

SYDNEY NORTH PLANNING PANEL COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSNH-260
DA Number	Mod2021/0444
LGA	Northern Beaches
Proposed Development	Modification of Development Consent N0123/17 for demolition of an existing aged care facility and construction of a new residential aged care facility
Street Address	Part Lot 2 DP 595174, 184 Garden Street WARRIEWOOD NSW 2102
Applicant/Owner	Opal Aged Care Principal Healthcare Finance Pty Ltd
Date of DA lodgement	01/07/2021
Number of Submissions	0
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Modification application for regionally significant development under Section 4.56 of the EP&A Act.
List of all relevant s4.15(1) (a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • Environmental Planning and Assessment Regulation 2000 • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 • State Environmental Planning Policy – Infrastructure 2011 • Pittwater Local Environmental Plan 2014 (PLEP 2014) • Pittwater 21 Development Control Plan (PDCCP)
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Attachment 1 – Draft Conditions • Attachment 2 – Architectural Plans • Attachment 3 – Landscape Plans • Attachment 4 – Access Report • Attachment 5 – Acoustic Report • Attachment 6 – BCA Report
Responsible Officer	Jordan Davies, Acting Principal Planner
Report date	27 October 2021

Summary of s4.15 matters

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

YES

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP.

YES

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not Applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) condition

Not Applicable

Conditions

Have draft conditions been provided to the applicant for comment? *Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report.*

YES

Executive Summary

The application is to modify an existing development consent for a Residential Aged Care Facility pursuant to Section 4.56 of the Environmental Planning and Assessment Act. The original application approved by the SydneyNorth Planning Panel under N0123/17 on 8 November 2017.

The application is referred to the Sydney North Planning Panel (SNPP) as it involves a Section 4.56 Modification to an application that was originally determined by the SNPP.

The application seeks to modify the design of two courtyards within the northern half of the site and make an amendment to the associated pathways, doorways and relocation of two pergolas closer towards the northern boundary. The proposal seeks to amend the design of the courtyard to increase usability and functionality for the residents of the aged care facility. The proposal does not involve any change of the main building height, setbacks or building bulk.

The proposed changes to the pergola structures have been assessed against the outcomes of the side setback control and the encroachments of the pergola structures are considered acceptable on merit given they will offer increased amenity for the residents and usability of the courtyard, whilst not having any unreasonable amenity or visual impacts for the adjoining properties.

The application is accompanied by an addendum reports/letters from a BCA Consultant, Access Consultant, Engineer and Acoustic Consultant in support of the changes, with each expert report concluding the proposal is capable of continuing to achieve compliance with the original consent conditions imposed.

Accordingly, based on the detailed assessment contained in this report, it is recommended that the application be approved subject to conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development seeks to modify development consent N0123/17 in the following way

(as described in the SOEE):

Courtyard 4 (West)

- Construction of a new doorway from the northern elevation of Wing 3 and associated path to link up with landscaped courtyards;
- Construction of a new doorway from the northern elevation of Wing 4 and associated path to link up with existing landscaped courtyards;
- Relocation of pergola to northern boundary with integrated water tank and potting bench;
- Relocation of secure fence and gateways to align with western elevation of Wing 3; and
- Construction of timber arbors to seated areas.

Courtyard 5 (East)

- Relocation of pergola to northern boundary with integrated water tank and potting bench;
- Construction of timber arbors to seated areas;
- Relocation of secure fence and gateways to align with eastern elevation of Wing 5; and
- Modifications of landscaping arrangement and planting schedule adjacent to ground floor courtyard units.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Environmental Planning and Assessment Act 1979 - Section 4.56 - Environmental Planning and Assessment Act 1979 - Section 4.56 - with S4.15 Assessment
Pittwater 21 Development Control Plan - B5.15 Stormwater
Pittwater 21 Development Control Plan - D16.7 Side and rear building lines

SITE DESCRIPTION

Property Description:	Part Lot 2 DP 595174, 184 Garden Street WARRIEWOOD NSW 2102

Detailed Site Description:

The site is known as 184 Garden Street, Warriewood, and has a legal description of Lot 2 in Deposited Plan 595174.

