

## SYDNEY NORTH PLANNING PANEL COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSSNH-483
<b>DA Number</b>	Mod2024/0134
<b>LGA</b>	Northern Beaches
<b>Proposed Development</b>	Modification of Development Consent DA2021/1912 granted for alterations and additions to an existing building for a mixed use development including seniors housing and boarding house, stratum subdivision and strata subdivision.
<b>Street Address</b>	<p>Lot 45 DP 12578, 8 Palm Avenue NORTH MANLY NSW 2100</p> <p>Lot 22 DP 865211, 389 Pittwater Road NORTH MANLY NSW 2100</p> <p>Lot 1 DP 544341, 2 - 4 Lakeside Crescent NORTH MANLY NSW 2100</p> <p>Lot 46 DP 12578, 2 - 4 Lakeside Crescent NORTH MANLY NSW 2100</p> <p>Lot 47 DP 12578, 2 - 4 Lakeside Crescent NORTH MANLY NSW 2100</p> <p>Lot 48 DP 12578, 2 - 4 Lakeside Crescent NORTH MANLY NSW 2100</p>
<b>Applicant</b>	Link Wentworth Housing Limited
<b>Date of DA lodgement</b>	25/03/2024
<b>Number of Submissions</b>	8
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)</b>	Section 4.55(2) Modification Application which seeks to amend a condition imposed by the SNPP
<b>List of all relevant s4.15(1) (a) matters</b>	
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Attachment 1 - Recommended Conditions</li> <li>• Attachment 2 - Applicants response to Council's RFI</li> <li>• Attachment 3 - Flood response from applicant</li> </ul>
<b>Clause 4.6 requests</b>	
<b>Summary of key submissions</b>	<ul style="list-style-type: none"> <li>• Design of Substation</li> <li>• Visual impact of mechanical plant</li> <li>• Noise from mechanical plant</li> </ul>
<b>Report prepared by</b>	Jordan Davies, Principal Planner
<b>Responsible officer</b>	Peter Robinson - Acting Director - Planning and Place
<b>Report date</b>	

### Summary of s4.15 matters

**YES**

Have all recommendations in relation to relevant s4.15 matters been summarised in

the Executive Summary of the assessment report?

---

**Legislative clauses requiring consent authority satisfaction**

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

---

**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?	<b>N/A</b>
--	------------

---

**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)? Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions	<b>N/A</b>
---	------------

---

**Conditions**

Have draft conditions been provided to the applicant for comment? 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	<b>YES</b>
--	------------

## Executive Summary

Northern Beaches Council is in receipt of Modification Application (MOD2024/0134) seeking to modify development consent DA2021/1912 for 'Alterations and additions to an existing building for a mixed use development including seniors housing and boarding house, stratum subdivision and strata subdivision'. The development application was approved by the Sydney North Planning Panel ("SNPP") on 9 August 2023, subject to conditions.

The application is lodged pursuant to Section 4.55(2) of the EP&A Act 1979 and seeks to amend a condition that was imposed by the SNPP. In accordance with the SEPP Planning Systems and ministerial direction, the application is referred to the SNPP for determination given the amendment to a condition imposed by the Panel. Furthermore, the proposal involves the installation of mechanical roof plant which is more than 10% above the 8.5m building height. For both of these reasons, the SNPP is the consent authority for this modification application.

The application seeks a range of modifications to the approved plans and as a consequence, the consent conditions. The full scope of changes to the development are summarised below in this report. Of significance is the proposed platform structure at the street frontage which accommodates a combined Ausgrid substation and potable water pump to meet the infrastructure and servicing requirements of the development. The structures must be located above the flood planning level and have been designed to integrate into an existing feature wall with materials that are consistent with the overall development. Furthermore, this modification application seeks to implement roof plant to service the development. The proposed roof plant is no higher than the approved indicative extent of roof plant, however, provides further details of the design and scope of the roof plant.

The application was notified and advertised for a period of 21 days and eight (8) submissions were received. The submissions raise concerns in relation to the visual impact of the roof plant and substation, noise from the mechanical plant and impacts to trees. Each of the submission issues are

addressed later within this report and the applicant has provided sufficient details to satisfy Council that there will be no unreasonable visual impacts as a result of the proposal and that acoustic impacts have been dealt with via appropriate conditions imposed on the original consent (which will continue to apply to the modified proposal). The application does not seek to remove further prescribed trees, with two trees of an 'exempt' species removed to accommodate the works.

The application seeks to amend Condition No 38 in relation to the backup power supply for the shelter in place refuge in case of a flood emergency. The proposal seeks to install a diesel generator on the roof in lieu of a battery charged via solar. This is considered to be a reasonable and practical solution to managing an emergency power supply in a flood event. The proposed amended condition has included a requirement for routine checking of the generator to be undertaken in accordance with the requirements of the Flood Emergency Response Plan which forms part of the documents approved with the original DA.

The proposal continues to meet the requirements of the SEPP Housing for Seniors or People with a Disability (SEPP HSPD) and the SEPP Affordable Rental Housing (SEPP ARH) which were the instruments applicable to the original consent. Whilst the mechanical roof plant exceeds the height limit under the Warringah LEP, it is no higher than the indicative roof plant approved as part of the original application.

Accordingly, it is recommended that the SNPP approve the application, subject to the modified conditions as outlined at the end of this assessment report.

## **PROPOSED DEVELOPMENT IN DETAIL**

On 25 March 2024, the Section 4.55(2) Modification Application was lodged with Northern Beaches Council ("Council").

The Modification seeks the following changes to the approved development (as described within the SEE):

- Installation of an electrical kiosk within the front setback adjacent to Lakeside Crescent / Palm Avenue to meet Ausgrid's electrical load requirements for residential development. Ausgrid requires the kiosk to be situated above the Flood Planning Level (FPL) with direct street access. As a result, the original architecture of the serpentine wall has been extended to incorporate the kiosks plinth.
- Installation of a potable water pump within the front setback adjacent to Lakeside Crescent / Palm Avenue to meet Sydney Water's requirements to ensure adequate pressure and water supply is available for residential development. Sydney Water requires the pump to be situated above the FPL and close to the street connection. As a result, the original architecture of the serpentine wall has been extended to incorporate the kiosks plinth. This has been located on the same raised plinth as the electrical kiosk to reduce the impact on existing trees and eliminate the need to build an additional platform and staircase.
- Installation of a hydrant and booster assembly adjacent to the driveway to meet the relevant Australian Standards and provide adequate services for residential development. A pump is also located along the rear boundary to provide adequate pressure. NSW Fire & Rescue require the hydrant and booster assembly to be appropriately located to allow ease of access to the building.

- Installation of roof plant and a centralised hot water system to meet the conditions of the Consent to ensure back up power is available in the event of a flood emergency for the approved 'shelter in place' (SIP) refuge. All services are positioned to ensure compliance with the approved height and setback provisions to ensure visibility from the public domain are minimised and below the approved plant Reduced Level (RL).
- The lift overrun will pass through the existing roof but not extend higher than the existing parapet and therefore is lower than the overall approved height of building.
- The required main switch board has been relocated closer to the proposed electrical kiosk to eliminate the need to run cables under the existing building foundations. The switch board will be located under the balcony overhang in the common courtyard. And will allow it to be easily accessible for maintenance and services as required. The main switch board is located above the FPL for the Site.
- Redesign of units 1.07 and 2.07 to better comply with accessibility requirements and provide an improved residential outcome. The corridor / apartment wall will be relocated towards the communal staircase to give space back into the units and provides the opportunity to redesign the internal layout of the units to provide better space and amenity for residents.
- Installation of a communications room to service the approved development. The communications room is proposed on the ground level. All equipment will be located above the FPL and within a flood protected area by way of a flood door to the room and bunding.

To enact these changes, it is necessary to modify the following conditions of the Consent:

**Condition 1 Approved Plans and Documents** – Amend to reflect revised plans and supporting documentation.

**Condition 38 Amendment to Approved Plans** - Relating to the means of providing backup power to the Shelter in Place (SIP) refuge. This condition was imposed by the SNPP. The changes to part (a) of the condition are as follows:

### 38. Amended Plans and Documents

Prior to the commencement of work, amended plans/additional information shall be prepared/provided, and a copy submitted to Council, showing the following:

~~a) Photovoltaic panels on the roof, connected to battery storage to provide for basic lighting and facilities to be used in case of disruption to electricity supply during occupation of the SIP facility. The battery storage is also to be connected to mains supply.~~

a) Emergency power to provide for basic lighting and facilities to be used in case of disruption to electricity supply during occupation of the SIP facility is to be provided. The emergency power may be provided by either:

i. Photovoltaic panels on the roof, or mains power connected to battery storage. The battery storage if reliant on photovoltaic panels is also to be connected to mains supply; or

ii. Generator located on the roof. The generator is to be manually operated by a flood warden in a flood event as required. Routine checking of the operation of the generator is to be undertaken in

accordance with the requirements of the FERP. The generator is not to operate automatically in the event of a power outage not occurring at the same time as a flood event requiring residents to shelter in place.

