

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2020/0655
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Responsible Officer:	Kye Miles
Land to be developed (Address):	Lot 2 DP 589654, 197 Sydney Road FAIRLIGHT NSW 2094 Lot 87 DP 1729, 195 Sydney Road FAIRLIGHT NSW 2094
Proposed Development:	Modification of Development Consent DA2018/1708 granted for demolition works and construction of a boarding house
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Kevin Bruce Andrews Michael Ben Vance Kelly Maree Vance Joan Lynette Andrews
Applicant:	Micronest Pty Ltd

Application Lodged:	07/12/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Other
Notified:	18/12/2020 to 30/01/2021
Advertised:	18/12/2020
Submissions Received:	10
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Executive Summary

This assessment report is submitted to the Development Determination Panel for the consideration of Modification Application No. Mod2020/0655, which seeks approval to amend Development Consent No. DA2018/1708 that approved the demolition and construction of a 75-room boarding house.

The application is being referred to the Development Determination Panel under the discretionary provisions of the Executive Manager, as the original development application constituted regionally significant development under Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011*. In addition, the original development was considered contentious with

250 objections and was determined by the Sydney North Planning Panel. Notwithstanding, under Section 4.55 of the Environmental Planning and Assessment Act, 1979 the proposed modification is considered to be of a minimal environmental impact.

The subject site is zoned R1 General Residential Zone.

The proposed modifications largely represent amendments to reflect conditions of consent, which have no implications to the development as approved in terms of any further increases in bulk, scale or streetscape modifications. These changes have been discussed in detail under the 'Detailed Description of Development' section of this report.

The proposal was notified and ten (10) submissions were received. Nine (9) of the submissions were not supportive of the proposed development generally due to bulk and scale, amenity impacts, traffic congestion and social concerns.

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 proposal involves modifications of Development Consent DA2018/1708 granted by the Sydney North Planning Panel (SNPP) for demolition works and the construction of a 75-room boarding house with basement car parking. The proposed modifications include:

Level 0

- Floor level lowered by 30mm,
- Alterations to the bin area and reception, including the removal of the café,
- Changes to landscaping layout within front setback to reflect the removal of the café,
- Reallocation of accessible car space to Level 2,
- Additional facilities including main switch room, toilet facilities and parcel lockers,
- Reconfiguration of bicycle parking.

Level 1

- Increase floor area of communal area from 75sqm to 78.2sqm (3.2sqm increase), through the removal of one (1) motor cycle space,
- Reconfiguration of fire stair,
- Reconfiguration of car parking area, including the addition of one (1) accessible car space.

Level 2

- Internal alteration to room layouts
- Reconfiguration of fire stair,
- Reorganisation of plant room to provide additional communal facilities and a common laundry room (55.4sqm).

Level 3

- Internal alteration to room layouts

- Reconfiguration of fire stair,
- Extend northern building's courtyard 1.3m westward.

Level 4

- Internal alteration to room layouts
- Reconfiguration of fire stair,
- Extend northern building's approved balconies,
- Installation of solar panels on northern roof element.

Level 5

- Internal alteration to room layouts
- Reconfiguration of fire stair,
- Installation of solar panels.

Roof

- Removal of skylights on part of the northern building,
- Installation of solar panels.

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

There are no assessment issues.

SITE DESCRIPTION

Property Description:	<p>Lot 2 DP 589654 , 197 Sydney Road FAIRLIGHT NSW 2094</p> <p>Lot 87 DP 1729 , 195 Sydney Road FAIRLIGHT NSW 2094</p>
Detailed Site Description:	<p>The subject site consists of two allotments on the southern side of Sydney Road in Fairlight.</p> <p>The site is irregular in shape with a frontage of 27.16m along Sydney Road and a varying depth of between 66.83m and 78.94m. The site has a surveyed area of 1,789m².</p> <p>The site falls approximately 12 metres from the rear boundary (south) to the street (north). The subject site sits on a rock shelf traversing the site east to west.</p> <p>The site is located within the R1 General Residential Zone under Manly Local Environmental Plan 2013.</p> <p>The subject site currently contains two dwelling houses in landscaped settings. Surrounding development is characterised by a mix of dwelling houses, multi dwelling housing, and residential flat buildings. To the north are single dwelling houses and multi dwelling housing. To the south is a group of three multi-storey residential flat buildings. To the east and west are single dwellings and residential flat buildings. The Fairlight local centre is located approximately 265 metres to the east of the subject site.</p>

