

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/2190
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Responsible Officer:	Nick England
Land to be developed (Address):	Lot 2 DP 25713, 130 Frenchs Forest Road West FRENCHS FOREST NSW 2086
Proposed Development:	Alterations and additions to a boarding house
Zoning:	Warringah LEP2011 - Land zoned B4 Mixed Use
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Orchard 1 Pty Limited
Applicant:	The Trustee For Orchard 1 Unit Trust

Application Lodged:	03/01/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	09/01/2023 to 25/01/2023
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 16,500.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposed application (as amended) consists of the following:

- demolition of three (3) 1.8m high colorbond fences in front setback area;
- partial demolition of colorbond fence adjoining site driveway;
- partial demolition of existing masonry wall adjoining driveway to create splay for adequate sight-lines to Frenchs Forest Road West;
- new infill pickets on existing masonry front fence of a height of 1.4m; and
- erection of two (2) return fences adjoining front pathway, of picket-style construction, 1.5m in height.

ASSESSMENT INTRODUCTION

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

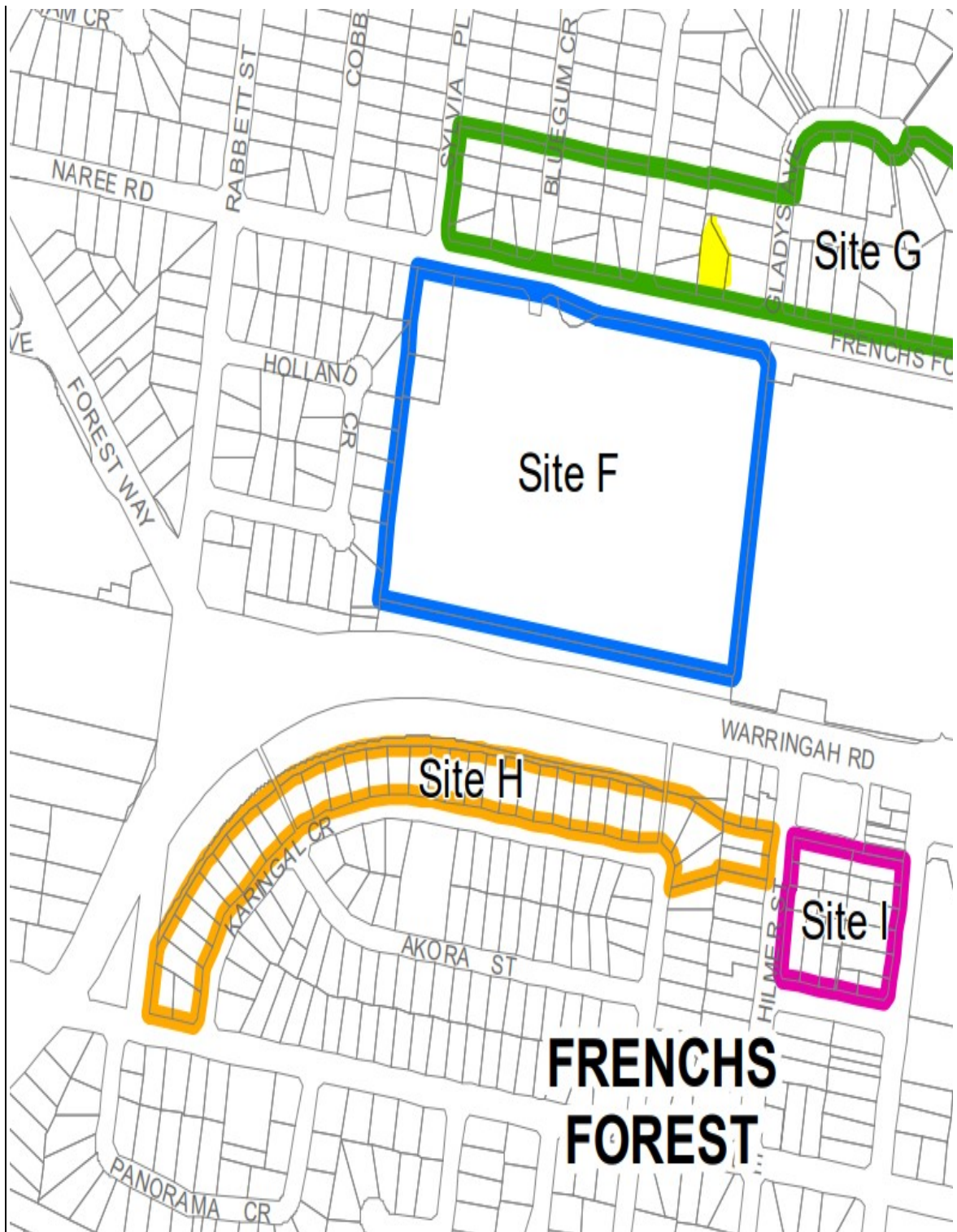
- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts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

