and the proposed works are required to not have any effect on the long term health and stability of these trees. It is therefore recommended a Project Arborist be engaged for the development to provide advice on tree specific protection measures, as well as supervise demolition, excavation and construction works within these TPZ's. The protection and retention of these trees is vital to satisfy control E1, as key objectives include "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide", as well as "to effectively manage the risks that come with an established urban forest through professional management of trees".</i></p> <p><i>The landscape component of the proposal is therefore acceptable subject to the protection of existing trees, as well as the implementation of landscape works as proposed on the amended Landscape Plan to be provided.</i></p>
NECC (Coast and Catchments)	<p>Supported with conditions.</p> <p><i>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Warringah LEP 2011 and Warringah DCP 2011.</i></p> <p><u><i>Coastal Management Act 2016</i></u> <i>The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</i></p> <p><u><i>State Environmental Planning Policy (Coastal Management) 2018</i></u></p>

Internal Referral Body	Comments
	<p><i>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</i></p> <p><u>Comment:</u></p> <p><i>On internal assessment, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</i></p> <p><u>Warringah LEP 2011 and Warringah DCP 2011</u></p> <p><i>No other coastal related issues identified. As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Warringah LEP 2011 and Warringah DCP 2011.</i></p>
NECC (Development Engineering)	<p>Supported with conditions.</p> <p><u>2nd Development Engineering Referral - 4.6.2021</u></p> <p><i>The applicant provide a conceptional OSD design. Some of the details are missing, a condition of consent has been placed to address the design.</i></p> <p><i>As such, Development Engineering raised no objection to the application subject to the following conditions of consent.</i></p> <p><u>Initial Development Engineering Referral</u></p> <p><i>The development is required to install an on site stormwater detention (OSD) system in accordance with Council's Water management for development policy. However, there was no OSD has been submitted in this DA.</i></p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>Supported without conditions.</p> <p><i>The property is affected by the Low Flood Risk Precinct, but is outside the Flood Planning Area. The boarding house is in the Residential land use group, hence flood related controls do not apply.</i></p>
Strategic and Place Planning (Urban Design)	<p>The proposal should address the following issues:</p> <ol style="list-style-type: none"> 1. Provide a BCA compliance report to address the low ceiling height proposed in the lodgers/ boarding rooms (variable from 1.6 to 3.4m with 2.1m generally - minimum BCA requirement is 2.4m clear ceiling height). 2. Provide more shelter/ amenity to boarder entering the lodger/ boarding room eg. roof overhang over the front door area to keep dry when it is raining.

Internal Referral Body	Comments
	<p>3. The common lounge and terrace interface could be improved with full height glazing and not have a column in the middle. Another window facing the driveway could be provided for cross ventilation. The common terrace could be improved with the relocation of the stairs towards the rear to make the space more flexible and spacious. The common lounge could be made bigger for a larger crowd to gather.</p> <p><u>Planning Comment</u> The above issues were addressed following DSAP review and amended plans received from the applicant (including conditions and plans now showing BCA ceiling height details, doorway awnings and improved design of the common area).</p>
Traffic Engineer	<p>Supported with conditions.</p> <p><i>The proposal is for demolition of the existing dwelling and construction of a boarding house comprising 10 self-contained boarding rooms.</i></p> <p><u>Parking</u> <i>As per the requirements of SEPP (Affordable Rental Housing) the proposal requires the provision of 0.5 parking spaces for each boarding room i.e 5 parking spaces, 1 motorcycle space for each 5 boarding rooms i.e 2 motorcycle spaces & 1 bicycle space for each 5 boarding rooms i.e 2 bicycle spaces. The developer proposes 5 car spaces, 4 motorcycle spaces and 3 bicycle spaces.</i></p> <p><i>The proposed parking provision satisfies the requirements.</i></p> <p><u>Traffic Impact</u> <i>The projected traffic generation of 3 trips per hour in the peak periods is not considered to have adverse impact on the road network.</i></p> <p><u>Car park and driveway design</u> <i>The driveway serving the site is 5.5m in width for the first 6m inside the property boundary as required by AS2890.1 section 3.2.2</i> <i>The carpark provides parking for 5 vehicles including a disabled parking space. Three of the parking spaces (spaces 2, 3 & 4) are under the required 5.4m length generally required by AS2890.1. The traffic report submitted with the development application advises that these spaces are 4.8m in length with an unobstructed end overhang which would still be compliant with AS2890.1 section 2.4.1 (a) i provided the end obstruction is under 150mm in height i.e allowing the front of the car to overhang. This will need to be conditioned.</i></p> <p><i>Provided the above can be achieved the carpark layout is supported.</i></p> <p><u>Transport NSW (RMS) feedback</u> <i>It is noted that the plans have been submitted to RMS for comment with no comments received from RMS. This is unusual as RMS would normally wish to comment on a development proposing access to a classified road.</i></p>

Internal Referral Body	Comments
	<i>The proposal can be supported subject to conditions.</i>
Waste Officer	<p>Supported with conditions.</p> <p><u>2nd Waste Management Assessment - Amended Plans (dated 28/5/21)</u> Recommendation - Approval subject to conditions.</p> <p><u>1st Waste Management Assessment</u> Recommendation - Refusal Specifically: The bin room is not large enough to contain the required number of bins - <i>Unacceptable</i> <i>Bin requirements are - 4 x 240 litre garbage, 5 x 240 litre recycling & 1 x 240 litre greenwaste. The footprint of each bin is 600mm wide and 750mm deep.</i> <i>Minimum 1 metre wide isle between rows of bins or between a row of bins and a wall.</i></p> <p><u>Planning Comment</u> The above issues were addressed following DSAP review and amended plans from the applicant.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>Supported with advisory conditions.</p> <p><i>Ausgrid provided a referral response on 25.3.2021 with advisory requirements regarding development (safety) near overhead powerlines. Ausgrid advice is included with the recommended conditions.</i></p>
Concurrence – NSW Roads and Maritime Services - SEPP Infrastructure (cl 100 Development on proposed classified road)	<p>Supported with no conditions.</p> <p><i>The referral to Transport NSW (formerly NSW Roads and Maritime Service) provided a response on 22.3.2021 and made no comment, no objections and no Transport NSW conditions for the proposal.</i></p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans

(SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the proposed residential (boarding house) land use.

SEPP 70 - Affordable Housing (Revised Schemes)

The proposal is not nominated as a development that has been made pursuant to *State Environmental Planning Policy (SEPP) No.70 Affordable Housing (Revised Schemes)*. Therefore no further consideration of this SEPP is applicable.

The principle assessment / building design requirements under the heading *SEPP (Affordable Rental Housing) 2009* however applies as per this report.

SEPP (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibly, floor space ratio bonuses and non-discretionary development standards.

Division 3: Boarding Houses

Clause 25: Definition

For the purposes of this Division, the Standard Instrument defines a 'boarding house' as a building that:

"(a) is wholly or partly let in lodgings, and
(b) provides lodgers with a principal place of residence for 3 months or more, and
(c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
(d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,

but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment".

In this Division 'communal living room' means "a room within a boarding house or on site that is available to all lodgers for recreational purposes, such as a lounge room, dining room, recreation room or games room".

Clause 26: Land to which this Division applies

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that	

is equivalent to any of those zones:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone B1 Neighbourhood Centre, or (f) Zone B2 Local Centre, or (g) Zone B4 Mixed Use.	<p>Consistent</p> <p>The site is located within the <i>R2 Low Density Residential</i> zone and, as such, the proposed use is permissible with consent under WLEP 2011, pursuant to the overriding powers of the ARH SEPP.</p>

Clause 27: Development to which this Division applies

(1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.

Requirement	Comment
<p>(2) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area.</p> <p>Note: Accessible area means land that is within:</p> <p>(c) 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.</p>	<p>Consistent</p> <p>The site is located within the R2 Low Density Residential zone and is situated less than 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday. Concrete footpaths are present along Pittwater Road that provide a continuous path of travel to the nearest bus stops. In summary, The site is located close to bus stops along Pittwater Road: it is approximately 85m to the nearest bus stop along the northern side of Pittwater Road, to the east. It is approximately 190m to the nearest bus stop along the southern side of Pittwater Road, to the east. Bus routes 146, 158, 159, 169, 169x, 199 and E69 run along this route. These routes provide access to Dee Why, Warringah Mall, Manly and surrounding areas.</p> <p>Note: <i>Transport NSW</i> manage traffic conditions including such as clearways, signals and traffic related issues along Pittwater Road as it is classified as a "Main Road" of regional importance. <i>Transport NSW</i> (formerly RMS) have no comments or conditions with regard to the proposal.</p>
Equivalent zones not within Sydney area.	<p>Not applicable.</p> <p>The site is located within the Sydney region.</p>

Clause 28: Development may be carried out with consent

Requirement	Comment
Development to which this Division applies may be carried out with consent.	The development involves the construction of a "boarding house", as defined by the Standard Instrument. Therefore, the development may be considered under this Division of the SEPP as development which may be carried out with consent.

Clause 29: Standards that cannot be used to refuse consent

Standard	Requirement	Proposed	Compliant/Comment
(1) Density and scale A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:	(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or	Floor space ratios are not applicable to the site under the WLEP 2011 or WDCP 2011.	Not applicable
	(b) if the development is on land within a zone in which no residential accommodation is permitted - the existing maximum floor space ratio for any form of development permitted on the land, or	Not applicable	Not applicable
	(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register - the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus: (i) 0.5:1, if the existing maximum floor space	The site is not within a zone that permits residential flat buildings and the site does not contain a heritage item and is not in a heritage conservation area. (i) The site is not within an area that has a floor space ratio. (ii) The site is not within an area that has a floor space ratio to apply a percentage.	Not applicable

	ratio is 2.5:1 or less, or (ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.		
(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:			
(a) building height	if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,	The maximum building height complies with the 8.4m building height control under the WLEP 2011 (as per <i>existing ground level</i>).	Compliant: 8.4m
(b) landscaped area	if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,	The proposed landscaping is compatible with the existing character of the local area. The front setback has maintained deep soil planting in the setback areas to adjacent neighbours and the street to soften / partly screen the proposed built form. The setback to Pittwater Road will be retained as deep soil planting (of 1m or more depth) as shown on the submitted landscape plan.	Consistent - Pittwater Road
(c) solar access	where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	Communal living room (Ground Floor Level) provides outdoor access terrace area that achieved northern and eastern direct sunlight however due to the ground level position and adjacent rooms of L08 and L09, including access walkway and	Does not comply Satisfactory on merit, with condition for additional window to common room.

		<p>stairs the common room gets 2hrs of sunlight between 9-11am. It is recommended that an east facing window be provided to enhance the light within the common room as the only other available window is south facing.</p> <p>The communal terrace area has a northerly direct solar access to the rear yard and this outdoor areas will receive 3 hours of direct solar access.</p>	
(d) private open space	<p>if at least the following private open space areas are provided (other than the front setback area):</p> <p>(i) one area of at least 20m² with a minimum dimension of 3.0m is provided for the use of the lodgers,</p> <p>(ii) if accommodation is provided on site for a boarding house manager—one area of at least 8.0m² with a minimum dimension of 2.5m is provided adjacent to that accommodation,</p>	<p>(i) A private open space area of more than 20 sqm is provided with minimum dimensions of more than 3.0m adjacent communal living room (below room 10).</p> <p>(ii) The private open space balcony area for boarding room L10 is 2.1m x 3.8m (7.98sqm). The balcony can be widened to 2.5m (to be 9.5 sqm). As it is above the communal room terrace this is achievable and is a suitable room for the building manager to reside (as per the OMP).</p> <p>(As an alternative the other boarding rooms that have balconies would be unsuitable as they would need to be enlarged but would encroach into the rear setback / side setback or affect the building / wall structures in order to comply.)</p>	<p>(i) Compliant</p> <p>(ii) Compliant by condition Condition recommended to marginally widen balcony to comply.</p>

(e) parking	<p>if:</p> <p>(i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and</p> <p>(ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</p> <p>(iia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</p>	<p>The building contains 10 boarding rooms including an on-site manager room. The development is not being carried out by a social housing provider.</p> <p>Five (5) car spaces are required for lodgers (including one for a live in building manager).</p>	<p>Complies</p> <p>(Note: One space includes is an "accessible" parking space with a "shared zone" for access)</p>
(f) accommodation size	<p>if each boarding room has a Gross Floor Area (GFA) (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</p> <p>(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or</p>	<p>Excluding kitchen bathroom space for Lodger rooms:</p> <p>Room 01 = 25 sqm (2) (Accessible room)</p> <p>Room 02 = 18 sqm (2)</p> <p>Room 03 = 18 sqm (2)</p> <p>Room 04 = 18 sqm (2)</p> <p>Room 05 = 18 sqm (2)</p> <p>Room 06 = 18 sqm (2)</p> <p>Room 07 = 18 sqm (2)</p> <p>Room 08 = 18 sqm (2)</p> <p>Room 09 = 22 sqm (2)</p> <p>Room 10 = 18 sqm (2)</p>	<p>Consistent</p> <p>Based on room sizes, the application must be assessed against the highest occupation for each room and the capacity is a maximum of 20 lodgers.</p>

	(ii) 16 square metres in any other case.		
	(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.	All rooms have a private kitchen and bathroom facilities.	Consistent
	(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).	The proposal meets the requirements of this Division in a satisfactory manner, subject to conditions.	Satisfactory, subject to conditions.

Clause 30: Standards for boarding houses

Standard requirement	Proposed	Compliant/Comment
(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:		
(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	A communal living room is located at the rear (ground floor level) with and adjacent open space area toward the rear yard.	Compliant The communal room has an appropriate standard of amenity and has been located and designed to ensure no unreasonable amenity to neighbour's in consideration of setbacks, site levels, landscape buffer, privacy fencing, adjacent structures and position within the Boarding House.
(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 sqm,	No boarding rooms have an area, excluding the kitchen and bathroom facilities that exceed 25 sqm.	Compliant
(c) no boarding room will be occupied by more than 2 adult lodgers,	This has been included in the operational plan of management (OPM) that no rooms are to have more than 2 person occupancy.	Compliant, subject to conditions - to restrict occupancy as per the OPM.

(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	Each room has its own kitchenette and bathroom facilities. There is also a bathroom and kitchenette within the communal rooms.	Compliant
(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,	The boarding house 10 lodger rooms (maximum 20 persons). A Managers room is available, to be nominated by condition. 10 room boarding house proposed.	Compliant Recommended that the boarding house / building manager room be "L10" as this has appropriate balcony space and is close to monitor the communal room and principal access corridor at the upper level.
(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,	Not applicable	Not applicable
(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	Eight (8) bicycle spaces and four (4) motorcycle spaces are required.	Compliant
(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	Not applicable	Not applicable

Clause 30AA: Boarding houses in Zone R2 low Density Residential

A consent authority must not grant development consent to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone unless it is satisfied that the boarding house has no more than 12 boarding rooms.

Savings and transitional provisions of the SEPP ARH apply to this development application for this clause (ref.Clause 54C).

Clause 30: Character of the local area

The matter of assessing the character compatibility of development has been examined by the Land and Environment Court in *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC

268 and *Project Venture Developments v Pittwater Council (2005)* NSWLEC 191 where Senior Commissioner Roseth set out Planning Principles to better evaluate how a development should respond to the character of its environment. While the Planning Principle related to a Senior's Housing development it is relevant to boarding house development since the planning principle deals with "local character" and how new development should respond sympathetically to the "character of the local area".

To address this consideration of compatibility the following characterisation matters have been factored in to the assessment, pursuant to the planning principle:

1. What is the relevant area?

Being the visual catchment / surroundings of the site where the impact is greatest and that particular part of the street, the general urban / semi-rural landscape, whether a precinct includes adjacent streets as applicable (such as for heritage reasons).

2. What does "consistent" mean?

Being the residential and prevailing forms or dominance of roof styles, local landscape, identify proportions and patterns of development spacing.

3. What is the local character?

Being whether the land in the vicinity is very urbanised, partly semi-rural, landscaping adjacent buildings, heritage, dominant materials, dominant styles, heights and setbacks.

4. What is the character of the proposed development?

Being whether the proposal is conservative in style, has an inappropriate density, its own 'unique' character if suitable, and blending of colours and materials to the environment.

5. Is the character of the development consistent with the local character?"

Being whether the proposal is "jarring", or in sympathy and whether or not overbearing or overweighted toward a particular precedent or well integrated to the surroundings.

Compatibility of the Proposal with Surrounding Development

The following provides an assessment against the Planning Principle established in those two cases.

In the case of *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC 268 Senior Commissioner Roseth developed the following Planning Principles:

- ***The first principle is that buildings in a development do not have to be single-storey to be compatible with the streetscape even where most existing buildings are single storey. The principle does not apply to conservation areas where single storey dwellings are likely to be the major reason for conservation.***

Comment:

The majority of residential buildings in the vicinity of the site are either single storey or two storey detached dwellings with a few examples of town house style or dual occupancy development in landscaped settings. This has established the predominant character of residential development in the area. Other development in the vicinity includes a golf course, business uses (BP service station, Warringah Mall / Medical facilities) and some apartments in the local surroundings.

On the whole, the character of the area remains as low density residential within the visual catchment of the site. Landscaping and trees are a dominant characteristic due to the golf course opposite and that the area is an established suburb for over 60 years, allowing for canopy trees to be well established. The predominant building height is a mixture of single and two storey dwellings. The building setbacks are reasonably consistent, although not in an obviously straight line due to Pittwater Road curving along Brookvale Creek. The landscaping does not dominate buildings; rather, there is a balance between buildings and vegetation. There is some consistency of architectural style (tiled hipped roofs, brick / weatherboard wall heights, verandas, normal window sizes) throughout. The proposal has been designed to include elements of these surrounding built forms in terms of detached style, gable roof forms, external cladding, consistent height and landscaping.

It is noted in particular that the proposed building essentially complies with Council's requirements in relation to height, building envelope and wall height controls. Whilst the boarding house obviously occupies a greater footprint and density than surrounding detached dwelling houses, the overall height and appearance of the development is considered to be compatible with the streetscape and landscape setting of nearby residential development along Pittwater Road. In that regard, it can be concluded that the proposed development is of a scale that is not inconsistent with the streetscape, and therefore consistent with the requirements of this principle.

In this regard, it is considered that the bulk, scale and massing of the development is compatible with the streetscape and consistent with this principle.

- ***The second principle is that where the size of a development is much greater than the other buildings in the street, it should be visually broken up so that it does not appear as one building. Sections of a building, or separate buildings should be separated by generous breaks and landscaping.***

Comment:

Whilst the proposed development appears as spaced modules in a 'detached style', it has been designed to have some similarities with surrounding development by taking "cues" in terms of cladding materials, landscape setbacks, roof pitch, use of gables and creating an open style to the common areas. In that regard, the use of colours and varying materials, together with the sloping and gable roof form (except for Room L10), and the proposed building setbacks, particularly to Pittwater Road, the building presents as a well articulated building, which will not create an unreasonable impact on the streetscape in this location.

The proposed landscaping also maintains the wide setbacks to Pittwater Road, complementing the building, consistent with the setting of other newer/more recently constructed dwellings in this locality that have wider and larger building footprints.

Overall, the development is considered to be comparable with the scale of surrounding development

- ***The third principle is that where a site has existing characteristics that assist in reducing the visual dominance of development, these characteristics should be preserved. Topography that makes development appear smaller should not be modified. It is***

preferable to preserve existing vegetation around a site's edges to destroying it and planting new vegetation.

Comment:

There is no existing vegetation of any significance on the site, but new and intensive planting is proposed within the site and concentrated along the side and rear setbacks. This will complement and enhance the appearance of the proposed building.

The site does fall moderately towards the south such that the architect in designing the proposed building, has stepped the mid sections of the building down the site to mitigate excavation and utilize the site levels to reduce the bulk and scale of the building along the north to south alignment, where it would otherwise be much higher if set at only one continuous level.

It is considered that the proposed landscaping will ensure that the building does not unreasonably dominate the proposed building's natural setting, and the design of the building, with its articulation and use of materials and colours, ensures that any perception of visual dominance, will not be unreasonable for the low density urban surroundings.

In that regard, it is considered that the proposed development is consistent with this principle.

In this regard, it is considered that effective methods have not been employed in the design of the development to reduce / break up its visual dominance and so the proposal is not inconsistent with the third principle.

- ***The fourth principle is that a development should aim to reflect the materials and building forms of other buildings in the street. This is not to say that new materials and forms can never be introduced only that their introduction should be done with care and sensitivity.***

Comment:

The proposed building includes materials and colours, and a roof form that retains a visual appearance comparable with the residential context within which the proposed building is to be located. Accordingly, it can be concluded that the proposal is consistent with this principle.

In this regard, the development is considered to be consistent with this principle in terms of colours, materials and roof style.

The above Principals were further developed in *Project Venture Developments v Pittwater Council* (2005) NSWLEC 191 to include the following:

Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

Comment:

The physical impacts of the development on surrounding properties is assessed as comprising privacy, overshadowing and noise.

Constraints on the Development Potential of Surrounding Sites

All land currently surrounding the site includes low density housing stock, a child care centre and a golf course. Landscaping forms a major component of the existing character and the proposal has addressed this issue by maintaining 47% landscape area to maintain a suitable landscape setting and spatial separation and limiting the density to 10 boarding rooms. The design of the proposal has had regard to maintaining the neighbourhood character, considering the urban design outcomes, use of landscape setback, compatible roof style and external materials / colours to the existing context. The surrounding land within a convenient distance to major development around Warringah Mall and Brookvale, including the transport corridor of Pittwater Road. There are no significant site constraints in terms of land area, shape, slope or access to get to nearby local centres.

Privacy

The proposed development has been designed to ensure the elevated decks are appropriately screened to minimise any impact upon the visual privacy of neighbouring residential properties. The loft style habitable rooms are designed with appropriate window spaces for internal amenity that will not create unreasonable visual privacy to adjacent land. Toward the rear of the site the excavation and landscape terraces will maintain visual privacy / separation of neighbouring residential properties to the north.

Dense landscaping is also proposed around the perimeter of the site to minimise any perception of privacy impact upon neighbouring properties.

The main common rooms located on the ground floor levels are located at the northern end (rear area) of the site to minimise any noise impacts that might emanate from this location. Overall, it is considered that the boarding house will maintain a good standard of visual and acoustic privacy, as well as security (including having a building manager residing within the development).

The boarding house design also maintains an innovative use of space to maintain reasonable amenity for the future occupants of the proposed boarding house.

Overshadowing

Shadow diagrams have been prepared and demonstrate that no unreasonable loss of sunlight is created to adjacent residential land. The proposed development complies with the requirements of *Part D6* of Council's DCP in relation to access to sunlight.

Noise

The 10 boarding room development will have a significantly higher occupation compared to that of the adjacent and surrounding detached dwellings for the site. Therefore, potential noise disturbance between adjacent private open space areas is to be managed by integrating or shielding these common areas from neighbouring dwellings which has been reasonably achieved for the design. The outdoor terrace is situated toward the rear and is of a suitable size for the scale of the development to facilitate a place to meet or socialise with visitors or other occupants.

In addition, the proposal will have a Manager and operate in accordance with the *Plan of Management (OPM)*, to ensure noise disturbances from the future occupants do not unreasonably affect surrounding residential land.

An OPM is required to be in place for the management of the boarding house, and a resident on-site manager to enable any immediate response to any noise disturbances. In this regard, it is considered the rear private open space area is suitably located and the presence of an on-site manager and the "house rules" are appropriate mechanism to ensure no unreasonable acoustic amenity on adjacent

land.

Conclusions on Character Assessment

The above character assessment has found that, in the context of the *Land and Environment Court Planning Principles*, the proposal is satisfactory with respect to how it responds to the existing character of the local area and the public interest. The design response to break up wall planes, building bulk, landscaped setbacks, external materials and roof form creates an acceptable design outcome.

In this regard, the proposal is a satisfactory design response to the requirements of the WDCP 2011 in terms of setbacks, privacy, landscaping, private open space and building bulk. The SEPP permits a higher density (of 12 rooms and therefore higher occupancy) however in order to provide landscaping and associated design outcomes to ensure a "good fit" within the low density residential surroundings, 10 boarding rooms are proposed. Generally, as affordable rental housing the development maintains a built form that is not "jarring" and of an interesting style without creating unreasonable visual impacts when viewed from surrounding land and how it sits within the streetscape.

The proposal will therefore will not create an unfavourable development precedent that is contrary to the public interest.

Conclusion

The development is satisfactory in terms of consistency with the SEPP ARH, including the surrounding local character, roof design, privacy, landscaped open space buffers, parking, access and side setbacks and amenity considerations of noise disturbance likely from the communal open space.

SEPP (Building Sustainability Index: BASIX) 2004

The proposal is subject to SEPP Basix following the NSW LEC decision that a Boarding House may be considered as dwelling style housing but is subject to particular criteria relevant to SEPP BASIX. A revised Basix report 1096296M_03 has been submitted dated 11 March 2021 and demonstrates that the Water, Thermal and Energy scores required are achievable.

The proposal is also required to conform to Part J of the *Building Code of Australia* to demonstrate energy efficiency with construction completion. These requirements are appropriate to be detailed with the construction certificate as part of the BCA / National Construction Code requirements.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity

power line.

Comment:

Ausgrid provided a referral response on 25.3.2021 with advisory requirements regarding development near overhead powerlines. *Ausgrid* advice is included with the recommended conditions.

Other Service Infrastructure Authorities

Transport NSW (formerly *NSW Roads and Maritime Service*) provided a referral response on 22.3.2021 and made no comment, no objections and no service infrastructure conditions for the proposal. No other Service Authority referral issues are raised pursuant to the SEPP.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018) as the boundary extends inland from Manly Lagoon along the Brookvale Creek valley. The site is not readily visible from the beachside area due to the density of surrounding development and the position of the building on along the upper area of Brookvale Creek that is over 2.0km from Manly Beach.

Comment:

The proposal is considered to be consistent with Clause 14 and 15 of SEPP Coastal Management (2018) including the "Coastal Use Area" and "Development in the Coastal Zone Generally" areas with no unreasonable impact.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
4.3 - Height of Buildings	8.5m	8.4m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes

Clause	Compliance with Requirements
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control (Site Area = 789.7m ²)	Requirement	Proposed	% Variation*	Complies
B1 Wall Height	7.2 metres (m) (EGL to eaves)	East / West: 5.0m to 6.5m (side walls)	N/A	Yes
		North / South: 6.8m to 8.1m (end walls)	12.5%	No
B3 Side Boundary Envelope	45 degrees at 4m	East: Within Envelope	N/A	Yes
		West: Breach of envelope	1.2m to 0.2m 19%	No
B5 Side Boundary Setbacks	0.9m	Ground		
		East: 2.5m to 3.0m	N/A	Yes
		West: 2.0m to 2.36m	N/A	Yes
		Upper Floor (& Loft)		
		East: 2.36m to 6.6m	N/A	Yes
		West: 2.0m to 2.4m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	Ground		
		6.498m	0.003%	No
		Upper Floor (& Loft)		
		9.4m	N/A	Yes
B9 Rear Boundary Setbacks	6.0m	Ground		
		6.7m to 10.3m (Balcony / Terrace 6.1m)	N/A	Yes
		Upper Floor (& Loft)		
		6.1m to 7.8m	N/A	Yes

D1 Landscaped Open Space & Bushland Setting	40% (315.8sqm)	47% (332sqm)	N/A	Yes
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Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The maximum wall height for the R2 Density Zone is 7.2m. The maximum wall height to the ceiling (measured to the external eaves) is 7.2m along the eastern and western elevations, however the gable roof form extends the wall height on the northern and southern elevation for each living module to 8.2m.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

Each module along the western side of the site has a "sleeping / living" loft in the space between each northern and southern vertical wall that reaches a height of 8.2m with gable end walls. The "raked ceiling" is part of a habitable space of the living / sleeping area directly under the roof line and therefore is consistent with the descriptive elements of the wall height control (which would otherwise be a roof truss space above a flat ceiling). The brick tower that contains the common room and boarding room 'L10' complies with the wall height (measured from existing ground level).

The boarding room modules are adequately setback from the side boundaries with landscape zones and breaks in the roof line between each module minimise the single mass of each section of the boarding house. Therefore, the proposed non-compliance to the wall height on the northern and southern end of the boarding room modules does not have an adverse visual impact on the street, adjoining properties or nearby recreational land.

- *To ensure development is generally beneath the existing tree canopy level*

Comment:

The overall height of the building is consistent with being generally lower than the existing local tree canopy of the surrounding area and is consistent with this objective.

- *To provide a reasonable sharing of views to and from public and private properties.*

Comment:

The wall height of the gable end to the dwelling modules does not adversely impact any public views (from parks, roads or the like). Elements of the upper wall face south or north and the roof elements are separated between each 'module'.

- *To minimise the impact of development on adjoining or nearby properties.*

Comment:

The proposed wall height does not create any unreasonable impact on adjacent land in terms of overshadowing and the wall heights and the setbacks are consistent with development for the low density residential zone. The proposal complies with the *side boundary envelope* for the western boundary and the majority of the eastern boundary (except for "L10" with landscape buffers for screen planting, space for services (drainage) and access limited to the central area of the site to reduce noise and vehicle movement impacts to adjacent land.

- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*

Comment:

Excavation on the site has been minimised to provide a suitable building platform and achieve appropriate driveway gradients to the street and stormwater management. The rear setback is graduated with landscape terraces to stagger the excavation zone at the rear. Landscape planting is used to provide visual amenity for the rear setback area.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

Comment:

The proposal is consistent with this objective of the DCP to encourage pitched roof forms and a roof design that maintains amenity for the occupants without excessive wall height or any bulky parapet extensions. The DCP permits exceptions to wall height as elements that '*does not include habitable areas wholly located within a roof space*' and the proposal is consistent with this design allowance.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B3 Side Boundary Envelope

Description of non-compliance

The proposal does not comply with the side boundary envelope along the eastern elevation of the upper brick tower that is part of the Common room and Room 10. The non-compliance is up to a 1.2m breach of the envelope. Roof eaves are permitted to encroach the side boundary envelope.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To ensure that development does not become visually dominant by virtue of its height and bulk.*

Comment:

The proposal has a breach of the building envelope along the eastern side boundary for the upper section across a wall width of 4.39m. The non-compliance is influenced by the configuration of the brick tower containing 3 levels inside and a flat roof, rather than a pitched roof. In addition, this section of the site has a moderate slope and therefore the non-compliance to the side boundary element is a triangular shape (0.2m to 1.2m), being nearly compliant on the northern side with a larger non-compliance on the lower side.

The non-complying element of the wall plane with the side boundary envelope is limited to a short section of the building that the designer has included as deliberate visual variation to the other gable shaped dwelling modules. The building element is set well back from the road and is landscaped on two sides, and has a small building footprint with a short wall span and therefore remains consistent with this objective.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

Comment:

The non-compliance with the building envelope does not unreasonably affect privacy or spatial separation to adjacent land. Privacy is maintained in that there are no side windows facing the eastern boundary and an appropriate setback is maintained to the rear boundary. The proposal complies with minimum DCP requirements for solar access to adjacent land under *Part D2 Private Open Space*, and consideration of adjacent land with regard to natural light, direct solar access, privacy, bulk and the overall building design / separation are consistent with this objective. The extent of non-compliance with the side boundary envelope does not contribute to an unreasonable loss of amenity by the variation to the side boundary envelope.

- *To ensure that development responds to the topography of the site.*

Comment:

The proposal responds to the site by minimising excavation and maintaining appropriate open space with terraced landscaping stepping up to the rear fenceline. The non-complying element is a short element of the overall building works and does not require excessive excavation.

Having regard to the above assessment, it is concluded that the proposed development, is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the *Environmental Planning and Assessment Act, 1979*. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance by conditions to maintain consistency with the requirement and objectives of the side boundary envelope control.

B7 Front Boundary Setbacks

Description of Non-Compliance

The control requires development to be setback 6.5m from the front boundary to all public roads. In this case, the proposal has a setback of 6.498 with is a 2 mm (0.003%) variation.

Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To create a sense of openness.*

Comment:

The building elements that are within the front setback include part of the lower wall plane (facing material) that is part of the ground floor entry stairs, balustrade above and bin storage. These are integrated elements with landscape area in front and the variation has no significant impact on the sense of openness created along the site frontage. The site proposes open landscaping elements provided satisfactory to the street outlook toward the Warringah Golf Course.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

The front setback for the building wall has an open style undercroft for parking and pedestrian access. The encroaching building wall elements do not have an unreasonable impact with regard to maintaining the visual continuity and pattern of buildings and landscape elements in the street.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

The 2mm encroaching elements are minor components of the building and do not detract from the visual quality of the streetscape as the proposal includes deep soil landscape space and appropriate colours and materials to integrate with the surrounding urban environment. Landscape planting includes a mix of deep soil grassed areas, small to medium shrubs and small trees appropriate to the urban landscape.

In this regard, the landscaping proposed will ensure the development does not have an adverse impact on the visual quality of Pittwater Road streetscape and adjacent public space and golf course opposite the site.

- *To achieve reasonable view sharing.*

Comment:

The site is within a built up area and there are no coastal or district views are affected by the building elements within the front setback to Pittwater Road.

Having regard to the above assessment, it is concluded that the proposed development is consistent

with the relevant objectives of WDCP and the objectives specified in section 5(a) of the *Environmental Planning and Assessment Act, 1979*. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D8 Privacy

Merit Consideration

The requirements for privacy the development is considered against the underlying Objectives of the Control as follows:

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

Comment:

The building layout has been designed to optimise privacy for occupants of the development and occupants of adjoining properties, and living areas, habitable rooms and windows to private open space areas or to the street, have been orientated to limit overlooking, and provided with fitted external screens where appropriate. Upper skylight windows are located so that they do not create unreasonable viewing from the loft areas of the boarding rooms. At the rear of the site No.1 Hope Street is built close to the boundary. The boarding house will maintain a compliant rear setback with landscaping and is excavated to be 3m lower than this adjacent property which will assist to maintain a buffer for privacy toward the rear.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The building has been designed with the majority of windows and principal outlook for most boarding rooms to be high sill or screened windows. Other window openings and service areas (drying yard, communal open space) are designed or include appropriate screening. This includes external screens (shown on the elevation diagrams) and landscape buffer along setback areas for separation to adjacent land. The erection of side boundary fencing (which provided privacy at ground level) is a private arrangement that is managed under the *Dividing Fences Act 1991*.

The design of the Boarding house uses semi-detached modules that have loft areas for the boarding rooms. Screens and moderate sized windows are used for the western elevation, including a landscaped side setback to minimise privacy impacts toward No.534 Pittwater Road with no unreasonable overlooking areas such as unscreened deck or common outdoor areas facing neighbouring private open space. Along the western side of the site the Boarding house adjoins a property used for childcare and the driveway areas with boundary fencing / landscaping will provide appropriate separation to ensure no unreasonable privacy impacts.

Use of the communal area in terms on acoustic privacy / disturbance is addressed under Section 2.4, 8.2 and 9.0 of the Boarding House Plan of Management, including use of communal areas, common room hours of use, amplified music and general activity management to ensure no unreasonable impact on adjacent residential amenity.

- *To provide personal and property security for occupants and visitors.*

Comment:

The design of the building has appropriately located entry points (carparking, pedestrian access), window placement and boundary treatment (fence/landscape screening) to provide personal and property security for occupants and visitors that is appropriate for the surrounding residential environment.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D9 Building Bulk

Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To encourage good design and innovative architecture to improve the urban environment.*

Comment:

This issue has been dealt with previously in relation to the Character of the Area (Clause 30A of SEPP (Affordable Housing) 2009). In that regard, it was considered that the development is compatible with adjoining development, and satisfactorily responds to the predominant bulk and scale of development in the local area and the sloping topography of the site. The detached style of boarding house is well modulated with the gable style / loft arrangements and is complemented by the landscaping on the perimeter of the site and in the public domain.

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

The development has included building articulation and modulation / separated along the side walls and steps down the site with the topography. The resultant built form does respond to the local character of the existing residential area and does not create an unreasonable visual impact when viewed from adjoining properties and streets that would otherwise be symptomatic of an overdevelopment.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$9,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$900,000.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

The design of the proposal is supported for approval as it is considered to satisfy the relevant control pursuant to SEPP ARH 2009 and the associated Warringah DCP / LEP controls with no significant non-compliance issues raised. In this regard, it is noted that the proposal has addressed Council's *Design and Sustainability Advisory Panel* recommendations to ensure that only minor changes were required to the plans and have been included or otherwise provided with an appropriate design alternative or supporting information.

The 10 room modular design of the boarding house and landscape setting is suitable to meet the SEPP 'character test' in terms of the low density residential environment and subject to conditions will not create unreasonable amenity impacts to surrounding land or for occupants within the development.

Principle assessment concerns raised within public submissions have been addressed in terms of occupancy, urban character, privacy (visual / acoustic), traffic, parking, operational management and

accessibility of the location / setting.

In addition to recommended conditions for engineering, traffic, building compliance, landscaping, stormwater and waste management conditions are included to ensure compliant open space, reduce deep excavation near boundary lines and ensure appropriate operational management requirements.

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2021/0166 for Demolition works and construction of a Boarding House pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009 on land at Lot 40 DP 7027, 532 Pittwater Road, NORTH MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
D-S-01 Site Plan	May 2021	Miles Winter Pty Ltd
D-P-01 Lower Floor Plan	May 2021	Miles Winter Pty Ltd
D-P-02 Upper Floor Plan	May 2021	Miles Winter Pty Ltd
D-P-03 Roof Plan - Loft Level	May 2021	Miles Winter Pty Ltd
D-P-04 Roof Plan	May 2021	Miles Winter Pty Ltd
D-E-01 Elevations 1	May 2021	Miles Winter Pty Ltd
D-E-02 Elevations 2	May 2021	Miles Winter Pty Ltd
D-E-04 External Finishes	May 2021	Miles Winter Pty Ltd
D-E-05 Site Sections	May 2021	Miles Winter Pty Ltd
D-D-01 Detailed Typical Lodger	May 2021	Miles Winter Pty Ltd
D-D-02 Detailed Typical Lodger Sections	May 2021	Miles Winter Pty Ltd
D-D-03 Detailed Accessible Lodger and Common Room	May 2021	Miles Winter Pty Ltd
D-D-04 Detailed Lodger 9-10	May 2021	Miles Winter Pty Ltd

Engineering Plans		
Drawing No.	Dated	Prepared By
D-P-04 Stormwater Concept	27 May 2021	Miles Winter Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Report 1096296M_03	19.5.2021	Building Sustainability Assessments
Plan of Management Boarding House	Feb 2021	Ali Mehfooz

BCA Access Compliance Report	19.2.2021	Lachlan Miles Design
Preliminary Landslip Assessment E24685.G02_Rev 1	1.3.2021	El Australia
D-S-04 Site Accessibility Plan	May 2021	Miles Winter Pty Ltd

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
D-S-02 Landscape Plan	May 2021	Miles Winter Pty Ltd

Waste / Construction Management Plan		
Drawing No/Title.	Dated	Prepared By
Demolition Waste Management Plan	18.2.2021	Ali Mehfooz
D-S-03 Site Waste Management Plan	May 2021	Miles Winter Pty Ltd

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.
(Note: "interim/final" allows a Certifier to select an appropriate time or work stage to satisfy requirements of the condition)

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	25.3.2021

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent

unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

4. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$9,000.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$900,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or

Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

5. **Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

6. **Amended Landscape Plan**

An Amended Landscape Plan shall be issued to the Certifying Authority prior to the issue of a Construction Certificate to include the following details:

- i) additional details regarding proposed plant quantities and specific locations;
- ii) substitute the proposed *Magnolia 'Heaven Scent'* and the front of the property with a locally native canopy tree. Suggested alternatives include: *Angophora costata*, *Banksia*

integrifolia or *Eucalyptus haemastoma*;

iii) updated planting schedule to include *Frangipani* and climbers as proposed on plan.

iv) Tree planting shall be located within a 9 sqm deep soil area wholly within the site and be located a minimum of 3 metres from existing and proposed buildings, and other trees.

v) Tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree location may impact upon significant views.

vii) Native tree planting species shall be selected from Council's list, specifically the *Native Plant Species Guide - Curl Curl Ward*: www.northernbeaches.nsw.gov.au/environment/native-plants/native-plant-species-guide.

Certification shall be provided to the satisfaction of the Certifying Authority that these amendments have been documented for inclusion.

Reason: Landscape amenity.

7. **On Slab Landscape Works**

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided.

Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The following soil depths are required to support landscaping as proposed:

- i) 300mm for lawn
- ii) 600mm for shrubs
- iii) 1m for small trees

Design certification shall be submitted to the Certifying Authority by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

8. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- o The proposed phases of construction works on the site, and the expected duration of each construction phase
- o The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- o Make provision for all construction materials to be stored on site, at all times
- o The proposed areas within the site to be used for the storage of excavated materials,

- construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

9. Separation between Driveways

A plan showing a minimum of 1m wide separation between the proposed driveway and that of the adjacent driveway serving No.530 Pittwater Road shall be submitted to and approved by the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To improve pedestrian safety

10. **Pedestrian sight distance at property boundary**

A pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 is to be provided at the vehicular access to the property and where internal circulation roadways intersect with footpaths or other pedestrian access areas. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To maintain pedestrian safety.

11. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

(i) Room "L10" shall be clearly shown as the "Managers Room" including 1 carparking space for the residing manager.

(ii) The private terrace for Room "L10" shall be enlarged to a minimum of 8.0 square metres (sqm) with minimum dimensions of 2.5 metres (m)

(iii) A window (to match W01-03, height and size) is to be added to the eastern brick wall for the 'Common Lounge' room.

Details demonstrating compliance are to be shown on the Construction Certificate plans and submitted to the satisfaction of the Certifying Authority.

Reason: To ensure development maintains respond to design considerations for internal or external amenity.

12. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

13. **Heights of Rooms**

Heights of rooms and other spaces are to comply with F3.1 Vol. 1 of the BCA. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for the building occupant health and amenity.

14. **On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with *Northern Beaches Council's WATER MANAGEMENT FOR DEVELOPMENT POLICY* and generally in accordance with the concept drainage plans prepared by Mileswinter Pty Ltd, drawing number D-P-04, dated 27/05/2021. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the *Institution of Engineers Australia*, National Professional Engineers Register (NPER) and registered in the *General Area of Practice for civil engineering*.

The drainage plans must address the following:

- a. The details of the on site detention (OSD) must be provided in accordance with the section 9.7.1 of the above policy;
- b. The PSD is to be calculated on the maximum allowable impervious fraction of 0%;
- c. *Transport NSW's* approval must be provided in relation to the pipe connection into their pit on Pittwater Road.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.

15. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges. The approval of Transport For NSW must be provided in relation to the proposed vehicle crossing on Pittwater Road.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

16. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

17. **Amendments to carpark design**

That further detailed plans of the carpark area be provided demonstrating that the end overhang clearance at the western end of parking spaces '2', '3' & '4' is no greater than 150mm in height (to permit unobstructed end overhang)

Reason: Compliance with parking standards. (DACTRCPC1)

18. **Waste and Recycling Requirements**

Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

19. **Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection.

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained, including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

20. **Road Occupancy Licence (Transport NSW)**

The developer shall apply for a Road Occupancy Licence (ROL) from *Transport NSW* (formerly *RMS*) Transport Management Centre (TMC) prior to commencing work within the classified road reserve or within 100m of traffic signals. The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified with 'Prepare a Work Zone Traffic

Management' accreditation or equivalent. Should the TMP require a reduction of the speed limit, a Direction to Restrict will also be required from the TMC.

Reason: To inform the relevant Roads Authority of proposed disruption to traffic flows.

21. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members, landscape works, retaining walls, pool surrounds, and other similar items.

Property / Properties:

- No.534 Pittwater Road
- No.1 Hope Street
- No.530 Pittwater Road

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage arising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

22. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

23. **Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site

24. **Transport NSW approval of driveway**

The redundant driveway on the Pittwater Road boundary shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Pittwater Road shall be in accordance with TfNSW requirements (formerly RMS). Details of these requirements should be obtained by email to DeveloperWorks.Sydney@rms.nsw.gov.au.

Detailed design plans of the proposed kerb and gutter and the vehicle crossing are to be submitted to TfNSW for approval prior to the issue of a Construction Certificate and commencement of any road works. Documents should be submitted to Development.Sydney@rms.nsw.gov.au.

Reason: compliance with RMS requirements (DACTRDP1)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

25. **Tree and Vegetation Protection**

- a) Existing trees and vegetation shall be retained and protected, including:
 - i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
 - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
 - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
 - vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
 - viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
 - ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
 - x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree

canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,

xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Certifying Authority must ensure that:

c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

26. **Road Reserve**

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

27. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

28. **External Colours and Materials**

The external colours and materials (including front 'open style' fencing style) is to remain consistent with that shown on the stamped approved architectural plans.

Reason: To maintain amenity considerations.

29. **Property Boundary Levels**

The Applicant is to maintain the property boundary levels within 1m of the side and rear boundary that are consistent with adjacent land in order to provide suitable space for landscaping, drainage management and minimise 'cross boundary' impacts (such as soil / tree support, artificially raised / lowered levels, over excavation, water runoff nuisance and the like).

Replacement of common boundary fencing structures between private property is subject to the *NSW Dividing Fences Act 1991* and its administration.

Details demonstrating compliance are to be submitted to the satisfaction of the Principal Certifying Authority for site level changes.

Reason: To maintain the existing profile of the nature strip/road reserve.

30. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 Normal and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

31. **Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan titled dated [INSERT].

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

32. **Waste/Recycling Requirements (Materials)**

During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE
OCCUPATION CERTIFICATE**

33. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved amended Landscape Plan.

Prior to the issue of an Occupation Certificate, details shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

34. **Condition of Retained Vegetation - Project Arborist**

Prior to the issue of an Occupation Certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,
- c) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree protection.

35. **Disabled Parking Spaces**

Where disabled parking spaces are provided they must be in accordance with AS2890.6:2009.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure compliance with Australian Standards.

36. **Reinstatement of Kerb**

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant as the requirements of Transport For NSW.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

Reason: To facilitate the preservation of on street parking spaces.

37. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of final Occupation Certificate.

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

38. **Boarding House Plan of Management**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from the operator that the requirements of the *Boarding House Plan of Management* have been implemented and are compliant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure the premises a maintained in an appropriate manner in perpetuity.
(DACHPFPOC7)

39. **Plan of Management Review**

Prior to Occupation the Plan of Management (OPM) shall be reviewed and upgraded.

i) Reference to "Warringah Council" shall be replaced with "Northern Beaches Council".

ii) House rules for the OPM shall include a clause that "Lodgers with noisy motorbikes or cars may be required to restrict entry/exit hours overnight or relocate vehicles off site to avoid a nuisance to other lodgers or neighbouring residents" that details a suitable time period and that alternative public parking along Kentwell Road / Pittwater Road will minimise disturbance to neighbours if circumstances arise regarding Lodgers vehicle noise.

Reason: To provide a robust Plan of Management and minimise vehicle noise to occupiers and adjoining residents.

40. **Outdoor lighting Certification**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided that any outdoor lighting does not detrimentally impact upon the amenity of other premises and complies with where relevant, Australia Standard AS 1158.3:2005 Lighting for roads and public spaces – Pedestrian Area (Category P) lighting – Performance and design requirements and *Australian Standard AS 4282:1997 Control of the obtrusive effects of outdoor lighting*.

Reason: To protect the amenity of adjoining properties (DACHPFPOC6)

41. **Garbage and Recycling Facilities**

All internal walls of the waste rooms shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

42. **House / Building Number**

House/building number is to be affixed to the building / front fence to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Proper identification of buildings.

43. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

44. **Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste and recycling facilities are provided.

45. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

46. **Positive Covenant for Council and Contractor Indemnity**

A positive covenant shall be created on the title of the land prior to the issue of an Interim/Final Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities.

47. **Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

48. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of

planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

For all new residential works with two or more dwellings and mixed use developments, a maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

49. **Local Undesirable Tree Species**

Leighton Green Cypress *Cupressocyparis leylandii* or any of its cultivars, or any other *Undesirable and Exempt Trees* identified by Council, must not be planted on the site for the life of the development.

In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views and loss of plant diversity.

50. **Site Occupancy - Building Manager**

Room "L10" is to be allocated to the building Manager and one (1) standard width on-site parking space for the manager.

Reason: Parking and operational management.

51. **Noise from mechanical plant**

Plant or equipment or exhaust fans or air-conditioning must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the *Protection of the Environment Operations Act 1997* and in accordance with the *Protection of the Environment Operations (Noise Control) Regulation 2008*.

Reason: To ensure the amenity of the residential area is not adversely impacted.

52. **Occupancy of Boarding House**

The building is to contain a maximum of 20 persons, being no more than 2 persons per designated bedroom. In order to maintain this occupancy rate, a sign is to be erected immediately adjacent to the doorway accessing the building detailing the maximum sleeping capacity of the occupancy.

Reason: To ensure the amenity of occupants. (DACPLG23)

53. **Resident Parking Schemes**

The building manager is to ensure that all tenants are aware that this building will not be eligible for any Resident Parking Scheme as the parking provisions are deemed compliant with necessary local and state legislation.

Reason: To ensure the Tenants / Lodgers are aware prior to occupying the Boarding House.







NORTH ELEVATION (REAR)



Design + Sustainability Advisory Panel Meeting Report – Date 22 April 2021

DA2021/0166 532 Pittwater Road, MANLY

PANEL COMMENT AND RECOMMENDATIONS

General

The site is zoned R2 Low Density Residential under the Warringah LEP 2011, and the proposed boarding house is permissible with consent in the zone. The application is to be submitted under the provisions of Division 3 of State Environmental Planning Policy (Affordable Rental Housing) 2009.

The application proposes demolition of the existing structures on site and construction of a new 10 room (unit) boarding house, with parking provided at ground level, and units generally located above. One of the units and a common room is to be located at ground level to the rear of the parking area. Each of the upstairs units will contain two levels, with the upper levels being further 'split' between living and bedding areas.

The site comprises grass coverage with no significant trees located on the property which require removal.

This site is located within a low-density residential area of North Manly comprising a mixture of single and two storey detached dwellings on similar sized lots to the subject site. More recent developments comprise larger two storey dwellings of contemporary appearance. Adjacent to the site immediately to the east is an established childcare centre in a single storey building. The site is opposite Warringah Golf Club and therefore has an outlook across the golf. The site is adjacent a main road (Pittwater Rd), with regular bus services available with easy walking distance to Warringah Mall.

This application had been reviewed by DSAP on 17.12.2020 (PLM 2020-0294) and a number of design concerns were raised, and DSAP were supportive of a design in so far as improved landscaping, streetscape, and residential amenity outcomes could be provided.

Strategic context

As in the PLM the Panel remains of the view the application is to be commended for proposing a typology that will meet local social needs, complies with controls and displays innovation and sensitivity to its context

Urban context: surrounding area character

A site analysis describes the context including opportunities and constraints.

The analysis provides an explanation of the design response.

The immediate area is characterised by low rise development.

Where properties have a large tree in the front setback the streetscape is significantly enhanced. (properties to the west). To the east, properties have large hardstand areas which detrimentally impact the street character. The third storey is setback to align with existing buildings on adjacent lots and the first two storeys are setback 6.8m with an open pergola to a private terrace. The setback will enable the provision of an appropriate large tree in the setback area and is considered acceptable (refer *Landscape area and parking* below)

Scale, built form and articulation

The plans indicate that the proposal will comply in full with the relevant built form controls in the Warringah DCP.



The built form of the dwellings is articulated and uses pitched roof forms which relate to the character of the area. The pavilion building with the common room at ground level appears quite blocky in the CGI's rather than a slender form.

The access balcony is a very long and has a solid balustrade noted as a 'rendered concrete plinth' that lacks articulation. At the same time the steps in the form at the stairs act to increase its apparent bulk by reducing its horizontal slenderness. It is assumed the sightline to the street when using the ground floor access will be interrupted by a 'step' in the soffit impacting the visual experience using the covered way.

The Panel has concerns that a rendered and painted balustrade is highly susceptible to poor detailing in the commercial construction market without careful design. This element dominates the street view and will result in a poor outcome if not carefully detailed.

