

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2022/0229
Responsible Officer:	Kye Miles
Land to be developed (Address):	Lot 8 DP 6984, 18 Alexander Street COLLAROY NSW 2097 Lot 9 DP 6984, 18 Alexander Street COLLAROY NSW 2097
Proposed Development:	Modification of Development Consent DA2021/1766 granted for Demolition works and construction of a housing development comprising five (5) self-contained apartments including basement car parking pursuant to SEPP (Housing for Seniors or People with a Disability) 2004
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes, under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Laxland Group Pty Ltd
Applicant:	Lucas Allan Laxale

Application Lodged:	23/05/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	31/05/2022 to 14/06/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

Modification of Development Consent DA2021/1766 granted for demolition works and construction of a housing development comprising five (5) self-contained apartments including basement car parking. The modifications include the addition of a swimming/plunge pool within the private open space of Apartments 1 and 5.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning

and Assessment Act 1979 and the associated Regulations. In this regard:

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

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting

SITE DESCRIPTION

Property Description:	<p>Lot 8 DP 6984 , 18 Alexander Street COLLAROY NSW 2097</p> <p>Lot 9 DP 6984 , 18 Alexander Street COLLAROY NSW 2097</p>
Detailed Site Description:	<p>The site is legally identified as Lots 8 and 9 in Deposited Plan 6984 and are cumulatively known as No. 18 Alexander Street, Collaroy. Herein this report reference to 'the site' pertains to both these lots.</p> <p>The site has a frontage to Alexander Street of 24.38m with a maximum depth of 47.955m equating to an overall area of 1,156.1 square metres. The site presently accommodates a part two / part three storey detached dwelling house with a detached single storey secondary dwelling, decking and an in-ground swimming pool.</p> <p>The site is located within the R2 Low Density Residential zone pursuant to the Warringah Local Environmental Plan 2011. The site is approximately 150m west of Pittwater Road and 200m west of Collaroy Beach. The site is bound by detached dwelling houses to the north, east and west. South of the site is a large bushland site occupied by the Salvation Army.</p>

Map:



SITE HISTORY

Development Consents

DA2020/0205 and DA2020/0261 (Boarding Houses) - These development consents each relate to one of the lots making up the subject site, and were granted for the construction of a boarding house on each lot.

The two DA's were refused by the Northern Beaches Local Planning Panel on 2 September 2020. An appeal was lodged in the Land and Environment Court of NSW (*Waights v Northern Beaches Council [LEC No: 2020/145123]*), which was upheld by the Court (after significant amendments were made to address built form and character issues), with consent being granted on 29 March 2021.

These consents have not been activated.

DA2021/1766 - Development application for demolition works and construction of a housing development comprising five (5) self-contained apartments including basement car parking pursuant to SEPP (Housing for Seniors or People with a Disability) 2004. This application was approved by the NBLPP on 16 March 2022. Of note a condition was imposed requiring the surrender of the two boarding house consents.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the

- development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2021/1766, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
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 proposed modification is of minimal environmental impact, and	<p>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <ul style="list-style-type: none"> The plunge pools provide substantial building separation to maintain neighbouring amenity. The works are located within the approved private open space of Apartments 1 and 5, which previously contained open terraces. In this regard there will be no significant change in the use and function of these areas. Compliance with the relevant planning controls is maintained
(b) 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	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2021/1766 for the following reasons:</p> <ul style="list-style-type: none"> No discernible change is proposed to the approved built form. The works are considered to be of minimal environmental impact.
<p>(c) it has notified the application in accordance with:</p> <p>(i) 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</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>

