

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2022/0275
<b>Responsible Officer:</b>	Anne-Marie Young
<b>Land to be developed (Address):</b>	Lot 1 DP 228962, 1 Drew Place BELROSE NSW 2085 Lot 2 DP 228962, 1 Drew Place BELROSE NSW 2085
<b>Proposed Development:</b>	Modification of Development Consent DA2020/1072 granted for Construction of a Seniors Housing development, including demolition works, new access driveway and front fence
<b>Zoning:</b>	Warringah LEP2011 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes, under Pursuant to SEPP (HSDP)
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	DDP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Newpro 19 Pty Ltd
<b>Applicant:</b>	Newquest Property

<b>Application Lodged:</b>	03/06/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	13/06/2022 to 27/06/2022
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	3
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### EXECUTIVE SUMMARY

The application seeks consent for a modification of development consent, DA2020/1072, which approved the demolition of all structures and construction of six (6) x two (2) bedroom/two storey infill self-care housing units and at grade parking for 6 vehicles pursuant to the provisions of SEEP (Housing for Seniors or People with a Disability (HSPD)). The subject modification proposes changes to the roof design and deletion of condition 12 (a)(Amendment to the approved plans) which relates to planter boxes and trellis (screens) to the north facing balconies of Units 5 and 6.

The wording of Condition 12(a) was modified by the DDP under DA2020/1072 having regards to

the Design and Sustainability Advisory Panel (DSAP) recommendations in respect of the needs to provide planters along northern side of Unit 6 terrace in addition to screens to improve the amenity and privacy to 9 Evelyn Place. The condition, as amended by the DDP, requires a planter box to be provided along the northern balustrade of the balconies to Units 5 and 6, with climbers to be planted into the planter boxes with 400mm high trellis above the balustrade.

The application is referred back to the Development Determination Panel (DDP) due to the proposed deletion of a condition of development consent recommended in the council assessment report but which was amended by the panel.

Two unique submissions have been received which raise issues with regards to the deletion of Condition 12(a) and resulting privacy issues. In addition, concern has been raised in regards to the visual impacts on the character of the area as a result of the changes to the roof.

In order to address the privacy concerns, Council's Urban Designer recommended an amendment to condition 12 (a) requiring a 1.7m high vertical louvre elliptical blade fin privacy screen for a minimum length of 4.0m along the northern boundary to the balcony to Unit 5 and a 1.7m high screen to extend along the entire length of the north side of the balcony to Unit 6.

The applicant in response to the amendment to Condition 12(a) argues that a screen along the entire length of the balcony to Unit 6 is excessive and would impact on the amenity of future occupants of Unit 6. The applicant has provided details of an alternative design which proposed a 3.1m long screen to the northern edge of the balcony of Unit 6. The applicants justification for a 1.7m high screen extending the entire length of the balcony to Unit 6 is concurred with, however, the reduced length of 3.1m is insufficient to protect the amenity of neighbouring property. It is therefore recommended that the screen extend the length of the balcony to a height of 400mm in height above the balustrade with a planter bed provided in the western corner to allow for planting to soften the visual impact.

The external changes to the roof will not result in any unreasonable visual impact on the character of the locality subject to a condition requiring the lift overrun to be finished in the same material and colour as the roof is also recommended requiring to appear recessive.

This report concludes with a recommendation that the DDP grant **approval** to the modification application, subject to the special conditions attached.

## **PROPOSED DEVELOPMENT IN DETAIL**

The application seeks consent for a modification of Development Consent No. DA2020/1072, which approved a two storey, six unit Seniors Housing Development. In detail, the modifications include:

### **Changes to the Roof Design:**

- Western pavilion metal roof pitch increased from 5 degrees to 14 degrees.
- Roof pitch to unit 3 increased from 12 degrees to 20 degrees.
- The provision of a gable roof over unit 6.
- The extension of the lift overrun through the breezeway roof.
- The addition of roof sheeting to the first floor pergolas and Pringle Ave first floor unit 5 bedroom balcony.

**\*Note:** there is no change to the overall ridge height and the changes to the approved roof form and pitch to enhance buildability and to ensure appropriate stormwater drainage and roof form integration with the lift overrun also extended through the breezeway roof to meet manufacturer specifications.

## Deletion of Condition 12(a) (Amendments to approved Plans)

Condition 12(a) reads:

*a) A planter box with an internal dimension of 600mm x 400mm is to be provided located adjacent to northern balustrade of the balconies for Units 5 and 6. Climbers to be planted into the planter boxes with wires or trellis provided 400mm above the top of the balustrade to encourage the climber to provide visual softening and enhanced privacy to adjoining properties.*

The applicant states that appropriate levels of privacy and built form screening are afforded through a combination of spatial separation and the implementation of the approved site landscape regime.

