

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2025/0142
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<b>Responsible Officer:</b>	Jordan Howard
<b>Land to be developed (Address):</b>	Lot 1 DP 550275, 280 Condamine Street MANLY VALE NSW 2093
<b>Proposed Development:</b>	Alterations and additions to residential care facility
<b>Zoning:</b>	Warringah LEP2011 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes, under State Environmental Planning Policy (Housing) 2021
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Applicant:</b>	John William Flower

<b>Application Lodged:</b>	10/03/2025
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Seniors Living
<b>Notified:</b>	19/03/2025 to 02/04/2025
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 876,961.00
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### PROPOSED DEVELOPMENT IN DETAIL

This Development Application seeks development consent for Alterations and additions to residential care facility. Specifically, the following is proposed:

- Demolition of the existing port cochere, pedestrian entry paths and ramps fronting the site on Gordon Street;
- Demolition or removal of the existing structures within the private courtyard located on the western side of the site;
- Demolition of some existing walls within the building at ground level adjacent to the building entry point;
- Reduction of existing masonry balustrade wall heights fronting Gordon Street;

- Construction of a wider driveway connecting to Gordon Street for use by ambulance services whilst enabling forward entry and exist of an ambulance, new entry stairs and paths, and landscaping surrounding. Positioned above the driveway is a lightweight awning (maximum height of 4.5m) that provides weather protection for the emergency services;
- Construction of glass balustrades for balconies facing Gordon Street and metal facade panels at the base of the building, also fronting Gordon Street;
- Construction of a landscaped roof over existing car parking spaces that are adjacent to Gordon Street;
- Construction of 2.4 metre high acoustic panels for the western private courtyard where it fronts Gordon Street and turns to Condamine Street;
- Construction of a barbeque area within the western private courtyard with a retractable roof awning over;
- Removal of existing cladding to the balconies facing east and west, and the application of a new paint finish;
- Construction of a raised herb garden within the western private open space area for use of the residents, the introduction of new landscape spaces and shade structures, as shown on the submitted landscape plans; and
- Construction of signage that identifies the site use, fronting Gordon Street.

## 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

Assessment - Concurrence - Roads and Maritime Service - SEPP (Transport and Infrastructure) 2021, s2.118

Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential

Warringah Development Control Plan - B5 Side Boundary Setbacks

Warringah Development Control Plan - B7 Front Boundary Setbacks

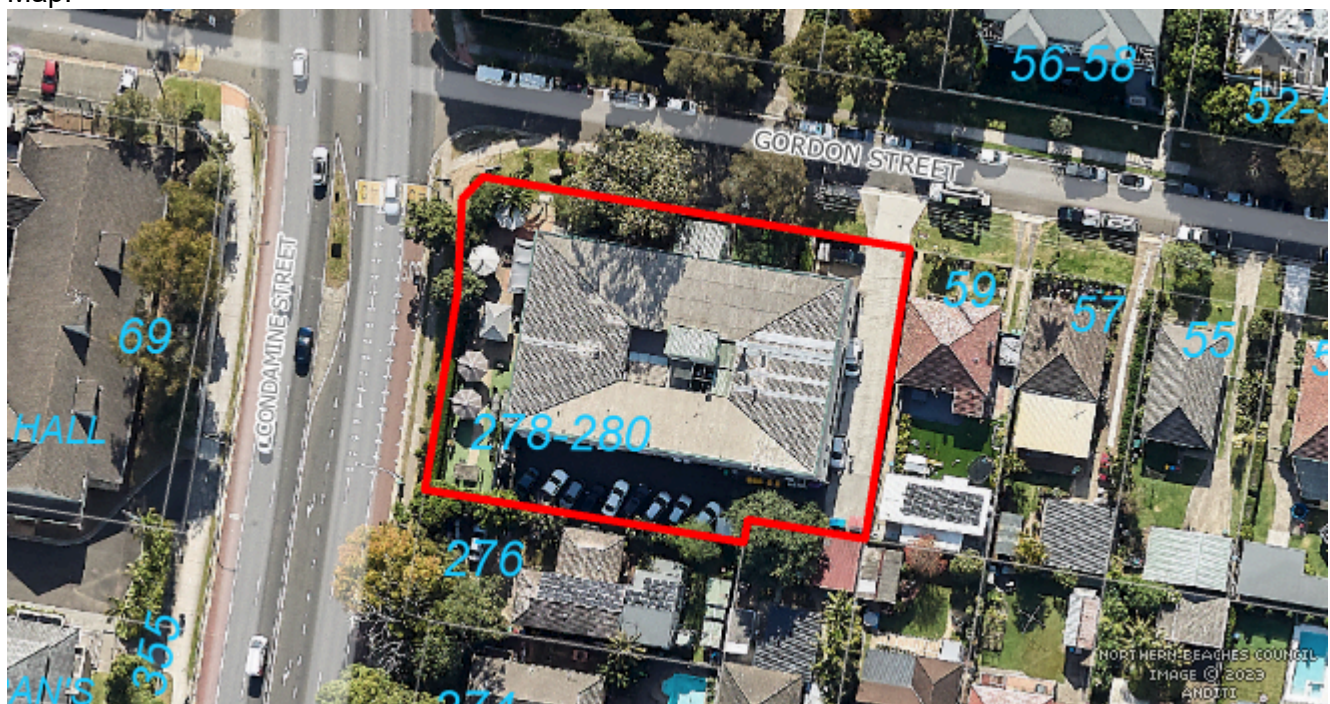
Warringah Development Control Plan - B9 Rear Boundary Setbacks

