

## SYDNEY NORTH PLANNING PANEL COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2017SNH045
<b>DA Number</b>	DA2017/0446
<b>LGA</b>	Northern Beaches Council
<b>Proposed Development</b>	Alterations and Additions to an existing Hospital
<b>Street Address</b>	Lot 1 DP 836109, 14 Patey Street DEE WHY NSW 2099 Lot 12 DP 8270, 9 Patey Street DEE WHY NSW 2099 Lot 93 DP 8139, 64 Quirk Street DEE WHY NSW 2099 Lot 94 DP 8139, 66 Quirk Street DEE WHY NSW 2099
<b>Applicant/Owner</b>	Applicant: CDP Services Pty Ltd Owner: Delmar Private Hospital Pty Ltd
<b>Date of DA lodgement</b>	12 May 2017
<b>Number of Submissions</b>	51
<b>Recommendation</b>	Approval subject to conditions
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	Private infrastructure and community facilities over \$5 million Total Cost of the Development is \$15,999,995.00
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979</li> <li>• Environmental Planning and Assessment Regulation 2000</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>• State Environmental Planning Policy – Infrastructure 2007</li> <li>• Warringah Local Environmental Plan 2011</li> <li>• Warringah Development Control Plan 2011</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Attachment 1: Recommended Conditions of Consent</li> <li>• Attachment 2: Pre-Lodgement Meeting Notes</li> <li>• Attachment 3: - Clause 4.6 written request to vary Clause 4.3 Height of Buildings Development Standard</li> </ul>
<b>Report by</b>	David Kerr– General Manager Planning, Place & Community
<b>Report date</b>	24 August 2017

### Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

### Legislative clauses requiring consent authority satisfaction

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

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the SEPP (HSPD 2004)) has been received, has it been attached to the assessment report? **Yes**

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?  
*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions* **Not Applicable**

### Conditions

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

## **EXECUTIVE SUMMARY**

The proposal seeks consent for Alterations and Additions to an existing Hospital (Delmar Private Hospital).

The subject site includes No.14 Patey Street which contains an existing hospital development, No. 9 Patey Street which adjoins the existing site to the north east and is currently occupied by a two storey dwelling house, No. 64 Quirk Street which adjoins the existing site to the east and is currently occupied by a two storey dwelling house and No. 66 Quirk Street which adjoins No. 64 Quirk Street further east and is currently occupied by a two storey dwelling house.

A pre lodgement meeting (PLM) was held to discuss the proposal. The notes from the meeting are attached to this report (Appendix 2).

At the PLM concerns were raised with the proposed height of the building, amenity impacts on neighbours, wall height, side boundary envelope and landscaping.

The proposal the subject of this application has satisfactorily addressed the issues raised at the time of the PLM.

The application attracted 51 submissions as part of the public exhibition process. The submissions raised the following issues:

- Loss of privacy
- Noise emissions
- Bulk
- Traffic and Parking
- Height of the building
- Rezoning

All issues have been addressed within this report (refer to the 'Notifications and Submissions Received' section) and were found not to warrant refusal of the application.

The application was referred internally to Council referral bodies and externally to the Aboriginal Heritage Office and Ausgrid who have raised no objections to the application. All recommendations and matters for consideration pertaining to the Development Application raised by external and internal referral bodies have been included in the recommendation of this report.

The development has been found to not comply with the numerical Height of Buildings Development Standard contained in the WLEP 2011. Notwithstanding, the development has been found to be consistent with the qualitative objectives of the Standard and the zone and is therefore supported.

The development, as conditioned, has been found to be consistent with the relevant controls contained within the WDCP.

Accordingly, it is recommended that the Development Application should be approved for the reasons detailed within this report and subject to the conditions included in the recommendation of this report.

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2017/0446
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<b>Responsible Officer:</b>	Luke Perry
<b>Land to be developed (Address):</b>	Lot 1 DP 836109, 14 Patey Street DEE WHY NSW 2099 Lot 12 DP 8270, 9 Patey Street DEE WHY NSW 2099 Lot 93 DP 8139, 64 Quirk Street DEE WHY NSW 2099 Lot 94 DP 8139, 66 Quirk Street DEE WHY NSW 2099
<b>Proposed Development:</b>	Alterations and Additions to an existing Hospital
<b>Zoning:</b>	LEP - Land zoned R2 Low Density Residential LEP - Land zoned R2 Low Density Residential LEP - Land zoned R2 Low Density Residential LEP - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Sydney Planning Panel – North
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Delmar Private Hospital Pty Ltd
<b>Applicant:</b>	CDP Services Pty Ltd

<b>Application lodged:</b>	12/05/2017
<b>Application Type:</b>	Local
<b>State Reporting Category:</b>	Infrastructure
<b>Notified:</b>	26/05/2017 to 14/06/2017
<b>Advertised:</b>	27/05/2017
<b>Submissions:</b>	51
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 15,999,995.00
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### 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 all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (upto the time of determination) by the applicant,

# NORTHERN BEACHES COUNCIL

persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings  
 Warringah Development Control Plan - B1 Wall Heights  
 Warringah Development Control Plan - B3 Side Boundary Envelope  
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting  
 Warringah Development Control Plan - Appendix 1 Car Parking Requirements

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 836109 , 14 Patey Street DEE WHY NSW 2099 Lot 12 DP 8270 , 9 Patey Street DEE WHY NSW 2099 Lot 93 DP 8139 , 64 Quirk Street DEE WHY NSW 2099 Lot 94 DP 8139 , 66 Quirk Street DEE WHY NSW 2099
<b>Detailed Site Description:</b>	<p>The subject site consists of four (4) allotments located between Patey Street and Quirk Street, Dee Why.</p> <p>The subject site includes No.14 Patey Street which contains an existing hospital development, No. 9 Patey Street which adjoins the existing site to the north east and is currently occupied by a two storey dwelling house, No. 64 Quirk Street which adjoins the existing site to the east and is currently occupied by a two storey dwelling house and No. 66 Quirk Street which adjoins No. 64 Quirk Street further east and is currently occupied by a two storey dwelling house.</p> <p>The site is irregular in shape with a frontage of 80.45m along Quirk Street, 20.12m along Patey Street and a depth of up to 93m. The site has a surveyed area of 6,999m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a number of two storey detached buildings which form the existing hospital. Vehicular access to the existing hospital is provided off Quirk Street and Patey Street with at grade car parking provided on site.</p> <p>Surrounding development consists of a mix of single and two storey dwelling houses in landscaped settings.</p> <p>The site sits at the top of a ridge line and is relatively flat without any topographical features or constraints.</p>

Map:



## SITE HISTORY

### RELEVANT APPLICATIONS

#### PLM2015/0141

A pre lodgement meeting (PLM) was held to discuss the proposal. The notes from the meeting are attached to this report (Appendix 2).

