

**SYDNEY NORTH PLANNING PANEL  
COUNCIL ASSESSMENT REPORT**

<b>Panel Reference</b>	PPSSNH-332
<b>DA Number</b>	Mod2022/0289
<b>LGA</b>	Northern Beaches
<b>Proposed Development</b>	Modification of Development Consent DA2018/1654 granted for Demolition works and Construction of a new aged care facility including underground parking
<b>Street Address</b>	Lot 3 DP 805710 No. 181 Forest Way, Belrose
<b>Applicant/Owner</b>	Regis Aged Care Pty Ltd
<b>Date of DA lodgement</b>	27/06/2022
<b>Number of Submissions</b>	2
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021</b>	4.56 modification application to a development that has a capital investment value of more than \$30 million.
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Housing) 2021</li> <li>• SEPP (Transport and Infrastructure) 2021</li> <li>• State Environmental Planning Policy (Biodiversity and Conservation)</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• Warringah Local Environmental Plan 2000 - Locality: B2 Oxford Falls Valley</li> <li>• Warringah DCP 2000</li> <li>• Relevant Environmental Planning and Assessment Regulations</li> </ul>
<b>Locality</b>	B2 Oxford Falls Valley
<b>Category of Development under WLEP 2000</b>	Category 2 – Housing for older people or people with disabilities
<b>Integrated Development</b>	Yes
<b>Estimated Cost of Works</b>	Parent DA - \$32,596,460.00 Additional work associated with S4.56 - \$357,060.00 Revised cost at lodgement of 4.56 modification application - \$38,081,870.00
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Plans</li> <li>• Statement of Modification</li> <li>• Traffic Report</li> </ul>
<b>Summary of submissions</b>	<ul style="list-style-type: none"> <li>• Additional parking</li> <li>• Spa and hairdresser</li> <li>• Fencing</li> <li>• Construction storage</li> <li>• Traffic</li> <li>• Noise</li> <li>• Light pollution</li> </ul>

<b>Report prepared by</b>	Peter Robinson Acting Director, Planning and Place
<b>Responsible Officer</b>	Kye Miles, Planner
<b>Report date</b>	30 March 2023

#### **Summary of s4.15 matters**

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

#### **Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report? **Yes**

#### **Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **No, Modification Application**

#### **Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**

#### **Conditions**

Have draft conditions been provided to the applicant for comment? **Yes**

## **MODIFICATION APPLICATION ASSESSMENT REPORT**

### **EXECUTIVE SUMMARY**

Northern Beaches Council is in receipt of Modification Application No. Mod2022/0289, which seeks to modify development consent no. DA2018/1654 granted for Demolition works and Construction of a new aged care facility including underground parking at Lot 3 DP 805710 No. 181 Forest Way, Belrose.

The application has been referred to the Sydney North Planning Panel for determination, as the cost of works (CIV) of the original design was greater than \$30 million. The development as amended has a CIV of \$38 million.

The application is made pursuant to Warringah Local Environmental Plan 2000 and is within the “*Deferred Lands*” under Warringah Local Environmental Plan 2000. The site is within the B2 Oxford Falls Valley Locality. The seniors housing provisions within WLEP 2000 are contained in Clause 29, Clause 40 and Schedule 16. These have been addressed in the report.

The site is nominated bushfire prone and slopes down by 37 metres over the length of the site. The portion to be developed is the western half, closest to Forest Way, that currently contains a dwelling, lawn areas and canopy trees. The more heavily vegetated eastern half is to remain undeveloped.

The application was referred to the NSW RFS for consultation as the original development was integrated development. The NSW RFS issued a bush fire safety authority, subject to recommended conditions. In addition, the application was referred to Transport for NSW (TfNSW) for consultation as the original development was integrated development. TfNSW raised no objections to the proposed modifications, subject to recommended conditions.

The public exhibition and notification of the proposal generated two (2) submissions which raised concerns regarding additional parking, the provision of a spa and hairdresser, increased noise, construction storage, traffic, light pollution, and fencing. These concerns have been addressed within the report.

The development to be modified seeks to extend further into the front building line and breaches the setback controls that are prescribed by the B2 Oxford Falls locality statement of the WLEP 2000. However, the proposed encroachment within the front setback is recommended to be deleted to ensure an acceptable level of landscape amenity along the subject site's frontage is achieved, with that of the approved DA.

The modified proposal, subject of recommended conditions, is considered to be consistent with the approved built form, and is found to maintain a good level of internal amenity for occupants and neighbours alike.

This assessment concludes that the modified development, subject to recommended conditions, is well designed, appropriately proportioned and will sit within an appropriate landscape setting.

Accordingly, it is recommended that the Sydney North Planning Panel, as the determining authority, approve the application subject to the conditions attached.

## **PROPOSED DEVELOPMENT**

This Section 4.56 Modification Application seeks to amend Development Consent no. DA2018/1654 granted by the NSW Land and Environment Court for demolition works and the construction of an aged care facility atop of basement parking (*Chriroseph Pty Ltd v Northern Beaches Council [2020] NSWLEC 1502* dated 22 October 2022).

The modifications involve the refinement of the approved development and does not entail any increase in density, building footprint, or height. The modifications largely involve changes to the internal layout and the external parking area at ground level. In addition, revised building identification signage is proposed on the approved front boundary wall.

The Statement of Modification details that the application includes the following changes:

### ***Plan modifications***

#### ***Site plan***

- *S1. 4 x Additional parking added incl 1 additional disability.*
- *S2. Substation Relocated.*
- *S3. Retaining wall location adjusted (towards north), additional excavation and remove of 2 x existing palm trees.*
- *S4. Top entry of ramp relocated.*
- *S5. Outline of internal courtyard amended.*
- *S.6 Provision of building identification signage at front of site.*

#### ***Lower Ground floor plan***

- *L1. Lift 1, 2 & laundry chute relocated.*
- *L2. Additional bedrooms added.*
- *L3. Nurse station, Office & Medication area adjusted to Regis management concept.*
- *L4. Replanning of storage and support areas of lower ground floor wing (affected by carparking replanning).*
- *L5. Private dining & Activity room adjusted to Regis management concept. (size and access to garden/courtyard) Cinema relocated to the floor above.*
- *L6. Building footprint increases - sunken courtyard size reduced and location adjusted.*
- *L7. Replanning of Back of house & services area (affected by carparking replanning).*
- *L8. Additional WCs added to support the "Lifestyle offering" area.*
- *L9. Replanning of parking area - reduce tandem staff parking.*
- *L10. Loading bay relocated. (affected by carparking replanning).*

- L11. Reduce excavation area - by 187m<sup>2</sup>
- L12. Project information updated.
- L13. Ramp gradient changed (shorten length of ramp).
- L14. Fire stair location adjusted to suit the changes to ramp.
- L15. Main Switch Room relocated.
- L16. Sitting area (2.36x2.36) added to the corridor. Increase building footprint area by 5.6m<sup>2</sup>
- L17. Sitting area added to the corridor. Update hand basin and linen cupboard layout.

### **Ground floor plan**

- G1. Lift 1, 2 & laundry chute relocated.
- G2. Relocate 2 bedrooms to accommodate lift relocation.
- G3. Reception, admin, manager office, sales/meeting room adjusted to Regis management concept.
- G4. WC relocated & Hand wash basin added.
- G5. Spa & Hairdresser adjusted to Regis management concept.
- G6. Building footprint increases - towards the internal courtyard.
- G7. Turn gym & storage area to cinema, activities room & prayer room to meet Regis management concept. Skylight added to the activities room.
- G8. Cinema relocated. (from Lower ground floor).
- G9. Replan staff station, office & medication to meet Regis management concept.
- G10. Relocate lounge and dining area closer to staff support area and lift to meet Regis management concept.
- G11. Relocate WCs support the "Lifestyle offering" area & lounge/dining area.
- G12. Relocate bedroom no. 8&9. One additional bedroom added to reduce overall number of double bedrooms. Bedroom no.28 & rearrange bedroom layout of 10&11.
- G13. Building footprint increase - towards internal courtyard area. (cross hatched)
- G14. Reduce terrace area by 168m<sup>2</sup>.
- G15. Stair location & layout adjusted - due to redesign of ramp and site frontage. Refer to the site plan for more details.
- G16. Top entry of ramp relocated. Refer to site plan for more details.
- G17. Bay windows added.
- G18. Project information updated.
- G19. Add egress stair to allow for internal floor to floor access to meet Regis management concept.
- G20. Relocate storage along corridor, increase size of bed G3,4,5.
- G21. Lower roof over sitting area on LGF.