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

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 550275 , 280 Condamine Street MANLY VALE NSW 2093
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the eastern side of Condamine Street and southern side of Gordon Street.</p> <p>The site is irregular in shape with a frontage of 54.46m to Gordon Street, a frontage of 37.115m to Condamine Street and a corner splay between the frontages of 3.255m. The site has an area of 2131sqm.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a residential care facility.</p> <p>The site is relatively flat.</p> <p>The site contains lawn areas, garden beds, trees and vegetations. There are no details of threatened species at the site.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by residential development to the north, east and south. Across Condamine Street to the west is St Kieran's Catholic Primary School and Church.</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 history:

**Pre-Lodgment Meeting No. PLM2023/0094** for "Extension of Porte Cochere for a Nursing Home" was held on 10 August 2023. Issue was raised with potential streetscape impacts due to the proposed front setback of the works, particularly a large terrace proposed above the extended Porte Cochere roof form. The concluding comments of this meeting noted that *"the proposal requires design amendments to be supported, such as a reduced height and simplified design to the new porte cochere and a reduction of the size of the terrace. A detailed landscape plan is to be provided demonstrating enhancement to the front setback landscaping"*.

**Pre-Lodgment Meeting No. PLM2023/0159** for "Alterations and additions to a residential care facility (New driveway and Porte Cochere)" was held on 14 December 2023. It was noted that the terrace above the extended Porte Cochere roof form had been reduced to an acceptable level. Minor issues were again raised with the removal of street trees and potential streetscape impacts. The concluding comments of this meeting noted that an amended proposal put forward by the Applicant could be supported, subject to some minor recommendations regarding landscaping.

The subject site has a history of prior applications relating to the residential care facility, with applications for alterations and additions to an existing residential care facility dating back to at least 2008. These are not detailed in this list as they are not relevant to the application, particularly given permissibility for the use is established by the provisions of the *SEPP (Housing) 2021* and therefore the application does not need to rely on existing use rights.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions 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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.



Section 4.15 Matters for Consideration	Comments
Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to a referral response from Council's Landscape team.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 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 of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (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) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 19/03/2025 to 02/04/2025 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant 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>
Landscape Officer	<p><u>Amended Plans Comment 8/05/2025</u> Amended Plans addressing concerns previously raised are noted.</p> <p>No objections are now raised to the proposed landscape works subject to conditions.</p> <p><u>Original Comment</u> The application seeks consent for: Alterations and additions to residential care facility.</p> <p>The Arborist's Report prepared by Mark Bury and Landscape Concept Plans prepared by Christina Silk are noted.</p> <p>The Arborist's report incorporates the findings of a root mapping investigation.</p> <p>The investigation assesses potential impacts on two trees adjacent to the proposed widened entry/driveway. The Report concludes that the widening works can occur with an</p>

