

COUNCIL ASSESSMENT REPORT

Panel Reference	2018SNH058
DA Number	DA2018/1654
LGA	Northern Beaches
Proposed Development	Demolition works and Construction of a new aged care facility including underground parking
Street Address	Lot 3 DP 805710 No. 181 Forest Way, Belrose
Applicant/Owner	Chrioseph Pty Ltd
Date of DA lodgement	9 October 2018
Number of Submissions	Six, from four properties and one organisation
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Development that has a capital investment value of more than \$30 million.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • SEPP (Housing for Seniors or People with a Disability) 2004 (SEPP (HSPD) 2004) • SEPP 55 - Remediation of Land • SEPP (Infrastructure) 2007 • SEPP 44 – Koala Habitat Protection • Draft SEPP (Remediation of Land) • Warringah Local Environmental Plan 2000 - Locality: • Warringah DCP 2000 • Relevant Environmental Planning and Assessment Regulations
Locality	B2 Oxford Falls Valley
Category of Development under WLEP 2000	Category 2 – Housing for older people or people with disabilities
Integrated Development	Yes
Estimated Cost of Works	Original cost - \$32,596,460 Cost after amendments - \$27,724,810
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Plans • SEE with Clause 20 Justifications • Bushfire Report • RFS referral response
Clause 4.6 requests	See Clause 20 discussions on: Building Height – 10.35% variation Front Building Setback – 81.5% variation
Summary of key submissions	<ul style="list-style-type: none"> • Bushfire • Café and noise • Privacy • Building height and setbacks • Building bulk • Desired future character (DFC) • Lighting • Tree and vegetation loss • Fencing • Pollution • Construction storage • Traffic • Sustainability
Report prepared by	Daniel Milliken
Report date	7 April 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
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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 summarised, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes
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Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	See Clause 20 (WLEP 2000)
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Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?	No
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Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

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

EXECUTIVE SUMMARY

Northern Beaches Council is in receipt of Development Application No. DA2018/1654 for demolition works and the construction of a new aged care facility including underground parking at Lot 3 DP 805710 No. 181 Forest Way, Belrose. The residential care facility will comprise 100 rooms (including a dementia ward), a café, staff areas, a kitchen and basement parking.

The application has been referred to the Sydney North Planning Panel for determination, as the cost of works of the original design was greater than \$30 million. The current design has a cost of works below \$30 million.

The application is made pursuant to Warringah Local Environmental Plan 2000 and is within the "Deferred Lands" under Warringah Local Environmental Plan 2000. The site is within the B2 Oxford Falls Valley Locality. The seniors housing provisions within WLEP 2000 are contained in Clause 29, Clause 40 and Schedule 16. These have been addressed in the report.

The site is bushfire prone and slopes down by 37m over the length of the site. The portion to be developed is the western half, closest to Forest Way, that currently contains a dwelling, lawn areas and some trees. The more heavily vegetated eastern half will remain free of development.

The application is Integrated Development and was referred to the NSW RFS. The RFS responded on 31 March 2020 stating:

"The proposed development relies heavily upon the management of vegetation on the adjoining southern property for achieving the minimum required asset protection zone.

The NSW Rural Fire Service cannot support this development application by way of issuing a Bush Fire Safety Authority while there is on-going discrepancy over the extent of the management of vegetation on the adjoining property to the south.

In this regard it is recommended that negotiations between the applicant and the owners of the adjoining property continue, for the purpose of obtaining an agreement and easement for a guarantee that the land will be managed for the life of the development.

If additional information is not received within 100 days the application will be refused on the basis of Requested Information not provided. A formal request for re-assessment would be required after this time."

As the NSW RFS cannot support the application, this has been included as a reason for refusal. Following on from this issue, the reliance on the neighbouring property for bushfire protection indicates that the proposal is an overdevelopment of the site.

The two rounds of public exhibition generated six submissions raising concerns regarding bushfire, café and noise, privacy, building height and setbacks, building bulk, desired future character (DFC), lighting, tree and vegetation loss, fencing, pollution, construction storage, traffic and sustainability. These concerns have been addressed within the report. The bushfire concerns have been included as a reason for refusal.

The proposal exceeds the height limit and the front building setback controls and has required an assessment against Clause 20 of the WLEP 2000.

The proposed development does not respond sufficiently to the context and constraints of the site, in relation to bushfire protection. However, if this issue was to be resolved, the development, while being of a much greater scale than a detached dwelling, would be compatible with the locality and similar to other residential care facilities in the area.

The resultant building would provide a high level of amenity for future residents, and would not result in any unreasonable impacts upon the directly adjoining property to the south or the higher density detached dwellings, separated from the site by an unmade road, to the north.

As such, the proposal has been found to be consistent with the relevant provisions of the WLEP 2000. However, as a result of the bushfire issues, the proposal cannot be recommended for approval until they are resolved.

Accordingly, it is recommended that the Sydney North Planning Panel, as the determining authority, refuse the application.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the EP&A 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 EP&A 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 (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority officers on the proposal.

SITE DESCRIPTION

The subject site is located on the eastern side of Forest Way and is known as No. 181 Forest Way Belrose. The subject site is legally identified as Lot 3 in Deposited Plan No 805710.

The subject site is a large (near) regular shaped single lot with dimensions of 91m across the frontage to Forest Way, 195m along the northern boundary to the unformed road, 189m along the southern boundary and 127m across the eastern rear boundary.

The subject site has a total area of 2.117 hectares. Currently erected on the land is a large freestanding dwelling.

Vehicle access to the dwelling is currently gained from a driveway off the Crown Road, which runs along the northern boundary of the site.

The subject site is identified as bushfire prone land and is situated within a riparian zone.

The surrounding development consists of low-density residential dwellings to the north and west, and semi-rural lands with dwelling houses and ancillary development to the east and south.



Figure 1 – Subject Site

RELEVANT SITE HISTORY

Development Application No. DA2017/0697

An application for the demolition of existing structures and Construction of a new 140 bed aged care facility including parking for 50 vehicles (DA2017/0697) was lodged in July 2017. The Panel was briefed on this application in October 2017.

A preliminary assessment of the application revealed a number of fundamental issues/concerns with the application. These included:

- The proposal's inconsistency with the Desired Future Character Statement for the Locality. In particular, the proposal was not considered to reflect 'detached style housing' or be of a low impact or low intensity.
- Absence of General Terms of Approval from the NSW RFS
- Bushfire protection
- Vehicular access to the site
- Building bulk and scale
- Building height
- Environmental concerns
- Stormwater
- Amenity/side boundary setback

These issues were outlined in correspondence sent to the Applicant in September 2018. Subsequently the application was withdrawn by the Applicant in October 2018.

RELEVANT APPLICATION HISTORY

The current application was lodged on 9 October 2018.

The first notification period generated two submissions.

The Sydney North Planning Panel was briefed on 30 January 2019 and were informed that Council was intending to request the withdrawal of the application, due to a number of concerns including:

- Bushfire
- Desired future character
- Support Services
- WLEP 2000 Clause 57 Development on sloping land
- WLEP 2000 Clause 58 Protection of existing flora
- WLEP 2000 Clause 66 Building Bulk

This withdrawal request was made on 12 February 2019.

The applicant did not withdraw the application but began discussions with the NSW RFS to resolve the bushfire issues.

On 20 November 2019, the applicant submitted amended plans, reports and documentation for the current design. The changes reduced the size of the development from 138 rooms to 100 and increased the side setbacks to attempt to meet bushfire requirements.

These amended plans were renotified and generated four submissions, three of which were from new residents that did not object to the original design.

Overall, this has resulted in six submissions, from four properties and one organisation, objecting to the proposal.

On 31 March 2020, the NSW RFS responded to the referral request and recommended refusal.

PROPOSED DEVELOPMENT

The development now seeks consent for demolition works and the construction of a residential care facility (as defined by the Warringah Local Environmental Plan 2000), with basement parking.

In detail, the proposal includes:

- Site clearance, the removal of trees and the demolition of the existing dwelling and associated structures.
- Excavation and site preparation works.
- Construction of a residential care facility accommodating 100 beds and associated facilities.
- The construction of a new driveway crossing and a deceleration lane on Forest Way.
- Associated landscaping works.

The proposed residential care facility consists of:

Lower Ground Floor – RL 163

- Basement parking for 41 cars, made up of 30 staff spaces and 11 visitor spaces.
- 16 rooms, all with ensuites.
- Lounge room and dining room for residents.
- Kitchen, Laundry, storerooms and other staff facilities.
- Maintenance workshop and bulky goods waste storage.

Ground Floor – RL 167.2

- 27 rooms, all with ensuites.
- Lounge room and dining room for residents.
- Hair and spa room for residents.
- A gym.
- Outdoor seating areas.
- Store rooms and other staff facilities.
- A gift store/flowerist.
- A café with 24 seats.
- Four visitor and a bus parking space at the front of the development (uncovered).

First Floor – RL 170.5

- A dementia ward with 25 rooms, all with ensuites.
- 16 standard rooms, all with ensuites.
- Lounge rooms and dining rooms for residents.
- Store rooms and other staff facilities.

Second Floor – RL 173.7

- 16 standard rooms, all with ensuites.
- Lounge room and dining room for residents.
- Outdoor seating areas.
- Store rooms and other staff facilities.

Roof – RL 177.1

- Mechanical plant, hydraulic plant and exhaust ducts.
- Space for solar panels.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act 1979)

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See the discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument.	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan.	Warringah DCP as it relates to the notification is applicable to this application.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement.	None Applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Regulations.	<p>The <i>EPA Regulations 2000</i> requires the consent authority to consider the provisions of the Building Code of Australia. This matter has been addressed via a condition of consent.</p> <p>Clause 92 of the <i>EPA Regulations 2000</i> requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i>. This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.	<ol style="list-style-type: none"> The environmental impacts of the proposed development on the natural and built environment are addressed under the <i>Warringah LEP 2000</i> section of this report. The development will provide seniors housing in the locality, therefore the development ensures that the housing stock caters for a broad cross section of the community. In terms of the provision of housing, the proposed development will not have a detrimental social impact on the locality.

	iii. The proposed development will not have a detrimental economic impact on the locality considering the nature of the proposed land uses.
Section 4.15 (1) (c) – the suitability of the site for the development.	Given its proximity to frequent public transport and the minimal amenity impacts on surrounding and nearby properties, the site is capable of accommodating a residential care facility. However, due to bushfire issues, the site is not suitable for this particular development.
Section 4.15 (1) (d) – any submissions made in accordance with the <i>EPA Act</i> or <i>EPA Regs</i>	The application received six submissions from five different properties/organisations during the two exhibition periods. The issues raised are addressed under 'Notification & Submissions Received' within this report.
Section 4.15 (1) (e) – the public interest.	The public interest has been considered as part of this assessment. The proposal has been assessed against the provisions of the relevant planning controls and is considered unacceptable as a result of the bushfire issues. On this basis, the proposal is not in the public interest and has been recommended for refusal.

EXISTING USE RIGHTS

Existing Use Rights do not apply to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The DA was publically exhibited in accordance with the EP&A Act, *Environmental Planning and Assessment Regulation 2000*, Warringah Development Control Plan (for the first exhibition period) and the Northern Beaches Community Participation Plan (for the second exhibition period). The development application was notified from 24 October 2018 to 26 November 2018. Additionally, the application was advertised in the Manly Daily on 27 October 2018 and a notice was placed on the site.

The amended plans were notified from 4 December 2019 to 6 January 2020. Additionally, the application was advertised in the Manly Daily on 7 December 2019 and a notice was placed on the site.