In summary, concerns were raised with the proposed height of the building, amenity impacts on neighbours, wall height, side boundary envelope and landscaping. The applicant was advised that the proposal in the form presented` at the PLM could not supported.

#### DA2016/0737

This application for alterations and additions to an existing hospital was lodged on 21 July 2016. A preliminary assessment of the application was undertaken which found fundamental issues with the application. The issues were similar to those identified at the time of the pre lodgement meeting.

A letter was sent to the applicant advising them of the concerns and requesting withdrawal of the application. The applicant subsequently withdrew the application on 14 October 2016.

### PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for Alterations and Additions to an existing Hospital (Delmar Private Hospital).

The proposed works include:

- Demolition of the existing three dwelling houses;
- Basement level car parking for 48 vehicles accessed off Quirk Street;
- Construction of a three storey addition to the existing hospital to provide a further 68 beds and a new indoor hydrotherapy pool;

- Internal alterations to the existing hospital; and
- Landscaping works and reconfiguration of the car parking area located off Patey Street.

## APPLICATION HISTORY

The application was lodged on 15 May 2017. Following a preliminary assessment of the application a number of issues were identified that would not allow Council to recommend approval of the application. The issues related to acoustic impacts, landscaping and insufficient elevation plans.

The applicant was advised of these concerns by letter dated 21 July 2017 and was afforded 14 days to satisfactorily address the concerns and submit additional information.

The applicant responded with additional information on 4 August 2017.

The amendments consisted of the removal of basement ventilation openings on the northern and eastern elevations, an increase in landscaped open space and further detailed elevation plans. The information submitted satisfactorily addressed the concerns raised previously and the application has proceeded to full assessment following the submission of these amendments.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

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

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

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 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 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to</p>



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Section 79C 'Matters for Consideration'	Comments
	<p>consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
<p>Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p><u>Environmental Impacts</u></p> <p>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>Generally, the proposed development will not result in any reasonable impacts on the natural and built environment. The subject site is not constrained by any natural features and is not subject to any threatened species, critical habitat, bushfire, heritage or acid sulfate soils.</p> <p>As outlined within this report, the development results in non compliance with a number of the relevant Built Form Controls under Part B of the WDCP 201. The assessment of this application has found the development to be consistent with the underlying objectives of the Wall Height, Side Boundary Envelope and Landscaped Open Space and Bushland setting controls and the variations sought to these controls supported in this instance.</p> <p>The proposal, as conditioned, will not result in any unreasonable amenity impacts in terms of privacy, overshadowing or loss of views on adjoining or surrounding properties.</p> <p><u>Social Impact</u></p> <p>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal as it proposed to provide additional hospital facilities in the local area.</p> <p>The improvement in the existing hospital facilities and investment in new facilities within the local area and broader Northern Beaches area will have</p>

# NORTHERN BEACHES COUNCIL

Section 79C 'Matters for Consideration'	Comments
	<p>a positive social impact on the locality.</p> <p><u>Economic Impact</u></p> <p>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 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (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.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan.

As a result of the public exhibition process council is in receipt of 51 submission/s from:

Name:	Address:
Lauris Knighton	16 Carew Street DEE WHY NSW 2099
Mr Domenico Biviano	68 Quirk Street DEE WHY NSW 2099
Mr Martin Loewensohn	65 Quirk Street DEE WHY NSW 2099
Mrs Marilyn Dawn Fowler	54 Tango Avenue DEE WHY NSW 2099
Mr Brendan Michael O'Connor	72 Quirk Street DEE WHY NSW 2099
Dr Jeffrey Yat Seng Lee	14 Carew Street DEE WHY NSW 2099
Elizabeth Dorothy Lewis	60 Tango Avenue DEE WHY NSW 2099
Joel Alexander Lewis	60 Tango Avenue DEE WHY NSW 2099
Mr Michael Stanley Haysler	5 Patey Street DEE WHY NSW 2099
Michael Joseph Marr	7 Patey Street DEE WHY NSW 2099
Mrs Carolyn Jan Starkey	104 Delmar Parade DEE WHY NSW 2099
Ms Vicki Maggs Ms Louise Maggs	12A Patey Street DEE WHY NSW 2099
Mr Goran Necak	10 Patey St DEE WHY NSW 2099
Dechuan Lu	8 Patey Street DEE WHY NSW 2099
Ashley Rogers	7 A Patey Street DEE WHY NSW 2099