Internal Referral Body	Comments
	<p>acceptable level of impact on the trees, subject to Arboricultural supervision.</p> <p>The Concept Landscape Plans indicate that a new fence is proposed to the Condamine Street frontage of the site. The Architectural Plans indicate the fence to be a 2.4m acoustic panel wall.</p> <p>The Landscape Plans indicate the wall to be located on the western boundary, forward of an existing hedge.</p> <p>Details of the proposed wall materials are required. It is also recommended that the wall be located on the inside of the existing hedge to enable a better streetscape presentation if a 2.4m high wall is proposed.</p> <p>No details of the proposed planters in the courtyards on the western side of the site have been provided. It is unclear if raised planters or ground level planting is proposed. Proposed tree species should also be provided for assessment.</p> <p>At this stage, the proposal is not supported due to lack of information.</p> <p>Additional information will enable further assessment to be undertaken.</p>
NECC (Bushland and Biodiversity)	The proposed development is designed, sited and will be managed to avoid an adverse impact to the integrity and resilience of native vegetation and fauna habitats within the coastal environment area (State Environmental Planning Policy (Resilience and Hazards) 2021).
NECC (Development Engineering)	The proposal is to widen the eastern driveway along Gordon Street frontage to allow for ambulance access. The submitted stormwater plan proposing discharge to the existing system is acceptable. No objections to approval subject to conditions as recommended.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

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

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

The subject site is zoned under the WLEP 2011 as R2 Low Density Residential. Within this zone, seniors housing is a prohibited land use (residential care facilities are a type of seniors housing). However, Section 79-81 of *SEPP (Housing) 2021* stipulates that seniors housing is permitted with consent within R2 Low Density Residential across the State. In cases where inconsistency between environmental planning instruments arise, Section 1.9 of the *WLEP 2011* and Section 3.28 of the *Environmental Planning and Assessment Act 1979* outline that State Environmental Planning Policies prevail over a Local Environmental Plans. Therefore, the provisions of the *SEPP (Housing) 2021* prevail and the use is permitted with consent.

Regarding the applicability of other sections of *SEPP (Housing) 2021* it is noted that the proposal if for minor alterations and additions to an existing residential care facility. These alterations and additions are largely cosmetic and external in nature, with the only internal changes proposed being to the Level 2 Main Entrance (which will be widened through the removal some internal rooms). These changes do not significantly alter the existing layout or design of the residential flat building. The use has been approved under a prior consent and the proposed works do not create non-compliances with relevant sections of *SEPP (Housing) 2021*. Overall, the proposed development complies with relevant requirements of this SEPP.

### **SEPP (Transport and Infrastructure) 2021**

#### Ausgrid

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

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

#### Comment:

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

#### Transport for NSW (TfNSW)

Section 2.119 - Development with frontage to classified road states:



*The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*

*(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*

*(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*

*(i) the design of the vehicular access to the land, or*

*(ii) the emission of smoke or dust from the development, or*

*(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*

*(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

**Comment:**

The subject site has a frontage to Condamine Street (a classified road). As such, the proposal was referred to TfNSW for advice in accordance with Section 2.119. The following was received in response:

*"TfNSW has reviewed the information provided and notes that Gordon Street, to which the development site gains access to and from, is a local road under the care and control of the Council. In addition, the proposed works do not impact the state classified road/Condamine Street and, as such, are unlikely to have a significant traffic impact on the classified road network. As such, TfNSW raises no objections to the submitted DA provided all works, including the driveway widening on Gordon Street are provided to the satisfaction of Council."*

No objection to approval was raised.

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

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

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

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

<b>Matters for Consideration</b>	<b>Comment</b>	<b>Complies</b>
<b>1. Character of the area</b> Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposed signage is consistent with existing signage on site. There are no immediate surrounding/nearby commercial premises exhibiting signage, however the proposed	YES

	signage is minimal and appropriate for the residential nature of the area.	
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	No consistent theme for outdoor signage exists in the locality.	YES
<b>2. Special areas</b> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposed signage does not dominate the streetscape and does not detract from the amenity or visual quality of the site. The subject site is not within an environmentally sensitive area, conservation area, open space area, waterway area or rural area. The site is located adjacent to a residential property, however the signage is minimal and appropriate for the residential nature of the area. The subject site is not in proximity to heritage items or within a heritage area.	YES
<b>3. Views and vistas</b> Does the proposal obscure or compromise important views?	The proposed signage does not obscure or compromise important views.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage does not dominate the skyline or reduce the quality of vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	The proposed signage does not impact upon the viewing rights of other advertisers.	YES
<b>4. Streetscape, setting or landscape</b> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposed signage is appropriate for the site and surrounds.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage has been designed in a clear and modern manner, and therefore creates visual interest and promotes business identification.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed signage is simplified in that it is for business identification purposes only.	YES
Does the proposal screen unsightliness?	The subject site does not contain unreasonable unsightliness.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage does not protrude above any buildings, structures or tree canopies on site.	YES
Does the proposal require ongoing vegetation management?	The proposed signage does not require any ongoing vegetation management.	YES
<b>5. Site and building</b> Is the proposal compatible with the scale, proportion and other characteristics of the site or	The scale, proportion and form of the proposed signage is consistent with	YES