## ASSESSMENT INTRODUCTION

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

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

## SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings  
 Warringah Local Environmental Plan 2011 - 4.3 Height of buildings  
 Warringah Development Control Plan - B7 Front Boundary Setbacks  
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting  
 Warringah Development Control Plan - D3 Noise  
 Warringah Development Control Plan - E1 Preservation of Trees or Bushland Vegetation

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 45 DP 12578 , 8 Palm Avenue NORTH MANLY NSW 2100 Lot 22 DP 865211 , 389 Pittwater Road NORTH MANLY NSW 2100 Lot 1 DP 544341 , 2 - 4 Lakeside Crescent NORTH MANLY NSW 2100 Lot 46 DP 12578 , 2 - 4 Lakeside Crescent NORTH MANLY NSW 2100 Lot 47 DP 12578 , 2 - 4 Lakeside Crescent NORTH MANLY NSW 2100 Lot 48 DP 12578 , 2 - 4 Lakeside Crescent NORTH MANLY NSW 2100
<b>Detailed Site Description:</b>	The subject site is currently part of six allotments with an area of 4,032.98m <sup>2</sup> as follows: <ul style="list-style-type: none"> <li>• Lot 22 in DP 865211; 389 Pittwater Road, North Manly NSW 2100</li> <li>• Lot 1 in DP 544341; 2-4 Lakeside Crescent, North Manly NSW 2100</li> <li>• Lot 45 in DP 12578; 8 Palm Avenue, North Manly NSW 2100</li> <li>• Lot 46 in DP 12578; 2-4 Lakeside Crescent, North Manly NSW 2100</li> </ul>

- Lot 47 in DP 12578; 2-4 Lakeside Crescent, North Manly NSW 2100
- Lot 48 in DP 12578; 2-4 Lakeside Crescent, North Manly NSW 2100

Upon the site an existing two (and part three) storey community building known as the 'Community Health Centre'. The building is mid-century brick building, with a curvilinear facade and a recessed entrance. The site contains a carpark on the western side of the building and the northern side of the building has a separate vehicular access to each carpark from the road. There is no direct access to the road from the site. The western carpark contains a right of carriageway which provides access to a rear carpark on Palm Road. The building was until recently operated as a community health centre.

Surrounding the building is a number of locally native trees, including around the street frontage on Lakeside Crescent. The tree canopy sits above the existing building.

The site and surrounding roads are identified as being subject to medium to high risk flooding on Council's flood mapping.

The site is located within the R2 Low Density Residential Zone. The land to the east, south and west is zoned R2 Low Density Residential. Pittwater Road to the north is a Classified Road and zoned C2 General Industrial. Land across Pittwater Road to the north is land zoned IN2 General Industrial.

The site is almost flat with a slight fall towards the northern boundary.

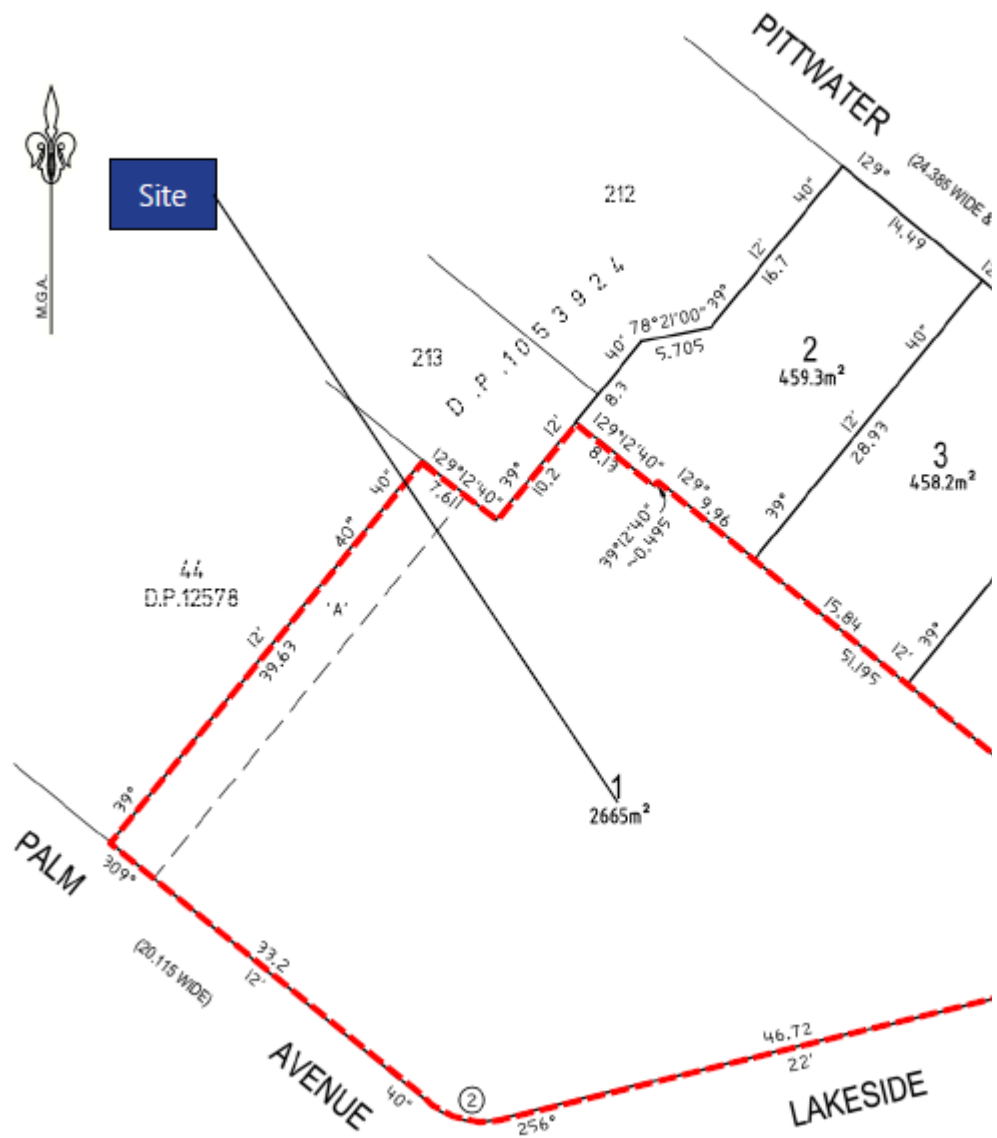
#### **Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by detached one and two storey residential buildings to the east, south and west. Across the road to the east is a single storey mechanics workshop. Across the road to the south is a single storey residential building. Across the road to the north are a mixture of one and two storey industrial buildings.

The only boundary of the site which adjoins another residential property is the eastern boundary. The adjoining the eastern boundary consist of one and two storey detached residential dwellings.

#### **Future Lot Configuration**

The site is also subject to a current approved subdivision of the existing parcels on the site. The subdivision under DA2021/1914 seeks to create four (4) allotments from the existing six (6). Three (3) new residential allotments (approximately 600m<sup>2</sup> each) are proposed to face Pittwater Road. The remaining 2665m<sup>2</sup> lot will contain the mixed use building which is being considered under the current development application.



Map:





## SITE HISTORY

The land has been used as part of the Queenscliff Community Health Centre for an extended period of time, comprising of the health centre building and associated car park. A search of Council's records has revealed the following relevant history:

- Pre-lodgement Meeting **PLM2019/0076** was held on 07/05/2019 for 'Use of the site for Seniors Housing'.
- Application **DA2020/1318** for 'Demolition works and subdivision' on the subject land was withdrawn on 03/02/2021.
- Application **DA2021/1912** for 'Alterations and additions to an existing building for a mixed use development including seniors housing and boarding house' was approved by the Sydney North Planning Panel on 9 August 2023.

## History of Current MOD

- On 5 June a briefing was held with the Sydney North Planning Panel.
- On 7 June, Council wrote to the applicant requesting additional information in regards to the design of the substation and information to respond to the proposed flood conditions.
- On 21 June, Council received additional information from the applicant.

Renotification of the proposal is not required due to the amended material as the amended material does not generate any additional impacts or change the proposal.



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

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

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

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

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2021/1912, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2021/1912 for the following reasons:</p> <ul style="list-style-type: none"> <li>• The general setbacks, height and visual appearance of the building remains unchanged.</li> <li>• The number of rooms, floor space and occupancy of the building remains unchanged.</li> <li>• The access and vehicular parking arrangements remain unchanged.</li> <li>• The landscape scheme for the building remains generally consistent and no further prescribed canopy trees are removed.</li> </ul>
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a	Development Application DA2021/1912 did not require concurrence from the relevant Minister, public authority or approval body.

Section 4.55 (2) - Other Modifications	Comments
concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	
(c) it has notified the application in accordance with:  (i) the regulations, if the regulations so require,  or  (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

### Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 (2) the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any	See discussion on "Environmental Planning Instruments" in this report.