Recommendations

1. Consider a pitched roof form to the brick building to reduce the apparent bulk
2. Consider removing the step in the access soffit and providing a flowing profile generated by an angled stair soffit and letting the rendered balustrade forms follow this profile.
3. Careful detailing of the 'rendered concrete plinth' that takes into account construction joints, concealed rainwater drainage pipes, how overflows are arranged, and horizontal pour joints are critical to the success of otherwise of this building element and the ground floor covered way. Do not use paint finishes. Provide coating systems with integral colour and long performance warranties.
4. Consider lowering the balustrade upturn to a minimum 760mm above the balcony (NCC) and providing a simple expressed handrail at 1 m.

Landscape area and car parking

Generally, the design does not seem to have adopted or responded to many of the comments sent previously. The Panel notes there is no use of rear (northern) landscaped area as recommended in the pre-lodgement meeting report. Changing to driveway to permeable grass paving is a positive.

The common room has poor connections and visual obstructions to the common open space and landscaping to the north.

The development proposes excavating the site to facilitate an accessible unit L01. The terrace has a 1m retaining wall with a steep cut embankment above that. The cuts, banks and garden retaining walls are not shown on the Landscape Concept plan D-S-02 and if done poorly will result in an unsatisfactory outcome.

The landscape plan needs to get the balance right between landscaping and access to sunlight in Unit L01 and the proposed outdoor common area. The landscape concept plan suggests this area will only have 2-3m shrubs/screen planting which has the potential to result in poor solar amenity to outdoor spaces.

The Ginkgo trees proposed are very slow growing so that the desired landscaped character will be slow to develop.

Recommendations

5. Consider increasing the useable landscape area in the north of the site.
6. Consider replanning the common room and common open space arrangement. Refer to *Amenity* below
7. The landscape concept should be developed to a more detailed landscape plan which
 - Carefully considers ground cover and low planting options in the planting mix to the northern garden, and
 - Provides more detailed profiles of the embankment design at the north end and in the side boundary areas of the site and how the soil will be retained and integrated with the planting scheme.



- Ensures appropriate landscape treatments that provide privacy and vegetative screening are provided to adjacent properties, the landscape concept needs to be design developed to give Council's landscape architect confidence that the densities and scale of planting will be suitable.
- 8. Consider replacing the Gingko trees with a native deciduous tree that will deliver the desired landscaped character sooner.
- 9. Provide an endemic native canopy tree in front setback area that would have been part of the original local ecosystem.

Façade treatment

Refer Scale, built form and articulation above
Refer Landscape area and parking above
Refer Amenity below

Amenity

The private terrace to Unit L01 appears to be 1.75m below the ground line and facilitated by steep banks to natural ground levels at the boundary. Given that these banks appear to 45 degrees in slope and 2-3m shrubs are proposed there is concern the terrace will feel like it is in a gully environment with little access to winter sun.

The Panel notes the seating recesses provided in the access balcony but feel as though the spatial variation and detail design could be further enhanced to humanise the accessway.

As noted in the meeting, the accessway has the potential to be a common meeting place and the applicant is encouraged to explore this.

The living spaces are very small and would benefit from the provision of a generous window to provide a connection to the outdoors.

Ceiling heights do not appear to comply with the NCC.

The amenity of the Common Terrace and the entry to Unit L01 are adversely affected by the access stairway. One communal living room is required which receives a minimum 3 hours direct sunlight (9am - 3pm mid-winter)

The access to the robes from winder stairways remain awkward.

Recommendations

10. Provide more detailed profiles of the embankment design at the north end of the site and how the soil will be retained and integrated with the planting scheme. (Refer *Landscape area and parking* below)
11. Consider making the embankments a gentler landscaped slope, or stepped retaining dwarf walls or natural dry sandstone retaining walls with suitable native planting
12. The panel recommends the provision of canopy structures to provide weather protection at all entries, possibly utilising the post and beam language of the pergolas over the private balconies.
13. The Panel strongly recommends the provision of an eastern window to provide an outlook, daylight and natural cross ventilation to the living area.
14. Provide minimum 2.1m ceiling heights in the main living space and demonstrate compliance with the NCC 3.8.22.
15. Relocate the access stair in front of the common room and delete the blade column which impinges on sightlines to the garden and functionality of the space. Consider the location and arrangement shown in the plans from the pre-lodgement meeting
16. Relocate wardrobes to a location not accessed from stairs. Storage on stairs should be for infrequently used storage.



Sustainability

Heat pump hot water systems are supported and recommended as a good sustainability outcome. Unfortunately, including heat pumps may reduce the energy score, but this can be compensated for with additional PV. There is only a very small PV system, so increasing the PV would be a positive and practical outcome.

Refer *Amenity* above regarding small window sizes impacting natural cross ventilation in Living/Sleeping areas.

Recommendations

17. Consider utilising electric heat pump hot water and induction cooktops to replace the use of gas.
18. Update the BASIX Certificate to reflect the provision of PV cells. The Panel recommends increasing the capacity above 3kW.

PANEL CONCLUSION

The Panel is general very supportive of the proposal and the overall approach to the site planning and building massing, however the Panel does not support the Proposal in its current form due to the range of issues identified.

The recommended amendments to the design are relatively minor and should be incorporated in any revision to the design.

ITEM 3.3	PLANNING PROPOSAL - PEX2020/0009 - 150 DARLEY ROAD, MANLY (FORMER MANLY HOSPITAL)
AUTHORISING MANAGER	MANAGER STRATEGIC AND PLACE PLANNING
TRIM FILE REF	2021/023563
ATTACHMENTS	1 Independent Assessment by GHD June 2021 2 Planning Proposal Report - 150 Darley Road Manly

PURPOSE

To report the assessment of a Planning Proposal lodged for 150 Darley Road, Manly (former Manly Hospital site) and request that the Local Planning Panel provide advice regarding the recommendation to progress the Planning Proposal to a Gateway Determination.

SUMMARY

A Planning Proposal was lodged by Mecone Pty Ltd on behalf of Property & Development NSW for the former Manly Hospital located at 150 Darley Road, Manly on 6 November 2020. The Proposal seeks to amend Schedule 1 of the Manly Local Environmental Plan 2013 to allow the following additional permitted uses on the former Manly Hospital site to facilitate the development of a health and well-being precinct:

- Development for the purpose of a health services facility permitted with development consent on Lot 2728, DP 752038.
- Development for the purpose of a group home, community facility, educational establishment, food and drink premises, centre-based child care facility, indoor recreational facility, neighbourhood shop, function centre, respite day care centre and seniors housing permitted with development consent on Lot 2619, DP 752038.

Council commissioned GHD Pty Ltd (GHD) to undertake an independent assessment of the 2019 Planning Proposal in accordance with the NSW Planning and Environment's *Planning Proposal: A Guide to Preparing Planning Proposal* (December 2018).

The Planning Proposal was publicly exhibited (Pre-Gateway non-statutory) from 20 November 2020 to 4 December 2020 during which 6 public submissions were received. The content of these submissions and responses to each are included in the Planning Proposal Assessment Report attached. The Planning Proposal was also referred to a number of internal Council business units as well as external State agencies for review and comment. These comments have been considered in GHD's review and included in the assessment report.

GHD has completed their assessment of the Planning Proposal and has concluded that the application has both strategic and site-specific merit that can be supported by Council and progressed to the NSW Department of Planning, Industry & Environment (DPIE) for Gateway Determination. GHD's recommendation is subject to the inclusion of the heritage listing of several structures within the precinct as well as future consideration of APZ establishment and maintenance particularly along SP2 and E2 zone boundaries.

Relevant Council staff have reviewed GHD's recommendation, and agree to progress it to the Northern Beaches Local Planning Panel for consideration noting that the following information be sought before the land is rezoned, namely:

- Additional information is needed to determine the adequacy of access/egress in the event of an emergency in accordance with the relevant Planning for Bushfire Protection 2019 guideline;
- Intention to list a number of buildings on the subject site with demonstrated, high heritage value.

It is Council's intention to request that this information be required as a condition of any future Gateway Determination.

RECOMMENDATION OF MANAGER STRATEGIC & PLACE PLANNING

That the Northern Beaches Local Planning Panel:

- A. Recommends that Council endorse the Planning Proposal for 150 Darley Road, Manly (former Manly Hospital), and forward it to the NSW Department of Planning, Industry and Environment (DPIE) to seek a Gateway Determination.
 - B. Recommends that Council request to DPIE that additional information (Heritage and Bushfire) be required to be submitted as a condition of and prior to any future Gateway Determination.
-

REPORT

BACKGROUND

Previous Community Engagement

When the Manly Hospital was officially closed in 2018, the NSW Government announced that an Adolescent and Young Adult Hospice (AYAH) would be located on a portion of the site and the balance of the site would be redeveloped to accommodate a health and well-being precinct.

A Project Steering Advisory Committee (PSAC) was established to assist DPIE in developing a master plan for the entire site focused “on delivering health and wellbeing-related uses, a mix of open and community spaces, neighbourhood-scale shops, food and drink offerings, and developing an adaptive re-use strategy for the existing heritage buildings”.

Community consultation was undertaken in August and September 2019 which identified key themes to inform the concept master plan.

Further consultation was undertaken between July and September 2020 to seek the community’s feedback on the draft concept master plan prior to lodging the planning proposal. A virtual webinar was held on 21 September 2020 to answer the community’s queries.

Council Pre-Lodgment Meeting

Ahead of formally lodging a Planning Proposal application, a pre-lodgment meeting was held on 1 April 2020 with relevant Council officers.

Site Context

The site is located at 150 Darley Road, Manly – it is 6.18ha and is irregular in shape. It comprises four allotments that are legally referred to as:

- Lot 2619 DP 752038
- Lot 2727 DP 752038
- Lot 2728 DP 752038
- Lot 2774 DP 752038

The site has a primary northern frontage to Darley Road of 150m and secondary north eastern frontage to North Head Scenic Drive of 170m.

Existing development across the 4 lots is as follows:

1. Development in the form of the former Manly Hospital and precinct is generally contained within lots 2619 and 2728. The Hospital site is currently not being utilised.
2. Lots 2727 and 2774 to the south are largely undeveloped and contain dense vegetation.

Planning Proposal Assessment

GHD have conducted an independent assessment of the Planning Proposal in accordance with the NSW Planning and Environment’s *Planning Proposal: A Guide to Preparing Planning Proposal* (December 2018). GHD has concluded that the Planning Proposal can be supported by Council and progressed to the NSW Department of Planning, Industry & Environment (DPIE) for Gateway

Determination subject to the inclusion of the heritage listing of several structures within the precinct as well as future consideration of APZ establishment, and maintenance particularly along SP2 and E2 zone boundaries (details to be submitted in a future Biodiversity Development Assessment Report).

A preliminary review raised concerns around the lack of information regarding impacts to biodiversity, the establishment of appropriate Asset Protection Zones in compliance with bushfire prone land requirements. Council requested and subsequently received on 16 April 2021, additional information in the form of a revised Ecological Constraints Report as well as a Vegetation Management Plan (VMP). In view of this additional information, GHD's full recommendations are as follows:

On the basis of the information presented with the Planning Proposal, it is recommended that Council support the progression of the Planning Proposal for a Gateway determination from DPIE under section 3.34(1) of the Environmental Planning and Assessment Act 1979 subject to the following:

- *The Planning Proposal is to include heritage listing for the following structures for Manly Hospital:*
 - *the remnant façade of Building 1, constructed 1928*
 - *the Main Ward Block (Building 2), constructed 1928*
 - *the Kitchen (Building 15), constructed 1928*
 - *Parkhill Cottage (Building 20), constructed 1921, which has historical associations with the Quarantine Station*
 - *the eastern and western sandstone boundary walls to Lot 2619 DP752038 and alignment of eastern boundary wall, constructed 1920*
 - *the bushland areas, which provide the historical natural setting of the hospital site (landscape setting)*
 - *the Kiosk (Building 5), constructed 1931*
 - *Nurses home (Building 22), constructed 1931, excluding later additions*
- *The Planning Proposal and subsequent LEP amendment should reference the need for a Conservation Management Plan to be prepared to guide the redevelopment of the site and the proposed adaptive reuse of the existing buildings as part of a site specific Development Control Plan and a Visual Assessment report of the site and potential future development outcomes.*

In addition to the above it is noted that any future BDAR submitted in support of the broader Manly Hospital masterplan development should address the following matters:

- *Interactions between E2 zone objectives and APZ establishment/maintenance;*
- *Direct vegetation impacts associated with the proposal including APZ establishment/maintenance;*
- *Indirect impacts associated with operation of the new uses/activities (e.g. light, noise, increased traffic causing road mortality of bandicoots, intensification of human activity);*

- *Potential impacts to threatened entities including Littoral Rainforest EEC, Powerful Owls, Little Penguins (including stormwater/run-off/erosion impacts to the AOBV), Long-nosed Bandicoots, Sunshine Wattle and Magenta Lilly Pilly;*
- *Discussion of measures to avoid and minimise impacts and mitigation measures for any residual impacts.*

Council staff have reviewed GHD's recommendations and have included additional requirements:

- No assessment has been made to determine if the road network (within the precinct) can support evacuation demands in the event of an emergency. The rezoning will facilitate additional population in the precinct and a traffic report prepared by a suitably qualified traffic consultant should model traffic evacuation in the event of an emergency including the identified access/egress points for the precinct.

The applicant's Petersen Bushfire report notes that some of the proposed site access and road provisions including the access road to Collins Beach Road however, this road is in North Head National Park.

- Consideration of all critical infrastructure including electricity and gas, not just water as required by the strategic bush fire assessment under the Planning for Bushfire Protection.

It is Council's intention to request that the additional information listed in GHD's recommendations as well as an assessment of traffic evacuation and critical infrastructure be required as conditions of any future Gateway Determination issued by DPIE. In this way, the additional information is submitted to Council prior to the statutory exhibition of the Planning Proposal.



Northern Beaches Council

Independent Review of the Former Manly Hospital Planning
Proposal

150 Darley Street, Manly

June 2021

WATER | ENERGY & RESOURCES | ENVIRONMENT | PROPERTY & BUILDINGS | TRANSPORTATION

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1. Part 1 - Objectives and intended outcomes

GHD have been engaged by Northern Beaches Council to assess a planning proposal for land at 150 Darley Road, Manly (the subject land). The Planning Proposal has been prepared by Mecone NSW Pty Ltd on behalf of Property & Development NSW (PDNSW), part of the Department of Planning, Industry and Environment (DPIE).

The Planning Proposal intends to amend the *Manly Local Environmental Plan 2013* (MLEP 2013) to allow for additional permitted uses at the site. This will be achieved by permitting additional uses under Schedule 1 pursuant to Clause 2.5 of the MLEP 2013.

The LEP amendment proposed will enable the making of a site-specific DCP which will inform the site's redevelopment in the future, reflective of extensive market sounding, needs-based analysis and community and stakeholder engagement undertaken to date by the relevant NSW Government Departments.

GHD's engagement involves an assessment of the following matters:

- Review and objectively assess the application and Planning Proposal.
- Undertake a peer review of the technical studies submitted with the application.
- Consider comments received from internal staff referrals, state and servicing agencies, adjoining property owners and independent parties as part of Council's non-statutory notification period.

1.1 Subject land

The former Manly Hospital site (the subject land) is comprised of 3 individual lots within Manly fronting Darley Road as shown in Figure 1-1, Figure 1-2 and identified within Table 1-1.

The 3 lots have a total area of 4.66 ha. The land has a primary frontage of approximately 340 m to Darley Road. The land is currently developed with hospital buildings, roads and car parking areas as shown in Figure 1-2.

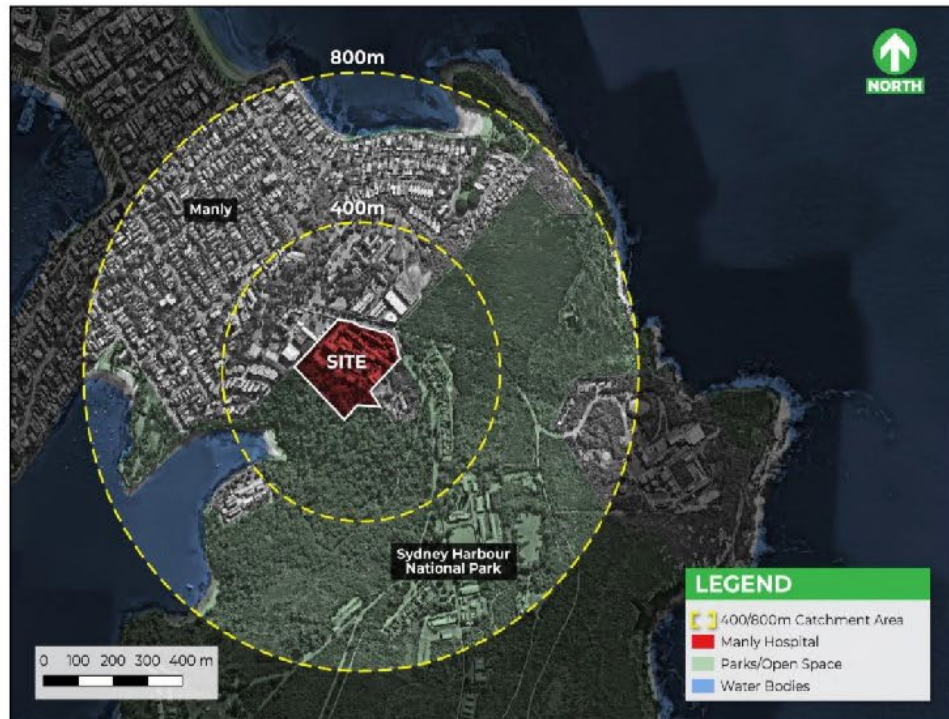


Figure 1-1 Site aerial map

Source: Mecone/Mosaic



Figure 1-2 Lots comprising the subject land

Table 1-1 Land details

Address	Lot/DP
150 Darley Road	Lot 2619 in DP 752038
150 Darley Road	Lot 2727 in DP 752038
150 Darley Road	Lot 2728 in DP 752038

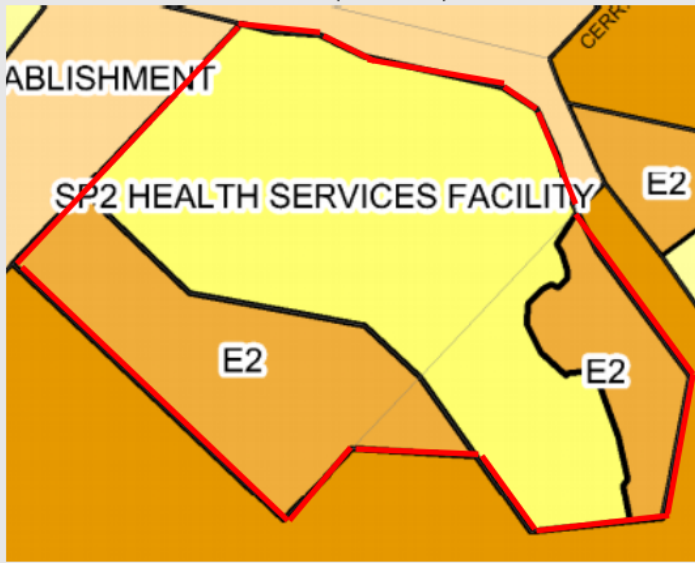
1.2 Land context

The subject land is located in the Northern Beaches Local Government Area (LGA) approximately 1 km east of the Manly Town Centre, 10 km south east of Northern Beaches Hospital in Frenchs Forest and 17 km north east of the Sydney Central Business District. The site is located on the southern side of the Manly peninsula fronting Spring Cove, North Harbour. Development surrounding the land consists of the historic St Patrick's Estate, North Head Sanctuary and Sydney Harbour National Park.

1.3 Current planning provisions

Pursuant to Manly LEP 2013 the land is subject to the following provisions:

Table 1-2 LEP Provisions

Clause	Relevance
Zone	<p>The site is zoned SP2 Infrastructure (Health Services Facility) and E2 Environmental Conservation (see below).</p> 
4.1 Minimum Subdivision Lot Size	The site is not identified as having a minimum lot size.
4.3 Height of Buildings	The site is not subject to a maximum building height.
4.4 Floor Space Ratio	The site is not subject to a floor space ratio.
5.10 Heritage Conservation	This clause relates to development applications but the Planning Proposal should meet the objectives of the clause and consider all existing and potential heritage at the site.
6.1 Acid sulfate soils	The MLEP 2013 does not identify the site as containing acid sulfate soils.

6.2 Earthworks	The proposal will be assessed against this provision at the DA stage.
6.3 Flood planning	The site is not identified by Council's Flood Risk Precinct Maps as being affected by flooding.
6.5 Terrestrial Biodiversity	The site is identified within terrestrial biodiversity mapping in accordance with clause 6.5.
6.6 Riparian land and watercourses	The site is not mapped as containing a watercourse.
6.7 Wetlands	A portion of the site in the south east is identified as a local wetland in accordance with clause 6.7.
6.9 Foreshore scenic protection	The site is identified as being within the Foreshore Scenic Protection Area in accordance with the Foreshore Scenic Protection Area Map. As a result, clause 6.9 of the MLEP 2012 applies to the site.
6.14 Requirement for Development Control Plan	The site is identified on the Key sites map as "Dalwood Children's Hospital & Manly Hospital". As such, development at the site can only be considered after a development control plan has been prepared and adopted for the land in accordance with Clause 6.14.

1.4 Proposal

The site-specific provision will facilitate the development of a multi-functional destination health and well-being precinct on the site, whilst retaining its primary purpose as a health services facility. A concept plan has been developed for the site and is shown in Figure 1-3.



Figure 1-3 Concept master plan

Source: Cox 2020

1.4.1 Proposal objectives

As identified by the proponent, the objectives of the proposal are as follows:

- Facilitate the redevelopment of the site for the purposes of a vibrant health and wellbeing precinct by permitting additional uses currently prohibited under existing zoning.
- Enable the preparation of a site-specific DCP reflective of the extensive market sounding, needs-based analysis, and community and stakeholder engagement undertaken to date by the NSW Government.
- Ensure that the site remains appropriately zoned and is retained for the primary use of a health services facility and is not developed for undesirable purposes.
- Preserve the site's important ecological values and biodiversity values through the retention of environmental zones at the site.
- Improve connectivity to the surrounding landscape and national park for patients, staff and visitors.
- Support the growth of the health services sector in the Northern Beaches which is forecast to be the fastest growing sector over the next 20 years.
- Provide an employment generating use that will assist in achieving the Eastern District's job targets.

1.5 Scope and limitations

This report has been prepared by GHD for Northern Beaches Council and may only be used and relied on by Northern Beaches Council for the purpose agreed between GHD and the Northern Beaches Council as set out in section 1.6 of this report.

GHD otherwise disclaims responsibility to any person other than Northern Beaches Council arising in connection with this report. GHD also excludes implied warranties and conditions, to the extent legally permissible.

The services undertaken by GHD in connection with preparing this report were limited to those specifically detailed in the report and are subject to the scope limitations set out in the report.

The opinions, conclusions and any recommendations in this report are based on conditions encountered and information reviewed at the date of preparation of the report. GHD has no responsibility or obligation to update this report to account for events or changes occurring subsequent to the date that the report was prepared. The opinions, conclusions and any recommendations in this report are based on assumptions made by GHD described in this report. GHD disclaims liability arising from any of assumptions made.

GHD has prepared this report on the basis of information provided by Northern Beaches Council and others who provided information to GHD (including Government authorities), which GHD has not independently verified or checked beyond the agreed scope of work. GHD does not accept liability in connection with such unverified information, including errors and omissions in the report which were caused by errors or omissions in that information.

1.6 Assumptions

This report is based on information contained in the planning proposal document and technical studies detailed in Table 1-3.

Table 1-3 List of reports and technical studies

Title	Author	Date
Former Manly Hospital LEP Amendment Planning Proposal Report	Mecone	November 2020
Aboriginal Archaeological Due Diligence Assessment	Dominic Steele Consulting Archaeology	28 November 2020
Bushfire Assessment	Peterson Bushfire	12 August 2020
Community Needs Analysis and Social Strategy	Ethos Urban	17 July 2020
Ecological Constraints Assessment	Narla Environmental	July 2020
Geotechnical Assessment	JK Geotechnics	9 September 2020
Heritage Assessment Report	Paul Davies Pty Ltd	April 2018
Public Domain Strategy and Landscaping Strategy	Tract Consultants	9 July 2020
Services Strategy	Cardno	31 August 2020
Stormwater Strategy Report	Arcadis	16 July 2020
Transport Assessment	JMT Consulting	1 October 2020
Urban Design Report	Cox Architecture	October 2020

2. Part 2 – Explanation of provisions

The Planning Proposal seeks to amend the *Manly Local Environmental Plan 2013* (MLEP 2013) to include site specific additional use provisions. Pursuant to clause 2.5 of the MLEP 2013, the following provisions are to be introduced to Schedule 1 Additional Permitted Uses:

5 Use of certain land at 150 Darley Road, Manly

- 1) *This clause applies to land at 150 Darley Road, Manly, being Lots 2728 and 2619, DP 752038.*
- 2) *Development for the purpose of a health services facility is permitted with development consent on Lot 2728, DP 752038.*
- 3) *Development for the purpose of a group home, community facility, educational establishment, food and drink premises, centre-based child care facility, indoor recreational facility, neighbourhood shop, function centre, respite day care centre and seniors housing is permitted with development consent on Lot 2619, DP 752038.*

The site-specific provision will reinforce the intent for the Planning Proposal to deliver a multi-functional destination health and well-being precinct, whilst retaining its primary purpose as a health services facility.

Clause 6.14 Requirements for Development Control Plans

A site specific DCP will continue to be required to be prepared in accordance with Clause 6.14 of MLEP 2013 and will provide detailed development controls to be addressed by future development.

The site specific DCP will nominate a range of controls pertaining to the siting of the envelopes, maximum heights, setbacks and general and site-specific heritage provisions. Its purpose will be to provide the consent authority with surety that a future Development Application will achieve an appropriate built form outcome.

3. Part 3 – Justification

3.1 Section A – Need for the Planning Proposal

Is the Planning Proposal a result of an endorsed Local Strategic Planning Statement, strategic study or report?

The Planning Proposal is not the result of any specific strategy study or report. The Planning Proposal has been initiated by the Proponent in response to market sounding, a comprehensive Community Needs Analysis and extensive stakeholder and community consultation. The findings of these studies and the various consultation initiatives confirm that the site is suited to accommodate non-acute health services and wellbeing related uses that are not strictly permitted under the current SP2 Infrastructure (Health Services Facility) zoning.

Market sounding was undertaken by Ernst and Young in early 2020 to ascertain the type of uses that would be suitable for the site. The findings confirmed support for the redevelopment of the site for health, retail, community, and residential care facilities for seniors and veterans as well as family support accommodation. The key findings are as follows:

- The site's isolation from designated health and education precincts (i.e. Frenchs Forest) means it is less suited for accommodating acute hospital services and more suited to non-acute health and wellbeing related services.
- The provision of residential care facilities across the site will generate a demand for other complementary uses such as retail, recreational and community uses.
- The delivery of a mix of uses across the site will foster community interaction and a sense of place, which are essential attributes of a wellbeing precinct and integral to the success of a future residential care facility.
- It was concluded by stakeholders that the future commercial viability of the site would be reliant on a mix of uses, including aged care, seniors housing or alternative housing.
- In light of the above, there was a recognition that the provision of community uses needs to be balanced alongside the long-term commercial viability of the site as financial returns will be imperative to maintaining public access to the site.

Similar findings were reflected in the outcomes of the stakeholder and community consultation. The consultation process confirmed that there is strong community support for the provision of community related uses across the site which will support a range of activities and address the needs of the local community.

In addition to the above, the Community Needs Analysis identifies that the future demand for acute health services will be met by the nearby Northern Beaches Hospital. In light of this, there is a growing demand for non-acute health services. The site's locational benefits, including access to view corridors and landscapes, are conducive to supporting such services.

Key demographic trends, including the growing ageing population, provide an impetus for the delivery of residential care facilities across the site. The provision of residential care facilities and health related services will also generate a demand for complementary uses, such as retail, food and beverage, recreational and open space areas.

The Planning Proposal responds to the future demand for the aforementioned uses by facilitating their inclusion across the site. It is considered that these uses are integral to achieving a fully integrated destination health and wellbeing precinct.

In addition to the above, the proposal will deliver on a range of strategic objectives, including the Greater Sydney Region Plan, the North District Plan and the LSPS.

Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal is considered the best means of achieving the objectives.

In preparing the Planning Proposal, four options were considered to facilitate the intended outcomes at the site. These are listed and discussed below:

- Option 1: Do nothing.
- Option 2: Lodge a Development Application.
- Option 3: Prepare a Planning Proposal to amend the zoning, height and FSR development standards set out by MLEP 2013.
- Option 4: Planning Proposal to allow additional uses under Schedule 1 Pursuant to Clause 2.5 of MLEP 2013

Option 1: Do Nothing

Option 1 relates to the 'do nothing' option and involves leaving the site in its current underutilised, state. The site's services have been relocated to Northern Beaches Hospital, leaving it vacant. It is considered that this option represents a loss to the community as the site will cease to be a meaningful public asset and not be developed to its potential.

In contrast, the Proponent's vision provides an opportunity to address the growing demand for a range of community care services, including aged care, mental health and respite services for the terminally ill. Further, the delivery of a range of complementary health and wellbeing uses, and recreational facilities, will provide needed ancillary services and allows a future development to capitalise on the site's proximity to scenic and historic landmarks.

It is considered that the introduction of additional permitted uses to the MLEP 2013 is required in order to derive the greatest value from the site and address the growing health needs of the community. As such, Option 1 is not considered viable.

Option 2: Development Application

Option 2 involves the preparation and lodgement of a Development Application with Council. The site is predominantly zoned SP2 Infrastructure (Health Services Facility) and therefore permits health services, including uses that are ancillary or incidental to a health facility.

If Option 2 were to be pursued, the current development concept would not be achievable given that many of the potential uses expressed to be of interest during market sounding and community stakeholder engagement are not strictly ancillary or incidental to a health facility, and are therefore non-permissible. Subsequently, a future development would be unable to optimise the full development potential of the site or maximise the opportunities it presents under current zoning provisions and is therefore not considered viable.

In addition, the potential to deliver on the objectives nominated by the strategic planning framework would be considerably reduced. In particular, the need to provide accommodation and services for the ageing population and recreational, cultural and tourist facilities in accordance with the vision for the Manly Strategic Centre.

Option 3: Planning Proposal to Rezone the Site and introduce Height and Floor Space Ratio Development Standards

Option 3 pertains to the submission of a Planning Proposal that seeks a partial rezoning of the site to B4 Mixed Use to facilitate the delivery of uses that are not strictly ancillary but yet complementary to the health care use.

In consultation with Council during the pre-lodgement phase, it has been determined that a B4 Mixed Use zoning is at odds with the intended health and well-being focused uses and could potentially precipitate the inclusion of incompatible commercial uses.

Furthermore, it was agreed that built form could continue to be managed as it has historically, through the provision of a site-specific DCP in accordance with Clause 2.5 of MLEP 2013.

Option 4: Planning Proposal to allow additional uses under Schedule 1 Pursuant to Clause 2.5 of MLEP 2013

The Planning Proposal as set out in this document is considered to be the best means of achieving the objectives and intended outcomes, giving both Council and the Proponent certainty of the development outcomes expected for the site.

The proposed LEP amendments will permit additional uses whilst maintaining the existing SP2 Health Services Facility zoning and providing the community with surety that this will remain the primary use of the site into the future. Both Council and the Proponent consider that relative to the B4 Mixed Use Zone objectives, the SP2 Health Services Facility zoning objectives better align with the intent to deliver a health and wellbeing precinct.

Furthermore, Option 4 will ensure that built form aspects of any future development continue to be appropriately managed through the provision of a site-specific DCP. The site specific DCP will provide detailed development controls for the land not limited to: building envelopes and built controls, traffic and parking controls, controls to manage the distinction between public and private spaces and indicative locations of proposed uses.

3.2 Section B – Relationship to Strategic Planning Framework

Will the Planning Proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

A Guide to Preparing Planning Proposals sets out that in order to answer this question, a Planning Proposal needs to demonstrate consistency with the Strategic Merit Test. For the reasons set out below, the Planning Proposal is entirely consistent with the Strategic Merit Test and associated mandated assessment criteria.

a) Does the proposal have strategic merit?

Yes.

The Proposal demonstrates strategic merit as it will:

- Contribute to the renewal of an underutilised site to facilitate its emergence as a vibrant health and wellbeing precinct.
- Provide social infrastructure to meet the growing demand for a diversity of health care services.
- Support the growth of the Manly Strategic Centre by enhancing its existing social infrastructure and promoting its cultural, tourism and employment uses by delivering a range of secondary uses across the site.
- Preserve and repurpose the site's heritage significant buildings to provide a development outcome that is sympathetic to the locality's heritage, culture and historical identity.
- Foster the emergence of green links by promoting connectivity between the site and the surrounding national park.
- Increase the urban tree canopy coverage by delivering comprehensive landscaping.

- Not result in adverse environmental, social or economic impacts.
- Provide new employment opportunities in proximity to housing.
- Foster the collaboration of governments, community and businesses.
- Further discussion on the Planning Proposal's consistency with the relevant State and local strategic plans and policies is provided below.

Greater Sydney Region Plan – A Metropolis of Three Cities

The Greater Sydney Region Plan was released in March 2018. It provides a 40-year vision (to 2056) for the Greater Sydney Region and establishes a 20-year plan to manage growth and change for Greater Sydney. It identifies a vision for Greater Sydney to emerge as a metropolis of three cities comprising the Western Parkland City, the Central River City and the Eastern Harbour City.

The concept of three cities is predicated on the aspiration for its residents to live within 30-minutes of education, facilities, city-scale infrastructure and services and employment opportunities. To achieve this vision, the Greater Sydney Region Plan nominates 10 Directions centred around a framework based on the core themes of liveability, productivity and sustainability. These include:

1. A city supported by infrastructure
2. A collaborative city
3. A city for people
4. Housing the city
5. A city of great places
6. A well-connected city
7. Jobs and skills for the city
8. A city in its landscape
9. An efficient city
10. A resilient city

Each direction is supported by objectives and indicators that have been developed to guide the implementation of the plan. The overarching vision of the Greater Sydney Region Plan and its associated objectives are to be achieved through collaboration with all tiers of governments, the community, businesses and non-government organisations.

At a regional level, the Greater Sydney Region Plan recognises the need for infrastructure to be co-located in metropolitan and strategic centres. In light of this, the delivery of new facilities and infrastructure is noted as being integral to fostering the growth of socially connected communities as well as social and cultural networks that improve mental and physical health outcomes. To achieve this, strategic planning should aim to consider and capitalise on local identity, heritage, and cultural values.

The Greater Sydney Region Plan also identifies that there is a growing demand for community and health infrastructure due to shifting demographics, including the record number of births each year and the growing ageing population.

In light of the above, the Planning Proposal responds to the Greater Sydney Region Plan by giving consideration to its strategic directions and objectives. Specifically, the proposal is consistent with the nominated objectives as it will:

- Deliver health infrastructure that supports the growth of the Eastern Harbour City (Objective 1)
- Address the demand for health infrastructure arising from demographic shifts (Objective 3) (Objective 6)
- Foster collaboration between governments, community and business (Objective 5)
- Contribute to the creation of a healthy and socially connected community by providing social infrastructure and community focused uses (Objective 7)
- Optimise the opportunity to contribute to a culturally rich and diverse neighbourhood by protecting the site's heritage (Objective 8)
- Protect environmental heritage by adaptively reusing the site's heritage significant buildings (Objective 13)
- Increase employment opportunities in an accessible location (Objective 14)
- Provide a broader mix of uses that will support the operations of Australia's first Adolescent and Young Adult Hospice (AYAH) and the growth of the Manly Strategic Centre, which ultimately will contribute to the competitiveness of the Harbour CBD (Objective 18)
- Balance the need to redevelop the site for a viable purpose alongside the requirement to protect its biodiversity and scenic landscape (Objective 27) (Objective 28)
- Give consideration to the site's constraints and implement measures to mitigate potential exposure to natural hazards (Objective 37)
- Adopt a coordinated and collaborative approach to redeveloping the site that balances the needs of Government and stakeholders (Objective 39)

North District Plan

The North District Plan is intended to guide the implementation of the Greater Sydney Region Plan at a district level, bridging regional and local planning by informing Local Environmental Plans and Planning Proposals.

In particular, the District Plan provides detailed planning priorities which integrate relevant objectives, strategies and actions in response to identified challenges and opportunities. The planning priorities relate to three key aims of the District Plan, being:

- A productive city
- A liveable city
- A sustainable city

The site forms part of the Manly Strategic Centre which is identified as being strategically important for its cultural, eco-tourism, retail and recreational offerings that benefit from the District's scenic and cultural landscapes, including North Head and Sydney Harbour National Park. The North District Plan identifies the need to protect its important biodiversity and habitat, whilst supporting tourism and access to its landscapes.

The North District is experiencing notable demographic changes which influence the demand for infrastructure, services and housing. Of the LGAs in the North District, Northern Beaches is expected to experience one of the largest increases in people aged 20-24 years. This population segment is expected to increase by approximately 18% by 2036. In consequence the Northern Beaches LGA will accommodate a greater proportion of young adolescents relative to surrounding LGAs.

The North District Plan prioritises the consideration of young people's needs in the design and management of open space, cultural spaces, public realm and future development more broadly. It aims to deliver on the directions of the Office of the NSW Advocate for Children and Young People's *Strategic Plan for Children and Young People* (the Strategic Plan).

The Strategic Plan represents one of the first legislated three-year whole-of- government plan focused on all children and young people aged 0 to 24 years. It aims to give children and young people opportunities to thrive, get the services they need and have their voice heard. The Strategic Plan is informed by extensive consultation with children and young people across NSW. Health care was identified to be one of five of the key issues raised. Key findings of relevance to the proposal are as follows:

- The need to improve access and increase funding for health and wellbeing services
- Targeting health services to better treat and protect young people from intentional self-harm, psychosocial disorders and suicidal behaviour
- Ensuring the provision of quality out-of-home-care services
- Improving support and care for those with mental health problems
- Creating enabling and accessible environments for those with a disability

As noted previously, the growth of the ageing population is another significant demographic trend affecting the North District. The North District is expected to see an 85% proportional increase in people aged 85 and over, and a 47% increase in the 65-84 age group by 2036. Of the LGAs across the North District, the Northern Beaches is anticipated to have one of the largest projected increases in the 65-84 age group. In light of this, the North District Plan notes that more diverse housing types and medium density housing, as well as the design of walkable neighbourhoods, will create opportunities for older people to continue living in their community. In turn, the ageing population will benefit from being close to family, friends and established health and support networks that are integral to improving wellbeing.

The North District Plan identifies the need for additional health, social and aged care services to meet the growing demand for local aged care facilities and respite services.

The North District Plan identifies that future development and infrastructure are to be planned at the local, district or metropolitan levels to meet the needs of Greater Sydney. New development is to prioritise a place-based planning approach whereby future development is to respond to a place's opportunities and constraints to maximise its full potential. Sympathetic built-form controls and the adaptive re-use of heritage items are also identified as being important to new redevelopment opportunities.

In light of the above, the proposal supports the North District Plan's priorities to create a more productive, liveable and sustainable city in that the proposal will:

- Provide a coordinated approach to the delivery of community and health infrastructure that aligns with the projected demand for hospice, health and wellbeing, and aged care uses (Planning Priority N1).

- Adopt a collaborative approach involving Council, government and the community to facilitate the provision and expansion of high-quality health infrastructure within the Northern Beaches LGA along with a broader range of ancillary community focused uses (Planning Priority N2).
- Provide services and social infrastructure that responds to people's changing needs, including the need for seniors housing resulting from the growing ageing population and additional health and well-being services for the growing proportion of young adolescents (Planning Priority N3).
- Contribute to the renewal of the site by delivering a high-quality built form outcome that preserves its heritage buildings to allow for their ongoing appreciation and to assist with the preservation of the locality's character (Planning Priority N6).
- Whilst the proposal does not directly relate to a health and education precinct as defined by the North District Plan, it will facilitate the delivery of health/community infrastructure complementary to the nearby health precincts situated in Frenchs Forest and St Leonards (Planning Priority N9).
- Allow for an increased number of permissible uses that will facilitate employment creation within the Manly Strategic Centre and will contribute to the target of 817,000 jobs by 2056 (Planning Priority N10).
- Provide public domain areas with expansive views and pedestrian connections to North Head to encourage interaction with Sydney Harbour and the North District's waterways (Planning Priority N15).
- The proposal retains the portion of the site zoned E2 Environmental Conservation and will consequently protect important bushland and biodiversity (Planning Priority N16).
- The proposal will protect and enhance scenic and cultural landscapes by maintaining a number of historically significant buildings and providing architectural and urban design outcome that is sympathetic to the site's scenic qualities (Planning Priority N17).
- The proposal will contribute to the growth of the North District's urban tree canopy coverage by providing comprehensive landscaping, retaining as many trees as possible and conserving land with high environmental value (Planning Priority N19).
- Deliver high quality open space areas that will benefit from access to views and the visual amenity afforded by the site's environmental setting (Planning Priority 20).

NSW State Plan 2021

The NSW State Plan 2021 sets the strategic direction and goals for the NSW Government across a broad range of services and infrastructure. The current focus of the Government is outlined in 12 Premier's priorities and 18 State priorities. The Planning Proposal supports the Premier's and aligns with the State priorities in that it will:

- Provide employment floor space facilitating jobs growth
- Support new small businesses
- Create construction jobs

NSW State Infrastructure Strategy 2018 - 2036

The NSW State Infrastructure Strategy 2018 – 2038 (the Strategy) sets out the NSW Government's infrastructure vision for the State over the next 20 years. The Strategy aligns with the Greater Sydney Region Plan.

The Strategy identifies that a key challenge for the Eastern Harbour City is to drive and accommodate growth and density alongside investment in infrastructure that optimises use of existing assets. It outlines a number of key infrastructure responses, including the need to invest in improvements in cultural infrastructure and tourism; support the population with social infrastructure investments; and provide more school education facilities.

The Planning Proposal aligns with the aspirations of the Strategy in that it will:

- Provide recreational, cultural and public open space facilities that will support the visitor economy
- Deliver cultural and social infrastructure to meet contemporary expectations
- Facilitate investment in education infrastructure to support development and industry growth
- Support the population with investment in social infrastructure, including residential care facilities, mental health services and health services

Future Transport Strategy 2056

Future Transport 2056 establishes a 40 year vision for transport investment. It has been prepared in conjunction with the Greater Sydney Region Plan. It provides a framework for planning and investment to support the delivery of an innovative transport network that adapts to change and is customer focused. The future Transport 2056 nominates a number of key priorities. The following priorities are of relevance to the proposal:

- Activating centres with a new Movement and Place framework
- Encouraging active travel (walking and cycling) and using public transport
- Connecting people to jobs, goods and services in our cities and regions
- Supporting more environmentally sustainable travel

The Planning Proposal is entirely consistent with the Future Transport Strategy 2056 in that it will facilitate the activation of an underutilised site that is easily accessible by public transport by providing a mix of uses. These uses will increase visitation to the site and foster community interaction. The proposed uses will co-locate jobs alongside goods and services in an accessible location.

The Indicative Master Plan that accompanies the Planning Proposal makes provision for pedestrian connections that will support more environmentally sustainable modes of travel such as walking and cycling. This will be further iterated through the future site-specific DCP prepared for the site.

NSW Ageing Strategy 2016 – 2020

The NSW Ageing Strategy 2016 – 2020 establishes the key priorities to address the needs of the ageing population across NSW. These priorities support the overarching vision for the NSW population to experience the benefits of living longer and having the opportunity to be included in their communities. The priorities and associated objectives are as follows:

- *Priority 1: Health and Wellbeing* – Older people in NSW are encouraged to live active and healthy lives with improved physical and mental wellbeing
- *Priority 2: Working and Retiring* – Older people in NSW have opportunities to remain in the workforce, are financially secure and independent in retirement, and plan their finances based on their circumstances and needs

- *Priority 3: Housing Choices* – Older people in NSW live in affordable accessible, adaptable and stable housing
- *Priority 4: Getting Around* – Older people in NSW travel safely and appropriately to participate in social and economic life and access to services
- *Priority 5: Inclusive Communities* – Older people in NSW stay connected and contribute to their communities

The Planning Proposal is consistent with the NSW Ageing Strategy 2016 – 2020 in that it will expand the range of permissible uses across the site to facilitate the provision of seniors housing in an accessible location. It will co-locate seniors housing with retail, health and recreational uses and in turn will reduce the need for residents to travel in order to participate in social activities and access needed services.

The proposal will facilitate the provision of recreational open areas and health facilities in a high-quality urban environment. In turn, it provides the opportunity to improve physical and social wellbeing for occupants as well as the ageing population in the wider community.

b) Does the proposal have site specific merit?

The Proposal demonstrates site-specific merit as it:

- Innovatively integrates a range of health care services and ancillary uses that will support the growing demand for health and social infrastructure
- Will provide a built form outcome that is sympathetic to the site's heritage values
- Will deliver a range of complementary uses that will attract visitors and encourage the people to explore the scenic landscape and tourism / cultural offerings in the surrounds
- Will facilitate the creation of new employment opportunities in proximity to homes and services
- Is located within an accessible and desirable location
- Retains the site's primary historic use as a health care facility and is consistent with the objectives of the SP2 Health Services Facility zoning
- Will provide an appropriate framework to ensure a desirable built form outcome is achieved that protects the site's scenic and landscape values as well as those of the surrounds
- Will protect the site's biodiversity values by largely isolating future works to the existing developable portion of the site
- Will achieve a high-quality landscaping outcome with linkages to promote connectivity to the surrounds to encourage people to interact with the locality's environmental and historic cultural assets
- Will not result in unacceptable environmental impacts or compromise the amenity of surrounding residential properties
- Is consistent with the desired future character of the locality as contemplated by the existing zoning provisions
- Will facilitate the provision of seniors housing and health care facilities for adolescents in response to demographic shifts
- Is compatible with the surrounding development, which provides comparable health facilities (i.e. Bear Cottage) and uses
- Is appropriate for the site's location given its isolation from surrounding

- Education and health care precincts
- Provides non-acute health services that will not undermine the competitiveness of nearby health and education precincts in areas such as Frenchs Forest

Summary

The Planning Proposal achieves the assessment criteria as it demonstrates both strategic merit and site-specific merit. It is therefore considered that the Planning Proposal meets the Strategic Merit Test.

Will the Planning Proposal give effect to a Council's endorsed Local Strategic Planning Statement, or another endorsed local strategy or strategic plan?

Towards 2040 – Northern Beaches LSPS

Towards 2040 is Northern Beaches Council's LSPS which was adopted by Council on 26 March 2020. Within the context of the LSPS, the site is situated within the Manly Strategic Centre, which is noted to accommodate the highest concentration of social infrastructure. The LSPS identifies Australia's first hospice for young adults as one of many specialist uses to be accommodated in Manly – which will be undertaken by NSW Health on the subject site.

The LSPS notes that future development and planned infrastructure are to respond to population growth and demographic changes. The Northern Beaches' population is projected to increase by around 39,000 people over the next 20 years. Of this projected growth, the LGA will accommodate a greater proportion of the ageing population relative to Greater Sydney.

Job creation is to occur concomitant with population growth. Consistent with the North District Plan, the LSPS envisages the LGA will accommodate ground 9,000 to 13,000 additional jobs in its four strategic centres. As of 2016, 20% of the workforce were employed in health and education related jobs, which is projected to increase. Accordingly, health related uses are a key employment generator in the LGA.

The LSPS prioritises a place-based planning approach to preserve and enhance the LGA's local identity. Integral to this identity is its scenic and cultural landscapes, which are to be protected for the community's benefit. Place-based planning is to occur with community involvement where people are engaged in planning and decision-making.

The LSPS prioritises the need for a diversity of housing types to cater for different demographic groups, including the growing ageing population. The LSPS supports planning proposals for residential accommodation where strategic and site-specific merit are demonstrated and facilitate the delivery of a broader public benefit.

The Former Manly Hospital site is identified in the LSPS as a planning opportunity site. In particular, it identifies that there is a need to plan for the redevelopment of the site and its various uses. The site is to be redeveloped through a collaborative approach with local and State agencies to facilitate the realisation of shared outcomes.

The LSPS is supported by a range of planning priorities which aim to deliver on the directions of the Greater Sydney Region Plan and North District Plan. These planning priorities are underscored by a range of principles, with many directly applicable to the subject site.

The relevant Planning Priorities and associated principles are as follows:

- Priority 3 – Protected scenic and cultural landscapes. Protect core areas and areas of high environmental value from urban development.
- Priority 9 – Infrastructure delivered with employment and housing growth.
- Collaborate across levels of government to integrate land use and infrastructure.

- Priority 11 – Community Facilities and services that meet changing community needs.
 - Facilitate transparent collaboration process and involve stakeholders and the community early.
 - Provide flexible diverse and multi-use places and spaces close to public transport and strategic and local centres.
- Priority 17 – Centres and neighbourhoods designed to reflect local character, lifestyle and demographic changes.
 - Renew great places through design excellence and innovation design while respecting and enhancing local character.
 - Enhance local identity through place-based planning and design
 - Recognise heritage and culture as a fundamental aspect of the identity of place, including identification of places and items which contribute to the significant character of a place.
- Priority 26 – Manly as Sydney's premier seaside destination.
 - Balance competing land uses in Manly to serve the needs of workers, residents and visitors.
 - Protect and enhance Manly's character, identity and social significance.
 - Improve links to North Head and the former Manly Hospital site.

The Planning Proposal supports the aforementioned Planning Priorities and Principles, for the following reasons:

- Through collaboration with the local and State government, the proposal will facilitate a planning framework that will allow for the delivery of social and health infrastructure, tertiary education, seniors living, residential care facilities and services that will address the changing needs of the community, including those of the ageing and younger populations.
- The proposal will maintain and protect the site's environmental values by preserving the areas containing high environmental values and largely limiting the site's redevelopment to the land zoned SP2 Health Services.
- The proposal will redevelop the site for a multifunctional purpose, providing a health and well-being focused precinct close to transport and a local centre that will accommodate a greater range of compatible uses to that currently permitted.
- The proposal will contribute to the renewal of an underutilised site by delivering a built form outcome that exhibits design excellence.
- The redevelopment of the site will adopt a place-based approach, conserving its local identity and social significance through the adaptive reuse of its historically important heritage buildings.
- The proposal accommodates a range of competing land uses that will address the needs of the community whilst facilitating the creation of local employment opportunities.
- The proposal incorporates linkages to North Head that will foster connectivity.

Shape 2028 – Northern Beaches Community Strategic Plan 2018-2028

Shape 2028 – Northern Beaches Community Strategic Plan 2018 -2028 (the CSP) was adopted 17 April 2020 and is Northern Beaches Council's first CSP. It defines the community's long-term vision, priorities and strategic direction for the Northern Beaches LGA.

The CSP prescribes an overarching vision which is for Northern Beaches to be:

'a safe, inclusive and connected community that lives in balance with our extraordinary coastal and bushland environment'.

To support this vision, the CSP nominates a framework that includes a range of goals.

The proposal's consistency with the relevant goals is outlined in Table 3-1 below.

Table 3-1 Consistency with Shape 2028 – Northern Beaches CSP 2018-2020

Consistency with Shape 2028 – Northern Beaches CSP 2018-2020		
Goal		Comments
1	Our bushland, coast and waterways are protected to ensure safe and sustainable use for present and future generations.	The proposal predominantly relates to land that has been redeveloped for urban purposes. Consequently, the planning proposal will not impact the biodiversity values associated with the portion of the site zoned E2 Environmental Conservation.
5	Our built environment is developed in line with best practice sustainability principles.	The proposal has the capacity to adopt best practice sustainability principles. Sustainability measures and commitment will be addressed further through the development of a site-specific DCP and Detailed development application at a later date.
7	Our urban planning reflects the unique character of our villages and natural environment and is responsive to the evolving needs of our community.	The proposal adopts a place-based approach to the site's redevelopment. The proposal will enable the delivery of a range of community uses that will address the evolving needs of the community.
8	Our neighbourhoods inspire social interaction, inclusion and support health and wellbeing.	The planning proposal relates to the delivery of a health and well-being precinct. The planning proposal will enable the delivery of uses which will foster social interaction and supported the health and well-being needs of the community.
14	Our economy provides opportunities that match the skills and needs of the population.	The proposal seeks to broaden the permissible uses on the site. The uses proposed to be permitted at the site are employment generating uses that will cater to a diversity of people within the community, including the growing health care sector, which is forecast to be one of the fastest growing sectors in the LGA.

Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

The Planning Proposal has been assessed against relevant State Environmental Planning Policies in Table 3-2.

Table 3-2 Compliance with State Environmental Planning Policies (SEPPs)

SEPPs (as at December 2020)		Applicable	Consistent
1	Development Standards	No	N/A
19	Bushland in Urban Areas	Yes	Yes
21	Caravan Parks	No	N/A
33	Hazardous and Offensive Development	No	N/A
36	Manufactured Home Estates	No	N/A
47	Moore Park Showground	No	N/A
50	Canal Estate Development	No	N/A

SEPPs (as at December 2020)		Applicable	Consistent
55	Remediation of Land	No	N/A
64	Advertising and Signage	No	N/A
65	Design Quality of Residential Apartment Development	No	N/A
70	Affordable Housing (Revised Schemes)	Yes	Yes
	(Aboriginal Land) 2019	No	N/A
	(Activation Precincts) 2020	No	N/A
	(Affordable Rental Housing) 2009	No	N/A
	(Building Sustainability Index: BASIX) 2004	No	N/A
	(Coastal Management) 2018	Yes	Yes
	(Concurrences and Consents) 2018	No	N/A
	(Education Establishments and Child Care Facilities) 2017	No	N/A
	(Exempt and Complying Development Codes) 2008	No	N/A
	(Gosford City Centre) 2018	No	N/A
	(Housing for Seniors or People with a Disability) 2004	Yes	Yes
	(Infrastructure) 2007	No	N/A
	(Koala Habitat Protection) 2020	Yes	Yes
	(Kosciuszko National Park – Alpine Resorts) 2007	No	N/A
	(Kurnell Peninsula) 1989	No	N/A
	(Major Infrastructure Corridors) 2020	No	N/A
	(Mining, Petroleum Production and Extractive Industries) 2007	No	N/A
	(Miscellaneous Consent Provisions) 2007	No	N/A
	(Penrith Lakes Scheme) 1989	No	N/A
	(Primary Production and Rural Development) 2019	No	N/A
	(State and Regional Development) 2011	No	N/A
	(State Significant Precincts) 2005	No	N/A
	(Sydney Drinking Water Catchment) 2011	No	N/A
	(Sydney Region Growth Centres) 2006	No	N/A
	(Three Ports) 2013	No	N/A
	(Urban Renewal) 2010	No	N/A
	(Vegetation in Non-Rural Areas) 2017	Yes	Yes
	(Western Sydney Employment Area) 2009	No	N/A
	(Western Sydney Parklands) 2009	No	N/A
Sydney Regional Environmental Plans (Deemed SEPPs):			
8	(Central Coast Plateau Areas)	No	N/A
9	Extractive Industry (No 2 -1995)	No	N/A
16	Walsh Bay	No	N/A
20	Hawkesbury – Nepean River (No 2 – 1997)	No	N/A
24	Homebush Bay Area	No	N/A
26	City West	No	N/A
30	St Marys	No	N/A
33	Cooks Cove	No	N/A
	(Sydney Harbour Catchment) 2005	Yes	Yes

The most relevant SEPPs have been further considered below:

- SEPP (Coastal Management) 2018 - The site contains areas of littoral rainforest. The Ecological Constraints Assessment (ECA) by Narla Environmental for the proposal states no clearing is proposed however it is unclear as to whether further clearing will be required to accommodate required asset protection zones on the site. Clarification is required prior to Gateway determination.

- SEPP (Housing for Seniors or People with a Disability) 2004 - The delivery of seniors housing across the site is permissible with consent pursuant to Clause 4(1)(a)(iv) of the SEPP.
- SEPP - Bushland in Urban Areas – The proposal does not derogate or alter the application of the SEPP to future development.
- Affordable Housing SEPP (Revised Schemes) - The proposal does not inhibit operations of the former Part 3A provisions or the replacement measures.
- SEPP (Vegetation in Non-Rural Areas) 2017 - Future development of the site will require minimal vegetation planning as the majority of development will be contained within areas of the site comprising existing built form. However, the full details of necessary vegetation clearing and management need to be fully understood.
- SEPP (Sydney Harbour Catchment) 2005 - The site is located within the bounds of the Sydney Harbour Catchment REP. The site is zoned E2 Environmental Conservation. The LEP amendment is consistent with the relevant zoning objectives. Specifically, the site relates to the redevelopment of urbanised land and is located a considerable distance from the foreshore. Accordingly, the proposal will have no impact on the environmental and cultural values of waters in the zone and adjoining foreshores. The site is located within the 'Foreshore and Waterways Area'. With reference to the relevant matters of consideration nominated under Division 2, supporting subconsultant reports confirm that:
 - The proposal is unlikely to impact biodiversity, ecology and environmental protection.
 - The scenic quality of foreshores and waterways.
 - The proposal will have no impact to views to and from Sydney Harbour.

Is the Planning Proposal consistent with applicable Ministerial Directions (s9.1 directions)?

The Planning Proposal is generally consistent with applicable Ministerial Directions as shown in Table 3-3.

Table 3-3 Compliance with Ministerial Directions

Directions (as at December 2020)		Applicable	Consistent
1	Employment and Resources		
1.1	Business and Industrial Zones	No	N/A
1.2	Rural Zones	No	N/A
1.3	Mining, Petroleum Production and Extractive Industries	No	N/A
1.4	Oyster Aquaculture	No	N/A
1.5	Rural Lands	No	N/A
2	Environment and Heritage		
2.1	Environment Protection Zones	Yes	Yes
2.2	Coastal Protection	Yes	Yes
2.3	Heritage Conservation	Yes	Additional information required
2.4	Recreation Vehicle Areas	No	N/A
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEP's	No	N/A
3	Housing, Infrastructure and Urban Development		
3.1	Residential Zones	Yes	Yes
3.2	Caravan Parks and Manufactured Home Estates	No	N/A
3.3	Home Occupations	No	N/A

Directions (as at December 2020)		Applicable	Consistent
3.4	Integrating Land Use and Transport	Yes	Yes
3.5	Development Near Licensed Aerodromes	No	N/A
3.6	Shooting Ranges	No	N/A
3.7	Reduction in non-hosted short term rental accommodation period	No	N/A
4	Hazard and Risk		
4.1	Acid Sulfate Soils	No	N/A
4.2	Mine Subsidence and Unstable Land	No	N/A
4.3	Flood Prone Land	No	N/A
4.4	Planning for Bushfire Protection	Yes	Yes
5	Regional Planning		
5.2	Sydney Drinking Water Catchments	No	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	No	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A
5.9	North West Rail Link Corridor Strategy	No	N/A
5.10	Implementation of Regional Plans	Yes	Yes
5.11	Development of Aboriginal Land Council land	No	N/A
6	Local Plan Making		
6.1	Approval and Referral Requirements	No	N/A
6.2	Reserving Land for Public Purposes	No	N/A
6.3	Site Specific Provisions	Yes	Yes
7	Metropolitan Planning		
7.1	Implementation of A Plan for Growing Sydney	Yes	Yes
7.2	Implementation of Greater Macarthur Land Release Investigation	No	N/A
7.3	Parramatta Road Corridor Urban Transformation Strategy	No	N/A
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	No	N/A
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	No	N/A
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	No	N/A
7.7	Implementation of Glenfield to Macarthur Urban Renewal Corridor	No	N/A
7.8	Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	No	N/A
7.9	Implementation of Bayside West Precincts 2036 Plan	No	N/A
7.10	Implementation of Planning Principles for the Cooks Cove Precinct	No	N/A

The relevant s9.1 Ministerial Directions have been further considered below:

- 2.1 Environmental Protection Zones - The planning proposal will primarily support redevelopment of portions of the site that contain little vegetation and have been subject to land clearing previously. It is unclear however as to whether further clearing will be required to accommodate required asset protection zones on the site.

- 2.2 Coastal Protection - The site is not identified as being within a coastal vulnerability area or on land within a coastal wetland as defined by the SEPP (Coastal Management) 2018. The site is however mapped as containing littoral rainforest. Notwithstanding, as addressed in the Ecological Constraints Assessment only the far southern portion of the site contains littoral rainforest of high ecological value. As discussed above, it is unclear whether further vegetation clearing will be required to accommodate necessary asset protection zones on the site.

Littoral rainforest located within other parts of the site are claimed to be in poor condition and relate only to select remnant species. The area is dominated by exotic vegetation and has experienced historical clearing. However, the Narla ECA does not provide any description or maps of the proposed planning proposal and interactions with the vegetated areas of the site to enable the extent of potential impacts on threatened biodiversity, in particular within the E2 zone, to be identified.

The site relates to land that is impacted by a coastal hazard, with this identified by the MLEP 2013 as being landslide risk. However, the proposal does not seek to rezone the site. It also does not seek to enable increased development. Specifically, the proposed health and wellbeing precinct represents a less intensive land use relative to the site's former hospital operations.

In accordance with Direction 2.2(8)(a), the ECA, the proposed redevelopment of the site is suitable. Further, it is consistent with Direction 2.2(8)(b), the proposal is entirely consistent with the applicable strategic plans.

- 2.3 Heritage Conservation – the site contains items of non-Aboriginal heritage significance. The proposal would conserve the heritage items on the site.
- 3.1 Residential Zones - The proposed additional uses relate to residential accommodation primarily in the form of seniors housing and temporary accommodation for patients and their families. The proposal will provide the site with the ability to address the growing demand for seniors housing due to demographic changes.
- 3.4 Integrating Land Use and Transport - The proposal is adequately serviced by public transport consisting of bus services that service the site from Darley Road. It will therefore increase the supply of jobs in a location well serviced by public transport. The traffic generation associated with the proposal is significantly less than that associated with its former hospital use.
- 4.4 Planning for Bush Fire Protection – the Northern Beaches Bush Fire Prone Land Map was certified 7 August 2020. It classifies the vegetation in the south-east side of the site as Vegetation Category 1. The rest of the site is classified as a vegetation buffer. The Bushfire Assessment Report prepared by Peterson Bushfire designates the site as being of 'medium' bushfire risk. Confirmation of the need for any vegetation clearing will be required to ensure required asset protection zones can be accommodated on the site.
- 5.1 Implementation of Regional Plans – The planning proposal is consistent with the Regional and District Plan.
- 6.3 Site Specific Provisions - The proposal will not introduce any site-specific planning controls that are unduly restrictive.
- 7.1 Implementation of A Plan for Growing Sydney - The Planning Proposal is entirely consistent with the Greater Sydney Region Plan.

The Planning Proposal is generally consistent with relevant Ministerial Directions.

3.3 Section C – Environmental, Social and Economic Impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The Planning Proposal has indicated that the proposal will not impact critical habitat or threatened species, populations, or ecological communities, or other habitats as assessed in the Ecological Constraints Assessment (ECA) undertaken by Narla Environmental for the proposal.

The ECA report provides an assessment of the biodiversity conditions at the site and the implications for the proposal. The report notes the following:

- Littoral rainforest contained within the site is primarily in poor condition, dominated by weeds and has already experienced clearing.
- The proposal occupies land that has already been subject to redevelopment and is therefore unlikely to have an adverse impact on threatened species, populations, or communities.
- Impacts to vegetation may arise from the establishment of the APZs required to address bushfire risk; however, a Vegetation Management Plan will be implemented to guide the removal of exotic vegetation.

The report concludes that the site can accommodate redevelopment activities associated with the health and wellbeing precinct, if areas mapped as being highly constrained are avoided. In addition, the report identifies that due to the site's location, a Biodiversity Development Assessment Report and entry into a Biodiversity Offset Scheme will be required. These requirements will be addressed at the detailed Development Application phase once precise details of vegetation removal can be confirmed.

Council staff comments

In accordance with previous pre-lodgement advice, the proponent has provided an ecological constraints analysis which aligns with Stage 1 of the Biodiversity Assessment Method (BAM). The submitted report identifies ecological constraints within the subject site, most notably: Littoral Rainforest Endangered Ecological Community (EEC), two threatened flora species, active Powerful Owl roost sites, and foraging activity of the endangered Long-nosed Bandicoot population.

The constraints analysis also provides an overview of potential impacts associated with construction and operation of the broader masterplan proposal, including vegetation impacts to the adjoining E2 zone associated with establishment/maintenance of the proposed APZ.

It is noted that the current application deals only with the proposal to amend Schedule 1 of MLEP 2013 to allow for a range of additional permitted uses including a group home, community facility, educational establishment, food and drink premises, centre-based child care facility, indoor recreation facility, neighbourhood shop, function centre, respite day centre and seniors housing. As such, an assessment of potential direct and indirect impacts associated with these new uses (e.g. increased noise, traffic light, human activity, intensification of use) would be valuable in determining and evaluating the overall ecological impact of the current planning proposal. However, it is considered acceptable for these additional impacts to be assessed in the BDAR prepared for the future development application.

A vegetation management plan (VMP) has been prepared to guide establishment and maintenance of the APZ proposed to be located on adjoining E2 land.

Council has previously provided the following pre-lodgement advice in relation to proposed APZ:

"Concern is raised that establishment/maintenance of an APZ is not consistent with the Manly LEP 2013 objectives for the E2 Environmental Conservation zoning, which are to:

- *protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values;*
- *prevent development that could destroy, damage or otherwise have an adverse effect on those values.*

The proponent should therefore seek to locate any new habitable structures set back from the hazard within the E2 zone such that impacts to native vegetation are avoided. MLEP 2013 prohibits the establishment of an APZ within the E2 zone".

It is also recommended that the VMP for the broader development incorporates appropriate buffer areas around the Littoral Rainforest EEC, threatened flora specimens, Powerful Owl habitat, and the boundary with the National Park.

In accordance with the above, any future BDAR submitted in support of the broader Manly Hospital masterplan development should address the following matters:

- Interactions between E2 zone objectives and APZ establishment/maintenance;
- Direct vegetation impacts associated with the proposal including APZ establishment/maintenance;
- Indirect impacts associated with operation of the new uses/activities (e.g. light, noise, increased traffic causing road mortality of bandicoots, intensification of human activity);
- Potential impacts to threatened entities including Littoral Rainforest EEC, Powerful Owls, Little Penguins (including stormwater/run-off/erosion impacts to the AOBV), Long-nosed Bandicoots, Sunshine Wattle and Magenta Lilly Pilly.
- Discussion of measures to avoid and minimise impacts and mitigation measures for any residual impacts.

GHD peer review

GHD undertook a peer review of the updated Ecological Constraints Assessment (ECA) prepared by Narla Environmental Pty Ltd dated April 2021 and Vegetation Management Plan (VMP) dated April 2021 for the former Manly Hospital Planning Proposal.

As noted in our previous review, the proposed establishment and maintenance of an APZ within the E2 zoned land and Littoral Rainforest proximity area may potentially be inconsistent with the expectations for the protection of the site's existing ecological and biodiversity values under the provisions of the *Manly Local Environment Plan 2013* and *State Environmental Planning Policy (Coastal Management) 2018*.

There are likely to be both beneficial and adverse impacts associated with the proposed establishment and maintenance of the proposed APZ in accordance with the proposed VMP (Narla 2020) that require consideration in this context.

Beneficial impacts include:

- Removal of exotic species that likely provide a source of propagules for weed infestation in the adjoining NP and sensitive areas downslope of the site
- Removal of exotic species from the mapped area of Littoral RF and the adjoining proximity area
- Replacement planting with native species representative of the PCT (within the constraints of APZ requirements)

- Creation of a managed edge of native vegetation that provides a weed free buffer between the development area and the Littoral rainforest and national park/sensitive environments downslope

Potential adverse impacts include:

- Removal and/or modification of vegetation that provides refuge habitat for the Long-nosed Bandicoot, potential roosting habitat for the Powerful Owl and likely habitat for its prey
- APZ compliant native revegetation and ongoing maintenance will not provide the same structural or floristic diversity/vegetative cover/connectivity and hence habitat value for fauna as would rehabilitation of the area to reflect the PCT in its natural form
- APZ compliant planting densities may not be appropriate to maintain suitable refuge habitat for the Long-nosed Bandicoot or other fauna species on site (proposed APZ compliant planting densities are not provided in the VMP to confirm)
- Changes to the biophysical, hydrological or ecological integrity of the adjacent littoral rainforest or on the quantity or quality of surface and groundwater flows to and from the adjacent rainforest. This is particularly the case given proposed works in areas immediately upslope of the Littoral Rainforest within a high erosion risk area.

Future assessment to accompany a development application will need to assess the extent of impact associated with the proposed APZ establishment (ie vegetation clearing required) to confirm if the Biodiversity Offsets Scheme is triggered and the requirement for a Biodiversity Development Assessment Report (BDAR). A BDAR, if required, would need to assess direct and prescribed impacts of the proposed development, including the establishment and maintenance of the APZ, clearly demonstrate measures taken to avoid and mitigate impacts and identify the quantum of offset required for any residual impacts that cannot be avoided.

Before granting development consent for any future works within the Littoral RF proximity area, Council will need to be satisfied that there will not be a significant impact on the biophysical, hydrological or ecological integrity of the adjacent littoral rainforest or on the quantity or quality of surface and groundwater flows to and from the adjacent rainforest in accordance with the requirements of the Coastal Management SEPP.

Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?**Urban Design**

The Former Manly Hospital Masterplan and Rezoning Concept Master Plan Report provides an analysis of built form, heritage and environmental opportunities and constraints, and provides details of preliminary urban design studies which have been undertaken. The report also provides a concept master plan, with the intention a detailed master plan for the site will occur through the adoption of a site-specific DCP at a later date. This will be in response to additional land uses permitted for the site as a consequence to the planning proposal process.

Council staff comments

Council's urban design department reviewed the Master Plan Report and generally support the proposal. Comments were provided regarding aspects of the design as follows:

Structure Plan

The structure plan diagram on page 24 shows a bubble diagram of uses across the site and their general clustering by location.

A minor concern with the location of the allied health, therapy and consulting building is the specific built form interface of public address to streetscape and the potential prominence of the built form and its aesthetic value in this location. As with most health providers a level of visual signage is generally associated with these buildings; full coverage signage decals and the like.

Strategies that seek to limit the visual dominance of building signage that may dominate views to the site and the general adjacent heritage context should rigorously consider options for the clustering and locations of all allied health service providers in one building. The proposed uses and their planned arrangements should prioritise ground level public activation and fine grain detail of retail and food and drink premises. Whilst it is acknowledged that clustering of such services has its benefits, both uses of and the overall context of the site need to consider notions of diversity and complexity as discussed further in Built Form / Massing and Building Separation in this commentary.

Precinct Plan

The Precinct diagram (pg. 28 uRBn Design Report by Cox Architecture) demonstrates a general zoning and mixture of uses throughout the site allowing for variety and diversity within each of the Precincts. The hard line general areas nominated should not preclude variance between the precincts but allow for future flexibility.

Site/Context

The site has a south western aspect moving down the western escarpment of the headland.

As such the site is oriented in such a way that western afternoon solar gain will be predominant to the site and have thermal heat gain impacts on the ground surface areas across the site.

Landscape and built form strategies that test solar access/gain and breezes across the site should be informed by rigorous testing through the design development stage; shadow diagrams, wind tunnel testing and other such environmental conditions testing regimes to support the site masterplan development are highly recommended to ensure environmental conditions are optimal for pedestrians and users across the site.

Access and Movement

The Urban Design Report by (Cox Architecture) notes buildings 1, 2 and 15 as the heritage fabric of the site, proposed for adaptive re-use across the masterplan along with Buildings 5, 20 and 22 as historically significant, and building 5, the kiosk, proposed to be retained and enhanced for the purpose of representing a local wayfinding mechanism/node. The proposal for these buildings can be supported. However it is also encouraged to find a linking dialogue or ground surface mechanism/node connecting a matrix of pedestrian scaled circulation networks across the site either through fabric or built form follies that provide a thematic to link the historic and heritage context/buildings.

Built form, massing and building separation

The planning proposal and proposed masterplan indicates built form building footprints, suggested mass and scale across the site with the proposed zoning and uses indicated as a linear bubble diagram with a general grouping of uses.

Diversity and complexity should be further considered when planning for grouping of uses to zones that sees the urban environment reflect complexity and individual tastes and choice.

A range of built form architectural typologies and variety of landscaping responses across the whole site should eschew homogenising zoning / clustering of uses across the site. Variety and diversity that allows for adaptability and evolving site uses rather than large monolithic buildings that homogenise the site to distinct and potentially exclusive zones should inform built form strategies and siting across the site.

Of note is the general massing volumes (pg. 26-27) which indicate a possible footprint. Moving forward toward the development of a site specific DCP care should be taken to rigorously explore controls that allow flexibility in the built form massing so as not to be bound to the strict volumetric control of the proposed massing diagram.

An opportunities and constraints plan that maps uses but also explores opportunities for fine grain interventions to the larger scale built form massing is also recommended.

Building separations generally that acknowledge the recommendations in SEPP 65 ADG should also be addressed when developing DCP controls.

Height of Buildings

There is concern the 2-3 storey height of buildings in Precinct A may present visual intrusions to the broader view aspects back up the site from the western lower part of the site as well as from the arrival point up Darley Road from the north. Noting these buildings are at the highest level/platform of the site, view analysis testing to ensure building heights do not breach the predominant landform as viewed from ground plane is recommended.

Additionally, there exists a view corridor from the lower part of the site back up to Building 2, the old hospital. The historical context and heritage buildings to the centre of the site may benefit from the removal or further articulation of the southern most portion of the new building to the south west to open up a view corridor back up to Building 2 from the lower part of the site, thus reinforcing the cultural heritage and site context.

Sustainability

Precinct wide sustainability strategies that address adaptive re-use of buildings and recycling of demolished materials (where adaptive re-use is not viable), passive design strategies through rigorous site planning and analysis, productive food gardens including reference to indigenous food sources and cultural history, energy efficiency strategies; systems, devices, fixtures and fittings are recommended.

The report notes a suite of sustainability measures across the site for incorporation into potential future development. The site wide sustainability proposal is generally supported and encouraged to achieve further sustainable outputs that go above and beyond baseline requirements.

Design Excellence

The site and the context of the old Manly Hospital is an important cultural location in a unique setting comprising several heritage and noted buildings of significance across the site. The opportunity to include the requirement for design excellence across the site for any future DA's is recommended in the future drafting of the LEP and DCP specific to this site.

GHD review

GHD reviewed the urban design aspects of the proposal as detailed in the Concept Master Plan Report, with findings detailed below.

In terms of urban design the proposal is considered adequate. However, at the DA stage additional information that covers the following points would help to further explain how the proposal meets the urban design aims for the site, with particular attention to the integration of land uses, built form and landscape:

- Greater detail of how the key urban design objectives relate to specific policies and strategic documents.
- Demonstration of how views are considered in the design – diagrams indicating location of key views and view corridors and how the design responds to these and the site topography.
- Demonstration of how built form massing may visually impact views from Darley Road and back up towards Darley Road from the lower precincts on the site.
- Demonstration of how building heights relate to the predominant landform/ ridgelines from local and distant views.
- Greater resolution of how historical context / heritage buildings are integrated with proposed built form, public realm and landscaping, with particular attention to addressing the proposed long continuous built forms running across the site.
- Urban design principles justifying car park location / integration / relationship with nature reserve and views.

- Precincts diagram states that Precinct D is for 'Public Recreation/Environmental Restoration/Aboriginal Cultural Celebration', yet it is not clear how this is achieved as this precinct appears to be dominated by car parking with a potential conflict in uses. Presumably, the car park helps to buffer the development from the bushfire attack zone, but it is not completely clear how these areas of parking will be successfully integrated without negatively impacting the adjacent landscape and views, and how they will cater for the activities mentioned in the Precinct D summary. The design breaks down the large areas of parking somewhat, but more could potentially be done to better integrate these – for example smaller clusters of parking in 'entrance courtyards' and better defined adjacent spaces.
- Further consideration should be given to the viability of the grassed carparks. Whilst it is common for public green space such as ovals and parks to be used for occasional parking for events etc. It is difficult to see how this could work the other way around with them being used for parking for the majority of the time.
- Further demonstration of pedestrian movements and cycle routes and how these relate to the activity nodes and the wider precinct. It is mentioned that travel to the site is primarily by car, but further justification of how more sustainable modes are catered for should be given.

Public Domain and Landscaping Strategy

A Public Domain and Landscape Strategy (PDSALS) was developed by Tract Consultants to support the Planning Proposal. Key landscape considerations for the Former Manly Hospital site include: -

- Integration with adjacent education, residential, recreational and conservation uses
- Potential links to Sydney Harbour National Park
- Retention and revitalization of existing landscapes on the site
- Mitigation of bushfire risk

Key landscape outcomes identified for the Former Manly Hospital site master plan are: -

- To enhance the built and natural environment within the Northern Beaches and Sydney Harbour National Park
- To deliver a high quality public domain including public open spaces and/or publicly accessible open spaces
- To protect key spaces, places, destinations and view corridors
- To improve pedestrian amenity and safety
- To preserve and enhance activity along adjacent streetscapes and complementary uses and users
- To develop a consistent language and design approach that complements the history, heritage, ecology and character of the Site, North Head, Manly, the Northern Beaches and Greater Sydney
- To deliver a multi-purpose, year-round wellbeing precinct to cater for health, wellbeing, recreational and cultural requirements of a growing metropolitan region

Council staff comment

As noted throughout the documents reviewed there is a significant lack of tree canopy cover of distinct landscaping across the site. In particular the central part of the site dominated by hard surface pathways and vehicle access points and parking.

Accordingly this point is also raised within the proposal in response to fire protection of assets and the potential for tree to tree ignition during a bushfire event.

The supporting landscape plan (diagram 4.6 of Tract Landscape Report) demonstrates primary and secondary public spaces across the site with landscape gardens and courtyards woven through the pedestrian and circulation network.

Opportunities to provide further significant tree canopy cover across the site to mitigate heat island effects particularly along main pedestrian spines and circulation routes is recommended for further investigation and consultation to ensure balance between safety and amenity is achieved.

Fire retarding landscape planting regimes / landscaping strategies should also be rigorously explored to ensure a robust response to buffer plantings, that are fire resilient, to the adjacent BAL rating fire zone.

Whilst construction detailing in the built form can address specific flame zone requirements in the built form, landscape and planting design can also play a role in the protection of buildings in areas of risk. Refer relevant precedent research and development in this area of planning for bushfire risk including indigenous land management methodologies and bushfire resilience, that may assist to inform the planting regimes and site planning. Refer Designing with Country Government Architect NSW

Similarly, the treatment of the carpark ground surface area and planting is noted in the proposal with permeable paving options where possible including WSUD strategies, plantings/canopy cover that assist to mitigate heat island effects and proactively encourage on site water recycling and capture where possible are recommended.

As described in the Urban Design Report (Cox Architecture) the potential to convey indigenous heritage and contemporary cultural significance of the site should be considered and designed in tandem.

GHD review

A review of the PDSALS has been undertaken and identified the following issues:

- Limited view corridors identified
 - Existing and potential views to harbour to be mapped/identified in the landscape analysis to inform the built form and public space arrangement
 - Aspects to the north, west and south eastern view corridors, and longer view aspects to the greater Sydney region don't appear to be reflected in the proposal
- WSUDs opportunities not shown
 - Overland flow path not shown on analysis
 - WSUDs strategy to manage stormwater not shown (swales, attenuation areas, bio remediation, permeable surfaces)
- Limited information of activation of external spaces
 - Some character images shown, but limited detail on open space elements including: shade and seating, multi function court, splash pad, play areas, table tennis tables, BBQs, shade and seating, outdoor eating areas

- Proposed active frontages not shown
- Implementation of ecological corridors is compromised by roads and buildings
 - Some ecological corridor pinch points. Consider wider internal and better protected ecological corridors to facilitate wildlife migration/colonisation
 - Consider limiting public access to the more sensitive/valuable sections of ecological corridors within the masterplan
 - Show potential arboreal/subterranean wildlife connections across North Head Scenic Drive and Blue Fish Drive connection
- Wetlands not shown
 - Wetlands references in Urban Design Report but not in the PDSALS
- Provision of urban agriculture not considered
 - Consider opportunities on-site micro agriculture to contribute to food requirements of future uses. Consider restorative value of gardening as part of health and wellbeing aspirations of site
- Limited consideration to future transport
 - Internal circulation for cyclist including End of Trip facilities – parking, maintenance posts, charging points, rest areas, water refill stations
 - Existing, future and potential walking trails, cycle paths to be shown
 - Identification of areas for on-demand transport waiting for patients/visitors
 - Electric recharge points
 - Consideration for phased reduction of parking spaces, and how these space can contribute to future public domain landscape masterplan objectives
- Aboriginal heritage not mapped
 - Aboriginal heritage referenced in objectives, but not mapped on analysis
 - Status of Aboriginal heritage study unknown
- Designated areas for organic/inorganic waste management not shown
- No reference to material reuse or salvaged materials from demolition
- Southern boundary carpark geometry not responding to existing natural topography, and isolates green spaces from main development
- Response to microclimate studies not demonstrated
 - Shade diagram, wind directions, and daily/seasonal changes to be mapped and considered to improve experience and appeal of outdoor spaces
 - Increased use of trees and shade structures to the primary and secondary public domain spaces will assist in improving thermal comfort particularly during the summer
 - Consider addressing thermal gain to outdoor spaces and building facades to reduce demand for cooling energy

Transport and Access

A Preliminary Transport Assessment has been prepared by JMT Consulting, the key findings are provided below.

Traffic Generation Impacts

JMT Consulting have prepared an assessment of the traffic volumes in the surrounding road network to assist in understanding the traffic generation impact associated with a proposal commensurate to that which is envisioned for the site.

Traffic counts were undertaken in December 2019. The counts reveal that traffic volumes along Darley Road were below 300 vehicles per hour in one direction across any typical day. As the typical capacity of a traffic lane is 900 vehicles per hour, the results confirm that Darley Road has ample capacity to support additional traffic generation that may arise from the proposed future redevelopment of the site.

The traffic generation assessment has been prepared in accordance with the *RMS Guide to Traffic Generating Development*. Accordingly, the following traffic generation rates have been adopted for the assessment:

- *Health and Wellbeing Uses*: 0.5 traffic movements / parking;
- *Seniors Housing*: 0.1 traffic movements / dwellings

Based on the rates noted above, redevelopment of the site will generate less than 100 vehicle movements in the peak hour period. In light of the traffic count findings, the surrounding road network has sufficient capacity to support the traffic generation associated with the development. Further, as the intensity of land use sought by the proposal is relatively less compared to the site's former hospital, JMT Consulting confirm that the anticipated traffic generation will be comparatively less than what has historically emanated from the site and its former hospital operations.

Public Transport Capacity

JMT Consulting have prepared an assessment of the surrounding public transport infrastructure and its capacity to support the proposal. The report confirms that the existing transport infrastructure in the locality has the capacity to support the proposal without the need for further upgrades. It recommends however that bus routes to and from the site be increased to foster the use of public transport and reduce the reliance on private vehicles.

The report identifies that the redevelopment of the site presents an opportunity to encourage public transport usage. It recommends that the future development make provision for green travel plans, carpooling arrangements for staff, and bicycle parking / end-of-trip facilities. These measures can readily be addressed at the Development Application stage and adopted during the occupation phase.

GHD review

GHD reviewed the Preliminary Transport Assessment. The review commentary is covered for each chapter of the report, summarising what has been assessed and comments on its adequacy and suggested additional information to support the Planning Proposal. The review is presented in Table 3-4 below.

Table 3-4 Preliminary Transport Assessment Review

Chapter content	Adequacy comments	Suggested additional information
Existing conditions	Site access is covered well with sufficient information.	There is however a need to clearly set out the objectives and methodology of the assessment, early in the report, to address the issues relevant to the Planning Proposal.

Chapter content	Adequacy comments	Suggested additional information
		Provide a summary of the Planning proposal early in the report so it is clear what the focus of the assessment is.
	Regional context of the site is covered well from a travel behaviour perspective, but more information could be provided.	It is important to describe the regional context of the site in terms of: Road hierarchy: Darley Road, an important collector road, as the only access road to the Manly peninsula Land use: Further land use growth in the peninsula will generate additional traffic and Darley Road will be the funnel to carry all this traffic. The proposal site is at the gateway of the peninsula and it would be important to understand what the Structure Plan allows and what the impact of potential future land use changes in the peninsula could be.
	Traffic volumes for December 2019 are provided but it not the benchmark data of the hospital when in full operation	Comparing the 2019 volumes with historic data will provide a sense of what level of traffic activity can be expected when the site is again fully operational. Using this data to compare with road capacity of Darley Road, (as per Austroads guidelines) will provide insight on how the current and historic traffic flows perform relevant to road capacity. No details on weekend traffic is provided to understand the current potential future recreational traffic along Darley Road.
	Public transport information is well covered	Active transport information, such as current and future planned cycleways and footpaths, would help to understand the site location relevant to these facilities.
	Road Safety is not covered	Road Safety around this site with Darley Road carrying significant through traffic needs to be carefully assessed in any future planning proposal. Previous road safety audits, if available, will highlight the safety issues at the access point to the site as well as the surrounding intersections. Crash history should also be included in the assessment, to highlight any crash clusters, and the need to implement any mitigation measures. Pedestrian movements in any future planning proposal will need to be assessed from a road safety perspective.
Overview of Proposal	Limited information provided	It will be useful to describe the important attributes of the Planning Proposal that then leads into the assessment thereof in the chapter. The overview of the Planning Proposal should be early in the report to provide clear focus of what the subject matter is.
Preliminary Transport Assessment	Relevant transport elements such as circulation, carparking, future mode share and public and active transport are covered.	The traffic impact assessment (Section 4.4) is limited as it would be useful to calculate trip generation for a likely scenario Proposal (detailed in Chapter 3). This would compare potential traffic to historic traffic conditions when the hospital was operational. One option is to assess one high and one low trip generation planning proposal scenario to better understand the potential range of traffic impact outcomes.
General	-	This site is strategically located as a "Gateway" into the Manly peninsula and, as such, the Planning Proposal should capture its potential from this perspective. This will ask for a proper assessment of

Chapter content	Adequacy comments	Suggested additional information
		the Movement and Place to enhance the connectivity as well as the amenity of the site.

Bushfire Considerations

A Bushfire Assessment Report has been prepared for the proposal by Peterson Bushfire. The report provides an assessment of the bushfire hazard and risk and nominates protection measures.

The report notes that the site is categorised as being of 'medium' bushfire risk. The risk rating has been determined in consideration of the site's proximity to bushland within the Sydney Harbour National Park. The site is surrounded by Vegetation Category 1 to the south and east, which represents the most hazardous type of vegetation. It also contains Category 2 Vegetation.

This hazard rating is not anticipated to change in the post development phase due to the introduction of the proposed additional uses. Accordingly, the risk to occupants will also remain unchanged.

The report nominates the following mitigation measures to ensure adequate bushfire protection and compliance with the requirements of *Planning for Bush Fire Protection 2019*:

- Provision of compliant APZs between future building envelopes and bushfire hazards
- Provision of BAL mapping to guide compliant building construction
- Adequate access for emergency response and evacuation
- Compliant road widths and design
- Perimeter road between buildings and bushfire hazards
- Adequate water supply to facilitate fire-fighting operations
- Appropriate vegetation management within the APZ and landscaping across the site

The site historically has not incorporated the aforementioned measures. Therefore, the proposal provides the opportunity to improve compliance with the bushfire protection requirements in the future.

Asset Protection Zones

The proposed APZs comply with the requirements of *Planning for Bush Fire Protection 2019* and will consequently ensure new buildings are not exposed to intolerable heat impacts.

The APZs will set the buildings back further from the bushfire hazard areas and will be routinely maintained in accordance with the detailed Vegetation Management Plan that accompanies the report.

With these measures in place, the report concludes that the proposal can be accommodated on the site without exposing future occupants to bushfire risk.

GHD review

GHD conducted a peer review of the bushfire assessment, with the key findings outlined below.

Planning for Bushfire Protection (PBP) (NSW RFS 2019) states that when preparing a draft LEP or planning proposal, local councils are required to apply the EP&A Act s.9.1(2). Direction 4.4 Planning for Bush Fire Protection applies to planning proposals that affect, or are in close proximity to, land mapped as bushfire prone land (BFPL).

Under Direction 4.4, a relevant authority must consult with the Commissioner of the NSW RFS during the preparation of a draft LEP and take into account any comments made. The draft LEP shall also have regard to PBP. As part of the consultation process with the NSW RFS, a bush fire assessment is required to be submitted to demonstrate compliance with the s9.1(2) Directions and PBP.

Where an application for rezoning is for residential or special fire protection purposes (SFPP) development on BFPL, it shall include an indicative development layout. This enables an assessment of the suitability of the land for the proposed development given the bush fire risk and existing land uses. The proposal must demonstrate that the required APZs can be met on the development site and that the road network can support evacuation demands in the event of an emergency. It is important that new development does not increase the level of bush fire risk to the existing community.

Bushfire hazard assessment

A site assessment has not been undertaken by GHD but based on the information, it is considered the assessment of vegetation and slope are adequate. The report indicates most of the vegetation on site will be managed as an asset protection zone (APZ), in accordance with the Vegetation Management Plan prepared by Narla (April, 2021).

Asset Protection Zones

Based on the vegetation classification and slope, the APZ has been calculated for SFPP and Other development. The APZ for other development has been based on PBP Table A1.12.2, meaning the buildings will not be exposed to a radiant heat flux of greater than 29 kW/m². The APZ provided in Table 3 and Figure 4 of the Bushfire Assessment are consistent with PBP. However, the APZ shown on Figure 4 assumes the vegetation on site can be managed as an APZ. The ecological impacts of this assumption have not been assessed in this review.

Figure 4 is overlain on an aerial of the existing site but does not provide the proposed redevelopment of the site. Based on a review of the Concept Master Plan prepared by Cox Architects, it appears there are some conflicts between the location of the proposed buildings and APZ.

Vegetation management

The report indicates the vegetation will be managed in accordance with APZ requirements, as outlined in the VMP (Narla 2020). A copy of the Narla (2020) VMP was not provided for review.

The measures mentioned in the Bushfire Assessment in relation to the management of the APZ are consistent with PBP.

Bushfire Attack Level

A figure indicating the bushfire attack level (BAL) has been provided which appears consistent with the requirements of Australian Standard AS 3959-2018 Construction of buildings in bushfire prone areas. However, similar to the APZ, it assumes the vegetation on site will be managed and does not show the concept master plan for the site.

Access

PBP requires access roads to be through roads. The report suggests the site currently benefits from a through access road that extends from Darley Road in the north to Collins Beach road in the south, however this does not seem to be the case - nor is it shown on the Concept Master Plan. The report goes on to suggest "A secure arrangement will be entered into with Health Infrastructure to construct and maintain the road over Lot 2728 to Collins Beach Road access point". It's not known if this arrangement has been established but would be required (or some other suitable arrangement) to provide suitable access arrangements in accordance with PBP.

It's not possible to assess compliance with the more detailed access requirements of PBP at this stage and the report lists the requirements which is considered appropriate.

Services

The report outlines the requirements for water supply, which is considered appropriate at this stage. However, it does not mention requirements for gas and electricity.

Emergency management planning

The report outlines the requirements for evacuation and emergency management, which is considered appropriate at this stage.

Summary

The report generally complies with the requirements of PBP and is considered suitable to support the planning proposal, providing:

- Confirmation that the vegetation on site can be managed as an APZ without unacceptable ecological impacts
- The APZ is shown on the Concept Master Plan, so it can be demonstrated the proposal complies with the APZ requirements
- Confirmation the suitable access can be achieved by establishing a through road to Collins Beach Road.
- The requirements for gas and electricity are mentioned or referred to.

Geotechnical

JK Geotechnics have prepared a Geotechnical Investigation for the proposal. The investigation provides an assessment of the subsurface conditions and proposes recommendations to facilitate the demolition and construction phase. The investigation confirms that excavation to a depth of 2 m is required along with the importation of fill. With the anticipated depth of excavation required, it is not anticipated that ground water will be encountered.

Based on the site's conditions and the proposed scope of works, the report proposes the following recommendations:

- The preparation of detailed dilapidation reports for the heritage buildings contained within the site that may be impacted by excavation or associated vibration impacts
- Additional borehole investigations should be carried out once the detailed design is finalized
- A stability assessment should be prepared to assess the risk to surrounding areas
- New structures should be founded on underlying sandstone bedrock

Subject to the adoption of the above recommendations, JK Geotechnics confirm that the site can be made suitable for the proposed development as sought by the Planning Proposal and a future Development Application. Consistent with the conclusions of the report, the geotechnical recommendations will be reviewed following the finalisation of the detailed design.

GHD review

GHD conducted a peer review of the geotechnical report, where the following issues were raised:

Overall approach

The report indicates that it provides a risk to property and risk to life assessment following the guidelines of the Australian Geomechanics Society. The risk assessment matrix provided in Appendix A and the terminology used throughout the report is that from AGS2007c.

We note that the risk assessment is undertaken with reference to the current development the future development but a single risk assessment table is provided for the risk to property and risk to life assessments. It is unclear how the author assessed likelihoods and consequences risks between the two development states.

The report lacks drawings or sketches of the proposed development and includes limited detail on how the future development or the current development is founded. Without this data is difficult to assess how the author came to the conclusions in the risk assessments.

The report figures list numerous geotechnical hazards, yet only a small number of hazards are assessed in Table A and Table B. It appears that the hazards have been grouped and summarised into a small number of generalised scenarios for risk assessment.

With respect to this, the report references a paper of MacGregor et al of 2007 and indicates that the data from that paper has been used to assist with assessments of hazard likelihoods. No information on where or how this was adopted has been provided. The peer reviewer is therefore unable to assess the appropriateness of the use of this reference in this context.

Risk to property

With respect to hazard definition, a significant number of geotechnical hazards have been identified graphically on figures 4a to 4f and 5. No table describing the nature or state of these hazards is provided. The risk assessment tables A and B then appear to summarise this wide range of hazards down into broad categories with a grouped assessment of consequences.

In terms of definition of hazard likelihoods, it appears that a simplistic approach connecting judgements to numerical likelihoods provided in tabular format in Appendix C of AGS2007c has been made. No data on expected initiating events or triggers is provided in the assessment.

The consequences for all hazards assessed are considered to be 'insignificant'. Without further data assessment of the validity of this judgement is difficult. For example, Hazard AA is described as a concrete retaining wall, and the assessed consequence of damage is assessed as 'insignificant', but it's not possible to determine where these concrete walls are on site nor whether the risk relates to the current or proposed arrangements, nor how much of the wall will be destroyed in the event.

However, notwithstanding the lack of explanatory information, given the paucity of issues described in the site walkover inspection this may be a reasonable conclusion.

Risk to life

The generalised shortcomings with the risk to property assessment follow through to the risk to life assessment.

The report assesses a wide range of issues in a generalised risk assessment table. Temporal and spatial probability judgements are therefore by necessity broad and wide ranging. There is no separation between risk to the current arrangement and risk to the proposed rezoned development.

We consider that the risk to life assessment has been generalised to such an extent that the process reports to a greater level of precision than is possible based on the range of data inputs. This is a common shortcoming of risk to life assessments for a broad scale development. Further to this need to group and summarise advice for clarity of communication has oversimplified the final assessment presented. Greater detail in the appendices providing more information that the assessor used to form the grouped judgments would greatly enhance the report.

Summary

In summary, separation of the risk assessments into two parts (the current arrangement and the rezoned arrangement) would provide greater clarity for the reader. Further to this, each hazard and risk pair assessed should be tabulated so that there is clarity of where and what judgements are being made to inform the risk assessment. A small schematic cross section should also be provided for each risk pair.

A spreadsheet or table in the appendices with this information would greatly improve the report.

Recommendations and conclusions of the report

The report provides specific advice on the geotechnical hazards and constraints to development and points to the two earlier reports provided for the site. The recommendations in these sections appear reasonable and well thought through. The report overview section concludes:

Provided those hazards requiring remediation and identified above are remediated and new structures are constructed in accordance with our recommendations, we consider that the site poses an acceptable risk in both its existing condition and for the proposed development.

Given the paucity of significant geotechnical hazards identified in the body of the report the above recommendations appear to be reasonable and match the peer reviewers' expectations.

Peer review summary

We note that in rezoning assessments there is commonly a desire from clients to have a risk assessment prepared. However, at rezoning stage there is a low amount of relevant data around the specific development. While identification of geotechnical hazards can be robust at this stage there is less clarity around the specifics of ground to structure interactions and how people will behave in the built environment. Such features are critical for risk assessment. This lack of data combined with a client's desire for 'a risk assessment' can lead to assessors providing broad judgements around likelihoods and consequences that appear to be more precise than they can actually be.

In our view, this report suffers from that shortcoming. In the peer reviewer's opinion, conducting the hazard assessment and defining treatment of such hazards only would have been more suitable for a rezoning stage assessment.

While there are numerous areas for improvement in the risk assessments technical information, we expect that all these issues can be addressed at Development Application stage once the specifics of the development are defined.

Notwithstanding the above, we agree with the conclusions of the report – the site appears to be suitable for the rezoning proposed.

Suitability of the land for re-use

Based on the data provided in the report:

- The land appears to be suitable for rezoning.
- Development in the style of the masterplan vision would be possible with the usual geotechnical and engineering controls expected for a 'brownfields' redevelopment in the Sydney region.

Specific considerations and remedial works are needed to allow development to be undertaken in accordance with the community's expectation of allowable risks and to manage the geotechnical hazards identified. The geotechnical information collected has identified these and provided recommendations for their remediation. The remedial strategies are relatively standard. Further, the level of investigation undertaken at the site is reasonable and it appears unlikely that there are significant issues that have not been identified by the geotechnical investigations to date.

Stormwater Management

A Stormwater Strategy Report has been prepared by Arcadis. The report provides an assessment of the proposed stormwater strategy and the water sensitive urban design measures proposed for the site.

The stormwater infrastructure for the site will consist of an expanded pit and pipe system. The existing drainage network within the site will be replaced and/or expanded. Vegetated swales and castellated kerbs will be installed to manage runoff. Internal roadways will also be upgraded to ensure that stormwater can be conveyed downstream and to avoid potential inundation of the site. The proposal will seek to retain the existing trunk drainage pipeline that traverses the site to prevent impacts to the surrounding drainage infrastructure.

Consideration has been given to the inclusion on on-site detention. Arcadis have determined that the on-site detention is not necessary given that the proposal does not seek to increase the extent of impervious areas across the site. On-site detention may be required in the instance overland flow paths increase across the site notwithstanding the proposed stormwater infrastructure upgrades. The report notes that future hydraulic modelling will be required to determine the need for on-site detention at the detailed design phase.

Water sensitive urban design measures will be incorporated in accordance with Council's requirements. These measures consist of gross pollutant traps, tree pits, vegetated swales, castellated kerbs and bioretention basins. In addition, rainwater harvesting will be adopted to eliminate the need for water quality treatments and to reduce the demand for potable water demand. The implementation of these measures will improve stormwater quality discharge and promote water efficiency for the future development.

Council staff comments

There are no major issues raised from this planning proposal in respects to Council's stormwater infrastructure as no Council stormwater infrastructure will be immediately impacted by the development. According to Council's records, the existing stormwater system within the subject site is privately owned and managed.

As noted in the Stormwater Strategy Report, the proposal will be maintaining the existing stormwater outlets into the Sydney Harbour National Park, which is the responsibility of National Parks and Wildlife (NPWS). As such, approval by National Parks and Wildlife will be required.

Additionally, based on Council's available records, the stormwater system at the corner of Darley Road and North Head Scenic Drive that leads into the subject site collects stormwater runoff from National Parks and Wildlife Services land/property. Therefore it is believed that the stormwater discharging into the stormwater system within 150 Darley Street is NPWS stormwater runoff, and as such, the infrastructure will be owned and managed by NPWS. The applicant should flag this to NPWS when seeking approval for stormwater discharge.

The applicant will need to accurately locate, confirm dimensions including depth and plot to scale all stormwater pipelines and associated drainage infrastructure within and around the site on future DA site plans that outline the proposal. This should be carried out by a service locating contractor and registered surveyor.

General information in regards to Council's Stormwater Management is provided below:

- To demonstrate compliance with Manly Council's Development Control Plan 2013: Part 3.7 Stormwater Management and Northern Beaches Council's Water Management for Development Policy (Section 6 – Stormwater Drainage Systems), it is recommended that the following details are submitted with any application.
- Accurately locate, confirm dimensions including depth and plot to scale Council's stormwater pipelines and associated infrastructure on the DA site plans that outline the proposal. This should be carried out by a service locating contractor and registered surveyor. (Evidence of methodology used for locating stormwater system should be provided);
- If the applicant proposes to use a CCTV pipeline survey to confirm the location of the pipeline, it is recommended that the survey is carried out in accordance with Council's guideline as follows;
- All structures are to be located clear of any Council pipeline, pit or easement;
- Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with the above-mentioned Policy; and
- Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance with Council's policy are to be submitted.

GHD review

GHD has reviewed the Stormwater Strategy Report as a strategic document, outlining how stormwater would be managed as part of the redevelopment of the site. The report provides little in the way of specific advice on the stormwater, drainage and flooding constraints to development, deferring to discussions to occur with Council at later design stages. As there are no significant stormwater, drainage or flooding constraints identified in the body of the report, the recommendations of the report appear to be reasonable, albeit lacking in detail.

Based on the data provided in the report:

1. the land appears to be suitable for rezoning

2. development in the style of the masterplan vision would be possible with the usual drainage and engineering controls expected for a redevelopment in the Sydney region.

The stormwater strategies outlined in the report are relatively standard. Further, the level of investigation undertaken at this stage of the development of the site is reasonable and it appears unlikely that there are significant issues that have not been identified by the Stormwater Strategy Report.

Services

The site is currently serviced as follows:

Water Servicing

- Potable water servicing should be available via 150mm CICL watermain (laid in 1965) located within the property boundary or via a 200mm DICL watermain (laid in 1989) fronting Darley Street.
- Amplifications, adjustments and/or minor extensions may be required.
- Detailed requirements, including preferred connection point, will be provided at the Section 73 application phase.

Wastewater Servicing

- Wastewater servicing should be available via a 225 SGW wastewater main (laid in 1938) located within the property boundary.
- Amplifications, adjustments and/or minor extensions may be required.
- Detailed requirements will be provided at the Section 73 application phase.

Critical Assets

- As specified within the services strategy, Sydney Water has the following critical assets within the site:
 - 3600 Unlined Borehole Trunk (laid in 1998)
 - 150mm CICL reticulation watermain
 - 4191mm x 2667mm Sandstone Concrete main (laid in 1927)
 - 225 SGW wastewater main (laid in 1938)
- Due to the age, material and significance of these assets, the proponent needs to lodge an out of scope Building Over and Adjacent application with Sydney Water once the proposed development's building plans have been finalised to ensure there is no impact to these assets and investigate if any require deviation if possible.
- For more information regarding out-of-scope BPAs, please see our website.

Trade wastewater requirement

- As the proposed development is going to generate trade wastewater, the developer must submit an application requesting permission to discharge trade wastewater to Sydney Water's wastewater system. The applicant must wait for the approval and issue of a permit before any business activities can commence.
- The permit application can be made on Sydney Water's web page through Sydney Water Tap In. <http://www.sydneywater.com.au/tapin/index.htm>

GHD review

GHD has reviewed the Services Strategy undertaken by Cardno and are of the opinion that any further development at the site can be adequately serviced with augmentation where required.

Has the Planning Proposal adequately addressed any social and economic effects?

Social Impact

Ethos Urban have prepared a Community Needs Analysis and Social Strategy for the proposal. The purpose of the report is twofold; to firstly assesses the social and health infrastructure needs of the community and secondly to determine whether the future health and well-being precinct will generate a demand for additional social infrastructure.

The methodology employed to prepare the Community Needs Analysis consisted of community profiling; a review of existing social infrastructure in the LGA; an assessment of the applicable strategic policies applying to the site; and the outcomes of consultation activities undertaken to date, including the results of Ernst and Young's market sounding.

The findings of the report lend support to the amendments proposed by the Planning Proposal and sufficiently justify the need for the proposed additional land uses. In summary, the findings of the assessment conclude that there is a growing need for expanded health and social infrastructure in the locality, including specialised mental health, community health services and complementary uses (i.e. recreational, educational, retail etc.) that will differentiate the health precinct from existing acute health services in the LGA. Collectively, these uses will facilitate the delivery of a destinational health precinct that services patients, visitors and the wider community.

Social Context and Existing Infrastructure

In determining the uses suitable for the site, Ethos Urban have prepared a Social Context Study that identifies the demographic trends affecting the LGA and the existing social and health infrastructure in the locality. The key findings are as follows:

- The Northern Beaches LGA has a greater ageing population relative to that of Greater Sydney, with a higher median age and higher share of residents aged over 60 years.
- The site is not identified as suitable for accommodating a community facility given that Council's vision is to concentrate community facilities within the core of the town centre to realise the benefits associated with the co-location of similar community facilities (e.g. library, cultural and creative facility and local community facilities).
- It is projected that across the LGA, there will be a shortfall of publicly accessible open space areas over the next 20 years and in consequence there is an identified need for flexible and multifunctional open space areas.
- The site is dislocated from the Manly Town Centre and nearby strategic health and education precincts, with the latter already providing or designated by strategic plans to provide acute health services.
- There is a need for social infrastructure that caters to the ageing population who require specialist health and well-being services that are not provided by nearby acute health service facilities.

The conclusions of the Social Context analysis confirm that due to the site's locational attributes and the existing supply of health infrastructure in the LGA, the site is better suited to support non-acute health and well-being uses, including specialised mental health and community health services. In accommodating these uses, there is an opportunity for the site to operate as

a destinational health and wellbeing precinct that caters to the local community as well as visitors in the broader surrounds.

The site's redevelopment as a destinational health and well being precinct is also supported by the community consultation outcome findings and market sounding undertaken on behalf of the proponent.

Demand for Social Infrastructure

Ethos Urban confirm that the proposal will generate a demand for additional social infrastructure. The report notes that the redevelopment of the site will result in an increase of 273 workers, 228 residents and 370 tertiary students. Combined, the proposed uses along with the increased number of occupants across the site will increase the demand for social infrastructure in the form of open space necessary for respite, physical activity and social interaction.

Council staff comments

- Proposed uses – although the Proposal Report indicates a list of proposed uses I haven't located any real detail on the scale and mix of the uses. As such it is difficult to provide accurate commentary on the social impact of this proposal.
- Mental health services placed at this location – Given the proximity to North Head which is a known location for people to suicide it would seem an inappropriate location for any mental health related services. The Police Local Area Command should be contacted for comment on this.
- Community facility proposal for the site – There is a contradiction between the Proposal Report and Community Need Analysis about whether the site is suitable for a community facility. The Community Needs Analysis indicates that it would not be ideal given the Council strategy is for the co-location of community facilities in a hub model located within the Manly Town Centre. A small isolated community facility on this site would not be supported.
- Location of the site - Is the site considered in Manly Town Centre or out of Manly Town Centre? There seems to be some inconsistencies across the content in the documents. This implications for statements made about transport and connectivity and the role of the site in providing social infrastructure for the community.
- Open space on the site - The opportunity to use the location for providing open space is referenced several times in the Community Needs Analysis but not at all in the Proposal Report. There appears an opportunity to consider how the open space could be accessed by the general public which would build connection and inclusion between staff, residents, students, visitors and the general community on the site.
- Better connection and usage between different landholders at North Head - There appears to be a missed opportunity in considering how the whole of North Head can work in conjunction to provide good outcomes for the community. The proposal is quite on this.
- Access to public transport – there is a contradiction in the Community Needs Analysis about whether the site has good public transport and walking connection to Manly Town Centre. This continues in the Planning Proposal and it appears unclear about whether the one bus service provides adequate transport and the 1.3km uphill trip is manageable for the staff, residents, patients, visitors to the site.

Other considerations:

- Childcare – it would be worth seeking feedback from Children's Services about the supply vs demand for childcare in the Manly area.
- Traffic and Transport - Traffic study taking into account the impact on the congestion points down in Manly Town Centre, not just on Darley Road nearer to site. Also public transport and active travel options for site given location at the top of the Darley Road hill.
- Bushfire - Bushfire impacts for residential aged care facility and childcare being located on the site.

GHD review

GHD has reviewed the conclusions of the Community Needs and Social Strategy and acknowledge there is a growing need for expanded health and social infrastructure in the locality, including specialised mental health, community health services and complementary uses (i.e. recreational, educational, retail etc.) that will differentiate the health precinct from existing acute health services in the LGA.

Economic Impact

The Planning Proposal will create a number of positive economic outcomes, including:

- Enable the site to be redeveloped for non-acute health purposes and facilitate additional jobs in the Eastern Harbour Facility in the health sector and other industries
- Support competitiveness and job growth by increasing the number of permissible employment generating uses across the site which will facilitate the generation of 273 jobs
- Facilitate additional jobs through construction activities associated with the future redevelopment of the site
- Will deliver employment generating floorspace along with much needed health and social infrastructure in response to the needs of the community

Council staff comments

From an economic development and tourism perspective, no concerns with the proposed additional permitted uses were identified.

Council officer agrees that it is best to continue with the SP2 (Health Services Facilities) zoning and add additional uses, than change to a B4 (Mixed-use) zone which could potentially have more impact with nearby Manly town centre.

'Healthcare and Social Assistance' has been the [strongest growing job sector](#) on the Northern Beaches over the last 5 years (+5,532 jobs) and largest sector accounting for 17% of all jobs (18,431 jobs). It has been identified in the draft Employment Study as a comparative strength of the Northern Beaches and area for future job growth. Therefore, opportunities to expand this specialism should generally be supported.

The focus on wellness and non-acute healthcare would also potentially contribute to visitor offering, with 'wellbeing' identified as one of the driving traveller trends in the draft Destination Management Plan, currently on exhibition.

Whilst the proposal would allow for 'food and drink premises' and 'neighbourhood shops', as additional permitted uses, it is assumed that these would be to service workers and customers of the health services. It would therefore not directly compete with food and beverage offering in the Manly town centre, which is only a kilometre away. More details on the extent of 'food and drink premises' and 'neighbourhood shops', would be beneficial to confirm this.

GHD review

GHD has reviewed the conclusions of the Planning Proposal and acknowledge there is a growing need for expanded health and social infrastructure in the locality, including specialised mental health, community health services and complementary uses (i.e. recreational, educational, retail etc.) that will differentiate the health precinct from existing acute health services in the LGA.

Heritage

Aboriginal Heritage

An Aboriginal Archaeological Due Diligence Assessment has been prepared by Dominic Steele Consulting Archaeology for the proposal. The purpose of the report is to assess the archaeological significance of the site and the implications for the proposal.

The report has been completed in consultation with the Metropolitan Local Aboriginal Land Council (MLALC) and in accordance with the *Office of Environments & Heritage's (OEH) Due Diligence Code of Practice* (2010) guidelines. The findings of the report are informed by a site inspection where extensive field recording was undertaken to ascertain areas of Aboriginal archaeological sensitivity. A sample survey of the southern and eastern bush land areas and photographic recordings were relied upon to complete the field recording. The report concludes that no Aboriginal Archaeological sites or objectives have previously been recorded on the site. It notes that the bush land located on the perimeter of the site, within its south and south eastern portions, has the potential to contain archaeological remnants. These remnants may be within sandstone surfaces and buried soils. The remainder of the site has been subject to extensive redevelopment to facilitate the construction of the former hospital. In turn, the former sandstone and associated soil profiles that have the potential to contain Aboriginal rock engravings, deposits and objects are likely to have been destroyed or significantly disturbed. Notwithstanding, the proposal does not seek to redevelop these areas, with the future built form confined to the already redeveloped portions of the site. Accordingly, these sensitive areas are not likely to be impacted by the proposal.

Based on the findings of the field recording, the report provides the following recommendations to facilitate the redevelopment of the site:

- That a geotechnical investigation of subsurface conditions beneath the existing car park and landscaped surfaces be undertaken to identify if intact sandstone and soils are present. If found, appropriate heritage management approaches should be adopted.
- Where the future redevelopment of the site necessitates disturbance to the bush land areas located at the fringes of the site, the proposed works must be evaluated at a site-specific level by the MLALC to identify if there will be any potential Aboriginal cultural heritage impacts.

Council staff comments

Council's Aboriginal Heritage Officer supported the management recommendations outlined in the Aboriginal Archaeological Due Diligence Assessment prepared by Dominic Steele Consulting Archaeology for the proposal.

GHD review

GHD, together with its subconsultant Virtus Heritage Consultants, reviewed the Aboriginal Archaeological Due Diligence Assessment, with findings detailed below.

Legislative Context and Scope of DSCA's report

During the review there are sections of the report where the scope and legislative requirements appear muddled.

Report Summary Section

In the extract below, 'historical heritage constraints' are mentioned as being assessed against the *Due Diligence Code of Practice* (OEH, 2010) and the National Parks and Wildlife Act, 1974. This is misleading as historical heritage (if referring to non-Aboriginal heritage) is not considered within either the *Due Diligence Code of Practice* (OEH, 2010) or the provisions of the National Parks and Wildlife Act, 1974.

"Methods & objectives

This report follows the Office of Environments & Heritage's (OEH) Due Diligence Code of Practice (2010) with the objectives of identifying potential Aboriginal archaeological or historical heritage constraints that may exist for future uses of the place, and if they exist, guiding how these matters should be managed according to the requirements of the National Parks & Wildlife Act 1974. "As the report does provide advice on historical heritage 'constraints' it would be appropriate to reference the relevant primary legislation for historical heritage in NSW, the NSW Heritage Act 1977 and the Manly Local Environmental Plan 2013 and its provisions for historical heritage to frame this advice.

Cultural and Scientific Values

The report summary section recognises that:

"Manly has a significant Aboriginal history where a number of singularly and collectively important historical events took place immediately following or a very short time after White settlement in Port Jackson in January 1788. However, whilst each of these events took place in relatively close proximity to the current site of Manly Hospital (the events occurring somewhere in Manly Cove generically and/or most likely at Collins Beach in particular) no evidence has been sourced for this study for any significant Aboriginal event to have occurred on the land itself or Aboriginal history to be attached to the land occupied by the hospital."

Page 32 of the report mentions:

"The Manly Hospital study area forms part of a sensitive Aboriginal heritage landscape that has a strong Aboriginal history and a considerable number of Aboriginal archaeological sites recorded in the local landscape."

In Section 2.1 the report states that the project area is in a sensitive landform, highly favourable to Aboriginal occupation:

"The locality was therefore located centrally within a small or concentrated but also environmentally and ecologically diverse set of micro catchment that will have provided Aboriginal people with a range of coastal and harbour resource habitats that were each accessed by the ridge line that the hospital site forms a part."

This is discussed in Section 4.3, including a statement that:

"Although it is theoretically possible that Aboriginal objects and archaeological deposits may occur below small buildings with shallow footings (and no basements) or in locations that are outside of areas of widespread or deep disturbance zones..."

However, the report summary contains the contradictory conclusion that:

"As a whole, Manly Hospital is widely and extensively disturbed as a result of large-scale construction and landscaping and is unlikely to contain significant and intact Aboriginal archaeological evidence."

This contradictory conclusion is raised again in the recommendations section of the report summary:

- *"There are no specific Aboriginal archaeological or historical heritage constraints apparent that would restrict the development of future reuse options for Manly Hospital. The majority of the land comprising the central built form core of the hospital has been extensively modified by building and retains low to no Aboriginal archaeological potential. However, the southern and south-eastern car parking areas and their adjoining landscape zones and fringing bush land may retain and/or contain sandstone surfaces that may have been engraved and remnant topsoil that may contain Aboriginal objects. This probability is however considered to be comparatively limited.*
- *It is recommended that a (low impact) geotechnical investigation of subsurface conditions beneath the existing car parking and landscaped surfaces be undertaken to identify if intact sandstone and soils are present/survive, and the results be used establish appropriate subsequent heritage management approaches in the context of future developments."*

The recommendations are contradictory, as the report does recognise the cultural landscape within the project area as having cultural and historical values in several sections of the report, including specifically in the Report Summary through the statement *"Manly has a significant Aboriginal history where a number of singularly and collectively important historical events took place immediately following or a very short time after White settlement in Port Jackson in January 1788"*.

The recommendation for geotechnical investigations in the report by the consultant, to identify cultural deposits also is contradictory. This recommendation indicates that there are areas the consultant is assessing as having potential for archaeological deposits within the project area, despite the lack of formal identification of areas of potential for Aboriginal objects in the report. The project area needs to be further assessed and understood before an assessment of no archaeological value or potential for Aboriginal objects and occupation deposits can be dismissed. These values and the potential for the project to harm Aboriginal objects triggers further impact assessment as part of an Aboriginal cultural heritage assessment following the *Due Diligence Code of Practice (OEH, 2010)* and to comply with the National Parks and Wildlife Act, 1974.

Geotechnical testing can also not legally be undertaken to 'test' for Aboriginal occupation deposits with a defence to knowingly harming Aboriginal objects under the *National Parks and Wildlife Act's 1974*, ancillary provisions in 2010, if testing and exploring for suspected Aboriginal objects and cultural deposits. Testing of this nature would need to be undertaken under an Aboriginal Heritage Impact Permit.

We agree as noted in Heritage NSW's submission provided by GHD for the review of this document, that a due diligence process is insufficient and inadequate to assess the potential Aboriginal cultural heritage values of the project area, and that a detailed Aboriginal cultural heritage assessment (with Archaeological Survey report) needs to be undertaken to the:

- a) Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in New South Wales (OEH 2011).
- b) Consultation with the Aboriginal community undertaken in accordance with the Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010 (DECCW 2010).
- c) Satisfy the requirements of the Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (DECCW 2010).

The predictive model also needs reconsideration on page 26 and 27 and consider other key site types and their potential, not currently addressed within the consultant's reports, story places

and contact sites (missions, reserves, settlements), burials and middens. Middens in particular are likely to be found in coastal contexts and are an often, predominant site type in this landscape context in NSW, including highly disturbed landscapes. Middens can contain human remains. Aboriginal burials are also often identified in coastal contexts and survive history of previous land use history (for example Narrabeen man, a traditional Aboriginal burial, identified in a services trench and foreshore carpark). These site types should be considered in any future impact assessment's predictive model.

The characterisation of disturbance negation Aboriginal archaeological potential is also problematic. There are many examples in urban contexts and coastal contexts of intact, high density Aboriginal archaeological deposits with high scientific, historical and cultural values being found intact, including Newcastle (foreshore and Hunter Street sand sheet underneath buildings, streetscapes and foreshore – several major archaeological excavations undertaken with occupation dates ranging up to 25,000 years in age); Parramatta, Sydney (Sydney Light Rail project, Randwick; Tank Stream, the Quadrant project, Broadway) and more regionally in Ballina, Port Stephens, Nambucca (where Aboriginal traditional burials and middens were found underneath several houses erected in the 1960s), Lennox Head Primary School (midden and occupation deposits intact under fill in buildings and potential Aboriginal burials and ceremonial grounds), Moonee Beach Caravan Park and Playground (sorcery site, bora ground, Aboriginal burials, midden and occupation deposits) and Narrabeen (find of Narrabeen man, traditional Aboriginal burial) to name a few. The project area needs further assessment of Aboriginal archaeological potential with geomorphological input, on the potential for buried occupation deposits and other site types, including Aboriginal human remains.

Section 4.5

The consultant writes that:

- *“As a general recommendation, in the (largely) unexpected circumstance that Aboriginal objects are exposed in the future, it is recommended that activities should temporarily cease and the OEH be contacted to advise on the appropriate course of action to allow the MLALC to record and collect the identified item(s).”*
- *As a second general recommendation, if human burials or bones are exposed, standard stop-work procedures and protocols to contact appropriate authorities should be followed, and if suspected to be of Aboriginal origin, the OEH and the MLALC will also need to be notified of the discovery immediately.”*

These protocols should refer to the requirement of an Aboriginal Heritage Impact Permit and Care and Control Agreement endorsed by Heritage NSW prior to any collection of Aboriginal objects by MLALC. The process as outlined above is not in compliance with the *National Parks and Wildlife Act 1974* and there is no mechanism to allow any Aboriginal organisation to collect Aboriginal objects without an AHIP or Care and Control Agreement for a development project of this nature.

Aboriginal human remains are also Aboriginal objects under the *National Parks and Wildlife Act 1974* and further consultation with Heritage NSW and all registered Aboriginal parties must be undertaken if uncovered, after the NSW Police and Coroner make a formal determination in writing that this is the case.

Further actions recommended:

- 1) As noted by Heritage NSW's review, a detailed Aboriginal cultural heritage assessment (with Archaeological Survey report) must be undertaken in accordance with:
 - a) *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in New South Wales (OEH 2011)*

- b) *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (DECCW 2010)*
- c) Consultation with the Aboriginal community undertaken in accordance with the *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010 (DECCW 2010)*

The assessment requires detailed geomorphological assessment, as well to better inform the potential for archaeological deposits (including middens and burials) within the project area. It also requires a more detailed ethnohistorical investigation on the contact history surrounding the project area as part of this assessment report.

- 2) Further archaeological testing is likely to be required across the site under an Aboriginal Heritage Impact Permit or methodology endorsed by Department of Planning depending on the planning status of this project to understand archaeological potential for Aboriginal heritage (ie SSD project or Major projects do not require AHIPs but a methodology endorsed by Department of Planning to allow for archaeological testing and salvage to occur). Testing will no doubt likely trigger archaeological salvage, based on previous archaeological research on similar modified landscape contexts for projects of this nature and scale.

European Heritage

Paul Davies Pty Ltd have prepared a Heritage Assessment Report for the proposal. The report assesses the heritage significance of the buildings contained within the site and the potential impacts to the European heritage values.

The assessment has been prepared in accordance with the guidelines of the *NSW Heritage Manual* and The NSW Heritage Division, Office of Environment and Heritage's (OEH) *Assessing Heritage Significant* guidelines as well as the principles established by the Australian ICOMOS Burra Charter and associated Practice Notes.

While the report identifies that the site contains only one locally listed heritage building known as (Item I133 – the Manly District Hospital (former principal building)) there are a number of unlisted buildings contained within the site that are of local historical significance. These buildings are significant as they are representative of inter-war period hospital designs and reflect their original built form dated back to 1920s-1930s.

Buildings 5 and 15, and the remnant façade of Building 1, are of significance as they are representative of Inter-war Georgian Revival and Inter-war Free Classical style buildings. They reflect the work of the NSW Government Architect's branch and the typical hospital designs of the Inter-war period. Building 20 is of heritage significance due to its historical associations with the Quarantine Station. The assessment concludes that these buildings are capable of being adaptively reused.

The remaining buildings across the site are identified as being of moderate significance or detracting items that are not worthy of retention. Based on the preceding assessment, the report nominates two recommendations. Firstly, that the buildings discussed above that are identified as having heritage significance be retained, conserved and adaptively reused. In accordance with this recommendation, the Indicative Concept Master Plan for the site demonstrates how this may be able to occur.

The second recommendation relates to the preparation of a Conservation Management Plan to guide the redevelopment of the site and the proposed adaptive reuse of the existing buildings. To satisfy this recommendation, it envisaged that a Conservation Management Plan will be prepared at the site-specific DCP or detailed Development Application stage of the project.

In summary, the assessment confirms that the site contains a variety of significant heritage buildings and whilst not designated as being locally listed heritage items under the MLEP 2013, some of these buildings are worthy of retention and adaptive reuse. With the adoption of the recommendations, the proposal as envisaged by the Indicative Concept Master Plan can be accommodated on the site without providing unacceptable impacts to its significant heritage fabric. Consistent with the report's recommendations, the proposal will adaptively reuse these significant buildings in a manner that preserves the site's important aesthetic qualities and historical associations.

Council staff comments

Council's heritage department have reviewed the proposal and provided comments, which are summarised as:

- The proposal should be amended to include the listing of all identified additional heritage items, as well as the introduction of a height limit for the site
- At the Gateway Determination stage the Department of Planning and Environment should condition the preparation of a Conservation Management Plan (CMP), a Development Control Plan (DCP), a Non-Indigenous Archaeology Report and a Visual Assessment report of the site and potential future development outcomes.

GHD review

Our assessment has taken into consideration the strategic direction and actions from relevant strategic planning documents for the area together with the relevant provisions of MLEP 2013. Our findings are that:

- The heritage assessment has followed the recommended NSW heritage guidelines provided by Heritage NSW and publicly available online at [5646 Heritage Significance \(nsw.gov.au\)](https://www.nsw.gov.au/5646-heritage-significance)
- The comparative analysis, also undertaken as per the guidelines, found that Manly Hospital was one of only six such Inter-War hospitals in the State. Also, that no other hospital buildings of the period in the Inter-war Georgian revival style, which is the design used for the Manly hospital buildings of the period were identified. This gives the existing Manly hospital buildings rarity heritage value more associated with State than local heritage value.

Further findings are noted in Table 3-5 below, which assesses the Part 1 report statements for buildings significance comments as follows:

Table 3-5 Report Review

Statements	Comment
"The identified significant buildings and elements are recommended to be retained, where appropriate, conserved and adaptively reused.	"Where appropriate" should be deleted and should not apply to the identified high significance elements. Further consideration of view lines and corridors should be provided as part of the Planning Proposal
Planning for future uses of the Manly Hospital site should include the preparation of a Conservation Management Plan (CMP) for significant buildings and elements to inform conservation work and future adaptive reuse proposals.	CMP needs to work with a final or semi-final proposed design so that specific buildings, elements and reuse can be specified.
The landscaping of the site has changed over time with the exception of the surrounding bushland areas, no historic	No management defined.

Statements	Comment
plantings or landscape elements, apart from the stone boundary walls have been identified.	We define this as - Retain a bushland setting, but not necessarily the actual plantings.
The vehicular circulation pattern within the site is also largely recent, with the exception of the entry points east and west of the Kiosk (Building 5), the road along the western boundary and the road between Buildings 1 and 2, which have some historical significance for the site.	Retain the road along the western boundary and the road between Buildings 1 and 2.

Significance Assessment

The review generally supports the Significance Assessment for the Manly Hospital buildings with comments in Table 3-6 below:

Table 3-6 Significance Assessment

Criteria	Significance	Comment
Criteria A; historical	An item is important in the course or pattern of NSW's cultural or natural history (or the cultural or natural history of the local area);	Local significance – particularly “structures dating to 1928 including Buildings 2 and 15 and the small section of main façade on building 1. The early 1930's buildings, Buildings 5 and 22 have some significance demonstrating the growth of the hospital. The sandstone boundary walls of the original core hospital site are of historical significance as elements which define the original east and west boundaries of the hospital site. Park Hill cottage (Building 20) and adjacent stables (east of the original core hospital site, on land acquired for the hospital in 1972), have separate local historical association with the North Head Quarantine Station,
Criteria B; associational	An item has strong or special associations with the life or works of a person, or group of persons, of importance in NSW' cultural or natural history (or the cultural or natural history of the local area);	The 1928 hospital buildings have historical association at a local level with their historical designers.
Criteria C; aesthetic, creative or technical	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area);	The remaining Manly hospital buildings and elements from the Inter-war period (1920s-1930s) (being Buildings 2, 5, 15, 22, 1928 remnant façade element of Building 1, and sandstone walls to east and west boundaries of the original core hospital site) are of local aesthetic significance as Inter-war Georgian Revival and Inter-war Free Classical style buildings. The setting of the hospital with boundaries to bushland and views of Sydney harbour to the south is also considered to be of local aesthetic significance. Building 20 and associated stables have local significance in relation to the adjacent Quarantine Station but not in relation to the hospital.
Criteria D; social values	An item has strong or special associations	local social significance to the local Manly community and its staff.

Criteria	Significance	Comment
	with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons	
Criteria E; scientific or archaeological value	An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area)	Is there archaeological potential? A separate archaeological report was referred to but has not been provided. Likely to be archaeological potential for the original c.1920s caretakers cottage referred to as demolished in the 1960s, and the morgue demolished in the 1960s. No other research values were identified.
Criteria F; rarity value	An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)	The Manly hospital site is rare at a local level for its small collection of inter-war period hospital buildings and elements. The overall setting of Manly hospital with boundaries to bushland and harbour views to the south is also considered rare. The buildings themselves are however not rare. But it is one of only 6 in NSW so that gives it rarity.
Criteria G; representative value	An item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places; or cultural and natural environments	Inter-war period buildings and elements of Manly Hospital are representative of inter-war hospital buildings designed by the NSW Government Architect's Branch.

Specific assessment – Building 22

- It is noted that Building 22 – former nurses home - was assessed as having a **Moderate** level of significance in the 2018 HA; where Moderate is defined as being 'Elements of some heritage value which contribute to but are not essential to the overall significance, understanding or interpretation of the place' (p94).
- The building, was constructed in 1931 after the main phase (1928) of construction. No mention of its architect or builder. The building is still included in the Inter-war period, which is a significant phase of development for Manly Hospital and includes buildings of **High** significance (Building 1, 2 and 15). Note that an additional nurses home building, Building 21 was constructed in 1952 which was assessed in the 2018 HA as having **Low** significance.

Table 3-7 Building 22 Assessment derived from the 2018 HA information:

Heritage Criteria	Criteria Definition	Assessment of Building 22
Criteria A; historical	An item is important in the course or pattern of NSW's cultural or natural history (or the cultural or natural history of the local area);	The former nurses building has historical heritage value as an important building contributing to Manly Hospital. It was built during the original development period for Manly Hospital 1920s-1930s. The kiosk, morgue and operating theatre were built then. The laundry and boiler room were part of

Heritage Criteria	Criteria Definition	Assessment of Building 22
		Building 22. As the original nurses home for Manly Hospital, Building 22 important at a local level. Additional nurses accommodation was constructed there (Bldg 21) in 1952.
Criteria B; associational	An item has strong or special associations with the life or works of a person, or group of persons, of importance in NSW' cultural or natural history (or the cultural or natural history of the local area);	Its designer is not named. Building 22 does not appear to be linked with persons of importance.
Criteria C; aesthetic, creative or technical	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area);	From its description, it is a standard public building relatively intact inside and out. Internally its design is a lot of small rooms running off hallways. It is included in the HA as having 'generic style'. Externally, the brickwork displays some austere decoration and the multi-paned timber frame windows retain a historical appearance. Overall, Building 22 does not demonstrate a high degree of creative or technical achievement.
Criteria D; social values	An item has strong or special associations with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons	The building, as a former historical nurses home, has historical social value for its inhabitants. However, this would be the case for any building serving that purpose. There is not a strong link with this building. Building 22 does not demonstrate social values.
Criteria E; scientific or archaeological value	An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area)	An archaeological report is pending, to date no specific archaeological potential is linked with Building 22.
Criteria F; rarity value	An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)	As a 1931 nurses home the building has rarity. This is demonstrated in the comparative assessment undertaken for the HA.
Criteria G; representative value	An item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places; or cultural and natural environments	As a 1931 nurses home the building is representative of its period of construction. This is demonstrated in the comparative assessment undertaken for the HA.

In summary, based on the above assessment; Building 22 meets local heritage significance values for its history, rarity and representative values.

This assessment now concurs with the findings of the 2018 HA which noted that Building 22 has a Moderate level of significance and that the building is capable of adaptive reuse. We recommend that its original balconies, which were enclosed, are opened up if the building is to be reused. Specific designs for Building 22 would need to be assessed via a statement of heritage impact.

Statutory Regulations and Requirements

Protection for heritage items listed on statutory registers in NSW is provided by the NSW Heritage Act 1977 (amended 1998, 2009) and the Environmental Planning and Assessment Act 1979. Under the NSW Heritage Act, "items of environmental heritage" include places, buildings, works, relics, moveable objects and precincts identified as significant based on historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic values. Items of identified heritage at a level of State significance are listed on the NSW State Heritage Register and are afforded automatic protection against any activities that may damage an item or affect its heritage significance under the Act.

An archaeological site is an area of land which is the location of one or more archaeological 'relics'. Section 4(1) of the Heritage Act (as amended 2009) defines 'relic' as: any deposit, artefact, object or material evidence that either (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, or (b) is of State or local heritage significance.¹

Sections 139 to 145 of the Act prevent the disturbance or excavation of any land if there is a reasonable cause to suspect that a relic will be discovered, exposed, moved, damaged or destroyed, unless an excavation permit has been issued by the Heritage Council of NSW. Impacts to the cultural significance of relics assessed to be minor can qualify for an Exception from the requirement for a permit².

Infrastructure, comprising engineered items such as drains, bridges and kerbing, are identified as a 'work'. This term is applied to functioning and often to non-functioning infrastructure. These items are not defined as a *relic*, and development affecting them can be carried out without the requirement of a permit. This can also be applied to railway tracks and their ballast.

In relation to historical archaeology – there is archaeological potential relating to demolished buildings on the property – the original c.1920s caretakers cottage referred to as demolished in the 1960s, and the morgue also demolished in the 1960s.

A historical archaeology assessment report needs to be undertaken, preferably with a zoning plan to indicate areas of archaeological sensitivity – as part of the planning process.

If the report entitled *Aboriginal Archaeological Due Diligence Assessment Manly Hospital, 150 Darley Road, Manly, NSW - Proposed Reuse Options, Report to NSW Health Dominic Steele Consulting Archaeology 28 March 2020* is the 'Archaeological report' referred to; it will not satisfy any planning regulations for historical archaeology, as its focus was Aboriginal archaeology.

The relevant statutory control for local heritage items is Council's Local Environmental Plan. For this site, it is MLEP 2013 which is still relevant under the management of the Northern Beaches Council. That Council has Schedule 5, Items of Environmental Heritage, with the following listing:

*Manly District Hospital (former principal building) Darley Road Part of Lot 2619, DP 752038
Manly St Patrick's Estate Darley Road Part of SP 67855; Part of SP 78900 Local I132 and
Local I133*

¹ NSW Heritage Branch, 2009, Assessing Significance for Historical Archaeological Sites and 'Relics'. New South Wales Heritage Branch of the Department of Planning, 6.

² NSW State Government, 6th August 2008, Schedule of Exceptions to Subsections 139 (1) and (2) of The Heritage Act 1977 Made Under Subsection 139 (4)
<http://www.environment.nsw.gov.au/resources/heritagebranch/heritage/gazette.pdf>

3.4 Section D – State and Commonwealth Interests

Is there adequate public infrastructure for the planning proposal?

The site is located in an established urban area and benefits from access to a range of existing facilities and services, including utilities, with capacity to service the additional development.

The site is located in close proximity to a number of public transport services, including bus services along Darley Road opposite the site which provide connections to the Manly Town Centre and the Northern Beaches. The site is located a short 13 minute walk (800m) from the Manly Town Centre, which provides additional public transport connections to the Sydney CBD, North Sydney CBD and Chatswood.

What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

The Planning Proposal has been prepared on behalf of Property & Development NSW (PDNSW), part of the Department of Planning, Industry and Environment. The requested LEP amendments reflect both State agencies' visions for the redevelopment of the site. In addition, NSW Health also have been consulted with extensively in relation to the project through the PSAC.

In 2020 the proposal was referred to government agencies. Submissions are summarised below

3.4.1 Transport for NSW

TfNSW provided the following preliminary comments on the draft planning proposal:

Site specific DCP

We note it is intended that a site-specific DCP would be prepared to include built form controls which manage height, bulk, and scale, as well as requirements relating to traffic, environmental considerations and heritage.

We support Height of Building and FSR controls for the site being contained in the LEP, rather than in a DCP, to ensure greater certainty around potential impacts, given they are principal development standards.

Vehicle Access Point

The vehicle access points for standard vehicles, service vehicles and emergency vehicles should be determined in consultation with Council, noting the access points are located on a local road. TfNSW advises that the design should take into consideration existing driveway locations associated with the former Manly Hospital and also surrounding properties to limit potential conflicts.

Shared Zone

The proposed shared zone would require a legally enforced speed limit that can only be approved by TfNSW. As such, any shared zone proposals will need to be designed in accordance with the technical direction TTD 2016/001 – "Design and implementation of shared zones including provision for parking" and submitted to TfNSW for review and determination in terms of whether an approval will be granted.

Traffic and Transport Study

The future planning proposal should be supported by a Transport Impact Assessment (TIA), to provide an assessment of impacts of the proposal on all modes of transport.

Car Parking

TfNSW notes that different land uses would be permissible under the planning proposal for the site, and therefore the exact number of parking spaces to be provided cannot be determined at this stage. TfNSW advises that off-street parking is to be reviewed once the land uses are known and are to be provided in accordance with Manly Development Control Plan (DCP) 2013.

3.4.2 Sydney Water submission

Sydney Water's submission dated 21 December 2020 states:

Sydney Water have no objection to the proposal and provides the following advice in relation to the services strategy:

Water Servicing

- Potable water servicing should be available via 150mm CICL watermain (laid in 1965) located within the property boundary or via a 200mm DICL watermain (laid in 1989) fronting Darley Street.
- Amplifications, adjustments and/or minor extensions may be required.
- Detailed requirements, including preferred connection point, will be provided at the Section 73 application phase.

Wastewater Servicing

- Wastewater servicing should be available via a 225 SGW wastewater main (laid in 1938) located within the property boundary.
- Amplifications, adjustments and/or minor extensions may be required.
- Detailed requirements will be provided at the Section 73 application phase.

Critical Assets

- As specified within the services strategy, Sydney Water has the following critical assets within the site:
 - 3600 Unlined Borehole Trunk (laid in 1998)
 - 150mm CICL reticulation watermain
 - 4191mm x 2667mm Sandstone Concrete main (laid in 1927)
 - 225 SGW wastewater main (laid in 1938)
- Due to the age, material and significance of these assets, the proponent needs to lodge an out of scope Building Over and Adjacent application with Sydney Water once the proposed development's building plans have been finalised to ensure there is no impact to these assets and investigate if any require deviation if possible.
- For more information regarding out-of-scope BPAs, please see our website.

Trade wastewater requirement

- As the proposed development is going to generate trade wastewater, the developer must submit an application requesting permission to discharge trade wastewater to Sydney Water's wastewater system. The applicant must wait for the approval and issue of a permit before any business activities can commence.
- The permit application can be made on Sydney Water's web page through Sydney Water Tap In. <http://www.sydneywater.com.au/tapin/index.htm>.

3.4.3 Heritage NSW submission

Heritage NSW's submission, dated 10 December 2020 states:

Local Heritage

The subject site contains 'Manly District Hospital (former principal building)' (I133), a Local Heritage Item listed under Council's LEP. As this item is listed under your LEP, Northern Beaches Council is the consent authority, and the assessment and consideration of any impacts on this item rests with Council.

Potential Local Heritage Items

The heritage assessment identified several unlisted buildings within the site that are of potential local historical significance, being representative of inter-war period hospital designs, and retaining their original built form dating back to 1920s-1930s.

It is noted that these buildings are of significance as they are representative of Inter-war Georgian Revival and Inter-war Free Classical style buildings. They reflect the work of the NSW Government Architect's branch and the typical hospital designs of the Inter-war period.

Six buildings or features of the site are graded in the heritage assessment as having a 'High' level of significance:

- The remnant façade of Building 1, constructed 1928
- The Main Ward Block (Building 2), constructed 1928
- The Kitchen (Building 15), constructed 1928
- Parkhill Cottage (Building 20), constructed 1921, which has historical associations with the Quarantine Station
- The eastern and western sandstone boundary walls to Lot 2619 DP752038 and alignment of eastern boundary wall, constructed 1920
- The bushland areas, which provide the historical natural setting of the hospital site

The following two buildings are also graded in the heritage assessment as having a 'Moderate' level of significance:

- The Kiosk (Building 5), constructed 1931
- Nurses home (Building 22), constructed 1931, excluding later additions

Council should consider identifying the buildings listed above as Local Heritage Items under its LEP, especially in the case of the buildings and features that were identified as being of 'High' significance. This could either be done through amendments to the current planning proposal, or through a separate planning proposal.

Overall, the changes to the site identified in the concept master plan, public domain strategy and landscape strategy represent a significantly improved public realm and are considered to have a positive impact on both listed and potential local heritage.

Section 170 Register

As the 'Former Principal Building' of Manly Hospital is also listed on NSW Health's Section 170 Register, NSW Health must notify the Heritage Council of NSW of the proposed transfer of this building at least 14 days prior to this occurring.

Aboriginal Cultural Heritage

Heritage NSW's Aboriginal Cultural Heritage Regulation team may provide separate comments on the planning proposal in relation to Aboriginal heritage considerations under the *National Parks and Wildlife Act 1974*.

Prior to finalisation of the planning proposal, Council should be satisfied that all necessary due diligence, assessments and notifications have been undertaken.

3.4.4 RFS submission

The NSW RFS has considered the information submitted and provides the following comments.

The referral relates to amendments to Schedule 1 of the Manly Local Environmental Plan (LEP) 2013 to allow the following additional permitted uses within the former Manly Hospital site:

- A group home
- Community facility
- Educational establishment
- Food and drink premises
- Centre-based child care facility
- Indoor recreational facility
- Neighbourhood shop
- Function centre
- Respite day care centre
- Seniors housing

A number of the above proposed additional permitted uses are classified as Special Fire Protection Purpose (SFPP) developments and are therefore subject to compliance with the provisions of Chapter 6 of *Planning for Bush Fire Protection (PBP) 2019*.

Future development classified as SFPP must demonstrate compliance with the following:

- The provision of asset protection zones (APZs) must be provided in accordance with Section 6.8.1 and Table A1.12.1 of PBP 2019
- Internal access roads must comply with Section 6.8.2 of PBP 2019
- The provision of water, electricity and gas must comply with Section 6.8.3 of PBP 2019
- All future development will need to be supported by an emergency and evacuation plan that complies with Section 6.8.4 of PBP 2019

Future master plans and development applications must ensure that new development complies with the acceptable solutions of Chapter 6 PBP 2019 given the vulnerable nature of occupants being more at risk of bush fire attack. Where practically achievable, full compliance should be provided before variations to the required bush fire protection measures are considered. The current master plan provided, which is not the subject of the Planning Proposal, demonstrates that a number of future and existing buildings will not comply the provisions of Chapter 6 of PBP 2019, especially in relation to the provision of compliant asset protection zones (APZs) and construction requirements. As such, it is advised that the master plan may need to be amended to demonstrate compliant building locations and APZs.

Given that future development of the subject site will likely proposed to retain and make use of existing buildings, future applications must address all existing non-compliant aspects of the

existing buildings and the subject site. Section 6.4 of PBP 2019 requires that new development within existing SFPP sites apply a combination of bush fire protection measures, including improved construction standards, APZs and evacuation management, in order that a better bush fire outcome than if the development did not proceed. Again where achievable, full compliance with PBP 2019 should be provided before variations to the required bush fire protection measures are considered.

Furthermore, the proposed additional permitted uses will significantly increase the number of occupants within the subject site which presents a number of challenges in relation to emergency management, evacuation, access and egress as that the existing site layout and buildings have not been designed with the benefit bush fire protection requirements. It has been shown that the existing access provisions within the subject site do not fully comply with the acceptable solutions of Chapter 6 of PBP 2019. Future development will need to demonstrate that the existing and proposed internal roads will allow future occupants to safely exit the subject site whilst still providing access for firefighting vehicles and emergency management on the hazard interface.

In this regard, future developments will need to include upgrades to the existing access road, give consideration to the provision of a perimeter road at the hazard interface, an additional access point to the public existing public road and the provision of a designated safe refuge building to accommodate all occupants in the event of an emergency. Future developments must also be supported by a traffic study that demonstrates that the internal road and surrounding infrastructure can support future increased activity. Future developments must also be supported by a traffic study that demonstrates that the internal road and surrounding infrastructure can support future increased activity.

All other development must demonstrate compliance with the provisions of Chapters 5, 7 and 8 of PBP 2019 where applicable.

3.4.5 Ausgrid

Ausgrid has advised that there are various assets within the site. The proponent will need to submit an application via Ausgrid website to relocate any assets.

4. Part 4 – Maps

The proposed amendments do not necessitate changes to the mapping that accompanies MLEP 2013. Rather, the Planning Proposal will introduce additional permitted uses under Schedule 1 pursuant to clause 2.5 of MLEP 2013.

5. Part 5 – Community Consultation

Community consultation was undertaken in August and September 2019 which identified key themes to inform the concept master plan. An outcomes report is available online.

Further consultation was undertaken between July and September 2020 to seek the community's feedback on the draft concept master plan prior to lodging the planning proposal. A virtual webinar was held on 21 September 2020 to answer the community's queries. An outcomes report is available online.

Council also publicly exhibited the proposal in 2020. Four public submissions were received. Council responses are detailed in Table 5-1 below.

Table 5-1 Response to public submissions

Submission	Council response
Please advise the area of bush land to be annexed into the new development. It is unclear in the plans available.	The Urban Design Report and plans submitted with the Planning Proposal are only indicative at this stage. The Planning Report submitted by the Applicant indicates that future development will sit within existing development footprints and that any vegetation removal will be subject to a Vegetation Management Plan prepared for the project. At this stage therefore, no bushland is proposed to be added to development.
Note that all the documents refer to "to amend the Manly Local Environmental Plan to permit additional permitted uses at the former Manly Hospital site at 150 Darley Road, Manly." Is there somewhere that describes exactly what these additional permitted uses are? Without that, the submission is excessively vague and could include almost anything,	Because of the number of proposed 'Additional Permitted Uses' to the site, these were not included in the description of the Planning Proposal but can be found on page 26 of the Planning Report prepared and submitted by the proponent. These are: <ul style="list-style-type: none"> • health services facility on Lot 2728, DP 752038; and • group home, community facility, educational establishment, food and drink premises, centre-based child care facility, indoor recreational facility, neighbourhood shop, function centre, respite day care centre and seniors housing on Lot 2619, DP 752038.
Please advise where the plans are to be viewed. I assume council chambers at Dee Why.	Due to current restrictions no physical plans are available for public viewing but all documentation is online and can be found via this link.
Please clean up Manly, the streets and drains need attention	Noted.
Submission has asked if some of the buildings on the site could be used for primary or potentially pre-school education.	The site is under ownership of Property & Development NSW and therefore this submission will be provided to them for their consideration.
Submission indicates support for the Planning Proposal and overall redevelopment of the site, in particular the use of a portion of the site for educational purposes. However concerns raised regarding: requirement of additional information/consideration of the management of environmental areas; limited public transportation; and commemoration of history of the site in its redevelopment.	Concerns have been addressed in other sections of the report and additional information has been requested as required.

6. Part 6 – Project Timeline

Table 6-1 Timeline

Task	Anticipated timeframe
Anticipated commencement date (Gateway determination)	July/ August 2021
Anticipated timeframe for the completion of required technical information	November 2021
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	December 2021
Commencement and completion dates for public exhibition period	January 2022
Dates for public hearing (if required)	February 2022
Timeframe for consideration of submissions	March 2022
Timeframe for the consideration of a proposal post exhibition	April 2022
Date of submission to the Department to finalise the LEP	May 2022
Anticipated date the local plan-making authority will make the plan (if authorised)	July 2022
Anticipated date the local plan-making authority will forward to the PCO for publication	August 2022

7. Recommendations

GHD's engagement involved the following:

- Review and objectively assess the application and Planning Proposal.
- Undertake a peer review of the technical studies submitted with the application.
- Consider comments received from internal staff referrals, state and servicing agencies, adjoining property owners and independent parties as part of Council's non-statutory notification period.

On the basis of the information presented with the Planning Proposal, it is recommended that Council support the progression of the Planning Proposal for a Gateway determination from DPIE under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* subject to the following:

- The Planning Proposal is to include heritage listing for the following structures for Manly Hospital:
 - the remnant façade of Building 1, constructed 1928
 - the Main Ward Block (Building 2), constructed 1928
 - the Kitchen (Building 15), constructed 1928
 - Parkhill Cottage (Building 20), constructed 1921, which has historical associations with the Quarantine Station
 - the eastern and western sandstone boundary walls to Lot 2619 DP752038 and alignment of eastern boundary wall, constructed 1920
 - the bushland areas, which provide the historical natural setting of the hospital site (landscape setting)
 - the Kiosk (Building 5), constructed 1931
 - Nurses home (Building 22), constructed 1931, excluding later additions
- The Planning Proposal and subsequent LEP amendment should reference the need for a Conservation Management Plan to be prepared to guide the redevelopment of the site and the proposed adaptive reuse of the existing buildings as part of a site specific Development Control Plan and a Visual Assessment report of the site and potential future development outcomes.

In addition to the above it is noted that any future BDAR submitted in support of the broader Manly Hospital masterplan development should address the following matters:

- Interactions between E2 zone objectives and APZ establishment/maintenance;
- Direct vegetation impacts associated with the proposal including APZ establishment/maintenance;
- Indirect impacts associated with operation of the new uses/activities (e.g. light, noise, increased traffic causing road mortality of bandicoots, intensification of human activity);
- Potential impacts to threatened entities including Littoral Rainforest EEC, Powerful Owls, Little Penguins (including stormwater/run-off/erosion impacts to the AOBV), Long-nosed Bandicoots, Sunshine Wattle and Magenta Lilly Pilly.
- Discussion of measures to avoid and minimise impacts and mitigation measures for any residual impacts.

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Former Manly Hospital LEP Amendment

Planning Proposal Report

150 Darley Road, Manly

On behalf of
Property & Development NSW
November 2020



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Appendix 4 - Aboriginal Due Diligence Assessment

Appendix 5 - Ecological Constraints Assessment

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Appendix 7 - Bushfire Report

Appendix 8 - Geotechnical Investigation

Appendix 9 - Stormwater Strategy Report

Appendix 10 – Public Domain and Landscaping Strategy

Appendix 11 – Services Strategy

Executive Summary

This Planning Proposal has been prepared by Mecone on behalf of Property & Development NSW (PDNSW), part of the Department of Planning, Industry and Environment (DPIE), and relates to the former Manly Hospital site located at 150 Darley Road, Manly. The Planning Proposal satisfies the requirements of Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Site Context and Description

The site is located at 150 Darley Road, Manly and is within the Northern Beaches Local Government Area (LGA) approximately 13.3km from the North Sydney Central Business District (CBD), 10km from Northern Beaches Hospital in Frenchs Forest and 5.9km from the Sydney CBD. It is irregular in shape and has an area of approximately 4.66 hectares.

The site has a primary northern frontage to Darley Road of 150m and a secondary north eastern frontage of 170m to North Head Scenic Drive. It is subject to significant level variations and grades down from 67m AHD in the north to 39m AHD in the south towards the foreshore of Shell Cove, North Harbour.

The site contains a number of buildings associated with the former Manly Hospital that were constructed in the 1920s and 1930s, while the rear of the site comprises an open at-grade car park and open space. The locally listed heritage building known as the 'Manly District Hospital' (former principal building) occupies the northern portion of the site where it interfaces with Darley Road.

The site is situated adjacent to the southern side of North Head, which forms part of Sydney Harbour National Park, and occupies broader Manly peninsula. The surrounding uses predominantly consist of education and health facilities as well as sites significant for their social and historical associations. The development to the immediate west and north relates to the St Patrick's Estate, which comprises a mix of uses, with residential beyond. The development to the direct north on the opposite side of Darley Road relates to the former St Patrick Estate Seminary and now accommodates the International College of Management. To the west of this site is Bear Cottage – NSW's only children's hospice. To the direct south the site adjoins Sydney Harbour National Park and beyond this lies North Harbour.

Intent of the Planning Proposal

The Planning Proposal aims to expand the range of permitted uses under Schedule 1 of MLEP 2011 at the site, whilst maintaining the primary role of the site as a health services facility. Pursuant to clause 2.5 of MLEP 2013 the planning proposal seeks to introduce additional permitted uses at the site including the following: a group home, community facility, educational establishment, food and drink premises, centre-based child care facility, indoor recreational facility, neighbourhood shop, function centre, respite day care centre and seniors housing.

The proposed additional uses reflect market sounding and needs analysis undertaken by the NSW Government and would enable complimentary health and wellbeing uses to be located at the site in conjunction with new health services facilities permitted under the existing zone. The inclusion of the above land uses as additional

permitted uses under Schedule 1 of MLEP 2013 would enable the making of a site-specific DCP for the site. The site-specific DCP would include built form controls which manage height, bulk, and scale, as well as requirements relating to traffic, environmental considerations and heritage.

Strategic Merit

The proposed redevelopment of the site as a destinational health and wellbeing precinct is entirely consistent with the applicable strategic planning framework.

A key direction nominated by The Greater Sydney Plan is to support the growth and competitiveness of the Eastern Harbour City, including its Harbour CBD. Investment in health and social infrastructure is identified as integral to supporting the growth and competitiveness. Investment is to be targeted in designated health and education precincts.

In addition to investing in health and education precincts, the Plan identifies that an integrated planning approach for the delivery of health facilities is needed to ensure adequate access to a broad range of comprehensive services, including general practice, community health services, aged care, medical centres and pharmacies. This requires investment in health services outside of identified health precincts and in proximity to key nodes of activity.

Accessibility is to be enhanced through the co-location of health services and complementary uses such as research facilities, seniors housing and short-term accommodation for health purposes. This necessitates innovative approaches to the delivery of health services.

There is also an identified need for tailored health services that address the demands of the community. Health services for the ageing population is one such example. The Greater Sydney Plan notes the ageing population will require localised access to health services to ensure patients are close to relatives, social infrastructure and support networks which are pivotal to improving wellbeing.

The North District Plan is the applicable district plan to the site. It identifies the need to support the continued growth of designated health and education precincts, including the precincts located at Macquarie Park, Frenchs Forest and St Leonards. The site is located 10km distance from the Frenchs Forest Health and Education Precinct, which accommodates the recently constructed Northern Beaches Hospital. The hospital commenced operations in 2018 and now contains the health related services that previously formed part of Manly Hospital up until its closure in late 2018. The North District Plan identifies the need to foster the growth of this important health precinct and ensure the continued provision of acute health facilities that will service the District's growing population.

The North District Plan notes that there is a need to provide services and infrastructure to meet people's changing needs. This is of paramount importance given key demographic changes affecting the district. By 2036, the portion of its population aged above 85 is expected to grow by 85% and the number aged between 65 and 84 years to increase by 47%. The projected growth of these two population segments represents the greatest of any other age group. In addition, over 27,500 people in the district have a disability. In consequence, there is a pressing need for planning

outcomes to focus on accessibility and inclusion to ensure that young people, those with disabilities and the older population can easily access services.

The North District Plan situates the site within the Manly Strategic Centre which is distinctive for its cultural, tourist retail and entertainment uses as well as the recreational opportunities afforded by its scenic attributes. The North District Plan nominates a number of key actions for the Manly Strategic Centre, including the need to encourage diversified commercial activity and to further develop Manly's cultural, tourist, retail and entertainment uses.

In light of the above, the Planning Proposal and development of the site for the purposes of a health and wellbeing precinct aligns with the strategic planning framework in that it will:

- Support the competitiveness of the Eastern Harbour City by increasing the number of permissible employment generating uses across the site which will facilitate the generation of 273 jobs that will assist in meeting the target of 817,000 jobs for the North District by 2056;
- Provide tertiary education facilities that will support the localised workforce and the overall productivity of the North District;
- Adopt a place-based approach to the development of the site that capitalises on its landscape setting and historical/cultural assets;
- Provide ancillary uses that will support the viability of specialist health services currently not accommodated in nearby health and education precincts, which will also not detract from the viability of these precincts;
- Introduce services that satisfy the demands arising from the future AYA and the broader community to precinct that will foster accessibility and inclusion by way of its innovative design;
- Deliver high quality residential care facilities that address the needs associated with changing demographics, including the unprecedented growth of the ageing population;
- Contribute to Manly's status as a Strategic Centre and its cultural and tourist related offerings by providing high quality recreational facilities, active retail uses and open space; and
- Support the collaboration between governments, community and businesses to increase the provision of health and social infrastructure.

Site Specific Merit

The Planning Proposal is considered to have significant site specific merit for the reasons outlined below.

The growing ageing population and the demand for wellbeing and mental health facilities are major challenges confronting communities into the future. The Planning Proposal will facilitate the transformation of the underutilised site to a fully integrated destinational health and well-being precinct. The precinct will support seniors housing alongside state-of-the-art health and wellbeing facilities. The provision of these uses will simultaneously generate a demand for additional social infrastructure and services such as retail, child care and recreational facilities. The site is ideally suited to provide

social infrastructure and an array of complementary uses in that it affords the opportunity for open space, cultural facilities and pedestrian linkages to the surrounding landscape. Collectively, these attributes will enhance the amenity of the precinct and improve Manly's cultural and tourism offerings.

Supporting subconsultant reports confirm that following the recent construction of the Northern Beaches Hospital, there is sufficient health infrastructure in the locality to support the community's acute health needs. Conversely, there is a lack of non-acute health and wellbeing related uses. It is considered that the Planning Proposal provides the opportunity to address the demand for non-acute health services.

The Planning Proposal will support the delivery of a range of uses that will encourage job creation and educational opportunities which is appropriate for the site given it has historically accommodated a health facility and is in proximity to surrounding educational institutions.

In summary, the Planning Proposal demonstrates site specific merit in that it will:

- Improve the local community's access to high quality residential care facilities for seniors and people with a disability;
- Provide tertiary educational uses which are appropriate for the site's context given its proximity to surrounding educational institutions;
- Co-locate residential care facilities with an array of complementary uses to be to facilitate ease of access to services and social infrastructure;
- Protect and repurpose the site's existing heritage buildings, allowing for their continued interpretation;
- Facilitate the provision of publicly accessible space and enhance connections between the subject site and the surrounding landscape;
- Protect and conserve the site's ecological values;
- Is serviced by adequate infrastructure, public transport and utilities;
- Provide cultural and creative facility to recognise and honour the site's Aboriginal culture;
- Encourage job creation in proximity to homes and infrastructure;
- Not give rise to any adverse environmental impacts; and
- Will minimise environmental impacts relative to the site's former hospital use by providing reduced traffic generation impacts.

Conclusion

The Planning Proposal is entirely consistent with the strategic planning framework and demonstrates site specific merit. It is therefore considered that the proposal meets the strategic and site specific merit tests. For the reasons outlined in the following sections, the proposal will deliver a myriad of public benefits and will provide minimal environmental impacts, and warrants support.

1 Introduction

The Planning Proposal has been prepared by Mecone on behalf of the Proponent Property & Development NSW (PDNSW), a part of the Department of Planning, Industry and Environment (DPIE) in relation to the former Manly Hospital site located at 150 Darley Road, Manly.

The Planning Proposal aims to expand the range of permitted uses under Schedule 1 of MLEP 2013 at the site, whilst maintaining the primary role of the site as a health services facility. Pursuant to clause 2.5 of MLEP 2013 the planning proposal seeks to introduce additional permitted uses at the site including the following: a group home, community facility, educational establishment, food and drink premises, centre-based child care facility, indoor recreational facility, neighbourhood shop, function centre, respite care centre and seniors housing.

The Planning Proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* (the EP&A Act) and The NSW Department of Planning, Industry and Environment's (DPIE's) *A Guide to Preparing Planning Proposals*.

Specifically, the Planning Proposal includes the following information:

- A description of the site in its local and regional context;
- A statement of the objectives and intended outcomes of the proposed instrument;
- An explanation of the provisions that are to be included in the proposed instrument; and
- The justification for those provisions and the process for their implementation including:
 - Whether the proposed instrument will comply with relevant directions under Section 9.1;
 - The relationship to the strategic planning framework;
 - Environmental, social and economic impacts;
 - Any relevant State and Commonwealth interests; and
 - Details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.

The Planning Proposal is accompanied by the following accompanying reports in support of the LEP Amendment proposed:

- Appendix 1 – Urban Design Report
- Appendix 2 - Community Needs Analysis and Social Strategy
- Appendix 3 - Heritage Assessment Report
- Appendix 4 - Aboriginal Due Diligence Assessment
- Appendix 5 - Ecological Constraints Assessment
- Appendix 6 - Preliminary Transport Assessment
- Appendix 7 - Bushfire Report

- Appendix 8 - Geotechnical Investigation
- Appendix 9 - Stormwater Strategy Report
- Appendix 10 – Public Domain and Landscaping Strategy
- Appendix 11 – Services Strategy

1.1 Proponent and Project Team

The planning proposal has been informed by the following accompanying reports prepared by the project team:

Table 1. Project Team	
Specialist Report	Consultant
Urban Planning Assessment	Mecone
Architects / Urban Design Consultant	Cox Architecture
Traffic Consultants	JMT
Bushfire Consultants	Peterson Bushfire
Geotechnical Engineers	JK Geotechnics
Biodiversity Consultants	Narla Environmental
Heritage Consultants	Paul Davies Pty Ltd
Archeological Consultants	Dominic Steele Consulting Archaeology
Civil Engineers	Arcadis
Social Planners	Ethos Urban
Community Engagement Consultants	Urbis

2 Site Information

2.1 Site Context

The site is known as 150 Darley Road (Lot 2619 in DP 752038, Lot 2727 in DP 752038, and Lot 2774 in DP752038), Manly in the Northern Beaches Local Government Area (LGA) approximately 1km east of the Manly Town Centre, 10km south east of Northern Beaches Hospital in Frenchs Forest and 17km north east of the Sydney Central Business District (CBD). The site is located on the southern side of the Manly peninsula fronting Spring Cove, North Harbour. It interfaces with the historic St Patrick's Estate, North Head Sanctuary and Sydney Harbour National Park.

The locality surrounding the site is characterised by a mix of uses, including low-scale residential development and educational establishments that include the International School of Management, St Paul's Catholic College, and Australian Institute of Management. It is also surrounded by medical facilities including the children's hospice known as Bear Cottage as well as historic sites such as the Barracks Precinct and North Head Quarantine Station.

A site context map is provided at **Figure 1** and an aerial photograph of the site is shown at **Figure 2**.



Figure 1 – Site Context Map

Source: Mecone/Mosaic

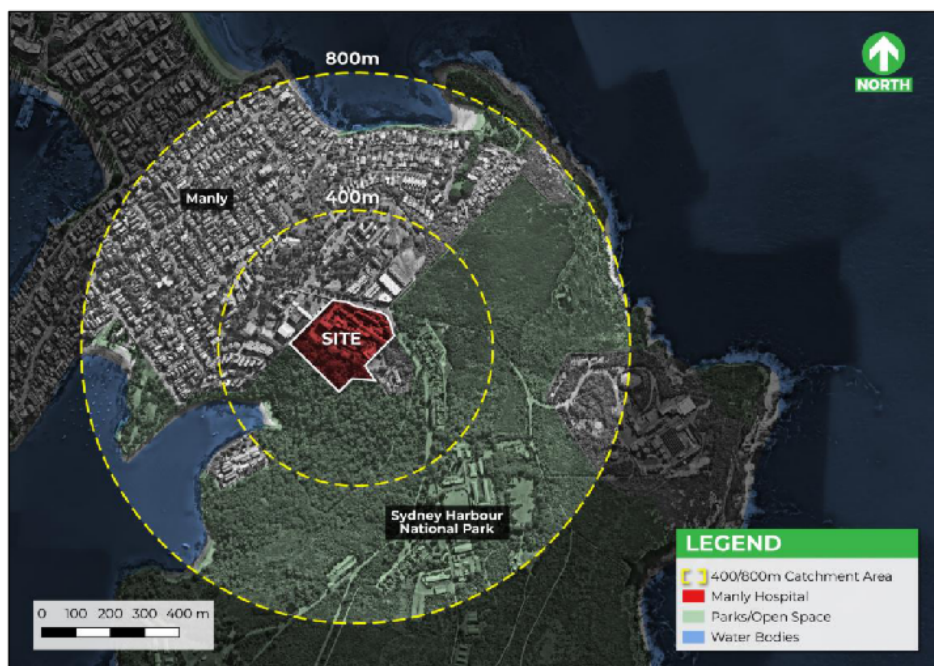


Figure 2 – Site Aerial Map

Source: Mecone/Mosaic

2.2 Site Description

The table below provides a description of the subject site.

Table 2. Site Description	
Item	Description
Legal description	The site is legally described as: Lot 2619 in DP 752038, Lot 2727 in DP 752038, and Lot 2774 in DP752038.
Total area	4.66 hectares
Address	150 Darley Road, Manly
Site Topography	The site descends from 67 AHD taken from the far northern point at Darley Road to 39 AHD at the southern boundary.
Existing use and building	<p>The site contains a number of unoccupied buildings associated with its historic use as a hospital. Combined they contribute to the former hospital's east, north and south wings.</p> <p>The development within the east and north wings consists of low-scale buildings which are generally characterised by a red masonry brick materiality. The development towards the south consists of more contemporary built form additions.</p>

Table 2. Site Description	
	An open at-grade carpark surrounds these buildings in the southern portion of the site.
Heritage	Sited behind the hospitals 'North Wing' is a local heritage item. The item is known as the Manly District Hospital (former principle building) under the Manly LEP 2013 and is exemplary of an Inter-War Georgian Revival style building. In addition, whilst not identified as being heritage items under the Manly LEP 2013, the site contains a number of other buildings of high heritage value requiring conservation in the future.
Access and Public Transport	<p>The site's primary vehicular egress/ingress point is located on Darley Road and permits entry to the former hospital's rear open car park and its northern and eastern wings.</p> <p>A secondary access point for emergency vehicles is located further eastward on Darley Road. An access point is also accommodated on North Head Scenic Drive and provides entry to an open car park located on the eastern edge of the site.</p>
Surrounding Uses	<p>The surrounding development / land uses are as follows:</p> <p>North: The development relates to St Patrick's Estate which is occupied by the International School of Management and sited directly opposite the site.</p> <p>South: The site interfaces with dense bushland which forms part of the Sydney Harbour National Park. Further southward lies Collins Beach which forms part of the Spring Cove harbor foreshore.</p> <p>West: To the immediate west the site adjoins St Paul's Catholic College, which forms part of the St Patrick's Estate. The recently constructed Shell Cove residential precinct is located further to the south west.</p> <p>East: North Head Scenic Drive and Collins Beach Road bound the site to the immediate north west and south west, respectively. Further south east lies North Head Sanctuary and North Head headland, which form part of Sydney Harbour National Park and occupy a large extent of the Manly Peninsula. Low scale residential development is located further eastward along North Head Scenic Drive.</p>
Public Transport	The site is serviced by bus services (route 135) from Darley Road which provides connections to the Manly Town Centre and Warringah Mall. Additional ferry and bus services (171X and E71) are accessible from West Esplanade within the Manly Town Centre and provide connections to North Sydney CBD and the Sydney CBD.

The photos below further depict the existing development contained within the site.



Figure 3 – Primary Entrance From Darley Road Looking South East
Source: Mecone



Figure 4 – View of the South Wing and Open Car Park
Source: Mecone



Figure 5 – Historic Building facade Located Within the Site
Source: Mecone



Figure 6 – Surrounding Bushland Looking South to Collins Beach
Source: Mecone

2.3 Surrounding Context

The site is surrounded by a mix of land uses predominantly consisting of health and education facilities, residential development, historic sites and national park.

North

To the direct north beyond Darley Road lies the historic St Patrick's Estate. Positioned within this Estate and directly opposite the site is the educational facility known as the International College of Management which occupies a historic 19th Century landmark building which formally operated as Australia's first National Catholic Seminary. The college is surrounded by extensive areas of parkland.

East

To the immediate east the site is bounded by dense vegetation which forms part of North Head Sanctuary and Sydney Harbour National Park. Low density residential development is located further eastward on the other side of North Head Scenic Drive and consists of detached dwellings that reach one (1) storey in height. Beyond this lies the Barracks Precinct and Sydney Harbour National Park.

South

To the south, the site adjoins dense vegetation associated with the Sydney Harbour National Park. Collins Flat Beach is located further southward and beyond this Spring Cove which forms part of Sydney Harbour. North Head lies to the south east and forms part of Sydney Harbour National Park. It occupies the far southern portion of the Manly Peninsula and accommodates a number of historic sites, scenic walkaways and landmarks.

West

To the immediate west, the site is bounded by St Paul's Catholic College which occupies the southern portion of the St Patrick's Estate. St Paul's Catholic College accommodates a number of educational buildings and an open at-grade car park which interfaces with the site's western boundary. The development further westward consists of low scale residential housing and the historically important Barracks Precinct which comprises a complex of former defence buildings associated with Australia's School of Artiller.

Photographs of the surrounding development are depicted on the follow page of this report.



Figure 7 – International College of Management
Within St Patrick's Estate
Source: Mecone



Figure 8 – Low Scale Residential Housing to the East
Source: Mecone



Figure 9 – Collins Beach and Surrounding National
Park Viewed Looking East
Source: Mecone



Figure 10 – St Paul's College Viewed Looking South
from Darley Road
Source: Mecone



Figure 11 – Entrance to the Australian Institute of
Police Management
Source: Mecone



Figure 12 – Entrance Road to North Head Sanctuary
Viewed Looking East
Source: Mecone

2.4 Existing Statutory Planning Context

The site is within former Manly portion of the Northern Beaches Local Government Area. Therefore, Manly Local Environmental Plan 2013 (MLEP2013) is the applicable local planning instrument to the land.

Land use zoning

The site is zoned SP2 Infrastructure (Health Services Facility) and E2 Environmental Conservation as shown in the figure below.

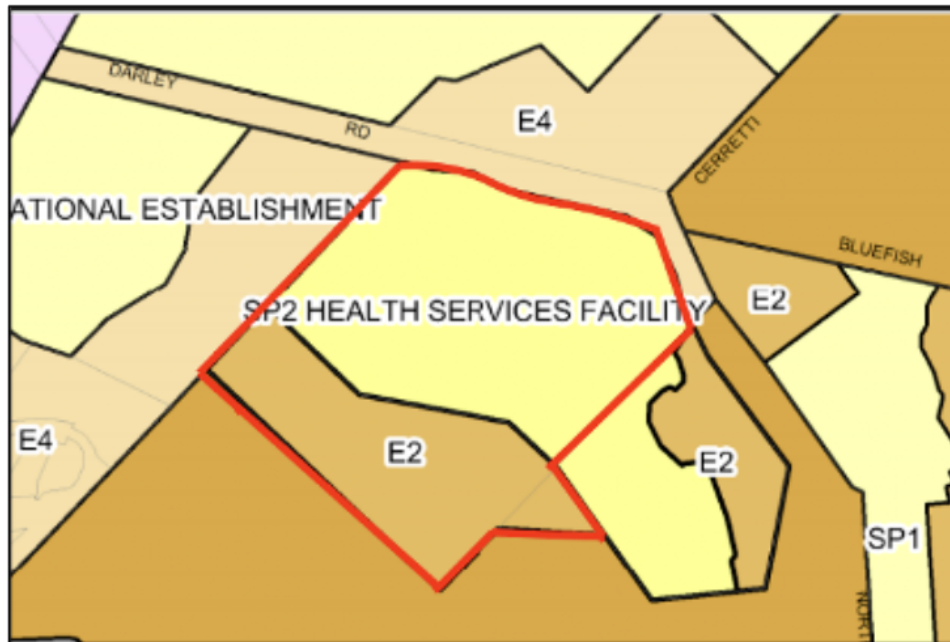


Figure 13 – Zoning Map Extract
Source: MLEP 2013

Heritage

Schedule 5 of identifies an item of heritage significance on the site. The item is known as Item 133 – Manly District Hospital (former principle building) which occupies Lot 2619 DP 752038. The building is significant for being exemplary of an Inter-War Georgian Revival style building. In addition, the site is surrounded by several other heritage items of local significance.



Figure 14 – Heritage Map Extract
Source: MLEP 2013

Other Applicable Development Standards and Provisions

The table below provides an overview of principal development standards and provisions within the MLEP 2012 which apply to the site.

Table 3. MLEP Overview	
Manly LEP 2012	
Clause 4.1 – Minimum Subdivision Lot Size	The land is NOT identified as having a minimum lot size.
Clause 4.3 – Height of Buildings	The site is NOT subject to a maximum building height.
Clause 4.4 – Floor Space Ratio	The site is NOT subject to a floor space ratio.
Clause 6.5 – Terrestrial Biodiversity	The site is identified within terrestrial biodiversity mapping in accordance with clause 6.5.
Clause 6.7 - Wetlands	A portion of the site in the south east is identified as a local wetland in accordance with clause 6.7.
Clause 6.9 – Foreshore scenic protection	The site is identified as being within the Foreshore Scenic Protection Area in accordance with the Foreshore Scenic Protection Area Map. As a result, clause 6.9 of the MLEP 2012 applies to the site.
Clause 6.14 – Requirement for Development Control Plan	The site is identified on the Key sites map as “Dalwood Children’s Hospital & Manly Hospital”. As such, development at the site can only be considered after a development control plan has been prepared and adopted for the land in accordance with Clause 6.14.

3 Project Overview

The former Manly Hospital was established in 1896 and operated until October 2018. Its services have since been transferred to Northern Beaches Hospital in Frenchs Forest and the site is now unoccupied, with public access not permitted.

In early 2017, a Project Steering Advisory Committee (PSAC) was formed comprising of representatives from the local community, Northern Sydney Local Health District, Northern Beaches Council, NSW Health and MP James Griffin. The intent of the PSAC was to develop a vision for the site reflective of community values.

In November 2018, the NSW Government earmarked the site as being suitable to deliver Australia's first Adolescent and Youth Adult Hospice (AYAH). The hospice will be delivered by NSW Health and support young adults aged between 18 up until their early thirties who suffer from life-limiting illnesses. It will provide respite, symptom management and end-of-life care. It should be noted that, while it is related, the AYAH is being developed separately from the broader health and well-being precinct, which is the focus of this planning proposal.

Throughout 2019 and into the first quarter of 2020, investigations were undertaken on behalf of the NSW Government exploring opportunities for adaptive re-use and development of the site, complimentary to the Youth Hospice, that would serve to ensure it continued to be a meaningful public asset into the future. Investigations considered redevelopment of the site for health, well-being, and related uses. Investigative activities undertaken occurred in consultation with the PSAC and included market sounding exercises, needs-based analysis, and extensive community consultation. In addition, COX Architecture undertook urban design analysis and preliminary site master planning exercises, the details of which accompany this report (Appendix 1). Urban design and master planning of the site are intended to be developed further in consultation with the community.

Following the activities described above being undertaken, a planning proposal was identified as being required to permit additional uses on the land before a site-specific development control plan could be prepared in accordance with Clause 6.14 of MLEP 2013. The intent of the planning proposal would be to facilitate additional permitted uses not strictly permitted under the current zoning of the site.

In the event the planning proposal is supported, it is intended to then progress with the making of a site-specific DCP for the site. The site-specific DCP will manage built form aspects of the site and be prepared in consultation with interested and affected parties including the community, PSAC and Council.

Following the making of the DCP, a detailed design development application will then be progressed.

3.1 Development Concept

Preliminary Urban Design Analysis and Master Planning

A draft concept masterplan and preliminary urban design analysis have been undertaken by COX Architecture and provided in Appendix 1 of the Planning Proposal Report. The master plan is indicative only and seeks to demonstrate how the site might be redeveloped with the proposed mix of uses. Once refined further, urban design

and master planning undertaken will assist in inform built controls of the site-specific DCP.

The draft concept masterplan illustrates the general location of the envelopes for the envisaged health and wellbeing precinct and provides for the following:

- Site preparation works including demolition and excavation;
- The provision of 10 building envelopes and the adaptive reuse of potentially heritage significant items;
- The reinstatement of open car parking areas within the rear of the site;
- Soft landscaping and public domain upgrades; and
- Tree removal and replacement planting.



Figure 15 – Preliminary Concept Master Plan

Source: Cox Architecture

Public Domain and Landscaping

A comprehensive Public Domain Strategy and Landscape Strategy has been prepared by Tract and is included at Appendix 10. It details that the conceptual landscaping and public domain approach for the site is informed by the following objectives:

- *Enhancement of Pedestrian Linkages:* To facilitate potential links to Sydney Harbour National Park and enhance activity along the streetscape whilst improving pedestrian amenity;
- *Integration:* To facilitate the integration of the landscape and built form with the surrounding education, residential, recreational and conservation uses;
- *Protection of Significant Places:* To protect key spaces, places, view corridors and destinations; and
- *Revitalisation:* To enhance the built and natural environment and to revitalise existing landscapes.

The indicative landscape and public domain strategy is displayed in the image below. Full details are provided in Appendix 10 of the planning proposal report.



Figure 16 – Proposed Public Domain and Landscape Strategy
Source: Tract

3.2 Site Specific Development Control Plan

The site-specific DCP will be informed by a comprehensive urban design analysis and a review of the site's environmental constraints and opportunities.

It will provide a framework for future development at the site which achieves the following:

- Delivers a world-class health and well-being precinct that is able to service the needs of both the local and broader community;
- Provides a development outcome that protects and accentuates the built, natural and heritage attributes of the site and its surrounds;
- Maintains the character of the area by adaptively reusing the existing heritage buildings contained within the site and revitalising existing landscapes;

- Respond to the site's environmental and cultural opportunities and constraints; and
- Provide uses complementary to the health and community facilities that will support the precincts long-term financial viability, provide a therapeutic environment for patients, and address the demand for other key services and social infrastructure.

4 Planning Proposal Overview

Section 3.33 of the EP&A Act outlines the contents required of a Planning Proposal. The DPIE's *Planning Proposals: A Guide to Preparing Planning Proposals (the Guide)* provides further detail with regards to the requirements. The Guide and Section 3.33(2) of the Act details that a Planning Proposal must include the following components:

- **Part 1** – A statement of the objectives and intended outcomes of the proposed instrument.
- **Part 2** – An explanation of the provisions that are to be included in the proposed instrument.
- **Part 3** – The justification for those objectives, outcomes and the process for their implementation, including:
 - Need for the Planning Proposals
 - Relationship to strategic planning framework
 - Environmental, social and economic impact
 - State and Commonwealth interests
- **Part 4** – Maps, where relevant, to identify the intent of the Planning Proposal and the area to which it applies.
- **Part 5** – Details of the community consultation that is to be undertaken on the Planning Proposal.

4.1 Part 1 - Objectives and Intended Outcomes

The Planning Proposal intends to amend the Manly Local Environmental Plan 2013 (MLEP 2013) to allow for additional permitted uses at the site. This will be achieved by permitting additional uses under Schedule 1 pursuant to clause 2.5 of the MLEP 2013.

The LEP amendment proposed will enable the making of a site-specific DCP which will inform the sites redevelopment in the future, reflective of extensive market sounding, needs-based analysis and community and stakeholder engagement undertaken to date by the relevant NSW Government Departments.

In summary, the objectives and intended outcomes of the planning proposal are as follows:

- Facilitate the redevelopment of the site for the purposes of a vibrant health and wellbeing precinct by permitting additional uses currently prohibited under existing zoning;
- Enable the preparation of a site-specific DCP reflective of the extensive market sounding, needs-based analysis, and community and stakeholder engagement undertaken to date by the NSW Government;
- Ensure that the site remains appropriately zoned and is retained for the primary use of a health services facility and is not developed for undesirable purposes;
- Preserve the site's important ecological values and biodiversity values through the retention of environmental zones at the site;
- Improve connectivity to the surrounding landscape and national park for patients, staff and visitors;
- Support the growth of the health services sector in the Northern Beaches which is forecast to be the fastest growing sector over the next 20-years; and

- Provide an employment generating use that will assist in achieving the Eastern District's job targets.

4.2 Part 2 – Explanation of Provisions

The planning proposal seeks to achieve the intended outcomes outlined in 4.1 of the planning proposal report through the introduction of additional permitted uses pursuant to clause 2.5 of the MLEP 2013. These uses would be permitted under 'Schedule 1 Additional Permitted Uses' as detailed further below.

Built aspects of the future development would continue to be managed in accordance with Clause 6.14 of MLEP 2013, which requires a site-specific DCP to be prepared prior to a development application being considered by the consent authority.

Schedule 1 Additional Permitted Uses

To achieve this desired outcome, the Planning Proposal amends the MLEP 2013 to include site specific additional use provisions. Pursuant to clause 2.5 of the MLEP 2013, the following provisions are to be introduced to Schedule 1 Additional Permitted Uses:

5 Use of certain land at 150 Darley Road, Manly

- 1) *This clause applies to land at 150 Darley Road, Manly, being Lots 2728 and 2619, DP 752038.*
- 2) *Development for the purpose of a health services facility is permitted with development consent on Lot 2728, DP 752038.*
- 3) *Development for the purpose of a group home, community facility, educational establishment, food and drink premises, centre-based child care facility, indoor recreational facility, neighbourhood shop, function centre, respite day care centre and seniors housing is permitted with development consent on Lot 2619, DP 752038.*

The site-specific provision will reinforce the intent for this Planning Proposal to deliver a multi-functional destination health and well-being precinct, whilst retaining its primary purpose as a health services facility.

Clause 6.14 Requirements for Development Control Plans

A site specific DCP will continue to be required to be prepared in accordance with Clause 6.14 MLEP 2013 and will provide detailed development controls to be addressed by future development.

The site specific DCP will nominate a range of controls pertaining to the siting of the envelopes, maximum heights, setbacks and general and site-specific heritage provisions. Its purpose will be to provide the consent authority with surety that a future Development Application will achieve an appropriate built form outcome.

4.3 Part 3 – Justification

4.3.1 Section A - The need for a Planning Proposal

Q1. Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is not the result of any specific strategy study or report. The Planning Proposal has been initiated by the Proponent in response to market sounding, a comprehensive Community Needs Analysis and extensive stakeholder and community consultation. The findings of these studies and the various consultation initiatives confirm that the site is ideally suited to accommodate non-acute health services and wellbeing related uses that are not strictly permitted under the current SP2 Infrastructure (Health Services Facility) zoning.

Market sounding was undertaken by Ernst and Young in early 2020 to ascertain the type of uses that would be suitable for the site. The findings confirmed support for the redevelopment of the site for health, retail, community, and residential care facilities for seniors and veterans as well as family support accommodation. The key findings are as follows:

- The site's isolation from designated health and education precincts (i.e. Frenchs Forest) means it is less suited for accommodating acute hospital services and more suited to non-acute health and wellbeing related services;
- The provision of residential care facilities across the site will generate a demand for other complementary uses such as retail, recreational and community uses;
- The delivery of a mix of uses across the site will foster community interaction and a sense of place, which are essential attributes of a wellbeing precinct and integral to the success of a future residential care facility;
- It was concluded by stakeholders that the future commercial viability of the site would be reliant on a mix of uses, including aged care, seniors housing or alternative housing; and
- In light of the above, there was a recognition that the provision of community uses needs to be balanced alongside the long-term commercial viability of the site as financial returns will be imperative to maintaining public access to the site.

Similar findings were reflected in the outcomes of the stakeholder and community consultation. The consultation process confirmed that there is strong community support for the provision of community related uses across the site which will support a range of activities and address the needs of the local community.

In addition to the above, the Community Needs Analysis identifies that the future demand for acute health services will be met by the nearby Northern Beaches Hospital. In light of this, there is a growing demand for non-acute health services. The site's locational benefits, including access to view corridors and landscapes, are conducive to supporting such services.

Key demographic trends, including the growing ageing population, provide an impetus for the delivery of residential care facilities across the site. The provision of

residential care facilities and health related services will also generate a demand for complementary uses, such as retail, food and beverage, recreational and open space areas. Further discussion is provided in the Community Needs Analysis at Appendix 2.

This Planning Proposal responds to the future demand for the aforementioned uses by facilitating their inclusion across the site. It is considered that these uses are integral to achieving a fully integrated destinational health and wellbeing precinct.

In addition to the above, the proposal will deliver on a range of strategic objectives, including the Greater Sydney Region Plan, the North District Plan and the LSPS. Further discussion is provided in **Section 4.4**.

Q2. Is the Planning Proposal the best means of achieving the intended outcome?

Yes.

In preparing this Planning Proposal, four options were considered to facilitate the intended outcomes of the planning proposal. These are listed and discussed below:

- Option 1: Do nothing.
- Option 2: Lodge a Development Application.
- Option 3: Prepare a Planning Proposal to amend the zoning, height and FSR development standards set out by the MLEP 2013.
- Option 4: Planning Proposal to allow additional uses under Schedule 1 Pursuant to Clause 2.5 of MLEP 2013

Option 1: Do Nothing

Option 1 relates to the 'do nothing' option and involves leaving the site in its current underutilised, state. The site's services have been relocated to Northern Beaches Hospital, leaving it vacant. It is considered that this option represents a loss to the community as the site will cease to be a meaningful public asset and not be developed to its potential.

In contrast, the Proponent's vision provides an opportunity to address the growing demand for a range of community care services, including aged care, mental health and respite services for the terminally ill. Further, the delivery of a range of complementary health and well being uses, and recreational facilities, will provide needed ancillary services and allows a future development to capitalise on the site's proximity to scenic and historic landmarks.

It is considered that the introduction of additional permitted uses to the MLEP 2013 is required in order to derive the greatest value from the site and address the growing health needs of the community. As such, Option 1 is not considered viable.

Option 2: Development Application

Option 2 involves the preparation and lodgment of a Development Application with Council. The site is predominantly zoned SP2 Infrastructure (Health Services Facility) and therefore permits health services, including uses that are ancillary or incidental to a health facility.

If Option 2 were to be pursued, the current development concept would not be achievable given that many of the potential uses expressed to be of interest during market sounding and community stakeholder engagement are not strictly ancillary or incidental to a health facility, and are therefore non-permissible. Subsequently, a future development would be unable to optimise the full development potential of the site or maximise the opportunities it presents under current zoning provisions and is therefore not considered viable.

In addition, the potential to deliver on the objectives nominated by the strategic planning framework would be considerably reduced. In particular, the need to provide accommodation and services for the ageing population and recreational, cultural and tourist facilities in accordance with the vision for the Manly Strategic Centre.

Option 3: Planning Proposal to Rezone the Site and introduce Height and Floor Space Ratio Development Standards

Option 3 pertains to the submission of a Planning Proposal that seeks a partial rezoning of the site to B4 Mixed Use to facilitate the delivery of uses that are not strictly ancillary but yet complementary to the health care use.

In consultation with Council during the pre-lodgment phase, it has been determined that a B4 Mixed Use zoning is at odds with the intended health and well-being focused uses and could potentially precipitate the inclusion of incompatible commercial uses.

Furthermore, it was agreed that built form could continue to be managed as it has historically, through the provision of a site-specific DCP in accordance with Clause 6.14 of MLEP 2013.

Option 4: Planning Proposal to allow additional uses under Schedule 1 Pursuant to Clause 2.5 of MLEP 2013.

The Planning Proposal as set out in this document is considered to be the best means of achieving the objectives and intended outcomes, giving both Council and the Proponent certainty of the development outcomes expected for the site.

The proposed LEP amendments will permit additional uses whilst maintaining the existing SP2 Health Services Facility zoning and providing the community with surety that this will remain the primary use of the site into the future. Both Council and the Proponent consider that relative to the B4 Mixed Use Zone objectives, the SP2 Health Services Facility zoning objectives better align with the intent to deliver a health and wellbeing precinct.

Furthermore, Option 4 will ensure that built form aspects of any future development continue to be appropriately managed through the provision of a site-specific DCP. The site specific DCP will provide detailed development controls for the land not limited to: building envelopes and built controls, traffic and parking controls, controls to manage the distinction between public and private spaces and indicative locations of proposed uses.

4.4 Section B – Relationship to Strategic Planning Framework

Q3. Is the Planning Proposal consistent with the objectives and actions within the applicable regional or sub-regional strategy (including the Metropolitan Strategy and exhibited draft strategies)?

A Guide to Preparing Planning Proposals sets out that in order to answer this question, a Planning Proposal needs to demonstrate consistency with the Strategic Merit Test. For the reasons set out below, the Planning Proposal is entirely consistent with the Strategic Merit Test and associated mandated assessment criteria.

a) Does the proposal have strategic merit?

Is it:

- Consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or
- Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.

The Proposal demonstrates strategic merit in this regard as it will:

- Contribute to the renewal of an underutilised site to facilitate its emergence as a vibrant health and wellbeing precinct;
- Provide social infrastructure to meet the growing demand for a diversity of health care services;
- Support the growth of the Manly Strategic Centre by enhancing its existing social infrastructure and promoting its cultural, tourism and employment uses by delivering a range of secondary uses across the site.
- Preserve and repurpose the site's heritage significant buildings to provide a development outcome that is sympathetic to the locality's heritage, culture and historical identity;
- Foster the emergence of green links by promoting connectivity between the site and the surrounding national park;
- Increase the urban tree canopy coverage by delivering comprehensive landscaping;
- Not result in adverse environmental, social or economic impacts;
- Provide new employment opportunities in proximity to housing; and
- Foster the collaboration of governments, community and businesses.

Further discussion on the Planning Proposal's consistency with the relevant State and local strategic plans and policies is provided below.

Greater Sydney Region Plan – A Metropolis of Three Cities

The Greater Sydney Region Plan was released in March 2018. It provides a 40-year vision (to 2056) for the Greater Sydney Region and establishes a 20-year plan to manage growth and change for Greater Sydney. It identifies a vision for Greater Sydney to emerge as a metropolis of three cities comprising the Western Parkland City, the Central River City and the Eastern Harbour City.

The concept of three cities is predicated on the aspiration for its residents to live within 30-minutes of education, facilities, city-scale infrastructure and services and employment opportunities. To achieve this vision, the Greater Sydney Region Plan nominates 10 Directions centered around a framework based on the core themes of liveability, productivity and sustainability. These include:

1. A city supported by infrastructure
2. A collaborative city
3. A city for people
4. Housing the city
5. A city of great places
6. A well-connected city
7. Jobs and skills for the city
8. A city in its landscape
9. An efficient city
10. A resilient city

Each direction is supported by objectives and indicators that have been developed to guide the implementation of the plan. The overarching vision of the Greater Sydney Region Plan and its associated objectives are to be achieved through collaboration with all tiers of governments, the community, businesses and non-government organisations.

At a regional level, the Greater Sydney Region Plan recognises the need for infrastructure to be co-located in metropolitan and strategic centres. In light of this, the delivery of new facilities and infrastructure is noted as being integral to fostering the growth of socially connected communities as well as social and cultural networks that improve mental and physical health outcomes. To achieve this, strategic planning should aim to consider and capitalise on local identity, heritage, and cultural values.

The Greater Sydney Region Plan also identifies that there is a growing demand for community and health infrastructure due to shifting demographics, including the record number of births each year and the growing ageing population.

In light of the above, the Planning Proposal responds to the Greater Sydney Region Plan by giving consideration to its strategic directions and objectives. Specifically, the proposal is consistent with the nominated objectives as it will:

- Deliver health infrastructure that supports the growth of the Eastern Harbour City (Objective 1);
- Address the demand for health infrastructure arising from demographic shifts (Objective 3) (Objective 6);
- Foster collaboration between governments, community and business (Objective 5);
- Contribute to the creation of a healthy and socially connected community by providing social infrastructure and community focused uses (Objective 7);
- Optimise the opportunity to contribute to a culturally rich and diverse neighbourhood by protecting the site's heritage (Objective 8);

- Protect environmental heritage by adaptively reusing the site's heritage significant buildings (Objective 13);
- Increase employment opportunities in an accessible location (Objective 14);
- Provide a broader mix of uses that will support the operations of Australia's first AYAH and the growth of the Manly Strategic Centre, which ultimately will contribute to the competitiveness of the Harbour CBD (Objective 18);
- Balance the need to redevelop the site for a viable purpose alongside the requirement to protect its biodiversity and scenic landscape (Objective 27) (Objective 28); and
- Give consideration to the site's constraints and implement measures to mitigate potential exposure to natural hazards (Objective 37); and
- Adopt a coordinated and collaborative approach to redeveloping the site that balances the needs of Government and stakeholders (Objective 39).

North District Plan

The North District Plan is intended to guide the implementation of the Greater Sydney Region Plan at a district level, bridging regional and local planning by informing Local Environmental Plans and Planning Proposals.

In particular, the District Plan provides detailed planning priorities which integrate relevant objectives, strategies and actions in response to identified challenges and opportunities. The planning priorities relate to three key aims of the District Plan, being:

- A productive city;
- A liveable city; and
- A sustainable city.

The site forms part of the Manly Strategic Centre which is identified as being strategically important for its cultural, eco-tourism, retail and recreational offerings that benefit from the District's scenic and cultural landscapes, including North Head and Sydney Harbour National Park. The North District Plan identifies the need to protect its important biodiversity and habitat, whilst supporting tourism and access to its landscapes.

The North District is experiencing notable demographic changes which influence the demand for infrastructure, services and housing. Of the LGAs in the North District, Northern Beaches is expected to experience one of the largest increases in people aged 20-24 years (refer to **Figure 17**). This population segment is expected to increase by approximately 18% by 2036. In consequence the Northern Beaches LGA will accommodate a greater proportion of young adolescents relative to surrounding LGAs.

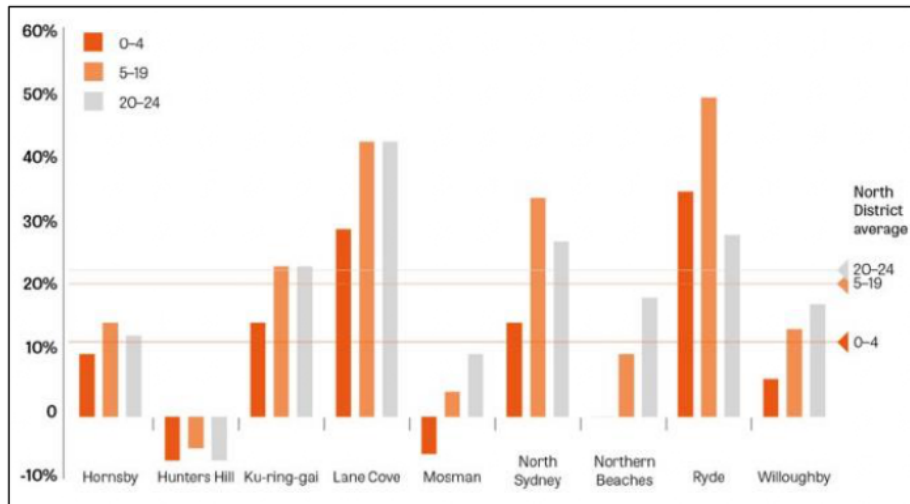


Figure 17 – Projected Population Change 2016-2036: 0-4, 5-19 and 20-24 Years

Source: North District Plan

The North District Plan prioritises the consideration of young people's needs in the design and management of open space, cultural spaces, public realm and future development more broadly. It aims to deliver on the directions of the Office of the NSW Advocate for Children and Young People's *Strategic Plan for Children and Young People* (the Strategic Plan).

The Strategic Plan represents one of the first legislated three-year whole-of-government plan focused on all children and young people aged 0 to 24 years. It aims to give children and young people opportunities to thrive, get the services they need and have their voice heard. The Strategic Plan is informed by extensive consultation with children and young people across NSW. Health care was identified to be one of five of the key issues raised. Key findings of relevance to the proposal are as follows:

- The need to improve access and increase funding for health and wellbeing services;
- Targeting health services to better treat and protect young people from intentional self-harm, psychosocial disorders and suicidal behaviour;
- Ensuring the provision of quality out-of-home-care services;
- Improving support and care for those with mental health problems; and
- Creating enabling and accessible environments for those with a disability.

As noted previously, the growth of the ageing population is another significant demographic trend affecting the North District. The North District is expected to see an 85% proportional increase in people aged 85 and over, and a 47% increase in the 65-84 age group by 2036. Of the LGAs across the North District, the Northern Beaches is anticipated to have one of the largest projected increases in the 65-84 age group (refer to **Figure 18**). In light of this, the North District Plan notes that more diverse housing types and medium density housing, as well as the design of walkable neighbourhoods, will create opportunities for older people to continue living in their community. In turn, the ageing population will benefit from being close to family, friends and established health and support networks that are integral to improving wellbeing.

The North District Plan identifies the need for additional health, social and aged care services to meet the growing demand for local aged care facilities and respite services.

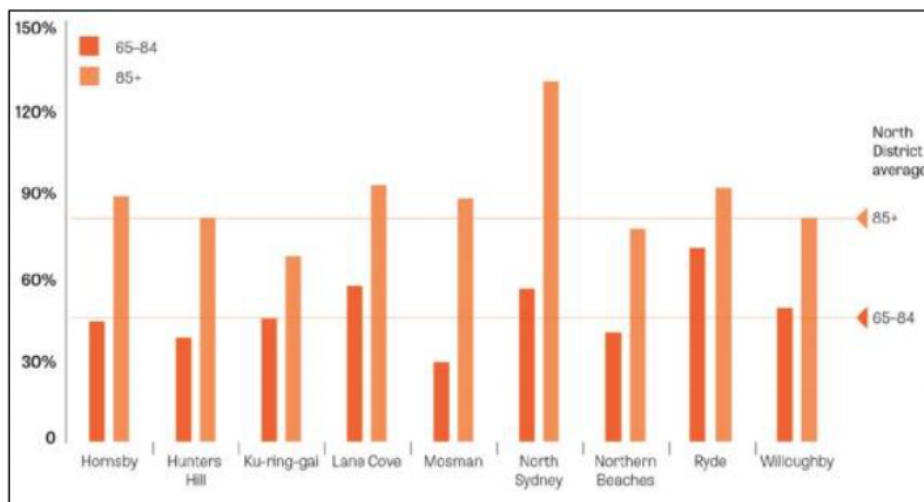


Figure 18 – Projected Population Change 2016-2036: 65-85 and 85 Years +
Source: North District Plan

The North District Plan identifies that future development and infrastructure are to be planned at the local, district or metropolitan levels to meet the needs of Greater Sydney. New development is to prioritise a place-based planning approach whereby future development is to respond to a place's opportunities and constraints to maximise its full potential. Sympathetic built-form controls and the adaptive re-use of heritage items are also identified as being important to new redevelopment opportunities.

In light of the above, the proposal supports the North District Plan's priorities to create a more productive, liveable and sustainable city in that the proposal will:

- Provide a coordinated approach to the delivery of community and health infrastructure that aligns with the projected demand for hospice, health and wellbeing, and aged care uses (Planning Priority N1);
- Adopt a collaborative approach involving Council, government and the community to facilitate the provision and expansion of high-quality health infrastructure within the Northern Beaches LGA along with a broader range of ancillary community focused uses (Planning Priority N2);
- Provide services and social infrastructure that responds to people's changing needs, including the need for seniors housing resulting from the growing ageing population and additional health and well-being services for the growing proportion of young adolescents (Planning Priority N3);
- Contribute to the renewal of the site by delivering a high quality built form outcome that preserves its heritage buildings to allow for their ongoing appreciation and to assist with the preservation of the locality's character (Planning Priority N6);
- Whilst the proposal does not directly relate to a health and education precinct as defined by the North District Plan, it will facilitate the delivery of health/community infrastructure complementary to the nearby health precincts situated in Frenchs Forest and St Leonards (Planning Priority N9);

- Allow for an increased number of permissible uses that will facilitate employment creation within the Manly Strategic Centre and will contribute to the target of 817,000 jobs by 2056 (Planning Priority N10);
- Provide public domain areas with expansive views and pedestrian connections to North Head to encourage interaction with Sydney Harbour and the North District's waterways (Planning Priority N15);
- The proposal retains the portion of the site zoned E2 Environmental Conservation and will consequently protect important bushland and biodiversity (Planning Priority N16);
- The proposal will protect and enhance scenic and cultural landscapes by maintaining a number of historically significant buildings and providing architectural and urban design outcome that is sympathetic to the site's scenic qualities (Planning Priority N17);
- The proposal will contribute to the growth of the North District's urban tree canopy coverage by providing comprehensive landscaping, retaining as many trees as possible and conserving land with high environmental value (Planning Priority N19); and
- Deliver high quality open space areas that will benefit from access to views and the visual amenity afforded by the site's environmental setting (Planning Priority 20).

NSW State Plan 2021

The NSW State Plan 2021 sets the strategic direction and goals for the NSW Government across a broad range of services and infrastructure. The current focus of the Government is outlined in 12 Premier's priorities and 18 State priorities. The Planning Proposal supports the Premier's and aligns with the State priorities in that it will:

- Provide employment floor space facilitating jobs growth;
- Support new small businesses; and
- Create construction jobs.

NSW State Infrastructure Strategy 2018 - 2036

The NSW State Infrastructure Strategy 2018 – 2038 (the Strategy) sets out the NSW Government's infrastructure vision for the State over the next 20 years. The Strategy aligns with the Greater Sydney Region Plan.

The Strategy identifies that a key challenge for the Eastern Harbour City is to drive and accommodate growth and density alongside investment in infrastructure that optimises use of existing assets. It outlines a number of key infrastructure responses, including the need to invest in improvements in cultural infrastructure and tourism; support the population with social infrastructure investments; and provide more school education facilities.

The Planning Proposal aligns with the aspirations of the Strategy in that it will:

- Provide recreational, cultural and public open space facilities that will support the visitor economy;
- Deliver cultural and social infrastructure to meet contemporary expectations;
- Facilitate investment in education infrastructure to support development and industry growth; and
- Support the population with investment in social infrastructure, including residential care facilities, mental health services and health services.

Future Transport Strategy 2056

Future Transport 2056 establishes a 40 year vision for transport investment. It has been prepared in conjunction with the Greater Sydney Region Plan. It provides a framework for planning and investment to support the delivery of an innovative transport network that adapts to change and is customer focused. The future Transport 2056 nominates a number of key priorities. The following priorities are of relevance to the proposal:

- Activating centres with a new Movement and Place framework;
- Encouraging active travel (walking and cycling) and using public transport;
- Connecting people to jobs, goods and services in our cities and regions; and
- Supporting more environmentally sustainable travel.

The Planning Proposal is entirely consistent with the Future Transport Strategy 2056 in that it will facilitate the activation of an underutilised site that is easily accessible by public transport by providing a mix of uses. These uses will increase visitation to the site and foster community interaction. The proposed uses will co-locate jobs alongside goods and services in an accessible location.

The Indicative Master Plan that accompanies the Planning Proposal makes provision for pedestrian connections that will support more environmentally sustainable modes of travel such as walking and cycling. This will be further iterated through the future site-specific DCP prepared for the site.

NSW Ageing Strategy 2016 – 2020

The NSW Ageing Strategy 2016 – 2020 establishes the key priorities to address the needs of the ageing population across NSW. These priorities support the overarching vision for the NSW population to experience the benefits of living longer and having the opportunity to be included in their communities. The priorities and associated objectives are as follows:

- *Priority 1: Health and Wellbeing* – Older people in NSW are encouraged to live active and healthy lives with improved physical and mental wellbeing;
- *Priority 2: Working and Retiring* – Older people in NSW have opportunities to remain in the workforce, are financially secure and independent in retirement, and plan their finances based on their circumstances and needs;
- *Priority 3: Housing Choices* – Older people in NSW live in affordable accessible, adaptable and stable housing;
- *Priority 4: Getting Around* – Older people in NSW travel safely and appropriately to participate in social and economic life and access to services; and
- *Priority 5: Inclusive Communities* – Older people in NSW stay connected and contribute to their communities.

The Planning Proposal is consistent with the NSW Ageing Strategy 2016 – 2020 in that it will expand the range of permissible uses across the site to facilitate the provision of seniors housing in an accessible location. It will co-locate seniors housing with retail, health and recreational uses and in turn will reduce the need for residents to travel in order to participate in social activities and access needed services.

The proposal will facilitate the provision of recreational open areas and health facilities in a high quality urban environment. In turn, it provides the opportunity to improve physical and social wellbeing for occupants as well as the ageing population in the wider community.

b) Does the proposal have site specific merit?

Having regard to the following:

- The natural environment (including known significant environmental values, resources or hazards); and
- The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal; and
- The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

The Proposal demonstrates site-specific merit in this regard as it:

- Innovatively integrates a range of health care services and ancillary uses that will support the growing demand for health and social infrastructure;
- Will provide a built form outcome that is sympathetic to the site's heritage values;
- Will deliver a range of complementary uses that will attract visitors and encourage the people to explore the scenic landscape and tourism / cultural offerings in the surrounds;
- Will facilitate the creation of new employment opportunities in proximity to homes and services;
- Is located within an accessible and desirable location;
- Retains the site's primary historic use as a health care facility and is consistent with the objectives of the SP2 Health Services Facility zoning;
- Will provide an appropriate framework to ensure a desirable built form outcome is achieved that protects the site's scenic and landscape values as well as those of the surrounds.
- Will protect the site's biodiversity values by largely isolating future works to the existing developable portion of the site.
- Will achieve a high-quality landscaping outcome with linkages to promote connectivity to the surrounds to encourage people to interact with the locality's environmental and historic cultural assets;
- Will not result in unacceptable environmental impacts or compromise the amenity of surrounding residential properties;
- Is consistent with the desired future character of the locality as contemplated by the existing zoning provisions;
- Will facilitate the provision of seniors housing and health care facilities for adolescents in response to demographic shifts;
- Is compatible with the surrounding development, which provides comparable health facilities (i.e. Bear Cottage) and uses;
- Is appropriate for the site's location given its isolation from surrounding education and health care precincts; and
- Provides non-acute health services that will not undermine the competitiveness of nearby health and education precincts in areas such as Frenchs Forest.

Summary

This Planning Proposal achieves the assessment criteria as it demonstrates both strategic merit and site-specific merit. It is therefore considered that this Planning Proposal meets the Strategic Merit Test.

Q4. Is the Planning Proposal consistent with a Council's local strategy or other local strategic plan?

Towards 2040 – Northern Beaches LSPS

Towards 2040 is Northern Beaches Council's LSPS which was adopted by Council on 26 March 2020. Within the context of the LSPS, the site is situated within the Manly Strategic Centre, which is noted to accommodate the highest concentration of social infrastructure. The LSPS identifies Australia's first hospice for young adults as one of many specialist uses to be accommodated in Manly – which will be undertaken by NSW Health on the subject site.

The LSPS notes that future development and planned infrastructure are to respond to population growth and demographic changes. The Northern Beaches' population is projected to increase by around 39,000 people over the next 20 years. Of this projected growth, the LGA will accommodate a greater proportion of the ageing population relative to Greater Sydney.

Job creation is to occur concomitant with population growth. Consistent with the North District Plan, the LSPS envisages the LGA will accommodate around 9,000 to 13,000 additional jobs in its four strategic centres. As of 2016, 20% of the workforce were employed in health and education related jobs, which is projected to increase. Accordingly, health related uses are a key employment generator in the LGA.

The LSPS prioritises a place-based planning approach to preserve and enhance the LGA's local identity. Integral to this identity is its scenic and cultural landscapes, which are to be protected for the community's benefit. Place-based planning is to occur with community involvement where people are engaged in planning and decision-making.

The LSPS prioritises the need for a diversity of housing types to cater for different demographic groups, including the growing ageing population. The LSPS supports planning proposals for residential accommodation where strategic and site-specific merit are demonstrated and facilitate the delivery of a broader public benefit.

The Former Manly Hospital site is identified in the LSPS as a planning opportunity site, as shown in **Figure 20**. In particular, it identifies that there is a need to plan for the redevelopment of the site and its various uses. The site is to be redeveloped through a collaborative approach with local and State agencies to facilitate the realisation of shared outcomes.

The LSPS is supported by a range of planning priorities which aim to deliver on the directions of the Greater Sydney Region Plan and North District Plan. These planning priorities are underscored by a range of principles, with many directly applicable to the subject site.

The relevant Planning Priorities and associated principles are as follows:

- Priority 3 – Protected scenic and cultural landscapes.

- o Protect core areas and areas of high environmental value from urban development.
- Priority 9 – Infrastructure delivered with employment and housing growth.
 - o Collaborate across levels of government to integrate land use and infrastructure.
- Priority 11 – Community Facilities and services that meet changing community needs.
 - o Facilitate transparent collaboration process and involve stakeholders and the community early.
 - o Provide flexible diverse and multi-use places and spaces close to public transport and strategic and local centres.
- Priority 17 – Centres and neighbourhoods designed to reflect local character, lifestyle and demographic changes.
 - o Renew great places through design excellence and innovation design while respecting and enhancing local character.
 - o Enhance local identity through place-based planning and design
 - o Recognise heritage and culture as a fundamental aspect of the identity of place, including identification of places and items which contribute to the significant character of a place.
- Priority 26 – Manly as Sydney's premier seaside destination.
 - o Balance competing land uses in Manly to serve the needs of workers, residents and visitors.
 - o Protect and enhance Manly's character, identity and social significance.
 - o Improve links to North Head and the former Manly Hospital site.

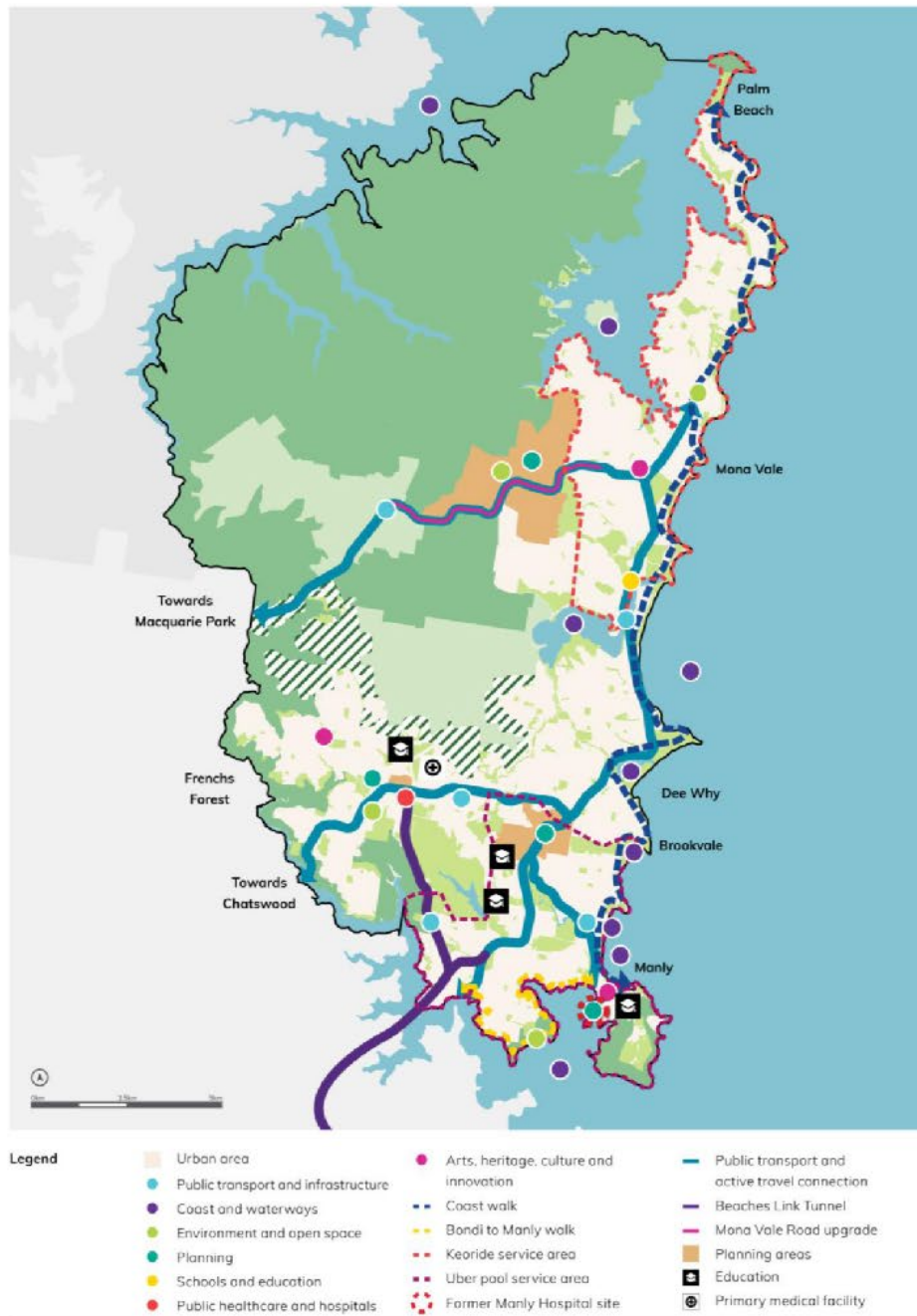


Figure 19 – Northern Beaches Collaboration Projects
Source: Towards 2040 - Northern Beaches LSPS

The Planning Proposal supports the aforementioned Planning Priorities and Principles, for the following reasons:

- Through collaboration with the local and State government, the proposal will facilitate a planning framework that will allow for the delivery of social and

health infrastructure, tertiary education, seniors living, residential care facilities and services that will address the changing needs of the community, including those of the ageing and younger populations;

- The proposal will maintain and protect the site's environmental values by preserving the areas containing high environmental values and largely limiting the site's redevelopment to the land zoned SP2 Health Services;
- The proposal will redevelop the site for a multifunctional purpose, providing a health and well-being focused precinct close to transport and a local centre that will accommodate a greater range of compatible uses to that currently permitted;
- The proposal will contribute to the renewal of an underutilised site by delivering a built form outcome that exhibits design excellence;
- The redevelopment of the site will adopt a place-based approach, conserving its local identity and social significance through the adaptive reuse of its historically important heritage buildings;
- The proposal accommodates a range of competing land uses that will address the needs of the community whilst facilitating the creation of local employment opportunities; and
- The proposal incorporates linkages to North Head that will foster connectivity.

Shape 2028 – Northern Beaches Community Strategic Plan 2018-2028

Shape 2028 – Northern Beaches Community Strategic Plan 2018 -2028 (the CSP) was adopted 17 April 2020 and is Northern Beaches Council's first CSP. It defines the community's long-term vision, priorities and strategic direction for the Northern Beaches LGA.

The CSP prescribes an overarching vision which is for Northern Beaches to be:

'a safe, inclusive and connected community that lives in balance with our extraordinary coastal and bushland environment'.

To support this vision, the CSP nominates a framework that includes a range of goals. The proposal's consistency with the relevant goals is outlined in the table below.

Table 4. Consistency with Shape 2028 – Northern Beaches CSP 2018-2020

Goal		Comments
1	Our bushland, coast and waterways are protected to ensure safe and sustainable use for present and future generations.	The proposal predominantly relates to land that has been redeveloped for urban purposes. Consequently, the planning proposal will not impact the biodiversity values associated with the portion of the site zoned E2 Environmental Conservation.
5	Our built environment is developed in line with best practice sustainability principles.	The proposal has the capacity to adopt best practice sustainability principles. Sustainability measures and commitment will be addressed further through the development of a site-specific DCP and Detailed development application at a later date.

Table 4. Consistency with Shape 2028 – Northern Beaches CSP 2018-2020		
7	Our urban planning reflects the unique character of our villages and natural environment and is responsive to the evolving needs of our community.	The proposal adopts a place-based approach to the site's redevelopment. The proposal will enable the delivery of a range of community uses that will address the evolving needs of the community.
8	Our neighbourhoods inspire social interaction, inclusion and support health and wellbeing.	The planning proposal relates to the delivery of a health and well-being precinct. The planning proposal will enable the delivery of uses which will foster social interaction and supported the health and well-being needs of the community.
14	Our economy provides opportunities that match the skills and needs of the population.	The proposal seeks to broaden the permissible uses on the site. The uses proposed to be permitted at the site are employment generating uses that will cater to a diversity of people within the community, including the growing health care sector, which is forecast to be one of the fastest growing sectors in the LGA.

Q5. Is the Planning Proposal consistent with the applicable State and environmental planning policies?

The Planning Proposal would address and/or be consistent with all relevant Environmental Planning Policies (SEPPs). The following outlines the intent of the relevant SEPPs and consistency of the Planning Proposal.

Table 5. State Environmental Planning Policies		
SEPP	Consistent	Comments
SEPP No 1 – Development Standards	NA	Not applicable pursuant to clause 1.9 of the MLEP 2013.
SEPP (Building Sustainability Index: BASIX) 2004		Will be addressed at the Development Application Phase if required.
SEPP (Coastal Management) 2018	Yes	The site contains areas of littoral rainforest; however, these portions of the site will not be impacted by future development as identified in the Ecological Constraints Assessment in Appendix 5. Compliance with the SEPP will be addressed at the site-specific DCP and Development Application Phase.

SEPP (Concurrences) 2018	NA	
SEPP (Educational Establishments and Child Care Facilities) 2017	NA	
SEPP (Exempt and Complying Development Codes) 2008	NA	Not relevant to the proposed LEP amendment. The SEPP may be relevant at the Development Application Phase.
SEPP (Infrastructure) 2007	Consistent	This SEPP is relevant to particular development categories. This Planning Proposal does not derogate or alter the application of the SEPP to future development. The full requirements of the SEPP will be considered at the detailed development application phase once the full design parameters of the proposal are known.
SEPP (Koala Habitat Protection) 2019	NA	Pursuant to Schedule 1 of the SEPP, the site is not located within a koala management area.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	NA	
SEPP (Miscellaneous Consent Provisions) 2007	NA	
SEPP (Housing for Seniors or People with a Disability) 2004	Yes	The delivery of seniors housing across the site is permissible with consent pursuant to Clause 4(1)(a)(iv) of the SEPP.
SEPP (Primary Production and Rural Development) 2019	NA	
SEPP (Vegetation in Non-Rural Areas) 2017	Consistent	Future development of the site will require minimal vegetation planning as the majority of development will be contained within areas of the site comprising existing built form. Notwithstanding, the full details of necessary

		vegetation clearing will be confirmed at later DCP and DA planning stages of the development process.
SEPP No 19 – Bushland in Urban Areas	Consistent	This Planning Proposal does not derogate or alter the application of the SEPP to future development.
SEPP No 21 – Caravan Parks	NA	
SEPP No 33 – Hazardous and Offensive Development	NA	
SEPP No 36 – Manufactured Home Estates	NA	
SEPP No 50 – Canal Estate Development	NA	
SEPP No 50 – Remediation of Land	NA	
SEPP No 64 – Advertising and Signage	NA	Not relevant to the proposed LEP amendment. May be relevant at the Development Application Phase.
SEPP No 65 – Design Quality of Residential Apartment Development	NA	Residential apartment development will not be undertaken at the site.
SEPP No 70 – Affordable Housing (Revised Schemes)	Consistent	The proposal does not inhibit operations of the former Part 3A provisions or the replacement measures.
SEPP (Affordable Rental Housing) 2009	NA	Not relevant to the proposed LEP amendment. The proposal does not seek consent for affordable housing.
Sydney Regional Environmental Plan (Sydney Harbour	Consistent	The site is located within the bounds of the Sydney Harbour Catchment REP. The site is zoned W2 Environmental Protection. The LEP amendment is consistent with the relevant zoning objectives. Specifically, the site relates to the redevelopment of urbanized land and is located a considerable distance from the foreshore. Accordingly, the proposal will have no impact on the environmental and

Catchment) 2005		<p>cultural values of waters in the zone and adjoins foreshores. The site relates</p> <p>The site is located within the 'Foreshore and Waterways Area'. With reference to the relevant matters of consideration nominated under Division 2, supporting subconsultant reports confirm that:</p> <ul style="list-style-type: none"> • The proposal will have no impact to biodiversity, ecology and environmental protection. • The scenic quality of foreshores and waterways; • The proposal will have no impact to views to and from Sydney Harbour.
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Q6. Is the Planning Proposal consistent with applicable Ministerial Directions (S.9.1 Directions)?

The Planning Proposal is consistent with all relevant section 9.1 Directions. The assessment of these is outlined in the table below.

Table 6. Section 9.1 Ministerial Directions					
Clause	Direction	Yes	No	NA	Comments
1 Employment and Resources					
1.1	Business and Industrial Zones			✓	
1.2	Rural Zones			✓	
1.3	Mining, Petroleum Production & Extractive Industries			✓	
1.4	Oyster Aquaculture			✓	
1.5	Rural Lands			✓	
2 Environment and Heritage					
2.1	Environmental Protection Zones	✓			The planning proposal will primarily support redevelopment of portions of the site that contain little vegetation and have been subject to land clearing previously. Further discussion is provided in 4.5 of the planning proposal report.
2.2	Coastal Protection	✓			The site is not identified as being within a coastal vulnerability area or on land within a coastal wetland as defined by the SEPP (Coastal Management) 2018.

Table 6. Section 9.1 Ministerial Directions

Clause	Direction	Yes	No	NA	Comments
					<p>The site is however mapped as containing littoral rainforest. Notwithstanding, as addressed in the Ecological Constraints Assessment at Appendix 5 only the far southern portion of the site contains littoral rainforest of high ecological value. This area will not be impacted by future redevelopment activities.</p> <p>Littoral rainforest located within other parts of the site is in poor condition and relates only to select remnant species. The area is dominated by exotic vegetation and has experienced historical clearing.</p> <p>The site relates to land that is impacted by a coastal hazard, with this identified by the MLEP 2013 as being landslide risk. However, the proposal does not seek to rezone the site. It also does not seek to enable increased development or a more intensive land-use. Specifically, the proposed health and wellbeing precinct represents a less intensive land use relative to the site's former hospital operations.</p> <p>In accordance with Direction 2.2(8)(a), the Ecological Constraints Assessment, the proposed redevelopment of the site is suitable. Further, as demonstrated throughout this report and consistent with Direction 2.2(8)(b), the proposal is entirely consistent with the applicable strategic plans.</p>
2.3	Heritage Conservation	✓			
2.4	Recreation Vehicle Areas			✓	
3 Housing, Infrastructure and Urban Development					
3.1	Residential Zones	✓			<p>The proposed additional uses relate to residential accommodation primarily in the form of seniors housing and temporary accommodation for patients and their families. The proposal will provide the site with the ability to address the growing</p>

Table 6. Section 9.1 Ministerial Directions					
Clause	Direction	Yes	No	NA	Comments
					demand for seniors housing due to demographic changes.
3.2	Caravan Parks and Manufactured Home Estates			✓	
3.3	Home Occupations			✓	
3.4	Integrating Land Use and Transport	✓			The proposal is adequately serviced by public transport consisting of bus services that service the site from Darley Road. It will therefore increase the supply of jobs in a location well serviced by public transport. The traffic generation associated with the proposal is significantly less than that associated with its former hospital use. Further discussion is provided in 4.5 and Appendix 6.
3.5	Development near Licensed Aerodromes			✓	
3.6	Shooting ranges			✓	
4 Hazard and Risk					
4.1	Acid Sulfate Soils				The MLEP 2013 does not identify the site as containing acid sulfate soils.
4.2	Mine Subsidence and Unstable Land			✓	
4.3	Flood Prone Land			✓	The site is not identified by Council's Flood Risk Precinct Maps as being affected by flooding.
4.4	Planning for Bushfire Protection	✓			The site is not identified on Council's Bushfire Prone Land mapping. Notwithstanding, the Bushfire Assessment Report prepared by Peterson Bushfire at Appendix 7, designates the site as being of 'medium' bushfire risk. It confirms that the site can be suitably redeveloped subject to the adoption of the

Table 6. Section 9.1 Ministerial Directions					
Clause	Direction	Yes	No	NA	Comments
					recommendations, including the provision of compliant APZ.
5 Regional Planning					
5.2	Sydney Drinking Water Catchments			✓	
5.3	Farmland of State and Regional Significance on the NSW Far North Coast			✓	
5.4	Commercial and Retail Development along the Pacific Highway, North Coast			✓	
5.9	North West Rail Link Corridor Strategy			✓	
5.10	Implementation of Regional Plans	✓			This Planning Proposal is consistent with the Regional and District Plan.
5.11	Development of Aboriginal Land Council land			✓	
6 Local Plan Making					
6.1	Approval and Referral Requirements			✓	No new concurrence provisions are required.
6.2	Reserving Land for Public Purposes			✓	No new road reservation is proposed.
6.3	Site Specific Provisions	✓			The proposal will not introduce any site specific planning controls that are unduly restrictive.

Table 6. Section 9.1 Ministerial Directions					
Clause	Direction	Yes	No	NA	Comments
7. Metropolitan Planning					
7.1	Implementatio n of A Plan for Growing Sydney	✓			The Planning Proposal is entirely consistent with the Greater Sydney Region Plan for the reasons set out in Section 4.4 of the planning proposal report.
7.2	Implementatio n of Greater Macarthur Land Release Investigation			✓	
7.3	Parramatta Road Corridor Urban Transformation Strategy			✓	
7.4	Implementatio n of North West Priority Growth Area Land Use and Infrastructure Implementatio n Plan			✓	
7.5	Implementatio n of Greater Parramatta Priority Growth Area Interim Land Use and infrastructure Implementatio n Plan			✓	
7.6	Implementatio n of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementatio n Plan			✓	
7.7	Implementatio n of Glenfield to Macarthur Urban Renewal Corridor			✓	

Table 6. Section 9.1 Ministerial Directions					
Clause	Direction	Yes	No	NA	Comments
7.8	Implementatio n of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementatio n Plan			✓	
7.9	Implementatio n of Bayside West Precincts 2036 Plan			✓	
7.10	Implementatio n of Planning Principles for the Cooks Cove Precinct			✓	

4.5 Section C - Environmental, Social and Economic Impacts

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The Planning Proposal will not impact critical habitat or threatened species, populations, or ecological communities, or other habitats as assessed in the Ecological Constraints Assessment undertaken by Narla Environmental provided in Appendix 5 of the planning proposal report.

The report provides an assessment of the biodiversity constraints affecting the site and the implications for the proposal. The report notes the following:

- Littoral rainforest contained within the site is primarily in poor condition, dominated by weeds and has already experienced clearing;
- The proposal occupies land that has already been subject to redevelopment and is therefore unlikely to have an adverse impact on threatened species, populations, or communities; and
- Impacts to vegetation may arise from the establishment of the APZs required to address bushfire risk; however, a Vegetation Management Plan will be implemented to guide the removal of exotic vegetation.

In summary, the report concludes that the site can accommodate redevelopment activities associated with the health and wellbeing precinct envisions providing areas mapped as being highly constrained are avoided. In addition, the report identifies that due to the site's location, a Biodiversity Development Assessment Report and

entry into a Biodiversity Offset Scheme will be required. These requirements will be addressed at the detailed Development Application phase once precise details of vegetation removal can be confirmed.

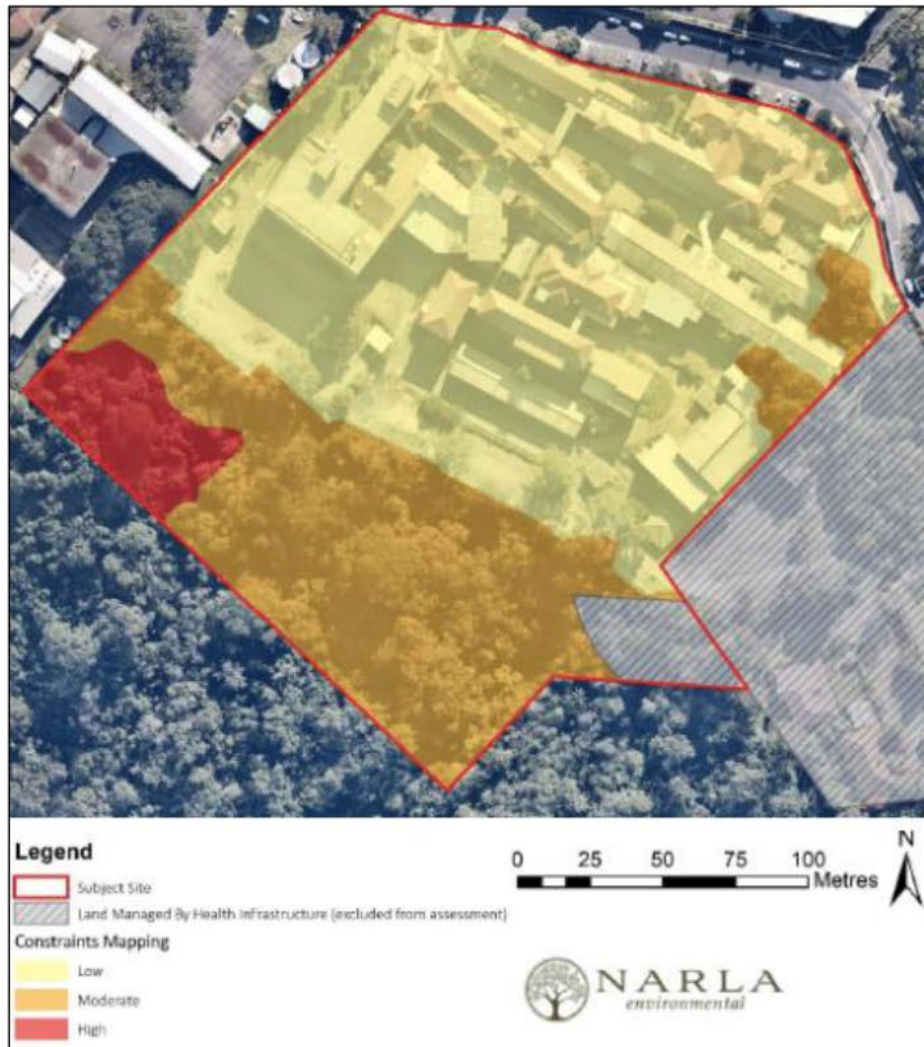


Figure 20 – Constraints Mapping Across the Subject Site showing low constraint areas in yellow
Source: Narla Environmental

Q8. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

Bulk and Scale

A site-specific Development Control Plan (DCP) will be prepared for the site and provided detailed development control plans for future development. In accordance with Clause 6.14 of MLEP 2013, the development control plan will provide the following:

- (a) principles drawn from an analysis of the site and its context,
- (b) building envelopes and built form controls,
- (c) subdivision pattern,
- (d) distinct public and private spaces,
- (e) overall transport hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, with particular regard to public transport, pedestrians and cyclists,
- (f) preferred location of permissible uses,
- (g) traffic management facilities and necessary parking ratios,
- (h) staging of development.

The DCP for the site will be developed in close consultation with the PSAC, the community and Council and ensure that an appropriate development response is achieved at the site. The built form controls introduced to the site will be commensurate to the scale of existing development located on the land and respond appropriately to surrounding context of the locality.

The site-specific DCP will be informed by further environmental investigations, urban design analysis and landscaping strategy. In addition, it is also intended to be prepared in parallel with a Conservation Management Plan (CMP), which will also assist in informing detailed controls for the site's redevelopment.

Transport and Access

A Preliminary Transport Assessment has been prepared by JMT Consulting and is included at Appendix 6 with key findings provided below.

Traffic Generation Impacts

JMT Consulting have prepared an assessment of the traffic volumes in the surrounding road network to assist in understanding the traffic generation impact associated with a proposal commensurate to that which is envisioned for the site.

Traffic counts were undertaken in December 2019. The counts reveal that traffic volumes along Darley Road were below 300 vehicles per hour in one direction across any typical day. As the typical capacity of a traffic lane is 900 vehicles per hour, the results confirm that Darley Road has ample capacity to support additional traffic generation that may arise from the proposed future redevelopment of the site.

The traffic generation assessment has been prepared in accordance with the *RMS Guide to Traffic Generating Development*. Accordingly, the following traffic generation rates have been adopted for the assessment:

- *Health and Wellbeing Uses*: 0.5 traffic movements / parking;
- *Seniors Housing*: 0.1 traffic movements / dwellings

Based on the rates noted above, redevelopment of the site will generate less than 100 vehicle movements in the peak hour period. In light of the traffic count findings, the surrounding road network has sufficient capacity to support the traffic generation associated with the development. Further, as the intensity of land use sought by the proposal is relatively less compared to the site's former hospital, JMT Consulting

confirm that the anticipated traffic generation will be comparatively less than what has historically emanated from the site and its former hospital operations.

Public Transport Capacity

JMT Consulting have prepared an assessment of the surrounding public transport infrastructure and its capacity to support the proposal. The report confirms that the existing transport infrastructure in the locality has the capacity to support the proposal without the need for further upgrades. It recommends however that bus routes to and from the site be increased to foster the use of public transport and reduce the reliance on private vehicles.

The report identifies that the redevelopment of the site presents an opportunity to encourage public transport usage. It recommends that the future development make provision for green travel plans, car pooling arrangements for staff, and bicycle parking / end-of-trip facilities. These measures can readily be addressed at the Development Application stage and adopted during the occupation phase.

Stormwater Management

A Stormwater Strategy Report has been prepared by Arcadis and is included at Appendix 9. The report provides an assessment of the proposed stormwater strategy and the water sensitive urban design measures proposed for the site.

The stormwater infrastructure for the site will consist of an expanded pit and pipe system. The existing drainage network within the site will be replaced and/or expanded. Vegetated swales and castellated kerbs will be installed to manage runoff. Internal roadways will also be upgraded to ensure that stormwater can be conveyed downstream and to avoid potential inundation of the site. The proposal will seek to retain the existing trunk drainage pipeline that traverses the site to prevent impacts to the surrounding drainage infrastructure.

Consideration has been given to the inclusion on on-site detention. Arcadis have determined that the on-site detention is not necessary given that the proposal does not seek to increase the extent of impervious areas across the site. On-site detention may be required in the instance overland flow paths increase across the site notwithstanding the proposed stormwater infrastructure upgrades. The report notes that future hydraulic modeling will be required to determine the need for on-site detention at the detailed design phase.

Water sensitive urban design measures will be incorporated in accordance with Council's requirements. These measures consist of gross pollutant traps, tree pits, vegetated swales, castellated kerbs and bioretention basins. In addition, rainwater harvesting will be adopted to eliminate the need for water quality treatments and to reduce the demand for potable water demand. The implementation of these measures will improve stormwater quality discharge and promote water efficiency for the future development.

Bushfire Considerations

A Bushfire Assessment Report has been prepared by Peterson Bushfire and is included at Appendix 7. The report provides an assessment of the bushfire hazard and risk and nominates protection measures.

The report notes that the site is categorised as being of 'medium' bushfire risk. The risk rating has been determined in consideration of the site's proximity to bushland within the Sydney Harbour National Park. As shown in Figure 21 the site is surrounded by Vegetation Category 1 to the south and east, which represents the most hazardous type of vegetation. It also contains Category 2 Vegetation.

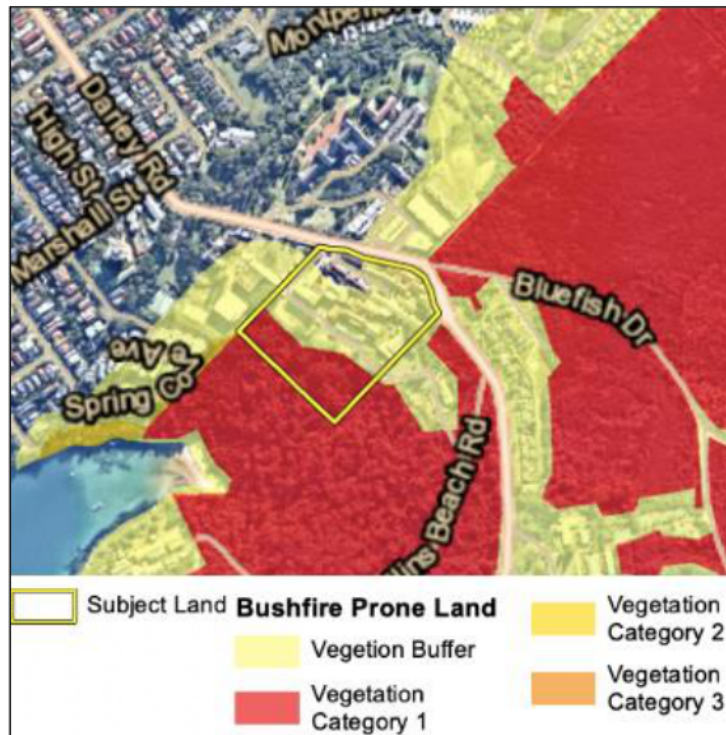


Figure 21 – Location of Bushfire Prone Land
Source: Peterson Bushfire

This hazard rating is not anticipated to change in the post development phase due to the introduction of the proposed additional uses. Accordingly, the risk to occupants will also remain unchanged.

The report nominates the following mitigation measures to ensure adequate bushfire protection and compliance with the requirements of *Planning for Bush Fire Protection 2019*:

- Provision of compliant APZs between future building envelopes and bushfire hazards;
- Provision of BAL mapping to guide compliant building construction;
- Adequate access for emergency response and evacuation;
- Compliant road widths and design;
- Perimeter road between buildings and bushfire hazards;
- Adequate water supply to facilitate fire-fighting operations; and

- Appropriate vegetation management within the APZ and landscaping across the site.

The site historically has not incorporated the aforementioned measures. Therefore, the proposal provides the opportunity to improve compliance with the bushfire protection requirements in the future.

Asset Protection Zones

The proposed APZs comply with the requirements of *Planning for Bush Fire Protection 2019* and will consequently ensure new buildings are not exposed to intolerable heat impacts. The proposed APZs are shown in the figure below.

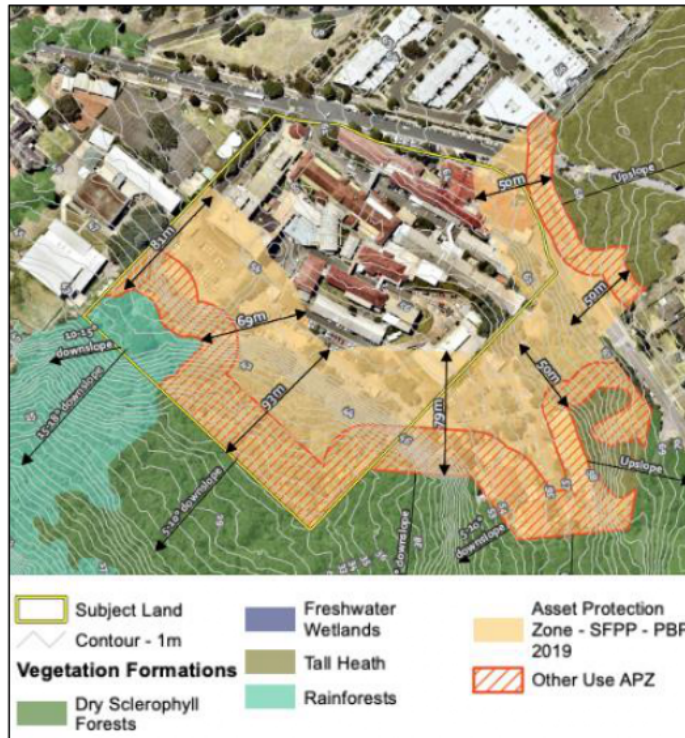


Figure 22 – Location of Proposed Asset Protection Zones
Source: Peterson Bushfire

The APZs will set the buildings back further from the bushfire hazard areas and will be routinely maintained in accordance with the detailed Vegetation Management Plan that accompanies the report (refer to Appendix 7).

With these measures in place, the report concludes that the proposal can be accommodated on the site without exposing future occupants to bushfire risk.

Geotechnical

JK Geotechnics have prepared a Geotechnical Investigation which is included at Appendix 8. The investigation provides an assessment of the subsurface conditions and proposes recommendations to facilitate the demolition and construction phase.

The investigation confirms that excavation to a depth of 2m is required along with the importation of fill. With the anticipated depth of excavation required, it is not anticipated that ground water will be encountered.

Based on the site's conditions and the proposed scope of works, the report proposes the following recommendations:

- The preparation of detailed dilapidation reports for the heritage buildings contained within the site that may be impacted by excavation or associated vibration impacts;
- Additional borehole investigations should be carried out once the detailed design is finalized;
- A stability assessment should be prepared to assess the risk to surrounding areas; and
- New structures should be founded on underlying sandstone bedrock.

Subject to the adoption of the above recommendations, JK Geotechnics confirm that the site can be made suitable for the proposed development as sought by this Planning Proposal and a future Development Application. Consistent with the conclusions of the report, the geotechnical recommendations will be reviewed following the finalisation of the detailed design.

Q9. Has the Planning Proposal adequately addressed any social and economic impacts?**Social Impact**

Ethos Urban have prepared a Community Needs Analysis and Social Strategy which is included at Appendix 2. The purpose of the report is twofold; to firstly assesses the social and health infrastructure needs of the community and secondly to determine whether the future health and well-being precinct will generate a demand for additional social infrastructure.

The methodology employed to prepare the Community Needs Analysis consisted of community profiling; a review of existing social infrastructure in the LGA; an assessment of the applicable strategic policies applying to the site; and the outcomes of consultation activities undertaken to date, including the results of Ernst and Young's market sounding.

The findings of the report lend support to the amendments proposed by this Planning Proposal and sufficiently justify the need for the proposed additional land uses. In summary, the findings of the assessment conclude that there is a growing need for expanded health and social infrastructure in the locality, including specialised mental health, community health services and complementary uses (i.e. recreational, educational, retail etc.) that will differentiate the health precinct from existing acute health services in the LGA. Collectively, these uses will facilitate the delivery of a destinational health precinct that services patients, visitors and the wider community.

Social Context and Existing Infrastructure

In determining the uses suitable for the site, Ethos Urban have prepared a Social Context Study that identifies the demographic trends affecting the LGA and the existing social and health infrastructure in the locality. The key findings are as follows:

- The Northern Beaches LGA has a greater ageing population relative to that of Greater Sydney, with a higher median age and higher share of residents aged over 60 years;
- The site is not identified as suitable for accommodating a community facility given that Council's vision is to concentrate community facilities within the core of the town centre to realise the benefits associated with the co-location of similar community facilities (e.g. library, cultural and creative facility and local community facilities).
- It is projected that across the LGA, there will be a shortfall of publicly accessible open space areas over the next 20 years and in consequence there is an identified need for flexible and multifunctional open space areas;
- The site is dislocated from the Manly Town Centre and nearby strategic health and education precincts, with the latter already providing or designated by strategic plans to provide acute health services; and
- There is a need for social infrastructure that caters to the ageing population who require specialist health and well-being services that are not provided by nearby acute health service facilities.

The conclusions of the Social Context analysis confirm that due to the site's locational attributes and the existing supply of health infrastructure in the LGA, the site is better suited to support non-acute health and well-being uses, including specialised mental health and community health services. In accommodating these uses, there is an opportunity for the site to operate as a destinational health and wellbeing precinct that caters to the local community as well as visitors in the broader surrounds.

The site's redevelopment as a destinational health and well being precinct is also supported by the community consultation outcome findings and market sounding undertaken on behalf of the proponent.

Demand for Social Infrastructure

Ethos Urban confirm that the proposal will generate a demand for additional social infrastructure. The report notes that the redevelopment of the site will result in an increase of 273 workers, 228 residents and 370 tertiary students. Combined, the proposed uses along with the increased number of occupants across the site will increase the demand for social infrastructure in the form of open space necessary for respite, physical activity and social interaction.

Economic Impact

The Planning Proposal will create a number of positive economic outcomes, including:

- Enable the site to be redeveloped for non-acute health purposes and facilitate additional jobs in the Eastern Harbour Facility in the health sector and other industries;
- Support competitiveness and job growth by increasing the number of permissible employment generating uses across the site which will facilitate the generation of 273 jobs;
- Facilitate additional jobs through construction activities associated with the future redevelopment of the site;
- Will deliver employment generating floorspace along with much needed health and social infrastructure in response to the needs of the community.

Heritage

Aboriginal Heritage

An Aboriginal Archeological Due Diligence Assessment has been prepared by Dominic Steele Consulting Archaeology and is included at Appendix 4. The purpose of the report is to assess the archeological significance of the site and the implications for the proposal.

The report has been completed in consultation with the Metropolitan Local Aboriginal Land Council (MLALC) and in accordance with the *Office of Environments & Heritage's (OEH) Due Diligence Code of Practice (2010)* guidelines. The findings of the report are informed by a site inspection where extensive field recording was undertaken to ascertain areas of Aboriginal archeological sensitivity. A sample survey of the southern and eastern bush land areas and photographic recordings were relied upon to complete the field recording.

The report concludes that no Aboriginal Archaeological sites or objectives have previously been recorded on the site. It notes that the bush land located on the perimeter of the site, within its south and south eastern portions, has the potential to contain archaeological remnants. These remnants may be within sandstone surfaces and buried soils. The remainder of the site has been subject to extensive redevelopment to facilitate the construction of the former hospital. In turn, the former sandstone and associated soil profiles that have the potential to contain Aboriginal rock engravings, deposits and objects are likely to have been destroyed or significantly disturbed. Notwithstanding, the proposal does not seek to redevelop these areas, with the future built form confined to the already redeveloped portions of the site. Accordingly, these sensitive areas are not likely to be impacted by the proposal.

Based on the findings of the field recording, the report provides the following recommendations to facilitate the redevelopment of the site:

- That a geotechnical investigation of subsurface conditions beneath the existing car park and landscaped surfaces be undertaken to identify if intact sandstone and soils are present. If found, appropriate heritage management approaches should be adopted.
- Where the future redevelopment of the site necessitates disturbance to the bush land areas located at the fringes of the site, the proposed works must be evaluated at a site-specific level by the MLALC to identify if there will be any potential Aboriginal cultural heritage impacts.

European Heritage

Paul Davies Pty Ltd have prepared a Heritage Assessment Report which is included at Appendix 3. The report assesses the heritage significance of the buildings contained within the site and the potential impacts to the European heritage values.

The assessment has been prepared in accordance with the guidelines of the *NSW Heritage Manual* and The NSW Heritage Division, Office of Environment and Heritage's (OEH) *Assessing Heritage Significant* guidelines as well as the principles established by the Australian ICOMOS Burra Charter and associated Practice Notes.

While the report identifies that the site contains only one locally listed heritage building known as (Item 1133 – the Manly District Hospital (former principal building)) there are a number of unlisted buildings contained within the site that are of local historical significance. These buildings are significant as they are representative of inter-war period hospital designs and reflect their original built form dated back to 1920s-1930s.

Buildings 5 and 15, and the remnant façade of Building 1, are of significance as they are representative of Inter-war Georgian Revival and Inter-war Free Classical style buildings. They reflect the work of the NSW Government Architect's branch and the typical hospital designs of the Inter-war period. Building 20 is of heritage significance due to its historical associations with the Quarantine Station. The assessment concludes that these buildings are capable of being adaptively reused.

The remaining buildings across the site are identified as being of moderate significance or detracting items that are not worthy of retention.



Figure 23 – Location of Heritage Significant Buildings
Source: Paul Davies Pty Ltd

Based on the preceding assessment, the report nominates two recommendations. Firstly, that the buildings discussed above that are identified as having heritage significance be retained, conserved and adaptively reused. In accordance with this recommendation, the Indicative Concept Master Plan for the site demonstrates how this may be able to occur (refer to Appendix 1).

The second recommendation relates to the preparation of a Conservation Management Plan to guide the redevelopment of the site and the proposed adaptive reuse of the existing buildings. To satisfy this recommendation, it envisaged that a Conservation Management Plan will be prepared at the site-specific DCP or detailed Development Application preparation stage of the project.

In summary, the assessment confirms that the site contains a variety of significant heritage buildings and whilst not designated as being locally listed heritage items under the MLEP 2013, some of these buildings are worthy of retention and adaptive reuse. With the adoption of the recommendations, the proposal as envisaged by the Indicative Concept Master Plan can be accommodated on the site without providing unacceptable impacts to its significant heritage fabric. Consistent with the report's recommendations, the proposal will adaptively reuse these significant buildings in a manner that preserves the site's important aesthetic qualities and historical associations.

4.6 Section D – State and Commonwealth Interests

10. Is there adequate public infrastructure for the Planning Proposal

The site is located in an established urban area and benefits from access to a range of existing facilities and services, including utilities, with capacity to service additional envelope. See the accompanying Services Strategy undertaken by Cardno provide as Appendix 1 for further details.

The site is located in close proximity to a number of public transport services, including bus services along Darley Road opposite the site which provide connections to the Manly Town Centre and the Northern Beaches. The site is located a short 13 minute walk (800m) from the Manly Town Centre, which provides additional public transport connections to the Sydney CBD, North Sydney CBD and Chatswood.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

The Planning Proposal has been prepared on behalf of Property & Development NSW (PDNSW), part of the Department of Planning, Industry and Environment. The requested LEP amendments reflect both State agencies' visions for the redevelopment of the site. In addition, NSW Health also have been consulted with extensively in relation to the project through the PSAC.

The views of other State and Commonwealth public authorities will be further known once consultation has occurred in accordance with the Gateway determination of the Planning Proposal. Given the nature of the Planning Proposal, it is not anticipated that referral to any State or Commonwealth agency would be required.

Where necessary, further consultation with relevant authorities will be undertaken as required at the Gateway Determination Phase. State and Commonwealth authorities will have the opportunity to provide comment on the Planning Proposal as part of its formal exhibition.

5 Part 4 – Mapping

The proposed amendments do not necessitate changes to the mapping that accompanies the MLEP 2013. Rather, the Planning Proposal will introduce additional permitted uses under Schedule 1 pursuant to clause 2.5 of the MLEP 2013.

6 Part 5 – Community Consultation

The Planning Proposal will be placed on public exhibition in accordance with the Gateway Determination, should Council and DPIE support the planning proposal. Confirmation of the public exhibition period and requirements for consultation will be detailed as part of the Gateway Determination.

Any further Community consultation will be conducted in accordance with Sections 56 and 57 of the EP&A Act and A *Guide to Preparing Planning Proposals*. This is likely to involve notification of the proposal:

- Advertisement of the project in a local newspaper which is circulated within the LGA;
- Notification letters to relevant State Agencies and other authorities nominated by the DPIE;
- Notification (via letter) to land holders of properties within and adjoining the future health precinct;
- Exhibition of the Planning Proposal on Council's website and at the Customer Service Centre; and
- Undertaking of any other consultation methods appropriate for the proposal.

Any future site-specific DCP and detailed design DA for the site would also be exhibited in accordance with Council's requirements, at which point the public and any authorities would have further opportunity to comment on the Planning Proposal.

To date, community consultation via multiple engagement platforms has been undertaken by the Proponent for the purpose of determining the uses suitable for the site and in order to receive feedback on the draft concept masterplan.

Consultation was conducted over a four-week period from 2 August to 2 September 2019 and in Q3 of 2020. A variety of consultation methods were employed, including online mapping via Social Pinpoint, Manly Daily print advertisement, newscorp digital advertisement and Facebook advertisements. Additionally, two, three-hour face to face information drop-in sessions were held with stakeholders and the community.

With respect to the site's future uses, the findings from the community consultation confirmed strong support for:

- The delivery of the AYAH and the inclusion of complementary uses for visitors and residents;
- The retention and adaptive reuse of the site's existing heritage buildings;
- The protection of the site's ecological and biodiversity values;
- The provision of community focused uses rather than private uses;
- The retention of the site's use as a health care facility to maintain the community's access to health services; and
- A future development that capitalises on the site's locational attributes, including its environmental landscape setting and access to views.

7 Part 6 – Project Timeline

A primary goal of the plan making process is to reduce the overall time taken to gazette LEPs. The Gateway determining will confirm the level of information necessary to support a Planning Proposal and the consultation requirements. In order to meet this goal, the inclusion of a project timeline with the Planning Proposal will provide a mechanism to monitor the progress of the Planning Proposal through the plan making process.

The table below provides the project timeline anticipated for the subject Planning Proposal, which is proportionate to the nature and scale of the Planning Proposal.

Table 7. Project Timeline	
Milestone	Date
Submission of the Planning Proposal	November 2020
Planning Proposal Reported to Council	February 2021
Referral to Minister for Gateway Determination	February 2021
Anticipated commencement date (date of Gateway determination)	February/March 2020/2021
Commencement and completion dates for public exhibition period	March/April 2021
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	June/July 2021
Timeframe for consideration of submissions	July/August 2021
Timeframe for consideration of a proposal post exhibition	August/September 2021
Consideration of PP by Council (Council Meeting)	October 2021
Date of submission to the DPIE to finalise the LEP	October/November 2021
Anticipated date RPA will make the plan (if delegated) or Anticipated date RPA will forward to the department for notification	November 2021
Anticipated date for publishing of the plan	December 2021

8 Conclusion

This Planning Proposal has been prepared in accordance with:

- Section 3.33 of the EP&A Act 1979; and
- The DPIE's *A Guide to Preparing Planning Proposals (2016)*.

The Planning Proposal pertains to land described as 150 Darley Road, Manly and provides a comprehensive justification for the proposed amendments to the MLEP 2013 which include expanding the range of permitted uses under Schedule 1 of MLEP 2013 at the site, whilst maintaining the primary role of the site as a health services facility. Pursuant to clause 2.5 of MLEP 2013 the planning proposal seeks to introduce additional permitted uses at the site including the following: a group home, community facility, educational establishment, food and drink premises, centre-based child care facility, indoor recreational facility, neighbourhood shop, function centre, respite day care centre and seniors housing.

The Proposed amendments to the MLEP 2013 are intended to facilitate the development of the site for the purpose of a state-of-the art health and well-being precinct whilst retaining its primary purpose as a health services facility.

It is considered that the Proposal:

- Is consistent with the aims and objectives of relevant strategic plans and policies, including the Greater Sydney Region Plan, the North District Plan, the LSPS, the Northern Beaches CSP, the NSW Ageing Strategy 206 – 2020, Future Transport 2056 and the NSW State Plan 2011.
- Is consistent with the relevant statutory plans and policies, including the aims of the MLEP 2013;
- Demonstrates consistency with the Site Specific Merit Test and Strategic Merit Test;
- Will result in no adverse environmental, social or economic impacts; and
- Will deliver employment generating floorspace along with much needed health and social infrastructure in response to the needs of the community.

Given the strategic planning merit of the proposed amendments, we request that Council forward this Planning Proposal to the Minister for Planning for 'Gateway Determination' in accordance with Section 3.34 of the EP&A Act 1979.



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4.0 NON PUBLIC MEETING ITEMS

ITEM 4.1	DA2021/0227 - 25 BATTLE BOULEVARDE, SEAFORTH - ALTERATIONS AND ADDITIONS TO A DWELLING WITHIN A DETACHED DUAL OCCUPANCY DEVELOPMENT, INCLUDING A SWIMMING POOL
AUTHORISING MANAGER	Anna Williams
TRIM FILE REF	2021/410277
ATTACHMENTS	1 Assessment Report 2 Site Plan & Elevations 3 Clause 4.6

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PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the development contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

- A. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, vary the Height of Building Development Standard of Clause 4.3 pursuant to clause 4.6 of MLEP 2013 as the applicants written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.
- B. That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2021/0227 for alterations and additions to a dwelling within a detached dual occupancy development, including a swimming pool at Lot CP, 1 & 2 SP 21645, 25 Battle Boulevarde, Seaforth subject to the conditions set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0227
Responsible Officer:	David Auster
Land to be developed (Address):	Lot 1 SP 21645, 1 / 25 Battle Boulevard SEAFORTH NSW 2092 Lot 2 SP 21645, 2 / 25 Battle Boulevard SEAFORTH NSW 2092 Lot CP SP 21645, 25 Battle Boulevard SEAFORTH NSW 2092
Proposed Development:	Alterations and additions to a dwelling within a detached dual occupancy development, including a swimming pool
Zoning:	Manly LEP2013 - Land zoned E3 Environmental Management
Development Permissible:	No
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Proprietors of Strata Plan 21645
Applicant:	Edwina Nelson Wills
Application Lodged:	09/04/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	19/04/2021 to 03/05/2021
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 18.8%
Recommendation:	Approval
Estimated Cost of Works:	\$ 975,746.00

Executive Summary

The proposal involves alterations and additions to the existing dual occupancy development. The development relates to only one of the dwellings on site, being the lower dwelling adjacent to the waterfront. The site benefits from existing use rights.

The proposal does not comply with the height of buildings development standard, and other relatively

minor non-compliances are proposed in relation to built form controls within the Manly DCP. However, these non-compliances are considered acceptable in the circumstances, as discussed within the report. During the assessment, the applicant amended the plans at the request of Council to delete the proposed alterations to the boat shed, due to non-compliance with the Sydney Harbour Foreshores Area Development Control Plan 2005. As such, this issue has been resolved.

The application is being referred to the NBLPP as it proposes a variation to the height of buildings development standard of greater than 10%, and is to an existing dual occupancy development.

No submissions were received from surrounding neighbours.

Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that the proposal is suitable and appropriate development for the subject site, and approval of the application is recommended.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development involves the alterations and additions to a dwelling that forms part of an existing dual occupancy.

The proposed works are to occur only at 1/25 Battle Boulevard (also known 25 Battle Boulevard); this dwelling is located towards the rear of the site.

The proposed works are outlined as follows:

- Alterations and additions to the dwelling detailed above. The works on the ground level will include small expansions on the southeast side of the dwelling (a new bay windows is also proposed on the western side of this level). The works on the first floor includes an expansion of floor space that will be facilitated through an extension towards the western boundary and two new roof dormers. The height of the existing south-facing dormer is also proposed to be raised and slightly widened.
- Installation of a pool and associated pool decking on the southern side of the dwelling.
- Alterations and additions to the existing boat shed
- Removal of two (2) trees;
- Demolition of existing external stairs and installation of new reconfigured stairs located near the south-east corner of the site providing access to the boat shed level; and
- Landscape works including construction of an outdoor pavilion with green roof, storage cupboard, restoration to existing stone retaining walls and extensive new plantings.

The existing dwelling at 2/25 Battle Boulevard (also known 25A Battle Boulevard) is not proposed to be altered by this application.

As a result of the assessment, the applicant was informed that the proposed alterations to the boat shed were not supported, due to the requirement under Section 5.12 of the Sydney Harbour Foreshores Area Development Control Plan 2005 that boat sheds be no more than one storey. As a result, the applicant provided amended plans deleting the proposed alterations to the boat shed. The amended plans were not re-notified, as they resulted in less environmental impact than originally proposed.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning

and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - Zone E3 Environmental Management
 Manly Local Environmental Plan 2013 - 4.3A Special height provisions
 Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards
 Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area
 Manly Local Environmental Plan 2013 - 6.10 Limited development on foreshore area
 Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing
 Manly Development Control Plan - 3.4.3 Maintenance of Views
 Manly Development Control Plan - 3.5.1 Solar Access
 Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)
 Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
 Manly Development Control Plan - 4.1.5 Open Space and Landscaping

SITE DESCRIPTION

Property Description:	Lot 1 SP 21645 , 1 / 25 Battle Boulevard SEAFORTH NSW 2092 Lot 2 SP 21645 , 2 / 25 Battle Boulevard SEAFORTH NSW 2092 Lot CP SP 21645 , 25 Battle Boulevard SEAFORTH NSW 2092
Detailed Site Description:	<p>The subject site is identified as 1/25 Battle Boulevard, Seaforth (Lot 1, SP 21645). The site is also known as 25 Battle Boulevard; the allotment forms part of a strata-subdivided dual occupancy, with the other allotment/dwelling known as 2/25 Battle Boulevard and 25A Battle Boulevard.</p> <p>The site is located on the lower/southern side of Battle Boulevard. The site is a battle-axe allotment with a single road frontage at the northern boundary; both side</p>

boundaries adjoin residential allotments and the rear boundary adjoins a public waterway (Middle Harbour).

The site is an irregularly-shaped allotment; the area of Lot 1 is 1,113m² while the total area of the site is approximately 1,387.3m². The site is steeply sloped, with a maximum front-to-rear downhill slope of approximately 39 metres. The rear of the site sits atop a small cliff/overhang with a height of approximately nine metres.

The majority of the site is located within the E3 Environmental Management zone under MLEP 2013, with sections of the rearmost part of the site being unzoned. Parts of the northern and eastern boundaries adjoin R2 Low Density Residential sites, the eastern and part of the western boundaries adjoin E3-zoned sites and the waterway to the rear of the site is unzoned.

The site is mapped as being affected by class 5 acid sulphate soils and biodiversity considerations; the site is also mapped by the DCP as being affected by a landslide hazard (Area G1). Part of the rear of the site contains a local heritage item, which is identified by Schedule 5 of MLEP 2013 as Item I1 (Harbour foreshores); this heritage item follows the shoreline, and due to the irregular shape of the site it both bisects the southwest corner of the site and straddles other sections of the rear boundary. The front/northern boundary of the site also adjoins another heritage item identified by Schedule 5 of MLEP 2013 as Item I266 (Retaining wall). The site is not located within a heritage conservation area.

Development on the site is as follows:

- 1/25 (i.e. 25) Battle Boulevard contains a three-storey dwelling house, which includes a semi-basement level and a level that is semi-enclosed within the roof. There is also a large/levelled terrace and associated retaining walls on the western side of the dwelling. A pathway to the north of the dwelling and an inclinor adjacent to the western boundary also provides access to this allotment. Car parking for the allotment is located atop of development at 2/25 Battle Boulevard (see below).
- 2/25 (i.e. 25A) Battle Boulevard contains a three-storey dwelling house with rooftop parking for both dwellings above. As Lot 2 directly adjoins the Battle Boulevard road reserve, pedestrian access is directly obtainable from the street.

Development at the rear of the site below the aforementioned cliff includes mooring bay, jetties and a

single-level boathouse.

Detailed Description of Adjoining/Surrounding Development

All adjoining E2/R2-zoned allotments contain detached multi-storey dwelling houses and associated structures (e.g. swimming pools). Development within residential-zoned areas on the northern side of Middle Harbour consists predominately of low-density residential development (i.e. detached dwellings of varying sizes and associated structures). Sites on the southern side of Middle Harbour are located within the Mosman LGA, with the closest sites containing commercial and marina-style developments.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- 15 August 1968: Building Application no. 68/1594 approved for alterations to a dwelling (conversion of the lower ground floor and attic to habitable areas).
- 8 February 1968: Building Application no. 523/67 approved for the construction of an inclinator.
- 16 April 1981: Building Application no. 108/81 approved for the construction of a second dwelling on the site (i.e. 25A Battle Boulevard). This approval subsequently created a dual occupancy on the site.
- 28 February 1984: Application no. 3341/S approved for the strata subdivision of the two dwellings on the site.
- 29 August 1990: Development Application no. 3672/90 approved for alterations and additions to a dwelling (25A Battle Boulevard) (note: the development consent did not permit any garage structure to be erected).

- 14 July 1992: Modification Application approved for Development Application no. 35/92 approved to modify Development Application no. 3672/90. the modifications related to the erection of a fence and security gates.
- 30 December 1996: Development Application no. DA401/96 approved for alterations and additions to the dwelling at 25 Battle Boulevard (alterations to a kitchen and a conservatory).
- 9 April 2021: Subject development application lodged.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to BASIX, the proposed boat shed alterations, and the notification sign.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the</p>

Section 4.15 Matters for Consideration'	Comments
	<p>consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

The proposal seeks consent for alterations and additions to a dual occupancy (specifically alterations and additions to one of the two dwellings that form part of that dual occupancy).

Dual occupancies (as approved by the Standard Instrument) are a prohibited form of development within the E3 Environmental Management zone under MLEP 2013. The subject development application does not propose to change the existing use of the site.

As detailed within the site history section of this report, Building Application no. 108/81 (determined

on 16 April 1981) approved the construction of a second dwelling on the site (i.e. 25A Battle Boulevard), thereby creating the dual occupancy. This development was later strata subdivided following the approval of Application no. 3341/S on 28 February 1984. These approvals pre-dated the gazettal of MLEP 2013, and there is no evidence that the lawfully-approved use of the site as a 'dual occupancy' has ceased at any point since those approvals.

The above demonstrates that the site benefits from existing use rights in accordance with relevant provisions within Division 4.11 (Existing uses) and Part 5 (Existing uses) of the Regulations.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 19/04/2021 to 03/05/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The development proposal for alterations and additions to an existing dwelling and boat shed, including addition of a pool, tree removal and associated landscaping.</p> <p>Council's Landscape Referral section have assessed the application against the Manly Local Environment Plan, and against the following landscape controls of Manly Development Control (but not limited to):</p> <ul style="list-style-type: none"> • section 3: General Principles of Development, including but not limited to clauses 3.3.1 Landscape Design, and 3.3.2 Preservation of Trees and Bushland Vegetation, • section 4: Development Controls and Development Types, including but not limited to clauses 4.1.5 Open Space and Landscaping <p>A Landscape Plan and a Arboricultural Impact Assessment is provided with the application. The Landscape Plan provides additional landscape treatment to satisfy the landscape controls are the plan is acceptable, subject to conditions on species selections, and additionally provides an indication of existing trees proposed for removal (ie. T8 and G6 x 2).</p> <p>The Arboricultural Impact Assessment proposes the removal of these three Exempt Species and Council consent is not required, and additionally provides tree protection measures for the preservation of trees within the site and within adjoining properties. The new wire mesh fence proposed along the southern boundary within the structural root zone of T7 shall be installed as pier and beam construction with no intrusion into the structural root zone of T7.</p> <p>Landscape Referral raise no objections to the proposal, subject to conditions of consent.</p>

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p>Biodiversity Conservation Act 2016 (BC Act) State Environmental Planning Policy (Coastal Management)</p> <ul style="list-style-type: none"> Coastal Environment Area <p>Manly Local Environmental Plan (MLEP)</p> <ul style="list-style-type: none"> Clause 6.5 (Terrestrial Biodiversity) <p>The proposal involves the alterations and additions of an existing part 2 and 3 storey dwelling at 25 Battle Boulevard, alterations and additions to the existing boatshed, construction of a pool, tree removal and associated landscape works.</p> <p>The Arborist Report (Martin Peacock 2020) recommends eight (8) trees for removal. Species proposed for removal are non-locally indigenous or are otherwise exempt from Council protection. The Biodiversity referral team defer to the Landscape team as to the value of non-locally indigenous trees proposed for removal.</p> <p>Stabilisation works recommended in the geotech report (Douglas Partners 2020), such as underpinning of sandstone outcrops is supported, however the natural integrity and habitat value of the sandstone overhang must be maintained.</p> <p>Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Coastal Management) 2018, Sydney Harbour Catchment Regional Environment Plan, 2005 and Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005. It has also been assessed against requirements of the Manly LEP and DCP.</p> <p>The application has also been assessed using Northern Beaches SREP assessment template.</p> <p>This assessment notes that the client has withdrawn the proposed alterations to the existing boatshed through an amended Masterplan dated April 2021.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone</p>

Internal Referral Body	Comments
	<p>and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Coastal Management) 2018</p> <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Clauses 13 (coastal environment area) and 14 (coastal use area) do not apply as the site is also located within the SREP area. Hence, only Clause 15 of the CM SEPP apply for this DA.</p> <p>Comment: On internal assessment, the DA satisfies requirements under Clause 15 of the CM SEPP. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Sydney Regional Environment Plan (Sydney Harbour Catchment), 2005</p> <p>Harbour Foreshores & Waterways Area</p> <p>The subject site is located within the Sydney Harbour Catchment and is identified as being within the Foreshores and Waterways Area. Hence Part 2, Clause 14 and Part 3, Division 2 apply in assessing this DA.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by SJB Planning (NSW) Pty. Ltd. dated April 2021, it is determined that the Planning Principles and Matters for Consideration of the Area have been met.</p> <p>Manly LEP 2013 and Manly DCP</p> <p>Foreshores Scenic Protection Area Management</p> <p>The subject site is also shown to be as "Manly Foreshores Scenic Protection Area" on Council's Foreshores Scenic Protection Area in Manly LEP 2013. As such, Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013 will apply to proposed development on the site.</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by SJB Planning (NSW) Pty. Ltd. dated April 2021, the DA satisfies requirements under Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP</p>

Internal Referral Body	Comments
	<p>2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013. As such, it is considered that the application does comply with the requirements of the Manly DCP 2013.</p> <p>Manly LEP 2013 and Manly DCP</p> <p>Development on Foreshore Area The subject site is also shown to be as "Manly Foreshores Area" on Council's Area "within the foreshore building line Map" in Manly LEP 2013. Hence, Part 6, Clause 6.10 –Limited development on foreshore area of the Manly LEP 2013 applies for any development within the foreshore area.</p> <p>The DA proposes alterations within the footprint of an existing building located within the foreshores area. All these proposed works are consistent with Clause 6.10(2).</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by SJB Planning (NSW) Pty. Ltd. dated April 2021, the DA satisfies the objectives and requirements of Part 6, Clause 6.10 of the Manly LEP 2013.</p>
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	<p>The proposal has been referred to Heritage as the subject site adjoins a heritage listed item, being Item I266 - Retaining wall - Battle Boulevarde, listed in Schedule 5 of Manly Local Environmental Plan 2013. The site is also located within the Manly Foreshore Scenic Protection Area.</p>
	Details of heritage items affected
	<p>Details of the heritage item, as contained within the Northern Beaches Heritage Inventory, are:</p> <p>Item I266 - Retaining wall <u>Statement of significance:</u> The Battle Boulevarde Retaining Wall is a representative example of historical infrastructure built by the Municipal Council of Manly. It provides evidence of the high quality of urban elements in the pre-modern period in this area. The stone retaining wall is aesthetically distinctive and presents a landscape feature of the vicinity.</p>
	Other relevant heritage listings
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	
No	
Australian Heritage	
No	

Internal Referral Body	Comments
	Register
	NSW State Heritage Register
	National Trust of Aust (NSW) Register
	RAIA Register of 20th Century Buildings of Significance
	Other
	Consideration of Application
	<p>The proposal seeks consent for partial demolition and alterations and additions to the existing dwelling at 25 Battle Boulevard, including construction of a new pool, tree removal and associated landscape works.</p> <p>The existing dwelling is not a heritage listed item, however it is from the early 1900s and despite the earlier alterations and additions some of the original features are still discernible; such as the sandstone external walls, shingle wall cladding, bay windows, original roof form and chimney. The original internal features - pressed metal ceilings, picture rails, skirting boards are still intact. Partial demolition has been proposed as part of the application.</p> <p>It is noted that the original east facing bay window has been relocated to the western facade. Heritage recommends to retain and preserve any external and internal original fabric and reuse the removed original fabric, (including the dry stone retaining wall) where possible.</p> <p>Given the physical separation between the proposed works and the heritage listed retaining wall, the proposal is considered to have negligible impact upon the significance of the heritage item.</p> <p>Therefore no objection are raised on heritage grounds subject to one condition.</p> <p><u>Consider against the provisions of CL5.10 of Manly LEP 2013.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided?</p>
	Further Comments
	COMPLETED BY: Oya Guner, Heritage Advisor
	DATE: 17 May 2021

External Referral Body	Comments
Aboriginal Heritage Office	<p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A393000_02).

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

An assessment of the proposal against Clause 2(2) (aims of the SREP), Clause 14 (nominated

planning principles), Clause 22 (relating to public access to and use of foreshores and waterways), Clause 23 (relating to maintenance of a working harbour), Clause 24 (relating to interrelationship of waterway and foreshore uses), Clause 25 (relating to foreshore and waterways scenic quality), Clause 26 (relating to maintenance, protection and enhancement of views) and Clause 27 (relating to boat storage facilities) has been undertaken. An assessment of these provisions is as follows:

Clause 2 – Aims of Plan

Complies - Provided that recommended conditions are satisfied during works, the proposed development can satisfy the aims of the plan.

14 Foreshores and Waterways Area

Complies - The proposal will not adversely affect foreshore access and associated harbour use. Provided that recommended conditions are satisfied during works, the proposal will not foreseeably affect natural assets and watercourses. The design of the works will largely reflect existing development on the site, and as such will not adversely affect the visual qualities of the harbour and foreshores.

22 Public access to, and use of, foreshores and waterways

Complies - The proposal will not affect existing access to foreshores and waterways.

23 Maintenance of a working harbour

Not applicable.

24 Interrelationship of waterway and foreshore uses

Complies - The proposal is for alterations and additions to an existing dwelling, and does not seek to increase encroachment of development upon foreshore areas. As such, the proposal will have no impact upon the use of the waterway and will not result in foreseeable conflict between waterway uses.

25 Foreshore and waterways scenic quality

Complies - The scale and form of the existing dwelling will be largely retained. The proposed development will therefore not adversely affect the development character and scenic character of the foreshore.

26 Maintenance, protection and enhancement of views

Complies - The height of the dwelling will be well below the height of Battle Boulevard; the highest points of the work will also be restricted to narrow areas that are at/below the height of the existing roof ridge. The proposal will therefore not significantly nor unreasonably affect views public to/from the harbour.

27 Boat storage facilities

Complies – The proposal does not seek to increase the size and associated visual intrusiveness of the existing boathouse on the site.

The proposal is considered to be consistent with the above provisions of the SREP. Given the scale of the proposed modification and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee was not considered necessary.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
- (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
 - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
 - (c) *the carrying out of any of the following:*
 - (i) *earthworks (including the depositing of material on land),*
 - (ii) *constructing a levee,*
 - (iii) *draining the land,*
 - (iv) *environmental protection works,*
 - (d) *any other development.*

Comment:

Not applicable.

11 Development on land in proximity to coastal wetlands or littoral rainforest

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
 - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

Not applicable.

12 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- (a) *if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*
- (b) *the proposed development:*
 - (i) *is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
 - (ii) *is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
 - (iii) *incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) *measures are in*

place
to
ensure
that
there
are
appropriate
responses
to, and
management
of,
anticipated
coastal
processes
and
current
and
future
coastal
hazards.

Comment:
Not applicable.

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:
Provided that conditions of consent are satisfied, the proposal will not adversely nor unreasonably affect the biophysical, hydrological and ecological environments. Existing public access to the foreshore area will not be affected by the proposal. Subject to conditions, the proposal will also have no impact on indigenous heritage.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*

- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

Provided that conditions of consent are satisfied, the siting of the proposed development will not have foreseeable adverse impacts with regard to the matters raised within clause (1).

14 Development on land within the coastal use area

(1)

- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
- (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

Given the location, design and height of the existing dwelling and the orientation of the site, the proposed works will not have foreseeable adverse impacts on the coastal use area in terms of overshadowing, indigenous heritage and public access. The nature of the works will be largely consistent with existing development on the site, and as such will not adversely affect the visual amenity of the coastal use area, as viewed from surrounding sites and the public domain.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

Provided that recommended conditions of consent are satisfied, the development will not foreseeably increase risks associated with coastal hazards.

As such, it is considered that the application complies with the requirements of the State Environmental

Planning Policy (Coastal Management) 2018.

Manly Local Environmental Plan 2013

Is the development permissible?	No
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	10.1m	18.8%	No
Floor Space Ratio	FSR: 0.4:1 (554.92m ²)	FSR: 0.345:1 (25 Battle GFA: 351.1m ² , 25A Battle GFA: 127.7m ² , Total GFA: 478.8m ²)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	No
4.3A Special height provisions	Yes
4.4 Floor space ratio	Yes
4.6 Exceptions to development standards	Yes
5.7 Development below mean high water mark	N/A
5.8 Conversion of fire alarms	N/A
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.8 Landslide risk	N/A
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes
6.12 Essential services	Yes
6.15 Tourist and visitor accommodation	N/A
Schedule 5 Environmental heritage	Yes

Detailed Assessment

Zone E3 Environmental Management

Refer to the discussion of existing use rights within this assessment report, which has found that the site benefits from existing use rights.

4.3A Special height provisions

Compliance with the requirements of the clause is demonstrated as follows:

- Heights of the adjoining road reserve (Battle Boulevard) adjacent to the northern boundary: RL35.58 - RL35.85.
- Existing/proposed ridge of 1/25 Battle Boulevard: RL 20.99

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8.5m
Proposed:	10.1m
Percentage variation to requirement:	18.8%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

(1) *The objectives of this clause are as follows:*

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment:

Clause 4.3 – Height of Buildings development standard is not expressly excluded from the operation of this clause.

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

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

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

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

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (c) to promote the orderly and economic use and development of land,
- (d) to promote the delivery and maintenance of affordable housing,
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
- (g) to promote good design and amenity of the built environment,
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
- (j) to provide increased opportunity for community participation in environmental planning and assessment.

The applicants written request argues, in part:

Consistent with zone objectives

The extent of the variation would be in the public interest as the proposal remains consistent with zone objectives and ensuring that appropriate and reasonable housing is proposed.

Comment:

It is agreed that the proposal is consistent with the objectives of the standard and zone and is therefore in the public interest.

Consistent with public interest

The extent of the variation would be in the public interest as the proposal remains consistent with zone objectives and ensuring that appropriate and reasonable housing is proposed.

Comment:

It is agreed that the proposal is consistent with the objectives of the standard and zone and is therefore in the public interest.

Consistent with standard objectives

Despite the variation, the proposal will satisfy the objectives of the height of buildings development standard.

Comment:

It is agreed that the proposal is consistent with the objectives of the standard.

Consistent with standard objectives

Notwithstanding the noncompliance, the type of development being proposed - a single free-standing dwelling - is the type of development that has been approved at the site and is consistent with the type of development envisaged for the locality.

Comment:

This point contains a misdescription of the development (i.e. the works affect one dwelling within a dual occupancy development). The dwelling affected by this proposal is a common form of development

both within the zone and the area more broadly; given that the use of the site is not proposed to be changed by the proposal, it is unclear how the typology of the development is relevant to compliance being unnecessary or unreasonable on this site.

No substantial impact to bulk and scale

The overall top RL of the existing dwelling does not change and remains at RL 20.99. The part of the development that breaches the height standard is the southern dormer. The dormer is not a bulky element and is consistent with the style of the approved dwelling. The dormer's location is in an area above a steeply-sloped section of the site. The height of the dormer is therefore accentuated without adversely affecting visual massing of the dwelling in a discernible manner.

Comment:

Points regarding the central southern dormer (i.e. the greatest point of the height breach) are agreed with. While the proposed southwest dormer will also breach the height standard (albeit to a smaller degree (i.e. 700mm)), the location and size of that structure will also not significantly increase the apparent height and bulk of the building. The western extension of the first floor will also breach the height standard (again, also to a smaller degree (i.e. 300mm)); this breach will increase the bulk of the western part of the dwelling as a result of replacing the hipped end of the roof with a gabled design.

As this part of the additions will retain the existing ridge RL of the roof, the apparent height and bulk of this dwelling is unlikely to be significantly increased when viewed from existing sites and the public domain. It is therefore agreed that sections of the development that will breach the height standard will not notably increase the apparent height, bulk and scale of the affected dwelling.

Proposed bulk and scale will be consistent with surrounding development

The proposed alterations and additions will result in a dwelling that is generally commensurate with the bulk and scale of the existing dwelling, in that it will continue to be a part 2/3 storey dwelling. No elements will rise above the existing top height of the dwelling.

Comment:

It is agreed that the scale of the dwelling as a part 2/3 storey structure will be consistent with that of the existing dwelling and the scale of development on surrounding sites. It is also agreed that no part of the proposed works will be higher than the RL 20.99 ridgeline of the existing roof.

No additional overshadowing of adjoining dwellings

There will be no additional overshadowing of any adjacent residential dwelling as a result of the development.

Comment:

No shadow plans were submitted as part of this application. It is however likely that the proposed western extension of the first floor and increases to the height of the main dormer will have some (albeit limited) additional impact on the southern part of the subject site and the southeast-most portion of the adjoining site at 29 Battle Boulevard early on June 21. The location of the dwelling, the subdivision pattern and the orientation of the site and the locations of surrounding residential development is such however that the existing and proposed development is unlikely to have any significant solar access impact on the surrounding area; overshadowing of dwellings on adjoining sites is also very unlikely. This assessment therefore agrees with the applicant's written variation request on this ground.

No view loss impacts

The proposed height of the building will not adversely affect views from private or public land.

Comment:

Given the locations and sizes of areas that are proposed to breach the height standard, it is agreed that

the proposed height of the development will not significantly nor unreasonably affect views from surrounding sites to the adjacent waterway and associated foreshore areas.

No visual privacy impacts

The proposed height of the building will not adversely affect visual privacy.

Comment:

It is agreed that the proposed breaches of the height standard will have no unreasonable influence on visual privacy. This consideration is assessed separately under the relevant DCP controls and has been found to be satisfactory.

Consistency with character

The proposed development is compatible with the existing and anticipated future character of the area and provides for excellent internal amenity, whilst also preserving external amenity to surrounding properties in a reasonable manner.

Comment:

Noting the highly variable residential development character of the surrounding residential area, it is agreed that the proposed development is consistent with the existing character of the surrounding area and is likely to be consistent with the desired future character of the area. It is also agreed that the development will have no unreasonable impacts on the amenity of surrounding sites.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the E3 Environmental Management zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the MLEP 2013 are:

(1) The objectives of this clause are as follows:

a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,

Comment:

The height and form of the affected dwelling will be largely retained by the proposed alterations and additions. The affected dwelling will continue to respond to the topography of the site; its presentation to public areas and the maximum apparent height of the dwelling will continue to be consistent with likely future residential development on surrounding sites.

b) to control the bulk and scale of buildings,

Comment:

The elements that are proposed to breach the building height standard will be confined to relatively small areas that will not substantially increase the bulk and scale of the dwelling.

c) to minimise disruption to the following:

(i) views to nearby residential development from public spaces (including the harbour and foreshores),

(ii) views from nearby residential development to public spaces (including the harbour and foreshores),

(iii) views between public spaces (including the harbour and foreshores),

Comment:

The proposal will not adversely nor unreasonably affect significant views:

- Of the waterway/foreshore areas from the public domain,
- Of the waterway/foreshore areas from adjoining/surrounding residences and
- Between public spaces (including views from the adjoining waterway and associated foreshore areas).

d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,

Comment:

The proposal will not significantly overshadow surrounding sites and is highly unlikely to directly affect dwellings and/or principal private open space areas.

e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.

Comment:

Variations to the building height standard are a result of proposed additions to the first floor of the dwelling. As such, the height of the dwelling will have no impact on site topography nor any vegetation.

Zone objectives

The underlying objectives of the E3 Environmental Management zone are:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*

Comment:

The proposed alterations and additions have been designed with regard to special environmental considerations, in terms of topography, retention of vegetation and proximity to the foreshore area. The design also respects the aesthetic values of the area with regard to considerations such as view protection.

- *To provide for a limited range of development that does not have an adverse effect on those values.*

Comment:

The proposed development is appropriately sited and designed in a manner that will not adversely affect special environmental and aesthetic values of the site and locality of the area more broadly.

- *To protect tree canopies and provide for low impact residential uses that does not dominate the natural scenic qualities of the foreshore.*

Comment:

The proposed development will not adversely affect local tree canopies. The existing low-impact use of the site will remain unchanged by the proposal and the form of the development will be consistent with the existing and desired future character of the locality.

- *To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation.*

Comment:

Subject to conditions, the proposed development will have no foreseeable adverse and unreasonable impacts on the foreshore area and surrounding vegetation.

- *To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality.*

Comment:

The proposal will permit a sufficient amount of pervious and landscaped area on the site to minimise soil

- *To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.*

Comment:

The height, bulk and scale of the dwelling reflects that of development within the surrounding area.

This assessment has found that the placement of the works and their design has adequately considered the surrounding natural environment and residential sites.

Conclusion:

For the reasons detailed above, the proposal is consistent with the objectives of the E3 Environmental Management zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, and in accordance with correspondence from the Deputy Secretary on 24 May 2019, Council staff under the delegation of the Development Determination Panel, may assume the concurrence of the Secretary for variations to the Height of building Development Standard associated with a single dwelling house (Class 1 building).

6.9 Foreshore scenic protection area

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters:

- (a) impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,*
- (b) measures to protect and improve scenic qualities of the coastline,*
- (c) suitability of development given its type, location and design and its relationship with and impact on the foreshore,*
- (d) measures to reduce the potential for conflict between land-based and water-based coastal activities.*

Comment:

An assessment of clause 6.9(3) is as follows:

- (a) This assessment has considered potential detrimental impacts to visual amenity of harbour and coastal foreshore areas and associated ; refer to the assessments of SEPP (Coastal Management) 2018 and SREP (Sydney Harbour Catchment) 2005 for further information.
- (b) Conditions of consent are recommended to protect the coastline. The appearance of the proposal is considered to be satisfactory with regard to protecting scenic qualities.
- (c) The proposal is considered to be acceptable for the site with regard to the site's relationship to the foreshore.
- (d) Not applicable.

With regard to the above, the proposal satisfies the provisions of the clause .

6.10 Limited development on foreshore area

The proposed development is for alterations and additions to a dwelling house, the building footprint of which is already within the foreshore area. The footprint of the building will not be further extended into the foreshore area or increased within the foreshore area. The additions to the dwelling are therefore permissible pursuant to clause 6.10(2)(a) of the LEP.

The proposed covered dining area is to be situated within the foreshore area. The location of this structure would be within a levelled and well-established outdoor terrace area. The modified levels of this part of the site are therefore considered appropriate for this structure, which is permitted pursuant to clause 6.10(2)(b) of the LEP. The swimming pool and associated decking and access stairs are also permitted pursuant to clause 6.10(2)(c) of the LEP.

With regard to clauses 6.10(3) and (4), the proposed development is consistent with the zone objectives, will have an acceptable visual appearance from all surrounding areas and (subject to conditions) will not result in environmental harm. Further, the proposal will have no foreseeable impact on uses within the adjoining waterway, will not adversely affect access to the foreshore area and will not foreseeably affect local and indigenous heritage.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 1,387.3m ²	Requirement	Proposed	% Variation*	Complies
Note: No changes are proposed to dwelling 95A Battle Boulevard; except where specified the assessment below applies only to 95 Battle Boulevard				
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwellings	2 dwellings (unchanged)		N/A
	Dwelling Size: 95 Battle: 134m ² 95A Battle: 75m ²	95 Battle: 351.1m ² 95A Battle: 127.7m ² (unchanged)	N/A	Yes
4.1.2.1 Wall Height	N: 6.5m (based on gradient 1:73)	6.9m	6.15%	No
	S: 6.6m (based on gradient 1:57)	10.1m	53.85%	No
	E: 6.5m (based on gradient 0)	6.3m	N/A	Yes
	W: 8m (based on gradient 1:2)	8.1m	1.23%	No
4.1.2.2 Number of Storeys	2	3 (unchanged)		N/A
4.1.2.3 Roof Height	Height: 2.5m	4.3m	68%	No
	Parapet Height: 0.6m	N/A		N/A
	Pitch: maximum 35 degrees	Roof: 45 degrees Dormer: 45 degrees	20%	No
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	N/A (Battle axe lot; existing min. setbacks unchanged))		N/A
4.1.4.2 Side Setbacks and Secondary Street Frontages	E: Dwelling: 2.37m (based on wall height) E: Outdoor dining: 1.1m (based on wall height)	Dwelling: 11.8m Outdoor dining: 1.1m	N/A	Yes
	W: 2.61m (based on wall height)	Building line: 1.64m (unchanged)	N/A	Yes
	Windows: 3m	E: 13.05m	N/A	No

		W: 870mm	71%	
	Secondary street frontage: Prevailing setback: N/A			N/A
4.1.4.4 Rear Setbacks	N/A (Foreshore building line applies)			N/A
4.1.4.5 Foreshore Building Lines and Foreshore Area	Min. 11.9m	Building line: Unchanged Verandah: Min. 7.8m Pool/deck: 5m/2.8m	N/A 34.4% 76.5%	No
4.1.4.6 Setback for development adjacent to LEP Zones RE1, RE2, E1 and E2	6m (common boundary)	N/A		N/A
	8m (rear boundary)	N/A		
4.1.4.7 Setback for development of certain land at Boronia Lane and Rignold Street, Seaforth	N/A			N/A
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS4	Open space 60% of site area (970.3m ²)	16.6% (229.9m ²)	72.3%	No
	Open space above ground 25% of total open space	N/A		N/A
4.1.5.2 Landscaped Area	Landscaped area 40% of open space (388.12m ²)	46.6% (451.7m ²)	N/A	Yes
	4 native trees	4 trees	N/A	Yes
4.1.5.3 Private Open Space	18sqm per dwelling	131.2m ²	N/A	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	N/A (Battle-axe lot)		N/A
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	500mm	N/A	Yes
	1m curtilage/1.5m water side/rear setback	1.5m from western boundary	N/A	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces (unchanged)	N/A	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: 38/40 x 100 = 95 then 100 - 95 = 5% variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.3.3 Footpath Tree Planting	N/A	N/A
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	N/A	N/A
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.6 Energy efficiency/conservation requirements for non-residential developments	N/A	N/A
3.5.7 Building Construction and Design	Yes	Yes
3.6 Accessibility	N/A	N/A
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	N/A	N/A
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

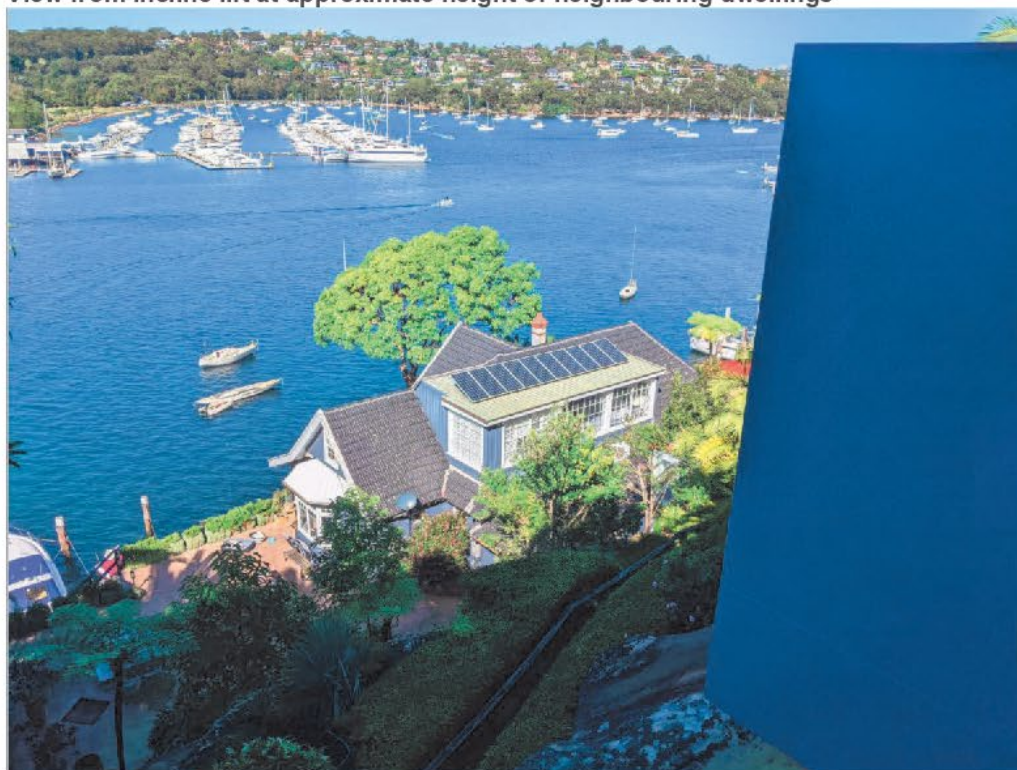
3.4.1 Sunlight Access and Overshadowing

Solar access/shadow plans have not been submitted. The placement of the dwelling and orientation of the site are however such that the proposal will not have adverse nor unreasonable impacts on surrounding sites nor the foreshore area. The proposal is therefore considered to be satisfactory in this regard.

3.4.3 Maintenance of Views

No submissions were received in relation to the application. The proposal results in a small extension of the height of the existing dwelling, which may result in some very minor loss of water view from the dwellings to the rear. However, these dwellings are located high above the subject site, and any loss of water view will be negligible as a part of the 'whole view' available from these sites. Any view loss will be negligible and not unreasonable in any way when assessed against the Tenacity Principles of view sharing.

View from incline lift at approximate height of neighbouring dwellings



3.5.1 Solar Access

Solar access plans have not been submitted. Given the orientation of the site and the location of the principal private open space (PPOS) area in relation to the dwelling, the proposed alterations and additions will not affect the amount of sunlight that is available to the PPOS area. The location of the dwelling towards the southern end of the site is such that the works will not excessively nor unreasonably overshadow adjoining sites. Further, given the dwelling's location to the north of the cliff, the proposal will not excessively nor unreasonably reduce solar access to publicly-accessible foreshore areas.

4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

Wall height:

The proposal will breach wall height controls on the northern, southern and western sides of the site. The breaches on the western and southern elevations are associated with roof dormers or gables, and as such breaches of the wall height affect only a relatively small part of those elevations. The proposed gables and dormers are a continuation of the existing architectural style of the building, which already features a high-pitched roof that contains both dormers and gables; the character of the dwelling and the surrounding area will therefore not be adversely affected by the variation.

The variation on the northern elevation is a largely technical variation, which created by the extension of the northern part of the first floor, the heights of which are already inconsistent with the wall height control. Given the significant slope and subdivision layout of the site, this section is not visible from the public domain as it is obscured from such areas by existing development and landscaping (both on the subject site and surrounding sites).

Noncompliant elements of the building will not have significant impacts on the apparent bulk and scale of the building, nor will they affect surrounding sites in terms of visual privacy, views and solar access.

Roof height:

Whilst noncompliant, the proposed extensions to the western side of the first floor are result of continuing the existing roof ridge towards the western side of the building. Despite such a noncompliance, the existing visual appearance of the dwelling (as viewed from surrounding sites and the public domain) will be maintained; the variation will therefore not adversely affect the character of the area.

Further to the above assessments, the objectives relating to the controls detailed above are satisfied. The variations are therefore considered to be acceptable and supportable on merit.

4.1.4 Setbacks (front, side and rear) and Building Separation

Note: Front and eastern side setbacks are compliant and will not be discussed.

Western side setback:

The existing minimum setback of the western building line will remain unchanged. A bay window is however proposed on the western side of the ground floor and will be set back 870mm from the western side boundary. The setback of the window will match that of an existing bay window that is located further to the north on the western elevation.

The size of the bay window and its location on the side of the dwelling is such that it will not be visible from the street and is highly unlikely to be a prominent feature when viewed from the adjacent waterway; the character of the area will therefore not be adversely affected by the noncompliance. The

height and location of the window is such that it is unlikely to have any impact on views and solar access.

With regard to visual privacy, development approved by Development Consent no. DA0134/2016 on the adjoining site (i.e. 29 Battle Boulevard) included a large screen on the eastern side of the swimming pool; this structure will subsequently obscure any views from the proposed bay window to the swimming pool. Further, planning constraints (specifically the foreshore building line) will likely prevent in perpetuity the placement of a dwelling on the adjoining site (i.e. 29 Battle Boulevard) that is adjacent to the subject dwelling; insufficient spatial separation and associated issues are therefore unlikely to ever arise as a result of the proposed placement of the bay window. As the bay window is also to be associated with a bedroom, the room associated with the window is unlikely to be associated with frequent gatherings and overlooking of the subject site.

With regard to the above, this variation is therefore considered to be acceptable.

Window setback:

Note: The setback of the proposed bay window on the ground floor is assessed above, and as such will not be discussed further.

The plans propose to situate a window on the western elevation of the extended first floor that would be located 2.2 metres from the western boundary (i.e. a variation of 800mm). Such a variation is unlikely to have any adverse visual privacy impacts for the same reasons as the bay window (refer to the assessment above). This window will also be associated with a bedroom, and as such is unlikely to result in frequent overlooking of the adjoining site. As such, the variation is considered to be satisfactory.

Rear/foreshore setback:

An assessment of clause 6.10 of the LEP (see above) confirmed that proposed building works within the foreshore building line are permissible and satisfy the provisions of that clause. Requirements relating to the mean high water mark are not applicable, as parts of the site which contain the dwelling and associated works is well above this level. The proposed additions to the dwelling will not increase the size of the existing building footprint, and as such will not extend works for residential accommodation further into the foreshore area. Further, the works will continue to retain large amounts of landscaped area and the landscaped character of the site. The proposed works within the foreshore area are therefore considered to be satisfactory.

Further to the above assessments, the objectives relating to the controls detailed above are satisfied. The variations are considered to be acceptable and supportable on merit.

4.1.5 Open Space and Landscaping

Note: Landscaped and private open space requirements are satisfied, and as such will not be discussed further.

The plans propose a significant variation, in that 16.6% (i.e. 229.9m²) of the site will consist of open space. The variation is largely a consequence of how open space is calculated (i.e. horizontal minimum 3 x 3 metre areas); given the slope of the site, there are very few horizontal areas that can be included as open space. The variation is therefore created as a result of site constraints (i.e. slope), and is not related to the proposed development, noting that the proposed site layout proposes landscaped and private open space areas that are well in excess of minimum requirements.

With regard to the above and noting that the objectives of the control are satisfied, the proposed variation is considered to be acceptable and supportable on merit.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$9,757 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$975,746.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Manly Local Environment Plan 2013 seeking to justify a contravention of Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case;
and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

That Northern Beaches Council as the consent authority vary clause 4.3 Height of buildings development standard pursuant to clause 4.6 of the MLEP 2013 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2021/0227 for Alterations and additions to a dwelling within a detached dual occupancy development, including a swimming pool on land at Lot 1 SP 21645, 1 / 25 Battle Boulevard, SEAFORTH, Lot 2 SP 21645, 2 / 25 Battle Boulevard, SEAFORTH, Lot CP SP 21645, 25 Battle Boulevard, SEAFORTH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
0100 Revision C	27.04.2021	Richards Stanisich
0101 Revision C	27.04.2021	Richards Stanisich
0102 Revision C	27.04.2021	Richards Stanisich
0201 Revision C	27.04.2021	Richards Stanisich
0202 Revision C	27.04.2021	Richards Stanisich
0203 Revision A	25.09.2020	Richards Stanisich
0501 Revision F	27.04.2021	Richards Stanisich
0501 Revision H	27.04.2021	Richards Stanisich
0503 Revision B	27.04.2021	Richards Stanisich

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Assessment Project 99792.00	7 October 2020	Douglas Partners
Arboricultural Impact Assessment Report	11 September 2020	Martin Peacock Tree Care
BASIX Certificate A393000_02	11 May 2021	Certified Energy

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
DA-01 Rev A	25.09.2020	Secret Gardens
DA-02 Rev A	25.09.2020	Secret Gardens

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of

the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

3. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety

- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$9,757.46 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$975,746.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

5. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

6. Photographic Archival Record

A photographic archival record of the site is to be made of all existing buildings and structures (including interiors and exteriors and their setting), generally in accordance with the guidelines issued by the NSW Heritage Division of the NSW Office of Environment & Heritage (OEH).

This record must be submitted and approved by the Certifying Authority prior to commencement of any demolition or works on-site.

The photographic record should be made using digital technology, submitted on archival quality CD-R disc, and should include:

- Location of property, date of survey and author of survey;
- A site plan at a scale of 1:200 showing all structures and major landscape elements;
- Floor plans of any buildings at a scale of 1:100;
- Photographs which document the site, cross-referenced in accordance with recognised archival recording practice to catalogue sheets. The extent of documentation will depend on the nature of the item.

Reason: To provide an archival photographic record of the site, including any buildings and landscape elements, prior to any works.

7. Stormwater Drainage Disposal

The stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

All stormwater drainage systems must comply with the requirements of Council's Water Management for Development Policy. Any recommendations identified within a Geotechnical Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil Engineer and where relevant a Geotechnical Engineer must be submitted to and approved by

the Certifying Authority prior to the issue of a Construction Certificate.

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council approval must be provided to the Certifying Authority prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage Application form can be found on Council's website.

Compliance with this condition must not result in variations to the approved development or additional tree removal.

Reason: To ensure satisfactory management of stormwater.

8. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

9. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

10. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- o "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- o Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

11. **Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on

Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection.

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained, including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, including:

- i) excavation works near T7
- ii) wire mesh fence works within the structural root zone of T7 requiring pier and beam construction with no intrusion into the structural root zone of T7
- iii) all works near existing trees identified as A and B with adjoining property at No. 21

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

12. **Dead or Injured Wildlife**

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

13. **Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. **Protection of Rock and Sites of Significance**

All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.

Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

15. **Tree and Vegetation Protection**

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site not approved for removal,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,

xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment.

The Certifying Authority must ensure that:

d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.

e) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

16. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

17. Demolition Works - Asbestos

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

18. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To demonstrate the proposal complies with the approved plans.

19. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

20. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifying Authority.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

21. **Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the DECC.

Reason: Aboriginal Heritage Protection. (DACAHE01)

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE
OCCUPATION CERTIFICATE**

22. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Landscape Plan, inclusive of the following conditions:

- i) delete the nominated Rhipiolepis species and replace with a similar shrub of size and form.

Prior to the issue of an Occupation Certificate, details (from a landscape architect or landscape designer) shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

23. **Condition of Retained Vegetation - Project Arborist**

Prior to the issue of any Occupation Certificate a report prepared by the project arborist shall be submitted to the Certifying Authority assessing the health and impact on all existing trees required to be retained including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,
- c) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree protection.

24. **No Weeds Imported On To The Site**

No Priority or environmental weeds are to be imported on to the site prior to or during construction works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

25. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Note: The following Standards and Codes applied at the time of determination:

- (a) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003 - Plumbing and drainage - Stormwater drainage
- (b) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003/Amdt 1 - 2006 - Plumbing and drainage - Stormwater drainage
- (c) National Plumbing and Drainage Code.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

26. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

27. **Protection of Habitat Features**

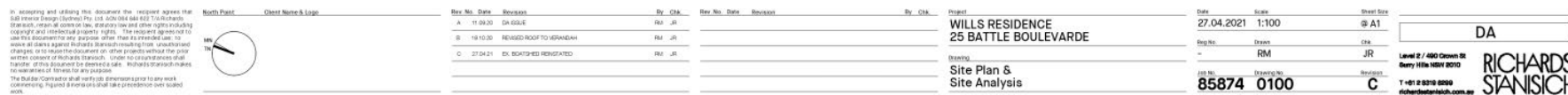
All natural landscape features, including any rock outcrops are to remain undisturbed. Proposed landscaping is to be maintained to protect the habitat value of rock crevices and overhangs.

Reason: To protect wildlife habitat.

28. **Geotechnical Recommendations**

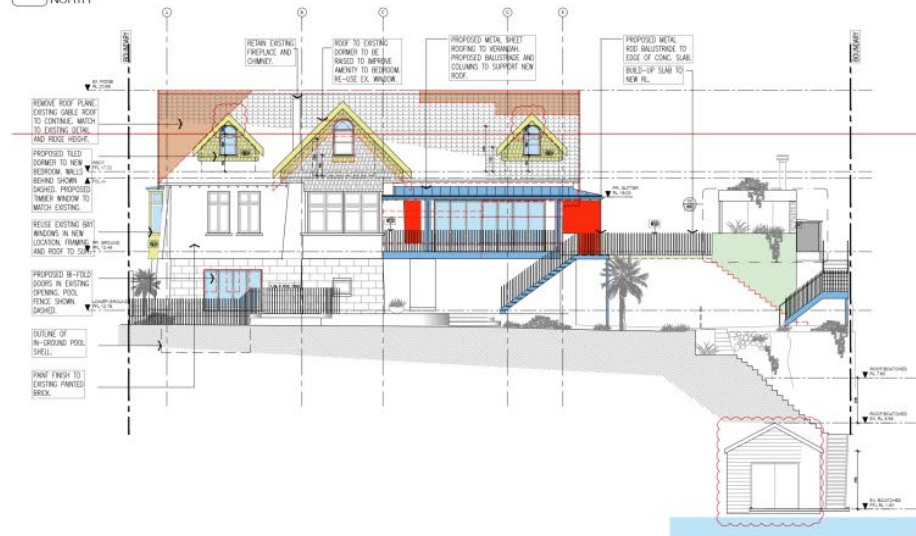
Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.





02	ELEVATION
	NORTH



01	ELEVATION
	SOUTH

Rev No	Date	Revisions	By	Chk
F	20.11.20	REVISED BOATSHED FINISH	RAJ	JR
G	23.11.20	REVISED BOATSHED FINISH	RAJ	JR
H	27.04.21	EX. BOATSHED REINSTATED	RAJ	JR

03 EXTERNAL FINISHES

Project
WILLS RESIDENCE
25 BATTLE BOULEVARDE

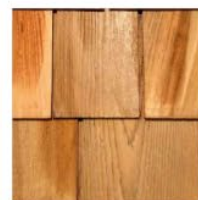
Drawing
Elevations & Finishes Board
Sheet 02

Date	Scale	Sheet Size
27.04.2021	1:100	A1
Rep. No.	Drawn	Chk.
-	RM	JR
JOB No.	Drawing No.	Revision
85874	0502	H

Level 2 / 490 Crown St
Gerry Hills NSW 2010
T +61 2 8318 8290



RN:01
LOCATION: EXTERNAL RENDERED WALLS



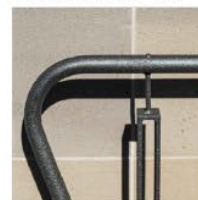
TM:01
LOCATION: EXTERNAL WALL CLADDING



ST:02
LOCATION: EXTERNAL PAVING



CN:01
LOCATION: GREEN ROOF



MT:02
LOCATION: EXTERNAL METALWORKS



ST:01
LOCATION: EXTERNAL WALL CLADDING

SJB Planning



Clause 4.6 – Exceptions to Development Standards Request to Vary Clause 4.3 – Height of Buildings

Address: 25 Battle Boulevarde, Seaforth

Proposal: Alterations and additions to and existing dwelling and boat shed, including addition of a pool, tree removal and associated landscaping, at 25 Battle Boulevarde, Seaforth

1.0 Introduction

This is a written request to seek an exception to a development standard pursuant to Clause 4.6 – Exceptions to Development Standards of Manly Local Environmental Plan (MLEP) 2013. The development standard for which the variation is sought is clause 4.3 Height of Buildings under MLEP 2013.

2.0 Description of the planning instrument, development standard and proposed variation

2.1 What is the name of the environmental planning instrument that applies to the land?

The Manly Local Environmental Plan (MLEP) 2013.

2.2 What is the zoning of the land?

The land is zoned E3 Environmental Management.

2.3 What are the Objectives of the zone?

The objectives of the zone are:

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To protect tree canopies and provide for low impact residential uses that does not dominate the natural scenic qualities of the foreshore.
- To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation.
- To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality.
- To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.

2.4 What is the development standard being varied?

The development standard being varied is the height of buildings development standard.

2.5 Is the development standard a performance based control? Give details.

No, the height of buildings development standard is a numerical control.

2.6 Under what clause is the development standard listed in the environmental planning instrument?

The development standard is listed under Clause 4.3 of MLEP 2013.

2.7 What are the objectives of the development standard?

The objectives of Clause 4.3 are:

- "(a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*
- (b) to control the bulk and scale of buildings,*
- (c) to minimise disruption to the following—*
 - (i) views to nearby residential development from public spaces (including the harbour and foreshores),*
 - (ii) views from nearby residential development to public spaces (including the harbour and foreshores),*
 - (iii) views between public spaces (including the harbour and foreshores),*
- (d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*
- (e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses."*

2.8 What is the numeric value of the development standard in the environmental planning instrument?

Clause 4.3 establishes a maximum height of buildings control for the site of 8.5m.

2.9 What is the proposed numeric value of the development standard in the development application?

The proposed building height is 10.12m. Figure 1 below demonstrates the extent of the proposed development which exceeds the 8.5m maximum building height standard. It demonstrates that the part of the building that exceeds the height control is the element at the southern side, where the land falls away relatively steeply. The diagram shows that much of the dwelling complies with the height control and that the overall top height of the building, being the main ridgeline of RL 20.99 does not change under the proposed development.

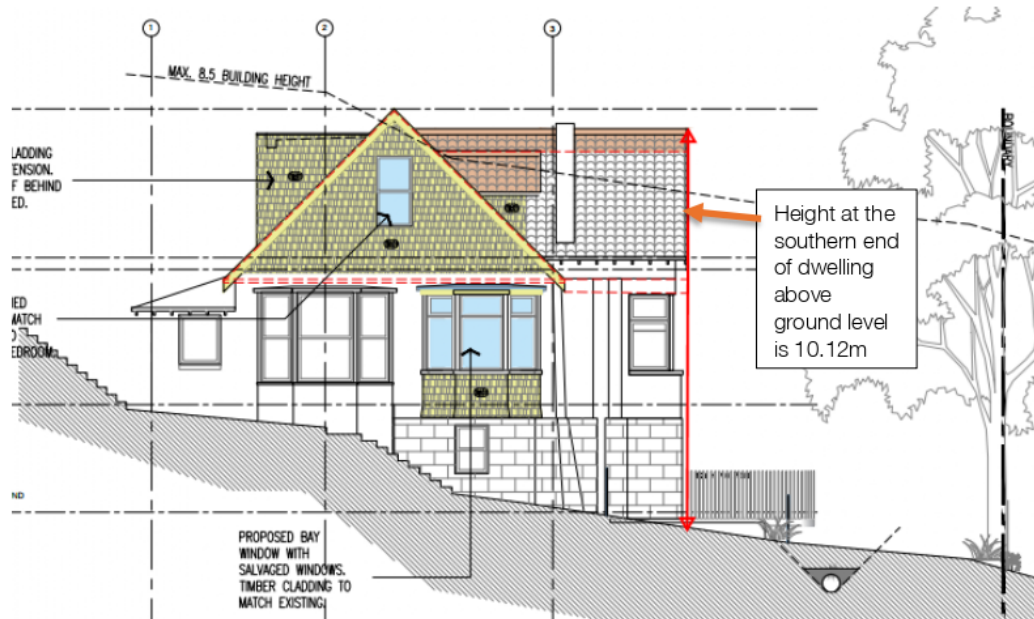


Figure 1: Extract from architectural elevation drawing 0501

2.10 What is the percentage variation (between the proposal and the environmental planning instrument)?

The proposal exceeds the maximum height of buildings development standard of 8.5m by approximately 19% (1.62m).

3.0 Assessment of the Proposed Variation

3.1 Overview

Clause 4.6 Exceptions to development standards establishes the framework for varying development standards applying under a local environmental plan.

Objectives to Clause 4.6 at 4.6(1) are as follows:

- “(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.”*

Clause 4.6(3)(a) and 4.6(3)(b) require that a consent authority must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating that:

- “(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.”*

Clause 4.6(4)(a)(i) and (ii) require that development consent must not be granted to a development that contravenes a development standard unless the:

“(a) the consent authority is satisfied that:

- (i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and”*

Clause 4.6(4)(b) requires that the concurrence of the Secretary be obtained, and Clause 4.6(5) requires the Secretary in deciding whether to grant concurrence must consider:

- “(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.”*

This application has been prepared in accordance with the NSW Department of Planning, Infrastructure and Environment (DPI&E) guideline *Varying Development Standards: A Guide*, August 2001, and has incorporated as relevant principles identified in the following judgements:

- *Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46;*
- *Wehbe v Pittwater Council [2007] NSWLEC 827;*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009* (“Four2Five No 1”);
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90* (“Four2Five No 2”);
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248* (“Four2Five No 3”);
- *Micaul Holdings Pty Limited v Randwick City Council [2015] NSWLEC 1386;*
- *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7;*
- *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118;*
- *RebelMH Neutral Bay v North Sydney Council [2019] NSWCA 130;*
- *Baron Corporation v The Council of the City of Sydney [2019] NSWLEC 61;* and
- *Al Maha Pty Ltd v Huajun Investments Pty Ltd [2018] NSWCA 245.*

3.2 Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

3.2.1 Is a development which complies with the standard unreasonable or unnecessary in the circumstances of the case?

A development that strictly complies with the height of buildings standard is unreasonable or unnecessary in this circumstance for the following reasons:

- The proposal complies with the objectives of the E3 Environmental Management zone, as detailed in the assessment at Table 1 below.
- The proposal complies with the objectives of the Height of Buildings development standard as detailed in the assessment at Table 2 below.
- The development is in the public interest as it is consistent with the objectives for the development within the zone and will result in the renovation of an approved existing dwelling and boatshed that will enhance their appearance and provide for contemporary residential living at the site without compromising the natural environmental or the amenity of adjacent properties or the public domain;

- Notwithstanding the non-compliance, the type of development proposed, single free standing dwelling, is the type of development that has been approved at the site and is consistent with the type of development envisaged for the locality,
- The overall top height of the existing dwelling does not change and remains as RL 20.99. The part of the development that breaches the height control is the back (southern) element which larger relates to a projecting roof dormer. The dormer is not a bulky element and is consistent with the style of the approved dwelling. It is positioned in a location where the topography falls away relative steeply below it, therefore accentuated its height above the ground level without adversely affecting the visual massing of the dwelling in any discernible manner.
- The proposed alterations and additions will result in a dwelling that is generally commensurate with the bulk and scale of the existing approved dwelling, such that it continue to be part 2 and part 3 storey dwelling. No elements of the proposed alterations and additions will rise above the existing top height of the dwelling.
- In terms of overshadowing impacts, it is important to note that there will be no additional overshadowing upon any adjacent residential dwelling as a result of the development.
- In terms of view impacts, the proposed height will not adversely affect views from private or public land.
- The proposed height non-compliance will not result in adverse privacy impacts. The proposed development has been designed to ensure adequate visual and acoustic privacy between the subject development and the adjoining properties.
- The design and height of the proposed development ensure that the proposal is compatible with the existing and anticipated future character of the area and provides for excellent internal amenity whilst also preserving external amenity to surrounding properties in a reasonable manner.

Despite the non-compliance, the proposal achieves the objectives of the development standard and the zoning, as demonstrated in the following table:

Consistency with the objectives of the E3 Environmental Management Zone in the LEP	
Objective	Comment
<i>To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.</i>	The proposed works to the existing dwelling and landscaped area continue to protect and manage the ecological, cultural and aesthetic value of the subject site.
<i>To provide for a limited range of development that does not have an adverse effect on those values.</i>	The proposed works to the existing dwelling and landscaped area will enhance the appearance and setting of the dwelling and it is not considered that the works will result in any unreasonable impacts on the ecological, cultural and aesthetic values of the zone.
<i>To protect tree canopies and provide for low impact residential uses that does not dominate the natural scenic qualities of the foreshore.</i>	The site accommodates a part 2 and 3 storey dwelling with associated boat shed and landscaping. The proposal will not alter that, such that the site will continue to accommodate a dwelling and facilities of similar size, scale and of the same land use. All significant vegetation wis to be retained, with additional plantings proposed. The proposed altered dwelling will not impact upon tree canopies, and will not

	dominate the natural scenic qualities of the foreshore.
<i>To ensure that development does not negatively impact on nearby, foreshores, significant geological features and bushland, including loss of natural vegetation.</i>	The proposal will not unreasonably impact upon the foreshore, geological features and bushland.
<i>To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate and minimise the impact of hard surfaces and associated pollutants in storm water run-off on the ecological characteristics of the locality, including water quality.</i>	The proposed development will not have a significant or unreasonable impact upon the storm water runoff of the subject site or locality.
<i>To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses</i>	The proposed development will not substantially change the approved height or bulk of the building, such that the dwelling will continue to be 3 storeys in scale.

Table 1: E3 Zone Objectives Assessment Table

Consistency with the objectives of the building height standard in the LEP	
Objectives	Assessment
<i>(a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality;</i>	<p>The proposed alterations and additions respond well to the height and architectural style of the approved existing residential dwelling. The proposed alterations to the roof form are entirely consistent with the current hip and gable roof.</p> <p>The overall top height of the dwelling is unchanged.</p> <p>The proposal includes significant landscaped works improving upon the landscaped setting of the dwelling and the aesthetic of the site from the water in Middle Harbour. The dwelling will not be visible from Battle Boulevard due to the topography and arrangement of existing buildings and landscaping at the site and adjacent sites.</p> <p>The proposal satisfies objective (a) of Clause 4.3.</p>
<i>(b) to control the bulk and scale of buildings,</i>	<p>The existing dwelling is a part 2 and part 3 storey scale building and the proposed alterations and additions will not alter this. The additions are of a scope that will not increase the bulk or visual massing of the dwelling in any meaningful way when viewed from public places or adjacent residential properties.</p>
<i>(c) to minimise disruption to the following—</i> <i>(i) views to nearby residential development from public spaces (including the harbour and foreshores),</i> <i>(ii) views from nearby residential development to public spaces (including the harbour and foreshores),</i> <i>(iii) views between public spaces (including the harbour and foreshores),</i>	<p>The existing dwelling is located in a manner, and the alterations and additions are relatively minimal, such that the proposed development will not adversely affect views to or from any private or public land.</p>

(d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,

the proposal will have no impact in terms of overshadowing on any adjacent dwelling (or their openings).

Any additional overshadowing of adjacent land is minimal (i.e. to the south east corner of the property to the west at 29 Battle Boulevard) and will not impact the primary private open space of that property in any discernible manner.

The proposal complies with Councils solar access controls.

(e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses."

The proposal seeks to improve the at the site with significant new plantings. The removal of several exotic trees is more than compensated for with the planting of new trees and vegetation including natives species.

The proposal will not result in the removal or damage to any significant bushland or environmental elements of significance at the site.

Table 2: Building Height Objectives Assessment Table

Based on the above assessment, it is considered that strict compliance with the LEP building height standard is unreasonable and unnecessary in this instance.

3.2.2 Would the underlying objective or purpose be defeated or thwarted if compliance was required?

The underlying objective or purpose of the development standard would not be defeated or thwarted if compliance was required.

3.2.3 Has the development standard been virtually abandoned or destroyed by the Council's own actions in departing from the standard?

It cannot be said that the height of buildings development standard has been abandoned.

3.2.4 Is the zoning of the land unreasonable or inappropriate?

The zoning of the land is reasonable and appropriate given the sites location.

3.3 Are there sufficient environmental planning grounds to justify contravening the development standard?

It is considered that there are sufficient environmental planning grounds to justify varying the building height development standard, which include:

- The proposal complies with the objectives of the development standard and the objectives of the E3 zone.
- Non-compliance with the standard does not contribute to adverse environmental, social, or economic impacts and does not give rise to unacceptable impacts associated with bulk and scale, overshadowing or privacy, rather the proposal will result in positive social and economic impacts.
- The variation to the development standard does not result in non-compliance with the other fundamental built form control applicable to development at the site, being the FSR development standard at Clause 4.4 of MLEP.
- The scale of the development is consistent with the scale of existing development in the locality.

- The proposed configuration of the alterations and additions respond to the environmental and planning objectives.
- The proposal provides a high-quality residential renovation that is appropriate to the site's location and its long standing residential land use.
- The non-compliant height is set towards the rear boundary where the topography falls relatively steeply. The non-compliant height will not be viewed from the street and will be relatively insignificant when viewed from adjacent properties, if it is viewed at all.
- The proposal does not seek to raise the overall top height of the existing dwelling.
- A reduction of the proposed building height would provide negligible benefits to the streetscape and adjacent properties, while significantly reducing the amenity of future occupants and users of the dwelling.
- The additional building height does not prevent the proposal from achieving the objectives of the building height standard and that of the E3 zone.

Based on the above assessment, it is considered that there are sufficient environmental planning grounds to permit the building height variation in this instance.

3.4 Is the proposed development in the public interest because it is consistent with the objectives of the particular standard and the objectives for development in the zone?

The above assessment demonstrates that the proposed height satisfies the objectives of the building height standard and the objectives of the E3 zone.

As detailed in Section 3.2.1 above, the proposal is considered to be in the public interest as it is consistent with the objectives of the E3 zone and the objectives of the Building Height development standard.

Furthermore, it is considered that the variation does not raise any matters of public interest as there are no public views impacted, overshadowing of public spaces or detrimental streetscape outcomes or foreshore area outcomes associated with the height variation.

The proposed development would not have an adverse impact on the environmental amenity and enjoyment of the adjoining properties with respect to privacy and solar access.

3.5 Whether contravention of the development standard raises any matter of significance for the State or regional Environmental Planning?

The proposed building height variation allows for the orderly and economic use of land as envisaged by the *Environmental Planning and Assessment Act, 1979*.

The contravention of the development standard in this case does not raise an issue of State or regional planning significance as it relates to local and contextual conditions.

Concurrence

The Secretary's concurrence under clause 4.6(4) of the LEP has been delegated to the Council by written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018. That concurrence may also be assumed by the Court pursuant to s39(6) of the Land and Environment Court Act.

3.6 Is there public benefit in maintaining the development standard?

There is no public benefit in maintaining the building height standard given the limited amenity and streetscape impacts associated with the development and the residential amenity benefits that would arise from the redevelopment of the subject site in the manner proposed.

3.7 *Is the objection well founded?*

There are no additional matters to consider beyond those discussed above.

Generally as to concurrence, for the reasons outlined above – and particularly having regard to the site specific nature of this clause 4.6 variation request – there is nothing about this proposed height variation that raises any matter of significance for State or regional environmental planning, nor is there any broad public benefit in maintaining the development standard on this site. There are no other relevant matters requested to be taken into consideration before granting concurrence.

4.0 Conclusion

The proposed variation is based on the reasons contained within this formal request for an exception to the standard.

The development will not result in unacceptable impacts with regard to the amenity of surrounding properties. The overall aesthetic appearance and scale of the development is compatible with the existing character of locality. The proposed density is compliant with the Council's development standard and the scale of the development part 2 and part 3 storeys, is consistent with the scale of the existing dwelling.

Contextually, the proposal will provide a development of a density, height and form that appropriately responds to the sites' location within a E3 Environmental Management Zone and the scale and height of adjacent residential development.

The additional height does not contribute to significant adverse amenity impacts by way of overshadowing or privacy impacts and does not result in a building that is out of proportion, scale or density with surrounding existing and anticipated development and does not have adverse impacts on environmental elements of the site or the locality.

The proposal includes significant landscaping which will enhance the landscape setting of the dwelling and its appreciation within the foreshore scenic protection area and when viewed from Middle Harbour.

A development strictly complying with the numerical standard would not significantly improve the amenity of surrounding land uses. In the context of the locality, it would be unreasonable for strict compliance to be enforced.

It has been demonstrated that the proposal will promote the social and economic welfare of the community and the overall development will have positive outcomes for the aesthetic of the locality.

The proposal does not represent an overdevelopment.

The non-compliance is not considered to result in any precedents for future development within the locality or broader LGA, given the site considerations and surrounding pattern of development.

It is concluded that the objection is well founded as compliance with the standard is both unnecessary and unreasonable.

ITEM 4.2

**REV2021/0015 - 89 WYADRA AVENUE, NORTH MANLY -
REVIEW OF DETERMINATION OF APPLICATION
DA2020/1684 FOR ALTERATIONS AND ADDITIONS TO A
GROUP HOME**

AUTHORISING MANAGER Anna Williams
TRIM FILE REF 2021/410292
ATTACHMENTS
1 Assessment Report
2 Site Plan & Elevations

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PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is a review of a determination or decision made by a local planning panel.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. REV2021/0015 for Review of Determination of Application DA2020/1684 for alterations and additions to a group home at Lot 46 DP 21576, 89 Wyadra Avenue, North Manly subject to the reasons set out in the Assessment Report.

REVIEW OF DETERMINATION ASSESSMENT REPORT

Application Number:	REV2021/0015
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Responsible Officer:	Clare Costanzo
Land to be developed (Address):	Lot 46 DP 21576, 89 Wyadra Avenue NORTH MANLY NSW 2100
Proposed Development:	Review of Determination of Application DA2020/1684 for alterations and additions to a group home
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Tom Michael Oates
Applicant:	Tom Michael Oates

Application Lodged:	28/04/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	04/05/2021 to 18/05/2021
Advertised:	Not Advertised
Submissions Received:	7
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 5,000.00
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EXECUTIVE SUMMARY

The subject application seeks a review of the determination of Development Application DA2020/1684 for alterations and additions to an existing group home that was approved via a Complying Development Certificate in accordance with State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH). The works include increasing the size of the balcony areas adjoining units 2,3,4 & 5, provision of additional planter boxes and privacy screens.

Development application DA2020/1684 was refused by the Northern Beaches Local Planning Panel on 7 April 2021 for the following reason:

- Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, cannot provide retrospective approval for existing unauthorised structure on the subject site.

The 'unauthorised structures' refer to concrete slabs approved in Complying Development Certificate (CDC2019/0461) as 'steel framed high tensile sheet metal roof'. The proposal relies on the concrete slabs for the balcony extension on the first and second floor.

The public exhibition of the review application resulted in seven (7) individual submissions being received. The primary issues raised in submissions relate to visual and acoustic amenity and building compliance. These matters are discussed in the "Public Notification" section of this report.

The Applicant provided engineering plans approved as part of the Final Occupation Certificate (FOC2020/0559) to suggest the concrete slabs have previously been approved. Council considers the Engineering Plans approve the 180mm concrete slab. The Complying Development Certificate (CDC) for the group home has been finalised by the Private Accredited Certifier, with a final occupation certificate issued. Accordingly, the Private Accredited Certifier was satisfied that the works carried out were in accordance with the CDC. This information satisfies the reason for refusal of DA2020/1684, Notwithstanding the resolution of the reason for refusal, the assessment of the review application finds that the proposal to be inconsistent with Warringah Development Control Plan 2011, particularly parts D2 Private Open Space and D8 Privacy and it is recommended that the application is refused.

PROPOSED DEVELOPMENT IN DETAIL

The review application seeks approval to DA2020/1684 which sought approval to an increase in the size of the balcony areas of Units 2,3,4 & 5 located on the first floor and second floor of the existing group home.

The proposed works also include the following:

- New privacy screen on the eastern elevation of Level 2
- New planter boxes, with an irrigation system, along the western elevation of Level 1 and Level 2

The review of determination comprises of the same works proposed in the original development application DA2020/1684.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral

to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;

- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Environmental Planning and Assessment Act 1979 - Section 8.3 - Environmental Planning and Assessment Act 1979 - Section 8.3

Warringah Development Control Plan - D2 Private Open Space

Warringah Development Control Plan - D3 Noise

Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 46 DP 21576 , 89 Wyadra Avenue NORTH MANLY NSW 2100
Detailed Site Description:	<p>The subject site consists of a corner allotment located on the northern side of Wyadra Avenue and the eastern side of Quilpie Street.</p> <p>The site is irregular in shape, with a size area of 543sqm. The frontage to Wyadra Avenue measures 13.005m, with 30.29m along Quilpie Street and a splay of 5.18m between Wyadra and Quilpie Street.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a three (3) storey permanent Group Home with vehicle access from Quilpie Street.</p> <p>The site has a slight slope being from the front of the site down to the rear.</p> <p>The site has a small amount of landscaping area to the front, and side boundaries including newly planted Olive trees in the north eastern area of the subject site.</p> <p>Adjoining and surrounding development is characterised by one and two storey dwelling houses, of varying ages, along Wyadra Avenue, Quilpie Street and Thomas Street.</p>

Map:



SITE HISTORY

A search of Council's records has revealed the following:

- Complying Development Certificate CDC2019/0406 for the demolition of the existing dwelling house and ancillary structures was received by Council on the 24 June 2019.
- Complying Development Certificate CDC2019/0461 for the construction of a three (3) storey dwelling for use as a group home was received by Council on the 12 July 2019.
- Final occupation certificate FOC2020/0559 for CDC2019/0461 for the construction of a three (3) storey dwelling for use as a group home was issued on the 9 December 2020.

The Development Application DA2020/1684 for alterations and additions to a group home, subject to this review of determination was refused by the Northern Beaches Local Planning Panel on 7 April 2021. The application was refused as the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority cannot provide retrospective approval for existing unauthorised structure on the subject site.

The photo below was taken on a site visit conducted on the 4 May 2021. The existing unauthorised structure referred to above is the concrete slab on the second level, as shown in Figure 1. From the site visit it was identified that the existing structure on site is a concrete slab and not a sheet metal roof as approved in the endorsed architectural plans.



Figure 1: Looking south east towards existing group home from Quilpie Street with the subject unauthorised structure outlined in red

CDC2019/0461 floor plan and sections indicate the concrete slab shown in Figure 1 as being a new steel framed high tensile sheet metal roof with a pitch of 1 degree (Figure 2 and 3).

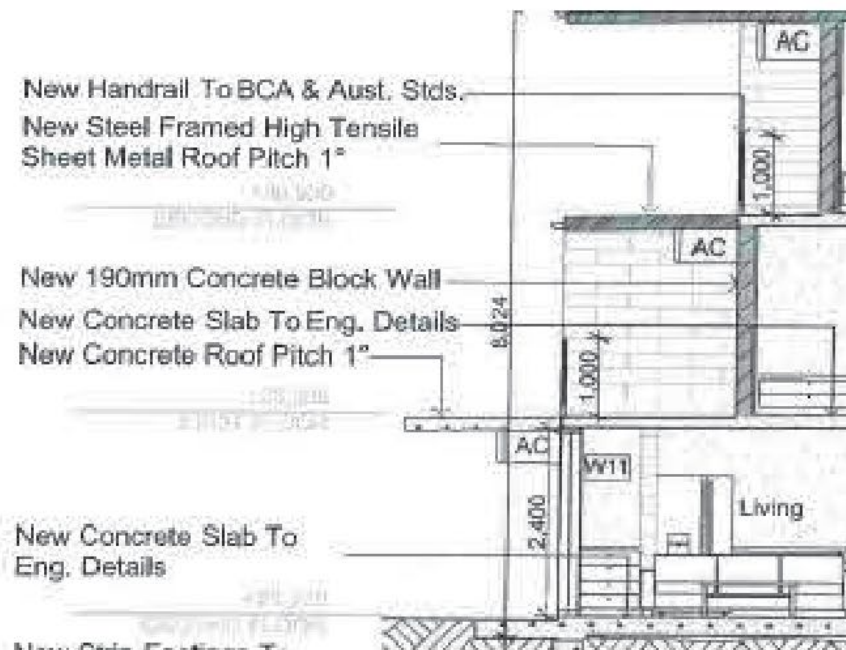


Figure 2: Extract of CDC2019/0461 approved Section 1 drawing no. CDC30000

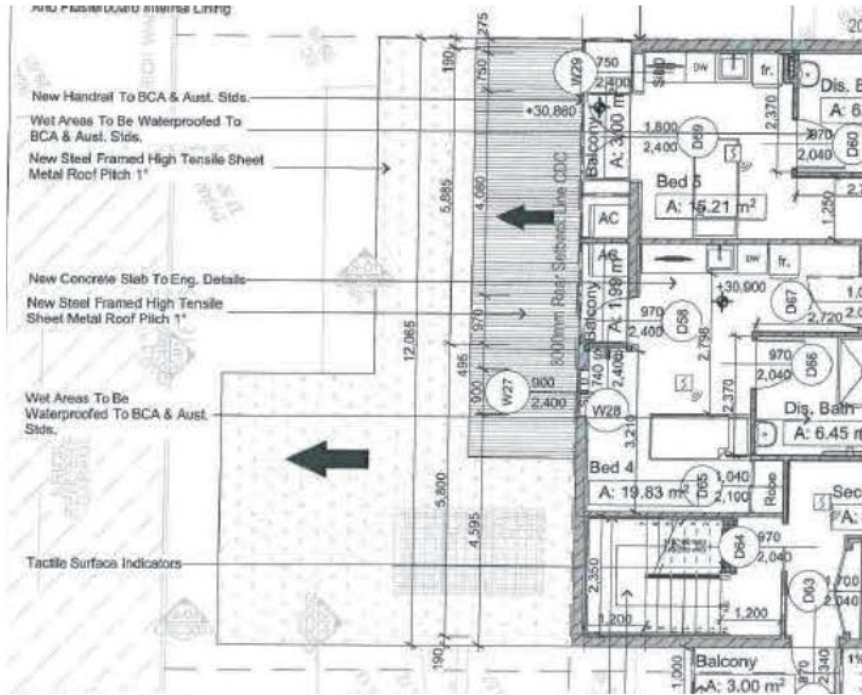


Figure 3: Extract of CDC2019/0461 approved second floor plan drawing no. CDC2003

The applicant as part of the review of determination application submitted annotated engineering plans approved as per Schedule 1 of CDC2019/0461 (Figure 4 and 5) to indicate the concrete slabs have been approved as part of the CDC.

The engineering plans approved in CDC2019/0461 indicate the subject unauthorised structure as a 180mm concrete slab.

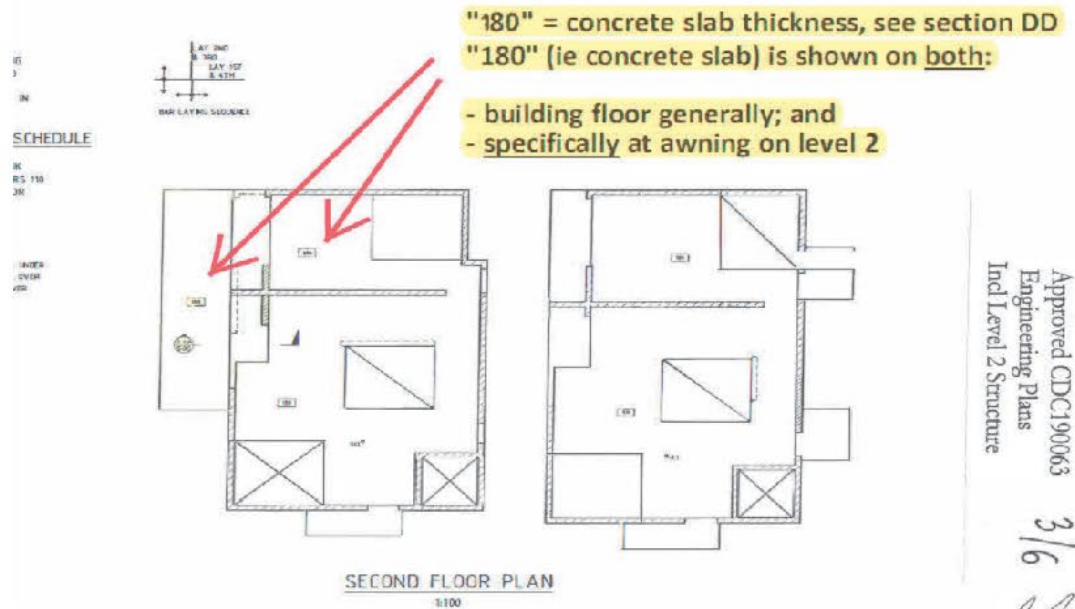


Figure 4: Approved CDC2019/0461 Engineering Plan No. S04 - Second Floor Plan with Applicant mark up

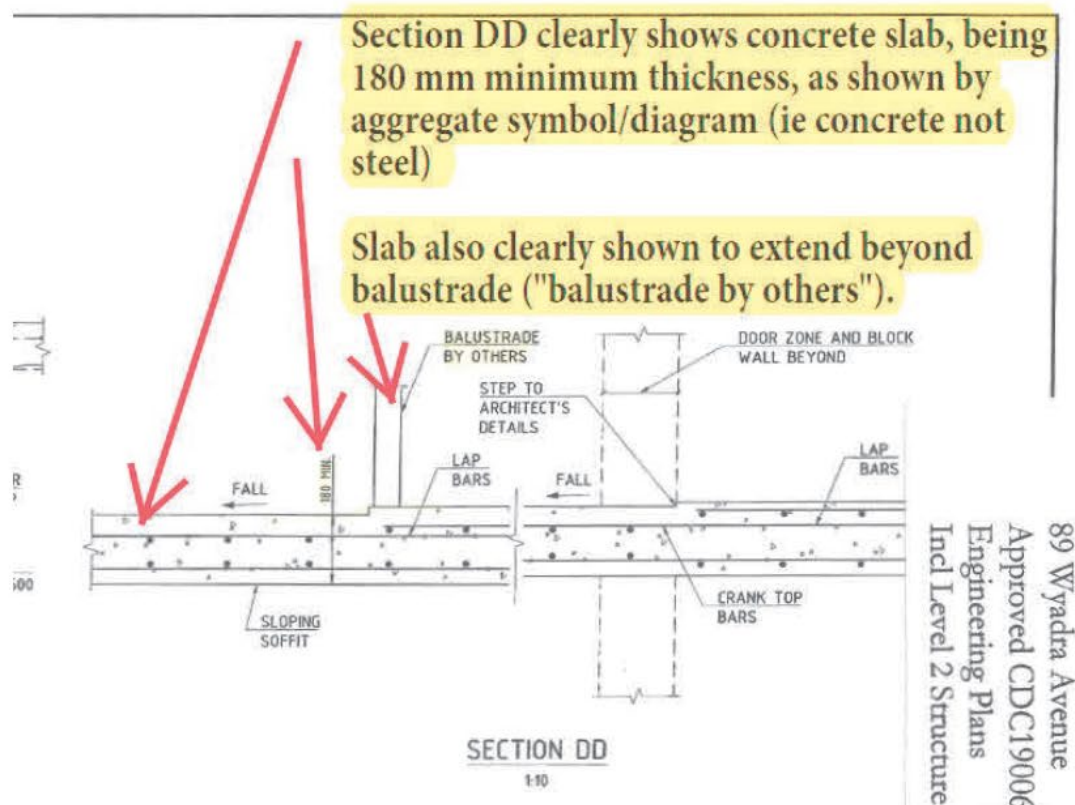


Figure 5: Approved CDC2019/0461 Engineering Plan No. S06 Section DD with Applicant mark up

Although there are some inconsistencies between the Architectural Plans and the Engineering Plans, both were submitted and approved as part of CDC2019/0461 by the Private Accredited Certifier dated 21 June 2019. It is noted only the subject Architectural Plans endorsed by CDC2019/0461 for the construction of the group home are stamped.

The Complying Development Certificate (CDC) for the group home has been finalised by the Private Accredited Certifier, and a final occupation certificate has been issued. As a result, the Private Accredited Certifier was satisfied that the works are in accordance with their approval.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

In accordance with Section 8.3 of the Act, an applicant may request Council to review a determination of a development application, other than for a complying development, integrated development, designated development or a determination made by Council in respect to an application by the Crown. The development application does not fall into any of these categories, therefore the applicant may request a review.

In accordance with Section 8.3 (2) of the Act, the request for the review must be made and determined within 6 months after the date of determination of the development application. The application was determined on 7 April 2021 and the notice of determination was issued on 16 April 2021. The review was lodged on 28 April 2021 and is to be considered by the Northern Beaches Local Planning Panel on 28 August 2021, which is within 6 months of the date of determination.

Section 8.3 (3) provides that the Council may review a determination if in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same as the development described in the original application.

The amendments to the proposal are outlined in the 'Detailed Description of Works' section of this report.

A review of the original and amended plans has found that there are fundamental similarities between the original and the amended design (being subject of the 8.3 review) and the nature of the intended land use remains the same. Accordingly it is concluded that the amended scheme is substantially the same as the original proposal. Accordingly, it is considered that the proposal satisfies the requirement of Section 8.3 (3) of the Act

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 04/05/2021 to 18/05/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 7 submission/s from:

Name:	Address:
Mr Timothy John Cutler	37 Thomas Street NORTH MANLY NSW 2100
Mr Maurice Denis Mandalinic	87 Wyadra Avenue NORTH MANLY NSW 2100
Mrs Josephine Esposito	33 Thomas Street NORTH MANLY NSW 2100
Georgia Esposito	33 Thomas Street NORTH MANLY NSW 2100
Andrew Esposito	33 Thomas Street NORTH MANLY NSW 2100
Chris Kinsela	31 Thomas Street NORTH MANLY NSW 2100
Mr Jason Robert Toshack Mrs Angela Letitia Toshack	91 Wyadra Avenue NORTH MANLY NSW 2100

The matters raised within the submissions are addressed as follows:

- Unauthorised works on site

Comment:

Concern has been raised that the existing built form is not in accordance with the approved Complying Development Certificate Plans, particularly the concrete roof areas adjoining Level 2.

The CDC Architectural plans note a sheet metal roof above the balconies servicing Unit 4 and 5. It is also noted the CDC Engineering plans note the same structure as being a 180mm concrete slab. It was identified on a site visit that the structure has been constructed as a concrete slab. The proposed works under this development application require concrete slabs in order to facilitate the balcony increases.

The Complying Development Certificate (CDC) for the group home has been finalised by the Private Accredited Certifier, and a final occupation certificate issued. As a result, the Private Accredited Certifier was satisfied that the works are in accordance with their approval.

There were also concerns raised in regard to the Applicant commencing works already. The works being referred to is the timber framing put up by the Applicant to depict where the proposed balconies would be. The Applicant will be required to remove the timber framing.

- Privacy

Comment:

Concern has been raised that the existing balconies of Unit 2, 3, 4, & 5 already look directly into their private open spaces. The proposed increase in balcony area and usage is considered to result in reduced residential amenity for the surrounding properties. Following refusal of the original application the Applicant has provided some privacy screening in an attempt to mitigate any privacy concerns. Whilst the privacy screening and planter boxes proposed by the Applicant will alleviate some privacy concerns it will not provide for a reasonable level of amenity to neighbouring sites directly to the north. Privacy is discussed further within this assessment report in section D8 Privacy.

- Noise

Comment:

Concern has been raised that the proposal will result in an increased level of adverse acoustic impacts. Given the residential nature of the group homes it is not considered the proposal would result in an unreasonable level of noise. Noise is discussed further within this assessment report

in section D3 Noise.

- Bulk and Scale

Comment:

Concern is raised that the proposal will contribute to the existing bulky form that is out of character with the surrounding low density residential dwelling houses.

The proposed group home is permissible within the R2 Low Density Residential Zone pursuant to the SEPP ARH. There are no exclusions applied to the location of group homes in areas where this form of development is permissible. Notwithstanding, these type of developments are required to provide a design which is compatible with the Schedule 2 SEPP requirements which dictates the bulk and scale. A final occupation certificate was issued on the 9 December 2020. As a result, the Private Accredited Certifier was satisfied that the works are in accordance with the required legislation.

The proposal is subject to the controls within the Warringah Local Environmental Plan 2011 (WLEP) and Warringah Development Control Plan 2011 (WDCP) in order to inform an appropriate built form. The built form of the existing group home is not subject to assessment under this application.

The proposal is not considered to result in any additional bulk or scale above that of the existing dwelling. However, it is not considered to protect the amenity of adjoining development, the character of the streetscape and creates further inconsistencies with the surrounding residential character. Accordingly, the review application is not supported. See D8 Privacy for further discussion.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	This application is for the minor alterations to an existing group home. Proposed alterations revolve around relocation of balustrades and configuration of planters and planting to provide greater privacy. Councils Landscape Referral section raises no objection to the proposal, subject to all proposed plant species being capable of reaching a minimum height of 1m at maturity.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

Division 7 Group Homes

'42 Definitions

(1) In this Division:

group home means a permanent group home or transitional group home.

permanent group home means a dwelling:

(a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and

(b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged,

but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.'

Comment:

The Group Home was approved via a Complying Development Certificate as per the requirements of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) with a final occupation certificate being issued on the 9 December 2020.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes

zone objectives of the LEP?	Yes
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Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	6.7m Second Floor (including balustrade)	-	Yes
		3.7m First Floor (including balustrade)	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	No walls proposed	-	-
B3 Side Boundary Envelope	5m	No encroachment	-	Yes
	5m	No encroachment	-	Yes
B5 Side Boundary Setbacks	0.9m - North	First Floor		
		4m Planter Boxes	-	Yes
		4.6m Balcony	-	Yes
	0.9m - East	Second Floor		
		6m Planter Boxes	-	Yes
		6.6m Balcony	-	Yes
B7 Front Boundary Setbacks	6.5m	First Floor		
		2.1m Planter Boxes	-	Yes
		2.7m Balcony	-	Yes
		Second Floor		
		2.1m Planter Boxes	-	Yes
		2.1m Privacy Screen	-	Yes
B7 Secondary Front Boundary Setbacks - Quilpie Street	3.5m	2.7m Balcony		
		No works proposed	-	Yes
		First Floor		
		5.6m Planter Boxes	-	Yes
		6.2m Balcony	-	Yes
		Second Floor		
		6.2 Planter Boxes	-	Yes

		6.8 Balcony		
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	23.5% existing (no change)	-	-

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
C4 Stormwater	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D2 Private Open Space	No	No
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	No	No
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D20 Safety and Security	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

D2 Private Open Space

Description of non-compliance

The application the subject of the review seeks to increase the size of allocated private open space areas for Unit 2,3,4 and 5 through the extension of existing approved balconies on the first and second level. The subject balconies are located along the northern elevation of the northern building and directly overlook into the rear yards and living areas of No. 33 and No. 35 Thomas Street. There are also concerns in regard to overlooking into the rear yards and living areas from the adjoining property at No. 87 Wyadra Avenue to the east and No. 37 Thomas Street and No. 91 Wyadra Avenue to the west.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To ensure that all residential development is provided with functional, well located areas of private open space.*

Comment:

Individual private open spaces are not required under SEPP ARH, however the group home design has provided a number of areas for this purpose on the ground level of the group home. Private open space is currently provided directly to the north of each communal ground level kitchen and living in the form of a landscaped open space. The proposal seeks to increase the existing balconies to Unit 2,3,4 and 5 and provide for planter boxes and privacy screening to mitigate any privacy concerns.

The proposed private open space is not appropriately located given the height of the existing building and the extensive overlooking into the private open space and living areas of sites directly to the north along Thomas Street.

- *To ensure that private open space is integrated with, and directly accessible from, the living area of dwellings.*

Comment:

There is no change to the existing location of the private open space areas directly adjoining the main living areas of each unit.

- *To minimise any adverse impact of private open space on adjoining buildings and their associated private open spaces.*

Comment:

The proposed private open space is not appropriately located given the height of the existing building and the extensive overlooking into the private open space and living areas of sites directly to the north along Thomas Street. Privacy screening has only been proposed along the existing portion of the balcony along the eastern elevation. Privacy screening, glazed balustrades and planter boxes are not considered to provide for a reasonable level of privacy for the adjoining properties, particularly No. 33 and No. 35 Thomas Street directly to the north of the site.

- *To ensure that private open space receives sufficient solar access and privacy.*

Comment:

The private open spaces are orientated towards the north and will continue to receive adequate solar access.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDOP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D3 Noise

Merit consideration

The proposal provides for the increase in the size of the balconies of Units 2, 3, 4 and 5. There has been concerns raised by a number of adjoining sites in regard to the acoustic amenity and the lack of acoustic protection.

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The proposed design of the balconies is not considered to have an unreasonable level of acoustic impacts above that already experienced. The design includes some privacy screening and planter boxes that will mitigate noise emissions.

- *To ensure that noise emission does not unreasonably diminish the amenity of the area or result in noise intrusion which would be unreasonable for occupants, users or visitors.*

Comment:

The site is within a residential area and is surrounded by one and two storey residential dwellings. The residential nature of the group home is not expected to result in any unreasonable noise impacts.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979.

D8 Privacy

Merit consideration

The development provides for the extension of existing approved balconies of Unit 2,3, 4 and 5. Given the height and orientation of the existing and proposed balcony extension there is direct overlooking towards neighbouring sites and their private open spaces and living areas. The direct privacy impacts can be seen in the photos below.



Photo 1: View lines from No. 87 Wyadra Avenue privacy open space towards existing balconies.



Photo 2: View lines from No. 35 Thomas Street private open space to existing balconies.



Photo 3: View lines from No. 33 Thomas Street private open space to the existing balconies.



Photo 4: View lines from No. 37 Thomas Street private open space to existing balconies.



Photo 5: Overlooking from the existing balconies of Unit 5 into No. 87 Wyadra Avenue private open space.



Photo 6: Overlooking from the existing balcony of Unit 5 into No. 33 and No. 35 Thomas Street private open space.

As a result of the elevated nature of the balconies and the increase in size there is increased potential for an unreasonable level of overlooking and privacy impacts.

The development is considered against the underlying Objectives of the Control as follows:

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

Comment:

The proposal comprises of an extension to existing balconies that currently directly overlook the private open spaces of adjoining sites. The balconies have been designed for use as additional private open space for sitting and standing of residents and visitors.

The neighbouring properties already experience direct overlooking from the existing balconies as a result of the height and scale of the existing building. The character of the surrounding locality is mostly one and two storey dwelling houses. The three storey nature of the group home results in significant overlooking and privacy concerns for surrounding dwellings. The proposed extension to the existing balconies will result in increased overlooking and a reasonable level of privacy will not be maintained for the properties directly to the north of the site. Privacy screening along the eastern and western elevations of the balconies would alleviate some privacy concerns but not to a level that is acceptable by Council in this particular circumstance. The photos below depict the extent of the overlooking. The Applicant had constructed a timber frame prior to the site visit to show where the proposed screening would be located.



Photo 7: Overlooking from Unit 5 into No. 33 Thomas Street private open space



Photo 8: Overlooking from Unit 4 into No. 37 Thomas Street and No. 97 Wyadra Avenue private open space



Photo 9: Overlooking from Unit 3 into No. 35 and No. 33 Thomas Street private open space

It can be seen from the photos above that the proposed balcony extension, particularly on the second floor will result in additional and an unreasonable level of overlooking towards the properties directly to the north.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The proposed balcony extension seeks to provide privacy screening and planter boxes to enable privacy between dwellings. The privacy screening will alleviate privacy concerns for properties directly to the east and west, however will have potential for increased overlooking towards properties to the north of the site.

- *To provide personal and property security for occupants and visitors.*

Comment:

The proposal would maintain existing level of personal and property security for occupants and visitors, with direct views towards Quilpie Street maintained.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported on privacy grounds.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

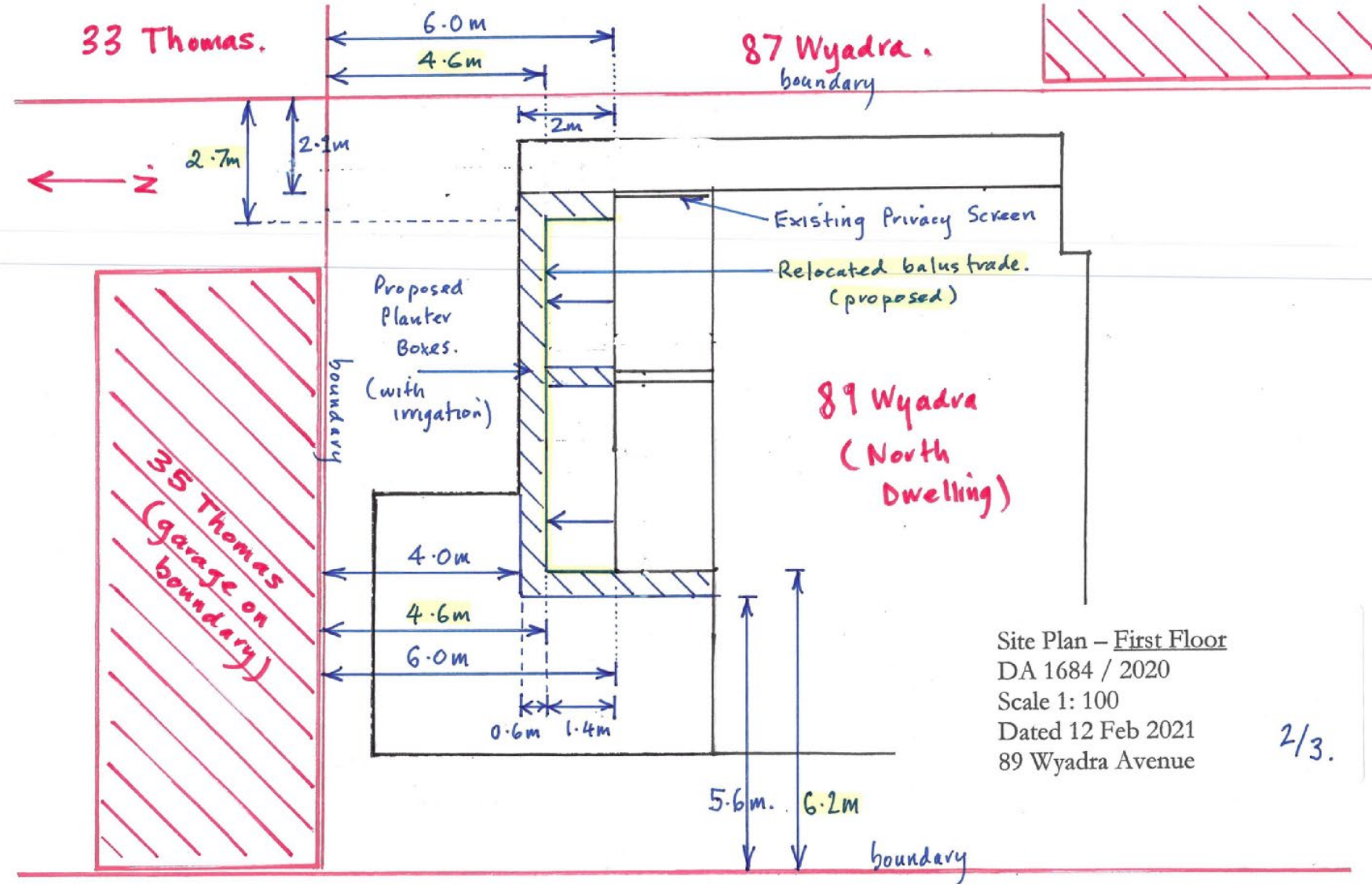
It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed. Whilst information has been submitted to satisfy the reason for refusal of DA2020/1684, the assessment of the section 8.2 review application finds that the proposal development is inconsistent with Warringah Development Control Plan 2011, particularly parts D2 Private Open Space and D8 Privacy. Accordingly, the review application is not supported.

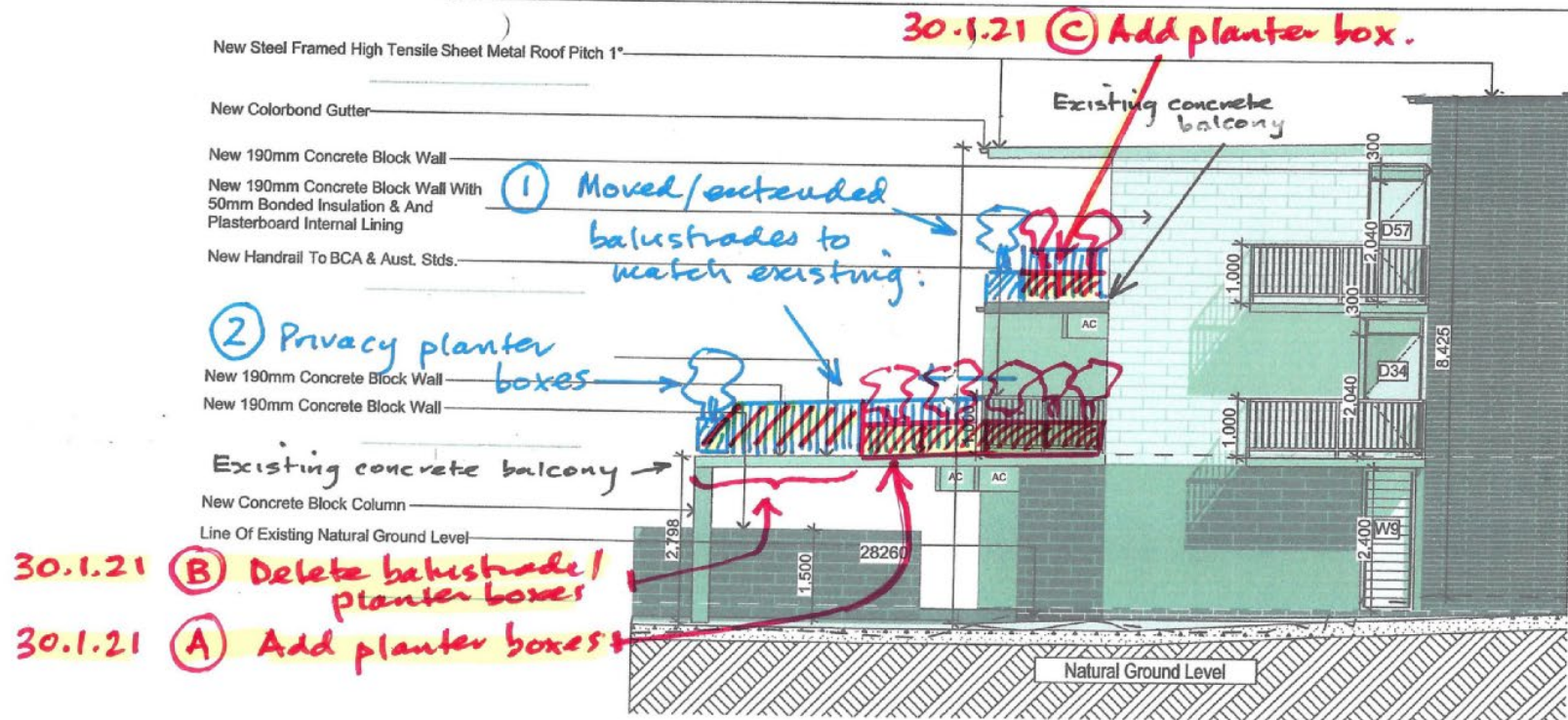
It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council , as the consent authority REFUSE Development Consent to Development Application No REV2021/0015 for the Review of Determination of Application DA2020/1684 for alterations and additions to a group home on land at Lot 46 DP 21576,89 Wyadra Avenue, NORTH MANLY, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D2 Private Open Space of the Warringah Development Control Plan.
2. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D8 Privacy of the Warringah Development Control Plan.

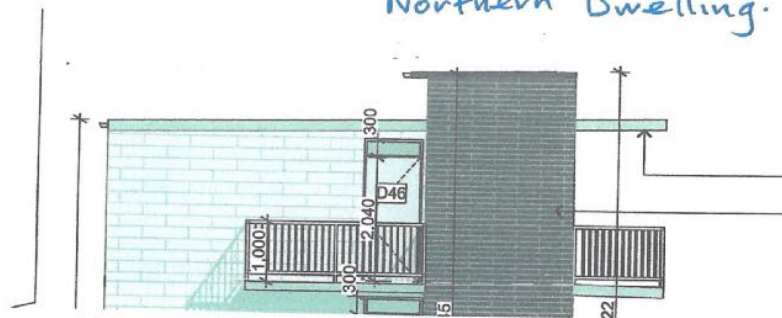




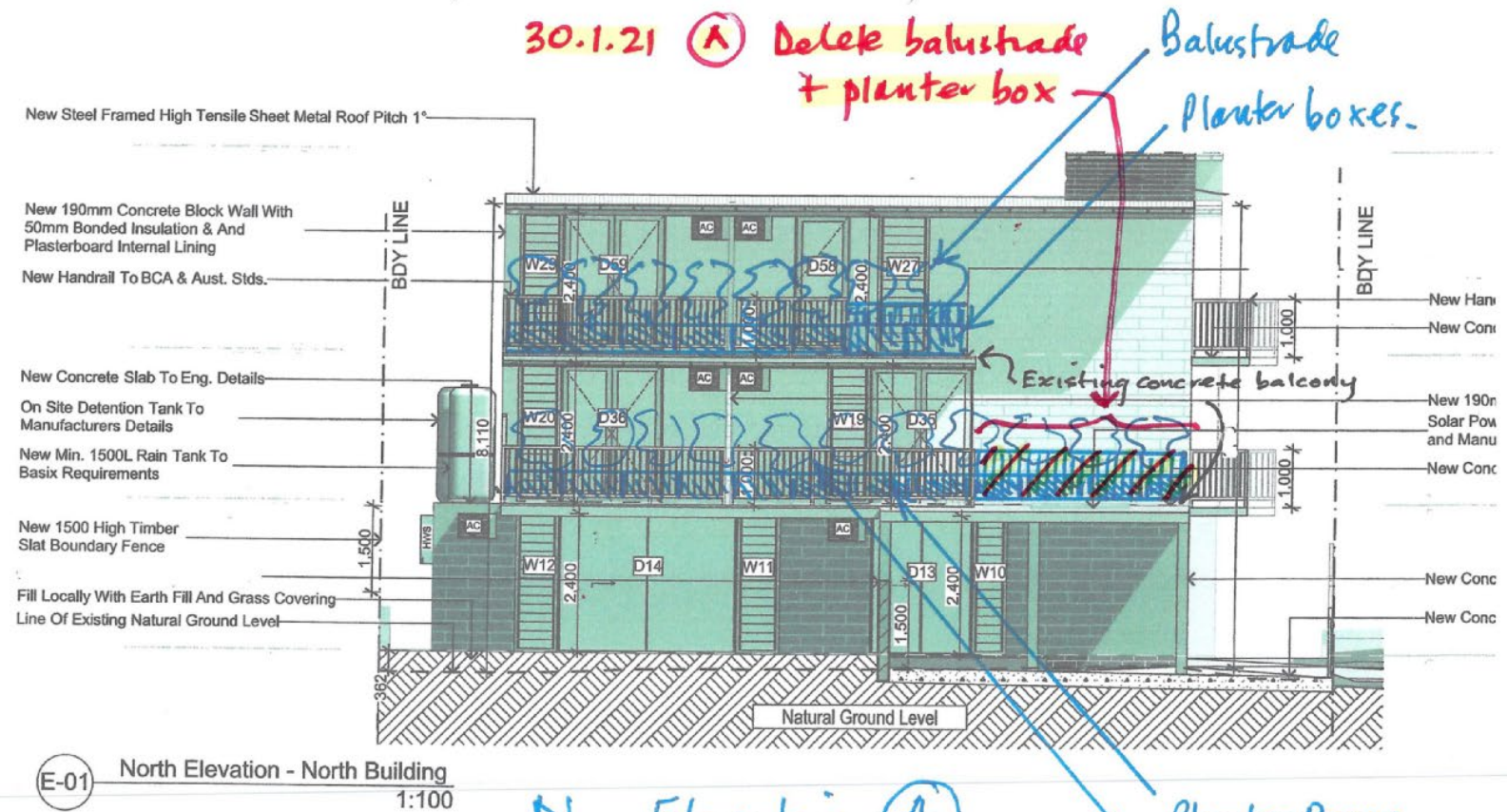
E-04

West
1:100

W. Elevation. ③
Northern Dwelling.



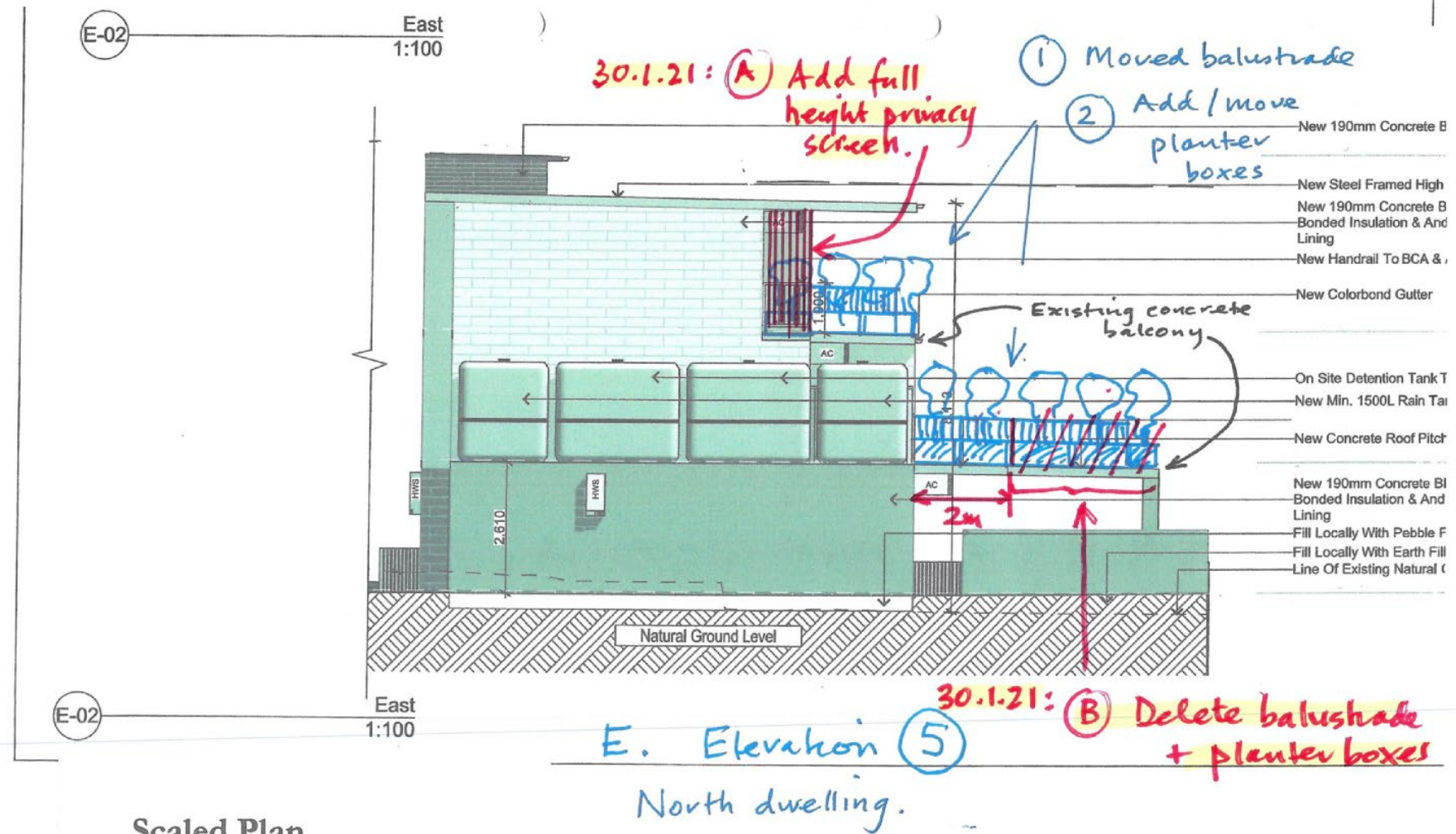
Scaled Plan
1: 100



N. Elevation (A)
Northern Dwelling.

Planter Boxes
Relocated
Balustrade
Behind.

Scaled Plan
1: 100



Scaled Plan
1: 100