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 8.5 Design excellence—Sites F, G and I
 Warringah Local Environmental Plan 2011 - 8.10 Power lines—Site G
 Warringah Development Control Plan - D13 Front Fences and Front Walls

SITE DESCRIPTION

Property Description:	Lot 2 DP 25713 , 130 Frenchs Forest Road West FRENCHS FOREST NSW 2086
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Frenchs Forest.</p> <p>The site is irregular in shape with an approximate area of 1,017m².</p> <p>The site is located within the B4 Mixed Use zone and accommodates a two-storey boardir</p> <p>The site is within the the area identified as "Site G" of Part 8 Frenchs Forest Precinct, of th Environmental Plan 2011, see map below, with site coloured yellow:</p>



Adjoining and surrounding development is characterised by residential uses to the east, w R3 Medium Density Residential zone. Immediately to the south of the site is the B4 Mixed Core / RE1 Public Recreation zones, all part of the future Frenchs Forest Town Centre. To Northern Beaches Hospital.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

DA2017/1022: Consent issued in the NSW Land and Environment Court for "demolition of existing structures and the construction of a boarding house with basement carparking" on 18 January 2019.

BC2021/0115: Building Information Certificate for "Masonry front fence with attached aluminium classic picket panels" refused by Council on 12 October 2022. In summary, the reasons for the refusal were based on: non-compliance with the Warringah DCP 2011 for fences; and impact of fence on sight-lines / vehicular safety from existing access point.

EPA2020/0244: Council issues to the property owner a Notice Of Intention To Give A Development Control Order on 2 November 2022, for the reasons reproduced below:

"1. Demolish unauthorised building work for which development consent is required but was not obtained at the property known as 130 Frenchs Forest Road West, FRENCHS FOREST NSW 2086 legally identified as Lot 2 DP 25713 specifically:

The unauthorised four (4) fences located in the front setback measuring approximately 1.8metres in height"

The subject application has been lodged in response to the compliance action of Council.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions	See discussion on "Environmental Planning Instruments" in this

Section 4.15 Matters for Consideration	Comments
of any environmental planning instrument	<p>report.</p> <p>The NSW employment zones reforms have been made and will come into force on 26 April 2023. These reforms will result in this property changing from a B4 Mixed Use zone to a MU1 Mixed Use zone. The proposed use (works ancillary to a <i>boarding house</i>) will remain a permissible land use in the new zone.</p>
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to; private open space; front setback; and unauthorised works, in correspondence dated 14 February 2023. Amended plans were received in response to this correspondence on 6 March 2023.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 09/01/2023 to 25/01/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	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.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council

Policies have been considered in the merit assessment of this application.

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

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

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

SEPP (Housing) 2021

Division 2 – Boarding Houses

Clause 23 – Boarding houses permitted with consent	
Standard	Compliance/Comment
1) Development for the purposes of a boarding house may be carried out with consent on land on which development for the purposes of a boarding house is permitted with consent under another environmental planning instrument.	The proposal relates to ancillary works (fencing) to existing, lawfully approved, boarding house.
2) Development for the purposes of a boarding house must not be carried out on land in the R2 Low Density Residential zone or an equivalent land use zone unless the land is within an accessible area.	Not relevant to the subject land.

Clause 24 – Non-Discretionary Development Standards	
Standard	Compliance/Comment
Floor Space Ratio	
a) For development in a zone in which residential flat buildings are permitted, a floor space ratio is not more than: <ul style="list-style-type: none"> i) the maximum permissible floor space ratio for residential accommodation on the land. ii) an additional 25% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of the boarding house. 	Not relevant - no additional floor space is proposed.
b) if (a) does not apply - a floor space ratio that is not more than the maximum permissible floor space ratio for residential accommodation on the land.	As above.
Landscaping	

c) For development on land in R2 Low Density Residential or R3 Medium Density Residential - the minimum landscaping requirements for multi-dwelling housing under a relevant planning instrument.	Not relevant to the subject land.
d) For development on land in R4 High Density Residential - the minimum landscaping requirements for residential flat buildings under a relevant planning instrument.	As above.
Communal Living Area(s)	
e) At least 3 hours of direct solar access provided between 9am and 3pm at mid-winter in at least 1 communal living area.	The proposed works will not result in any loss of solar access to the existing communal area.
f) For a boarding house containing 6 boarding rooms: i) a total of at least 30m ² of communal living area, and ii) minimum dimensions of 3m for each communal living area.	Not relevant - no change to the number of existing rooms is proposed.
g) For a boarding house containing more than 6 boarding rooms: i) a total of at least 30m of communal living area plus at least a further 2m ² for each ii) boarding room in excess of 6 boarding rooms, and minimum dimensions of 3m for each communal living area.	As above.
h) Communal open spaces: i) with a total area of at least 20% of the ii) site area, and each with minimum dimensions of 3m.	There will be no proposed change to the existing areas of communal open space.
Car Parking	
i) If a relevant planning instrument does not specify a requirement for a lower number of parking spaces - at least the following number of parking spaces: i) in an accessible area - at least 0.2 ii) parking space for each boarding room, or otherwise - at least 0.5 parking space for each boarding room.	Not relevant to the proposed development.
j) If a relevant planning instrument specifies a requirement for a lower number of parking spaces—the lower number specified in the relevant planning instrument.	Not relevant to the proposed development.

Clause 25 – Standards for Boarding Houses	
This section does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	

Standard	Compliance/Comment
1) Development consent must not be granted under this Division unless the consent authority is satisfied that:	
a) No boarding room will have a gross floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of more than 25m ² .	Not relevant to the proposed development.
b) No boarding room will be occupied by more than 2 adult residents.	Not relevant to the proposed development.
c) Adequate bathroom, kitchen and laundry facilities will be available within the boarding house for the use of each resident.	Not relevant to the proposed development.
d) For a boarding house on land in R2 Low Density Residential or an equivalent land use zone - the boarding house will not have more than 12 boarding rooms.	Not relevant to the proposed development.
e) For a boarding house on land in a business zone – no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits the use.	The land is located in a Mixed Use zone, however no change is proposed to the existing floor space.
f) For a boarding house containing at least 6 boarding rooms - the boarding house will have at least 1 communal living room.	Not relevant to the proposed development.
g) The minimum lot size for the development is not less than: <ul style="list-style-type: none"> i) for development on land in R2 Low Density Residential – the minimum lot size requirements for manor houses under a relevant planning instrument, or ii) 600m². iii) for development on land in R3 Medium Density Residential – the minimum lot size requirements for multi-dwelling housing under a relevant planning instrument. Otherwise - the minimum lot size requirements for residential flat buildings under a relevant planning instrument.	Not relevant to the proposed development.
h) The development has a gross floor area, (excluding an area used for the purposes of private kitchen or bathroom facilities), of at least the following for each boarding room: <ul style="list-style-type: none"> i) for a boarding room intended to be used ii) by a single resident - 12m². otherwise - 16m². 	Not relevant to the proposed development.
i) If the boarding house exceeds 3 storeys - the building will comply with the minimum building	Not relevant to the proposed development.

separation distances specified in the Apartment Design Guide (ADG).	
j) The development has a gross floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of at least the following for each boarding room: i) for a boarding room intended to be used ii) by a single resident - 12m ² . otherwise - 16m ² .	Not relevant to the proposed development.
2) Development consent must not be granted under this Division unless the consent authority considers whether:	
a) The design of the boarding house will be compatible with: i) the desirable elements of the character ii) of the local area, or for precincts undergoing transition - the desired future character of the precinct.	Adequate consideration has been given the special requirements for Frenchs Forest precinct, in the design of the proposed fencing.
b) The front, side and rear setbacks for the boarding house are not less than: i) for development on land in R2 Low Density Residential or R3 Medium Density Residential - the minimum setback requirements for multi dwelling housing under a relevant planning instrument. for development on land in R4 High Density Residential - the minimum setback requirements for residential flat buildings under a relevant planning instrument.	Not relevant to the subject land.
c) If the boarding house has at least 3 storeys - the building will comply with the minimum building separation distances specified in Clause 2F and 3F of the Apartment Design Guide (ADG).	Not relevant to the proposed development.
d) At least 1 motorcycle parking space will be provided for every 5 boarding rooms.	Not relevant to the proposed development.
e) At least 1 bicycle parking space will be provided for each boarding room.	Not relevant to the proposed development.