Section 4.15 'Matters for Consideration'	Comments
environmental planning instrument	
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to the design of the substation and flooding impacts. The applicant submitted information in response to each of these items which has been considered as part of the application.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 2001: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development,	<p>(i) <b>Environmental Impact</b></p> <p>The environmental impacts of the proposed development on the</p>

Section 4.15 'Matters for Consideration'	Comments
including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 02/04/2024 to 23/04/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 8 submission/s from:

Name:	Address:
Mr Paul Sydney Cole	6 Lakeside Crescent NORTH MANLY NSW 2100
Mrs Glenda Margaret Alderton	5 Palm Avenue NORTH MANLY NSW 2100
Miss Marianne Suzanne Davey	3 Palm Avenue NORTH MANLY NSW 2100
Mardi Claire Fry	18 Palm Avenue NORTH MANLY NSW 2100
Ms Beverley Ann Hadgraft	141 Pittwater Road MANLY NSW 2095
Mr Stephen Howell Alderton	5 Palm Avenue NORTH MANLY NSW 2100
Mrs Teresa Aruego Easter	106 Prince Alfred Parade NEWPORT NSW 2106
Mr Vincenzo Condomitti	14 Palm Avenue NORTH MANLY NSW 2100

The following issues were raised in the submissions:

- The additional roof plant will increase noise from the development. It is requested that acoustic screens, that are aesthetically pleasing, be added around the roof top units
- Noise from potable water pump and mechanical plant
- The location of the kiosk and pump will impact two existing trees. The trees assist screening the approved upper level.
- Diesel generator on roof will be noisy.

The above issues are addressed as follows:

- **The additional roof plant will increase noise from the development. It is requested that acoustic screens, that are aesthetically pleasing, be added around the roof top units**

Comment: See discussion under Clause 4.3 building height later within this report and Noise D3 Later in this report. Council is satisfied that the design of the mechanical plant is consistent with the original approval in relation to height and location and that noise has been dealt with via consent conditions.

- **Noise from potable water pump and mechanical plant**

Comment: Refer to part D3 Noise later in this report. Council is satisfied that noise has been dealt with via consent conditions on the original consent which will remain applicable to the modified consent.

- **The location of the kiosk and pump will impact two existing trees. The trees assist screening the approved upper level.**

Comment: The two trees to be removed are exempt species and Council's landscape officer notes that they do not require consent to remove (Oleander and Crepe-Myrtle). Council's landscape officer is satisfied with the replacement planting regime and has recommended conditions for replacement planting elsewhere on the site. The existing two exempt species are not considered essential in relation to screening the upper level which was supported by the Panel on its own merit. A significant tree to the west of the structure will be maintained.

- **Diesel generator on roof will be noisy**

Comment: The diesel generator is to be used in emergency situations only and as such will not result in unreasonable impacts.

## REFERRALS



Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p><b>Supported - No new conditions</b></p> <p>The application has been investigated with respects to aspects relevant to the B Certification and Fire Safety Department. There are no concerns with the application s to inclusion of the attached conditions of approval and consideration of the notes below</p> <p><i>Note: The proposed development may not comply with some requirements of the BCA the Premises Standards. Issues such as this however may be determined at Construct Certificate Stage</i></p>
Environmental Health (Acid Sulfate)	<p><b>Supported - No new conditions</b></p> <p><b>General Comments</b></p> <p>This application is seeking consent for modification to DA2021/1912. Modifications incl installation of an electrical kiosk, installation of a potable water pump, relocation of mail switch board, installation of a hydrant and booster assembly, installation of roof plant a centralised hot water system, communications room and internal alterations to Units 1.0 and 2.07.</p> <p>The proposed modifications do not alter previous conclusions in relation to acid sulfate on this property. Previous conditions contained within DA2021/1912 apply.</p> <p>Environmental Health recommends approval.</p>
Environmental Health (Contaminated Lands)	<p><b>Supported - No new conditions</b></p> <p><b>General Comments</b></p> <p>This application is seeking consent for modification to DA2021/1912. Modifications incl installation of an electrical kiosk, installation of a potable water pump, relocation of mail switch board, installation of a hydrant and booster assembly, installation of roof plant a centralised hot water system, communications room and internal alterations to Units 1.0 and 2.07.</p> <p>The proposed modifications do not alter previous conclusions in relation to contaminate lands on this property. Previous conditions contained within DA2021/1912 apply.</p> <p>Environmental Health recommends approval.</p>
Environmental Health (Industrial)	<p><b>Supported - No new conditions</b></p> <p><b>General Comments</b></p> <p>This application is seeking consent for modification to DA2021/1912. Modifications incl installation of an electrical kiosk, installation of a potable water pump, relocation of mail switch board, installation of a hydrant and booster assembly, installation of roof plant a centralised hot water system, communications room and internal alterations to Units 1.0 and 2.07.</p>

Internal Referral Body	Comments
	<p>The proposed modifications do not alter previous conclusions in relation to noise on this property. Previous conditions contained within DA2021/1912 apply.</p> <p>Environmental Health recommends approval.</p>
Landscape Officer	<p><b>Supported - Amendment to conditions</b></p> <p>The application is for modification of development consent DA2021/1912, as described reports and as illustrated in plans.</p> <p>Landscape Plans are revised in co-ordination with the updated architectural plans. Additionally an updated Arboricultural Impact Assessment (AIA) is submitted and in respect to the updated plans an additional two trees are assessed for removal and Landscape Referral raise no concerns. It is noted the AIA, by another author to the AIA approved in development consent, utilises alternative numbering for tree identification, and development consent conditions shall be modified accordingly.</p> <p>In review of the revised Landscape Plans as documented, no concerns are raised by Landscape Referral. The revised Landscape Plans as identified in the Drawing List: LA LA-17 inclusive, revision C, prepared by Paterson Design Studio, and the updated Arboricultural Impact Assessment prepared by TMS Tree Management Strategies, shall be updated under condition 1. Approved Plans and Supporting Documentation.</p> <p>The following Landscape Referral conditions shall be unaltered: 47, 65 and 86. The following Landscape Referral conditions shall be modified: 18, 39, 40, 46 and 64.</p>
NECC (Bushland and Biodiversity)	<p><b>Supported - No new conditions</b></p> <p>The comments in this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> <li>• NSW Biodiversity Conservation Act 2016</li> <li>• NSW Biodiversity Conservation Regulation 2017</li> <li>• SEPP (Resilience and Hazards) 2021 - Coastal environment area</li> <li>• Warringah DCP Clause E2 Prescribed Vegetation</li> <li>• Warringah DCP Clause E6 Retaining unique environmental features</li> </ul> <p>The modifications have been submitted with amended plans and an updated arboricultural impact assessment that requires the removal of additional trees for the purpose of installation of an electrical kiosk, installation of a potable water pump and installation of a hydrant box and booster assembly.</p> <p>The following tree removals are being proposed: 1, 3, 7, 8, 16, 17, 19, 22, 27 and 28. Replacements for trees 1, 3, 8 and 19 are considered in the submitted landscape plan. The removal of trees 17, 27 and 28 will be allowed subject to inclusion of additional like for like canopy tree replacements that have a similar ecological value in the landscape plan. This will be conditioned.</p> <p>It is noted that tree 29 has been misidentified in the updated arborist report as previously being tree 47 in the original arborist report submitted with DA2021/1912. This tree is to be retained.</p>

Internal Referral Body	Comments
	<p>The development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p> <p><b><i>*Note - Replacement planting has been dealt with under the original development applicant and no further prescribed trees are removed as part of this application.</i></b></p>
NECC (Coast and Catchments)	<p><b>Supported - No new conditions</b></p> <p>The proposal seeks approval for modification of development consent DA 2021/1912 g for alterations and additions to an existing building for a mixed use development including seniors housing and boarding house, stratum subdivision and strata subdivision comprising:</p> <ul style="list-style-type: none"> <li>• adaptive re-use of the ground level for the purpose of a 12-room boarding house communal room.</li> <li>• adaptive re-use of level 1 for the purpose of 12 seniors living units and a communal room.</li> <li>• adaptive re-use of a portion of the existing third storey element and construction of the remaining level 2 as a new level for the purpose of 13 seniors living units.</li> <li>• reconfigure carpark on the western side to comprise of 8 parking spaces and three motorcycle spaces.</li> <li>• creation of a central communal area courtyard and landscaping around the Site to enhance communal spaces.</li> <li>• tree removal.</li> <li>• Creation of two separate strata units, one for the ground floor boarding house and other, for seniors living housing on levels 1 and 2.</li> </ul> <p>The key design modifications include:</p> <ul style="list-style-type: none"> <li>• Installation of an electrical kiosk within the front setback adjacent to Lakeside Crescent / Palm Avenue to be situated above the Flood Planning Level (FPL) with direct street access.</li> <li>• Installation of a potable water pump within the front setback adjacent to Lakeside Crescent / Palm Avenue to be situated above the FPL and close to the street connection.</li> <li>• Installation of a hydrant and booster assembly adjacent to the driveway.</li> <li>• Installation of roof plant and a centralised hot water system.</li> <li>• The lift overrun will pass through the existing roof but not extend higher than the existing parapet and therefore is lower than the overall approved height of building.</li> <li>• The required main switch board has been relocated closer to the proposed electrical kiosk and is located above the FPL for the Site.</li> <li>• Redesign of units 1.07 and 2.07 to better comply with accessibility requirements.</li> <li>• Installation of a communications room to service the approved development. The communications room is proposed on the ground level. All equipment will be located above the FPL and within a flood protected area by way of a flood door to the room and bunding.</li> </ul>

Internal Referral Body	Comments
	<p>The subject property is located within the 'Coastal Environment Area' and the 'Coastal Area' maps of the Coastal Zone.</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>· Supplied plans and reports, including;</li> <li>• Statement of Environmental Effects prepared by GLN Planning Pty. Ltd. dated 1 March 2024</li> <li>· Coastal Management Act 2016</li> <li>· State Environmental Planning Policy (Resilience &amp; Hazards) 2021</li> <li>· Relevant LEP and DCP Clauses</li> </ul> <p>The objectives and requirement of the CMA 2016, SEPP -R &amp; H 2021 and relevant LEP DCP Clauses have been met.</p> <p>The proposed modifications appear consistent with the design intent of the original proposal and fulfills the objectives and requirements of the relevant clauses of the Act, SEPP, LEP DCP.</p> <p>No conditions in addition to those for the original development application are considered necessary.</p>
NECC (Development Engineering)	<p><b>Supported - No new conditions</b></p> <p>The statement of environmental effects has been reviewed and Development Engineer has no objections to the proposed modification. No additional conditions are required.</p>
NECC (Flooding)	<p><b>Supported - Subject to conditions</b></p> <p>The proposal is for a modification to DA2021/1912. The works include the installation of an electrical substation, potable water pump, hydrant, generator on the roof of the complex; the relocation of the garbage storage room.</p> <p>The property is within the Medium Risk Flood Precinct and has the following flood characteristics:</p> <ul style="list-style-type: none"> <li>• Flood Planning Level: 3.66m AHD</li> <li>• 1% AEP Flood Level: 3.16m AHD</li> </ul>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>1% AEP Hydraulic Categorisation: Flood Storage and Flood Fringe</li> <li>Probable Maximum Flood (PMF) Level: 5.66m AHD</li> <li>PMF Life Hazard Category: H5</li> </ul> <p>Subject to the following conditions, and the retention of the conditions of consent from DA2021/1912, the proposal complies with Section E11 of the Warringah DCP and Clau 5.21 of the Warringah LEP.</p>
Waste Officer	<p><b>Supported - No new conditions</b></p> <p>Waste management Assessment Supported - subject to conditions.</p> <p>Existing waste conditions of consent applied to DA2021/1912 to be applied unchanged Mod2024/0134.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p><b>Supported - No new conditions</b></p> <p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

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

### SEPP (Affordable Rental Housing) 2009

The original development application was lodged with Council on 21 October 2021. At the time of lodging the application State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) was in force. On 21 November 2021, the SEPP (ARH) was repealed as a result of the SEPP (Housing) 2021 coming into force. However, pursuant to Schedule 7A Savings and Transitional Provisions Clause 2 (1)(a) the SEPP Housing 2021 applied to "*a development application made, but not yet determined, on or before the commencement date*". Therefore, due to the savings provisions,



the original applicant was considered under the SEPP ARH.

Similarly, as this application is a modification to the original consent, the SEPP ARH remains applicable to the assessment of the modification application.

A detailed assessment was undertaken of the original proposal against the SEPP ARH. The modifications to the development do not change the outcome or assessment of the application against the SEPP ARH. The ground floor boarding house layout remains unchanged, including the size and quantity of rooms. The design of the communal open space remains unchanged.

### **SEPP (Building Sustainability Index: BASIX) 2004**

SEPP BASIX was the applicable instrument for the original development consent. As such, it remains applicable to the modification application.

An updated BASIX certificate has been submitted with the application (see Certificate No.1243888M\_03 dated 5 March 2024).

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

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

The original development application was lodged with Council on 21 October 2021. At the time of lodging the application State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD) was in force. On 21 November 2021, the SEPP (HSPD) was repealed as a result of the SEPP (Housing) 2021 coming into force. However, pursuant to Schedule 7A Savings and Transitional Provisions Clause 2 (1)(a) the SEPP Housing 2021 does not apply to "a development application made, but not yet determined, on or before the commencement date". Therefore, due to the savings provisions, the original development application was considered under the SEPP HSPD.

As this was the instrument applied to the original development application, the SEPP HSPD continues to apply to this modification application.

A full and detailed assessment was undertaken against the SEPP HSPD. The application, as modified, continues to meet the relevant provisions of the SEPP.

### **Chapter 3 – Development for seniors housing**

Chapter 3 of SEPP HSPD contains a number of development standards applicable to development applications made pursuant to SEPP HSPD. Clause 18 of SEPP HSPD outlines the restrictions on the occupation of seniors housing and requires a condition to be included in the consent if the application is approved to restrict the kinds of people which can occupy the development. If the application is approved the required condition would need to be included in the consent. The following is an assessment of the proposal against the requirements of Chapter 3 of SEPP (HSPD).

Development Criteria			
Clause	Requirement	Proposal	Complies
<b>PART 2 - Site Related Requirements</b>			

<b>Development Criteria</b>			
<b>Clause</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Complies</b>
26(1)	Satisfactory access to: (a) shops, banks and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner	Yes, the proposal is in close proximity to bus services which provide access to these services.	<b>Yes</b>
26(2)	Access complies with this clause if: (a) the facilities and services referred are located at a distance of not more than 400 metres from the site or (b) there is a public transport service available to the residents not more than 400metres away.	Yes - there is a east bound and west boundary bus service to Manly which provides these services. The bus stop is within 400m of the site and meets the gradient requirements.	<b>Yes</b>
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	N/A	<b>N/A</b>
28	Consideration is given to the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure.	Yes - The site has connection to services.	<b>Yes</b>
29	Consideration must be given to whether the proposal is compatible with the surrounding land uses having regard to the following criteria specified in Clauses 25(5)(b) (i), 25(5)(b)(iii), and 25(5)(b)(v):  i) the natural environment and the existing uses and approved uses of land in the vicinity of the proposed development iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development and any proposed financial arrangements for infrastructure provision, v) the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.	The design of the roof plant is consistent with the height of the mechanical plant approved under the original application.  The substation at the frontage of the property is necessary infrastructure and has been integrated into the overall site design as to minimise the visual impact of the structure.	<b>Yes</b>
<b>PART 3 - Design Requirements – Division 1</b>			
30	A site analysis is provided.	Yes - Site analysis provided	<b>Yes</b>

#### Clause 31 Design of in-fill self-care housing

Pursuant to Cause 31 in determining a development application to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* published by the former NSW Department of Infrastructure, Planning and Natural Resources dated March 2004.

The provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* have been taken into consideration in the assessment of the application against the design principles set out in Division 2, Part 3 of SEPP HSPD. A detailed assessment of the proposals inconsistencies with regards to the requirements of SLP is undertaken hereunder.

Section	Requirements	Comment
1. Responding to context	Built Environment – New development is to follow the patterns of the existing residential neighbourhood in terms of built form. Policy environment – Consideration must be given to Councils own LEP and/or DCPs where they may describe the character and key elements of an area that contribute to its unique character.	The proposal remains consistent with original approval and as such continues to comply with this clause.
2. Site Planning and design	Objectives of this section are to:  -Minimise the impact of new development on neighbourhood character -Minimise the physical and visual dominance of car parking, garaging and vehicular circulation.	The design of the roof plant is consistent with the height of the mechanical plant approved under the original application.  The substation at the frontage of the property is necessary infrastructure and has been integrated into the overall site design as to minimise the visual impact of the structure.
3. Impacts on streetscape	Objectives of this section are to: -Minimise impacts on the existing streetscape and enhance its desirable characteristics -Minimise dominance of driveways and car park entries in streetscape.	The substation at the frontage of the property is necessary infrastructure and has been integrated into the overall site design as to minimise the visual impact of the structure.
4. Impacts on neighbours	The proposal is generally in accordance with the requirements of this section.	Impacts upon neighbours, including acoustic impacts, have been addressed via consent conditions in the original application.
5. Internal site amenity	Objectives of this section are to: -Provide safe and distinct pedestrian routes to all	Safe and distinct routes are provided to the community facilities.

Section	Requirements	Comment
	dwelling and communal facilities.	

Clause 32 Design of residential development In accordance with Clause 32 of SEPP HSPD a consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 of Part 2.

The following table outlines compliance with the principles set out in Division 2, Part 3 of SEPP HSPD.