# NORTHERN BEACHES COUNCIL

Name:	Address:
Mr Ehren Angus Mackenzie Taylor	4 Patey Street DEE WHY NSW 2099
Luke Werbeloff	3 Patey Street DEE WHY NSW 2099
Mrs Dimiti Cross	2 Patey Street DEE WHY NSW 2099
Mrs Elaine Sylvia Taylor	59 Quirk Street DEE WHY NSW 2099
Mr John Kalcic	Po Box 4194 NORTH CURL CURL NSW 2099
Mr Geoffrey John Rose	41 Tango Avenue DEE WHY NSW 2099
Mr Peter John Dean Joanne Dean	40 Tango Avenue DEE WHY NSW 2099
Mrs Michelle Sylvia Zaunders	35 Tango Avenue DEE WHY NSW 2099
Anonymous	N/A
Mr Alexander Vukovic Agnes Vukovic	32 Covelee Circuit MIDDLE COVE NSW 2068
Mr George Vukobratovic	50 Quirk Street DEE WHY NSW 2099
Mr Malcolm Francis Tennent	45 Quirk Street DEE WHY NSW 2099
Mr Robert David Taranto	43 Quirk Street DEE WHY NSW 2099
Mr Robert James Taylor Ms Gayle Joanne Taylor	34 Tango Avenue DEE WHY NSW 2099
Mr Michael Patrick Spain	69 Quirk Street DEE WHY NSW 2099
Suellen Jenny Goodman	65 Quirk Street DEE WHY NSW 2099
Mr Brian Ferguson	158 Queenscliff Road QUEENSCLIFF NSW 2096
Ingrid Julie Ferguson	55 Quirk Street DEE WHY NSW 2099
Ms Larissa Ingham	48 Tango Avenue DEE WHY NSW 2099
Mr Matthew James Tennent	46 Quirk Street DEE WHY NSW 2099
Mr Paul Schroder Mrs Nevla Schroder	62 Tango Avenue DEE WHY NSW 2099
Dr Guy Alberto Blasini	61 Quirk Street DEE WHY NSW 2099
Miss Rebecca Laing	PO Box 1392 DEE WHY NSW 2099
Mrs Wendy Jean Doran	73 Quirk Street DEE WHY NSW 2099
Patricia Ann Barwell Mr Peter Edward Barwell	106 Delmar Parade DEE WHY NSW 2099
Penelope Anne Gallagher	76 Quirk Street DEE WHY NSW 2099
Mr Dennis John Boyd Margaret Anne Boyd	79 Quirk Street DEE WHY NSW 2099
Ms Suzy Ford	74 Quirk Street DEE WHY NSW 2099
Mrs Patricia Anne Newton Mr Paul Vincent Newton	26 Carew Street DEE WHY NSW 2099
Ross Palazzi	24 Carew Street DEE WHY NSW 2099
Kathy Thompson	77 Quirk Street DEE WHY NSW 2099
Mrs Wendy Holloway	89 Quirk Street DEE WHY NSW 2099
Ms Anna Margaret Hallgren	32 Tango Avenue DEE WHY NSW 2099

# NORTHERN BEACHES COUNCIL

Name:	Address:
Colin Amm	
Aboriginal Heritage Office	1 Belgrave Street MANLY NSW 2095
John Simpson	Not Provided NSW
Boston Blyth Fleming Pty Ltd	Suite 1/9 Narabang Way BELROSE NSW 2085

The application attracted a total of 51 submissions. There were 36 proforma submissions and 15 individual submissions.

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

- **Loss of privacy**
- **Noise emissions**
- **Bulk**
- **Traffic and Parking**
- **Height of the building**
- **Rezoning**
- **Pathway through the site**

The matters raised within the submissions are addressed as follows:

## **Loss of privacy**

The following specific comments have been made regarding loss of privacy:

- *'The proposal creates a substantial loss of privacy to neighbouring properties. The statutory 5-metre setback and boundary envelope has been removed on the northern, eastern and southern orientations. The required 40% landscaping has been reduced to 19% therefore there is clearly insufficient green space in the application.'*

### Comment:

As detailed within this report, the proposal does result in a non compliance with the side boundary envelope on the northern elevation and the minimum required amount of landscaped open space. However the assessment of this application has found that the proposal satisfies the underlying objectives of Clause B3 Side Boundary Envelope and Clause D1 Landscaped Open Space and Bushland Setting of the WDCP 2011, and the variation supported in this instance.

To clarify, the proposal is compliant with the minimum side boundary setbacks specified under Clause B5 Side Boundary Setbacks of the Warringah Development Control Plan 2011 (WDCP 2011).

The proposal has been designed to ensure a reasonable level of privacy is maintained to adjoining properties. Adequate physical separation is achieved between buildings which reduces the opportunity for overlooking to occur. Windows have been treated with louvres which will ensure that no unreasonable overlooking occurs from rooms within the hospital into the adjoining properties and that any light spill from these rooms is minimised.

To ensure the effectiveness of the louvres, a condition has been included in the recommendation of this report requiring a maximum 100mm spacing between louvres to ensure overlooking and light spill is minimised.

In addition to the above, areas of deep soil landscaping have been provided around the perimeter of the site which will assist to screen the development and reduce opportunities for overlooking into adjoining properties.

This matter does not warrant refusal of the application.

## Noise emissions

The following specific comments have been made regarding noise emissions:

- *'There will be a significant increase in noise and related disturbances from the 24-hour hospital wards caused by hospital equipment, generators, air-conditioners, patient televisions, nursing stations, ward and common room lights, patients/visitors on balconies etc.'*
- *'Noise generated from delivery trucks at early hours of the morning on Patey Street'*

### Comment:

The matter of noise emissions has been addressed by the imposition of conditions of consent.

Conditions have been included in the recommendation of this report to ensure that any noise generating equipment or machinery externally located on the building are enclosed and certified by a suitably qualified Acoustic Engineer that the use of these items will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

It is noted that a number of submissions raise existing noise levels as an issue and concern. This is a matter for Council's Environmental Health Team to investigate who have the responsibility of enforcing compliance with the relevant legislation relating to noise pollution.

In this regard, the issue of existing noise emissions has been forwarded to Council's Environmental Health Team for investigation and is not a matter for consideration in the assessment of this application.

This matter does not warrant refusal of the application.

## Bulk

The following specific comments have been made regarding the bulk of the proposed development:

- *'The sheer bulk and size of the three/four-storey building is totally out of scale and proportion with local residential area which consists of predominantly single or double storey residential dwellings. The maximum regulation height of 8.5 metres has been overlooked and increased to 10.7 metres. This development proposes to construct an expansive hospital wing onto two blocks of land currently occupied by 2 single residences in order to increase the number of beds from 68 to 127 (almost double). The local vicinity comprises of low-density residential dwellings, therefore the proposed building is in no doubt inappropriate and totally out of context.'*
- *The bulk of the building is inconsistent with buildings in the area and will have a negative visual impact.*

### Comment:

As detailed throughout this report, the bulk and scale of the proposed building/s has been effectively reduced by design and will not result in any adverse visual or physical impacts on surrounding or nearby development. The proposed development will fit comfortably within its context and is supported in this instance.