### **First-floor plan**

- F1. Lift 1, 2 & laundry chute relocated.
- F2. Bedroom layout adjusted to accommodate lift relocation.
- F3. Nurse station, Office & Medication area adjusted to Regis management concept.
- F4. Add access WC to serve central common areas - main lounge and dining area.
- F5. Servery layout adjusted to accommodate lift relocation.
- F6. Building footprint increases - towards the internal courtyard.
- F7. Dementia wing bed number reduces to 14 beds.
- F8. Project information updated.
- F9. Bay windows added.
- F10. Relocate bedroom & lounge to meet Regis management concept.
- F11. Relocate & replan egress stair to allow for internal floor to floor access to meet Regis management concept.
- F12. Sitting area added to the corridor area. Corridor increase by an area of 18.3m<sup>2</sup> (3.1 x 5.9)

- *F13. Reconfigure layout of nurse station, sitting area & servery.*
- *F14. Convert communal terrace to private terraces. Update ensuite to standard size ensuite & remove corridor storage and increase bedroom size.*

### **Second-floor plan**

- *SF1. Lift 2 & laundry chute relocated.*
- *SF2. Bedroom layout adjusted to accommodate lift relocation.*
- *SF3. Reduce the number of double bedroom.*
- *SF4. Nurse station, Office & Medication room & Utility room adjusted to Regis management concept.*
- *SF5. Access WC relocate - closer to lounge and dining area.*
- *SF6. Servery layout adjusted to accommodate lift relocation.*
- *SF7. Project information updated.*
- *SF8. Lift 1 overrun relocated.*
- *SF9. Relocate & replan egress stair to allow for internal floor to floor access to meet Regis management concept.*

### **Changes to Approved Conditions**

Proposed renumbering of conditions after condition No. 30 – for Submission of Engineering Plans (standard from development engineers)", to correct a numbering error.

### **Recommended Conditions**

The following non-standard condition has been recommended to delete the additional ground level visitor parking to ensure an acceptable level of landscape amenity along the subject site's frontage;

### **Condition No. 11A - Amendments to the approved plans**

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

- *The additional ground level visitor parking is to be deleted from the plan.*

*For clarity, no further encroachment within the front setback is approved under this application. Ground level parking and basement access is to remain as approved under DA2018/1654.*

*Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.*

*Reason: To ensure development minimises unreasonable impacts upon surrounding land.*

## **ASSESSMENT INTRODUCTION**

The application has been assessed in accordance with the requirements of the EP&A 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 EP&A Act 1979, and the 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 provided by relevant Council / Government / Authority officers on the proposal.

## SITE DESCRIPTION

The subject site is located on the eastern side of Forest Way and is known as No. 181 Forest Way Belrose. The subject site is legally identified as Lot 3 in Deposited Plan No 805710.

The subject site is a large (near) regular shaped single lot with dimensions of 91 metres across the frontage to Forest Way, 195 metres along the northern boundary to the unformed road, 189 metres along the southern boundary and 127 metres across the eastern rear boundary.

The subject site has a total area of 2.117 hectares. Currently erected on the land is a large freestanding dwelling.

Vehicle access to the dwelling is currently gained from a driveway off the Crown Road, which runs along the northern boundary of the site.

The subject site is identified as bushfire prone land and is situated within a riparian zone.

The surrounding development consists of low-density residential dwellings to the north and west, and semi-rural lands with dwelling houses and ancillary development to the east and south.

The site is located within the 'deferred lands' under Warringah Local Environmental Plan 2011. The site is subject to the B2 Oxford Falls locality under Warringah Local Environmental Plan 2000.



Figure 1: Subject Site outlined in blue

## RELEVANT SITE HISTORY

### Development Application No. DA2017/0697

An application for the demolition of existing structures and Construction of a new 140 bed aged care facility including parking for 50 vehicles (DA2017/0697) was lodged in July 2017. A preliminary

assessment of the application revealed a number of fundamental issues/concerns with the application. Subsequently, the application was withdrawn by the Applicant in October 2018.

#### **Development Application No. DA2018/1654**

An application for the demolition of existing structures and Construction of a new 100 bed aged care facility including parking for 50 vehicles. This application was lodged on 9 October 2018.

The Sydney North Planning Panel was briefed on 30 January 2019 and were informed that Council was intending to request the withdrawal of the application, due to a number of concerns and issues including:

- Bushfire
- Desired future character
- Support Services
- WLEP 2000 Clause 57 Development on sloping land
- WLEP 2000 Clause 58 Protection of existing flora
- WLEP 2000 Clause 66 Building Bulk

This withdrawal request due to the above issues was made on 12 February 2019.

The applicant did not withdraw the application but began separate discussions with the NSW RFS to resolve the bushfire issues.

On 20 November 2019, the applicant submitted amended plans, reports and documentation for the development. The changes reduced the size of the development from 138 rooms to 100 and increased the side setbacks to attempt to satisfy bushfire requirements.

On 31 March 2020, despite the discussions between the applicant and the NSW RFS, the RFS responded to the application and recommended refusal.

On 24 April 2020, the application was considered and refused by the Sydney North Planning Panel, with regards to;

1. *The current design and supporting documentation, have not satisfied the New South Wales Rural Fire Service.*
2. *The proposal is an overdevelopment of the site, in that the design requires part of the neighbouring property to be managed for bushfire protection purposes.*

On 8 May 2020, the applicant filed a Class 1 appeal with the Land & Environment Court (*Chriroseph Pty Ltd v Northern Beaches Council [2020] NSWLEC 1502*)

On 19 August 2020, a S34 conciliation conference was held between Council and the applicant.

On 29 September 2020, a signed S34 agreement was filed with the Court. The agreement that was ratified by the Court, accepted and relied upon the agreement of the bushfire experts, which was set out in the amended bushfire report prepared by Travers bushfire & ecology (dated September 2020). Of particular importance to this agreement was the approved APZ, as depicted below, which included streetscape planting provisions of a 5 metres wide bushland buffer to Forest Way that was excluded from the APZ on the western side of the building, while the northern portion of the site was excluded from the approved APZ to avoid and minimise impacts to vegetation of high biodiversity significance, including the Duffys Forest Threatened Ecological Community (TEC).



Figure 2: Approved APZ in green

On 22 October 2020, a deferred commencement approval was granted by the Court. The deferred commencement condition required approval from Sydney Water for sewer access, prior to the consent becoming operational

## RELEVANT APPLICATION HISTORY

### 25 May 2022

Section 4.56 Modification application received.

### 5 July 2022

Council conducted a preliminary review of the plans and identified several unmarked changes. As such, it was requested that an updated set of plans were provided with all modifications clearly annotated. This information was received on 22 July 2022.

### 6 July 2022 - 27 July 2022

Application was advertised. Two (2) submissions received.

### 24 August 2022

The Sydney North Planning Panel (SNPP) was briefed and was informed of the following key issues:

- *New ground floor parking arrangement removes a section of soft landscaping which provides screening within the front setback.*
- *No landscape plan submitted.*
- *Referrals outstanding, including Engineering, Traffic, NSW RFS.*
- *Revised CIV schedule.*
- *Bushland biodiversity referral responses received with no additional changes.*

In addition, the Panel requested that a schedule of proposed changes is provided in addition to proposed modifications clearly identified on submitted plans. It must be noted that the Panel did not have access to



the information submitted to Council on 22 July 2022, which sufficiently demonstrates the proposed changes.

### **30 August 2022**

Site inspection completed.

### **28 September 2022**

Request for further information sent to applicant. Council's Landscape officer reviewed the proposed development and raised concern with the proposal's reduction of the approved soft landscaping in the front setback fronting Forest Way, given that limited justification had been provided for the additional parking in this area. In this regard, an amended landscape plan was requested.

### **29 September 2022**

The applicant submitted amended plans, which included annotations to replace the existing palms adjacent to the proposed parking area. The landscaping issues were not satisfactorily addressed in these amended plans and the full response can be found in the 'referrals' section of this report.

### **28 October 2022**

The applicant submitted a response to Council's Landscape officer's comments dated 6 October 2022, including a cover letter, and amended plans. The cover letter provided further justification for the works within the front setback, which related to:

- *Visitor experience.*
- *Conditions of the Court Consent.*
- *Landscape.*
- *Impact on Amenity.*

The amended plans included an additional section of the proposed visitor parking spaces.

### **2 November 2022**

Request for further information sent to applicant, in relation to bushfire, biodiversity, and streetscape impacts. In summary, the NSW RFS issued GTA's (29 September 2022) for the subject application, which required the entire property to be managed as an inner protection area (IPA), apart from the outer 30 metre APZ to the east which is to be managed as an outer protection area (OPA).

The existing development consent (DA2018/1654) included streetscape planting provisions of a 5 metre wide buffer to Forest Way that was excluded from the APZ on the western side of the building and was more conservative than the RFS's GTA's. In addition, the northern portion of the site was excluded from the approved APZ to avoid and minimise impacts to biodiversity, including the Duffys Forest Threatened Ecological Community (TEC). As such, the GTA's from the NSW RFS conflicted with the approved APZ.