Control	Requirement	Proposed	Compliance
CL33 Neighbourhood amenity and streetscape	a. Recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area.	The substation at the frontage of the property is necessary infrastructure and has been integrated into the overall site design as to minimise the visual impact of the structure.	Yes
	b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that re identified in a local environmental plan.	No heritage items direct adjacent to the site.	Yes
	c. Maintain reasonable neighbour amenity and appropriate residential character by; (i) providing building setbacks to reduce bulk and overshadowing (ii) using building form and siting that relates to the site's land form, and (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, (iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbors.	The design of the roof plant is consistent with the height of the mechanical plant approved under the original application.	Yes

Control	Requirement	Proposed	Compliance
	<p>d. Be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line,</p> <p>e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.</p> <p>f. retain , wherever reasonable, major existing trees, and</p> <p>g. be designed so that no building is constructed in a riparian zone.</p>	<p>The building maintains the existing setbacks to the street frontage. Landscaping is to be established within the front setback.</p> <p>Mature trees are retained in the front setback and enhanced as per the landscape plan to the satisfaction of Council's landscape officer.</p> <p>Mature trees are retained in the front setback and side setbacks to the satisfaction of Council's landscape officer.</p> <p>Not constructed in a riparian zone</p>	<p><b>Yes</b></p> <p><b>Yes</b></p> <p><b>Yes</b></p> <p><b>Yes</b></p>
CL 34 Visual and acoustic privacy	<p>The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by: (a) Appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and (b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</p>	<p>Acoustic impacts have been addressed via consent conditions in the original application</p>	<b>Yes</b>
CL35 Solar access and design for climate	<p>The proposed development should: (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of</p>	<p>The solar access and cross ventilation outcomes are not changed via this application.</p>	<b>Yes</b>



Control	Requirement	Proposed	Compliance
	private open space, and (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.		
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	Stormwater has been reviewed by Council's engineer and is satisfactory and could be addressed via the original conditions of consent.	<b>Yes</b>
CL 37 Crime prevention	The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the	Secure entry points are used for the building at the ground level and courtyards.	<b>Yes</b>

Control	Requirement	Proposed	Compliance
	need to open the front door.		
CL 38 Accessibility	The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.	Pedestrian access to and from the site is clear and well defined.	<b>Yes</b>
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	Waste management has been designed in accordance with Council's requirements.	<b>Yes</b>

#### Part 4 - Development standards to be complied with

Clause 40 – Development standards – minimum sizes and building height

Pursuant to Clause 40(1) of SEPP HSPD a consent authority must not consent to a development application made pursuant to Chapter 3 unless the proposed development complies with the standards specified in the Clause.

The following table outlines compliance with standards specified in Clause 40 of SEPP HSPD.

Control	Required	Proposed	Compliance
Site Size	1000 sqm	4,033m <sup>2</sup> existing Lot 1 - However, pursuant to Clause 40(5), this does not apply to an application made by a social housing provider.	<b>N/A</b>
Site frontage	20 metres	46m and 33m frontage - However, pursuant to Clause 40(5), this does not apply to an application made by a social housing provider.	<b>N/A</b>
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	A clause 4.6 variation request was submitted with the original application which addressed the height of the mechanical plant. This application does not	<b>As approved</b>

Control	Required	Proposed	Compliance
		seek to increase this height, rather, to formalise the design and location of the plant.	
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	This modification does not change the number of stories, remains at three as approved.	<b>As approved</b>
	A building located in the rear 25% of the site must not exceed 1 storey in height (development within 15.51 metres of the rear boundary).	Pursuant to Clause 40(5), this does not apply to an application made by a social housing provider.	<b>N/A</b>

#### Clause 41 Standards for hostels and self contained dwellings

In accordance with Clause 41 a consent authority must not consent to a development application made pursuant to Chapter 3 unless the development complies with the standards specified in Schedule 3 for such development. The application is accompanied by an Access report prepared by 'Funktion' dated 20/09/2021 which makes confirms the matters of Schedule 3 are able to be met. Should consent be granted, compliance with this report would be a condition of consent.

#### Part 5 Development on land adjoining land zoned primarily for urban purposes

This part is not applicable to the subject site.

#### Part 6 Development for vertical villages

This part is not applicable to the proposed development.

#### Part 7 Development standards that cannot be used as grounds to refuse consent

##### Clause 46 Inter relationship of Part with design principles in Part 3

Clause 46 states that nothing in Part 7 permits the granting of consent pursuant to the Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.

##### Clause 50 Standards that cannot be used to refuse development consent for self-contained dwellings

In accordance with Clause 50 of SEPP HSPD a consent authority must not refuse consent to a development application made pursuant to Chapter 3 for the carrying out of development for the purpose of a self contained dwelling on any of the grounds listed in Clause 50.

The following table outlines compliance with standards specified in Clause 50 of SEPP HSPD.

Control	Required	Proposed	Compliance
Building height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	A clause 4.6 variation request was submitted with the original application which addressed the height of the mechanical plant.	<b>As approved</b>

Control	Required	Proposed	Compliance
		This application does not seek to increase this height, rather, to formalise the design and location of the plant.	
Density and scale	0.5:1	0.84:1 FSR - No change as approved	<b>As approved</b>
Landscaped area	30% of the site area is to be landscaped	30% (799m <sup>2</sup> )	<b>Yes</b>
Deep soil zone	15% of the site area Two thirds of the deep soil zone should be located at the rear of the site. Each area forming part of the zone should have a minimum dimension of 3 metres.	As approved	<b>As approved</b>
Solar access	Living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter	No changes remains as approved	<b>As approved</b>
Private open space	(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and	No changes remains as approved	<b>As approved</b>

Control	Required	Proposed	Compliance
	(ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area		
Parking	1 car space for each 5 dwellings where the development application is made by, or is made by a person jointly with, a social housing provider.	Yes - Compliant amount of spaces is provided as the application is made by a community housing provider	<b>Yes</b>

## SEPP (Transport and Infrastructure) 2021

### Ausgrid

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

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

### Comment:

The proposal was referred to Ausgrid who raised no objections, subject to the same conditions as the original DA, which were included in that consent in relation to work near overhead and underground power lines.

### Transport for NSW (TfNSW)

Section 2.119 - Development with frontage to classified road states:



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

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

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

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

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

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

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

Comment: The original application was referred to Transport for NSW who raised no concerns with the proposal, subject to their conditions. The modification application was referred back to TfNSW who advised they had not further comments. It is noted that there will be no direct vehicular access to the site from Pittwater Road.

## **SEPP (Resilience and Hazards) 2021**

### **Chapter 2 – Coastal Management**

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

#### **Division 1 Coastal Wetlands and littoral rainforest area**

##### **2.7 Development on certain land within coastal wetlands and littoral rainforests area**

- 1) The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:
  - a) the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,
  - b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,
  - c) the carrying out of any of the following:
    - i) earthworks (including the depositing of material on land),
    - ii) constructing a levee,
    - iii) draining the land,
    - iv) environmental protection works,
  - d) any other development

Comment:

Not within coastal wetlands or littoral rainforest.

##### **2.8 Development on land in proximity to coastal wetlands or littoral rainforest**

- 1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:
  - a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
  - b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

Comment:

Not within proximity to coastal wetlands or littoral rainforest.

## **Division 2 Coastal Vulnerability Area**

### **2.9 Development on land within the coastal vulnerability area**

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

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

Comment:

Not within coastal vulnerability area.

## **Division 3 Coastal environment area**

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

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

- disability,
- f) Aboriginal cultural heritage, practices and places,
- g) the use of the surf zone.

Comment:

Council has considered the matters a) to g) and are satisfied that the development will not have adverse impacts on these matters. Council's coast and catchment team have provided a separate assessment against the relevant chapter of the SEPP.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
  - a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
  - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
  - c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

Council is satisfied the development has been cited to avoid impacts.

#### **Division 4 Coastal use area**

##### **2.11 Development on land within the coastal use area**

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
  - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
    - i) existing, safe access to and along the foreshore, beach, headland or rock
    - ii) platform for members of the public, including persons with a disability,
    - iii) overshadowing, wind funnelling and the loss of views from public places to
    - iv) foreshores,
    - v) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
  - b) is satisfied that:
    - i) the development is designed, sited and will be managed to avoid an
    - ii) adverse impact referred to in paragraph (a), or
    - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
  - c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The development, due to its proximity to the coastline and lagoon, is not considered to give rise to impact on the matters listed i) to v). The site is highly disturbed as a result of a number of years of use as a community facility. Council is satisfied impact has been avoided.

## **Division 5 General**

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

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

Comment:

The development will not increase coastal risk or coastal hazards.

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

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

Comment:

There is no coastal management program applicable to the land.

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

## **Chapter 4 – Remediation of Land**

Sub-section 4.6 (1)(a) of Chapter 4 requires the consent authority to consider whether land is contaminated.

In response to the above requirements of the SEPP, the applicant has submitted a Site Audit Report dated 10 September 2020 and prepared by Senversa Pty Ltd. In its conclusion, the investigation states:

JBS&G (2020a and 2020c) conclude that the site is considered suitable for residential land use with accessible soils with no further contamination remediation or management required.

Based on the information presented in the Validation Report, Supplementary Assessment, and observations made on site and following the Decision-Making Process for Assessing Urban Redevelopment Sites in NSW EPA (2017) Guidelines for the NSW Site Auditor Scheme (3rd edition), the auditor concludes that the site is suitable for the proposed land use of low density residential with accessible soils (i.e. gardens).

Implementation of an Unexpected Finds Protocol during site redevelopment should be considered given that sampling was not able to be undertaken beneath the current building. The expected site include a brown- black silty clayey sand fill layer across much of the site that has inclusions of ash, bitumen, slag and gravel.

Therefore, as the Site Audit Statement indicates that the site is suitable for a low density residential land use, Council is satisfied that the land is suitable for the purpose for which the development is proposed to be carried out and the recommendations included in the site audit statements (unexpected finds protocol) are included as conditions if consent were to be granted.

## Warringah Local Environmental Plan 2011

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

### Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	10.41m Roof 12.1m Plant Equipment	10.41m Roof 12.1m Plant Equipment	22%-41%	No - However, no change under this MOD.

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No (see detail under Clause 4.6 below)
5.21 Flood planning	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

### Detailed Assessment

#### 4.3 Height of buildings

The approved development exceeded the 8.5m height limit and the below extract is taken from the Clause 4.6 Submitted with the application, which dealt with the mechanical plant. The area of mechanical plant can be seen in the below diagram. The maximum height of the roof was approved at 10.41m and the mechanical plant at 12.1m.

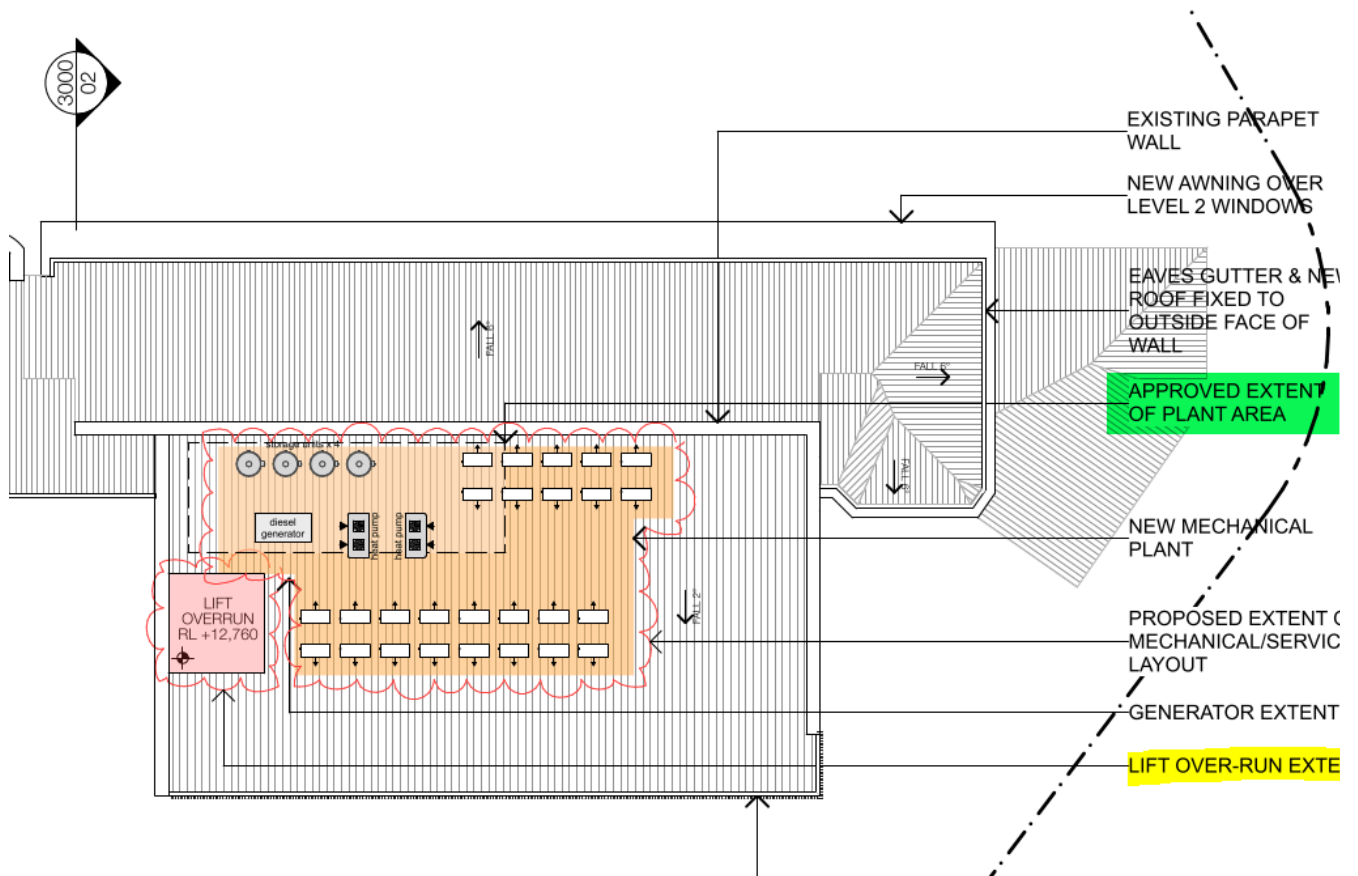


Source: Integrated Design Group, DA-9400 Rev C

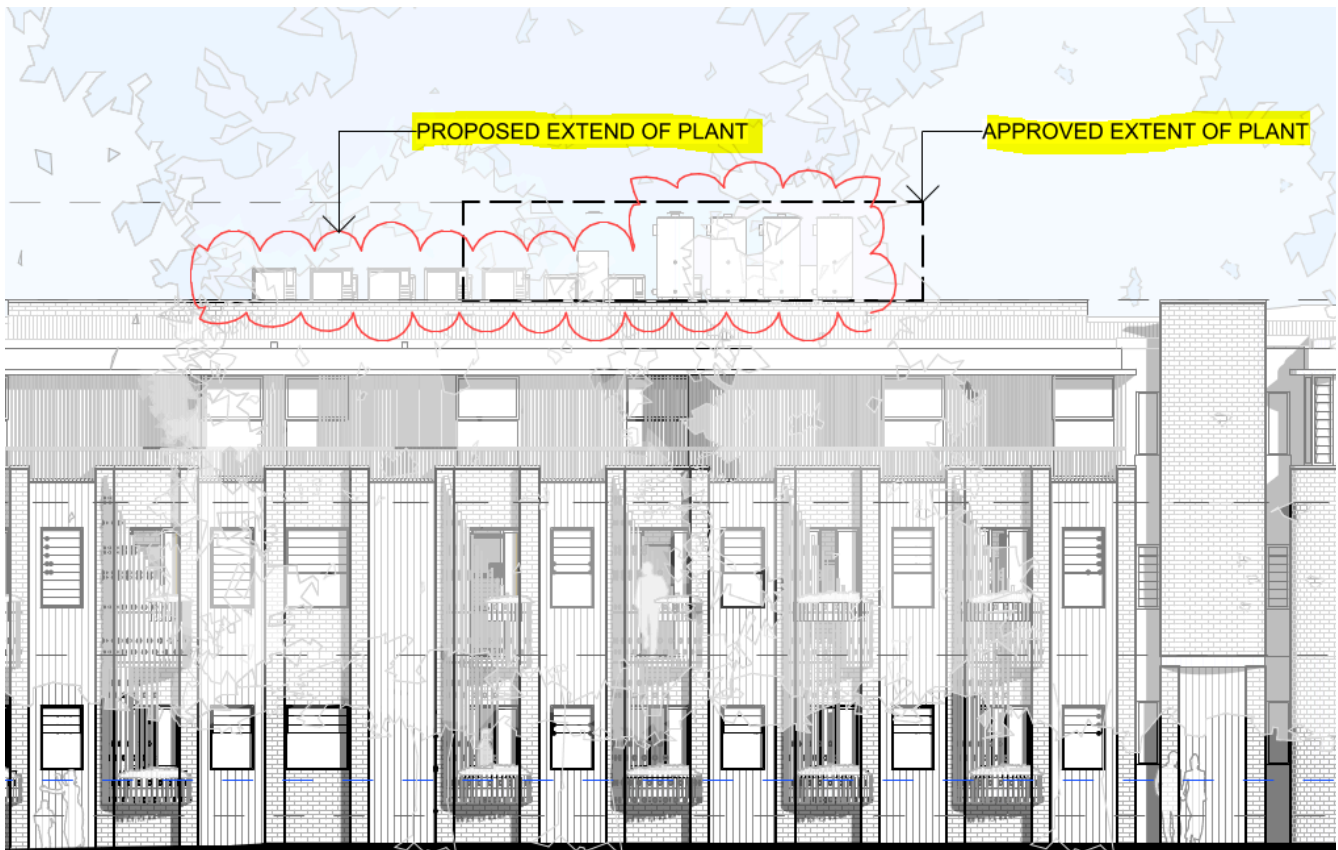
**Figure 1 - Extract of height blanket for original development application, taken from the Clause 4.6 Variation request.**

The modification application seeks to formalise the design and detail of the mechanical plant. The modification also includes a lift overrun which will breach the 8.5m height limit, however, will be lower than the approved mechanical plant. See extract below of the proposed roof plant:





**Figure 2 - Proposed extent of roof plant under this modification application, roof plan.**



**Figure 3 - Proposed extent of roof plant under this modification application, northern elevation.**

The proposed extent of roof plant is no higher than the approved roof plant and the tallest plant is located in the same position as the approval. The additional air-conditioning units, although extending beyond the footprint of the approved plan, are low scale structures which will be hidden from view by the roof parapet. The roof plant has been appropriately positioned away from the adjoining nearest adjoining property.

The lift overrun is centrally located within the site and is proposed at RL12.76. This will sit slightly higher than the approved roof parapet which sits at RL12.65 (120mm). However, the lift overrun is centrally located within the roof plan and will not be visually discernable from the street or surrounding properties.