The site is irregular in shape, with a 131.55m wide frontage to Garden Street, a maximum depth of 98.9m and a total area of 11,675m². The site is slightly elevated above street level but is generally flat.

The site previously comprised an existing residential care facility with 55 high care beds and 50 assisted living beds, spread across two separate buildings. A single dwelling house was also located in the north-west corner of the site.

Vehicular and pedestrian access to the existing residential care facility is gained via a driveway to Garden Street, with a separate driveway access to the single residential dwelling. A number of established canopy trees are located within the front setback to Garden Street.

Construction has since commenced on the site pursuant to N0123/17.

The site adjoins Irrawong Reserve and Mullet Creek to the south of the site, and residential development to the north, west and north-east. Warriewood Wetlands is located to the east of the site, on the opposite side of Garden Street. The site is identified as Sector 10C in the Warriewood Valley Release Area, as shown on the Warriewood Valley Release Area Map of PLEP 2014.

Map:



Site History

A search of Council's records has revealed the following relevant history:

Application N0123/17 for demolition of an existing residential care facility and construction of a new 156-bed residential aged care facility was approved by the Sydney North Planning Panel on 08 November 2017.

On 6 December 2017, the applicant lodged a Class 1 Appeal with the NSW LEC against the deemed refusal of Development Application N0123/17, on the basis that the imposition of a condition requiring a monetary contribution of \$5,888,641.77 was unreasonably restrictive.

On 2 October 2018, Development Application N0123/17 was approved by the NSW LEC by virtue of a S34 agreement between parties.

Application Mod2019/0342 for Demolition of an existing residential care facility and construction of a new 148 bed residential aged care facility was approved on 15 October 2019. The modification related to the following:

- conversion of six approved residential care rooms on the ground floor into an allied health facility,
- amendments to the design of the staff courtyard,
- incorporation of new terraces on the ground and first floors, and
- amendments to the staging plan.

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 NO123/17 in full, with amendments detailed and assessed as follows:

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

Section 4.56- Other Modifications	Comments
(1) A consent authority may, on application being made by the applicant or any other person entitled	

Section 4.56- Other Modifications	Comments
to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<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 N0123/17 for the following reasons:</p> <ul style="list-style-type: none"> - The landscape courtyards remain the same size and the main building footprint does not change location or increase in size. The pergola structure moves towards the northern boundary however remain of consistent height and design. - The proposal does not result in additional adverse impacts above what was previously anticipated under the original development consent.
(b) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and the Northern Beaches Community Participation Plan.
(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and	Written notices of this application have been sent to the last address known to Council of the objectors or other persons who made a submission in respect of N0123/17.
(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 4.56 of the Environmental Planning and Assessment Act 1979, in determining a 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	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p>Division 8A of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p>
Section 4.15 (1) (b) – the likely impacts of	(i) The environmental impacts of the proposed

Section 4.15 'Matters for Consideration'	Comments
the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. (ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
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 classified as bush fire prone land and the proposed development is for a special fire protection purpose under Section 100B of the Rural Fires Act 1997. As such, the proposal is integrated development and requires a bush fire safety authority from the NSW Rural Fire Service.

General Terms of Approval were provided for the original development. The modification application was referred to the NSW RFS as integrated development for comment. The NSW RFS supports the application, subject to conditions. The recommendations of the original Bush Fire Report, along with the conditions from the NSW RFS as part of the bush fire safety authority, continue to apply to the development.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 23/07/2021 to 13/08/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	Supported - No further conditions The application to modify development consent N0123/17 for the demolition of an existing aged care facility and construction of a new