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 recent history:

- DA0020/2017 (at 195 Sydney Road, Fairlight) for demolition and construction of multi-dwelling housing was approved under delegation on 6 July 2017.
- DA2018/1708 (at 195 & 197 Sydney Road, Fairlight) for demolition and construction of a boarding house was approved by the SNPP on 27 June 2019.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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

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

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2018/1708, 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 modifications largely represent amendments to reflect conditions of consent, which have no implications to the development as approved in terms of any further increases in bulk, scale or streetscape modifications; • As above, the proposal is remaining consistent with the approved built form, with minor changes to the basement, internal room layouts and communal areas, • The proposed modifications result in additional landscaped areas through the removal of the Café • The modifications do not result in any

Section 4.55(1A) - Other Modifications	Comments
	adverse neighbouring impacts.
(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 DA2018/1708 for the following reasons:</p> <ul style="list-style-type: none"> • The proposed modification does not change the approved use, • The approved density remains unchanged, • The approved built form has not been significantly altered, • The proposed modifications are of a minimal environmental impact.
(c) 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, Manly Local Environment Plan 2013 and Manly Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Assessment

In accordance with Section 4.55 (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

Section 4.15 'Matters for Consideration'	Comments
	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	Manly 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><u>Division 8A</u> 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 documentation was submitted with the original application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to additional stormwater and waste details.</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>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 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 Manly 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</p>

Section 4.15 'Matters for Consideration'	Comments
	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 not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 18/12/2020 to 30/01/2021 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 process council is in receipt of 10 submission/s from:

Name:	Address:
Mrs Carla Danelle Stafford	83 Balgowlah Road FAIRLIGHT NSW 2094
Ms Alex Stewart	5 / 199 Sydney Road FAIRLIGHT NSW 2094
Mr Noel Gerard McNamara	5 Brisbane Street FAIRLIGHT NSW 2094
Magdy Noussair	138 Sydney Road FAIRLIGHT NSW 2094
Ms Cheryl Josephine Smith	50 Rosedale Avenue FAIRLIGHT NSW 2094
Mr Peter John Stephenson	5 / 174 - 176 Sydney Road FAIRLIGHT NSW 2094
Mrs Anne Springfield	182 Sydney Road FAIRLIGHT NSW 2094
Mr David Springfield	1/182 Sydney Road FAIRLIGHT NSW 2094
Ronan Lonsdale Lancaster	1 Bellevue Street FAIRLIGHT NSW 2094
Mrs Virginia Lynette Stokes	12 Brisbane Street FAIRLIGHT NSW 2094

The following issues were raised in the submissions and each have been addressed below:

- **Parking,**
- **Visual impact,**
- **Social impacts,**
- **Character,**
- **Excavation impacts,**

- **Stormwater,**
- **Neighbourhood amenity,**
- **Overdevelopment,**
- **Management of the boarding house.**

The matters raised within the submissions are addressed as follows:

- **Parking:** Concern has been raised amongst the submissions that the proposal does not provide sufficient onsite parking, therefore will affect existing on-street parking. Submissions also raised concern that the proposed development will result in traffic congestion and pedestrian safety concerns.

Comment:

The proposed modifications will not alter the approved parking provisions and will retain compliance with SEPP ARH 2009 and MDCP 2013 parking requirements. Minor modifications to the parking layout are proposed to improve internal accessibility, which have been reviewed and supported by Council's Traffic Engineers.

This matter does not warrant the refusal of this application.

- **Visual impact:** Concern has been raised within the received submissions that the proposed modification will result in an unreasonable visual impact.

Comment:

The modifications largely represent amendments to reflect conditions of consent, which have no implications to the development as approved in terms of any further increases in bulk, scale or streetscape impacts. Further, the proposed modifications result in additional landscaped areas within the front setback through the removal of the Café. In addition, the proposal was reviewed by Council's Urban Design division, who raised no objections to the proposal.

This matter does not warrant the refusal of this application.

- **Social Impacts:** Concern was raised that proposed modification will be responsible for decreased property value, increased crime, decreased safety and unreasonable noise.

Comment:

No evidence has been provided to substantiate claims relating to the devaluation of property prices, which is not a consideration under the EP&A Act, nor behavioural issues of boarding house residents. In addition, the proposal has included a letter of certification (White Noise Acoustics, 17 November 2020) ensuring that the original acoustic assessment completed by Wood and Grieve Engineers (195-197 Sydney Road, Fairlight – Acoustic Report, dated 31 August 2018) includes suitable acoustic investigations for the proposed modification.