Section 4.55(1A) - Other Modifications	Comments
applications for modification of a development consent, and	
(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.	No submissions were received in relation to this application.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – 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>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</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 matter has</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>been addressed via a condition of consent.</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 matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 31/05/2022 to 14/06/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Environmental Health (Industrial)	<p>General Comments</p> <p>Swimming/plunge pools proposed for units 1 and 5. Mechanical pool equipment is to be placed in acoustic enclosures below the pool decking. Please see condition below.</p>
Landscape Officer	<p>The application is for modification to development consent DA2021/1766. The proposed modification includes the addition of a swimming/plunge pool within the private open space of Apartments 1 and 5.</p> <p><i>Updated comments 01.08.2022:</i> Amended Plans are submitted including Landscape Plans indicating removal of the pool decking surrounds and replacement with mulch as the landscape area treatment. Under Warringah Local Environment Plan 'landscape area' is defined as "a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area", and the use of mulch does not satisfy the LEP intent to utilise 'landscape area' and "provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building". as required under Warringah Development Control Plan D1. The approved development consent includes landscape planting of shrubs and groundcovers to the this and therefore the mulch treatment is not acceptable and shall be replaced with planting as imposed by conditions.</p> <p><i>Previous comments 08.06.2022:</i> The swimming/plunge pool for Apartment 1 is located within the private open space to the east of Bedroom 1. The swimming/plunge pool incorporates a pool fence and perimeter decking, with new landscaping provided between the sandstone wall extending along the side of the decking and the side boundary. The swimming/plunge pool for Apartment 5 is located within the private open space to the north of the main living areas. The swimming/plunge pool incorporates a pool fence and perimeter decking, with new landscaping provided between the decking and the perimeter of the private open space. The pool equipment for both swimming/plunge pools will be accommodated with acoustic enclosures located below the proposed perimeter decking.</p> <p>Updated Landscape Plans are submitted. The location of the proposed pool for Apartment 1 is in close proximity to the side boundary and the provision of screen planting as approved in development consent DA2021/1766 is replaced with low height planting due to the walling setback from the side boundary (calculated as approximately 500mm in width), and it is considered that the provision of adequate screen planting is appropriate to provide visual screening for the occupants of Apartment 1 and for any existing or</p>

Internal Referral Body	Comments
	<p>future occupant of the adjoining property. Thus Landscape Referral consider that the approved landscape screening under development consent DA2021/1766 (ie. planting of Syzygium 'resilience' along the boundary) shall be maintained and a minimum 900mm landscape garden setback from common boundary to the back of the proposed walling shall be imposed by conditions to ensure for the establishment of suitable screen planting.</p> <p>No concerns are raised regarding the provision of the proposed pool for Apartment 5 as the location does not impact the landscape outcome of the development.</p> <p>Condition 52. Landscape Completion shall be amended accordingly.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1238507M_03 dated 13 April 2022).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	45	57

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

SEPP (Housing for Seniors or People with a Disability) 2004

The original application was determined pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (HSPD)) for the construction of a five (5) self-contained

dwellings for seniors or people with a disability. As per the savings and transitional provisions pursuant to Schedule 7A SEPP (Housing) 2021, an assessment against the provisions of the Housing SEPP is not required in this instance. Therefore, an assessment against the relevant provisions of SEPP (HSPD) is as follows.

Chapter 1 – Preliminary

The aims of the Policy are set out in Clause 2 and are as follows:

This Policy aims to encourage the provision of housing (including residential care facilities) that will:

- (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and
- (b) make efficient use of existing infrastructure and services, and
- (c) be of good design.

Comment:

The overall design and outcomes of the modified proposal is supported and on balance the proposal is considered to achieve the aims of the SEPP (HSPD).

Chapter 2 – Key Concepts

Comment:

The development is appropriately described as "*in-fill self-care housing*" falling under the umbrella term of *self-contained dwellings*, as permitted under the SEPP (HSPD).

Chapter 3 – Development for Seniors Housing

Chapter 3 of SEPP (HSPD) contains a number of development standards applicable to development applications made pursuant to SEPP HSPD. Clause 18 of (SEPP HSPD) outlines the restrictions on the occupation of seniors housing and requires a condition to be included in the consent if the application is approved to restrict the kinds of people which can occupy the development. If the application is approved the required condition would need to be included in the consent. The following is an assessment of the proposal against the requirements of Chapter 3 of SEPP (HSPD).