In addition, the applicant argues that compliance with Condition 12(a) is not only unreasonable and unnecessary, but also potentially dangerous in the creation of a climbable structure immediately adjacent to the required balustrading and the works required by Condition 12(a) will not comply with the BCA in relation to the installation and performance of the required balustrading.

## ASSESSMENT INTRODUCTION

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

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

## SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - D8 Privacy

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 228962 , 1 Drew Place BELROSE NSW 2085 Lot 2 DP 228962 , 1 Drew Place BELROSE NSW 2085
<b>Detailed Site Description:</b>	The development site, which comprises Lot 1 and 2 No 1 Drew Place, is located at the intersection of Pringle Avenue

(primary frontage) and Drew Place (secondary frontage) and has a consolidated site area of 1395.2sqm.

The site is regular in shape with a frontage of 36.8m along Drew Place, 29.3m along Pringle Avenue and a depth of between 29.3m and 36.4m

The site is located within the R2 zone from WLEP 2011 and construction work has commenced for the redevelopment of the site for Seniors Housing. Prior to this the site accommodated a single storey detached dwelling with vehicular access to both street a double garage is located to the Pringle Avenue frontage and a carport to Drew Place.

#### **Detailed Description of Adjoining/Surrounding Development**

Surrounding development consists primarily of one and two storey detached dwellings with the exception of a two storey Senior's Housing development which has been constructed to the south on the opposite side of Drew Place at No. 36 Pringle Avenue and Frenchs Forest Showground / Oval located to the west on the opposite side of Pringle Avenue.

Map:



#### **SITE HISTORY**

On 26 March 2020, a pre-lodgement Meeting (PLM), **PLM2020/0055** was held in relation to the development of this site for seniors housing. The proposal sought to demolish the existing structures and construct a two storey building containing six (6) x three (3) bedroom units with six (6) at grade garages with access via Drew Place.

On 2 September 2020, **DA2020/1072** was received for a Seniors Housing development. The proposal

included the demolition of all structures and construction of a six (6) x two (2) bedroom two storey infill self care housing units and at grade parking for 6 vehicles pursuant to the provisions of SEEP (Housing for Seniors or People with a Disability (HSPD)),

On 25 February 2021, the application was presented to the Design and Sustainability Advisory Panel (DSAP) who made a number of recommendations including:

*Recommendation 1*

*1. Ensure privacy for adjoining properties from Unit 6. The Panel notes the privacy screen shown on the north elevation, but suggests that a small pergola over the balcony with a planter and climbers in addition to the screen shown could improve the amenity and privacy further. The panel notes that this may intrude into the 25% single storey zone but consider this to have no adverse impacts, and significant benefits.*

*Recommendation 4*

*4. Consider incorporation of planters along northern side of Unit 6 terrace to improve amenity and privacy to 9 Evelyn Place.*

On 10 March 2021, the application was presented to the DDP with a recommendation of approval. The DDP supported the recommendation, subject to a modification of Condition 12(a) to read:

*(a) A planter box with an internal dimension of 600mm x 400mm is to be provided located adjacent to northern balustrade of the balconies for Units 5 and 6. Climbers to be planted into the planter boxes with wires or trellis provided 400mm above the top of the balustrade to encourage the climber to provide visual softening and enhanced privacy to adjoining properties.*

On 19 May 2022, the subject application, **MOD2022/0275**, was received for modifications to consent No. DA2020/1072.

On 10 August 2022, the applicant submitted a response to the urban design referral including a supplementary Statement of Environmental Effects (SEE) and updated plans including details of the following changes:

- The detailing of the balustrade to Unit 9 has being a change along the upper floor walkway on the inside of the courtyard to include a 760mm high concrete upstand with this amended balustrade detail also adopted for the balustrade located along the northern edge of the Unit 5 balcony.
- A reduction in the size of windows W60 and W61 from 880 x 690 to 730 x 730 to unit 9 and a change from sliding to awning windows.

In response to issues raised in relation to the deletion of Condition 12(a), requiring a planter bed and screening via climbers to the balconies of Unit 5 and 6, the applicant presents the following justification:

*Privacy is afforded through a combination of spatial separation and the implementation of the approved site landscape regime.*

The applicant submitted privacy sight lines and 3D view diagrams from the balconies associated with Units 5 and 6.

The additional information was referred back to Council's Urban Designer who stated that they had no objections subject to conditions, including the need to install a 1.7m high angled privacy screen along

the entire length of northern edge of the balcony to Unit 6.

On 26 August 2022, the applicant submitted an additional response to the proposed urban design condition requiring a 1.7m high angled privacy screen along the entire northern edge of the balcony to Unit 6.

On 29 August 2022, amended plans showing details of the alternative design of the privacy screen to the balconies of Units 5 and 6. The alternative design included a reduced 3.1m long screen located along the northern edge of the balcony to Unit 6 from the eastern corner.