This matter does not warrant refusal of the application.

## **Traffic and Parking**

The following specific comments have been made regarding traffic and parking impacts:

- *'Patey Street is a short narrow cul-de-sac and with Quirk Street are already at full parking capacity. The vehicles of staff, day surgery patients, rehabilitation patients, visitors, delivery drivers, tradesman etc .occupy the street from 6am until late at night. It is virtually impossible to gain street parking at any time in Patey Street, Quirk Street Carew Street and Deimar Parade. The expansion of hospital beds to 127 will only contribute to further adverse traffic and parking implications where deliveries, patients, visitors, staff would be expected to drastically increase. There is no public transport available to facilitate the expansive hospital.'*
- *Traffic congestion and safety along Patey Street and Quirk Street.*

### Comment:

The proposal includes the addition of 48 car spaces within a basement car parking level and the reconfiguration of the existing at grade car parking area located off Patey Street to provide a further 21 spaces. In addition to this there are 22 existing spaces located off Quirk Street. The total provision of car parking post the development will be 90 car spaces. The primary access to the Hospital is off Quirk Street where access is provided directly to the basement car parking level.

Appendix 1 Car Parking Requirements sets out the required amount of car parking based upon the intended land use. There is no specific rate for a hospital, instead Appendix 1 states that comparisons should be drawn from similar developments to determine the required amount of car parking.

The application is supported by a Traffic Report (refer to 'Traffic and Parking Impact Assessment' prepared by Ray Dowsett Traffic and Planning dated 1 May 2017) which provides comparisons from similar developments. The Traffic Report has been reviewed by Council's Traffic Engineer who raises no objections to the proposed provision of car parking.

Further, Council's Traffic Engineer is satisfied that traffic generation from the development will not have an adverse impact on the local road network. Council's Traffic Engineer has recommended the imposition of a number of conditions of consent relating to traffic safety which this assessment has adopted. These include way finding signage and safety mirrors at entry points to the site.

To ensure that deliveries to the site do not cause a traffic or safety concern for local road users, a condition has been included in the recommendation of this report requiring all loading and unloading to occur wholly within the boundaries of the site and off any street.

This matter does not warrant refusal of the application.

## **Height of the building**

Concern is raised regarding the height of the proposed building.

### Comment:

The matter of non compliance with the Height of Buildings Development Standard is addressed in detail elsewhere in this report (refer to Clause 4.6 Exceptions to Development Standards under the Warringah Local Environmental Plan section).

In summary, the assessment of this application has found that the development achieves consistency with the underlying objectives of Clause 4.3 and Clause 4.6 of the WLEP and that there is sufficient environmental planning grounds to justify and support the variation in this instance.

This matter does not warrant refusal of the application.

## Rezoning

Concern is raised that the proposal will rezone land for a commercial purpose (hospital).

### Comment:

The Warringah Local Environmental Plan 2011 (WLEP 2011) contains a list of land uses that are permitted within the R2 Low Density Residential zone. A hospital is a permissible land use and therefore no part of this application involves rezoning of land as the use is already permissible with consent.

This matter does not warrant refusal of the application.

## Pathway through the site

A submission has been lodged that requests a public pathway be provided through the site to link Patey Street to Quirk Street.

### Comment:

There is no existing pathway provided through the private properties from Patey Street to Quirk Street and the proposal does not include any provisions for a pathway. There is no requirement or nexus between the proposed development and the provision of a public pathway through private land and therefore this request is not a matter for consideration in the assessment of this application.

## MEDIATION

No requests for mediation have been made in relation to this application.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been reviewed by Council's Building Assessment Team who have provided the following comments:</p> <p><i>'The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.'</i></p> <p><i><u>Note:</u> 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.'</i></p>
Development Engineers	The application has been reviewed by Council's Development



Internal Referral Body	Comments
	<p>Engineer who has provided the following comments:</p> <p><i>Development Engineers have reviewed the proposal and advise the proposal cannot be supported due to the following reasons.</i></p> <p><i>1. The proposed on-site stormwater detention tank is located underneath habitable floors. The tank is not permitted to be constructed underneath habitable floors and therefore does not comply with Section 9.1, Onsite Stormwater Detention of Council's PL 850 Water : Water Management Policy. The tank is to be re-located outside the footprint of the building to protect the habitable areas of the development from rising dampness or any water-related damage. There appears to be scope to provide an on-site stormwater detention system to the west of the proposed building.</i></p> <p><i>2. It is unclear as to whether unimpeded external access for inspection and cleansing/maintenance of the proposed on-site stormwater detention tank is provided or not. Sufficient details must be shown on the stormwater drainage plans and architectural plans to demonstrate unimpeded external access to the on-site stormwater detention is attained.</i></p> <p><i>3. In order for Council to adequately check the design of the OSD system, when the DRAINS program is used, the input data and summary information including a copy of the model on computer disc must be provided. It is proposed to discharge stormwater to the kerb in Patey Street. In this regard, maximum concentrated discharge to the kerb must not exceed 20 litres per second for all storms up to and including the 1 in 100 year ARI storm.</i></p> <p><i>4. A 600mm x 600mm converter pit is proposed within the public roadway/verge. This is not acceptable and must be re-located wholly within the development site.</i></p> <p><i>5. Section 4.8 of Council's OSD Design Guideline requires the outlet pipe leaving the site must exit at an acute angle of less than 45 degrees from the boundary. The current proposal does not comply with the above section.</i></p> <p><i>The proposed driveway access off Quirk St has been assessed and is satisfactory utilising Council's normal profile. Also the old driveway crossings are to be reinstated and a new concrete footpath provided along the frontage. All these issues can be addressed via conditions.</i></p> <p><i>Not supported for approval due to lack of information to address:</i></p> <ul style="list-style-type: none"> <li><i>• Stormwater drainage for the development in accordance with clause C4 Stormwater of the DCP</i></li> </ul> <p><u>Further assessment dated 24/8/2017</u></p> <p><i>Development Engineers have reviewed the additional information</i></p>