As a result of the public exhibition process, Council is in receipt of six submissions from four properties and one organisation, each raising objections to the proposed development.

Name	Address
Mr Trad Jeremy Phyllip Edwards and Mrs Michelle Anne Edwards	179 Forest Way BELROSE NSW 2085
Friends of Narrabeen Lagoon Catchment	P.O. Box 845, Narrabeen NSW 2101
Andrew McDonald	7 Caley Way BELROSE NSW 2085
Mrs Beatrice Martha Yell	34 Neridah Avenue BELROSE NSW 2085
Ms Anne Patricia Saxon	955 / 0 Morgan Road BELROSE NSW 2085

Assessment of Residents Issues

The relevant matters raised within the submissions have been considered and are addressed as follows:

- **Bushfire**
- **Café and noise**

- **Privacy**
- **Building height, setbacks and bulk**
- **Desired future character (DFC)**
- **Lighting**
- **Tree and vegetation loss**
- **Fencing**
- **Pollution**
- **Construction storage**
- **Traffic**
- **Sustainability**

- **Bushfire**

The submissions raised concerns that the site is bushfire prone and the report submitted with the application contains errors.

Comment: The application has been referred to the NSW RFS, who have recommended refusal. This has been included as a reason for refusal in the recommendation of this report.

- **Café and noise**

The submissions raised concerns that the café would result in unreasonable noise for No. 179 Forest Way, the only adjoining private property.

Comment: The proposed café has 24 seats. 16 of them are shown on the plans as being inside. Eight seats are outside and these are located a minimum of 11.7m from the side boundary with No. 179 Forest Way. The nearest structure on No. 179 Forest Way is approximately 7.0m from the boundary (despite the control requiring a setback of 10m).

Eight seats for a café that will cater for elderly residents, their visiting families and the staff, located more than 11m from the boundary and nearly 20m from the nearest neighbouring building, and with operating hours from 8am to 5pm (via a condition that could be imposed if the application was to be approved), will not result in unreasonable noise impacts.

This matter does not warrant the refusal of the application.

- **Privacy**

The submissions raised concerns that the proposal, particularly the windows and seating areas on the southern side of the development, will result in unreasonable privacy impacts.

Comment: The elements of the southern elevation closest to No. 179 Forest Way consist of the café and outdoor seating area on the ground floor, and four windows to resident rooms on the first floor.

The café, outdoor seating area and the first floor windows are all set back 10m from the boundary. Between them and the boundary there would be landscaping, including screen hedging. The four windows are to rooms occupied by elderly residents. The outdoor seating area adjacent to the café shows only eight seats.

Together, the setbacks of the building and cafe, the limited number of outdoor seats, the use of the four rooms and the screen planting, will mean the development will not result in unreasonable privacy impacts.

This matter does not warrant the refusal of the application.

- **Building height and setbacks**

The submissions raised concerns that the height of the building does not comply, the side setbacks are insufficient and the bulk of the proposal is excessive.

Comment: The height of the proposal does not comply, however, an assessment has found the non-compliance to be acceptable. This is discussed in more detail under Clause 20, below in this report.

The side setbacks of the proposal are compliant, with the vast majority of the building having a much greater setback to the southern boundary than the 10m minimum.

This matter does not warrant the refusal of the application.

- **Building bulk**

The submissions raised concerns that the bulk of the proposal is excessive, particularly when viewed from No. 179 Forest Way.

Comment: The design of the proposal has resulted in a 14.7m long section of building (increasing to 28.8m if the outdoor seating area is included) being set back 10m from the southern boundary.

The vast majority of the 77.8m building has a much greater setback to the southern boundary than the 10m minimum.

While it is acknowledged that the proposal is of a much greater scale than a single dwelling, it is a permissible use on the land, complies with the side setbacks and is of a reasonable built form and height.

This matter does not warrant the refusal of the application.

- **Desired future character (DFC)**

The submissions raised concerns that the proposal does not meet the DFC of the locality.

Comment: This matter is discussed in detail under the DFC section, below in this report. In summary, the proposal does meet the DFC and would be similar to other residential care facilities in the vicinity.

This matter does not warrant the refusal of the application.

- **Lighting**

The submissions raised concerns that the proposed lighting of the garden/walkway areas would result in unreasonable impacts on the adjoining property.

Comment: It is agreed that the lighting of the garden/walkway has the potential to result in impacts. To ensure any impacts are minimal, a condition could be included in any consent, if this application was to be approved, prohibiting light spill from any garden/walkway lights, into the neighbouring property.

This matter does not warrant the refusal of the application.

- **Tree and vegetation loss**

The submissions raised concerns that 45 trees are being removed to accommodate this development.

Comment: While 45 trees are proposed to be removed, they would be replaced with approximately 59 trees and numerous additional shrubs and hedges. Council's Natural Environment Team and Landscape Officer have raised no objections to approval.

This matter does not warrant the refusal of the application.

- **Fencing**

The submissions raised concerns that the plans do not show details of any new fencing.

Comment: No side or rear boundary fences are included as part of this application. This would be a matter between the two property owners.

This matter does not warrant the refusal of the application.

- **Pollution**

The submissions raised concerns that the development will emit odours from the kitchen ventilation hood.

Comment: The ventilation equipment is located away from the side boundaries and at the top of the building. This will give any odours plenty of time and space to dissipate before affecting any adjoining property. Council's Environmental Health Officers have raised no objections, subject to appropriate conditions. These conditions include compliance with all Australian Standards to ensure no unreasonable impacts.

This matter does not warrant the refusal of the application.

- **Construction storage**

The submissions raised concerns that some construction storage is located close to the adjoining property.

Comment: A condition could be included in the recommendation requiring the storage area to be located away from the southern boundary, if this application was to be approved.

This matter does not warrant the refusal of the application.

- **Traffic**

The submissions raised concerns that the proposal would unreasonably increase the traffic in the area.

Comment: The proposal will increase the traffic to and from the site. The proposal has been assessed by Council's Traffic Engineers who have raised no objections to approval.

This matter does not warrant the refusal of the application.

- **Sustainability**

The submissions raised concerns that solar panels should be installed on what is a large roof.

Comment: While there are no controls to force the installation of solar panels, space is being provided on the roof for them, as detailed on the plans.

This matter does not warrant the refusal of the application.

EXTERNAL REFERRALS

External Referral Body	Recommendation/Comments
NSW Rural Fire Services (NSW RFS)	<p>Refusal</p> <p>The application is Integrated Development and was referred to the NSW RFS. The RFS responded on 31 March 2020 stating:</p> <p><i>"The proposed development relies heavily upon the management of vegetation on the adjoining southern property for achieving the minimum required asset protection zone.</i></p> <p><i>The NSW Rural Fire Service cannot support this development application</i></p>

	<p><i>by way of issuing a Bush Fire Safety Authority while there is on-going discrepancy over the extent of the management of vegetation on the adjoining property to the south.</i></p> <p><i>In this regard it is recommended that negotiations between the applicant and the owners of the adjoining property continue, for the purpose of obtaining an agreement and easement for a guarantee that the land will be managed for the life of the development.</i></p> <p><i>If additional information is not received within 100 days the application will be refused on the basis of Requested Information not provided. A formal request for re-assessment would be required after this time."</i></p> <p>This has been included as a reason for refusal.</p>
Aboriginal Heritage office	<p>Approval (no conditions)</p> <p>The Aboriginal Heritage Office commented:</p> <p><i>No sites are recorded in the current development area although landscape features are present, particularly in the eastern part of the lot that could have surviving unrecorded Aboriginal sites. An Aboriginal archaeological heritage due diligence report has been prepared for the proposal (Dominic Steele Consulting Archaeology, 29 June 2018). No Aboriginal sites or areas of potential were identified. The Aboriginal Heritage Office has review the report and supports the recommendations.</i></p> <p><i>As such, 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>
Ausgrid	<p>No response received</p> <p>The application was referred to Ausgrid under clause 45(2) of State Environmental Planning Policy (Infrastructure) 2007.</p> <p>To date, no response has been provided and it is assumed that no objection is raised concerning the proposal and hence there are no specific Ausgrid requirements to be imposed on any consent.</p>
NSW Police	<p>No response received</p> <p>The application was referred to the NSW Police.</p> <p>To date, no response has been provided and it is assumed that no objections are raised and no conditions recommended.</p>
NSW Roads and Maritime Services	<p>Approval (subject to conditions)</p> <p>The NSW RMS commented:</p> <p><i>Roads and Maritime has reviewed the submitted application and has had multiple correspondences between the developer to work towards and access solution acceptable to Roads and Maritime. Roads and Maritime held a meeting with the developer on 19 March 2018 where it was agreed to provide a deceleration lane into the site for safe and efficient access. Roads and Maritime has since re-assessed the development application and would provide concurrence under Section 138 of the Roads Act, 1993 to remove any redundant driveway(s) and to construct a deceleration lane on Forest Way subject to the following conditions being included in any determination issued by Council.</i></p> <p>The conditions could be included in any consent, if this application was to</p>

	be approved.
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INTERNAL REFERRALS

Internal Referral Body	Recommendation/comments
Building Assessment – Fire and Disability upgrades	Approval (subject to conditions) No objections to proposal subject to condition/s.
Environmental Health (Acid Sulphate)	Approval (no conditions) The site is not listed by Council as Acid Sulphate affected.
Environmental Health (Contaminated Lands)	Approval (subject to conditions) The site is not listed as a contaminated site. Contamination is not expected with the exception of likely asbestos to be removed in the dwelling to be demolished and the removal of the AWTS
Environmental Health (unsewered lands)	Approval (subject to conditions) This site currently does not have access to sewer and the applicant has advised that they are proposing to request approval from Sydney Water to pump to a sewer nearby. Although Council's sewer maps currently seem to indicate availability. Should Sydney Water reject the proposal to connect it is doubtful on site disposal would be possible. Rather than recommend refusal, or deferred commencement it is proposed to recommend approval subject to conditions. Again referring to Council mapping there is a registered water bore on the western end -high side- of the site. The applicant needs to consult with NSW Water to clarify how this is to be managed. See conditions
Landscape Officer	Approval (subject to conditions) <u>Amended Plans Comment 2 Jan 2020</u> Amended Plans are noted. Improvements have been made at the rear and sides of the proposal, which is supported. Comments raised previously regarding the front setback still remain, the slip-way for the entry drive requiring a boundary adjustment, resulting in a front landscape setback less than 20m. Clarification has been provided in the Bushfire Report regarding the landscape treatment to the front setback, indicating that the proposed tree retention and landscape planting will comply with bushfire requirements. If the proposal is to be approved on merit, regarding the technical non-compliance with the 20m landscaped setback, conditions have been included regarding tree protection and landscape works.
Natural Environment & Climate Change (Bushland and Biodiversity)	Approval (subject to conditions) <u>Updated comments 03/02/2020</u> The applicant has provided the following amended and additional information: <ul style="list-style-type: none"> • Amended plans (Morrison Design Partnership, Rev J, 18/11/2019) • Letter "Response to Council Comments – Belrose Manor Development, 181 Forest Way Belrose" (Cumberland Ecology 19 November 2019)