As such, whilst there are features of the modified plans that site above the 8.5m building height, these features remain consistent with the overall maximum height of the building as approved and do not increase the maximum breach of the building height approved under the original application. Furthermore, it is not considered necessary to require screening of the plant area under this modification application as the proposed mechanical plant is no higher than that approved under the original application, with the tallest roof plant nominated in the same position as approved.

Whilst the modification will result in elements that contravene the 8.5m building height prescribed by Clause 4.3 of the WLEP 2011, the application does not strictly need to address the requirements of Clause 4.6.

The application has been made under Section 4.55 of the *Environmental Planning and Assessment*

Act 1979, which authorises the development for which consent was granted to be modified, notwithstanding any breach of development standards. As such, no document pursuant to Section 35B of the *Environmental Planning and Assessment Regulation 2021* or Clause 4.6 is required.

The matters set out in Section 4.55(3) are addressed in the relevant sections of this report.

## Warringah Development Control Plan

### Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	North 8.9m West - 8.4m- 8.8m	Unchanged	Unchanged
B3 Side Boundary Envelope	4m	North - Outside	Unchanged	Unchanged
	4m	West - Within	Unchanged	Unchanged
B5 Side Boundary Setbacks	0.9m	North - 2.3m to 3.8m	Unchanged	Unchanged
	0.9m	West - 8m to 20m	Unchanged	Unchanged
B7 Front Boundary Setbacks	6.5m	Building 5m to 7.6m	Unchanged	Unchanged
		Substation	Nil	No
D1 Landscaped Open Space and Bushland Setting	40% DCP 30% SEPP HSPD	838sqm/ 31.4%	799m <sup>2</sup> / 30%  (-39m <sup>2</sup> under MOD)	<b>No - However SEPP HSPD overrides and meets minimum 30%</b>

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes

#### Detailed Assessment

#### **B7 Front Boundary Setbacks**

##### Description of non-compliance

The DCP requires a front setback of 6.5m. The proposed building remains in the existing position and is unchanged via the proposal. However, as part of this modification a combined plinth containing a substation and water pump is proposed to abut the front boundary of the site. The applicant has provided details of why this infrastructure is essential and must be located alongside the front boundary, including the requirements of Ausgrid and Sydney Water to require it to be placed above the flood planning level and directly adjacent to the boundary.

Council has question the applicant about the potential for landscaping to be provided forward of the structure to soften it from the street. However, the applicant has cited various requirements, particularly from Ausgrid, which precludes landscaping from being provided between the structure and

the street.

As such, the applicant has designed the structure to be integrated into the existing 'serpentine wall' to ensure the structure is blended into the overall design and landscape scheme. The applicant has provided a detailed response, as well as a photomontage which is replicated below:



Source: Paterson Design Studio Pty Ltd, 2024

#### Merit consideration:

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

- *To create a sense of openness.*

#### Comment:

The plinth is set at the flood planning level, with open style fencing above to promote views to the building behind. The remainder of the frontage will remain open, with this structure being for a portion of the front boundary only, with the building stepped back for the remainder of the frontage.

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

#### Comment:

The plinth has been designed to integrate into an existing 'serpentine wall' and maintains the height and materiality of this wall, to reflect the existing pattern of development. The building remains at the same setback to the street as is the existing situation, with landscaping within the front setback apart from this new piece of essential infrastructure.

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

#### Comment:

The Ausgrid substation and water pump are essential infrastructure that must be provided at the site frontage. The applicant has designed the structure in a way to compliment the existing

building materials and integrate into an existing wall within the front setback. Landscaping is maintained around the structure.

- *To achieve reasonable view sharing.*

Comment:

There will be no view impacts arise as a result of the proposal.

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

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

The DCP requires that 40% of the site comprise of landscaped area in the R2 Zone. However, as the application is made pursuant to the SEPP HSPD and SEPP ARH, these Environmental Planning Instruments (EPI) contain their own controls with regards to landscape requirements which take precedence over Council's DCP.

Therefore, see discussion previously in this report about landscaping under each EPI. The proposal maintains 30% landscaping in accordance with the SEPP HSPD and SEPP ARH.

### **D3 Noise**

In relation to any noise generation from the mechanical plant, it is noted that the existing consent nominates some mechanical plant on the roof already. The existing development consent contains Condition 5(h) and Condition 31 which reads as follows:

#### **Condition 5 General Requirements - (h)**

*All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.*

#### **Condition 31 Noise – Design of Mechanical Plant**

*Prior to the commencement of works, the design, specifications and location of noise generating mechanical plant are to be provided to the Certifying Authority. An acoustic assessment is to be undertaken by a suitably qualified professional such as an acoustic engineer to determine acoustic treatments to control noise emissions from all mechanical plant noise in accordance with the measures stated within Section 6.2.2 of the Noise Impact Assessment by Stantec Australia Pty Ltd dated 30 September 2021 (Reference 45216).*

*Any design recommendations made by the consultant must be implemented into the plans prior to the commencement of works in order to achieve compliance with noted conditions of this consent.*

*Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority.*

*Reason: To maintain amenity of the surrounding area.*



Both above conditions will remain on the consent and are to be applicable to the newly introduced mechanical plant, which will need to meet both conditions in relation to noise.

As such, the proposal satisfies the DCP in relation to noise.

### **E1 Preservation of Trees or Bushland Vegetation**

The two trees to be removed as part of this modification application are 'exempt' species under the DCP and do not require development consent to be removed. A landscape plan has been prepared which shows replacement planting to the satisfaction of Council's Landscape Team.

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

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

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

### **POLICY CONTROLS**

#### **Northern Beaches Section 7.12 Contributions Plan 2022**

Section 7.12 contributions were levied on the Development Application.

### **CONCLUSION**

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

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

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

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

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



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

## **PLANNING CONCLUSION**

This proposal, to modify development consent DA2021/1912 for 'Alterations and additions to an existing building for a mixed use development including seniors housing and boarding house including stratum subdivision' has been referred to the SNPP due to the amendment of a condition imposed by the Panel and the exceedance of the building height due to the updated design of the roof plant.

The concerns raised in the objection in relation to the noise from mechanical plant have been addressed by conditions which will remain on the modified consent. The concerns in relation to the visual impact of the mechanical plant are addressed within the report and the design of the mechanical plant is not higher or more visually intrusive than the indicative plant location approved as part of the original application. Concerns have been raised about tree removal however, the modifications do not seek to remove any prescribed trees on the site, with the trees removed to accommodate the substation consisting of exempt species only (due to their species).

The critical assessment issues regarding the design of the substation have been addressed within this report and it is found that the application has included reasonable measures to mitigate the visual impact of the critical infrastructure by integrating the plinth into the existing wall design, whilst still meeting the technical requirements of Ausgrid and Sydney Water.

Overall, the development maintains a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended for approval.

## **REASON FOR DETERMINATION**

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

## **RECOMMENDATION**

THAT Sydney North Planning Panel as the consent authority grant approval to Modification Application No. Mod2024/0134 for Modification of Development Consent DA2021/1912 granted for alterations and additions to an existing building for a mixed use development including seniors housing and boarding house, stratum subdivision and strata subdivision. on land at Lot 45 DP 12578,8 Palm Avenue, NORTH MANLY, Lot 22 DP 865211,389 Pittwater Road, NORTH MANLY, Lot 1 DP 544341,2 - 4 Lakeside Crescent, NORTH MANLY, Lot 46 DP 12578,2 - 4 Lakeside Crescent, NORTH MANLY, Lot 47 DP 12578,2 - 4 Lakeside Crescent, NORTH MANLY, Lot 48 DP 12578,2 - 4 Lakeside Crescent, NORTH MANLY, subject to the conditions outlined in Attachment 1.

## **ATTACHMENT 1**

## Modification Summary

The development consent is modified as follows:

### MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN #419378 MOD2024/0134	The date of this notice of determination	<p><b>Modification of Development Consent DA2021/1912 granted for alterations and additions to an existing building for a mixed use development including seniors housing and boarding house, stratum subdivision and strata subdivision</b></p> <p>Add Condition No.1A Modification of Consent - Approved Plans and supporting documentation            Modify Condition 18 Transplanting Methodology Plan            Add condition 19A Flood Effects Caused by development            Add Condition 19B Building Components and structural soundness            Add condition No 19C Floor Levels (Flooding)            Modify Condition 38 Amended Plans and Documents            Modify Condition 39 Project Arborist            Modify Condition 40 Tree Removal Within the Property            Modify Condition 46 Tree and Vegetation Protection            Modify Condition 64 Landscape Completion            Add condition 85A Certification of Works as Executed            Add condition 85B Building Components and Structural Soundness</p>

### Modified conditions

#### **A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation, to read as follows:**

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

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA-0102	H	Site Plan	Integrated Design Group	8/02/2024
DA-0500	F	BCA Compliance - Ground Floor	Integrated Design Group	8/02/2024
DA-0501	F	BCA Compliance - Level 1	Integrated Design Group	8/02/2024