building, or both, on which the proposed signage is to be located?	and complementary to the use of the site.	
Does the proposal respect important features of the site or building, or both?	The proposed signage is ancillary to the building on site.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage is for business identification purposes only, so does not require innovation or imagination. However, the proposed signage is located logically to achieve an adequate level of exposure, while remaining visually compatible with the building.	YES
<b>6. Associated devices and logos with advertisements and advertising structures</b> Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed signage does not require any or safety devices or platforms.	YES
<b>7. Illumination</b> Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The illumination of the signage will not result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, or detract from the amenity of any residence.	YES
Can the intensity of the illumination be adjusted, if necessary?	The illumination of the signage can be adjusted if necessary.	YES
Is the illumination subject to a curfew?	Given the small scale of proposed business identification signage and 24/7 operation of the premises, no illumination curfew to the signage is proposed.	YES
<b>8. Safety</b> Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The proposed signage would not reduce safety on any public road, or for pedestrians or bicyclists.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signage does not obscure sightlines.	YES

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

## SEPP (Resilience and Hazards) 2021

### Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

#### **Division 2 Coastal Vulnerability Area**

## 2.9 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and
- b) the proposed development:
  - i) is not likely to alter coastal processes to the detriment of the natural environment or
  - ii) other land, and
  - iii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and
- c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.

### Comment:

There is no currently adopted Coastal Vulnerability Area Map. Nonetheless, the proposed development is for minor alterations and additions to an existing residential care facility. The proposed development is satisfactory in regard to the above matters.

## Division 3 Coastal environment area

### 2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
  - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
  - b) coastal environmental values and natural coastal processes,
  - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
  - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
  - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
  - f) Aboriginal cultural heritage, practices and places,
  - g) the use of the surf zone.

### Comment:

The proposed development is for minor alterations and additions to an existing residential care facility. The proposed development is satisfactory in regard to the above matters.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
- b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The proposed development is for minor alterations and additions to an existing residential care facility. The proposed development is satisfactory in regard to the above matters.

**Division 5 General**

**2.12 Development in coastal zone generally—development not to increase risk of coastal hazards**

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The proposed development is for minor alterations and additions to an existing residential care facility. The proposed development is satisfactory in regard to the above matters.

**2.13 Development in coastal zone generally—coastal management programs to be considered**

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

The proposed development is for minor alterations and additions to an existing residential care facility. The proposed development is satisfactory in regard to the above matters.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

**Chapter 4 – Remediation of Land**

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

**Warringah Local Environmental Plan 2011**

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



zone objectives of the LEP?	Yes
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#### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	6.3	-	Yes

#### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

#### Detailed Assessment

#### **Zone R2 Low Density Residential**

The *WLEP 2011* defines residential care facility as follows:

***residential care facility*** means accommodation for seniors or people with a disability that includes—  
 (a) meals and cleaning services, and  
 (b) personal care or nursing care, or both, and  
 (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, but does not include a dwelling, hostel, hospital or psychiatric facility.

Furthermore, the *WLEP 2011* notes that residential care facilities are a type of seniors housing, which in turn is a type of residential accommodation.

The subject site is zoned under the *WLEP 2011* as R2 Low Density Residential. Within this zone, seniors housing is a prohibited land use. However, Section 79-81 of the *State Environmental Planning Policy (Housing) 2021* stipulates that seniors housing is permitted with consent within R2 Low Density Residential across the State. In cases where inconsistency between environmental planning instruments arise, Section 1.9 of the *WLEP 2011* and Section 3.28 of the *Environmental Planning and Assessment Act 1979* outline that State Environmental Planning Policies prevail over a Local Environmental Plans. Therefore, the provisions of the *SEPP (Housing) 2021* prevail and the use is permitted with consent.

The proposed development is considered against the underlying objectives of the R2 Low Density Residential zone as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

#### Comment:

The proposed development is for minor alterations and additions to an existing residential care facility, allowing the facility to change and adapt to the changing housing needs of residents and therefore the community.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Comment:

The proposed development is for minor alterations and additions to an existing residential care facility. This facility is an example of a land use that provides facilities / services that meet the day to day needs of residents, that being local residential aged care.

- To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.