In this regard, this raised additional direct and indirect impacts on the streetscape and Duffys Forest TEC. As such, further information was requested to demonstrate that the proposal will result in acceptable ecological and streetscape impacts, while complying with the RFS.

### **5 December 2022**

The applicant submitted additional information for the RFS to consider.

### **13 February 2023**

The NSW RFS issued their revised GTA's, which was consistent with the court approved conditions, particularly, supporting the APZ, as depicted in Schedule 1 – Bushfire Protection Measures by Travers bushfire ecology (dated 9 September 2020).

### **16 February 2023**

Council's Landscaper officer reviewed the amended proposal following the response provided by the RFS. In summary, the issues regarding landscape matters raised previously were unaltered by the RFS

response, as the modifications to the visitor parking still involved a reduction of meaningful landscaped areas in the front setback, contrary to the agreed outcome of the original DA

**7 March 2023**

Council’s Bushland and Biodiversity officer reviewed the amended proposal following the response provided by the RFS. In summary, no additional significant impacts to biodiversity values were considered likely to occur.

**29 March 2023**

The applicant submitted a revised site plan, which converted the proposed motorcycle parking in the front setback to landscaping. Council’s Landscape officer reviewed the amended proposal and remained unsupportive given that a significant area of soft landscape is to be removed from the original Court consent, which already benefits from a concession to the front setback control.

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act 1979)**

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 DA2018/1654, 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	It is considered that the development as to be modified, subject to recommended conditions is substantially the same as the development for which the consent was originally granted under DA2018/1654 for the following reasons: <ul style="list-style-type: none"> <li>• No change is proposed to the approved use, height or building envelope.</li> <li>• The modifications largely involve changes to the internal layout and the external parking area at ground level.</li> <li>• The modifications to the front setback are considered to materially change the contribution of the development to the streetscape and it is considered that with the recommended condition to delete these works, the setting of the development is substantially the same development that was originally approved.</li> </ul>

Section 4.56- Other Modifications	Comments
<p>(b) it has notified the application in accordance with:</p> <p>(a) the regulations, if the regulations so require,</p> <p>or</p> <p>(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</p>	<p>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.</p>
<p>(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</p>	<p>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 DA2018/1654.</p>
<p>(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.</p>	<p>See discussion on “Notification &amp; Submissions Received” in this report.</p>

### 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.

Section 4.15 'Matters for Consideration'	Comments
<p><b>Section 4.15 (1) (a)(i)</b> – Provisions of any environmental planning instrument</p>	<p>See the discussion on “Environmental Planning Instruments” in this report.</p>
<p><b>Section 4.15 (1) (a)(ii)</b> – Provisions of any draft environmental planning instrument.</p>	<p>None applicable.</p>
<p><b>Section 4.15 (1) (a)(iii)</b> – Provisions of any development control plan.</p>	<p>Warringah DCP as it relates to the notification is applicable to this application.</p>
<p><b>Section 4.15 (1) (a)(iiia)</b> – Provisions of any planning agreement.</p>	<p>None Applicable.</p>
<p><b>Section 4.15 (1) (a)(iv)</b> – Provisions of the Regulations.</p>	<p>The <i>EPA Regulations 2021</i> requires the consent authority to consider the provisions of the Building Code of Australia. This matter was addressed via a condition of consent in the original application.</p> <p>Clause 61 of the <i>EPA Regulations 2021</i> requires</p>

	the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i> . This matter was addressed via a condition of consent in the original application.
<b>Section 4.15 (1) (b)</b> – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.	<ul style="list-style-type: none"> <li>i. The environmental impacts of the proposed development on the natural and built environment are addressed under the <i>Warringah LEP 2000</i> section of this report. They are deemed to be acceptable, subject to recommended conditions.</li> <li>ii. The modified development will provide seniors housing in the locality, therefore the development ensures that the housing stock caters for a broad cross section of the community. In terms of the provision of housing, the proposed development will not have a detrimental social impact on the locality.</li> <li>iii. The modified development will not have a detrimental economic impact on the locality considering the nature of the proposed land uses.</li> </ul>
<b>Section 4.15 (1) (c)</b> – the suitability of the site for the development.	Given its proximity to frequent public transport and the minimal amenity impacts on surrounding and nearby properties, the site is capable of accommodating a residential care facility.
<b>Section 4.15 (1) (d)</b> – any submissions made in accordance with the <i>EPA Act</i> or <i>EPA Regs</i>	<p>The application received two submissions.</p> <p>The issues raised are addressed under 'Notification &amp; Submissions Received' within this report.</p>
<b>Section 4.15 (1) (e)</b> – 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

Existing Use Rights do not apply to this application.

## NOTIFICATION & SUBMISSIONS RECEIVED

The DA was publically exhibited in accordance with the EP&A Act, *Environmental Planning and Assessment Regulation 2021*, Northern Beaches Community Participation Plan.

The development application was notified from 06/07/2022 to 27/07/2022. As a result of the public exhibition process, Council is in receipt of two submissions from two properties, each raising objections to the proposed development.

Name	Address
Mr Trad Jeremy Phyllip Edwards and Mrs Michelle Anne Edwards	179 Forest Way BELROSE NSW 2085
Ms Anne Patricia Saxon	955 / 0 Morgan Road BELROSE NSW 2085

## Assessment of Residents Issues

The relevant matters raised within the submissions have been considered and are addressed as follows:

- **Additional parking**
- **Spa and hairdresser**
- **Fencing**
- **Construction storage**
- **Traffic**
- **Noise**
- **Light pollution**

The above issues are addressed as follows:

- ***Additional parking***

*The submissions raised concerns that the additional ground-level parking will prevent sufficient opportunities for the establishment of landscaping to visually screen the built form, when viewed from Forest way.*

Comment:

It is accepted that the additional ground-level parking will result in the reduction of valuable landscaped areas, which provide a significant contribution to streetscape amenity. In this regard, a condition has been recommended to delete the additional parking area to preserve an acceptable level of landscape amenity.

This matter does not warrant the refusal of the application.

- ***Spa and hairdresser position***

*The submissions raised concerns that the relocated hairdresser would result in unreasonable privacy impacts for No. 179 Forest Way, the only adjoining private property.*

Comment:

The modification involves relocating the approved hairdresser to the south-west corner of the building's ground floor, which was approved as a lounge/café. The proposed hairdresser is sized 29 m<sup>2</sup> and maintains the approved side setback of 10.0 metres. It is considered that the proposed changes will not intensify the use of this area and therefore an acceptable level of amenity will be maintained.

This matter does not warrant the refusal of the application.

- ***Fencing***

*The submissions raised concerns that the plans do not show details of any new fencing.*

Comment:

No side or rear boundary fences are included as part of this application. This would be a matter between the two property owners.

This matter does not warrant the refusal of the application.

- ***Construction storage***

*The submissions raised concerns that some construction storage is located close to the adjoining property.*

Comment:

A condition was included within DA2018/1654 requiring the storage area to be located away from the southern boundary. No changes are proposed to construction storage under this application.

This matter does not warrant the refusal of the application.

- **Traffic**

*The submissions raised concerns that the proposal would unreasonably increase the traffic in the area.*

Comment:

The proposed modification as conditioned will not alter the approved parking provisions and will retain compliance with WLEP 2000 parking requirements. Minor modifications to the parking layout are proposed to improve internal accessibility, which have been reviewed and supported by Council's Traffic Engineers.

This matter does not warrant the refusal of the application.

- **Noise**

*The submissions raised concerns that the proposal would result in unacceptable noise impacts.*

Comment:

The proposed modifications are largely internal and do not significant changes to the approved density. In addition, suitable separation is maintained to the boundaries. Overall, the proposal will not result in unreasonable noise impacts.

This matter does not warrant the refusal of the application.

- **Light pollution**

*The submissions raised concerns that the proposed lighting would result in unreasonable impacts on the adjoining property.*

Comment:

The matters of light spill, were deemed acceptable within the original assessment of DA2018/1708. The proposed modification does not involve any significant changes to approved built form with the changes largely contained within the approved footprint.

This matter does not warrant the refusal of the application.