In accordance with the Community Participation Plan (CPP), the amended plans were not re-notified as they will result in a reduction of environmental impacts compared to the original proposal to delete of Condition 12 (a) requiring planter beds and a 400mm high trellis with climbers to the northern edge of the balconies to Units 6 and 7.

#### **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 DA202/1072, 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:

<b>Section 4.55(1A) - Other Modifications</b>	<b>Comments</b>
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><b>Yes</b></p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <p>The proposal seeks consent for changes to the roof pitch and the addition of roof sheeting over some balconies to provide for weather protection. There is no change to the approved height, footprint (setbacks), bulk, scale and massing or landscaping. There will be</p>

Section 4.55(1A) - Other Modifications	Comments
	<p>no new environmental impacts as a result of the proposal on the character of the locality.</p> <p>The applicant also seeks consent for the deletion of condition 12 (a) which relates to a planter and climbers to the first floor rear facing balcony of unit 5 and 6. Subject to a privacy louvre being installed to the balconies in lieu of the planter and climber there will be no unreasonable impacts on neighbouring residential amenity in terms of overlooking / privacy.</p>
<p>(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>	<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 DA2020/1072 for the following reasons:</p> <p>As discussed above, there is no change to the approved height, footprint (setbacks), bulk, scale and massing or landscaping. The modification is substantially the same as the approved development and the changes to the roof and the privacy treatment to balconies to unit 5 and 6 will not result in any unreasonable visual or amenity impacts.</p>
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.</p>
<p>(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.</p>	<p>See discussion on "Notification &amp; Submissions Received" in this report.</p>

### 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	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)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted with the original application.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&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 clause is not relevant to this application.</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 clause is not relevant to this application.</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	<p>(i) <b>Environmental Impact</b></p> <p>The environmental impacts of the proposed</p>



Section 4.15 'Matters for Consideration'	Comments
impacts on the natural and built environment and social and economic impacts in the locality	<p>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, subject to conditions.
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, subject to conditions.

## 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 13/06/2022 to 27/06/2022 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 process council is in receipt of 3 submission/s from:

Name:	Address:
Mrs Anna Elisabeth Dobson	9 Evelyn Place BELROSE NSW 2085
Glenn Robert Hinson	40 Pringle Avenue BELROSE NSW 2085
Mr Craig Stephen Dobson	9 Evelyn Place BELROSE NSW 2085

The following issues were raised in the submissions:

- **Privacy**

- **Change to the roof**

The above issues are addressed as follows:

- **Privacy**

**The submissions raised concerns in relation to the deletion of condition requiring a planter bed and trellis to the upper floor balconies to protect neighbouring privacy. The applicants justification is not supported and other privacy screen options are available. The proposal will have unreasonable impacts on neighbouring amenity compared to the approved scheme. The removal of the privacy treatment will allow a direct line from the living room and balcony of Unit 6 into the a child's bedroom and down to the habitable rooms and areas of private open space (pool and deck) to the neighbouring property. The removal of existing vegetation from the property boundary will also add to the privacy concerns.**

Comment:

The issues raised in regards to potential privacy impacts are valid. In order to address these issue, it is recommended the fixed angled louvres be installed along the edge of the upper level balconies in-lieu of the planters and trellis. See the detailed discussion under the referral section of this report in addition to Clause D8 privacy.

- **Changes to the roof**

**The submissions raised concerns that the design changes will alter the look and finished roof line resulting a building being out of character with the surrounding area.**

Comment:

The changes to the roof will not result in unreasonable visual impacts to the overall development, but will have the benefit of adding weather protection. There is no increase in the overall height of the approved development and the subject to a condition requiring the exterior of the lift over-run to be finished in the same material and colour as the roof it passes through there will be no unreasonable visual impact to the character if the surrounding area.