# NORTHERN BEACHES COUNCIL

Internal Referral Body	Comments
	<i>submitted and now raise no objections to the proposal subject to conditions.</i>
Environmental Investigations (Industrial)	<p>The application has been reviewed by Council's Environmental Health Team (Noise) who have provided the following comments:</p> <p><i>'No objections raised subject to conditions.'</i></p>
Landscape Officer	<p>The application has been reviewed by Council's Landscape Officer who has provided the following comments:</p> <p><u>Amended plans</u>  <i>Amended landscape plans are noted. The matters raised previously are satisfactorily addressed.  No objections subject to conditions.</i></p> <p><u>Original Comment</u>  <i>The proposal presents several areas of concern which may be able to be resolved via condition or design amendment.</i></p> <p><i>1. Depth of planters above the basement surrounding the new building on the northern side of the site is indicated to be 500mm. In view of the importance of these areas to assist with reducing impacts on adjoining residential dwellings, the planters should be a minimum of 900mm depth to provide adequate soil depth to achieve the intent of the planting design in the long term. The planters variously narrow down to 800mm in width and as such, the provision of soil volume via increasing planter depth is critical to provide the best outcome in the long term.</i></p> <p><i>2. The proposed parking arrangement off Patey Street significantly alters the existing streetscape via the removal of street trees, verge landscaping and internal landscaped areas.</i></p> <p><i>The parking area and access road pavement directly abuts the new building and existing buildings on site, presenting a significantly harder presentation to the streetscape than currently exists with no landscape areas provided.</i></p> <p><i>Consequently, it is considered that the proposed design is contrary to the following Objective for the R2 Zone in WLEP2011:</i></p> <ul style="list-style-type: none"> <li><i>• To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.</i></li> </ul> <p><i>The interface of the non-residential use with the existing residential use in a low density residential zoned area is an important consideration in the assessment of this application.</i></p> <p><i>It is recommended that the extent of hard surfaces proposed for the Patey Street carpark area be reduced and additional soft landscape provided in the form of trees, shrubs and ground-covers to achieve a landscaped setting addressing the residential streetscape and</i></p>

# NORTHERN BEACHES COUNCIL

Internal Referral Body	Comments
	<p><i>providing suitable transition between the hospital and the residential dwellings.</i></p> <p><i>3. The Patey Street lot contains 2 rock outcrops, one in the front and one in the rear of the existing building. It is noted on Council's GIS mapping data that there is a recorded site of Aboriginal significance within 100m of the site. Site visit indicated various markings and depressions in the rock which would appear to warrant further investigation, given that outcrops are proposed for removal in the plans provided.</i></p> <p><i>It is recommended that the proposal and accompanying photos be referred to the Aboriginal Heritage Office for preliminary assessment.</i></p> <p><i>It is therefore recommended that items 2. and 3. above be addressed prior to issue of a consent, whereas item 1. can be addressed via conditions of consent.</i></p> <p><i>If the proposal is to be approved in its current form, relevant conditions have been provided.</i></p>  <p><i>Photo 1- Rock outcrop fronting Patey Street</i></p>  <p><i>Photo 2 - Rock outcrop fronting Patey Street'</i></p>
Road Reserve	The application has been reviewed by Council's Road Assets Team who have provided the following comments:

# NORTHERN BEACHES COUNCIL

Internal Referral Body	Comments
	<i>'Proposal is consistent with plans for Patey Street closure and sale, noting that earlier proposals for access to basement parking off Patey Street is no longer proposed as part of this DA.'</i>
Strategic Planning - Urban Design	<p>The application has been reviewed by Council's Urban Designer who has provided the following comments:</p> <p><i>'The proposed alterations and additions fit well within the surrounding context. The height breach is minor and will not impact negatively on the neighbouring developments. The proposal is acceptable in that respect.'</i></p>
Traffic Engineer	<p>The application has been reviewed by Council's Traffic Engineer who has provided the following comments:</p> <p><i>'The WDCP does not specify a parking requirement for private hospitals, however applying the carparking requirements from the RMS Guide to Traffic Generating Developments yield a parking requirement of 45.1 spaces.'</i></p> <p><i>Only a small portion of the spaces will have access off Patey Street and the new basement carpark will only have vehicular access to and from Quirk Street.</i></p> <p><i>As the site propose 48 car spaces this is considered acceptable, and there are no objections.</i></p> <p><i>The traffic generation using the methodology from the RMS guide, as specified in the traffic report generates 37 additional peak hour trips. This level of additional traffic along the surrounding road network is not considered significant to warrant the refusal of the development application.</i></p> <p><i>There are no objections to the proposed development in terms of access, parking provisions and trip generation.'</i></p>
Waste Officer	The application has been reviewed by Council's Waste Officer who raises no objections to the development subject to conditions included in the recommendation of this report.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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.
Aboriginal Heritage	<p>The application was referred to the Aboriginal Heritage Office (AHO). The AHO reviewed the proposal, undertook a site inspection and provided the following comments:</p> <p><i>'No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites. An inspection by the Aboriginal Heritage Office with Council (13th July 2017) inspecting in situ sandstone outcrops did not identify any Aboriginal heritage sites.'</i></p>

External Referral Body	Comments
	<p><i>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</i></p> <p><i>Should any Aboriginal sites be uncovered during earthworks, works should cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council should be contacted.'</i></p> <p>No objections are raised to the proposed development subject to conditions included in the Recommendation of this report.</p>

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

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

### SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for commercial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the commercial land use.