This matter does not warrant the refusal of this application.

- **Character:** Concern was raised within the submissions that the proposed development is out of character with the locality.

Comment:

As above the proposed modifications are largely internal and will have a minimal impact upon the development's presentation to the street. Further, the additional landscaping within the front setback will soften the built form when viewed from the street. In addition, the proposed modifications were found to be substantially the same development as approved under DA2018/1708.

This matter does not warrant the refusal of this application.

- **Excavation impacts:** Submissions raised concern that the proposed development relies on excessive excavation on the site, which contains sandstone.

Comment:

The proposal involves minor excavations to the basement level, lowering the floor level by 30mm (RL 47.40). The proposal has included a new Geotechnical Report prepared by JK Geotechnics dated 29 January 2021, which details the site's subsurface condition and demonstrates that the proposed excavation is acceptable, subject to adherence to recommendations made in the report. Furthermore, the modification was reviewed by Council's Development Engineer, who raised no objections to the proposal in relation to earthworks

This matter does not warrant the refusal of this application.

- **Stormwater:** Submissions raised concern that the proposed development will result in unreasonable stormwater impacts.

Comment:

Council's Development Engineer is generally supportive (subject to conditions) of the proposal in relation to stormwater management and onsite detention.

- **Neighbourhood amenity:** Submissions raised concern that the ongoing operation of the proposed development would result in visual privacy impacts, light spill, and overshadowing.

Comment:

The matters of visual privacy, light spill, and overshadowing were deemed acceptable within the original assessment of DA2018/1708. The proposed modification does not involve any significant changes to approved built form with the majority of the changes contained within the approved footprint. Furthermore, the proposal was reviewed by Council's Urban Design division, who raised no objections to the proposal.

This matter does not warrant the refusal of this application.

- **Overdevelopment:** Submissions raised concern that the proposal presented overcrowding of the site, given the proposed number of residents and their visitors.

Comment:

As above, the proposed modification is retaining compliance with the approved built form and does not seek to increase the approved density.

This matter does not warrant the refusal of this application.

- **Management of the boarding house:** Concern is raised with the ongoing maintenance of the boarding house.

Comment:

The Plan of Management associated with the original consent (DA2018/1708) remains applicable to the current application, as the proposed modification is not altering the approved density and parking provision.

This matter does not warrant the refusal of this application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate stage.</p>
Environmental Health (Food Premises, Skin Pen.)	<p>General Comments</p> <p>Previous consent issued for boarding house at 197 Sydney Road FAIRLIGHT NSW 2094 (DA 2018/1708).</p> <p>Modification seeks design refinements to reflect Conditions 12 and 22 within the consent for DA 2018/1708.</p> <p>Previous plans for the DA had a café on Level 0 within the reception/café.</p> <p>Condition 22 of the consent stated the following:</p> <p><i>22. Deletion of Cafe</i> <i>Plans and documentation are to be amended to delete reference to the proposed cafe. Details demonstrating compliance with this condition are to be provided to the satisfaction of the</i> <i>Certifying Authority prior to the issue of the Construction Certificate.</i></p> <p><i>Reason: To delete prohibited development.</i></p> <p>Environmental Health are satisfied that the SEE and plans provided</p>

Internal Referral Body	Comments
	<p>for the Modification reflect Condition 22 of the Consent.</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
Landscape Officer	<p>The modification application includes design refinements and reflects Council's conditions of consent under DA2018/1708, and in terms of this Landscape Referral, amendments to the frontage following the removal of the cafe and additional fire stairs. As a result of this modification, additional landscape area is provided.</p> <p>The additional landscape area including terrace walling is noted within the frontage as shown on the Section 4.55 landscape documents L000, L100, L101, L102, L103, and L104, all issue C, as prepared by Sydney Design Collective. The Section 4.55 landscape documents indicate mass planting to the front setback, and as with the development application documents, amended landscape plans shall be provided prior to the issue of a Construction Certificate and detail design is to be approved to satisfy the requirements of Landscape Plans as outlined in Council's DA Lodgement requirements.</p> <p>Condition 17 of DA2018/1708 shall be amended under the modification application. DA2018/1708 conditions 18, 41, and 57 remain unchanged.</p>
NECC (Development Engineering)	<p>3rd Engineering referral The pit has been relocated outside the HWT +CW room. Development Engineering has no objection to the modification. The condition 8 of the original consent shall be amended to update the plan details.</p> <p>2nd Engineering referral A new set of the stormwater has been submitted. The applicant proposed a stormwater pit within HWT + CW room. It should be relocated. The condition 8 of the original consent shall be amended in below:</p> <p>1st Development Engineering referral The applicant proposed a new access path and new landscape on the western side of the property. The proposed path and landscape area is located to the approved osd tank location. And the proposed finished level of the OSD is RL47.75 which is 600 mm higher the new path at the western side in this modification.</p> <p>Furthermore, the applicant proposed to lower the basement with 200mm. At least one cross section of the driveway must be provided to demonstrate the accessibility of the basement.</p>