Development Criteria			
Clause	Requirement	Proposal	Section 4.55 Modification Compliance
PART 2 - Site Related Requirements			
26(1)	Satisfactory access to: (a) shops, banks and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner	The development provides satisfactory access to shops, banks and other retail and commercial services as required, as well as community services and recreation facilities, and a GP. The site is proximate to the Collaroy Beach town centre area.	No change from original development consent.
26(2)	Access complies with this clause if: (a) the facilities and services	The site is located within 400m of a bus stop that is regularly serviced throughout the day and	No change from original development

Development Criteria			
Clause	Requirement	Proposal	Section 4.55 Modification Compliance
	referred are located at a distance of not more than 400 metres from the site or (b) there is a public transport service available to the residents not more than 400metres away.	not. The adjoining commercial area also accommodates a number of services and uses that will contribute to the amenity of residents.	consent.
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	The site is not located within bushfire prone land.	No change from original development consent.
28	(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.	The site is capable of being connected to a reticulated water system and sewerage infrastructure. Evidence of this infrastructure is detailed on the accompanying survey plan.	No change from original development consent.
29	<p>Consideration must be given to whether the proposal is compatible with the surrounding land uses having regard to the following criteria specified in Clauses 25(5)(b)(i), 25(5)(b)(iii), and 25(5)(b)(v):</p> <p>i) the natural environment and the existing uses and approved uses of land in the vicinity of the proposed development</p> <p>iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development and any proposed financial arrangements for infrastructure provision,</p> <p>v) the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.</p>	<p>This clause applies as Clause 24 (Site compatibility certificate) does not apply.</p> <p>The site is situated within an urban context comprised by commercial developments to the north and east and low density residential developments to the south and west. The transitional scale of this development in terms of its proportions and density represent an appropriate development for the vicinity given existing uses.</p> <p>The provision of landscaped area is generally consistent with what can reasonably be expected to be provided on adjacent sites.</p> <p>The proposed development, by virtue of its proportions, form and character is not considered likely to prejudice the amenity or development potential of surrounding sites.</p>	No change from original development consent.

Development Criteria			
Clause	Requirement	Proposal	Section 4.55 Modification Compliance
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	A site analysis is provided in the submitted architectural plans and Statement of Environmental Effects.	No change from original development consent.

Clause 31 Design of In-fill Self-care Housing

Pursuant to Cause 31, in determining a development application to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* published by the former NSW Department of Infrastructure, Planning and Natural Resources dated March 2004.

The provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* have been taken into consideration in the assessment of the application against the design principles set out in Division 2, Part 3 of SEPP (HSPD). A detailed assessment of the proposal against the requirements of Seniors Living Policy is undertaken hereunder.

Section	Requirements	Section 4.55 Comment
1. Responding to Context	<p>Built Environment – New development is to follow the patterns of the existing residential neighbourhood in terms of built form.</p> <p>Policy environment – Consideration must be given to Councils own LEP and/or DCPs where they may describe the character and key elements of an area that contribute to its unique character.</p>	<p>The modified development retains compliance with the approved built form and does not result any additional building bulk that conflicts with the patterns of the existing residential neighbourhood.</p> <p>The WLEP 2011 and WDCP 2011 do not have any specific locality statements as such but rather seek to define an appropriate character through the applicable built form controls.</p>
2. Site Planning and Design	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Minimise the impact of new development on neighbourhood character -Minimise the physical and visual dominance of car parking, garaging and vehicular circulation. 	<p>The changes relate to minor landscaping works and the installation of two plunge pools.</p> <p>Overall, the site planning and design is substantially the same as originally approved under DA2021/1766 and is therefore acceptable within the context of this principle.</p>
3. Impacts on Streetscape	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Minimise impacts on the existing streetscape and enhance its desirable 	<p>As above, the proposed modifications are minor and will not give rise to any additional streetscape impacts.</p>

Section	Requirements	Section 4.55 Comment
	characteristics -Minimise dominance of driveways and car park entries in streetscape.	
4. Impacts on Neighbours	The proposal is generally in accordance with the requirements of this section.	The modified proposal is not found to have any unreasonable impacts on neighbours as expanded upon (where necessary) in the WDCP 2011 section of this report and in the below table against the criterion of Division 2 of the SEPP.
5. Internal Site Amenity	Objectives of this section are to: -Provide safe and distinct pedestrian routes to all dwellings and communal facilities.	The proposed modification will not impact upon internal amenity.