	<ul style="list-style-type: none"> • Biodiversity Development Assessment Report (Cumberland Ecology 19 November 2019) • Biodiversity Management Plan (Cumberland Ecology 26 November 2019) • Bushfire Protection Assessment Addendum (Travers Bushfire and Ecology, November 2019) <p>The applicant has provided a Biodiversity Development Assessment Report (BDAR) written by an Accredited Assessor which meets the minimum standards set out in the BAM (OEH 2017) and associated Operational Manuals.</p> <p>In accordance with the BAM and the Warringah LEP, the amended proposal has avoided impacts including:</p> <ul style="list-style-type: none"> • No likely impacts to Duffys Forest EEC, which is now excluded from the APZ, will not be fragmented from other areas of vegetation by a fence and will be rehabilitated in accordance with the submitted Biodiversity Management Plan. Council's Natural Environment Unit is satisfied with this outcome. • No impacts to existing <i>Grevillea caylei</i> individuals on adjacent land by clarifying no works are required within the unformed road reserve along the northern boundary. The road reserve is only permitted to be access by the RFS during an emergency. The bushfire consultant confirmed that current conditions are sufficient for truck access and the proposal includes the installation of a locked gate which will only been accessed by RFS in an emergency. Council's Natural Environment Unit is satisfied with this outcome. <p>Additionally, impacts have been minimised through:</p> <ul style="list-style-type: none"> • The APZ requirements have been amended to allow for the selective retention of large "clumps" of native vegetation within the IPA and OPA is retain some fauna habitat complexity. Council's Natural Environment Unit is satisfied with this outcome. • The APZ will be managed in the long-term in accordance with the Biodiversity Management Plan (Cumberland Ecology 26 November 2019) <p>Finally, residual impacts of the development will be offset through the retiring of 15 ecosystem credits within the Biodiversity Offset Scheme. In addition, the Ecologist has been precautionary by assuming presence of threatened species due to temporal limitations of threatened fauna survey which results in the requirement to retire 18 Eastern Pygmy Possum credits and 13 Red-crowned Toadlet species credits.</p> <p>Council's Natural Environment - Biodiversity section raises no objections to the proposal, subject to conditions.</p>
Natural Environment & Climate Change (Development Engineering)	<p>Approval (subject to conditions)</p> <p>Reference is made to Development Engineering Referral Response dated 01/2/19 and the amended plans.</p> <p>No objections are raised to the proposed amendments. Please note previous Development Engineering advice provided below. I have updated the conditions as appropriate.</p> <p><u>Development Engineering Referral Response dated 01/2/19:</u></p> <p>External Works:</p> <p>The application indicates site entry from a proposed deceleration lane</p>

	<p>within Forest Way. Discussions with Council's Road Assets section has determined the construction of a layback and vehicular crossing in this location is preferred, in order to prioritise pedestrian movements and delineate site entry. This shall be conditioned.</p> <p>Council Dedications:</p> <p>Discussions with Council's Road Assets section have determined that a road verge dedication of 4m from the back of kerb to property boundary will be required. This shall be conditioned. Please note that this is 0.5m wider than currently proposed, and may have an impact on front setbacks and the arrangement of site frontage (retaining walls, entry stairs etc). In addition, it is noted that there is a local pattern in dedicating the frontage of lots on Forest Way as public reserve, please consider this in your assessment.</p> <p>No objections are raised to the proposed application, subject to conditions.</p>
Natural Environment & Climate Change (Water Management)	<p>Approval (subject to conditions)</p> <p>We are satisfied with the advice of Matthew Buttarelli, Associate Senior Civil Engineer, ACOR Consultants Pty Ltd that the proposed stormwater quality management system will not change due to the modifications proposed to the original application. Therefore the original advice stands. Some conditions have been updated for the latest reviews of wording.</p>
Strategic and Place Planning (Urban Design)	<p>Approval (no conditions)</p> <p>The applicant has submitted revised drawings to amend several key areas of issue with the site planning and amenity to the proposed development. Urban Design is satisfied the current plans address all of the key issues previously raised. The proposal in its revised form can be supported.</p>
Traffic Engineer	<p>Approval (subject to conditions)</p> <p><u>Waste Collection:</u> Waste collection is anticipated to be collected from the basement of the site. Whilst Traffic are satisfied with this requirement, this application should be referred to the Waste Services Team for their concurrence. Specifically to note is the height clearance required throughout the basement. The applicant is proposing 3.5m. This should be consistent with the operating height of the Waste Vehicles.</p> <p><u>Parking numbers:</u> The applicant has provided parking in surplus of the requirements under the SEPP. This is deemed acceptable, however Council's preference would be to provide the minimum numbers required. This would be a total of 28 parking spaces, rather than the proposed 50. The reason is that, the more spaces provided, the more vehicles will utilise them, the more traffic will be generated. The applicant has specified that they are in favour of the need for modal shift. therefore, more emphasis should be placed on the need to reduce dependence on vehicles.</p> <p><u>Car park layout:</u> The swept path of the refuse vehicle occupies a significant portion of the driveway and impedes on accessibility when parked in the loading bay. As such, a signal system shall be installed to manage vehicle interactions during the waste collection period or when any form of servicing is occurring from the loading bay.</p> <p><u>Traffic Generation:</u> The rate is deemed acceptable as the applicant has confirmed that the residents require a higher level of care and as such, driving is kept to a minimum based on the majority of the resident's circumstances.</p>

	<u>Pedestrians:</u> The applicant shall upgrade the footpath for the entire length of the frontage and further connecting to the Bus Stop just south of the property to ensure maximum pedestrian safety when leaving the premises to access public transport.
Waste Officer	Approval (subject to conditions) No objections raised, subject to conditions

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)

All, EPIs (State Environmental Planning Policies (SEPPs), Regional Environment Plans (REPs) and Local Environment Plans (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 EPIs (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the documents are not relevant or are enacting, definitions and operational provisions, which the proposal is considered 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)

Further consideration is required for the following State policies:

SEPP 55 - Remediation of Land

The SEPP establishes State wide provisions to promote the remediation of contaminated land.

SEPP 55 states that land must not be developed, if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed. The policy makes remediation permissible across the State, defines when consent is required, requires all remediation to comply with standards, ensures land is investigated if contamination is suspected, and requires councils to be notified of all remediation proposals. The Managing Land Contamination: Planning Guidelines were prepared to assist councils and developers in determining when land has been at risk.

Clause 7 of the SEPP requires that a consent authority must not grant consent to a development if it has considered whether a site is contaminated, and if it is, that it is satisfied that the land is suitable (or would be after undergoing remediation) for the proposed use.

Council's records indicate that the site has been used for residential purposes for a significant period. It is therefore considered that the site poses no risk of contamination and as such is suitable for the proposed seniors housing development. No further consideration is required under Clause 7(1) (b) and (c) of the *SEPP 55*.

SEPP (Infrastructure) 2007

Clause 45 – Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any DA (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 5m 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 5m of an overhead electricity power line.*

The application was referred to Ausgrid under clause 45(2) of SEPP Infrastructure.

To date, no response has been received and it is assumed that Ausgrid do not raise any objection nor impose any conditions.

Clause 102 - Roads and Maritime Service (RMS)

The response from the NSW RMS can be found above, in the External Referrals section of this report. In summary, no objections were raised, subject to conditions.

SEPP 44 – Koala Habitat Protection

The provisions of this policy apply as the site is greater than one hectare in size. The site does not represent potential or core koala habitat. Accordingly, no further consideration of the policy is required.

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

The DA is made pursuant to WLEP 2000, which permits development for the purposes of *housing for older people or people with disabilities* on land within the B2 Oxford Falls Valley Locality. The DA is not made pursuant to SEPP (HSPD) 2004.

Notwithstanding, clause 12(1)(b) of WLEP 2000 states that before granting consent for development the consent authority must be satisfied that the development is consistent with any relevant State Environmental Planning Policy described in Schedule 5 (State policies).

State policies pertaining to housing for older people or people with a disability are nominated in Schedule 5.

In addition to the above, the Land and Environment Court decision of Talbot J on 31 May 2004 in *Mete v Warringah Council [2004] NSWLEC 273*, states that if a DA is made pursuant to WLEP 2000, then only certain clauses of the *SEPP* are relevant to the assessment of the application. Specifically, clauses, which are prefaced with the words “development application made pursuant to this chapter”, are not relevant to the application.

Taking the approach of the Court, an assessment of the proposal has taken into consideration the relevant provisions of the SEPP outlined as follows:

Chapter 1 – Preliminary

Aims of the Policy:

(1) This Policy aims to encourage the provision of housing (including residential care facilities) that will:

- (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
- (b) make efficient use of existing infrastructure and services, and*
- (c) be of good design.*

In relation to the first aim of the policy, the proposed development would increase the supply of residential care facilities within the Northern Beaches Local Government Area. The site is located less than 100m from regular public transport, thereby making efficient use of existing infrastructure and services.

When considering the development against the aim of achieving good design, the development must be considered in context with the other provisions of the SEPP. In this regard, the proposal provides significant side setbacks (due to the need for bushfire protection) and a built form that adequately meets the desired future character of the area. In addition, Council's Urban Designer has raised no issues in relation to the design of the development.

Given the above, the proposed development has been found to be consistent with the aims of the SEPP.

Chapter 2 – Key concepts

The proposed development is consistent with the key concepts contained within SEPP. The proposed development comprises a residential care facility. Appropriate conditions could be included in any consent, if this application was to be approved, to restrict occupation of this building in accordance with the definitions outlined under the SEPP.

On this basis, it is considered that the proposed development is consistent with the provisions outlined under Chapter 2 of the SEPP.

Chapter 3 – Development for seniors housing

Chapter 3 of the SEPP contains a number of development standards that are applicable only to DAs made pursuant to the SEPP. As this DA was made pursuant to WLEP 2000, the specific provisions prefaced for their operation with the words “made pursuant to this chapter” of Chapter 3 do not apply. There are no relevant provisions of Chapter 3 applicable to this DA.

Chapter 4 – Miscellaneous

The site is not on “*environmentally sensitive land*” and is not affected by amendments to other SEPPs, and the special provisions do not apply to this land.

STATE REGIONAL ENVIRONMENTAL PLANS

There are no SREPs applicable to the site.

LOCAL ENVIRONMENTAL PLANS

Warringah Local Environment Plan 2000 (WLEP 2000)

WLEP 2000 applies to the subject land and the development application is made pursuant to this instrument. Under WLEP 2000, the subject site is within the B2 Oxford Falls Valley Locality and the proposed development, being development for the purposes of housing for older people or people with disabilities, is classified as a Category 2 Development.

The proposed café is an ancillary use to the residential care facility and is therefore permitted with consent.

The DFC statement for the B2 locality is as follows:

B2 Oxford Falls Valley Locality

The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.

Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.

Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.

Each relevant element of the desired future character statement is discussed as follows

Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses.

(a) New detached style housing conforming with the housing density standards

In terms of the character of the area, the development is for a residential care facility, with an ancillary café. A residential care facility is a permissible use with consent on the subject site. While the development is not detached style housing and cannot be built in a detached manner if it is to operate as a residential care facility (particularly one that contains a dementia ward), the design has incorporated a number of elements to reduce its massing.

These include, providing breaks in the building in multiple places and on all levels, using landscaping to reduce the visible mass and providing substantial side setbacks for most of the length of the built form.

There are other residential care facilities in the area (eg: Wesley Gardens, 350m to the north of the site) that are of a similar (or larger) size and scale.

Therefore, the proposed development is found to be consistent with this component of the DFC.

(b) Low intensity, low impact uses

The terms “low intensity” and “low impact” are not defined in *WLEP 2000*. However, in the matter of *Vigor Master P/L v Warringah Council [2008] NSWLEC 1128*, the Commissioner gave weight to the evidence of the Council Planner who sought to give meaning and understanding to the terms “intensity” and “impact”.