### SEPP (Infrastructure) 2007

#### Ausgrid

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

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



overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

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

## Warringah Local Environment 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

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.7m to 10.7m	25.88%	No (see Clause 4.6 discussion)

## Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
5.9 Preservation of trees or vegetation	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

## Detailed Assessment

### 4.6 Exceptions to development standards

The following assessment of the variation to Clause 4.3 – Height of Buildings development standard has taken into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

Requirement:	8.5m
Proposed:	7.7m to 10.7m
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	25.88%

The proposal must satisfy the objectives of Clause 4.3 – Height of Buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the WLEP 2011. The assessment is detailed as follows:

**Is the planning control in question a development standard?**

The prescribed Height of buildings limitation pursuant to Clause 4.3 of the WLEP 2011 is a development standard.

**What are the underlying objectives of the development standard?**

The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the WLEP 2011 are:

(1) The objectives of this clause are as follows:

*a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*

Comment:

The subject site is located within an established low density residential area where land is zoned R2 Low Density Residential. The existing Hospital is surrounded by land that is predominantly used for single dwelling purposes. Hospitals and dwelling houses, while dissimilar in their ongoing use, are both permissible land uses within the zone. The existing hospital site is located on one of the largest consolidated parcels of land in the local area, the only comparable land holding being St Luke's Grammar School located to the north west of the subject site. The existing hospital is made up of a number of buildings which is reflective of its large lot size.

By nature, the built form of a hospital and a dwelling house will vary considerably. In the context of this proposal the predominant land use in the area is single dwelling houses, which are generally two storeys in height and within a landscaped setting.

Therefore the scale of the existing buildings located on the subject site far outweighs any surrounding or nearby development. However it is consistent with that of other infrastructure buildings in the locality such as St Luke's Grammar School.

Given the above, the proposed buildings physical and visual impacts are used to assess its compatibility with the surrounding and nearby development.

The overall height and scale of the proposed building has been effectively reduced by way of substantial articulation of the building as it increases in height. The non-compliance is contained to the upper-most floor at the northern end of the building footprint which has a north-south orientation. The upper most floor of the building is setback 4.7m from the northern side boundary and up to 1.66m from the floors below. These setbacks and resultant physical separation, effectively reduce the visual impact of the development when viewed from surrounding and nearby development and allow for a reasonable level of views, solar access and privacy to be maintained to surrounding and nearby development

In this regard and notwithstanding the numerical non compliance, the proposed building will be compatible with the height and scale of surrounding and nearby development and will fit comfortably within its context.

The development satisfies this objective.



*b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*

Comment:

The development has been designed to effectively minimise its visual impact and disruption of views by way of substantial building articulation and increased setbacks to the upper floors of the building. View corridors have been maintained across and through the site in particular those to the north and north-east by virtue of the large building setback to the eastern boundary of the site and compliant building height as the footprint extends to the east.

Shadow diagrams submitted with the application indicate that the development will not unreasonably overshadow adjoining properties. Privacy between buildings has been carefully considered and adequate privacy will be maintained through a combination of physical separation and the privacy treatments proposed and conditioned.

The development satisfies this objective.

*c) to minimise adverse impact of development on the scenic quality of Warringah's coastal and bush environments,*

Comment:

The building and in particular the non-complying elements of the building will not be readily viewable from any of coastal or bush environments. The scenic quality of any coastal and bush environments will therefore be maintained by the proposal.

The development satisfies this objective.

*d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,*

Comment:

The building and in particular the non-complying elements of the building will not be readily viewable from any public spaces such as parks, reserves or community facilities. The development when viewed from Quirk Street is fully compliant with the Height of Buildings Development Standard and the visual impact from this street is therefore effectively managed.

The non complying element of the building will be visual from the Patey Street frontage. As discussed above, the design of the building has incorporated substantial elements of building articulation including increased setbacks to the upper-most floors of the development which effectively manages the visual impact from this public space.

The development satisfies this objective.

## **What are the underlying objectives of the zone?**

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the R2 Low Density Residential zone.

The underlying objectives of the R2 Low Density Residential zone:

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

Comment:

The proposal relates to an existing hospital development which is a permissible use within the zone. While the proposal does not involve 'housing' it does not restrict future housing development being provided within the local area.

It is considered that the development satisfies this objective.

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

Comment:

The ongoing use of the site as a hospital provides for an essential service that will continue to meet the day to day needs of residents in the area.

It is considered that the development satisfies this objective.

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

Comment:

The proposal includes substantial areas of landscaping located around the perimeter of the site and at each street frontage which provides a suitable landscape setting that is in harmony with the natural environment of Warringah.

It is considered that the development satisfies this objective.

**Is the variation to the development standard consistent with the objectives of Clause 4.6 of the WLEP 2011?**

(1) The objectives of this clause are as follows:

*(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development.*

*(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Comment:

The proposed variation to the development standard is consistent with objectives of this Clause as it provides an appropriate degree of flexibility in applying the Height of Buildings Development Standard to the development.

The proposed variation will achieve a better outcome for the development as it allows for additional beds to be provided within the hospital on a floor plate that is accessible, provides a connection to the existing hospital and does not result in any unreasonable visual or physical impacts on surrounding and nearby development.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment:

The applicants written request outlines the reasons as to why compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development as summarised follows:

- *'Given the sites R2 Low Density Residential zone surrounding development is characterised by 1 and 2 storey detached dwelling houses. The site is also located within 150 metres of R3 Residential zone land on the northern side of Delmar Parade with such land occupied by 3, 4 and 5 storey residential flat buildings. St Lukes Grammar School is located 400 metres to the west of the site with such residential flat and institutional building forming components of the overall character of the immediate locality.*

*In this regard, I have formed the considered opinion that the height, bulk and scale of the development including its part 3 storey form is consistent with the height and scale of larger institutional and residential flat development located within proximity of the site.'*

- *'The development is fully compliant with the building height standard where it adjoins Quirk Street and the properties to the east of the site. The non-compliant building element will be visible from Patey Street and surrounding properties however given its location to the south of these properties it will not give rise to any shadowing impact at any time throughout the day. In fact compliant levels of solar access are maintained to all surrounding development on 21st June. We have also formed the considered opinion that the non-compliant portion of building height will not give rise to any unacceptable or unmanageable visual privacy impacts nor will it impact on any views available from surrounding properties. The proposed building height breach will not impact the reasonable development potential or amenity of any adjoining property.*