Clause 26 – Must be used for affordable housing in perpetuity	
Subsection (1) does not apply to development on land owned by the Land and Housing Corporation or to a development application made by a public authority.	
Standard	Compliance/Comment
1) Development consent must not be granted under this Division unless the consent authority is satisfied that from the date of the issue of the Occupation Certificate and continuing in perpetuity:	
a) The boarding house will be used for affordable housing.	The proposed development is for minor ancillary works that will not effect this clause.
b) The boarding house will be managed by a	As above.

registered community housing provider	
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Clause 27 – Subdivision of boarding houses not permitted	
Standard	Compliance/Comment
Development consent must not be granted for the subdivision of a boarding house permitted under this Division.	Not relevant to the proposed development.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment: The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Warringah Local Environmental Plan 2011

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

Compliance Assessment

Clause	Compliance with Requirements
5.3 Development near zone boundaries	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes
8.1 Definitions	Yes
8.2 Land to which this Part applies	Yes
8.3 Objectives for development in Frenchs Forest Precinct	Yes
8.4 Development control plans	Yes
8.5 Design excellence—Sites F, G and I	Yes
8.10 Power lines—Site G	Yes

Detailed Assessment

8.5 Design excellence—Sites F, G and I

Clause 8.5 Design Excellence requires that the consent authority must consider design excellence in any development. Specifically, Clause 8.5(3) is relevant to the proposed development, hence a consideration of this clause is provided below:

(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,

Comment: Upon initial assessment of the proposal, the preponderance of solid, high fences within the front setback was found to be adverse to achieving a high standard of design required by this clause. However, the revised design has used more transparent materials and a lower height to reduce its visual impact and present a scheme that is more consistent with both the existing building and the future design expectations of the locality.

(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,

Comment: The proposed design, as amended, will present a form and external appearance that will make a positive contribution to the design quality and amenity of the public domain.

(c) whether the development detrimentally impacts on view corridors,

Comment: There is unlikely to be any adverse impacts on any views enjoyed by adjoining properties.

(d) how the development addresses the following matters—

(i) the suitability of the land for development,

Comment: The proposed works are ancillary to the existing boarding house and are hence considered suitable for land on which it is situated.

(ii) existing and proposed uses and use mix,

Comment: No change of land use is proposed, hence the proposal is consistent with this objective.

(iii) heritage issues and streetscape constraints,

Comment: There are no heritage properties in the vicinity, nor any particular streetscape character constraints that would preclude the construction of the proposed fencing.

(iv) the relationship of the development with other existing or proposed development on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

Comment: The proposed works are adequate in the context of existing development. There are no proposed works on adjoining sites that will be similarly effected by the proposed development.

(v) bulk, massing and modulation of buildings,

Comment: Not strictly relevant to the proposal, as no new building is proposed. Nonetheless, the proposed fencing is considered to have an adequate visual bulk and scale.

(vi) street frontage heights,

Comment: Not strictly relevant to the proposal, as no new building is proposed.

(vii) environmental impacts including overshadowing, wind and reflectivity,

Comment: No adverse environmental impacts are considered likely, as a result of the proposed fencing.

(viii) the achievement of the principles of ecologically sustainable development,

Comment: The proposed works will not be contrary to the principles of ecologically sustainable development.

(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,

Comment: The proposed amendments to the retaining wall adjacent the driveway will improve vehicular and pedestrian access and safety.

(x) the impact on, and proposed improvements to, the public domain,

Comment: As stated previously, the proposed design will not adversely impact the adjoining public domain.

(xi) the quality and integration of landscape design.

Comment: The proposal, as amended, will enhance landscaped open space on the frontage of the site and be consistent with this objective.

In summary, the design of the proposal is now considered adequate to meet this requirement of Warringah LEP 2011.