In this regard, the following characterisation was given:

“Intensity: is commonly used to identify the nature of the proposal in terms of its size and scale and the extent of the activities associated with the proposal. Therefore, “low intensity” would constitute a development which has a low level of activities associated with it.”

“Impact - is commonly used in planning assessment to identify the likely future consequences of proposed development in terms of its surroundings and can relate to visual, noise, traffic, vegetation, streetscape privacy, solar access etc. Therefore ‘low impact’ would constitute a magnitude of impacts such that was minimal, minor or negligible level and unlikely to significantly change the amenity of the locality”.

It is commonly accepted that the term ‘intensity’ in the context of development assessment relates to the general extent and degree of the activities associated with a proposal while the term ‘impact’ relates to height, bulk and scale and the relationship of a proposal with its site and surroundings.

To achieve consistency with the DFC statement in the B2 Locality under *WLEP 2000*, a development is also required to be of a low intensity and low impact.

An assessment of the intensity and impact of the proposed development is as follows:

Is the proposed development a “low intensity” use?

The activities associated with the proposed development are traffic and noise associated with the operation of the use and the activities of its occupants, including the café.

The proposal is considered to satisfy the low intensity test. In particular, the Traffic and Parking Assessment undertaken in relation to this proposal confirms that the proposed development will have no unacceptable traffic implications in terms of road network capacity. In addition, Council’s Traffic Engineer has raised no objections in relation to the number of traffic movements.

In relation to noise, the proposal is a residential care facility, which is not a use that tends to generate much noise. The café is an ancillary use to the residential care facility, however, it could pose an issue depending on the number of seats and where they are located (in terms of both the distance from any property boundary and whether they are inside or outside).

The proposed café has 24 seats. 16 of them are shown inside. Eight seats are outside and these are located a minimum of 11.7m from the side boundary with No. 179 Forest Way.

Eight seats for a café that will cater for elderly residents, their visiting families and the staff, located more than 11m from the boundary, and with operating hours from 8am to 5pm (via a condition that could be included in any consent, if this application was to be approved), will not result in unreasonable noise impacts.

The development is therefore considered to be of a low intensity.

Is the proposed development a “low impact” use?

The impact of the proposal, in its current form, is found to be satisfactory, notwithstanding the bushfire issues. The development is for a residential care facility which is a permissible use with consent on the subject site. The design has incorporated a number of elements to reduce its massing. These include, providing breaks in the building in multiple places and on all levels, using landscaping to reduce the visible mass and providing substantial side setbacks.

There are other residential care facilities in the area (eg: Wesley Gardens, 350m to the north of the site) that are of a similar (or larger) size and scale.

Therefore, the proposed development is considered to be low impact.

There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.

The DFC indicates that there should be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.

The development will not disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway and is therefore consistent with this aspect of the DFC.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services.

The property currently accommodates significant areas of cleared bushland as well as the main buildings and lawn areas on the western side of the site.

The proposed development will take place mostly over the area covered by the existing buildings and lawn, with the eastern half of the site to be enhanced.

In this regard, the proposal has grouped the buildings sensibly on the side and minimised the disturbance to landforms and vegetation.

The proposed development is therefore consistent with this aspect of the DFC.

Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

The proposal incorporates external finishes with natural textures and neutral colours to ensure the development is visually compatible with the natural landscape in which it is situated. A schedule of colours and finishes is included with the architectural plan set submitted with the application.

The proposal is consistent with this component of the DFC.

A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.

The proposal is set back at least 20m from Forest Way, with the exception of the entry driveway, four parking spaces and the turning area.

Most existing trees within the front setback area will remain and some additional planting is proposed to be added to enhance the dense bushland buffer. The proposed front fencing is minimal and suitable for the development.

Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.

The site is not located near a riparian area and so the impact of the proposed development is found to be satisfactory.

The proposal is consistent with this component of the DFC.

Conclusions on consistency with the DFC Statement

Based upon the above assessment, the development of the proposed residential care facility, with its ancillary café, is found to be consistent with the DFC for the B2 Oxford Falls Valley locality.

Built Form Controls for the B2 Oxford Falls Valley Locality

The following table outlines compliance with the Built Form Controls of the above locality statement:

Built Form Standard	Required	Proposed	Compliance
Housing density	WLEP 2000 states that on land that adjoins a locality primarily used for urban purposes and which a dwelling house is permissible, there is no maximum housing density, if the development is for the purposes of housing for older people or people with a disability and the development complies with the minimum standards set out in Clause 29.	The development being housing for older people or people with a disability is consistent with the FSR provisions of Clause 29 and therefore the housing density is not applicable for this development. (refer to Clause 29 table of this report)	N/A
Building height	8.5m	The development has a maximum height of 9.38m. The lowest height of the upper level is approximately 6.03m.	No – see Clause 20 assessment.
Front building setback	20m	Main building – minimum of 20m Parking area – 3.7m	No – see Clause 20 assessment.
Rear building setback	10m	Minimum of 93m	Yes
Side building setback	10m	South: Minimum of 10m Maximum of 28.3m North Minimum of 17.8m Maximum of 58.1m	Yes

Landscaped open space	30% of the site area	77.6% (16,446m ²)	Yes

Clause 20 - Can development be approved if it does not comply with a development standard?

Clause 20 states:

Notwithstanding clause 12 (2) (b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State environmental planning policy.

In determining whether the proposal qualifies for a variation under Clause 20(1) of WLEP 2000, consideration must be given to the following:

General Principles of Development Control

The proposal is generally consistent with the General Principles of Development Control and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “General Principles of Development Control” in this report for a detailed assessment of consistency).

Desired Future Character of the Locality

The proposal is consistent with the Locality’s Desired Future Character Statement and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “Desired Future Character” in this report for a detailed assessment of consistency).

Relevant State Environmental Planning Policies

The proposal has been considered consistent with all applicable State Environmental Planning Policies. (Refer to earlier discussion under ‘State Environmental Planning Policies’). Accordingly, the proposal qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1).

Notwithstanding, in order to fully consider the application, the following provides an assessment of the non-compliance to the building height and front building setback built form controls.

In assessing these elements of the proposal, it is necessary to consider the merit considerations of the controls as detailed below:

Building height

Required: 8.5m

Proposed: Maximum of 9.38m

Response:

In assessing this non-compliant element of the proposal, it is necessary to consider the merit considerations of the building height built form control. Accordingly, consistency with the merit considerations are addressed below:

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

Comment: The image below shows the elements of the development that exceed the height limit.

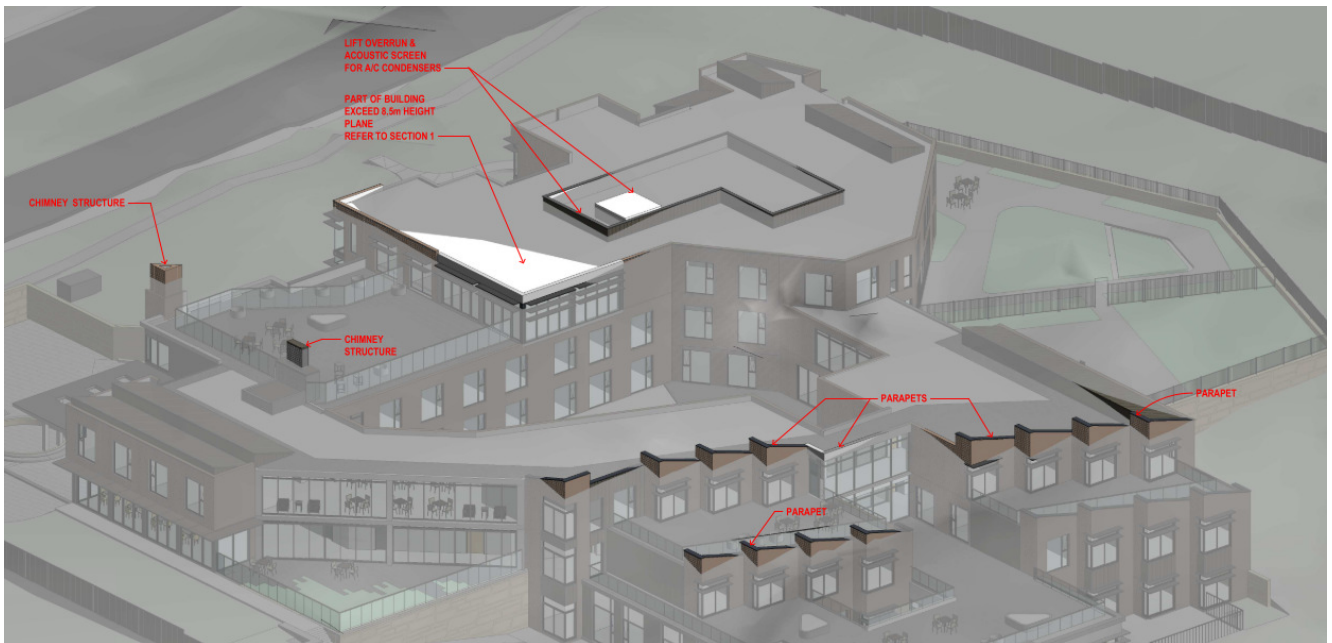


Figure 2 – Extent of the height breach

The elements of the building that breach the height limit are minor and are mainly located centrally on the development. The breaches are mostly a result of the sloping topography of the site.

These breaches will not result in the development becoming visually dominant.

- *Preserve the amenity of the surrounding land*

Comment: The elements of the proposal breach of the height limit will not result in any overshadowing, privacy or other amenity impacts to the surrounding land. In particular, the southern elevation of the proposal is more than fully compliant with the height, thereby minimising any impact to the only directly adjoining residential property.

- *Ensure that development responds to site topography and minimises excavation of the natural landform.*

Comment: The site has a sloping and undulating topography. The proposal has responded well to this topography with multiple steps down the slope and breaks in the building mass.

There would be excavation required, however, it is not considered excessive.

- *Provide separation between buildings*

Comment: Directly adjoining the site to the south is a residential dwelling. As above, the southern elevation of the proposal is fully compliant with the height limit. In addition, the majority of the development is set back much farther than the 10m minimum. Overall, these design elements will allow adequate separation between buildings.

- *Provide sufficient area for roof pitch and variation in roof design rather than a flat roof.*

Comment: The development mainly consists of a flat roof. This is considered suitable for this type of development and will help to minimise the bulk.

As detailed above the proposed development is considered to satisfy the requirements to qualify for consideration under Clause 20(1), in addition the proposal is considered to be consistent with the underlying objectives of the building height built form control. It is for these reasons that the variation to the building height built form control, pursuant to Clause 20(1), is supported.

Front building setback

Required: 20m

Proposed: The proposed open-air parking spaces are setback 3.7m from the front boundary.

Response:

In assessing this non-compliant element of the proposal, it is necessary to consider the merit considerations of the front building setback built form control. Accordingly, consistency with the merit considerations are addressed below:

- *Create a sense of openness*

Comment: The parking spaces are uncovered and will not detract from the sense of openness at the front of the site. They would be partially screened by landscaping, further minimising any impacts.

- *Provide opportunities for landscaping.*

Comment: The front setback of the site as it exists comprises significant landscaping along Forest Way. Most existing trees would be retained and additional landscaping would be provided between the parking spaces and the front boundary. Extensive opportunities for landscaping are retained across the site to ensure the character and appearance of the area is maintained.

- *Minimise the impact of development on the streetscape.*

Comment: The uncovered parking spaces will not be readily visible from the street. While the proposal as a whole will change the look of this section of Forest Way, many existing trees will remain and, with the additional landscaping provided, the proposal will minimise the impact of the permissible development on the streetscape.