Clause 32 Design of Residential Development

In accordance with Clause 32 of SEPP (HSPD) a consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 of the SEPP.

The following table outlines compliance with the principles set out in Division 2, Part 3 of SEPP (HSPD).

Control	Requirement	Approved	Section 4.55 Modification Compliance
CL33 Neighbourhood Amenity and Streetscape	<p>a. Recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area.</p> <p>b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that re identified in a local</p>	<p>The proposal recognises the proportions of nearby buildings and the prevalence of landscaped frontages. The design responds to those frontages by providing a greater than average setback and ample landscaping to ameliorate any perceived visual bulk of the structure. On that basis, the design appropriately responds to the streetscape.</p> <p>There are no adjacent or proximate heritage items.</p>	<p>The proposed modification maintains a design that appropriately responds to the streetscape.</p> <p>No change from original development consent.</p>

Control	Requirement	Approved	Section 4.55 Modification Compliance
	<p>environmental plan.</p> <p>c. Maintain reasonable neighbour amenity and appropriate residential character by;</p> <p>(i) providing building setbacks to reduce bulk and overshadowing</p> <p>(ii) using building form and siting that relates to the site's land form, and</p> <p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development,</p> <p>(iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbors.</p> <p>d. Be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line,</p> <p>e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.</p> <p>f. retain , wherever</p>	<p>These matters are considered elsewhere in this report under the provisions of SEPP 65 (Apartment Design Guide).</p> <p>The proposed front setback is significantly greater than neighbouring buildings. The WDCP 2011 requires a setback of 6.5m. The proposed first floor (above basement) is setback 14.5m and the floor above is setback 28.7m from the front boundary.</p> <p>The proposed Landscape Plan and planting schedule has been accepted by Council's Landscape Officer, subject to conditions as recommended.</p> <p>Achieved.</p>	<p>These matters are considered within the original assessment of DA2021/1766 under the provisions of SEPP 65 (Apartment Design Guide). No significant changes are proposed to the approved built form and therefore no further assessment is required in this instance.</p> <p>The proposed plunge pools are set back at a minimum of 17.3m from the front boundary.</p> <p>The modified Landscape Plan and planting schedule has been accepted by Council's Landscape Officer, subject to conditions as recommended.</p> <p>No change</p>

Control	Requirement	Approved	Section 4.55 Modification Compliance
	reasonable, major existing trees, and g. be designed so that no building is constructed in a riparian zone.	Achieved.	from original development consent. No change from original development consent.
CL34 Visual and Acoustic Privacy	The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by: (a) Appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and (b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	The development is considered to provide an acceptable level of visual and acoustic privacy to both occupants of the development itself, and to neighbouring buildings.	Imposed conditions will require the swimming pool motor to be acoustically treated to ensure that the development does not impact on the acoustic privacy of surrounding residential properties. In this regard, the modified development is considered to provide an acceptable level of visual and acoustic privacy to both occupants of the development itself, and to neighbouring buildings.
CL35 Solar Access and Design for Climate	The proposed development should: (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of	This matter is discussed in greater detail elsewhere in this report under the Apartment Design Guides assessment criteria but in summary, the proposal is considered to provide acceptable solar access appropriately designed for the climate.	No change from original development consent.

Control	Requirement	Approved	Section 4.55 Modification Compliance
	private open space, and (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.		
CL36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	Council's Development Engineers are satisfied with the proposed stormwater solution.	No changes are proposed to the approved stormwater solution.
CL37 Crime Prevention	The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and	Access to the development is via a secure lobby. The front garden areas and access pathways are overlooked by the units within the development itself which provide for natural passive surveillance of the surrounding area. The individual apartments can be designed with 'peep holes' in the doors to see who is standing at them.	No change from original development consent.