## EXTERNAL REFERRALS

External Referral Body	Recommendation/Comments
NSW Rural Fire Services (NSW RFS)	<b>Supported, subject to Conditions</b>  The application was referred to the NSW RFS as integrated development. The NSW RFS issued a bush fire safety authority, subject to conditions. The recommendations of the Bush Fire Report, along with the conditions from the NSW RFS as part of the bush fire safety authority, have been included as part of the recommended conditions of consent.
Aboriginal Heritage office	<b>Supported, no Conditions</b>  The Aboriginal Heritage Office commented:

	<p><i>No sites are recorded in the current development area although landscape features are present, particularly in the eastern part of the lot that could have surviving unrecorded Aboriginal sites. An Aboriginal archaeological heritage due diligence report has been prepared for the proposal (Dominic Steele Consulting Archaeology, 29 June 2018). No Aboriginal sites or areas of potential were identified. The Aboriginal Heritage Office has review the report and supports the recommendations.</i></p> <p><i>As such, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</i></p>
<b>Ausgrid</b>	<p><b><i>Supported, subject to Conditions</i></b></p> <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>
<b>NSW Police</b>	<p><b><i>Supported, subject to Conditions</i></b></p> <p>The application was referred to the NSW Police who provided a response stating that the proposal is acceptable subject to the recommendations made by the Northern Beaches Crime Prevention Officer. These recommendations will be included as a condition of consent.</p>
<b>Transport for NSW</b>	<p><b><i>Supported, subject to Conditions</i></b></p> <p>The NSW RMS commented:</p> <p><i>TfNSW has reviewed the Section 4.55 (sic) application and raises no objections to the proposed modifications.</i></p> <p><i>TfNSW advises that the conditions outlined in the previous letter dated 6 June 2018 remain applicable to the development proposal.</i></p> <p>TfNSW provided an updated response with Warringah Road corrected to Forest way in condition 5 of the referral response.</p>

## INTERNAL REFERRALS

<b>Internal Referral Body</b>	<b>Recommendation/comments</b>
<b>Building Assessment – Fire and Disability upgrades</b>	<p><b><i>Supported, no Conditions</i></b></p> <p>The Modified application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p>
<b>Environmental Health (Contaminated Lands)</b>	<p><b><i>Supported, no Conditions</i></b></p> <p>The proposed modifications to the development will not impact the LEC consent conditions relating to contamination. There are no objections to approval of the development.</p>
<b>Environmental Health (unsewered lands)</b>	<p><b><i>Supported, no Conditions</i></b></p> <p>The proposed modifications to the development will not impact the LEC consent conditions relating to wastewater. There are no objections to approval of the development.</p>
<b>Landscape Officer</b>	<b>Unsupported</b>

Amended Plans Comment 29/03/2023

Amended Plan Rev R is noted.

The amended plan has provided some additional soft landscape either side of the additional visitor bays. There is still a significant area of soft landscape to be removed from the original Court consent plans, which as noted below had already provided concession to front landscape setbacks.

The proposal to decrease the front landscape setback area is not able to be supported with regard to landscape issues and the relevant Planning Controls.

No objections are raised to other amendments proposed in the modification.

Additional Comment 16/02/2023

It is understood that the RFS have now issued GTAs for the Modification based on the original approval.

Issues regarding landscape matters raised below are unaltered by the RFS response.

For the reasons outlined in previous comments, the proposal is not supported with regard to landscape issues.

Additional Information Comment 6/10/2022

Amended plans submitted are noted.

The amended plans have not altered any of the proposed reduction in landscape area that was on the original s.456 plans.

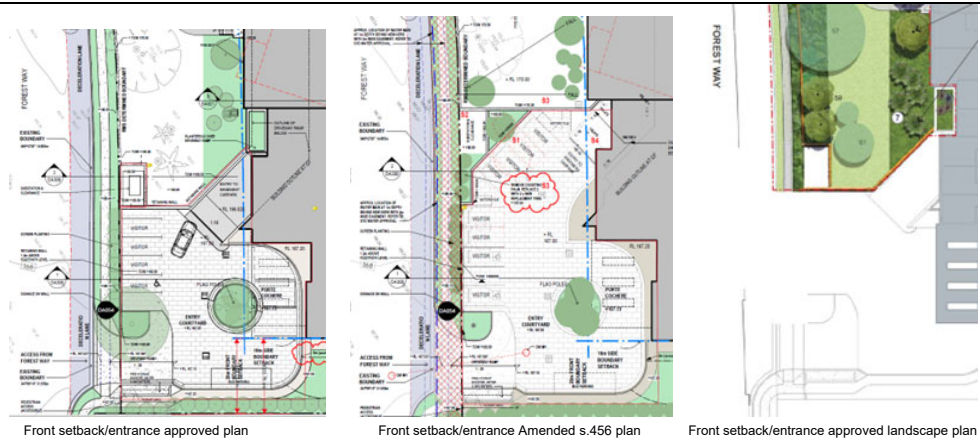
A few additional trees have been included on the Site Plan, but trees were already proposed in those areas on the approved Landscape Plans.

The original consent was made in the Land and Environment Court. The Commissioner's judgement specifically addressed the issue of non-compliance in the front setback as being satisfactory due to the provision of dense landscaping and minimal carparking within the setback.

I have also included the comparison of approved Site Plan with amended s.456 Site Plan and approved Landscape Plan whereby the extent of carparking extension and reduction of landscaping can be seen.

It is considered that the Landscape Referral concerns previously provided have not been addressed in the amended plans and based on the Court approval and reduction of soft landscape in the front setback, the proposed works in the front setback are still not supported with regard to landscape issues.





**Original Comment**

The application seeks to increase visitor and motorcycle parking at the entrance to the site.

The proposed works, which also include relocation of the substation, result in a reduction of the previously approved soft landscape in the front setback fronting Forest Way.

It is unclear why additional parking is being sought in this area.

The resultant reduction of soft landscape to assist with screening of the development is not supported from a landscape perspective, though there may be mitigating reasons from a parking requirement perspective.

No amended Landscape Plan was sighted to support the application, and therefore assessment of the impacts from a landscape perspective cannot be undertaken at this stage, other than the reduction in soft landscape fronting Forest Way is not supported with regard to landscape issues.

**PLANNER COMMENT**

The proposed encroachment within the front setback is recommended to be deleted by recommended Condition to ensure an acceptable level of landscape amenity along the subject site's frontage. It is noted that had this landscaping been provided in the original scheme, an agreement between the parties may not have materialised and as such, there is no certainty that the development would have been approved. Therefore, it is both reasonable and necessary that the scope and form of the original development be maintained.

**Natural Environment & Climate Change (Bushland and Biodiversity)**

**Supported, no Conditions**

Additional Comment 7/03/2023

The NSW RFS have re-issued the GTA's (12 February 2023) in relation to the modification application, and these now reflect the bush fire protection measures that were previously agreed as part of the court approved development. The Asset Protection Zones will be created and managed in accordance with the Bushfire Protection Assessment by Travers dated 9 September 2020 (Ref 18MORR02). The GTAs also confirm that access along the Crown Road Reserve to the point of entry into the site on the northern boundary shall comply with section 4.1.3 (3) of Planning for Bush Fire Protection 2006 and that no further clearing of the existing 3.5m wide access road in Crown Reserve is required.

	<p>No additional significant impacts to biodiversity values are likely to occur.</p> <p><u>Original Comments</u>  The proposed modifications are largely internal with the exception of some changes to the car parking and car park access ramp and will therefore have limited additional environmental impact. The Landscape Referral has addressed the conflict of the modification in relation to the landscaped front setback as required as part of the existing consent.</p> <p>However, the NSW RFS have re-issued the GTA's (29 September 2022) in relation to the modification application, which requires the entire property to be managed as an inner protection area (IPA), with the exception of the outer 30m APZ to the east which is to be managed as an outer protection area (OPA).</p> <p>The IPA requirement from the RFS is in direct conflict with the existing development consent and the direct and indirect impacts to biodiversity and the avoid/minimise/offset assessments of the previously approved Biodiversity Development Assessment Report (Cumberland Ecology 19/11/2019). The development application triggered the NSW Biodiversity Offset Scheme, and the consent included biodiversity credit obligations to address the residual impacts of the proposal. The assessment included methods to avoid and minimise impacts to biodiversity, including that the "Duffys Forest TEC, which occurs as a small patch in the northern portion of the subject land has been completely excluded from the development site. The patch of Duffys Forest will be fenced from the construction site to limit impacts, and will be managed under the BMP as a fully structured community, rather than being included in the APZ, in the long term.</p> <p>As additional direct and indirect impacts to threatened ecological communities and threatened species and their habitats will result, a revised BDAR is required to be submitted. Alternatively, negotiation with the NSW RFS should be undertaken to discuss the retention and management of the Duffy Forest TEC vegetation on the northern boundary, the APZ extent and the bushfire management measures previously approved in the NSW Land and Environment Court.</p>
<b>Natural Environment &amp; Climate Change (Development Engineering)</b>	<p><b><i>Supported, no Conditions</i></b></p> <p>The proposed modification has been reviewed and as there are no changes to stormwater management, no objections to the modification are raised.</p>
<b>Strategic and Place Planning (Urban Design)</b>	<p><b><i>Supported, no Conditions</i></b></p> <p>The modification application (Mod2022/0289) seeks consent to modify development consent DA2018/1654. The proposed modifications include minor changes to the internal space-planning, back-of-house areas, parking facilities in the basement and the provision of 4 additional visitor car parks to the front of the building.</p> <p>Urban Design raise no objection to the proposed modifications.</p>
<b>Traffic Engineer</b>	<p><b><i>Supported, no Conditions</i></b></p> <p>The applicant is requesting to modify the previously approved Development Consent (DA2018/1654) for 181 Forest Way, Belrose. From a Traffic Engineering perspective, very minor changes have been proposed with minimal to no further impact to the local traffic network</p>