- *Maintain the visual continuity and pattern of buildings, front gardens and landscape elements.*

Comment: The proposal will maintain a mostly vegetated front setback to the street for most of the width of the site. The non-compliant elements of the proposal are minor, not readily visible from the street, and would not upset the continuity of landscape elements within the streetscape. The development would be suitable for the site and compatible with other residential care facilities in the vicinity.

As detailed above the proposed development is considered to satisfy the requirements to qualify for consideration under Clause 20(1), in addition the proposal is considered to be consistent with the underlying objectives of the Front Building Setback Built Form Control. It is for these reasons that the variation to the Front Building Setback Built Form Control, pursuant to Clause 20(1), is supported.

Clause 29 - On what grounds can applications for housing for older people or people with a disability not be refused?

Clause 29 provides controls to establish on what grounds an application for housing for older people or people with disabilities cannot be refused.

The following table details whether the development meets the requirements and whether it can be refused:

Development Standard	Required	Proposed	Complies
Building Height (to ceiling)	8.0m	8.0m	Yes
Density and Scale	0.75:1 or less (site area – 21,186m ²)	0.31:1 (6,477.4m ²)	Yes
Landscaped Area	A minimum of 35m ² of landscaped area per dwelling and 25m ² of landscaped area per hostel or residential care facility bed is provided. 100 beds = 2,500m ²	16,446m ²	Yes

Parking	1 parking space for each 10 beds in the hostel or residential care facility, and 1 parking space for each two persons to be employed in connection with the development and on duty at any one time, and 1 parking space suitable for an ambulance. 10 spaces for 100 beds	45 spaces 1 ambulance space	Yes
Deep Soil Area	(a) Site width (W) = 110m (average) (b) Site length (L) = 192m (average) (c) W x 15% of L Total required = 3,168m ²	16,446m ²	Yes

General Principles of Development Control

Clause 12(1)(a) of WLEP 2000 states that prior to granting consent, Council must be satisfied that the proposal is consistent with the relevant general principles of development control contained in Part 4 of WLEP 2000.

The following General Principles of Development Control as contained in Part 4 of WLEP 2000 are applicable to the proposed development:

General Principle	Comments	Complies
Clause 38 Glare and reflection	The colours and materials chosen are unlikely to result in unreasonable glare and reflection.	Yes

Clause 40 - Housing for Older People or People with Disabilities

The following table details compliance of the development against the access provisions of Clause 40 under the WLEP 2000.

Control	Required	Proposed	Compliance
Support Services	The site is within 400m of a shopping centre or bus stop; or The development is serviced by a transport service that is located not more than 400m from the site and is available both to and from the development during daylight hours at least once per day from Monday to Friday (inclusive).	The site is located less than 100m from a bus stop serviced by regular buses.	Yes
	Reasonable access to home delivered meals, personal care and home nursing and assistance with housework.	The development is a residential care facility where all meals, personal care and assistance would be provided on site.	Yes
Wheelchair access	(a) site gradient (i) if the whole of the site has a gradient of less than 1:10, 100% of the hostel or residential care facility beds and 100% of the dwellings must have wheelchair access by a continuous path of travel (within the meaning of AS 1428) to an adjoining public road or an internal road or a driveway that is accessible to all residents, or (ii) if the whole of the site does not have a gradient of less than 1:10, a percentage (which is not less than the proportion of the site that has a gradient of less than 1:10, or	The development provides wheelchair access to all parts of the building that the residents can access.	Yes

	50%, whichever is the greater, and which in this subparagraph is called <i>the specified minimum percentage</i>) of any hostel or residential care facility beds and the specified minimum percentage of any dwellings must have wheelchair access by a continuous path of travel (within the meaning of AS 1428) to an adjoining public road or an internal road or a driveway that is accessible to all residents, and		
	(b) road access at least 10% of any hostel or residential care facility beds and at least 10% of any dwellings which meet the requirements of paragraph (a) must have wheelchair access by a continuous path of travel (within the meaning of AS 1428) to an adjoining public road, and	All residential care facility beds have wheelchair access as access to each level is provided by lifts.	Yes
	(c) common areas access must be provided so that a person using a wheelchair can use common areas and common facilities associated with the development, and	The common areas are all wheelchair accessible.	Yes
	(d) adaptability 10% of any hostel or residential care facility beds and 10% of any dwellings which meet the requirements of paragraph (a) must also have, or be capable of being modified so that they have, wheelchair access by a continuous path of travel (within the meaning of AS 1428) to all essential areas and facilities inside the hostel, residential care facility or dwellings, including a toilet, bathroom, bedroom and a living area.	The proposed development has lift access to each level and wheelchair access is able to be provided to each room. In excess of 10% of bedrooms are accessible.	Yes

General Principle	Comments	Complies
Clause 42 Construction Sites	<p>The future demolition, excavation and construction will impact on the surrounding properties (as every construction project does) in terms of traffic, noise and dust.</p> <p>Conditions could be included in any consent, if this application was to be approved, for a detailed Construction Management Plan to be Submitted and approved by Council.</p> <p>Subject to these conditions, the application is considered capable of satisfying this General Principle.</p>	Yes
Clause 43 Noise	<p>The nature of a residential care facility is unlikely to generate significant noise emissions.</p> <p>Concerns have been raised in the submissions regarding the café.</p> <p>The proposed café has 24 seats. 16 of them are shown on the plans as being inside. Eight seats are outside and these are located a minimum of 11.7m from the side boundary with No. 179 Forest Way. The nearest structure on No. 179 Forest Way is approximately 7.0m from the boundary (despite the control requiring a setback of 10m).</p> <p>Eight seats for a café that will cater for elderly residents, their</p>	Yes

	visiting families and the staff, located more than 11m from the boundary and nearly 20m from the nearest neighbouring building, and with operating hours from 8am to 5pm (via a condition, that could be included in any consent, if this application was to be approved), will not result in unreasonable noise impacts.	
Clause 44 Pollutants	The use will not generate any pollutants.	Yes
Clause 48 Potentially Contaminated Land	<p>Council records indicate that the subject site has been used for residential purposes for a significant period, with no prior conflicting land uses.</p> <p>In this regard, it is considered that the site poses no risk of contamination, the land is considered suitable for continued residential land use and therefore, no further consideration is required in this regard.</p>	Yes
Clause 50 Safety & Security	The nature of the proposed use and the design of the proposed development will provide a suitable level of passive surveillance to Forest Way.	Yes
Clause 51 Front Fences and Walls	The proposed fencing is minimal and suitable for the use and the site and will not detract from the bushland setting, particularly along Forest Way	Yes
Clause 52 Development Near Parks, Bushland Reserves & other public Open Spaces	<p>The site is adjoined by road reserves to the north, east and west, and a private property to the south.</p> <p>There is extensive bushland in the area and the proposal will not unreasonably detract from this.</p>	Yes
Clause 54 Provision and Location of Utility Services	The development would be connected to the required utility services.	Yes
Clause 56 Retaining Unique Environmental Features on Site	The development will take place on the western half of the site, which mostly contains the existing buildings and cleared lawn areas. The vegetated and sloping eastern half of the site will remain.	Yes
Clause 57 Development on sloping land	<p>A geotechnical report was submitted with the original application. A letter from the Geotech engineer was submitted with the amended plans confirming that:</p> <p><i>"From a geotechnical perspective, the amendments include a reduced building footprint, and in some areas, fewer levels in the stepped building profile. The changes do not affect the intent of our geotechnical comments or recommendations. We do not consider revision to our report is warranted."</i></p>	Yes
Clause 58 Protection of existing flora	The development will take place on the western half of the site, which mostly contains the existing buildings and cleared lawn areas. The vegetated and sloping eastern half of the site will remain to ensure the protection of most of the existing flora.	Yes
Clause 59 Koala habitat protection	<p>Clause 59 defines potential Koala habitat as consisting of areas of native vegetation where the trees of the types listed in Schedule 11 constitute at least 15% of the total number of Trees in the upper or lower strata of the tree component.</p> <p>The assessment by Council's Natural Environment Department has raised no objection in relation Koalas on site.</p>	Yes
Clause 61 Views	Due to the topography and location of the site, it is unlikely that the proposed development will affect any significant views, which will warrant the refusal of the application. No submissions included view loss among the concerns.	Yes
Clause 62 Access	The shadow diagrams submitted with the application indicates that	Yes

to sunlight	the proposed development will achieve compliance with the requirement of this Clause	
Clause 63 Landscaped open space	The proposal provides more than the minimum amount of landscaped open space. In addition, Council's Landscape Officer and Natural Environment Team have not raised any objections.	Yes
Clause 63A Rear building setback	The proposal provides a significant rear setback and meets the requirements of this principle.	Yes
Clause 65 Privacy	The development, in particular the outdoor sitting areas, are located a sufficient distance from the only neighbouring residential property to the south, such that it will not result in any unreasonable direct overlooking into habitable rooms and principal private open spaces. No additional architectural privacy treatments are required.	Yes
Clause 66 Building bulk	<p>Clause 66 requires buildings to have a visual bulk and an architectural scale consistent with structures on adjoining or nearby land.</p> <p>The proposed development reasonably complies with the built form controls (the non-compliance with the building height and front setback are the exceptions).</p> <p>The development complies with the building height and density controls, under Clause 29, which apply to development for seniors or people with a disability.</p> <p>Council's Urban Designer has reviewed the proposed development and has raised no objection to the design of the development in relation to building bulk.</p>	Yes
Clause 67 Roofs	The proposed roof form is considered satisfactory and is part of the style of the development.	Yes
Clause 68 Conservation of Energy and Water	The proposal is not BASIX affected development, but will suitably conserve energy and water. Space for solar panels has been provided on the roof.	Yes
Clause 69 Accessibility – Public and Semi-Public Buildings	The proposed development is required to comply with all the relevant accessibility provisions of Clause 40.	Yes
Clause 70 Site Facilities	The development provides for all required site facilities, which would be convenient to the needs of the residents and have minimal impact on surrounding properties and public places.	Yes
Clause 71 Parking Facilities (visual impact)	The proposed open and basement car parking area does not dominate or detract from the streetscape given its relative concealment by the proposed landscaped works along the front boundary.	Yes
Clause 72 Traffic Access & Safety	The site was referred to both the NSW RMS and Council's Traffic Engineers. Each raised no objections, subject to conditions.	Yes
Clause 73 On-site Loading and Unloading	All loading and unloading will occur within the boundaries of the subject site.	Yes
Clause 74 Provision of Car Parking	The development includes sufficient on-site parking to exceed the requirements of Clause 29.	Yes
Clause 75 Design of Car Parking Areas	The car parking layout and internal access arrangements can comply with the relevant Australian Standards.	Yes
Clause 76 Management of Stormwater	Council's Development Engineer has reviewed the proposal and raised no objection to the proposed development subject to conditions of consent.	Yes

Clause 78 Erosion & Sedimentation	Appropriate conditions associated with management of erosion and sedimentation could be included in any consent, if this application was to be approved.	Yes
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Other relevant WLEP 2000 Clauses

Clause 13 - 'To what extent should neighbouring Locality Statements be considered?'

Clause 13 requires that, before granting consent for development within a locality, the consent authority must consider the provisions of a Locality Statement applying to a neighbouring locality, if the extent to which they should be considered is specifically described in the Locality Statement for the locality in which the development is proposed.