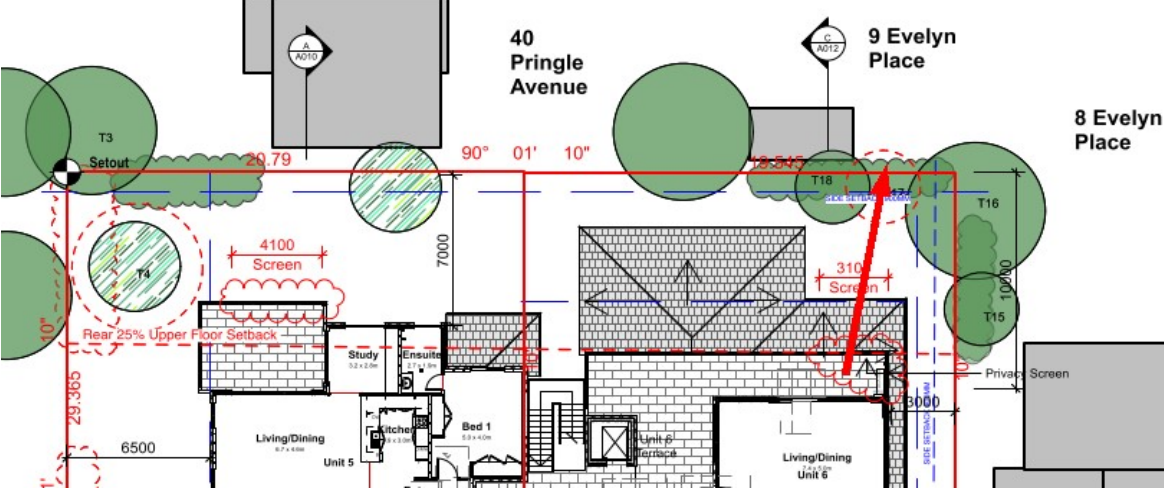

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Cert Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Iss however may be determined at Construction Certificate stage.</p>

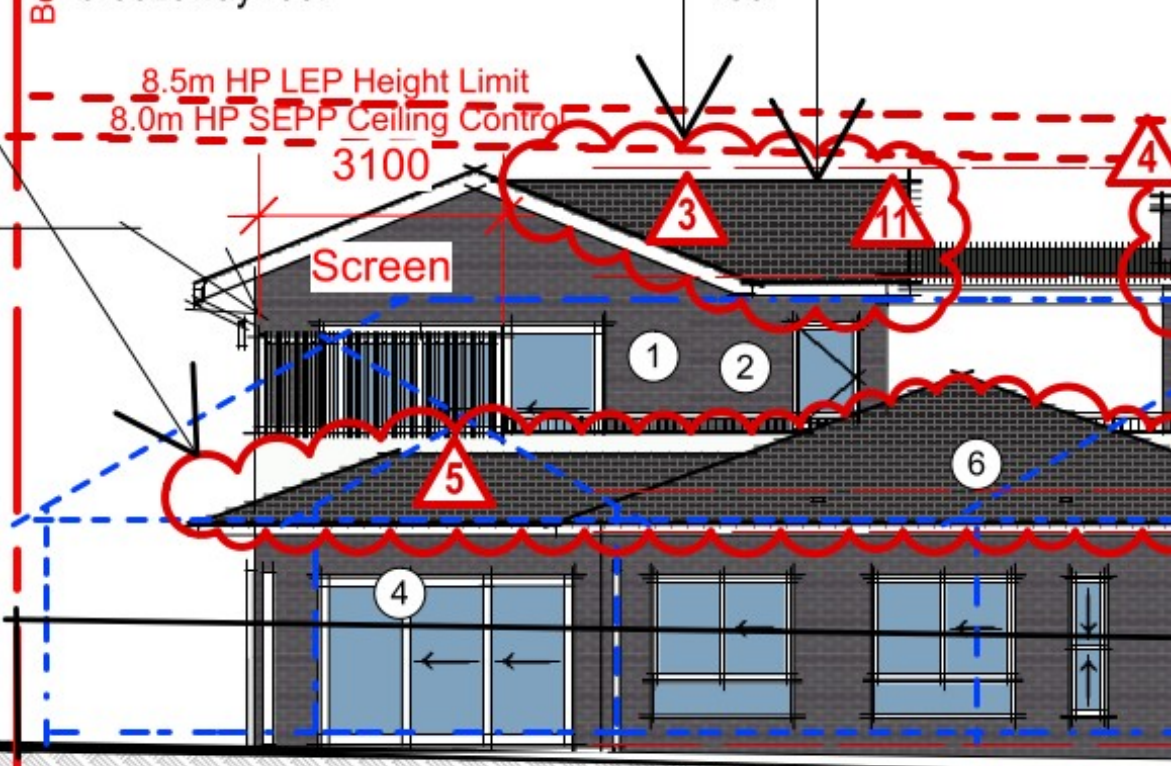

Internal Referral Body	Comments
Strategic and Place Planning (Urban Design)	<p>This advice is provided as an internal referral from the Urban Design Unit to the development consideration and coordination with the overall assessment.</p> <p>The application (Mod 2022/0275) seeks consent for modifications to the approved development (DA2020/1072) for the demolition of the existing structures and the construction of a senior the consolidated lot.</p> <p>The applicant has provided updated and additional drawings noting several modifications in Designs previous comments.</p> <p>Urban Design raise no objection to the proposed development subject to conditions, include</p> <p><i>1. Vertical louvre elliptical blade fin privacy screens are to be included in the following locations:</i></p> <p><i>a. Inside the balustrade to the north side of the balcony of Unit 5 and extend from floor level underside of the pergola beam, for a minimum 4m from the eastern side/wall of the balcony banks of louvres: a lower bank from floor to handrail level and an upper bank from handrail to pergola beam level. The louvres in the lower bank should be able to move independently vice-versa.</i></p> <p><i>b. Outside the handrail to the north side of the balcony of Unit 6 and extend from the top of minimum 1.7m from finished first floor level.</i></p> <p><b>Please note:</b> Regarding any view impacts and any impacts on solar amenity and overshadowing to be dealt with under the evaluation by Councils Planning Officer. Any impacts of non-compliance will be dealt with under the evaluation of Councils Heritage Officers, and any Landscape impacts to be dealt with under the evaluation of Councils Landscape Officers.</p> <p><b><u>Assessment Officers (Planners) Response:</u></b></p> <p>The applicant has reviewed the draft condition relating to the screens and notes the following:</p> <p><i>The original DA condition only called up for trellis wire 400mm above the 1.0m balcony. The installation of full height louvre screens to Unit 5, and for Unit 6, louvre screens 700mm high and is considered unreasonable for the following reasons:</i></p> <ul style="list-style-type: none"> <li><i>The original condition was problematic (1) Firstly, the balcony width for Unit 6 is very narrow and asks for a 600x400 planter box, so we assume that is 400mm wide. This would render the balcony off the living room for Unit 6 quite useless for putting a small table or chair, trellis wires even stainless steel stain and could look poor long term. (2) Secondly, occasional grandkid visits, having a planter box 600mm high poses a climbing hazard and could then keep climbing up the trellis and topple over.</i></li> <li><i>There is large existing trees along the northern boundary that provided for privacy.</i></li> <li><i>The units will be occupied by elderly occupants and it is highly unlikely that they will</i></li> </ul>


Internal Referral Body	Comments
	<p><i>neighbours in terms of acoustic and visual privacy impacts.</i></p> <ul style="list-style-type: none"> <li>• <i>Louvres along the entire edge of the Unit 6 balcony up to 1.7m would make the am</i></li> <li>• <i>The screens add a significantly greater expense.</i></li> </ul> <p>The applicant has provided the following alternative design for the screens:</p> <p><u>Unit 5</u></p> <ul style="list-style-type: none"> <li>• Screen is full height to underside of pergola</li> <li>• Screen 4.0m in length inside of pergola structure</li> <li>• Length maintains open corner to street</li> <li>• Screen mid-rail at balustrade height to allow upper and lower blades to move indep</li> <li>• Pergola extended 1.4m to face of balcony to support screen</li> <li>• Pergola will match southern end</li> <li>• Planter box deleted wall reduced to hob height of DA approval</li> </ul> <p><u>Unit 6</u></p> <ul style="list-style-type: none"> <li>• Screen 1.7m off Internal Finished Floor</li> <li>• Screen 3.1m length from East corner and will return to wall</li> <li>• This length allows some sky view internally without impacting privacy</li> <li>• Planter box deleted internally</li> </ul> <p>The applicant has submitted additional drawings to show the proposed screens.</p> <p><u>Comment:</u></p> <p>There is no issue with the proposed screening to the balcony to Unit 5.</p> <p>The balcony to Unit 6 measures 49sqm and is located 8.4m from the northern boundary to No. 40 Pringle Avenue.</p>

Internal Referral Body	Comments
	<div data-bbox="290 383 1257 1182" data-label="Image"> </div> <p data-bbox="290 1182 1468 1249"><b><i>Aerial view of subject site (and development under construction) in context to neighboring maps)</i></b></p> <p data-bbox="290 1288 555 1321"><b><u>No. 9 Evelyn Place</u></b></p> <p data-bbox="290 1355 1468 1534">The critical area to ensure the protect privacy to No. 6 Evelyn Place from the approved building (see photos below). The balcony to Unit 6 narrows to 1.9m in width along the eastern end; the requirement for a 600mm x 400mm planter box, as required under the current condition of the balcony along this section of the space.</p> <p data-bbox="290 1568 1468 1742">It is also appreciated that the condition suggested by Council's Urban Designer, for a full height screen along the entire length of the balcony, will result in an unsatisfactory amenity to Unit 6, as it will enclose the balcony. The applicant's suggestion that a reduction in the length of the screen to 3.1m from the eastern end of length to ensure that privacy between Unit 6 and No. 9 Evelyn Place is fully protected is in the intent of the DSAP recommendations and Condition 12 (a) as modified by the DDP in the current development plan.</p> <p data-bbox="290 1780 1468 1881">It is therefore recommended that the condition be modified to remove the requirement for the full height screen along the eastern section and require a fixed angled privacy screen 400mm above the top of the balcony to ensure privacy to 9 Evelyn Place is protected.</p>

Internal Referral Body	Comments
	<div data-bbox="300 387 1471 875"><p>The floor plan shows a residential unit with various rooms including a Living/Dining area, Kitchen, Study, Bed 1, and Unit 6. It details setbacks from the northern boundary, such as the 'Rear 25% Upper Floor Setback' and '4100 Screen'. Dimensions and angles are provided for the setbacks and building footprint. Surrounding properties are labeled: 40 Pringle Avenue to the north, 9 Evelyn Place to the northeast, and 8 Evelyn Place to the east. Trees T3, T4, T15, T16, and T18 are marked on the site.</p></div> <div data-bbox="292 882 1439 913"><p><b><i>First floor plan showing the balcony to unit 6 in relation to the northern boundary.</i></b></p></div> <div data-bbox="295 913 1471 1592"><p>A photograph showing the subject site from a ground-level perspective looking north. In the foreground, there is a dirt area with some construction materials and a white tarp. A brick wall is visible on the left and right sides. In the background, there are trees and a two-story house, which is No. 9 Evelyn Place.</p></div> <div data-bbox="292 1592 1046 1626"><p><b><i>Subject site looking north towards No. 9 Evelyn Place</i></b></p></div>



Internal Referral Body	Comments
	 <p><i>Northern elevation showing the location of the 3.1m long screen along the edge of the</i></p>  <p><i>Rear garden of No. 9 Evelyn Place showing the detached studio in the corner of the</i></p> <p><b><u>No 40 Pringle Avenue</u></b></p> <p>There is minimal existing landscape screening along the northern boundary of the subject :</p>

Internal Referral Body	Comments
	<p data-bbox="288 383 1465 593">Avenue and the applicant relies of existing planting to provide for privacy that is located in at No. 40 Pringle Avenue. Despite this, it is noted that the approved landscape plan include gum to the west of the unit 6 which over time will provide for some protection of privacy. Ar from the proposed balcony to unit 6 will result in unreasonable privacy impacts to No. 40 P elevated balcony will look down on the private open space / the rear garden if the western treated with some form of privacy treatment.</p>  <p data-bbox="288 1585 1465 1624"><b><i>Subject site looking north-west towards No. 40 Pringle Avenue</i></b></p> <p data-bbox="288 1659 1465 1836">The balcony extends to 2.8m in width to the north of the lift and there is sufficient space for bed which will provide for landscaping to soften the visual impact of the development in accordance with the recommendations of DSAP and the DDP in the original DA. It is therefore recommended that the plan be amended to require a planter bed to be provided at the western end of the balcony in addition to a screen above the balustrade installed along the entire length of the balcony to ensure privacy.</p> <p data-bbox="288 1872 1465 1937">In summary, the modified condition will still ensure that there will be no unreasonable impact on privacy as was the intent of the original condition which was a recommendation by DSAP.</p>



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 (Building Sustainability Index: BASIX) 2004**

The original DA was supported with a BASIX certificate (Certificate No. 1120493M dated 24 July 2020).

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

<b>Commitment</b>	<b>Required Target</b>	<b>Proposed</b>
<b>Water</b>	40	40
<b>Thermal Comfort</b>	Pass	Pass
<b>Energy</b>	45	45

The condition requiring compliance with the BASIX report remains relevant.

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

The original development application was lodged pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (HSPD)) as the development is for in fill self care housing.

#### **State Environmental Planning Policy (Housing ) 2021.**

The subject modification requires assessment under State Environmental Planning Policy (Housing ) 2021.

The proposal relates to a change to the privacy screen to the rear balcony of Unit 6, additional weather protection to the upper level balconies and a minor change to the roof. There is no change to the siting of the development (setbacks, LOS provision) or the approved height, bulk and scale of the development. The quality of the design will not be compromised and there will be no visual impact on the character of the area. Subject to a modification of Condition 12(a) requiring a louvred screen to the rear elevated balcony of Unit 6 to replace the planter and climber there will be no unreasonable impacts on the amenity of neighbouring residential properties in terms of overlooking/privacy.

Subject to conditions, the minor modifications do not have any implications in terms of the ability of the development to meet the provisions of SEPP (Housing) 2021.

## 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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

## SEPP (Resilience and Hazards) 2021

### Chapter 4 – Remediation of Land

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

## Warringah Local Environmental Plan 2011

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

### Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings	8.5m	8.0m	8.0m	N/A	No change

### Compliance Assessment

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

### Detailed Assessment

### **Warringah Development Control Plan**

#### Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall Height	7.2m	5.3m	5.3m	Yes
B2 Number of Storeys	2 / 3 / N/A	1/2	N/A	Yes
B3 Side Boundary Envelope	4.0m	4.0m	4.0m	Yes
	4.0m	4.0m	4.0m	Yes
B5 Side Boundary Setbacks	0.9m	Eastern Min 1.2m	Eastern Min 1.2m	Yes
	0.9m	Northern Min 2.5m	Northern Min 2.5m	Yes
B7 Front Boundary Setbacks	6.5m	Primary (Pringle Ave) 6.5m to external wall	Primary (Pringle Ave) 6.5m	Primary (Pringle Ave) Yes
B9 Rear Boundary Setbacks	6.0m	Corner allotment N/A	Corner allotment N/A	Corner allotment N/A
D1 Landscaped Open Space and Bushland Setting	40%	35.4%	35.4% No change	<b>No</b> Assessed as acceptable as it complies with the 30% open space requirement in SEPP (Housing) 2021

**Note:** There is no change to the approved height, setbacks or LOS.

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B7 Front Boundary Setbacks	Yes	Yes
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
E11 Flood Prone Land	Yes	Yes

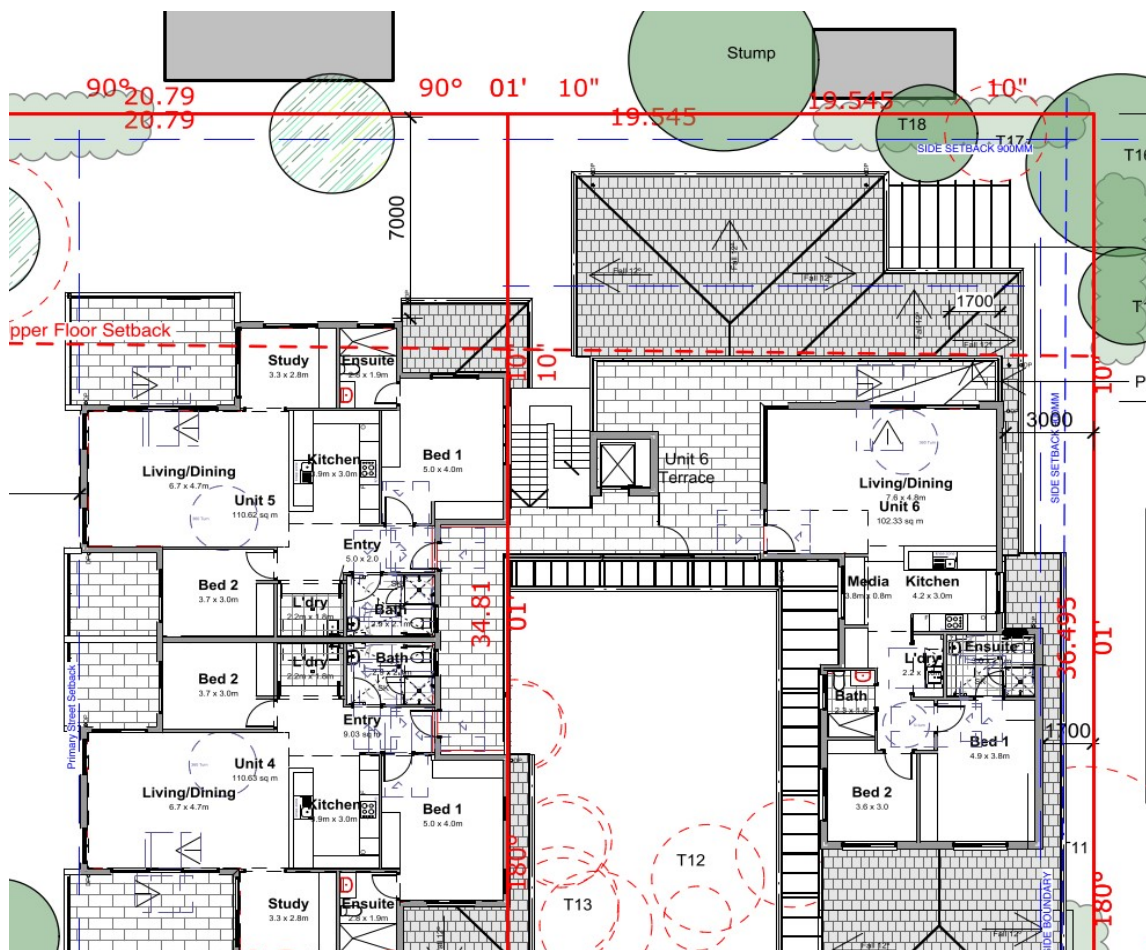
#### Detailed Assessment

#### **D8 Privacy**

#### Merit Consideration

The proposal seeks to delete Condition No.12(a), which required privacy treatment to Unit 6 as per the recommendation of DSAP.

The elevated balcony to Unit 6 measures 49sqm and is positioned 8.4m from the northern boundary and 3.0m to the eastern boundary, refer to first floor plan below.