	<p>when compared to Development which has previously received consent.</p> <p>The parking provided at the location is in excess of the SEPP minimum car parking rates and provisions, therefore, raises no issues.</p> <p>The changes proposed by the applicant are:</p> <ul style="list-style-type: none"> <li>· Reduction of 13 beds for dementia residents, from 27 to 14;</li> <li>· Increase of 13 beds for the residential care facility, from 78 to 91;</li> <li>· Increase of 4 visitor car spaces</li> <li>· On-site loading bay within the lower ground floor to accommodate waste collection through private waste contractor.</li> </ul> <p><b><u>Parking</u></b></p> <p>As per SEPP (Senior Living) 2004 Part 7, Division 2 Clause 79, Parking rates required are:</p> <p>(d)</p> <ul style="list-style-type: none"> <li>i. 1 parking space for each 10 dwellings in the residential care facility (or 1 parking space for each 15 dwellings if the facility provides care only for persons with dementia), and</li> <li>ii. 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and</li> <li>iii. 1 parking space suitable for an ambulance.</li> </ul> <p>As the facility is proposed to provide 91 Residential Care Facility Beds and 14 Dementia Care beds, it is clear the facility is not solely providing care for persons with dementia.</p> <p>Therefore, the parking requirement rate is:</p> <ul style="list-style-type: none"> <li>· 1 parking space for each 10 dwellings in the residential care facility  <math>(91 + 14) / 10 = 10.5</math> (11)</li> <li>· 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time  <math>30 / 2 = 15</math></li> </ul> <p>Even though the parking rates were incorrectly utilised within applicant's traffic report, a surplus of 4 car parking spaces have been provided. A 1:1 employee to car parking space ratio has been provided, hence more than adequate staff parking has been provided. Parking for an ambulance have been provided on-site.</p> <p><b><u>Traffic Generation</u></b></p> <p>The proposed changes is envisioned to have minimal to no traffic generation changes to the previously approved DA application.</p>
<p><b>Waste Officer</b></p>	<p><b><i>Supported, no Conditions</i></b></p> <p>No objections raised. Existing court approved waste conditions of consent to remain (unchanged).</p>

All, EPIs (State Environmental Planning Policies (SEPPs), Regional Environment Plans (REPs) and Local Environment Plans (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 EPIs (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the documents are not relevant or are enacting, definitions and operational provisions, which the proposal is considered 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)**

Further consideration is required for the following State policies:

#### **SEPP (Biodiversity and Conservation) 2021**

##### **Chapter 4 - Koala habitat protection 2021**

Part 4.2 requires:

*Where there is no approved koala plan of management for site and the site has an area of at least 1 hectare (including adjoining land within the same ownership), the council must assess whether the development is likely to have any impact on koalas or koala habitat.*

*(3) If the council is satisfied that the development is likely to have low or no impact on koalas or koala habitat, the council may grant consent to the development application.*

##### Comment:

The provisions of this policy apply as the site is greater than one hectare in size. The site does not represent potential or core koala habitat. Accordingly, no further consideration of the policy is required.

#### **SEPP (Housing) 2021**

##### **Chapter 3 – Diverse housing**

##### **Part 5 – Housing for seniors and people with a disability**

The parent application was made pursuant to WLEP 2000, which permits development for the purposes of *housing for older people or people with disabilities* on land within the B2 Oxford Falls Valley Locality. The original DA was not made pursuant to SEPP (HSPD) 2004.

Notwithstanding, clause 12(1)(b) of WLEP 2000 states that before granting consent for development the consent authority must be satisfied that the development is consistent with any relevant SEPP described in Schedule 5 (State policies).

State policies pertaining to housing for older people or people with a disability are nominated in Schedule 5.

However, section 80 (1)(b) of SEPP (Housing) 2021 states that this part of the SEPP does not apply to land to which WLEP 2000 applies that is located within locality B2 (Oxford Falls Valley) or C8 (Belrose North). In this regard, the provisions of SEPP (Housing) 2021 are not applicable to this modification and no further assessment is required in this instance.

#### **SEPP (Industry and Employment) 2021**

Section 3.6 and 3.11 of Chapter 3 require Council to determine consistency with the objectives stipulated under Subsection 3.1 (1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 5.

The objectives of this chapter aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

In accordance with the provisions stipulated under Schedule 5 of Chapter 3, the following assessment is provided:

Matters for Consideration	Comment	Complies
<b>1. Character of the area</b> Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The outcome for the signage is considered to be compatible with the existing character of the area and will not detract from the potential of any future development.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The outcome for the signage is consistent with that of the immediate locality with similar surrounding signage by virtue of scale, design and proliferation and is therefore considered reasonable in this context.	YES
<b>2. Special areas</b> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposal is attached wholly to the front boundary wall. Given the scale and the illumination proposed, it is considered that the impacts upon the natural environment and residential areas will be negligible.	YES
<b>3. Views and vistas</b> Does the proposal obscure or compromise important views?	No views or vistas will be impacted upon by the installation of this signage.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The signage is not of a scale to cause unreasonable impacts upon the existing views of the skyline and vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	The proposed signage does not detract from the signage of other advertisers.	YES
<b>4. Streetscape, setting or landscape</b> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The proposed signage is of a scale, design and location that is appropriate for the setting and consistent with the streetscape.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposal contributes to the visual interest of the streetscape with a variety of sizes, logos and wording.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The signage is consistent with the surrounding examples.	YES
Does the proposal screen unsightliness?	There is no unsightliness to be screened.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No.	YES

<b>5. Site and building</b> Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The outcome for the signage is considered to be compatible with the surrounding industrial area character and the building of which it is attached to.	YES
Does the proposal respect important features of the site or building, or both?	The signage respects important features of the site and building.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The outcome for the signage is to be a contemporary in design to enhance the function of the site and movement of visitors onsite. It is considered to demonstrate creativity and imagination in relation to the site.	YES
<b>6. Associated devices and logos with advertisements and advertising structures</b> Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	No	YES
<b>7. Illumination</b> Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	This report includes recommendations to ensure that the illumination of the proposed signage will not have any unreasonable impact upon the surrounding developments or pedestrians.	YES
Can the intensity of the illumination be adjusted, if necessary?	Yes	YES
Is the illumination subject to a curfew?	No	YES
<b>8. Safety</b> Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The signage will not reduce the safety for any road, pedestrian or bicyclist.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposal does not obscure sightlines from public areas.	YES

Accordingly, the proposed signage is considered to be of a scale and design suitable for the locality. The proposal is therefore deemed to be consistent with the provisions of this chapter and its underlying objectives.

## **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.

## **SEPP (Infrastructure) 2007**

## **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 5.0 metres 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.

## Transport for NSW

Subdivision 2 Development in or adjacent to road corridors and road reservations:

## Comment:

The response from the Transport for NSW can be found above, in the 'External Referrals' section of this report. In summary, no objections were raised.

## **LOCAL ENVIRONMENTAL PLANS**

### **Warringah Local Environmental Plan 2011**

The B2 Oxford Falls Valley locality (which cover the land subject to this Application) under the WLEP 2000 were proposed to be zoned E3 Environmental Management in the draft 2009 version of Warringah's standard instrument. This was based on a detailed translation methodology that was applied to all land within the former Warringah LGA.

In December 2011, the Minister for Planning, Industry and Environment deferred land in the Oxford Falls Valley and Belrose North areas from the Warringah Local Environmental Plan 2011 (WLEP 2011) in response to stakeholder concern regarding the adequacy of consultation during the preparation of WLEP 2011.

Accordingly, WLEP 2011 and the current Warringah Development Control Plan 2011 do not apply to this application.

### **Warringah Local Environment Plan 2000 (WLEP 2000)**

WLEP 2000 applies to the subject land and the modification application is made pursuant to this instrument. Under WLEP 2000, the subject site is within the B2 Oxford Falls Valley Locality and the approved development to which this modification relates, is for the purposes of housing for older people or people with disabilities, is classified as a Category 2 Development.