8.10 Power lines—Site G

Council has referred the application to Ausgrid, who have advised no objection subject to condition. The minor nature of the works are unlikely to effect the future underground location of power lines. A further condition of consent is recommended to ensure that surveys are undertaken post-construction to ensure all works will not encroach upon the adjoining road reserve.

Warringah Development Control Plan

Built Form Controls

Built Form Controls - G9, Precinct 05 Frenchs Forest Road West Neighbourhood	Requirement	Proposed	% Variation	Complies
Front Setback*	3.5m	N/A	N/A	Yes
Side Setback	Nil	N/A	N/A	Yes
Landscaped area	45%	477m ² or 47%	N/A	Yes

** Building setbacks from street frontages are to be landscaped and free of any structures, basements, car parking or site facilities other than driveways, mail boxes, garbage storage areas and fences.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D13 Front Fences and Front Walls	Yes	Yes
D20 Safety and Security	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E10 Landslip Risk	Yes	Yes
1 Introduction	Yes	Yes
2 Desired future character	Yes	Yes
5 Site specific requirements	Yes	Yes
5.2 Precinct 05 Frenchs Forest Road West Neighbourhood	Yes	Yes

Detailed Assessment

D13 Front Fences and Front Walls

The proposed fences within the front setback are considered against the underlying Objectives of the Control as follows:

- *To ensure that fencing, terracing and retaining walls are compatible with the existing*

streetscape character while creating visual interest in the public domain.

Comment: The design of the fences (as amended) utilise transparent materials and appropriate heights above the existing ground level (estimated at a maximum of 1.4m on the front boundary and 1.5m for the return fences) that minimise built form within the front setback area and provide an adequate level of visual interest in the public domain. Therefore, the proposed development is consistent with this objective.

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

Comment: Upon initial assessment of the original design, the proposal was found to have an adverse visual impact due to the preponderance of high (1.8m), solid surfaces. Subsequent discussions with the applicant revealed that there was an operational requirement for service access to the front door of the building, which meant the front gate could not be locked. The objective of the high return fences were to also provide security for ground floor rooms of the boarding house. Whilst Council acknowledged these requirements, it nonetheless could not come at the expense of adverse visual impact on the streetscape. Hence, a design solution was proposed where the return fences would be a transparent picket style, with a lower height of 1.5m. The application, as amended, is therefore consistent with this objective.

- *To avoid a 'walled in' streetscape.*

Comment: The original design, as described previously, failed this objective. The amended design is however now consistent.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

Un-authorised Works (Fences)

As stated elsewhere in this report, the existing fences are currently subject to compliance action of Council.

The application, specifically makes reference to elements of an existing masonry fence on the front boundary.

These structures were not erected consistent with the original approval for the boarding house and are the subject of Council enforcement action.

Council cannot issue retrospective consent to these structures, hence a condition of consent is recommended that these existing structures do not form part of any future development consent for the proposed works.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2022/2190 for Alterations and additions to a boarding house on land at Lot 2 DP 25713, 130 Frenchs Forest Road West, FRENCHS FOREST, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA01 Revision No.3	7 March 2023	Stanton Dahl Architects

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
-	22 December 2022	Minto Planning Services

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

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

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response - OH and UG Cables	10 January 2023
Ausgrid	Ausgrid Referral Response - Substation Letter	10 January 2023
Ausgrid	Ausgrid Referral Response - Working Near or Around Underground Cables	10 January 2023
Ausgrid	Ausgrid Referral Response - Clearances Reference Guide	10 January 2023
Ausgrid	Ausgrid Referral Response - Easement Brochure	10 January 2023

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

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

3. **Approved Land Use**

No consent is given or implied for any existing structures on the site beyond those new works which relate to the consent.

Specifically, no consent is granted for the existing masonry fence structure/s on the southern front boundary of the site adjoining Frenchs Forest Road West.

Reason: To ensure compliance with the terms of this consent.

4. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

5. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

- (k) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished
- The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

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

6. Compliance with Standards

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

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

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

7. Sydney Water "Tap In"

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

8. Installation and Maintenance of Sediment Control

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

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

9. Waste Management During Development

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

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

10. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris,

straw bales and temporary fences are to be removed from the site.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure bushland management.

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

Signed



Nick England, Planner

The application is determined on 13/03/2023, under the delegated authority of:



Adam Richardson, Manager Development Assessments