**Approved first floor plan showing Units 5 and 6**

The development is considered against the underlying Objectives of the Control as follows:

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

Comment:

Valid concerns have been raised in submissions from neighbours regarding privacy impacts associated with the deletion of the condition requiring a privacy treatment along the edge of the elevated balcony. For greater detail, please refer to the submissions section.

In order to ensure that the design continues to provide a high level of visual and acoustic privacy for the occupants and neighbours, in accordance with the recommendation by DSAP, it is recommended that the condition be amended to require a 400mm high privacy screens along the northern edge of the upper floor balcony of Unit 6 and a 4.0m long full height screen to the balcony to Unit 5 (Refer to detailed discussion in the Referral section of this report).

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

Comment:

The vertical blade fin privacy screens are an innovative design solution which will improve the urban environment protecting privacy which ensuring BCA compliance.

- *To provide personal and property security for occupants and visitors.*

Comment:

Subject to conditions, the proposal will continue to provide personal and property security for occupants and visitors.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / 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 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 2022**

Section 7.12 contributions were levied on the Development Application.

## **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 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

## PLANNING CONCLUSION

This proposal is for a modification to Development Consent No. DA2020/1072, granted for a Seniors Housing Development (6 units).

The subject modification proposes changes to the roof design and deletion of Condition No. 12 (a) (Amendment to the Approved plans) which relates to planter boxes and trellis (screens) to the north facing balconies of Units 5 and 6.

The application is referred back to the Development Determination Panel (DDP), as the proposal involves the deletion of a condition (Condition 12 (a) which was considered by the Panel and subsequently amended by the Panel.

Two (2) submissions have been received which raise concerns in relation to privacy impact as a result of the deletion of the screens to the balcony and visual impacts as a result of the design changes to the roof. The deletion of Condition 12(a) and the applicants alternative solution for a 3.1m screen to the eastern end of the balcony to Unit 6 are not supported.

It is recommended that Condition 12 (a) be modified to require a 400mm fixed angled privacy screen to the balcony of Unit 6, in lieu of the trellis, with a planter bed to be located within the western end of the balcony. The proposed full height screen of 4.0m in length on the balcony to Unit 5 is supported.

The external changes to the roof will not result in any unreasonable visual impact on the character of the locality subject to a condition requiring the lift overrun to be finished in the same material and colour as the roof is also recommended requiring to appear recessive.

Subject to the amended conditions, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment.

The proposal is recommended for **approval**, subject to the changes to the conditions as described. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2022/0275 for Modification of Development Consent DA2020/1072 granted for Construction of a Seniors Housing development, including demolition works, new access driveway and front fence on land at Lot 1 DP 228962,1 Drew Place, BELROSE, Lot 2 DP 228962,1 Drew Place, BELROSE, 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

<b>Architectural Plans - Endorsed with Council's stamp</b>	
<b>Drawing No.</b>	<b>Dated</b>
DA00 Rev B Cover Sheet	08.03.202
DA02 Rev H Roof Plan	29.08.202
DA04 Rev G First Floor Plan	29.08.202
DA 05 Rev C Section 01	08.03.202
DA06 Rev C Section 02	08.03.202
DA07 Rev C Section 03	08.03.202
DA08 Rev C Elevation 01	08.03.202
DA09 Rev F Elevation 02	29.08.202
DA10 Rev D Elevation 03	31.03.202

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

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

**B. Modify Condition 12 Amendment to the approved plans to read as follows:**

(a) **Vertical louvre privacy screens**

(i) **Unit 5** - Vertical louvre fin privacy screens are to be included inside the balustrade to the north side of the balcony of Unit 5 and extend from floor level to at minimum the underside of the pergola beam, for a minimum 4.0m in length from the eastern side/wall of the balcony.

(ii) **Unit 6** - A planter box with an internal dimension of 600mm x 400mm is to be provided adjacent to northern balustrade of the balconies for Units 6 within the western side / wall of the balcony. Vertical louvre fin privacy screens are to be included outside the handrail to the north side of the balcony of Unit 6 and extend from the top of the balustrade wall to a minimum 400mm above the top of the balustrade.

The finish of the louvres should consider sunlight reflectivity and seek to minimise impact on surrounding properties.

(b) **Study not to be used as a bedroom**

The study shall remain open to the living room, no doors are permitted to enclose the space which cannot be used as a bedroom.

(c) **Landscape Plan**

The Landscape Plan is to be amended to include landscaping plantings along the eastern boundary with mixture of species and heights to soften the visual impact of the two storey elevation

(d) **Lift Overrun**



The exterior of the lift over-run is to be finished in the same material & colour as the roof it passes through and is to appear a recessive roof element

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

Reason: To achieve development outcomes with high standard, quality urban design that responds to the existing or desired future character of areas and to maintain and improve the amenity of public and private land.