*Further, we are of the opinion that most observers would not find the non-compliant building height portion of the development offensive, jarring or unsympathetic in a streetscape context. Accordingly, it can be reasonably concluded that the proposal is compatible with its surroundings.'*

- *'Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191 we*

# NORTHERN BEACHES COUNCIL

*have formed the considered opinion that most observers would not find the proposed development, in particular the area of non-compliance, offensive, jarring or unsympathetic in a streetscape context. We have formed the considered opinion that the proposal will maintain appropriate residential amenity in terms of solar access and privacy and will not give rise to any adverse public or private view affectation. In this regard, the development satisfies the objectives of the height of buildings standard.*

*Further, having regard to the judgement in the matter of Four2Five Pty Limited v Ashfield Council [2015] NSWCA 248 we have formed the considered opinion that there are sufficient environmental planning grounds to justify contravening the development standard.*

*In this regard, we note that the development is generally compliant with the building height along Quirk Street, with the non-compliance to a significant extent, arising as the consequence of the landform falling away towards Patey Street and the need to match the existing hospital floor levels.*

*In accordance with Clause 4.6(5) the contravention of the development standard does not raise any matter of significance for State or regional environmental planning with the public benefit maintained by Council's adoption of a application specific merit based assessment as it relates to building height within the 8.5 metre height precinct in which the site is located.'*

As detailed throughout this Clause, the assessment of the proposed variation against the provisions of this Clause generally concurs with the reasons provided by the applicant.

The variation proposed to the Height of Buildings Development Standard does not result in unreasonable visual or physical impacts on surrounding and nearby development or when viewed from the public domain.

For these reasons the variation is supported in this instance.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) *the consent authority is satisfied that:*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

Comment:

The applicants written request (prepared by Boston Blyth Fleming and dated May 2017) has adequately addressed the matters required to be demonstrated by subclause (3).

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

Comment:

For reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone in the WLEP 2011.

*(b) the concurrence of the Director-General has been obtained*

Comment:

Planning Circular PS 08-003 dated 9 May 2008, as issued by the NSW Department of Planning, advises that the concurrence of the Director-General may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Director-General for the variation to the Height of buildings Development Standard is assumed.

## Warringah Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	7.4m to 10.4m	44.44%	No
B3 Side Boundary Envelope	North - 5m at 45 degrees	Outside of envelope.	N/A	No
	South & East - 5m at 45 degrees	Within envelope.	N/A	Yes
B5 Side Boundary Setbacks	North - 0.9m	Basement - 2m Lower Ground Floor - 3.1m to 3.6m Ground Floor - 2.05m to 3.96m First Floor - 4.7m	N/A	Yes
	South - 0.9m	Basement - 1.2m Lower Ground Floor - 2m to 3m Ground Floor - 2m to 3m	N/A	Yes
	East - 0.9m	Basement - 2m Lower Ground Floor - 6m to 13.09m Ground Floor - 6m to 13.42m First Floor - 13.1m to 32m		Yes
B7 Front Boundary Setbacks	6.5m (Quirk Street)	Basement - 8.4m Lower Ground Floor - 8.42m Ground Floor - 8.56m First Floor - 7.4m	N/A	Yes
	6.5m (Patey Street)	Basement - 6.5m Lower Ground Floor - 6.5m	N/A	Yes

# NORTHERN BEACHES COUNCIL

		Ground Floor - 6.5m First Floor - 8.4m		
B9 Rear Boundary Setbacks	6m	N/A - Dual street frontages	N/A	N/A
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	13.46% (942.66m <sup>2</sup> )	33.67%	No

**\*Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example:  $38/40 \times 100 = 95$  then  $100 - 95 = 5\%$  variation)

## Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
Side Setbacks - R2	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
R2 - All other land in R2 Zone	Yes	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
C5 Erosion and Sedimentation	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
D18 Accessibility	Yes	Yes



# NORTHERN BEACHES COUNCIL

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
Appendix 1 Car Parking Requirements	Yes	Yes

## Detailed Assessment

### **B1 Wall Heights**

#### Description of non-compliance

The control requires development to have a maximum wall height of 7.2m measured from ground level (existing) to the underside of the ceiling on the uppermost floor of the building.

The development proposes a maximum wall height between 7.4m and 10.4m which equates to a maximum variation of 44.4%.

#### Merit consideration:

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

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

#### Comment:

The visual impact of the proposal has been effectively managed through the overall design of the building. The building complies with the minimum setback requirements to all boundaries and street frontages and has been effectively articulated to reduce its visual bulk and scale when viewed from adjoining properties and surrounding streets. There are no waterways or land zoned for public recreation purposes within the visual catchment of the development.

- *To ensure development is generally beneath the existing tree canopy level*

#### Comment:

While there is no existing tree canopy located on the site, the proposal maintains a human scale by virtue of its overall design and in particular its building articulation and increased setbacks to the upper floors of the development.

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

## Comment:

The development allows for a reasonable sharing of views to and from public and private properties.

- *To minimise the impact of development on adjoining or nearby properties.*

## Comment:

The proposal, as conditioned, does not result in adverse impacts on adjoining or nearby properties. The proposal ensures a reasonable level of amenity (views, solar access and privacy) is maintained to adjoining properties.

- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*

## Comment:

The development has responded to the topography of the site by providing recessed building walls and building articulation along all elevations following the slope of the site. Excavation is proposed for a basement level however this has been minimised in areas where the natural landform falls to the north western corner of the site resulting in part of the basement sitting, in part, above the natural ground level.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

## Comment:

The proposed roof form is contemporary and consistent with that of recent surrounding and nearby development in the local area that have adopted a flat roof form.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **B3 Side Boundary Envelope**

### Description of non-compliance

The control requires development to sit within a building envelope measured at 5m and 45 degrees taken from any side boundary of the site.

The proposal breaches the side boundary envelope on the northern elevation. The breach has a maximum height up to 1.8m and extends for a maximum length of 18.2m.