Control	Requirement	Approved	Section 4.55 Modification Compliance
	(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.		
CL38 Accessibility	The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.	The site is afforded a reasonably level footpath from its frontage to the Pittwater Road shops, amenity and bus stops. That pedestrian environment is considered to be appropriately safe and comfortable for pedestrians. Internally within the site an adequate provision of safe and easy-to-navigate pedestrian amenity is provided.	No change from original development consent.
CL39 Waste Management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	The waste storage room will provide appropriate recycling facilities as required.	No change from original development consent.

Part 4 - Development Standards to be Complied With

Clause 40 – Development standards – minimum sizes and building height

Pursuant to Clause 40(1) of SEPP (HSPD) a consent authority must not consent to a development application made pursuant to Chapter 3 unless the proposed development complies with the standards specified in the Clause.

The following table outlines compliance with standards specified in Clause 40 of SEPP (HSPD).

Control	Required	Approved	Section 4.55 Modification Compliance
Site Size	1000 sqm	(surveyed) 1,156sqm	No change from original development consent.
Site frontage	20 metres	24.39 metres	No change from

Control	Required	Approved	Section 4.55 Modification Compliance
			original development consent.
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	Less than 8 metres	No change from original development consent.
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height	Noted	No change from original development consent.
	A building located in the rear 25% of the site must not exceed 1 storey in height	The building proposes a two storey component in the rear 25% of the site.	No change from original development consent.

Clause 41 Standards for Hostels and Self-contained Dwellings

In accordance with Clause 41, a consent authority must not consent to a development application made pursuant to Chapter 3 unless the development complies with the standards specified in Schedule 3 for such development. The following table outlines compliance with the principles set out in Schedule 3 of SEPP HSPD.

Control	Required	Approved	Section 4.55 Modification Compliance
Wheelchair Access	If the whole site has a gradient less than 1:10, 100% of the dwellings must have wheelchair access by a continuous path of travel to an adjoining public road. If the whole of the site does not have a gradient less than 1:10 the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10 or 50% whichever is the greater.	Capable of complying as secured via condition.	No change from original development consent.

Control	Required	Approved	Section 4.55 Modification Compliance
Security	Pathway lighting (a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and (b) Must provide at least 20 lux at ground level	Capable of complying as secured via condition.	No change from original development consent.
Letterboxes	Letterboxes: (a) must be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel, and (b) must be lockable, and (c) must be located together in a central location adjacent to the street entry.	Capable of complying as secured via condition.	No change from original development consent.
Private Car Accommodation	(a)Carparking space must comply with AS2890 (b)One space must be designed to enable the width of the spaces to be increased to 3.8 metres, and (c) any garage must have a power operated door or there must be a power point and an area for motor or control rods to enable a power operated door to be installed at a later date.	Capable of complying as secured via condition.	No change from original development consent.
Accessible Entry	Every entry to a dwelling must comply with Clause 4.3.1 and 4.3.2 of AS4299	Capable of complying as secured via condition.	No change from original development consent.
Interior General	Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.	Capable of complying as secured via condition.	No change from original development consent.
Bedroom	At least one bedroom within each welling	Capable of complying as secured via condition.	No change from original

Control	Required	Approved	Section 4.55 Modification Compliance
	<p>must have:</p> <p>(a) An area sufficient to accommodate a wardrobe and a queen size bed</p> <p>(b) A clear area for the bed of at least 1200 mm wide at the foot of the bed and 1000mm wide beside the bed between it and the wall, wardrobe or any other obstruction.</p> <p>(c) Power and telephone outlets and wiring described in Clause 8 of Schedule 3.</p>		development consent.
Bathroom	The bathroom is to comply with the requirements described in Clause 9 of Schedule 3.	Capable of complying as secured via condition.	No change from original development consent.
Toilet	The toilet is to comply with the requirements described in Clause 9 of Schedule 3.	Capable of complying as secured via condition.	No change from original development consent.
Surface Finishes	Balconies and external paved areas must have slip resistant surfaces.	Capable of complying as secured via condition.	No change from original development consent.
Door Hardware	Door handles and hardware for all doors must be provided in accordance with AS4299.	Capable of complying as secured via condition.	No change from original development consent.
Ancillary Items	Switches and power points must be provided in accordance with AS4299.	Capable of complying as secured via condition.	No change from original development consent.
Living & Dining Room	A living room must have a circulation space in accordance with Clause 4.7.1 of AS4299, and a telephone adjacent to a general power outlet. Also a living and dining room must have a potential illumination level of at least 300 lux.	Capable of complying as secured via condition.	No change from original development consent.