The DFC statement of the B2 Oxford Falls Valley locality does not specifically describe the extent to which a neighbouring Locality Statement should be considered. Therefore, no further assessment against the provisions of Clause 13 is required.

SCHEDULES

Schedule 5 - State Policies

In accordance with Clause 12(1) (b) of *WLEP 2000*, before granting consent for development, the consent authority must be satisfied that the development is consistent with any relevant SEPP described in Schedule 5. Schedule 5 outlines the *SEPP (HSPD) 2004*. The proposal has been assessed in detail against the provisions of *SEPP (HSPD) 2004* elsewhere in this report. The proposal has been found to be consistent with the Aims of *SEPP (HSPD) 2004*, however, due to the bushfire issues, the application has been recommended for refusal.

Schedule 8 - Site analysis

Clause 22(2) (a) of *WLEP 2000* requires that the consent authority must consider a Site Analysis prepared in accordance with the criteria listed in Schedule 8. It is considered that the submitted Site Analysis, in conjunction with the Statement of Environmental Effects adequately addresses how the development responds to its surrounds and the locality.

Schedule 16 - Principles and Standards for Housing for Older People or People with Disabilities

Schedule 16 prescribes various standards concerning accessibility and useability having regard to relevant Australian Standards specifically designed for housing for seniors and people with disability. The applicant has submitted a report prepared by an accredited access consultant verifying that the proposal will comply with the relevant standards. These standards could be reinforced via suitable conditions of consent, if the application was to be approved.

Schedule 17 – Car parking Provision

The provision of car parking is addressed under Clause 29 of the *WLEP 2000*. The development, as proposed, complies with the car parking requirement under Clause 29 and Schedule 17 of the *WLEP 2000*.

POLICY CONTROLS

Northern Beaches Council Contributions Plan 2018

The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.

A monetary contribution of \$27,724.81 is required for the provision of new and augmented public infrastructure.

The contribution is calculated as 1% of the total development cost of \$27,724,810.

CONCLUSION

The application has been assessed in accordance with the provisions of Section 4.15 of the EP&A Act, 1979, the provisions of relevant EPIs, including SEPP 55, SEPP (HSPD) 2004, SEPP Infrastructure, WLEP 2000 and the relevant codes and policies of Council.

This assessment has found that the proposed development is a high quality architectural response to the context of the site. However, the application is recommended for refusal as a result of the NSW RFS not being satisfied with the bushfire solution.

The development, despite the non-compliances with the building height and front setback built form controls, would be compatible with the locality and similar to other residential care facilities in the area.

The resultant building would provide a high level of amenity for future residents, and would not result in any unreasonable impacts upon the adjoining and nearby properties, subject to conditions that could be imposed if this application was to be approved.

The assessment of the non-compliances against Clause 20 of the WLEP 2000 has found that the development would meet the objectives of the controls.

The two rounds of public exhibition generated six submissions raising concerns regarding bushfire, café and noise, privacy, building height and setbacks, building bulk, desired future character (DFC), lighting, tree and vegetation loss, fencing, pollution, construction storage, traffic and sustainability. These concerns have been addressed within the report. The bushfire concerns have been included as a reason for refusal.

As a direct result of the consideration of the matters detailed within this report, it is recommended that the Sydney North Planning Panel, as the consent authority, refuse the application subject to the reasons detailed below.

RECOMMENDATION (REFUSAL)

That the Sydney North Planning Panel, as the consent authority, REFUSE Development Application No DA2018/1654 for demolition works and construction of a new aged care facility including underground parking at Lot 3 DP 805710 No. 181 Forest Way, Belrose, for the following reasons.

1. The current design and supporting bushfire documentation, have not satisfied the New South Wales Rural Fire Service.
2. The proposal is an overdevelopment of the site, in that the design requires part of the neighbouring property to be managed for bushfire protection purposes.

Should the Sydney North Planning Panel be of a mind to approve the application, the following conditions could be imposed.

DEFERRED COMMENCEMENT CONDITIONS

1. Sewer Access

Approval shall be obtained from Sydney Water to permit connection of the premises to the Sewer, as the site is currently listed as unsewered and approval of on-site disposal of Waste Water on site is considered unlikely.

Reason: To ensure that all waste water can be disposed of to Sydney Water's Sewage System.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

2. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA050 Revision I	18 November 2019	Morrison Design Partnership Pty Ltd
DA101 Revision K	18 November 2019	Morrison Design Partnership Pty Ltd
DA102 Revision J	18 November 2019	Morrison Design Partnership Pty Ltd
DA103 Revision J	18 November 2019	Morrison Design Partnership Pty Ltd
DA104 Revision J	18 November 2019	Morrison Design Partnership Pty Ltd
DA105 Revision D	18 November 2019	Morrison Design Partnership Pty Ltd
DA200 Revision E	18 November 2019	Morrison Design Partnership Pty Ltd
DA201 Revision E	18 November 2019	Morrison Design Partnership Pty Ltd
DA300 Revision D	18 November 2019	Morrison Design Partnership Pty Ltd
DA-1630-02 Issue F	15 November 2019	Stuart Noble Associates
DA-1630-03 Issue F	15 November 2019	Stuart Noble Associates
DA-1630-04 Issue F	15 November 2019	Stuart Noble Associates
DA-1630-05 Issue F	15 November 2019	Stuart Noble Associates
DA-1630-06 Issue C	3 September 2018	Stuart Noble Associates
DA-1630-06 Materiality Issue A	9 June 2017	Stuart Noble Associates

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Biodiversity Development Assessment Report	November 2019	Cumberland Ecology
Geotechnical Investigation	3 September 2018	JK Geotechnics

Statement of Compliance Access for People with a Disability	29 August 2018	Accessible Building Solutions
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b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	25 September 2018	Vee Chin

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

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

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:

- A. the name and licence number of the principal contractor, and
- B. the name of the insurer by which the work is insured under Part 6 of that Act,

- (ii) in the case of work to be done by an owner-builder:

- A. the name of the owner-builder, and
- B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

4. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

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

5. RMS Conditions

All conditions stipulated in the RMS correspondence (reference: SYD17/01004/09 (A22630902) dated 6 June 2018 shall be complied with and the necessary conditions addressed prior to the relevant stages of the works. Applicable certificates shall not be released until such time as the RMS conditions have been satisfied.

The conditions are as follows:

1. Roads and Maritime has previously resumed and dedicated a strip of land as road along the Forest Way frontage of the subject property, as shown by grey colour on the attached Aerial – "X"

Therefore all buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Forest Way boundary.

However, the proponent should be advised that the Deceleration Lane and any associated works should be dedicated as public road. The property boundary should be suitably adjusted.

2. Any redundant driveway(s) on the Forest Way boundary shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Forest Way shall be in accordance with roads and maritime requirements. Details of these requirements should be obtained from roads and maritime services, manager developer works, State Wide Delivery, Parramatta (telephone 9598 7798).

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

3. All vehicles are to enter and exit the site in a forward direction.
4. All vehicles are to be wholly contained on site before being required to stop.
5. Sight distances from the proposed vehicular crossing to vehicles on Warringah Road are to be in accordance with the Austroads 'Guide to Traffic Engineering Practice, Part 5: Intersections at Grade, Section 6.2 – Sight Distance' and AS 2890. Vegetation and landscaping / fencing must not hinder sight lines to and from the vehicular crossings to motorists, pedestrians and cyclists.
6. The proposed deceleration lane and access into the site shall be designed to meet Roads and Maritime requirements, and endorsed by a suitably qualified practitioner. The design requirements shall be in accordance with AUSTROADS and other Australian Codes of Practice. The certified copies of the civil design plans shall be submitted to Roads and Maritime for consideration and approval prior to the release of the Construction Certificate by the Principal Certifying Authority and commencement of road works.

The developer may be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. Please note that the WAD will need to be executed prior to Roads and Maritime assessment of the detailed civil design plans.

Roads and Maritime fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

7. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

Details and any enquiries should be forwarded to Mr Suppiah Thillai at Suppiah.Thillai@rms.nsw.gov.au or Phone at 8849 2114

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

8. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system in Forest Way are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details and any enquiries should be forwarded to Mr Suppiah Thillai at Suppiah.Thillai@rms.nsw.gov.au or Phone at 8849 2114.

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114.

9. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Forest Way.
10. A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Forest Way during construction activities.

Reason: To ensure RMS conditions are satisfied prior to the relevant certificates being released.

6. Approved Land Use

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a **residential care facility** with an ancillary cafe.

***residential care facility** means accommodation for older people that includes—*

- (a) meals and cleaning services, and*
 - (b) personal care or nursing care, or both, and*
 - (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,*
- but does not include a dwelling, hospital or psychiatric facility.*

(development is defined by the Warringah Local Environment Plan 2000 Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

FEES / CHARGES / CONTRIBUTIONS

7. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$277,248.10 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$27,724,810.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

8. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

9. Construction, Excavation and Associated Works Bond (Crossing / Kerb)

The applicant is to lodge a Bond of \$30,000 as security against any damage or failure to complete the construction of any vehicular crossings, any footpath works and removal of any redundant driveways required as part of this consent. Details demonstrating payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

9. On slab landscape planting and associated works

- a) Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing to all internal walls and slab, and drainage of the concrete slab over which soil and planting is being provided.
- b) Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil volume, soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.
- c) The following soil depths are required in order to be counted as landscaping:
 - 300mm for lawn
 - 600mm for shrubs
 - 1metre for trees

Reason: To ensure appropriate and secure waterproofing and drainage is installed to direct water flow into the drainage system, and away from habitable areas.

10. Detailed Design of Stormwater Quality System

A certificate from a Civil Engineer, stating that the stormwater quality management system has been designed in accordance with the Stormwater Management Report and Plan prepared by Acor Consultants dated September 2018 & Council's Water Management Policy.

The certificate shall be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment

11. Soil and Water Management Plan

A Soil and Water Management Plan (SWMP) shall be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER-3) and implemented onsite prior to commencement. The SWMP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004) and Council's Water Management Policy. The SWMP must include the following as a minimum:

- Site boundaries and contours;
- Vehicle access points, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Location of all drains, pits, downpipes and waterways on and nearby the site;
- Planned stages of excavation, site disturbance and building;
- Stormwater management and discharge points;
- Integration with onsite detention/infiltration;
- Sediment control basin locations and volume (if proposed);
- Proposed erosion and sediment controls and their locations;
- Location of washdown and stockpile areas including covering materials and methods;
- Vegetation management including removal and revegetation;
- A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.
- Inspection and maintenance program;
- North point and scale.

All Site drainage and sediment and erosion control works and measures as described in the SWMP, and any other pollution controls, as required by these conditions, shall be implemented prior to commencement of any other works at the Site.

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

Reason: To promote the long-term sustainability of ecosystem functions.

12. Boundary Identification Survey

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

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

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

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

13. Submission Roads Act Application for Civil Works in the Public Road

The Applicant is to submit an application for approval for Infrastructure works on Councils roadway. Engineering plans for the new development works within the road reserve within this development consent are to be submitted to Council for approval under the provisions of

Sections 138 and 139 of the Roads Act 1993. The application is to include four (4) copies of Civil Engineering plans for civil works which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1.

The civil works shall include, but not be limited to, the following:

- Provision of a 4 metre wide verge from the back of kerb to property boundary,
- Provision of footpath 1.5m wide for the entire frontage of the site to the bus stop located to the south,
- Provision of layback and vehicular crossing 6m wide,
- Removal of any retaining walls

The Applicant shall ensure that a verge of 4 metres wide from the back of kerb to property boundary is detailed on the construction plans. All structures, including retaining walls, stairs etc., shall be located wholly within the development site, and any internal works adjusted to facilitate the dedication.

Written approval for any construction works obtained from the RMS shall be submitted with the Roads Act Application.

The plans shall be prepared by a qualified civil engineer. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges. An approval from Council is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

14. On-site Stormwater Detention

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Warringah Water Management Policy PL850, and generally in accordance with the concept drainage plans prepared by Acor Consultants, project number SY160709, drawing number C1.01, C1.05, C1.06, C1.07, C3.01, C4.01, dated 10/09/18 with the design modifications as detailed in the Letter of Intent prepared by Acor Consultants, reference number SY160709, dated 31/10/19. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering.

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

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

15. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

16. Registered Water Bore

Councils records indicate a registered water bore on the site (western side).
Prior to commencement the principle certifier is to record evidence of compliance with any requirements of the NSW Department of Industry(Water) in regard to the registered water bore.

Reason: To comply with legislation and ensure (bore) water contamination does not occur.

17. Asbestos

- Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Work Cover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Work Cover NSW. A permit will not be granted without a current Work Cover licence.
- All removal, repair or disturbance of or to asbestos material must comply with the following:
 - The Work Health and Safety Act 2011
 - The Work Health and Safety Regulation 2011, and.
 - How to Safely Remove Asbestos Code of Practice –published by WorkCover NSW.

The owner or occupier of the premises must consult an appropriately qualified professional registered with the Australian Institute of Occupational Hygienists to undertake an assessment of the site to determine the potential for contamination. The owner or occupier must develop a management plan and be issued with a Clearance Certificate before the commencement of any work.

Reason: To ensure the health of site workers and the public.

18. Tree Protection Plan

In order to protect and enhance onsite vegetation and trees the following applies to the development site:

(a) A Tree Protection Plan prepared by a AQF Level 5 Arborist (or equivalent) showing the following:

- Layout of the approved development
- Location of trees identified for retention
- Extent of canopy spread
- Location of tree protection fencing / barriers (fencing in accordance with AS2470 – 2009)
- General tree protection measures and Project Arborist inspection hold points

(b) The Tree Protection Plan is to be submitted to the Principal Certifying Authority for approval prior to issue of a Construction Certificate.

(c) Tree protection measures identified on the plan are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

19. Amendment of Landscape Plans

The submitted Landscape Plan is to be amended in accordance with the following:

- Deletion of any Priority or environmental weeds identified in the Northern Beaches Council Local Priority Weed Management Plan and any Grevillea species
- Replacement with locally native species from Table B.1 Species planting list within the Biodiversity Management Plan (Cumberland Ecology 26 November 2019)

The amended Landscape Plan is to be certified by a qualified landscape architect prior to issue of the Construction Certificate.

Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls.

20. Engage a Project Ecologist

A Project Ecologist is to be employed for the duration of the approved works, and for a 5-year period post construction, to ensure all bushland biodiversity protection measures are carried out according to the conditions of consent and the following approved reports and plans:

- Biodiversity Development Assessment Report (Cumberland Ecology 19 November 2019)
- Biodiversity Management Plan (Cumberland Ecology 26 November 2019)

The Project Ecologist must be an accredited assessor under the NSW Biodiversity Conservation Act 2016.

The project ecologist is to provide an engagement letter, which is to be submitted to and certified by the Principal Certifying Authority Prior to issue of Construction Certificate. The Project Ecologist must also provide details and certify engagement of a bush regeneration company to complete on-ground works.

Reason: To protect native vegetation and wildlife in accordance with relevant Natural Environment LEP/DCP controls.

21. Notification of determination to which the Biodiversity Offset Scheme applies

The applicant or Project Ecologist, on behalf of the applicant, is to provide the Department of Planning, Infrastructure and Environment (DPIE) with a notification of determination within 40 days from the date of consent. The notification of determination is to be made by completing the Notification of Determination form found at (refer to attachment at appendix of consent or to Web link www.environment.nsw.gov.au/resources/biodiversity/biodiversity-offsets-scheme-notification-of-determination-190522.docx) and submission via email to bam.support@environment.nsw.gov.au.

Council and the Principal Certifying Authority must be copied into the notification email to confirm compliance. The reference number must also be submitted to Council.

Reason: to ensure the NSW Department of Planning, Industry and Environment are notified of determinations where the Biodiversity Offsets Scheme is entered into and Council are notified for compliance.

22. Like for like credit retirement conditions - Ecosystem credit retirement conditions

Prior to issue of the relevant construction certificate the class and number of ecosystem credits in Table 1 must be retired to offset the impacts of the development as identified in the submitted Biodiversity Development Assessment Report (Cumberland Ecology 19 November 2019).

The requirement to retire credits outlined in Table 1 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 1 requirements must be provided to the Manager Bushland and Biodiversity of Northern Beaches Council prior to release of construction certification.

Table 1 Ecosystem credits required to be retired – like for like

Impacted Plant Community Type	TEC	Number of ecosystem credits	Containing HBT	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
882-Hairpin Banksia - Slender Tea-	Not a TEC	11	Yes	Pittwater, Cumberland, Sydney	Sydney Coastal Heaths This includes PCT's: 772, 881, 882, 1134, 1143,

tree heath on coastal sandstone plateaux, Sydney Basin Bioregion				Cataract, Wyong and Yengo. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	1641, 1822, 1823, 1824, 1826 And in any of below trading groups: Sydney Coastal Heaths - < 50% cleared group (including Tier 7 or higher).
1250-Sydney Peppermint - Smooth-barked Apple - Red Bloodwood shrubby open forest on slopes of moist sandstone gullies, eastern Sydney Basin Bioregion	Not a TEC	2	Yes	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Sydney Coastal Dry Sclerophyll Forests This includes PCT's: 1083, 1138, 1156, 1181, 1183, 1250, 1253, 1619, 1620, 1621, 1623, 1624, 1625, 1627, 1632, 1636, 1638, 1642, 1643, 1681, 1776, 1777, 1778, 1780, 1782, 1783, 1785, 1786, 1787 And in any of below trading groups: Sydney Coastal Dry Sclerophyll Forests - < 50% cleared group (including Tier 7 or higher).
1783-Red Bloodwood - Scribbly Gum / Old-man Banksia open forest on sandstone ridges of northern Sydney and the Central Coast	Not a TEC	2	Yes	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Sydney Coastal Dry Sclerophyll Forests This includes PCT's: 1083, 1138, 1156, 1181, 1183, 1250, 1253, 1619, 1620, 1621, 1623, 1624, 1625, 1627, 1632, 1636, 1638, 1642, 1643, 1681, 1776, 1777, 1778, 1780, 1782, 1783, 1785, 1786, 1787 And in any of below trading groups: Sydney Coastal Dry Sclerophyll Forests - < 50% cleared group (including Tier 7 or higher).

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

23. Variation rule credit retirement conditions - Ecosystem credit retirement conditions

Prior to issue of the relevant construction certificate the class and number of species credits in Table 2 must be retired to offset the impacts of development as identified in the submitted Biodiversity Development Assessment Report (Cumberland Ecology 19 November 2019).

Evidence of the retirement of credits in satisfaction of Table 2 requirements is to be provided to the Manager Bushland and Biodiversity of Northern Beaches Council prior to release of construction certification.

Table 2 Ecosystem credits required to be retired – variation rules

Impacted Plant Community Type	Number of ecosystem credits	Containing HBT	IBRA sub-region and / or region	Plant community type(s) that can be used to offset the impacts from development - variation
882-Hairpin Banksia - Slender Tea-tree heath on coastal sandstone plateaux, Sydney Basin Bioregion	11	Yes (including artificial)	IBRA Region: Sydney Basin, or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Heathlands Tier 7 or higher
1250-Sydney Peppermint - Smooth-barked Apple - Red Bloodwood shrubby open forest on slopes of moist sandstone gullies, eastern Sydney Basin Bioregion	2	Yes (including artificial)	IBRA Region: Sydney Basin, or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Dry Sclerophyll Forests (Shrubby subformation) Tier 7 or higher
1783-Red Bloodwood - Scribbly Gum / Old-man Banksia open forest on sandstone ridges of northern Sydney and the Central Coast	2	Yes (including artificial)	IBRA Region: Sydney Basin, or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Dry Sclerophyll Forests (Shrubby subformation) Tier 7 or higher

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

24. Like for like credit retirement conditions - Species credit retirement conditions

Prior to issue of the relevant construction certificate the class and number of species credits in Table 3 must be retired to offset the impacts of development as identified in the submitted Biodiversity Development Assessment Report (Cumberland Ecology 19 November 2019).

The requirement to retire credits outlined in Table 3 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 3 requirements must be provided to the Manager Bushland and Biodiversity of Northern Beaches Council prior to release of construction certification.

Table 3 Species credits required to be retired – like for like

Impacted species credit species	Number of species credits	IBRA region
<i>Cercartetus nanus</i> / Eastern Pygmy-possum	18	Sydney Basin
<i>Pseudophryne australis</i> / Red-crowned Toadlet	13	Sydney Basin

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

25. Variation rule credit retirement conditions - Species credit retirement conditions

Prior to issue of the relevant construction certificate the class and number of species credits in Table 4 must be retired to offset the impacts of development as identified in the submitted Biodiversity Development Assessment Report (Cumberland Ecology 19 November 2019).

Evidence of the retirement of credits in satisfaction of Table 4 requirements is to be provided to the Manager Bushland and Biodiversity of Northern Beaches Council prior to release of construction certification.

Table 4 Species credits required to be retired – variation rules

Impacted species credit species	Number of species credits	IBRA sub-region	Approved variation species credit species that can be used to offset the impacts from development
<i>Cercartetus nanus</i> / Eastern Pygmy-possum	18	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo.	Vulnerable arboreal marsupial species
<i>Pseudophryne australis</i> / Red-crowned Toadlet	13	or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Vulnerable amphibian species

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

26. Compliance with Standards

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

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

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

27. Sydney Water "Tap In"

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

Please refer to the website www.sydneywater.com.au for:

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

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

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

28. Submission of Engineering Plans (standard from development engineers).

Engineering plans are to be submitted to the Certifying Authority for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of:

- The deceleration lane in accordance with RMS requirements.

- The upgrade of the footpath for the entire frontage of the site and further south the bus stop just south of the site.

These are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works and or Council's Minor Works Policy. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Section 138 and/or 139 applications are to be submitted to Council for Local Traffic Committee approval.

Reason: To ensure compliance with Council's specification for engineering works.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

29. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

30. Removal of AWTs

The existing AWTs (All waste treatment system) is to be pumped out (by an authorised contractor) before demolition/removal .

Reason: To protect the environment and health.

31. Tree trunk, root and branch protection

(a) Existing trees which must be retained:

- i) All trees not indicated for removal on the Site & Bushfire Management Plan, Dwg No. DA052 Revision H dated 2019.11.18 prepared by Morrison Design Partnership, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by the Project Arborist on site.
- ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by the Project Arborist on site.
- iii) All tree protection to be in accordance with the approved Tree Protection Plan and AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with relevant planning instruments and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

32. Project Arborist

A Project Arborist with minimum qualification AQF Level 5 is to be appointed prior to commencement of works.

The Project Arborist is to oversee all tree protection measures, inspection hold points, removals and works adjacent to protected trees as outlined in the approved Tree Protection Plan and AS4970-2009 Protection of trees on development sites.

The Project Arborist is to ensure compliance as relevant with any other environmental requirements conditioned under this consent.

Reason: to ensure protection of vegetation proposed for retention on the site.