Comment:

The proposed development is for minor alterations and additions to an existing residential care facility. The proposed development is considered to maintain landscaped settings in harmony with the natural environment of Warringah and will not significantly alter the scale or density of the existing facility within the residential environment.

Overall, the proposed development is considered to meet the underlying objectives of the R2 Low Density Residential.

## Warringah Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation	Complies
B1 Wall height	7.2m	Balcony Alterations: 6.3m	-	Yes
B3 Side Boundary Envelope	East: 4m	Works inside envelope	-	Yes
	South: 4m	Works inside envelope	-	Yes
B5 Side Boundary Setbacks	East: 0.9m	Existing Building: 6m	-	Yes
	South: 0.9m	Existing Building: 6m BBQ Structure: 0.4m	- 55.6%	Yes <b>No</b>
B7 Front Boundary Setbacks	Primary (Gordon Street): 6.5m	Existing Building: 6.1m L2 Signage, Ramps and Roof Posts: 0.2m L3 Extended Balcony: 3.2m	6.2% 96.9% 50.8%	<b>No</b> <b>No</b> <b>No</b>
	Secondary (Condamine Street): 3.5m	Existing Building: 10.2m BBQ Structure: 1.7m	- 51.4%	Yes <b>No</b>
B9 Rear Boundary Setbacks	N/A - does not apply to corner lots	N/A	N/A	N/A
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (856sqm)	10.1% (216.8sqm)	74.7% (639.2sqm)	<b>No</b>

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	N/A	N/A
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

#### Detailed Assessment

#### **B5 Side Boundary Setbacks**

##### Description of non-compliance

Under this Clause, development is to maintain a minimum setback from the side boundaries of 0.9m.

The control stipulates that side boundary setback areas are to be landscaped and free of any above or below ground structures, car parking or site facilities other than driveways and fences. The control stipulates that screens or sunblinds, light fittings, electricity or gas meters, or other services infrastructure and structures not more than 1 metre above ground level (existing) such as unroofed terraces, balconies, landings, steps or ramps may encroach beyond the minimum side setback.

The proposed development includes a BBQ Structure at the south-western corner of the site, which is not a listed structure that can be ignored when looking at side setback. The BBQ Structure will exhibit a 0.4m setback from the southern side boundary, representing a 55.6% non-compliance. This is the only side setback non-compliance created by the proposed development, noting that other elements proposed (such as fences / acoustic screening) are not included for the the purposes of side setback calculations and that the existing building has a 6m side setback at the southern and eastern side boundaries.

### Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To provide opportunities for deep soil landscape areas.*

#### Comment:

Refer to the section of this report on WDCP Clause D1 Landscaped Open Space and Bushland Setting for a detailed assessment of landscaped open space. In summary, whilst the proposal is deficient of the required landscaped open space, the proposal is supported on merit as this is largely an existing non-compliance.

- *To ensure that development does not become visually dominant.*

#### Comment:

Notwithstanding the proposed side setback breaches, the proposal is not considered to be visually dominant. The BBQ Structure is a small, ground level structure set within a landscaped outdoor recreation area of the site. The main existing building on site remains compliant with side setbacks.

- *To ensure that the scale and bulk of buildings is minimised.*

#### Comment:

The BBQ Structure is a small, ground level structure set within a landscaped outdoor recreation area of the site. The development is appropriately designed and located to limit the level of bulk and scale.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

#### Comment:

The proposal does not unreasonably impact privacy, amenity or solar access of the occupants of the subject site or adjoining properties.

- *To provide reasonable sharing of views to and from public and private properties.*

Comment:

There are no unreasonable view sharing impacts on public or private properties as a result of the proposed development.

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

## **B7 Front Boundary Setbacks**

### Description of non-compliance

Under Clause B7 Front Boundary Setbacks of the WDCP, development is to maintain a minimum setback from the front boundary of 6.5m. Furthermore, an exception is provided for corner allotments or sites with a double street frontage, where the minimum front building setback is 6.5m to both frontages, which allows the front setback to be reduced to 3.5m for the secondary frontage, provided the character of the street is considered.

In this case, Gordon Street is taken as the primary frontage and Condamine Street is taken as the secondary frontage.

The proposed works at the primary frontage primarily consist of the demolition of the existing port cochere and entrance to make way for the construction of a new entrance for both vehicles and pedestrians, as well as a new port cochere with a garden and balcony built into the roof above. At the secondary frontage, most works are related to landscaping and fencing / acoustic screening, which are not included for the purposed of determining front setbacks. There is a proposed BBQ Structure which is in the secondary frontage area.