Control	Required	Approved	Section 4.55 Modification Compliance
Kitchen	The kitchen must comply with the requirements of Clause 16 of Schedule 3	Capable of complying as secured via condition.	No change from original development consent.
Access to kitchen, main bedroom, bathroom & toilet	The kitchen, main bedroom, bathroom and toilet must be located on the entry level.	Capable of complying as secured via condition.	No change from original development consent.
Laundry	The laundry must comply with the requirements of Clause 19 of Schedule 3.	Capable of complying as secured via condition.	No change from original development consent.
Storage	A self-contained dwelling must be provided with a linen storage in accordance with Clause 4.11.5 of AS4299	Capable of complying as secured via condition.	No change from original development consent.
Garbage	A garbage storage area must be provided in an accessible location.	Capable of complying as secured via condition.	No change from original development consent.

Part 5 Development on land adjoining land zoned primarily for urban purposes

This part is not applicable to the subject site.

Part 6 Development for vertical villages

This part is not applicable to the proposed development.

Part 7 Development standards that cannot be used as grounds to refuse consent

Clause 46 Inter relationship of Part with design principles in Part 3

Clause 46 states that nothing in Part 7 permits the granting of consent pursuant to the Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.

Clause 50 Standards that cannot be used to refuse development consent for self-contained dwellings

In accordance with Clause 50 of SEPP (HSPD) a consent authority must not refuse consent to a development application made pursuant to Chapter 3 for the carrying out of development for the purpose of a self contained dwelling on any of the grounds listed in Clause 50.

The following table outlines compliance with standards specified in Clause 50 of SEPP (HSPD).

Control	Required	Approved
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	The development has a building height (measured from the underside of the top-most level ceiling to the ground level immediately below) of less than 8.0 metres.
Density and Scale	0.5:1	0.583:1 (583.6sqm to 1,156.1sqm)
Landscaped Area	30% of the site area is to be landscaped	43.3% (500.7sqm)
Deep Soil Zone	15% of the site area Two thirds of the deep soil zone should be located at the rear of the site. Each area forming part of the zone should have a minimum dimension of 3 metres.	The site provides two thirds of its deep soil zones located to the rear of the site.
Solar Access	Living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter	<p>This matter is discussed in greater detail elsewhere in this report under the Apartment Design Guides assessment criteria but in summary, the proposal is considered to provide acceptable solar access appropriately designed for the climate.</p> <p>The proposal is not being recommended for refusal on this basis.</p>
Private Open Space	(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3	Each dwelling is afforded satisfactory private open space.

Control	Required	Approved
	metres long and is accessible from a living area located on the ground floor, and (ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area	
Parking	(i) 0.5 car parking spaces for each bedroom where the development application is made by a person other than a social housing provider.	14 bedrooms requiring 7 car parking spaces. Nine residential car parking spaces providing plus one visitor space.
Visitor Parking	None required if less than 8 dwellings	Five dwellings proposed therefore no visitor parking required, however one space is provided.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