Internal Referral Body	Comments
	As such, Development Engineer cannot support the application due to the insufficient details of the design and plan.
Strategic and Place Planning (Urban Design)	<p>The application is a modification (MOD2020/0655) of DA 2019/1708 for a part three storey/part four storey boarding house comprising 75 boarding rooms as approved by the Sydney North Planning Panel on 27 June 2019.</p> <p>The modifications represent amendments to reflect conditions of consent, conditions that have no urban design implications to the development as approved in terms of any further increases in bulk, scale or streetscape modifications; removal of cafe and addition of 72sqm of communal space, the majority of built form changes being internal resulting in no additional overshadowing or privacy impacts on neighbouring properties.</p> <p>Therefore it is assessed that the proposal is substantially the same development.</p>
Traffic Engineer	<p>In accordance to the Statement of Environmental Effects report, the proposal include the following transport related amendments:</p> <p>level 00:</p> <ul style="list-style-type: none"> - Relocation of one accessible parking space to Level 1 - Floor level lowered 30mm - Reconfiguration of bicycle parking <p>Level 01:</p> <ul style="list-style-type: none"> - Reconfiguration of car parking area to provide improved accessibility including the inclusion of accessible car space at Level 01. <p>The proposed amendments are reviewed and no concern is raised on transport grounds.</p>
Waste Officer	Proposal approved with conditions.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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, 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. 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 Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

Division 3: Boarding houses

Clause 25: Definition

For the purposes of this Division, the Standard Instrument defines a 'boarding house' as a building that:

*"(a) is wholly or partly let in lodgings, and
(b) provides lodgers with a principal place of residence for 3 months or more, and
(c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
(d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,*

but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment".

In this Division 'communal living room' means *"a room within a boarding house or on site that is available to all lodgers for recreational purposes, such as a lounge room, dining room, recreation room or games room".*

Clause 26: Land to which this Division applies

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone B1 Neighbourhood Centre, or (f) Zone B2 Local Centre, or	Consistent The subject site is located within the R1 General Residential and, as such, the proposed use is permissible with consent under MLEP 2013.

(g) Zone B4 Mixed Use.	
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Clause 27: Development to which this Division applies

(1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.

Requirement	Comment
<p>(2) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area.</p> <p>Note: Accessible area means land that is within:</p> <p>(c) 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.</p>	<p>Consistent</p> <p>The site is located within the R1 General Residential zone and is situated not more than 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.</p>
<p>(3) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.</p>	<p>Not applicable.</p> <p>The site is located within the Sydney region.</p>

Clause 28: Development may be carried out with consent

Requirement	Comment
Development to which this Division applies may be carried out with consent.	The development constitutes the construction of a boarding house, as defined by the Standard Instrument. Therefore, the development may be considered under this Division of the SEPP as development which may be carried out with consent.

Clause 29: Standards that cannot be used to refuse consent

Standard	Requirement	Proposed	Compliant/Comment
<p>(1) Density and scale</p> <p>A consent authority must not refuse consent to development to which this Division applies on</p>	<p>(a) the existing maximum floor space ratio for any form of residential accommodation</p>	<p>A floor space ratio of 0.6:1 applies to this site under Clause 4.4 Floor Space Ratio of the MLEP 2013. The subject</p>	<p>Compliant</p>