The DFC statement for the B2 locality is as follows:

### **B2 Oxford Falls Valley Locality**

*The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.*

*Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.*

*The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.*

*A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.*

*Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.*

Each relevant element of the desired future character statement is discussed as follows

***Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses.***

***(a) New detached style housing conforming with the housing density standards***

The application pertains to modifications to an approved housing for older people or people with disabilities at the subject site. The works do not alter the approved land use or the approved operational requirements of the development. In this regard, Council is satisfied that the proposed development will not alter the present character of the Oxford Falls Valley locality.

The modified development is therefore consistent with this aspect of the DFC.

***(b) Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.***

As the proposal is not for detached housing, consideration is also required to be applied to whether the development is consistent with a 'low intensity and low impact' uses. An interpretation of low intensity and low impact uses was used in the NSW Land and Environment Court Case of *Vigor Master Pty Ltd v Warringah Shire Council [2008] NSWLEC 1128*. The interpretation of the judgement is provided as follows:

***"Intensity: is commonly used to identify the nature of the proposal in terms of its size and scale and the extent of the activities associated with the proposal. Therefore, "low intensity" would constitute a development which has a low level of activities associated with it."***

***"Impact - is commonly used in planning assessment to identify the likely future consequences of proposed development in terms of its surroundings and can relate to visual, noise, traffic, vegetation, streetscape privacy, solar access etc. Therefore 'low impact' would constitute a magnitude of impacts such that was minimal, minor or negligible level and unlikely to significantly change the amenity of the locality".***



Based on the above interpretation, intensity and impact are interconnected in terms of evaluating if the development results in an unacceptable impact, then the intensity of the development is too great. Accordingly, it is appropriate to consider the levels of impact first.

The works consist of changes to the internal floor plan layout and external parking area at ground level. The modification as conditioned is generally consistent with the relevant built form controls of the B2 locality and information provided with the application demonstrates that the development is unlikely to have an adverse impact on the natural environment.

In regards, to the intensity of the proposed development, the proposed modifications as to be amended by recommended condition will have an indiscernible environmental impact beyond that approved, with the bulk of the development remaining unchanged. If however the development as to be modified was not amended as is recommended by Condition, it would have an adverse environmental impact through the significant loss of vegetation that occurs, in addition to the substantial loss that occurs for the requisite APZ. No additional sources of noise, generation of emissions, additional employees or vehicular traffic is likely from the additional structure and the operational characteristics of the existing facility will remain largely unchanged. In summary, the intensity of the proposed development will not vary significantly from the existing land use and is considered to be acceptable, subject to the recommended Conditions.

The modified development is therefore consistent with this aspect of the DFC.

***The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.***

The property currently accommodates significant areas of cleared bushland as well as the main buildings and lawn areas on the western side of the site.

The modification does not involve any significant changes to the approved building's appearance or footprint other than the extension to the ground floor parking, which is recommended to be deleted by a Condition as discussed in further detail below. Deleting the additional ground-level parking is critical to preserve the integrity of the approved front setback, which benefits from a generous variation to provide ground-level parking. In addition, the approved development exceeds WLEP 2000 minimum parking requirements by 20 spaces. In this regard, a further reduction of landscaping in the front setback is considered unacceptable as the design does not minimise the disturbance of vegetation and landform.

Overall, the modified proposal subject of recommended Conditions, will not significantly disturb landforms and vegetation.

The modified development is therefore consistent with this aspect of the DFC.

***A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.***

The modification to the external parking area at ground level, seeks to provide four additional visitor spaces within the front setback to Forest Way. The additional parking spaces will be set back between 4.4 metres – 12.1 metres. While these spaces are uncovered and generally below the street level it involves the reduction of meaningful landscaping within the front setback that assists with mitigating the visual impact of the built form when viewed from Forest Way.

The court approval included provisions within the amended bushfire report prepared by Travers bushfire & ecology (dated September 2020) for the establishment of a bushland buffer (5 metres width) along the site's western (RMS determined) boundary between the development and Forest Way (refer to figure 1 in site history section). This was to ensure that a dense bushland buffer be retained or established along Forest Way, and that the site contributed to the sites character.

The proposed parking spaces and relocated substation will encroach this vegetation buffer and also reduce other soft landscaped areas in the front setback, which is not supported by Council's Landscape Officer.

In this regard, the modifications to the ground-level parking area are not supported and are recommended to be removed via a Condition.

The modified development as to be amended by recommended Condition is therefore consistent with this aspect of the DFC.

***Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.***

The site is not located near a riparian area and so the impact of the proposed development is found to be satisfactory.

The modified development is consistent with this component of the DFC.

### **Conclusions on consistency with the DFC Statement**

Having regard to the above assessment, it is concluded that the proposed development is consistent with the desired future character statement of the Oxford Falls Valley locality.

### **Built Form Controls for the B2 Oxford Falls Valley Locality**

The following table outlines compliance with the Built Form Controls of the above locality statement:

<b>Built Form Standard</b>	<b>Required</b>	<b>Approved</b>	<b>S4.56 Compliance</b>
<b>Housing density</b>	Not Applicable (WLEP 2000 states that on land that adjoins a locality primarily used for urban purposes and which a dwelling house is permissible, there is no maximum housing density if the development is for the purposes of housing for older people or people with a disability and the development complies with the minimum standards set out in Clause 29.)	0.31:1 - The development being housing for older people or people with a disability is consistent with the FSR provisions of Clause 29 and therefore the housing density is not applicable for this development.	Yes - 0.32:1 (224.15 m <sup>2</sup> increase)
<b>Building height</b>	8.0m	The development has a maximum height of 9.38m.  The lowest height of the upper level is approximately 6.03m.	No change
<b>Front building</b>	20m	Main building –	No – Parking area

<b>setback</b>		minimum of 20m Parking area – 3.7m	4.4 m – 12.1 m (see Clause 20 assessment)
<b>Rear building setback</b>	10m	Minimum of 93m	No change
<b>Side building setback</b>	10m	South: Minimum of 10m Maximum of 28.3m  North Minimum of 17.8m Maximum of 58.1m	No change  No change
<b>Landscaped open space</b>	30% of the site area	77.6% (16,446m <sup>2</sup> )	Yes - 77.3% (16,375m <sup>2</sup> )

Clause 20 states:

*Notwithstanding clause 12 (2) (b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State environmental planning policy.*

In determining whether the proposal qualifies for a variation under Clause 20(1) of WLEP 2000, consideration must be given to the following:

### **General Principles of Development Control**

The proposal is generally consistent with the General Principles of Development Control and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “General Principles of Development Control” in this report for a detailed assessment of consistency).

### **Desired Future Character of the Locality**

The proposal is consistent with the Locality’s Desired Future Character Statement and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “Desired Future Character” in this report for a detailed assessment of consistency).

### **Relevant State Environmental Planning Policies**

The proposal has been considered consistent with all applicable State Environmental Planning Policies. (Refer to earlier discussion under ‘State Environmental Planning Policies’). Accordingly, the proposal qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1).

Notwithstanding, in order to fully consider the application, the following provides an assessment of the non-compliance to the building height and front building setback built form controls.

In assessing these elements of the proposal, it is necessary to consider the merit considerations of the controls as detailed below:

### **Clause 20 - Front building setback**

*Required:* 20 metres

*Proposed:* The proposed open-air parking spaces are set back 4.4 metres – 12.1 metres from the front boundary.

*Response:*

As discussed elsewhere in this report, conditions are recommended to delete this modification to the ground floor parking area, to retain consistency with the DFC. In this regard, the ground-level parking area and access to the basement will remain as approved under DA2018/1654.

Accordingly, consistency with the merit considerations is addressed below:

- *Create a sense of openness*

Comment: The parking spaces as conditioned are uncovered and will not detract from the sense of openness at the front of the site. They would be partially screened by landscaping, further minimising any impacts.

- *Provide opportunities for landscaping.*

Comment: The front setback of the site as it exists comprises significant landscaping along Forest Way. The modification as conditioned will ensure that the approved 5.0 metre-wide vegetation buffer between the building and Forrest Way would be retained. Extensive opportunities for landscaping are retained across the site to ensure the character and appearance of the area are maintained. In the event of the recommended Condition not being adopted in relation to modifications, the proposed modified development would be inconsistent with the opportunities for landscaping.

- *Minimise the impact of development on the streetscape.*

Comment: The modification as conditioned will ensure that the development maintains an acceptable presence in the streetscape. In the event of the recommended Condition not being adopted in relation to modifications, the proposed modified development would have an adverse impact on the streetscape.