At the primary (Gordon Street) frontage, the following setbacks will be exhibited:

- Existing Building: 6.1m, a 6.2% variation.
- L2 Signage, Ramps and Roof Posts: 0.2m, a 96.9% variation.
- L3 Extended Balcony: 3.2m, a 50.8% variation.

At the secondary (Condamine Street) frontage, the following setbacks will be exhibited:

- Existing Building: 10.2m, complies.
- BBQ Structure: 1.7m, a 51.4% variation.

### Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To create a sense of openness.*



Comment:

Refer to the section of this report on WDCP Clause D1 Landscaped Open Space and Bushland Setting for a detailed assessment of landscaped open space. In summary, whilst the proposal is deficient of the required landscaped open space, the proposal is supported on merit as this is largely an existing non-compliance. The existing sense of openness will be retained and improved.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

The proposed building alterations and additions respect existing setback lines. Proposed non-compliances are only created by minor elements that are secondary to the building proper. These proposed elements are small in nature, open in design and appropriately accommodate landscape elements to soften the built form.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

The proposal will not detract from the existing quality of streetscapes and public spaces. The proposal is of appropriate design and visual quality, and considers the existing streetscape.

- *To achieve reasonable view sharing.*

Comment:

The proposal is not considered to result in any unreasonable view impacts to and from public and private properties.

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

## **B9 Rear Boundary Setbacks**

Clause B9 Rear Boundary Setbacks establishes that on corner allotments for land zoned R2 Low Density Residential or R3 Medium Density Residential, where the minimum rear building setback is 6 metres, the rear building setback does not apply. The subject site meets these characteristics and therefore this Clause is not applicable.

## **D1 Landscaped Open Space and Bushland Setting**

### Description of non-compliance

Clause D1 Landscape Open Space and Bushland Setting of the WDCP requires the minimum landscaped open space (LOS) as being 40% (856sqm) of the site area with minimum dimensions of 2 metres and including the water surface of pools.

The proposed development includes 10.1% (216.8sqm) landscaped open space, representing a

variation of 74.7% (639.2sqm). However, it is noted that this is largely due to the existing site layout. Proposed works will retain most of the large landscaped outdoor recreation area along the west of the subject site, with only the minor loss of landscaping within the primary front setback to Gordon Street to accommodate altered driveway and pedestrian entrances.

#### Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To enable planting to maintain and enhance the streetscape.*

#### Comment:

Council's Landscape team initially raised issues with the potential for negative impacts on the streetscape as a result of proposed fencing / acoustic screening. These issues were put to the Applicant in a Request for Further Information letter and amended plans were submitted which proposed the retention of existing fencing and the situation of proposed acoustic screening behind existing landscaping. These amendments satisfied Council's Landscape team, who now support the amended proposal, subject to recommended conditions of consent. The amendments have ensured that existing planning is retained along both property frontages, thereby maintaining sufficiently landscaped streetscape.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

#### Comment:

The land has been used for residential purposes for an extended period of time and altered from its natural form during this time. There are no known threatened species or significant vegetation identified on site.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

#### Comment:

Sufficient landscaped open space is provided to establish vegetation that is able to mitigate the visual bulk of the proposed development. There is adequate room for canopy trees and vegetation.

- *To enhance privacy between buildings.*

#### Comment:

The proposal presents acceptable levels of privacy between dwellings.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

#### Comment:

The proposal maintains adequate private open space.

- *To provide space for service functions, including clothes drying.*

Comment:

The proposal maintains adequate space for service functions.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

The site has adequate permeable surfaces to ensure that water management and the natural infiltration of stormwater into the ground can occur.

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

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2024**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of \$8,770 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$876,961.

## **CONCLUSION**

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

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

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

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2025/0142 for Alterations and additions to residential care facility on land at Lot 1 DP 550275, 280 Condamine Street, MANLY VALE, subject to the conditions printed below:

## Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

## GENERAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
04.1	D	Plan Existing Level 1	John W Flower Architect	19 December 2024
04.2	D	Plan Existing Level 2	John W Flower Architect	19 December 2024
04.3	D	Plan Existing Level 3	John W Flower Architect	19 December 2024