Internal Referral Body	Comments
	<p>residential aged care facility includes design amendment to the landscaped courtyards at ground floor level identified as Courtyard 4(west) and Courtyard 5 (east).</p> <p>On review of the Landscape Plans submitted with the modification application, the proposed amendments to the layout of the courtyard provide a landscape outcome that is not substantially altered from the development consent, and the modification improves the design layout and functional use and residential amenity of the courtyards.</p> <p>No Landscape Referral objections are raised to the modification proposal.</p> <p>Development consent N0123/17 condition A0 is to be amended to reference the relevant Landscape Plans prepared by Taylor Brammer Landscape Architects included as part of this modification, identified as:</p> <ul style="list-style-type: none"> • Cover Page - LA00 dated 25/05/2021; Landscape Plan - Ground Floor - LA02 dated 18/05/2021; Planting Plan - Ground Floor - LA03 dated 18/05/2021; Landscape Section B & C - LA05 dated 18/05/2021; Landscape Plan - Level 1 - LA06 dated 23/05/2021; Standard Details - LD02 dated 18/05/2021; and Standard Details - LD03 dated 18/05/2021. <p>All other landscape conditions remain.</p>
NECC (Bushland and Biodiversity)	<p>Supported - No further conditions</p> <p>Council's biodiversity and planning team have reviewed the proposed modification application against the relevant planning controls within the Pittwater 21 LEP and DCP. It is noted that the proposed works are minor and would not result in impacts to local biodiversity values. No trees or native vegetation is proposed for removal.</p>
NECC (Development Engineering)	<p>Supported - No further conditions</p> <p>No objections to the proposed courtyard modifications. No further conditions are required.</p>

External Referral Body	Comments
Aboriginal Heritage Office	The application was referred to the aboriginal heritage office who raised no concerns with the modification.
Integrated Development – NSW Rural Fire Service - Rural Fires Act (s100B Subdivisions and Special Fire Protection Purposes under)	<p>The original development application was 'Integrated Development' under Section 100b of the Rural Fires Act 1997 and a bushfire safety authority was issued for the original application subject to the Rural Fire Service General Terms of Approval.</p> <p>This modification application was referred back to the Rural Fire Service for comment in accordance with the Regulations. The RFS provided a response and raised no objections to the modifications, subject to compliance with the original GTA's dated 5 October 2017.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. The original development application and subsequent modification application MOD2020/0007 have imposed conditions regarding site remediation to ensure the site is suitable for the intended use, with these issues dealt with under the previous applications for the site. These conditions will continue to apply to this development and therefore Council can be satisfied the land can be made suitable for the intended use.

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

The proposed modifications have been considered with respect to the relevant provisions of SEPP HSPD, and have been found to remain consistent with standards and requirements of this policy.

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8m above FPL (14.16AHD)	8.55m (14.71m AHD)	unaltered	6.9% unaltered	No unaltered

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
6.1 Warriewood Valley Release Area	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.4 Floodplain risk management	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	11.3m	unaltered	Yes
Side & Rear building line	3m	3.5m - 19m	Main building unaltered Pergolas 1m	Yes No
Landscaped area	35%	38%	unaltered	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.16 Warriewood Valley Locality	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B4.3 Flora and Fauna Habitat Enhancement Category 2 Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.21 Seniors Housing	Yes	Yes
C6.2 Natural Environment and Landscaping Principles	Yes	Yes
C6.3 Ecologically Sustainable Development, Safety and Social Inclusion	Yes	Yes
C6.5 Utilities, Services and Infrastructure Provision	Yes	Yes
D16.1 Character as viewed from a public place	Yes	Yes
D16.4 Water Management for individual allotments	Yes	Yes
D16.5 Landscaped Area for Newly Created Individual Allotments	Yes	Yes
D16.6 Front building lines	Yes	Yes
D16.7 Side and rear building lines	No	Yes
D16.8 Spatial Separation	Yes	Yes
D16.9 Solar access	Yes	Yes
D16.10 Private and Communal Open Space Areas	Yes	Yes
D16.11 Form of construction including retaining walls, terracing and undercroft areas	Yes	Yes
D16.12 Fences	Yes	Yes
D16.13 Building colours and materials	Yes	Yes

Detailed Assessment

B5.15 Stormwater

The original development consent N0123/17 contains a condition of development consent that requires 55% of the site area to consist of permeable services, in order to comply with the water management strategy for the site.