DA-502	F	BCA Compliance - Level 2	Integrated Design Group	8/02/2024
DA-1100	H	Ground Floor Plan	Integrated Design Group	8/02/2024
DA-1101	G	Level 1 Plan	Integrated Design Group	8/02/2024
DA-1102	H	Level 2 Plan	Integrated Design Group	8/02/2024
DA-1103	H	Roof Plan	Integrated Design Group	8/02/2024
DA-2000	G	Elevation - North and South	Integrated Design Group	8/02/2024
DA-2001	G	Elevation - East and West	Integrated Design Group	8/02/2024
DA-3000	H	Sections 1	Integrated Design Group	8/02/2024
DA-3001	F	Section 2	Integrated Design Group	8/02/2024
LA1	C	Cover Page	Paterson Design Studio	15/02/2024
LA2	C	Landscape Specifications	Paterson Design Studio	15/02/2024
LA3	C	Landscape Plan	Paterson Design Studio	15/02/2024
LA4	C	Landscape Sections	Paterson Design Studio	15/02/2024
LA5	C	Landscape Sections	Paterson Design Studio	15/02/2024
LA6	C	Material Pallet	Paterson Design Studio	15/02/2024
LA7	C	Planting Montages	Paterson Design Studio	15/02/2024
LA8-15	C	Plant Schedule	Paterson Design Studio	15/02/2024
LA17	C	Planting Details	Paterson Design Studio	15/02/2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate No 1243888M_03	03	FRYS Building Consultancy Pty Ltd	5/03/2024
Arboricultural Impact Assessment	-	TMS	29/02/2024
Flood Considerations, Project 300203890	-	Stantec	20/06/2024

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

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

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

**B. Modify Condition 18 Transplanting Methodology Plan to read as follows:**

A Transplanting Methodology Plan, prepared by an Arborist with AQF minimum Level 5 qualifications in arboriculture, to demonstrate the requirement for the proposed transplanting of tree number 4 - Canary Island Palm (if not to remain in situ), including: i) preparation of the site for trenching; ii) root treatment along the trench and root ball prior to lifting; iii) preparation for lifting and relocation; iv) transplanting methodology and installation works; v) post-transplanting care and duration; vi) ongoing maintenance program; and vii) replacement strategy if transplanting fails in the long term.

The Transplanting Methodology is to be submitted to the Certifying Authority for approval prior to the commencement of works.

Reason: Tree protection.

**C. Add condition 19A Flood Effects Caused by development to read as follows:**

Other than what has been approved, there is to be no filling of the land or any other reduction of the available flood storage which results in a net loss of storage below the 1% AEP flood level of 3.16m AHD.

Details demonstrating compliance are to be submitted to the Certifier prior to the commencement of works.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

**D. Add Condition 19B Building Components and structural soundness to read as follows:**

The following conditions are relevant to the proposed substation and potable water pump structure:

B1 - All new development below the Flood Planning Level of 3.66m AHD shall be designed and constructed from flood compatible materials.

B2 - All new development must be designed to ensure structural integrity up to the Flood Planning Level of 3.66m AHD, taking into account the forces of floodwater, debris load, wave action, buoyancy and immersion.

B3 - All new and existing electrical equipment, power points, wiring and connections must be located above the Flood Planning Level of 3.66m AHD, protected from flood water or have residual current devices installed to cut electricity supply during flood events.

Details demonstrating compliance are to be submitted to the Certifier prior to works commencing.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

**E. Add condition No 19C Floor Levels (Flooding) to read as follows:**

C3 - The underfloor area of the potable water pump below the 1% AEP flood level is to be designed to allow clear passage of floodwaters. At least 50% of the perimeter of the underfloor area must be of an open design from the natural ground level up to the 1% AEP flood level.

Details demonstrating compliance are to be submitted to the Certifier prior to works commencing.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government

**F. Modify Condition 38 Amended Plans and Documents to read as follows:**

Prior to the commencement of work, amended plans/additional information shall be prepared/provided, and a copy submitted to Council, showing the following:

- a) Emergency power to provide for basic lighting and facilities to be used in case of disruption to electricity supply during occupation of the SIP facility is to be provided. The emergency power may be provided by either:
  - i. Photovoltaic panels on the roof, or mains power connected to battery storage. The battery storage if reliant on photovoltaic panels is also to be connected to mains supply; or
  - ii. Generator located on the roof. The generator is to be manually operated by a flood warden in a flood event as required. Routine checking of the operation of the generator is to be undertaken in accordance with the requirements of the FERP. The generator is not to operate automatically in the event of a power outage not occurring at the same time as a flood event requiring residents to shelter in place.
- b) The SIP facility shall be amended to include:
  - i. A kitchenette providing a sink, microwave and hotplate (electric);
  - ii. Sufficient cupboard storage for emergency supplies (blankets, towels, first aid kit and utensils for preparing basic food and drinks);
  - iii. A TV and radio (with battery backup) for access to information in an emergency;
  - iv. Power outlets for charging of mobile phones and the like; and
  - v. The WC being provided with storage capacity suitable to cater for SIP events where the sewerage system fails to function.
- c) The design shall be amended, under the instruction of a suitably experienced and qualified flood engineer, to ensure all flood protection doors and equipment are appropriately located behind physical barriers that would prevent foreseeable damage in a flood due to floating debris.
- d) A mobile chair lift (to be stored near to the stairs) for the stairs from the ground to the first floor provided with a battery backup in the case of power failure.
- e) Units 2.05 and 2.06 on the second floor being provided with a clerestory windows as shown, but not notated, on the elevation and section plans.

Reason: To ensure appropriate site management and flood management

**G. Modify Condition 39 Project Arborist to read as follows:**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites and the approved Arboricultural Impact Assessment. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection. The Project Arborist is to certify all demolition, excavation and construction works near all trees to be retained, including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

The Project Arborist shall certify all excavation and construction works as nominated in the Arboricultural Impact Assessment, including:

- i) tree sensitive excavation and construction measures within the tree protection zones of trees 4, 10, 15, 18, 21, 23 and 24, in accordance with section 3 - Tree Management Plan,
- ii) all other recommendations of section 3 - Tree Management Plan for trees 4, 5, 6, 10, 13, 14, 15, 18, 20, 21, 23, 24, 25, 26 and 29,
- iii) arboricultural works under appendix 3 - Tree Retention Plan.
- iv) measures identified in the Tree Management Plan including the use of sensitive construction measures where services encroach on tree preservation zones. The project arborist must certify the measures are in place and trees were unaffected.

All tree protection measures specified must: a) be in place before work commences on the site, and b) be maintained in good condition during the construction period, and c) remain in place for the duration of the construction works.

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

Note:

- i) A separate permit may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

#### **H. Modify Condition 40 Tree Removal Within the Property to read as follows:**

This consent approves the removal of the following trees within the property (as recommended in the approved Arboricultural Impact Assessment):

- a) 1, 3, 7, 8, 16, 17, 19, 22, 27 and 28,
- b) existing trees 2, 9, 11 and 12 are exempt species that may be managed or removed without Council consent.
- c) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised building works.

#### **I. Modify Condition 46 Tree and Vegetation Protection to read as follows:**

- a) Existing trees and vegetation shall be retained and protected, including:
  - i) all trees and vegetation within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
  - ii) all trees and vegetation located on adjoining properties,
  - iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on



- Development Sites and the approved Arboricultural Impact Assessment, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
  - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
  - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
  - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
  - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
  - vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
  - viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970- 2009 Protection of Trees on Development Sites,
  - ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
  - x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
  - xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.
- c) Tree protection shall specifically be undertaken in accordance with the recommendations in the approved Arboricultural Impact Assessment.

The Certifying Authority must ensure that:

- d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the approved Arboricultural Impact Assessment.
- e) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

**J. Modify Condition 64 Landscape Completion to read as follows:**



Landscape works are to be implemented in accordance with the approved Landscape Plans LA-1 to LA-17 inclusive, revision C, prepared by Paterson Design Studio.

Prior to occupation, details (from 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 any conditions of consent.

Reason: Environmental amenity.

**K. Add condition 85A Certification of Works as Executed to read as follows:**

A suitably qualified engineer and/or registered surveyor is to certify that the completed works have been constructed in accordance with this consent and the approved plans with respect to the following:

At least 50% of the perimeter of the underfloor area under the potable water pump is to allow the free passage of floodwaters.

1. Floor levels for electrical substation and pumping kiosk are set at or above the required level
2. There has been no filling on the land other than what has been approved
3. At least 50% of the perimeter of the underfloor area under the potable water pump is to allow the free passage of floodwaters.
4. Openings are provided in fencing as shown on the approved plans for the free passage of flood waters

Details demonstrating compliance are to be submitted to the Certifier prior to Occupation of the development.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

**L Add condition 85B Building Components and Structural Soundness to read as follows:**

The following conditions are relevant to the proposed substation and potable water pump structure:

B2 - A suitably qualified structural engineer is to certify the structural integrity of the new development up to the Flood Planning Level 3.66m AHD. The depth, velocity, debris load, wave action, buoyancy and immersion must all be considered.

B3 - A suitably qualified electrician or contractor is to certify that all new and existing electrical equipment, power points, wiring and connections are located above the Flood Planning Level of 3.66m AHD, are protected from flood water or have residual current devices installed to cut electricity supply during flood events.

Details demonstrating compliance are to be submitted to the Certifier prior to Occupation of the development.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.