<p>the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:</p>	<p>permitted on the land, or</p> <p>(b) if the development is on land within a zone in which no residential accommodation is permitted - the existing maximum floor space ratio for any form of development permitted on the land, or</p> <p>(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register - the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:</p> <p>(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or</p> <p>(ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.</p>	<p>site is located within the R1 General Residential zone, which permits residential flat buildings with consent. The subject site is not heritage listed, nor does a heritage order apply on site. As such, the subject site is eligible for an additional 0.5:1 floor space ratio. The maximum floor space ratio on site becomes 1.1:1 (1967.9sqm). The proposed modification has a floor space ratio of 1.093:1 (1956sqm).</p>	
<p>(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p>			
<p>(a) building height</p>	<p>if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,</p>	<p>The maximum height of building applying to the site under Clause 4.3 Height of Buildings of the MLEP 2013 is 8.5m. The maximum height proposed is 8.5m.</p>	<p>Compliant</p>
<p>(b) landscaped area</p>	<p>if the landscape treatment of the front setback area is</p>	<p>The proposed modification involves the removal of the cafe and</p>	<p>Compliant</p>

	compatible with the streetscape in which the building is located,	the addition of landscaped areas within the front setback. These changes are in response to conditions of consent and have been assessed by Council's Landscaping and Urban Design divisions. The outcomes of both assessments were supportive raising no issues with the landscape treatment within the front setback. Overall, the Sydney Road streetscape includes development in landscaped settings and the proposed development is consistent with this existing landscaped setting.	
(c) solar access	where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	The proposed development includes three communal living rooms. Each living room receives at least three hours of direct sunlight between 9am and 3pm in midwinter.	Compliant
(d) private open space	<p>if at least the following private open space areas are provided (other than the front setback area):</p> <p>(i) one area of at least 20m² with a minimum dimension of 3.0m is provided for the use of the lodgers,</p> <p>(ii) if accommodation is provided on site for a boarding house manager—one area of at least 8.0m² with a minimum dimension of 2.5m is provided</p>	<p>(i) The proposed development includes a courtyard of over 200sqm with a minimum dimension of 8.8m for use of the lodgers.</p> <p>(ii) The proposed development includes a boarding house manager. The boarding house manager's room includes private open space of 9.0sqm with dimensions of greater than 2.5m accessible from the living area of the room.</p>	Compliant

	adjacent to that accommodation,		
(e) parking	<p>if:</p> <p>(i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and</p> <p>(ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</p> <p>(jia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</p>	The approved parking provision remains unchanged under this modification.	Compliant
(f) accommodation size	<p>if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</p> <p>(i) 12 square metres in the case of a boarding room intended to be</p>	The proposed development includes single and double rooms of at least 16 square metres (and up to 23 square metres), excluding private bathroom and kitchen facilities.	Compliant

used by a single lodger, or (ii) 16 square metres in any other case.		
(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.	The proposed development includes private bathroom and kitchen facilities in each room.	Compliant
(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).	The proposed development complies with the standards set out in subclauses (1) and (2).	Compliant

Clause 30: Standards for boarding houses

Standard requirement	Proposed	Compliant/Comment
(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:		
(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	The proposed development includes 75 rooms including one managers room. The proposal includes four communal rooms.	Compliant
(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25m ² ,	The proposed development includes rooms to a maximum area of 23sqm (excluding private bathroom and kitchen facilities).	Compliant
(c) no boarding room will be occupied by more than 2 adult lodgers,	The maximum number of lodgers in each room is two.	Compliant
(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	Each room contains private bathroom and kitchen facilities.	Compliant
(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,	The proposed development includes 75 rooms for up to 126 residents. A room for the manager is included on site.	Compliant

(g) if the boarding house is on land zoned primarily for commercial purposes, 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 such a use,	Not applicable. The subject site is zoned R1 General Residential.	Not applicable
(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	The proposed development includes 75 rooms, requiring 15 bicycle and 15 motorcycle spaces. The proposed development provides 15 bicycle and 15 motorcycle spaces.	Compliant.
(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	Subclause (1) applies as the proposal is for the construction of a boarding house.	Applicable

Clause 30: Character of the local area

The matter of assessing the character compatibility of development has been examined by the Land and Environment Court in *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC 268 and *Project Venture Developments v Pittwater Council (2005)* NSWLEC 191 where Senior Commissioner Roseth set out Planning Principles to better evaluate how a development should respond to the character of its environment. The following provides an assessment against the Planning Principles established in those two cases.

In the case of *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC 268 Senior Commissioner Roseth developed the following Planning Principles:

- *The first principle is that buildings in a development do not have to be single-storey to be compatible with the streetscape even where most existing buildings are single storey. The principle does not apply to conservation areas where single storey dwellings are likely to be the major reason for conservation.*

Comment:

The proposed modification involves minimal changes to the approved built form, as the changes are largely internal. In this regard, it is considered that the scale of the development is compatible with the streetscape and consistent with the first principle.

- *The second principle is that where the size of a development is much greater than the other buildings in the street, it should be visually broken up so that it does not appear as one building. Sections of a building, or separate buildings should be separated by generous breaks and landscaping.*

Comment:

As above, the proposed modification is consistent with the approved built form, such that the development remains reasonably articulated through sufficient breaks between buildings and is broken

down by generous landscaping. In this regard, the development is considered to be compatible with the scale of surrounding development and consistent with the second principle.

- *The third principle is that where a site has existing characteristics that assist in reducing the visual dominance of development, these characteristics should be preserved. Topography that makes development appear smaller should not be modified. It is preferable to preserve existing vegetation around a site's edges to destroying it and planting new vegetation.*

Comment:

The Sydney Road streetscape is characterised by landscaped front setbacks and natural features (rock outcrops). The proposed landscape treatment of the front setback area is compatible within the Sydney Road streetscape in that it includes articulated sandstone walls, and sufficient planting in the front setback commensurate to its scale and form. In this regard, it is considered that effective methods have been employed in the design of the development to reduce its visual dominance in terms of the topography and the proposed development is consistent with the third principle.

- *The fourth principle is that a development should aim to reflect the materials and building forms of other buildings in the street. This is not to say that new materials and forms can never be introduced only that their introduction should be done with care and sensitivity.*

Comment:

The existing streetscape along Sydney Road includes a mix of building materials and finishes, including sandstone, cladding, brick, rendering and timber. The proposed development includes a mix of materials and finishes, including sandstone, timber, glazing, louvres, metals, and concrete (perforated and smooth). These materials form a modern architectural style, while providing consistency with existing materials and finishes within the streetscapes. In this regard, the development is considered to be consistent with the fourth principle.

The above principles were further developed in *Project Venture Developments v Pittwater Council* (2005) NSWLEC 191 to include the following:

Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

Comment:

The physical impacts of the development on surrounding properties are assessed as consisting of constraints on the development potential of surrounding sites, privacy, overshadowing and noise.

Constraints on the development potential of surrounding sites

The proposed modification retains compliance with the approved side and rear setbacks.

Privacy

The proposal remains acceptable in relation to privacy as it is consistent with the requirements of Clause 3.4.2 Privacy and Security of the MDCP 2013, and provides adequate side setbacks (including a landscaping), privacy screening to key openings and balconies, and ground levels commensurate to adjacent properties.

Overshadowing

The proposed modification will not result in any additional overshadowing.

Noise

The approved development is supported by an Acoustic Report, demonstrating that the proposal does not result in unreasonable acoustic impacts. In addition, the proposal has included a letter of certification (White Noise Acoustics, 17 November 2020) ensuring that the acoustic assessment completed by Wood and Grieve Engineers including the 195-197 Sydney Road, Fairlight – Acoustic Report, dated 31 August 2018 includes suitable acoustic investigations for the proposed modification.

Conclusion to Character Assessment

The above character assessment has found that, in the context of the Land and Environment Court Planning Principles, the proposal is compatible with the character of the local area and surrounding wider locality.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 968134M_02 dated 06 November 2020). The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	25	44

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 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.

Manly Local Environmental Plan 2013

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

Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.5m	8.5m	N/A	Yes
Floor Space Ratio	1.1:1 (0.6:1 under MLEP 2013 plus 0.5:1 under SEPP ARH) (1967.9qm)	1.064:1 (1,903sqm)	FSR: 1.093:1 (1956sqm)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.12 Essential services	Yes

Mainly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 1,789sqm	Requirement	Approved	Proposed	Complies
4.1.2.1 Wall Height	West: 7.6m (based on gradient 1:5.5)	9.1m	No change	N/A
	East: 7.5m (based on gradient 1:6)	8.4m	No change	N/A
4.1.2.2 Number of Storeys	2	6 (including up to 3 basement storeys)	No change	N/A
4.1.2.3 Roof Height	Height: 2.5m	Flat	No change	N/A
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	0-5.4m, consistent with prevailing setback	3.0m-5.4m, consistent with prevailing setback	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	West: 3.03m (based on wall height)	3.32m	No change	N/A
	East: 2.8m (based on wall height)	3.3m	No change	N/A

	Windows: 3m	Min. 3m	No change	N/A
4.1.4.4 Rear Setbacks	8m	5.7m	No change	N/A
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Total open space: Min. 55% of site area (983.95sqm)	63.73% (1,140.3sqm)	No change	N/A
	Open space above ground: Max. 40% of total open space (649.32sqm)	33.3% (542sqm)	No change	N/A
4.1.5.2 Landscaped Area	Landscaped Area: Min. 35% of total open space (568.15sqm)	43.2% (492.4sqm)	43.9% (500.3sqm)	Yes
	3 native trees	>3 trees	> 3 trees	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	5.8m (<50% frontage)	No change	N/A

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.3.3 Footpath Tree Planting	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
4.4.9 Boarding Houses	Yes	Yes
4.4.9.1 Communal Rooms and Areas	Yes	Yes
4.4.9.2 Bedrooms	Yes	Yes
4.4.9.3 Open Space	Yes	Yes
Schedule 7 – Part A – Boarding Houses	Yes	Yes

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 2019

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;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

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

The approved development involves the demolition and construction of a 75-room boarding house.

The current application Mod2020/0655 seeks approval to amend Development Consent No. DA2018/1708. The proposed modifications largely represent amendments to reflect conditions of consent, which have no implications to the development as approved in terms of any further increases in bulk, scale or streetscape modifications.

The proposal was advertised and ten (10) submissions were received, nine (9) of which were unsupportive, however they do not warrant the refusal of this modification.

Overall, it is considered that the modification is reasonable and satisfactory on its merits.

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

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2020/0655 for Modification of Development Consent DA2018/1708 granted for demolition works and construction of a boarding house on land at Lot 2 DP 589654, 197 Sydney Road, FAIRLIGHT, Lot 87 DP 1729, 195 Sydney Road, FAIRLIGHT, 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
A00.01[A] Site Plan	19 November 2020	Mostaghim
A01.00[C] Level 0 Plan	18 February 2021	Mostaghim
A01.01[B] Level 1 Plan	02 February 2021	Mostaghim
A01.02[A] Level 2 Plan	19 November 2020	Mostaghim
A01.03[B] Level 3 Plan	02 February 2021	Mostaghim
A01.04[A] Level 4 Plan	19 November 2020	Mostaghim
A01.05[A] Level 5 Plan	19 November 2020	Mostaghim

A01.06[A] Roof Plan	19 November 2020	Mostaghim
A02.01[A] Typical Unit Plans	19 November 2020	Mostaghim
A03.01[B] North & South Elevations	02 February 2021	Mostaghim
A03.02[B] East & West Elevations	02 February 2021	Mostaghim
A04.01[B] Sections AA+BB	02 February 2021	Mostaghim
A04.02[B] Sections CC+DD	02 February 2021	Mostaghim
A08.01[A] Demolition Plan	25 November 2020	Mostaghim
A08.02[A] Excavation Plan	25 November 2020	Mostaghim

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BCA Assessment Report	15 November 2020	Steve Watson & Partners
Access Report	13 November 2020	Access-i
Traffic Parking Statement	19 November 2020	PDC Consultants

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
L000(C) Cover Sheet	16 December 2020	Sydney Design Collective
L100(C) Ground Floor & Level 1	16 December 2020	Sydney Design Collective
L101(C) Level 2	16 December 2020	Sydney Design Collective
L102(C) Level 3	16 December 2020	Sydney Design Collective
L103(C) Level 4	16 December 2020	Sydney Design Collective
L104(C) Level 5 & Roof	16 December 2020	Sydney Design Collective

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

B. Delete Condition 12, Bin Room and Path, which reads as follows:

The bin room is to be able to accommodate 13 x 660L bins with 1000mm aisle width between each rows. The bins must not be stacked as shown in the plan. A separate and unobstructed pedestrian path must be constructed to allow Council and its agents safe passage and unrestricted access to and from the bin room.

Reason: To ensure all bins can be adequately stored in a dedicated room away from public view and easily accessible by the occupants and Council and its agents.

C. Delete Condition 22, Deletion of Cafe, which reads as follows:

Plans and documentation are to be amended to delete reference to the proposed cafe. Details demonstrating compliance with this condition are to be provided to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To delete prohibited development.