- *Maintain the visual continuity and pattern of buildings, front gardens and landscape elements.*

Comment: The proposal as to be amended by recommended condition will maintain a mostly vegetated front setback to the street for most of the width of the site. The additional non-compliant elements of the proposal are recommended to be deleted, and would therefore, not upset the continuity of landscape elements within the streetscape. In this regard, the development would be suitable for the site and compatible with other residential care facilities in the vicinity.

### **Clause 29 - On what grounds can applications for housing for older people or people with disabilities not be refused?**

Clause 29 provides controls to establish on what grounds an application for housing for older people or people with disabilities cannot be refused.

The following table details whether the development meets the requirements and whether it can be refused:

<b>Development Standard</b>	<b>Required</b>	<b>Approved</b>	<b>Proposed</b>	<b>Complies</b>
<b>Building Height (to ceiling)</b>	8.0m	8.0m	No change	N/A

<b>Density and Scale</b>	0.75:1 or less (site area – 21,186m <sup>2</sup> )	0.31:1 (6,477.4m <sup>2</sup> )	0.32:1 (224.15 m <sup>2</sup> increase)	Yes
<b>Landscaped Area</b>	A minimum of 35m <sup>2</sup> of landscaped area per dwelling and 25m <sup>2</sup> of landscaped area per hostel or residential care facility bed is provided.  100 beds = 2,500m <sup>2</sup>	16,446m <sup>2</sup>	16,375m <sup>2</sup>	Yes
<b>Parking</b>	1 parking space for each 10 beds in the hostel or residential care facility, and 1 parking space for each two persons to be employed in connection with the development and on duty at any one time, and 1 parking space suitable for an ambulance.  11 spaces for 105 beds	45 spaces 1 ambulance space	49 spaces 1 ambulance space	Yes
<b>Deep Soil Area</b>	(a) Site width (W) = 110m (average) (b) Site length (L) = 192m (average) (c) W x 15% of L Total required = 3,168m <sup>2</sup>	16,446m <sup>2</sup>	16,375m <sup>2</sup>	Yes

### General Principles of Development Control

Clause 12(1)(a) of WLEP 2000 states that prior to granting consent, Council must be satisfied that the proposal is consistent with the relevant general principles of development control contained in Part 4 of WLEP 2000.

The following General Principles of Development Control as contained in Part 4 of WLEP 2000 are applicable to the proposed development:

General Principle	Comments	Complies
<b>Clause 38 Glare and reflection</b>	The colours and materials chosen are unlikely to result in unreasonable glare and reflection.	Yes

### Clause 40 - Housing for Older People or People with Disabilities

The following table details compliance of the development against the access provisions of Clause 40 under the WLEP 2000.

Control	Required	Approved	Proposed	Compliance
<b>Support Services</b>	The site is within 400m of a shopping centre or bus stop; or  The development is serviced by a transport service that is located not more than 400m from the site and is available both to and from the development during daylight hours at least once per day from Monday to Friday (inclusive).	The site is located less than 100m from a bus stop serviced by regular buses.	No change	Yes
	Reasonable access to home	The development is a	No	Yes

	delivered meals, personal care and home nursing and assistance with housework.	residential care facility where all meals, personal care and assistance would be provided on site.	change	
<b>Wheelchair access</b>	<p>(a) <b>site gradient</b></p> <p>(i) if the whole of the site has a gradient of less than 1:10, 100% of the hostel or residential care facility beds and 100% of the dwellings must have wheelchair access by a continuous path of travel (within the meaning of AS 1428) to an adjoining public road or an internal road or a driveway that is accessible to all residents, or</p> <p>(ii) if the whole of the site does not have a gradient of less than 1:10, a percentage (which is not less than the proportion of the site that has a gradient of less than 1:10, or 50%, whichever is the greater, and which in this subparagraph is called <b>the specified minimum percentage</b>) of any hostel or residential care facility beds and the specified minimum percentage of any dwellings must have wheelchair access by a continuous path of travel (within the meaning of AS 1428) to an adjoining public road or an internal road or a driveway that is accessible to all residents, and</p>	The development provides wheelchair access to all parts of the building that the residents can access.	No change	Yes
	<p>(b) <b>road access</b></p> <p>at least 10% of any hostel or residential care facility beds and at least 10% of any dwellings which meet the requirements of paragraph (a) must have wheelchair access by a continuous path of travel (within the meaning of AS 1428) to an adjoining public road, and</p>	All residential care facility beds have wheelchair access as access to each level is provided by lifts.	No change	Yes
	<p>(c) <b>common areas</b></p> <p>access must be provided so that a person using a wheelchair can use common areas and common facilities associated with the development, and</p>	The common areas are all wheelchair accessible.	No change	Yes
	<p>(d) <b>adaptability</b></p> <p>10% of any hostel or residential care facility beds and 10% of any dwellings which meet the requirements of paragraph (a) must</p>	The proposed development has lift access to each level and wheelchair access is able to be provided	No change	Yes

	also have, or be capable of being modified so that they have, wheelchair access by a continuous path of travel (within the meaning of AS 1428) to all essential areas and facilities inside the hostel, residential care facility or dwellings, including a toilet, bathroom, bedroom and a living area.	to each room. In excess of 10% of bedrooms are accessible.		
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<b>General Principle</b>	<b>Comments</b>	<b>Complies</b>
<b>Clause 42 Construction Sites</b>	No changes from approval.	Yes
<b>Clause 43 Noise</b>	The nature of a residential care facility is unlikely to generate significant noise emissions.	Yes
<b>Clause 44 Pollutants</b>	As per DA2018/1654 conditions. No change required.	Yes
<b>Clause 48 Potentially Contaminated Land</b>	Council records indicate that the subject site has been used for residential purposes for a significant period, with no prior conflicting land uses.  In this regard, it is considered that the site poses no risk of contamination, the land is considered suitable for continued residential land use and therefore, no further consideration is required in this regard.	Yes
<b>Clause 49a Acid Sulphate Soils</b>	The site is not located within, or near to, any land categorised as containing acid sulphate soil.	N/A
<b>Clause 50 Safety &amp; Security</b>	The proposed modifications do not impact upon the developments ability to provide casual surveillance of the adjoining streets.	Yes
<b>Clause 51 Front Fences and Walls</b>	No changes to fencing proposed.	Yes
<b>Clause 52 Development Near Parks, Bushland Reserves &amp; other public Open Spaces</b>	The site is adjoined by road reserves to the north, east and west, and a private property to the south.  There is extensive bushland in the area and the proposal will not unreasonably detract from this.	Yes
<b>Clause 53 Signs</b>	An assessment of the application has found the development to be consistent with the requirements of State Environmental Planning Policy (Industry and Employment) 2021.	Yes
<b>Clause 54 Provision and Location of Utility Services</b>	Yes, subject to DA2018/1654 conditions. No change required.	Yes
<b>Clause 56 Retaining Unique Environmental Features on Site</b>	The development will take place on the western half of the site, which mostly contains the existing buildings and cleared lawn areas. The vegetated and sloping eastern half of the site will remain.	Yes (via recommended condition)
<b>Clause 57 Development on sloping land</b>	Geotechnical recommendations imposed as part of the original application remain.	Yes
<b>Clause 58 Protection of existing flora</b>	The proposal as conditioned does not result in the removal of trees or unique environmental features (i.e. rock outcrops).	Yes

<b>Clause 59 Koala habitat protection</b>	<p>Clause 59 defines potential Koala habitat as consisting of areas of native vegetation where the trees of the types listed in Schedule 11 constitute at least 15% of the total number of Trees in the upper or lower strata of the tree component.</p> <p>The assessment by Council's Natural Environment Department has raised no objection in relation Koalas on site.</p>	Yes
<b>Clause 61 Views</b>	Due to the topography and location of the site, it is unlikely that the proposed development will affect any significant views, which will warrant the refusal of the application. No submissions included view loss among the concerns.	Yes
<b>Clause 62 Access to sunlight</b>	The shadow diagrams submitted with the application indicates that the proposed development will achieve compliance with the requirement of this Clause.	Yes
<b>Clause 63 Landscaped open space</b>	The proposal provides more than the minimum amount of landscaped open space.	Yes
<b>Clause 63A Rear building setback</b>	The proposal maintains a significant rear setback and meets the requirements of this principle.	Yes
<b>Clause 65 Privacy</b>	The development, in particular the outdoor sitting areas, are located a sufficient distance from the only neighbouring residential property to the south, such that it will not result in any unreasonable direct overlooking into habitable rooms and principal private open spaces. No additional architectural privacy treatments are required.	Yes
<b>Clause 66 Building bulk</b>	The building bulk of the approved development is maintained under this modification application.	Yes
<b>Clause 67 Roofs</b>	Proposed roof is consistent with the original approval.	Yes
<b>Clause 68 Conservation of Energy and Water</b>	The proposal is not BASIX affected development, but will suitably conserve energy and water. Space for solar panels has been provided on the roof.	Yes
<b>Clause 69 Accessibility – Public and Semi-Public Buildings</b>	No change proposed.	Yes
<b>Clause 70 Site Facilities</b>	Compliant.	Yes
<b>Clause 71 Parking Facilities (visual impact)</b>	The modification as conditioned will result in no changes to the approved open and basement car parking areas.	Yes
<b>Clause 72 Traffic Access &amp; Safety</b>	The site was referred to both the NSW RMS and Council's Traffic Engineers. Each raised no objections, subject to conditions.	Yes
<b>Clause 73 On-site Loading and Unloading</b>	No changes to loading and unloading proposed.	Yes
<b>Clause 74 Provision of Car Parking</b>	The modification application as conditioned continues to provide car parking in accordance with the approved development under DA2018/1654.	Yes
<b>Clause 75 Design of Car Parking Areas</b>	The car parking layout and internal access arrangements can comply with the relevant Australian Standards.	Yes
<b>Clause 76</b>	Council's Development Engineer has reviewed the proposal	Yes