33. Compliance with Ecologist's Recommendations – Pre-construction

All pre-construction biodiversity-related measures specified in the approved Biodiversity Development Assessment Report (Cumberland Ecology 19 November 2019), Biodiversity Management Plan (Cumberland Ecology 26 November 2019) and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures are to be certified by the Project Ecologist prior to issue of the Construction Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

34. Road Reserve

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

Reason: Public Safety.

35. Survey Certificate

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

36. Civil Works Supervision

The Applicant shall ensure all civil works approved in the Section 138 approval are supervised by an appropriately qualified and practising Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Roads Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works.

37. Imported Fill

Prior to the importation of any landfill material onto the site, a validation report prepared in accordance with the Department of Environment & Climate Change's guidelines the validation report shall state in an end statement that the fill material is suitable for the proposed use on the land.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the fill being imported to the site.

Reason: To ensure that imported fill is of an acceptable standard.

38. Protection of rock and sites of significance

a) All rock outcrops outside of and below the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

b) Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

39. Compliance with Ecologist's Recommendations – During Construction

All biodiversity-related measures are to be implemented during construction in accordance with the approved Biodiversity Development Assessment Report (Cumberland Ecology 19 November 2019), Biodiversity Management Plan (Cumberland Ecology 26 November 2019) and these conditions of consent.

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

40. Dead or Injured Wildlife

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife in accordance with Section 2.1 of the NSW Biodiversity Conservation Act 2016.

41. Implementation of Landscape Plan

Landscaping is to be implemented in accordance with the approved Landscape Plans as amended by these conditions of consent. The new landscaping is to be certified in accordance with approved Landscape Plans and these conditions of consent by a qualified landscape architect, arborist or ecologist and submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls.

42. Material Storage

No construction materials or demolition waste are to be stored along the southern boundary during any works.

Reason: To protect the amenity of the adjoining property.

43. Aboriginal Heritage

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.

Reason: To preserve Aboriginal heritage.

44. Installation and Maintenance of Sediment and Erosion Control

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

45. Waste/Recycling Requirements (Waste Plan Submitted)

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

46. Landscape completion certification

a) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and inclusive of any conditions of consent.

b) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been established and maintained in accordance with the approved landscape plan.

Reason: To ensure that the landscape treatments are installed to provide landscape amenity.

47. Condition of retained vegetation

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, including the following information:

- a) Compliance to Arborist recommendations for tree protection and excavation works.
- b) Extent of damage sustained by vegetation as a result of the construction works.
- c) Any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: To ensure compliance with the requirement to retain and protect significant planting on development sites, and protect the existing amenity that trees and/or bushland vegetation provide.

48. Stormwater Disposal

The Applicant shall submit a certificate from a suitably qualified person that the stormwater drainage works have been constructed/installed in accordance with all relevant Australian Standards and Codes. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

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

49. Certification for the Installation of Stormwater Quality System

A certificate from a Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER-3) shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate, stating that the stormwater quality management system has been installed in accordance with the Stormwater Management Report and Plan prepared by Acor Consultants dated Sand the September 2018 and Council's Water Management Policy.

The certificate shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

50. Positive Covenant for Stormwater Quality System

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater quality system in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Quality Operation and Maintenance Plan.

The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Council), at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. The Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure ongoing maintenance of the on-site stormwater detention system.

51. Registration of Encumbrances for Stormwater Quality System

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for stormwater quality system as to user is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

52. Restriction as to User for Stormwater Quality System

A restriction as to user shall be created on the title over the stormwater quality system, restricting any alteration to system. The terms of such restriction are to be prepared to Council's standard requirements, (available from Northern Beaches Council), at the applicant's expense and endorsed by Council prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure modification to the on-site stormwater detention structure is not carried without Council's approval.

53. Stormwater Quality Operation and Maintenance Plan

An Operation and Maintenance Plan is to be prepared to ensure proposed stormwater quality system remain effective.

The Plan must be attached to the Positive Covenant and contain the following:

- a) Inspection and maintenance schedule of all stormwater treatment measures
- b) Maintenance requirements for establishment period
- c) Routine maintenance requirements
- d) Funding arrangements for the maintenance of all stormwater treatment measures
- e) Identification of maintenance and management responsibilities
- f) Vegetation species list associated with each type of vegetated stormwater treatment measure
- g) Waste management and disposal
- h) Traffic control (if required)
- i) Maintenance and emergency contact information
- j) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
- k) Work Health and Safety requirements
- l) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

54. Works as Executed Drawings - Stormwater Quality System

Works as Executed Drawings for the stormwater quality system must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

55. Installation of Rainwater Tanks

Rainwater tanks shall comply with the following:

- a) Be fitted with a first-flush device that causes initial rainwater run-off to bypass the tank and must drain to a landscaped area. The first flush device will not be permitted to connect to the stormwater system
- b) Have a sign affixed to the tank stating the contents is rainwater
- c) Be constructed or installed in a manner that prevents mosquitoes breeding, such as the use of mesh to protect inlets and overflows
- d) Have its overflow connected to an existing stormwater drainage system that does not discharge to an adjoining property, or cause a nuisance to adjoining owners
- e) Pumping equipment must be housed in a soundproof enclosure
- f) Where the rainwater tank is interconnected to a reticulated water supply, it must be installed in accordance with Plumbing Code of Australia, particularly backflow/cross connection prevention requirements

A certificate from a licenced plumber shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: To conserve potable water.

56. Installation of Water Efficient Fittings

The following Water Efficiency Labelling and Standards (WELS) Scheme rated fittings must be installed:

- a) 4 star dual-flush toilets
- b) 3 star showerheads
- c) 4 star taps (for all taps other than bath outlets and garden taps)
- d) 3 star urinals
- e) 3.5 star washing machines
- f) 4 star dishwashers

A certificate from a licenced plumber shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate demonstrating compliance with this condition.

Reason: To conserve potable water.

57. Registration of Encumbrances for On-site Stormwater Detention

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

Reason: To identify encumbrances on land.

58. Positive Covenant and Restriction as to User for On-site Stormwater Detention

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of final Occupation Certificate.

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard

59. Council Dedications

The Applicant shall dedicate a verge 4 metres wide from the back of kerb to property boundary to Northern Beaches Council. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that a completed Subdivision Certificate form, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919 are lodged with the NSW Land Registry office. The subdivision certificate and a certificate of title are to be submitted to Council within one month after registration of the subdivision plan.

Reason: Statutory requirement of the Conveyancing Act 1919.

60. Required Planting

Trees shall be planted in accordance with the following schedule:

Minimum No. of Trees Required.	Species	Location	Minimum Pot Size
All trees	As indicated on the approved Landscape Plans	As indicated on the Landscape Plans	As indicated on the Landscape plans

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To maintain environmental amenity.

61. Certification of Road Reserve Works and Works as Executed Data

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works have been constructed in accordance with this consent and the approved Section 138 approved plans. Works as Executed data (details overdrawn on a copy of the approved civil plans) certified by a registered surveyor shall be submitted to Council.

Reason: To ensure compliance of drainage works with Council's specification for engineering works.

62. Compliance with Ecologist's Recommendations – Post Construction

All biodiversity-related measures are to be implemented at the appropriate stage of development in accordance with the approved Biodiversity Development Assessment Report (Cumberland Ecology 19 November 2019), Biodiversity Management Plan (Cumberland Ecology 26 November 2019) and these conditions of consent.

Satisfactory establishment/initiation of post-construction measures is to be certified by the Project Ecologist prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

63. Fencing for Wildlife Passage

Prior to the issue of any Occupation Certificate, the project ecologist is to provide certification to the Principal Certifying Authority that the installed fencing (with the exception of swimming pool fencing) is passable to native wildlife as specified in this consent.

Reason: To preserve wildlife corridors in accordance with relevant Natural Environment LEP/DCP controls.

64. Certification of Landscape Plan

Landscaping is to be implemented in accordance with the approved Landscape Plans as amended by these conditions of consent. The new landscaping is to be certified as complete and in accordance with approved Landscape Plans and these conditions of consent by a qualified landscape architect, arborist or ecologist prior to issue of any Occupation Certificate.

Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls.

65. Fire Safety Matters

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

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

66. Construction of Public Domain Upgrades

All road infrastructure, including footpaths and deceleration lanes, are to be implemented to the satisfaction of the relevant authority prior to the release of any Occupation Certificate. These must be constructed in accordance with the plans as approved by Council and the RMS.

Reason: To ensure delivery of the road infrastructure to Council and RMS satisfaction for the purpose of handover of the facilities and ongoing maintenance.

67. Basement Servicing - Internal Signals

The applicant shall install electronic signals within the basement which are to be operative when service vehicles are accessing the basement for waste collection and/or removalist services. The applicant must engage a qualified practitioner to prepare suitable documentation demonstrating the operation of the signals and the means for Council or Removalists to activate the system. The documentation must be submitted to and approved by Council prior to the issue of any occupation certificate.

Reason: To ensure Council and any service vehicles have the means to access the basement under the control of the signals, prior to the site becoming operational.

68. Waste/Recycling Compliance Documentation

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

69. Undesirable Trees

Leighton Green Cypress Cupressocyparis leylandii or any of its cultivars, must not be planted on the site for the life of the development. In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views, and loss of plant diversity.

70. Environmental and priority weed control

Condition: All weeds are to be removed and controlled in accordance with the Biodiversity Conservation Act 2016.

Reason: Preservation of environmental amenity.

71. Maintenance of Stormwater Quality System

The stormwater quality system must be maintained at all times in accordance with the Stormwater Quality Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

72. Private waste collection arrangements

Applicant will need to utilise a private waste service provider to remove any waste generated on site.

Reason: Ensure the appropriate removal of waste off site.

73. Landscape maintenance

- i) Trees shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.
- ii) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plans.

Reason: To maintain local environmental amenity.

74. Control of Weeds

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds

Reason: Weed management.

75. Compliance with Biodiversity Management Plan – 5 years post construction

All biodiversity-related measures are to be implemented for 5 years post construction as specified in the approved Biodiversity Development Assessment Report (Cumberland Ecology 19 November 2019), Biodiversity Management Plan (Cumberland Ecology 26 November 2019) and these conditions of consent.

This must be undertaken under the direction of the Project Ecologist, including monitoring. Monitoring reports demonstrating compliance with KPIs, including photographic evidence, are to be prepared by the Project Ecologist and submitted to Council in accordance with the BMP, i.e. every 6-months for 5 years post-construction, with the final report provided at the end of Year 5.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

76. Retention of Natural Features

All natural landscape features, including natural rock outcrops, natural vegetation, soil and watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To ensure the retention of natural features.

77. No Planting Environmental Weeds

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

78. Control of Domestic Animals

Domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland or Asset Protection Zone, unrestrained, on the site or on surrounding properties or reserves.

Reason: Wildlife protection

79. Hours of Operation

The hours of operation of the cafe are to be restricted to:

- 8am to 5:00pm

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

80. Allocation of Parking Spaces

45 Car parking spaces shall be provided, made accessible and maintained at all times.

The tandem car parking spaces are only to use used by staff.

Reason: To ensure that adequate parking facilities to service the development are provided on site, in perpetuity.

81. Café Use

The café is only to operate as an ancillary component to the residential care facility.

Reason: To prevent the café from causing unreasonable impacts to the adjoining properties.

82. Deliveries and waste collection

All deliveries and waste collection, must not occur between the hours of 9pm and 8am on any day.

Reason: To ensure the acoustic amenity of surrounding properties.