04.4	D	Plan New Level 2	John W Flower Architect	19 December 2024
04.5	D	Plan New Level 3	John W Flower Architect	19 December 2024
04.7	D	Elevations Existing	John W Flower Architect	19 December 2024
04.6	D	Elevations Proposed	John W Flower Architect	19 December 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Arboricultural Impact Statement Report	2425/118	Mark Bury Consulting	5 October 2024
BCA Capability Statement	Rev. 1	Blackett Maguire + Goldsmith	30 September 2024
Waste Management Plan - 280 Condamine Street, Manly Vale	-	-	28 February 2025
Landscape Concept, Job No. 23156	Rev. April 2025	Christina Silk	April 2025
Civil Services (Stormwater Plan), Project No. NA242697, Drawing No. CIV-0001, CIV-0005, CIV-0008	Issue A	ACOR Consultants	10 October 2024

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

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

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Referral - Ausgrid	Undated
Transport for NSW (TfNSW)	Referral - TfNSW	1 April 2025

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

Reason: To ensure the work is carried out in accordance with the determination and the



statutory requirements of other departments, authorities or bodies.

### 3. Prescribed Conditions

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

#### 4. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (d) At all times after the submission of the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (e) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (f) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
  - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
  - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development

is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.

- iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (m) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.
- (p) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

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

## FEES / CHARGES / CONTRIBUTIONS

### 5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of \$8,769.61 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$876,961.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

## 6. **Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifier prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

Reason: To ensure adequate protection of Council's infrastructure.

## **BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

### 7. **National Construction Code (BCA) upgrade requirements and Fire Safety upgrade**

The National Construction Code works and fire upgrading measures to upgrade the building as detailed and recommended in the BCA Capability Statement, prepared by BM+G, dated 30/9/2024, Report Ref No. 240327 are to be considered as part of the assessment of the Construction Certificate.

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

Reason: To ensure adequate provision is made for Health, Amenity, Access & Fire Safety for building occupant health & safety.

### 8. **National Construction Code (BCA) Access**

Access and facilities to and within the building are to be provided for Persons with a Disability and are to comply with the Building Code of Australia and AS 1428.1.

Details are to be provided to the Certifier 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.

### 9. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent in accordance with AS/NZS 3500 and Council's Water Management for Development Policy, prepared by an appropriately qualified and practicing Civil or Hydraulic Engineer who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG), indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent



catchments. Stormwater shall be conveyed from the site to Gordon Street.

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

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

**10. Vehicle Crossings Application**

The Applicant is to submit an application with Council for driveway levels to construct one vehicle crossing 7.5 metres wide in accordance with Northern Beaches Council Standard Drawing Normal in accordance with Section 138 of the Roads Act 1993.

Note, driveways are to be in plain concrete only.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

A Council approval is to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

**11. Boundary Identification Survey**

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on a boundary identification survey, prepared by a Registered Surveyor, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

**12. Compliance with Standards**

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

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

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

**13. Sydney Water "Tap In"**

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

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

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

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

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

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

### 14. **Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with the Arboricultural Impact Statement Report dated 5th October 2024 prepared by Mark Bury Consulting and AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular:  
demolition, excavation and construction works adjacent to Trees 1 (*Eucalyptus robusta*) and 2 (*Casuarina glauca*).

a)

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Principal Certifier that all tree protection measures under AS4970-2009 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note: Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

### 15. **Sediment and Erosion Controls**

For developments that include more than 2500sqm of disturbance:

A Soil and Water Management plan (SWMP), in accordance with section 2.3 of the Blue Book, must be prepared and certified by a suitably qualified professional.

For sites larger than 250sqm and less than 2500sqm of disturbance:

An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified person in accordance with the following considerations and documents:

- Sites that have slopes exceeding 20% (measured in any direction across the site), and/or where works are within the high-water mark or adjacent to a waterway or watercourses are considered environmentally sensitive areas. These sites require a site-specific ESCP which must be prepared and certified by a suitably qualified professional,
- The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate – Volume 1, 4th Edition (2004)' (the Blue Book), and
- The 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning, Housing and Infrastructure).

The ESCP must include the following as a minimum:

- Site Boundaries and contours,
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application),
- Location of site access, proposed roads and other impervious areas (e.g. parking area and site facilities),
- Existing and proposed drainage patterns with stormwater discharge points,
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected,
- North point and scale,
- Type of erosion control measures to divert and slow run-off around and within the site.

Environmentally sensitive areas (i.e. Sites that have slopes exceeding 20% and/or where works are within the high-water mark or adjacent to a waterway or watercourses) must also consider:

- Identify and mark any environmentally sensitive areas on and immediately next to the site and how you will protect these, including any appropriate buffer zones (for example, marking them out as 'no-go' areas),
- Details on vegetation you will clear, as well as areas of vegetation you will keep (mark no go areas),
- Detail on soil information and location(s) of problem soil types, especially dispersive soils and potential or actual acid sulfate soils,
- Location of any natural waterways that could receive run-off and how these will be protected these from run-off.