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

Warringah Local Environmental Plan 2011

Is the development permissible?	No
After consideration of the merits of the proposal, is the development consistent with:	

aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	Roof: 8.5m Lift shaft: 9.0m Underside of ceiling: <8.0m	Unit 1 Pool: 7.6m Unit 5 Pool: 0.7m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	7.8m	No change	N/A
B3 Side Boundary Envelope	4m - East	No encroachments	No change	N/A
	4m - West	Unit 5 - two encroachments measuring 0.9m(h) by 4.1m(l) and 0.8m(h) by 5.9m(l)	No change	N/A
B5 Side Boundary Setbacks	0.9m - East	Building - 2.6m +	Unit 1 Pool: 2.1m Unit 5 Pool: 14m	Yes
	0.9m - West	Balcony - 1.2m Building - 2.2m +	Unit 1 Pool: 20.1m Unit 5 Pool: 8m	Yes
B7 Front Boundary Setbacks	6.5m - North	Bin Room - 0.8m	Unit 1 Pool:	Yes

		Building - 12.1m +	17.5m Unit 5 Pool: 17.3m	
B9 Rear Boundary Setbacks	6m - South	Terrace - 5.3m Building - 6.55m +	No change	N/A
D1 Landscaped Open Space and Bushland Setting	40%	43.3% (500.7sqm)	40.6% (469.8sqm)	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

D1 Landscaped Open Space and Bushland Setting

Clause 50(c) and (d) of SEPP (HSPD) prevail over Clause D1 of the WDCP 2011 and therefore no further assessment on this clause is required.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2022/0229 for Modification of Development Consent DA2021/1766 granted for Demolition works and construction

of a housing development comprising five (5) self-contained apartments including basement car parking pursuant to SEPP (Housing for Seniors or People with a Disability) 2004 on land at Lot 8 DP 6984, 18 Alexander Street, COLLAROY, Lot 9 DP 6984, 18 Alexander Street, COLLAROY, subject to the conditions printed below:

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

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

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA111 Undercroft Floor Plan Rev. D	28 July 2022	Walsh Architects
DA113 Level 2 Floor Plan Rev. C	21 April 2022	Walsh Architects
DA201 Sections Rev. C	28 July 2022	Walsh Architects
DA300 Elevations Rev. C	21 April 2022	Walsh Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. 1238507M_03	13 April 2022	Building Sustainability Assessments

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
LS501.1 Ground Level - Landscape Plan - Sheet 1 Issue E	28 July 2022	Plot Design Group
LS501.3 Level 2 - Landscape Plan - Sheet 3 Issue D	14 April 2022	Plot Design Group

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

B. Add Condition No. 52A - Landscape Completion, to read as follows:

Landscape works under the modification shall be implemented in accordance with the approved Landscape Plans LS501.1 issue E, and LS501.3 issue D, inclusive of the following conditions:

i) the retaining wall as part of the pool setting for apartment 1 shall be setback from the common

boundary a minimum of 900mm to the back of walling,

ii) the proposed *Crocea saligna* planting along the boundary behind the retaining wall shall be substituted to provide the following tall shrub planting indicated under the development consent:

Syzygium 'resilience' planted at 900mm centres apart and at minimum 200mm pot containers,

iii) the proposed mulch surface finish is not approved and shall be substituted with the following: shrubs along the base of the retaining wall planted at 900mm centres apart and 500mm from the wall base and at minimum 200mm pot containers; and groundcovers planted at four per m² and at minimum 140mm pot containers to the remaining area marked as 'mulch', with the exception of paverslab access from the gate to the pool edge.

Reason: Landscape amenity.

C. Add Condition No. 76A - Swimming Pool Requirements, to read as follows:

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

(i) Swimming Pools Act 1992;

(ii) Swimming Pools Amendment Act 2009;

(iii) Swimming Pools Regulation 2008

(iv) Australian Standard AS1926 Swimming Pool Safety

(v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools

(vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

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

Reason: To protect human life.

D. Add Condition No. 82 - Pool Pump Acoustic Enclosures, to read as follows:

Pool pumps must be placed in acoustic enclosures to prevent audible noise beyond the property boundary between 8 pm and 7 am.

Reason: Maintain acoustic amenity according to State legislation

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

Signed



Kye Miles, Planner

The application is determined on 02/08/2022, under the delegated authority of:



Steven Findlay, Manager Development Assessments