<b>Management of Stormwater</b>	and raised no objection to the modifications.	
<b>Clause 78 Erosion &amp; Sedimentation</b>	Conditions have been imposed to mitigate sediment migration into adjoining lands.	Yes
<b>CL83 Development of Known or Potential Archaeological Sites</b>	Existing conditions as part of the original consent that require works to cease and relevant authorities notified if Aboriginal relics are uncovered during works.	Yes

## SCHEDULES

Schedule	Applicable	Compliant
Schedule 5 State policies	Yes	Yes
Schedule 6 Preservation of bushland	Yes	Yes
Schedule 7 Matters for consideration in a subdivision of land	No	N/A
Schedule 8 Site analysis	Yes	Yes
Schedule 9 Notification requirements for remediation work	No	N/A
Schedule 10 Traffic generating development	No	N/A
Schedule 11 Koala feed tree species and plans of management	No	N/A
Schedule 12 Requirements for complying development	N/A	N/A
Schedule 13 Development guidelines for Collaroy/Narrabeen Beach	N/A	N/A
Schedule 14 Guiding principles for development near Middle Harbour	N/A	N/A
Schedule 15 Statement of environmental effects	Yes	Yes
Schedule 16 Principles and standards for housing for older people or people with disabilities	Yes	Yes
Schedule 17 Carparking provision	Yes	Yes

## POLICY CONTROLS

### Northern Beaches Council 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

The current application Mod2022/0289 seeks approval to amend Development Consent No. DA2018/1654. The proposed modifications largely represent a refinement of the internal layout, which have no implications to the development as approved in terms of any further increases in bulk, scale or streetscape modifications.

The proposal was advertised and two (2) submissions were received, however, they do not warrant the refusal of this modification.

Overall, the proposed modifications as to be amended by recommended condition will have an indiscernible environmental impact beyond that approved, with the bulk of the development remaining unchanged. If however the development as to be modified was not amended as is recommended by condition, it would have adverse environmental and streetscape impacts through the significant loss of vegetation that occurs within the front setback, in addition to the substantial loss that occurs for the requisite APZ and deceleration lane on Forrest Way.

Accordingly, the application is recommended for approval subject to the modified conditions. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

As a direct result of the consideration of the matters detailed within this report, it is recommended that the Sydney North Planning Panel, as the consent authority, approve the application subject to the conditions detailed below.

## **RECOMMENDATION**

THAT Sydney North Planning Panel as the consent authority grant approval to Modification Application No. Mod2022/0289 for Modification of Development Consent DA2018/1654 granted for Demolition works and Construction of a new aged care facility including underground parking on land at Lot 3 DP 805710, 181 Forest Way, BELROSE, subject to the conditions outlined in Attachment 1.

## **ATTACHMENT 1**

### **A. Add Condition No.2A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:**

#### **Condition No.2A - Modification of Consent - 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) Modification Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA050 Revision R	23 March 2023	Morrison Design Partnership Pty Ltd
DA054 Revision D	5 April 2022	Morrison Design Partnership Pty Ltd
DA101 Revision G	25 August 2022	Morrison Design Partnership Pty Ltd
DA102 Revision Q	25 August 2022	Morrison Design Partnership Pty Ltd
DA103 Revision Q	25 August 2022	Morrison Design Partnership Pty Ltd
DA104 Revision P	25 August 2022	Morrison Design Partnership Pty Ltd
DA105 Revision F	25 August 2022	Morrison Design Partnership Pty Ltd
DA200 Revision G	5 April 2022	Morrison Design Partnership Pty Ltd
DA201 Revision G	5 April 2022	Morrison Design Partnership Pty Ltd
DA300 Revision H	27 October 2022	Morrison Design Partnership Pty Ltd

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

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

**B. Modify Condition No. 5 - RMS Conditions, to read as follows:**

**Condition No. 5 - RMS Conditions**

All conditions stipulated in the RMS correspondence (reference: SYD17/01004/09 (A22630902) dated 6 June 2018 shall be complied with and the necessary conditions addressed prior to the relevant stages of the works. Applicable certificates shall not be released until such time as the RMS conditions have been satisfied.

The conditions are as follows:

1. Roads and Maritime has previously resumed and dedicated a strip of land as road along the Forest Way frontage of the subject property, as shown by grey colour on the attached Aerial – “X”

Therefore all buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Forest Way

boundary.

However, the proponent should be advised that the Deceleration Lane and any associated works should be dedicated as public road. The property boundary should be suitably adjusted.

2. Any redundant driveway(s) on the Forest Way boundary shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Forest Way shall be in accordance with roads and maritime requirements. Details of these requirements should be obtained from roads and maritime services, manager developer works, State Wide Delivery, Parramatta (telephone 9598 7798).

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

3. All vehicles are to enter and exit the site in a forward direction.
4. All vehicles are to be wholly contained on site before being required to stop.
5. Sight distances from the proposed vehicular crossing to vehicles on Forrest way are to be in accordance with the Austroads 'Guide to Traffic Engineering Practice, Part 5: Intersections at Grade, Section 6.2 – Sight Distance' and AS 2890. Vegetation and landscaping / fencing must not hinder sight lines to and from the vehicular crossings to motorists, pedestrians and cyclists.
6. The proposed deceleration lane and access into the site shall be designed to meet Roads and Maritime requirements, and endorsed by a suitably qualified practitioner. The design requirements shall be in accordance with AUSTROADS and other Australian Codes of Practice. The certified copies of the civil design plans shall be submitted to Roads and Maritime for consideration and approval prior to the release of the Construction Certificate by the Principal Certifying Authority and commencement of road works.

The developer may be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. Please note that the WAD will need to be executed prior to Roads and Maritime assessment of the detailed civil design plans.

Roads and Maritime fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

7. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

Details and any enquiries should be forwarded to Mr Suppiah Thillai at [Suppiah.Thillai@rms.nsw.gov.au](mailto:Suppiah.Thillai@rms.nsw.gov.au) or Phone at 8849 2114

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

8. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system in Forest Way are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details and any enquiries should be forwarded to Mr Suppiah Thillai at [Suppiah.Thillai@rms.nsw.gov.au](mailto:Suppiah.Thillai@rms.nsw.gov.au) or Phone at 8849 2114.

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114.

9. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Forest Way.
10. A Road Occupancy License should be obtained from Transport Management Centre for any works that may impact on traffic flows on Forest Way during construction activities.

Reason: To ensure RMS conditions are satisfied prior to the relevant certificates being released.

**C. Add Condition No.7A - Compliance with Other Department, Authority or Service Requirements, to read as follows:**

**Condition No.7A - 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:

<b>Other Department, Authority or Service</b>	<b>EDMS Reference</b>	<b>Dated</b>
Ausgrid	Response Ausgrid Referral	03 August 2022
NSW Rural Fire Service	Response RFS Referral	12 February 2023
NSW Police	Response Police Referral	30 June 2022

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

**D. Add Condition No. 11A - Amendments to the approved plans, to read as follows: Condition No.**

**11A - Amendments to the approved plans**

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

- The additional ground level visitor parking is to be deleted from the plans (including but not limited to architectural, landscape and stormwater).

For clarity, no further encroachment within the front setback is approved under this application. Ground level parking and basement access is to remain as approved under DA2018/1654.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

**E. Modify Condition No. 29 - Public Liability Insurance - Works on Public Land, to read as follows:**

**Condition No. 31A - 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.

**F. Add Condition No. 70A - Illumination Intensity and design, to read as follows:**

**Condition No. 70A - Illumination Intensity and design**

The level of illumination and/or lighting intensity used to illuminate the signage is to be minimised and the design is to be such to ensure that excessive light spill or nuisance is not caused to any nearby premises.

Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties.