

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2022/0353
Responsible Officer:	Adam Susko
Land to be developed (Address):	Lot 86 DP 20077, 22 Frenchs Forest Road East FRENCHS FOREST NSW 2086
Proposed Development:	Modification of Development Consent DA2018/1598 granted for Demolition Works and Construction of a Boarding House with basement car park
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes, under State Environmental Planning Policy (Affordable Rental Housing) 2009
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Twingly Investments Pty Ltd Torvald Pty Ltd
Applicant:	Alexius Chan

Application Lodged:	20/07/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	01/08/2022 to 15/08/2022
Advertised:	01/08/2022
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

This Modification Application has been made pursuant to Section 4.56 of the Environmental Planning and Assessment Act 1979 and seeks to amend the approved development under DA2018/1598.

The modifications seek physical changes to the approved development which necessitates the corresponding change to Condition 1 (Approved Plans and Supporting Documentation) of the consent.

The Statement of Environmental Effects and architectural plans detail that the changes proposed include:

- Relocation of the garbage room.
- Reduction in deep soil area by 6.9m².
- Storage areas and bicycle racks added to basement.
- Gate added to driveway and to fire stairs coming from the basement. Reconfiguration of stairs.
- Balconies added to Level 1 with new and / or enlarged sliding doors.
- Addition of a pergola over the Level 1 balconies.
- Internal layout rationalisation.
- Facade amendments including material, windows and balustrade.

Generally, the proposal seeks to refine the approved design without adding additional density, height or building mass.

Herein this report these changes are described as the 'modifications'.

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 4.56 - Environmental Planning and Assessment Act 1979 - Section 4.56 - with S4.15 Assessment
Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting

SITE DESCRIPTION

Property Description:	Lot 86 DP 20077 , 22 Frenchs Forest Road East FRENCHS FOREST NSW 2086
Detailed Site Description:	The subject site is a corner allotment bound by Frenchs Forest Road East to the south, Patanga Road to the east, a doctors surgery to the west and a public park to the north.

The site falls within the R2 Low Density Residential zone pursuant to the Warringah Local Environmental Plan 2011.

The site is generally rectangular with a small chamfer to the south-eastern edge to cater for the curvature of the road. Generally the site has a north-south length of 39m and an east-west depth of 18.5m, equating to an overall surveyed area of 721.7m².

The site presently accommodates a single storey cottage and vegetation interspersed throughout.

Map:



SITE HISTORY

Development Application DA2018/1598

DA2018/1598 was lodged with Council on 28 September 2018 and sought consent for demolition works and the construction of a two storey boarding house over one level of basement car parking. On 17 December 2018 the applicant lodged a Class 1 *Deemed Refusal* appeal to the NSW Land and Environment Court (case: 2018/00387752).

The application was ultimately approved via the Court of 24 September 2019, subject to four deferred commencement conditions pertaining to stormwater drainage easements and design, the relocation of a bus stop, and signage and line marking on the public road.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2018/1598, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.56 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.56- Other Modifications	Comments
(1) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2018/1598.
(b) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.
(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and	Written notices of this application have been sent to the last address known to Council of the objectors or other persons who made a submission in respect of DA2018/1598.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Assessment

In accordance with Section 4.56 of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of 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	There are no current draft environmental planning instruments.
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)	<p><u>Part 2, Division 4</u> of the EP&A Regulation 2021 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</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) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah/ Manly / Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) 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

Section 4.15 'Matters for Consideration'	Comments
	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 01/08/2022 to 15/08/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Grgo Matana	6 Inverness Avenue FRENCHS FOREST NSW 2086

A submission was received which reads:

"It would be much better if the whole area bound between Frenchs Forest Road East Frenchs Forest and Iris Street is rezoned to accommodate medium density instead of "boarding houses" and/or share houses popping up."

The boarding house on the site is approved and a reconsideration of the land use is not available under the mechanism of Section 4.55 / Section 4.56 of the Environmental Planning and Assessment Act 1979.

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>Supported, without additional conditions</p> <p>Environmental Health have been requested to consider this proposal for "Modification of Development Consent DA2018/1598 granted for Demolition Works and Construction of a Boarding House with</p>

Internal Referral Body	Comments
	<p>basement car park".</p> <p>The proposal is for alteration or further inclusion of a number of internal and external building elements which do not affect Environmental Health's original initial support for the development</p>
Landscape Officer	<p>Supported, with conditions An amended Landscape Plan prepared by Conzept Landscape Architects is noted.</p> <p>The proposed amendments result in additional large tree planting in the front setback to Frenchs Forest Rd East due to relocation of the bin store. Some reduction in planting results from the new bin store location fronting Patanga Road, however allowance has still been made for hedge planting to 2m, which is considered adequate. Tree planting is still maintained forward of rooms 4, 5 and 6 facing Patanga Road. Mixed screen planting is provided along the southern boundary in front of rooms 1, 7 and 8.</p> <p>No objections are raised to the modification with regard to landscape issues.</p> <p>In addition to Condition 1 needing to be updated to reflect amended plans, if the proposal is to be approved, Condition 37 of the current consent also requires amendment to reflect the current landscape Plans.</p> <p>Condition 37 currently reads:</p> <p>37. Required Planting <i>i) Trees shrubs and groundcovers shall be planted in accordance with the Landscape Plan Dwg No. LPDA 18-2542 Rev. F dated 11.07.19 prepared by Conzept Landscape Architects.</i> <i>ii) Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate. Reason: To maintain environmental amenity.</i></p>
NECC (Development Engineering)	<p>Supported, without additional conditions The modification application has no amendment on on-site stormwater. Development Engineering has no objection to the application. No additional condition is required.</p>
Traffic Engineer	<p>Supported, no additional conditions</p> <p>The applicant is requesting to modify the approved Development Consent (DA2018/1598) for 22 Frenchs Forest Road East, Frenchs Forest.</p> <p>From the perspective of Traffic Engineering, very minor changes have been proposed with minimal to no further impact to the local traffic network when compared to the current Development Consent.</p> <p>the only change in relation to traffic engineering is the addition of</p>

Internal Referral Body	Comments
	bicycle racks in the basement which is a welcome addition to promote active transport.
Waste Officer	<p>Waste Management Assessment Recommendation - Acceptable, subject to conditions.</p> <p>This proposal includes substantial changes to the storage facilities within the property. The size and location of the new bin room and bulky goods room both comply with Council requirements.</p> <p>The door of the binroom is not compliant and I have provided a special condition of consent to have the door modified - "Access Door for Bin Storage Room".</p> <p>Ray Creer Waste Services Officer</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>Supported, with conditions</p> <p>The proposal was referred to Ausgrid who raised no objections to the development, subject to specific recommendations. Those recommendations already exist in the parent DA2018/1598 at Condition 2 (Compliance with Other Department, Authority or Service Requirements) and therefore, for the purpose of this modification application, need not be repeated.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs 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 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 (Affordable Rental Housing) 2009

The extent of changes sought under this modification application does not alter the developments compliance when measured under the applicable assessment criteria of the Affordable Rental Housing SEPP. To that extent, no further assessment of those criterion is necessitated by the application.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1042483M_02 dated 3 June 2022).

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

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	"Concessional target pass"
Energy	45	45

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Housing) 2021

The Housing SEPP is not applicable to this modification application, as the parent consent was approved under the provisions of the Affordable Rental Housing SEPP.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 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 raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Warringah Local Environmental Plan 2011

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

Development Standard	Requirement	Approved	Proposed	Complies
Height of Buildings:	8.5m	7.3m	7.3m	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.3 Development near zone boundaries	
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes
6.11 Affordable housing	N/A

Detailed Assessment

Zone R2 Low Density Residential

The parent development application was approved under the provisions of the (now repealed) State Environmental Planning Policy (Affordable Rental Housing) 2009. At that time 'Boarding House' were also permitted with consent under the Warringah Local Environmental Plan 2011 in the R2 Low Density Residential zone. Such a land use is now prohibited.

Therefore, as the parent DA was lawfully approved under the correct planning instrument at the time of determination, the modification of that DA is possible notwithstanding the prohibition of the land use under current instruments.

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	7.2m	No change	Yes
B3 Side Boundary Envelope	North - 4m	No encroachment	No change	Yes
	West - 4m	Minor encroachment	No change	Yes
B5 Side Boundary	North - 0.9m	5.9m	No change	Yes

Setbacks	West - 0.9m	2-3m (building) and nil (basement)	No change	Yes
B7 Front Boundary Setbacks	South - 6.5m	6.5m (facade) and 5.6m (bay window)	6.5m (facade) and 5.4m (balcony)	No
B7 Secondary Front Boundary Setbacks	East - 3.5m	3.5m (building) and 2m (basement)	3.5m (facade) and 2.3m (balcony)	No
D1 Landscaped Open Space and Bushland Setting	40% (288.68m ²)	37.8% (272.8m ²)	37% (267m²)	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	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	No	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
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

B7 Front Boundary Setbacks

Description of non-compliance

Being a corner allotment, the site is assessed as having two front setbacks and no rear setback. The southern setback to Frenchs Forest Road is assessed as the 'primary' setback (being the street address) and requires a setback of 6.5m, and the eastern setback to Patanga Road is the 'secondary' setback, required to be 3.5m.

The modifications do not seek to alter the setbacks of the exterior of the building, however the addition of new balconies to those exterior facades now results in variations to the front boundary setback requirements.

The application proposes balconies with a minimum setback of 5.4m to the southern boundary, and 2.3m to the eastern boundary - both of which vary the control requirements.

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:

Commensurate to the approved development, the addition of balconies to the facade of the building is considered to enhance a sense of openness, insofar as the building frontages will now be activated and able to be used rather than being solid brick walls.

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

Comment:

The two street frontages in question have an eclectic array of setbacks and built elements close to boundaries. The variations proposed are not considered vastly incongruent with what exists on nearby sites, and does not detract from the established pattern of buildings.

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

Comment:

For the reason described above (i.e., activated street frontage) the modifications are found to enhance the visual quality of the streetscape.

- *To achieve reasonable view sharing.*

Comment:

The variations sought do not give rise to any adverse view loss issues from the public or private domain.

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.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The modifications seek to reduce the available areas of landscaping on-site by 12.8m² thereby falling deficient of the requirement that 40% of the site area be landscaped open space.

Merit consideration

With regard to the consideration for a 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 loss of landscaping does not result in the loss of existing vegetation nor the ability to enhance the streetscape.

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

Comment:

The modified landscaped area is not considered detrimental to such an extent that it would jeopardise existing vegetation, topical features or habitats for wildlife.

- *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:

Achieved.

- *To enhance privacy between buildings.*

Comment:

The modifications do not alter the relationships between buildings already established by the approved development.

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

Comment:

Achieved.

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

Comment:

Achieved.

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

Comment:

Achieved.

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.

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 2022

Section 7.12 contributions were levied on the Development 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 2021;
- 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

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

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2022/0353 for Modification of Development Consent DA2018/1598 granted for Demolition Works and Construction of a Boarding House with basement car park on land at Lot 86 DP 20077,22 Frenchs Forest Road East, FRENCHS FOREST, subject to the conditions printed below:

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

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

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A-050 Rev. 01 - Demolition + Site Management Plan	17 May 2022	BKA Architecture
A-100 Rev. 01 - Basement	17 May 2022	BKA Architecture
A-101 Rev. 01 - Ground Floor Plan	17 May 2022	BKA Architecture
A-102 Rev. 01 - Level 1 Floorplan	17 May 2022	BKA Architecture
A-103 Rev. 01 - Roof Plan	17 May 2022	BKA Architecture
A-200 Rev. 01 - Elevations Sheet 1	17 May 2022	BKA Architecture

A-201 Rev. 01 - Elevations Sheet 2	17 May 2022	BKA Architecture
A-300 Rev. 01 - Sections	17 May 2022	BKA Architecture
A-450 Rev. 01 - Finishes Board	17 May 2022	BKA Architecture
A-800 Rev. 01 - Waste Management Plan	17 May 2022	BKA Architecture

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Access Design Assessment Report (ref: P218_051-6(Access)KG)	7 June 2022	Design Confidence
BASIX Certificate no. 1042472M_02	3 June 2022	EPS
BCA Design Assessment Report (ref: P218_051-6 (BCA)JR)	10 June 2022	Design Confidence

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
LPS4.56 18-254 Rev. G - Landscape Plan	9 May 2022	Conzept Landscape Architects
LPS4.56 18-254 Rev. G - Specification & Detail	9 May 2022	Conzept Landscape Architects

Waste Management Plan		
Report Title	Dated	Prepared By
Waste Management Plan (ref: 22100)	May 2022	Dickens Solutions Pty Ltd

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

B. Add Condition 18A - Access to Bin Room - to read as follows:

Prior to the issue of a Construction Certificate, the plans must be amended so that the door to the bin room opens outwards and away from the direction of travel when taking the bins to be emptied. The door to the bin room must be able to be latched in an open position.

Reason: To prevent obstructing waste collection staff when servicing bins.

C. Modify Condition 37 - Required Planting - to read as follows:

i) Trees shrubs and groundcovers shall be planted in accordance with the Landscape Plan Dwg No. LPS4.56 18-254 Rev. G and LPS4.56 18-254 Rev. G dated 9 May 2022, prepared by Konzept Landscape Architects.

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

Reason: To maintain environmental amenity.

D. Add Condition 40A - Garbage and Recycling Facilities - to read as follows:

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.

E. Add Condition 40B - Waste / Recycling Compliance Documentation - to read as follows:

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

F. Add Condition 40C - Positive Covenant for Council and Contractor Indemnity - to read as follows:

A positive covenant shall be created on the title of the land prior to the issue of any 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.

G. Add Condition 40D - Authorisation of Legal Documentation Required for Waste Services - to read as follows:

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.

H. Add Condition 40E - Waste and Recycling Facilities Certificate of Compliance - to read as follows:

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 Occupation Certificate.

Reason: To ensure waste and recycling facilities are provided.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Adam Susko, Principal Planner

The application is determined on 20/10/2022, under the delegated authority of:



Steven Findlay, Manager Development Assessments