D. Modify Condition 08, On-site Stormwater Detention, to read as follows:

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003 and generally in accordance with the concept drainage plans prepared by Integrated Group Service, project Number EN-N18_89, drawing number SW101- SW400, dated 09/03/2021 and Rev 05. Detailed drainage plans are to be prepared by a qualified experienced practicing Civil Engineer in the related field.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.

E. Modify Condition 17, Amended Landscape Plans, to read as follows:

Amended Landscape Plans, shall be amended by the modification application to read as follows:

Amended Landscape Plans shall be submitted to the Certifying Authority and to the Council for approval indicating the following alterations on the submitted Landscape Plans:

- a) Generally, landscape plans are to be documented to satisfy the DA Lodgement requirements.
- b) Along the side boundary setback, the landscape plans shall be amended as follows:
 - i) the side boundary paths are to be aligned against the building, with the maximum 1200mm width,
 - ii) continuous deep planters to approximately 1 metre depth are to be provided to support small tree planting growth, with tree planting to be generally set 3 metres apart, except where change in levels require planter walling stepping. For such situations tree planting shall be set 2 metres from the step down wall (ie. 4 metres apart),
 - iii) a minimum internal planter walling width of 1.4 metres is to be provided to provide sufficient soil area and soil volume,
 - iv) tree planting species shall achieve a height of 6 metres at maturity, with trees selected for their dense canopy, including Elaeocarpus, Syzygium, Acmena, Banksia, and Glochidion,
 - v) all tree planting is to be installed at 100 litre container size,
 - vi) all tree planting shall comply with 3.3.1 Landscaping Design, section b) item iii) where trees should be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight as described in the clause, or where the proposed tree locations may otherwise be positioned to minimise any significant loss of views,
 - vii) side boundary planters shall include only tree and groundcovers to ensure soil volume availability is maximised for tree root growth,
 - viii) dripline irrigation is to be provided to the planters for planting establishment and to control root distribution.
- c) The Level 01 podium fronting Sydney Road shall be landscaped as follows:
 - i) deep soil planters approximately 1 metre depth, are to provide landscaping across the frontage to accommodate small tree planting to achieve 5-6 metres at maturity and inclusive of understorey planting,
 - ii) at least 5 small trees shall be provided,
 - iii) all tree planting is to be installed at 100 litre container size,
 - iv) all tree planting shall comply with 3.3.1 Landscaping Design, section b) item iii) where trees should be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight as described in the clause, or where the proposed tree locations may otherwise be positioned to minimise any significant loss of views,

- v) planter widths shall be a minimum of 1.4 metres,
- vi) dripline irrigation is to be provided to the planters for planting establishment and to control root distribution.
- d) The front setback shall be landscaped to support tree canopy planting and mixed understorey planting.
 - i) at least 4 small trees shall be provided, equally spaced along the landscape area, installed at 100 litre container size,
 - ii) all mixed understorey planting shall be planted at minimum 900mm centres for shrubs and 500mm centres for all other groundcovers and accent planting, and shrub planting shall be installed at a minimum 200mm container size.
- e) Street tree planting, replacing the existing poor specimen, shall be provided in accordance with the Manly Council Street Tree Masterplan 2015, consisting of:
 - i) 1 x Buckinghamiana celsissima, planted at 200 litre container size,
 - ii) tree pit excavation 1m x 1m x 700mm depth, excavated to loosen all compacted sides of the tree pit, and backfilled with sandy loam soil mix,
 - iii) surface finish consisting of dark gray coloured porous paving,
 - iv) timber tree guard 1m x 1m square, with 50x50x1800 posts and 30x70 top and mid rail,
 - v) all street tree works are subject to Council inspections and approvals,
 - vi) a 12 month establishment period shall apply for the street tree planting works. Any tree failure is to be replaced within this period.

Reason: To provide consistency with the landscape character of the local area.

F. Add Condition 12, Building Code of Australia Upgrade requirements and Fire Safety Upgrade, to read as follows:

The Building Code of Australia works as detailed and recommended in the Building Code of Australia Assessment Report prepared by Steve Watson & Partners, dated November 2020, Report Ref No. 2020/1802/R1.0 are to be taken into consideration as part of the assessment of the Construction Certificate.

Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

G. Add Condition 22, Access and Facilities for People with Disabilities, to read as follows:

Access and facilities to and within the building is to be provided for Persons with a Disability in accordance with the Access Report prepared by Access-i, dated 26/11/2020, reference no. 20281, the Building Code of Australia and AS 14281.

Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.