### Merit consideration

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

- *To ensure that development does not become visually dominant by virtue of its height and bulk.*

## Comment:

The development includes areas of substantial articulation along the northern facade of the building where the breach with the control occurs. This articulation includes recessed walls and increased setbacks to the upper floors of the building which effectively minimise the visual bulk of the development when viewed from adjoining and nearby properties.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

## Comment:

The shadow diagrams submitted with the application demonstrate that at least 50% of the required area of private open space of adjoining dwellings will receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21 as required by Clause D6 - Access to Sunlight of WDCP 2011.

The development, as conditioned, will ensure that adequate privacy is maintained between buildings. Windows located on the lower ground and ground floors are proposed to be treated with louvres which, in addition to the physical separation achieved between buildings, will protect the privacy of those internally and externally within adjoining properties.

In this regard, the proposal provides adequate physical separation between buildings to ensure that adequate light, solar access and privacy is provided to adjoining buildings.

- *To ensure that development responds to the topography of the site.*

## Comment:

The breach occurs along the northern elevation of the building where the land form falls across the building footprint towards the northern eastern corner of the site. The building has been progressively stepped as it increases in height along the northern facade of the building which also responds to topography of the site.

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 section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

### Description of non-compliance

The control requires a minimum 40% of the total site area to be landscaped open space.

The proposal provides a total of 13.46% (942.66m<sup>2</sup>) of the total site area as landscaped open space which equates to a variation of 33.67%.

### 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:

The Landscape Plan submitted with the application (refer to 'Landscape Plan Hospital Addition Issue D' prepared by Selena Hannan Landscape Design dated 18/08/17/) indicates that the front, side and rear setback areas have been designed to accommodate landscaping and planting which will maintain the the local streetscape character and assist to soften the visual impact of the development through the inclusion of a mix of planting including shrubs and small, medium and large sized trees.

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

Comment:

The site has been significantly altered over the course of its history. There are no areas of threatened species, significant topographical features or vegetation identified on the site. The Landscape Plan indicates significant additional and replacement indigenous planting to be provided which vary in mature height from 2m to 8m.

The proposed planting is considered to be a significant improvement on the existing provision of landscaping on site and provides a satisfactory landscaped setting.

- *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:

The proposed planting to be located within the front, side and rear setback areas includes a mix of shrubs and small to medium sized trees which achieve a mature height of between 2m to 8m.

The spacing and location of the trees around the perimeter of the site softens the bulk of the building and, given the proposed heights and canopy spreads, will be of a scale and density commensurate with the proposed building height, bulk and scale.

In particular, areas of landscaping along the northern, southern and eastern sides of the site will assist to mitigate the visual height, bulk and scale of the building.

- *To enhance privacy between buildings.*

Comment:

The development includes areas of significant landscaping located around the perimeter of the site which, in-conjunction with the physical separation provided between buildings will provide adequate privacy screening.

The landscape plan indicates small to medium sized trees to be planted around the perimeter of the site which achieve a height of between 2m to 8m at maturity which will further assist to provide adequate screening of the development to the surrounding and adjoining allotments.

# NORTHERN BEACHES COUNCIL

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

Comment:

Given the proposed use of the site as a Hospital it is considered that there is adequate areas of landscaping that will meet the needs of patients, visitors or staff.

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

Comment:

This application relates to a hospital and therefore there are no service functions proposed to be located externally..

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

Comment:

The development has been reviewed by Council's Development Engineers having regard to the provisions for stormwater management and has raised no objections to the proposed stormwater system subject to conditions included in the recommendation of this report.

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 section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## Appendix 1 Car Parking Requirements

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Hospital	Comparisons to be drawn from similar developments	Comparisons to be drawn from similar developments.	47 spaces - basement 21 spaces - at grade off Patey Street 22 spaces - at grade off Quirk Street	N/A
<b>Total</b>	N/A	N/A	90 spaces	N/A

Clause C3 of WLEP 2011 requires that adequate off-street car parking is to be provided within the subject property boundaries in accordance with the use provisions of Appendix 1.

The proposed car parking proposed has been reviewed by Council's Traffic Engineer who raises no objections to the proposal.

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 section 5(a) 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 effect 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

### Warringah Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Warringah Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 15,999,995		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 152,000
Section 94A Planning and Administration	0.05%	\$ 8,000
Total	1%	\$ 160,000

## CONCLUSION

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

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

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

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

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs



- Consistent with the objects of the Environmental Planning and Assessment Act 1979

The application attracted 51 submissions as part of the public exhibition process. The submissions raised the following issues:

- Loss of privacy
- Noise emissions
- Bulk
- Traffic and Parking
- Height of the building
- Rezoning

All issues have been addressed within this report (refer to the 'Notifications and Submissions Received' section) and were found not to warrant refusal of the application.

The application was referred internally to Council referral bodies and externally to the Aboriginal Heritage Office and Ausgrid who have raised no objections to the application. All recommendations and matters for consideration pertaining to the Development Application raised by external and internal referral bodies have been included in the recommendation of this report.

The development has been found to be permissible and consistent with the objectives of the R2 Low Density Residential zone.

The development has been found to not comply with the numerical Height of Buildings Development Standard contained in the WLEP 2011. Notwithstanding, the development has been found to be consistent with the qualitative objectives of the Standard and the zone and is therefore supported.

The development, as conditioned, has been found to be consistent with the relevant controls contained within the WDCP.

Accordingly, it is recommended that the Development Application should be approved for the reasons detailed within this report and subject to the conditions included in the recommendation of this report.

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

## **RECOMMENDATION**

THAT Sydney North Planning Panel as the consent authority grant Development Consent to DA2017/0446 for Alterations and Additions to an existing Hospital on land at Lot 1 DP 836109, 14 Patey Street, DEE WHY, Lot 12 DP 8270, 9 Patey Street, DEE WHY, Lot 93 DP 8139, 64 Quirk Street, DEE WHY, Lot 94 DP 8139, 66 Quirk Street, DEE WHY, subject to the conditions outlined in Attachment 1.