The application is accompanied by a supporting letter by the project engineer advising this condition is able to be met based on the amended design of the courtyard. Council's development engineer has reviewed the proposal and is satisfied and the original condition remains upon the consent.

D16.7 Side and rear building lines

DCP Control

The DCP requires a 3m setback for seniors living development. The proposed development at present is setback a minimum of 6m from the northern boundary, with the timber pergola structures approved behind the 6m building alignment. The proposal is for the timber pergolas to be located closer towards the northern boundary at a 1m setback, allowing a 1m area for landscape planting between the pergolas and the northern boundary. The below figures show the approved location and proposed location of the timber pergolas.

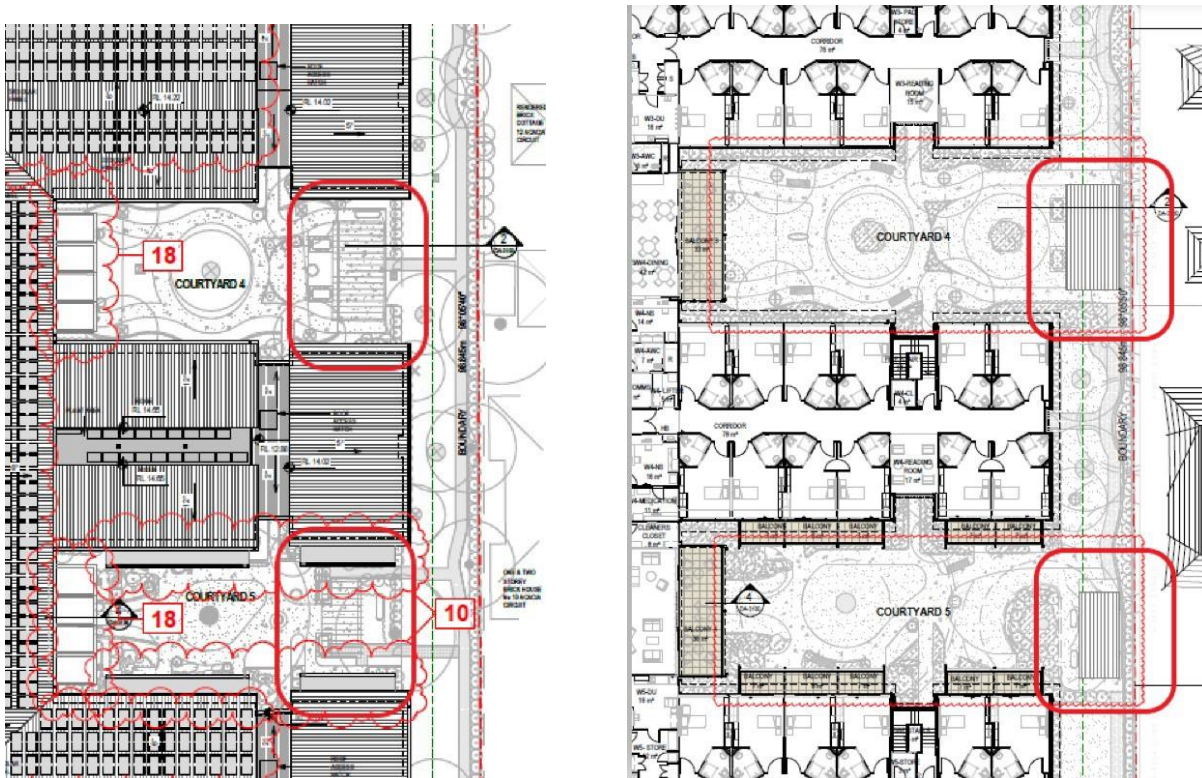


Figure 1- Approved location of timber pergolas in courtyard left, proposed location of timber pergolas right.