For sites smaller than 250sqm or where the disturbance is less than 50sqm:

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- Diverting uncontaminated run-off around cleared or disturbed areas, and
- Erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- Preventing the tracking of sediment by vehicles onto roads, and
- Stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.
- Identifying any environmentally sensitive areas on and immediately next to the site, and demonstrating how these will be protected (for example, by designation as no-go

areas).

Details demonstrating compliance with the relevant requirements above are to be submitted to the Certifier, and the measures implemented, prior to the commencement of works.

Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.

## DURING BUILDING WORK

### 16. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected, including:
  - i) all trees within the site, including trees and vegetation nominated for retention on the approved Plans,
  - ii) all trees and vegetation located on adjoining properties,
  - iii) all trees and vegetation within the road reserve.
- b) Tree protection shall be undertaken as follows:
  - i) tree protection shall be in accordance with the Arboricultural Impact Statement Report dated 5th October 2024 prepared by Mark Bury Consulting and AS4970-2009 Protection of trees on development sites,
  - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist,
  - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with the Project Arborist,
  - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
  - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by the Project Arborist on site,
  - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with the Project Arborist including advice on root protection measures,
  - vii) should either or all of v) or vi) occur during site establishment and construction works, the Project Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Project Arborist to the Principal Certifier,
  - viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS4970-2009 Protection of trees on development sites,
  - ix) the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
  - x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees,

- xi) the tree protection measures specified in this clause must:
  - i) be in place before work commences on the site, and
  - ii) be maintained in good condition during the construction period, and
  - iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

- c) The arboricultural works listed in a) and b) are undertaken and certified by the Project Arborist as compliant to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

#### 17. **Condition of Trees**

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to or by seeking arboricultural advice from the Project Arborist during the works.

In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

#### 18. **Road Reserve**

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

#### 19. **Handling of asbestos during demolition**

While demolition work is being carried out, any work involving the removal of asbestos must comply with the following requirements:

- Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling and disposal of any asbestos material;
- Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and
- Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m<sup>2</sup> or more of asbestos sheeting must be registered with the EPA online reporting tool WasteLocate.

Reason: To ensure that the removal of asbestos is undertaken safely and professionally.

**20. Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

**21. Maintenance of Sediment and Erosion Controls**

Erosion and sediment controls must be adequately maintained and monitored at all times, particularly surrounding periods of rain, and shall remain in proper operation until all development activities have been completed and the site is in a state where no substance other than rainwater can enter the stormwater system and waterways.

All sediment control measures must be maintained at, or above, their design capacity.

Where more than 2500 square metres of land are disturbed or if the site has a slope of more than 20%, a self-auditing program must be developed for the site. A site inspection using a log book or inspection test plan (ITP) must be undertaken by the site supervisor:

- at least each week
- immediately before site closure
- immediately following rainfall events that cause runoff.

Details demonstrating compliance must be provided to the Certifier during demolition and building works.

Reason: Protection of the receiving environment and to ensure no substance other than rainwater enters the stormwater system and waterways.

**22. Waste Management During Development**

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

**BEFORE ISSUE OF THE OCCUPATION CERTIFICATE**



**23. Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of a part Occupation Certificate or Occupation Certificate. Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Parts 10, 11 & 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

**24. Landscape Completion**

Landscape works are to be implemented in accordance with the Landscape Plans Revision date April 2025 prepared by Christina Silk, and inclusive of the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) all tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; ; to achieve at least 5 metres height at maturity; meet the requirements of Natspec - Specifying Trees; planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and located either within garden bed or within a prepared bed within lawn,
- c) tree, shrub and groundcover planting shall be installed as indicated on the Landscape Plans,

Prior to the issue of an Occupation Certificate, details (from a qualified landscape architect, landscape designer or horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

**25. Condition of Retained Vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,
- c) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

**26. Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

**27. House / Building Number**

House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

**28. Waste Disposal Verification Statement**

On completion of demolition work:

- a signed statement must be submitted to the Certifier verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent, and
- if the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to the Certifier within 14 days of completion of the demolition work.

Reason: To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan.

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

**Signed**



**Jordan Howard, Planner**

The application is determined on 09/05/2025, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**