Merit Consideration

The proposed structures are semi-open, with a solid back along the northern elevation to allow gardening tools and associated items to be stored undercover for the residents use in the communal gardens. The applicant has put forward the following justification of their change in location adjacent to the northern boundary:

- The proposed modifications to the consent will enable greater accessibility and improved general amenity for the residents of the RCF. It will enhance the quality of life for the residents of the facility and their enjoyment of the outdoor recreational areas. The nominal increase in area to the secure landscaped courtyards will provide greater opportunity for engagement in outdoor activities, socialisation among residents and access to fresh air and natural light, promoting independence and cognitive stimulation. The proposed modifications will present no additional acoustic impacts beyond that which was considered by the original consent. The extended courtyard areas will be used for small group conversations, reading and gardening. The proposed modification is supported by an Acoustic Advice Note in support of the amendments to the design of the courtyards.*

The above is generally agreed with regarding the improved design of the amended courtyard and the location of the pergolas will improve use and functionality of the courtyard. In regard to impacts upon the adjoining properties, the pergolas have a maximum height of 2.885m however will be screened once the boundary planting consisting of a Lilly Pilly Hedge which is capable of reaching a mature height of 3m and therefore, the pergola not being visible once the landscaping is at maturity. The pergolas will not cause loss of solar access as the adjoining dwellings are located norther of the structures. The application is accompanied by a supporting letter by an acoustic engineer stating the proposal will not result in the exceedance of noise criteria for surrounding properties.

The proposal is considered against the outcomes of the control as follows:

To achieve the desired future character of the Locality.

Comment: The main facade of the building is unchanged and provides adequate spatial separation for a Seniors Living Development, with the minor pergola structures of low height (2.8m) and not addition to visual dominance of the development.

The area of site disturbance is minimised and soft surface is maximised.

Comment: The amount of soft surfaces is maintained, with the pergola structures remaining the same size but in an alternate location.

The bulk and scale of the built form is minimised and the impact of the proposed development on the adjoining properties is minimised.

Comment: The pergolas are low scale and will be below the height of the boundary hedge planting following the maturing of the hedge planting along the northern boundary.

To create meaningful breaks between adjoining buildings and regular rhythm of built form, particularly with regard to the built forms presentation to public places.

Comment: There is sufficient separation between the main buildings and adjoining properties, with the main facade setback maintained and the spatial separation maintained when viewed from the road.

To create usable curtilage areas around buildings for viable access, landscaping and open space.

Comment: The alternate location of the pergolas provides additional usable open space for the residents and enlarges the open space area of the courtyard.

Equitable preservation of views and vistas to and/or from public/private places.

Comment: No view impacts result from the development.

Vegetation and natural features of the site is retained and enhanced within the development site design to screen the visual impact of the built form.

Comment: The proposed location of the pergolas do not require further tree removal and maintain area for boundary planting to screen the structures.

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to neighbouring properties.

Comment: The proposal will maintain a reasonable level of acoustic privacy and amenity as outlined in the submitted acoustic report. No loss of solar access for the adjoining properties.

The proposed development is considered to achieve the outcomes of the control and therefore, a variation to the control 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.

CONCLUSION

The proposal has been assessed in accordance with Section 4.56 and the heads of consideration listed in Section 4.15 of the Environmental Planning & Assessment Act 1979 (as amended).

The application has been 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; and
- Pittwater LEP 2014;

The S4.56 application before the Panel seeks to modify Development Consent No. N0123/17 as described in this report.

The proposal has been determined to be substantially the same development as that originally approved.

The proposed changes to the pergola structures have been assessed against the outcomes of the side setback control and the encroachments of the pergola structures are considered acceptable on merit given they will offer increased amenity for the residents and usability of the courtyard, whilst not having any unreasonable amenity or visual impacts for the adjoining properties.

Accordingly, it is recommended that approval be granted to the application subject to the conditions contained in Attachment 1.

RECOMMENDATION

THAT Sydney North Planning Panel as the consent authority grant approval to Modification Application No. Mod2021/0444 for Modification of Development Consent N0123/17 for Demolition of an existing aged care facility and construction of a new residential aged care facility on land at Part Lot 2 DP 595174, 184 Garden Street, WARRIEWOOD, subject to the conditions outlined in Attachment 1.