

16 December 2024

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Your ref:
Our ref: JZOS/AJWS/3824478

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Dear David

Legal advice in relation to permissibility of proposed modified development at 440 Bobbin Head Road, North Turramurra | Modification Application no. MOD0173/24

We refer to your request to provide legal advice in relation to the proposed modification of the existing retirement village known as 'The Landings', which has a primary address of 440 Bobbin Head Road, North Turramurra (**'the Site'**).

We understand that the Site benefits from Development Consent No. DA807/01 (**'2002 Consent'**) – amongst others – and that LDK Turramurra Unit Trust (Sydney) has lodged a modification application with Ku-ring-gai Council (**'Council'**) seeking the conversion of five existing apartments into eight studios with communal living and dining spaces, plus conversion of existing garages into dementia day respite areas (**'Proposed Modification'**).

Specifically, you have asked us to:

1. consider Council's pre-development application (**'DA'**) comments in relation to the Proposed Modification; and
2. provide our legal opinion in relation to the permissibility of the Proposed Modification, including:
 - a. whether existing use rights can be relied upon for the purposes of obtaining development consent for the Proposed Modification; and
 - b. if the answer to Question 2.a. is 'yes', whether the now repealed *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (**'HSPD SEPP'**) still applies to the Proposed Modification on the basis of the transitional provisions within the new *State Environmental Planning Policy (Housing) 2021* (**'Housing SEPP'**).

Summary Advice

Existing Use Rights

In our opinion, based on the material that we have been provided with, we are of the view that the Site benefits from existing use rights as *'housing for older people or people with disabilities'*. The existing use rights arise from (a) the 2002 Consent, which was granted under the now repealed *State Environmental Planning Policy No 5—Housing for Older People or People with a Disability (1998 EPI 9)* (**'SEPP 5'**), and (b) because the Site has continued to be used for that purpose since consent was granted, the existing use rights are current and continuing.

We note that the Land and Environment Court (**'Court'**), in *Ground Crew at Turramurra Pty Ltd v Ku-ring-gai Council and the Commissioner of the Rural Fire Service* [2008] NSWLEC 86 (**'Ground Crew'**) accepted that the Site has existing use rights under the 2002 Consent and therefore there is "power to grant consent, notwithstanding the proposed use now being prohibited".

The current proposal for *'conversion of five (5) existing apartments into eight (8) secure studios with combined communal living and dining space – similar to the group home model; and repurpose of adjacent garages into a dementia day respite area including i.e. laundry and cleaning room, as well as*

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additional office space for administrative functions is a permitted type of development with consent since it can be classified as development to 'alter or extend' or to 'enlarge or expand or intensify' the existing use on land on which the existing use was erected or carried out prior to the date of the environmental planning instrument ('EPI') having the effect or prohibiting the existing use coming into force. In our view, it is clear that the Proposed Modification would continue to carry out a land use that is expressly compatible and consistent with a *'housing for older people or people with disabilities'* use.

Applicable State EPI

Ultimately, we say that the Proposed Modification is permissible by operation of the 'existing use' provisions in Div 4.11 (ss 4.65-4.70) of Pt 4 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') and the "incorporated provisions" (cl 163 - 165) of the *Environmental Planning and Assessment Regulation 2000* ('EP&A Regulation') made pursuant to s 4.67 of the EP&A Act.

As the Proposed Modification seeks consent for the 'enlargement' or 'intensification' of an existing use, we are of the view that the now repeated HSPD SEPP still applies to the Proposed Modification due to the savings / transitional provisions under Schedule 7A of the Housing SEPP and clause 6(3) of the HSPD SEPP.

Background

In preparing this advice, we have understood the relevant facts to be as follows:

- The Site has an area of 11.87ha.
- The Site is legally described as Lot 1 DP 858405.
- If approved, the Proposed Modification works would be limited to a small area of the Site known as 1 Sir Neville McNamara Drive ('MOD Site') (see **Figure 1**).



Figure 1: Aerial map of the Site (in yellow) and the MOD Site (in pink), Source: SixMaps

- The Site is currently zoned C4 Environmental Living (previously known as 'E4: Environmental Living') pursuant to the *Ku-ring-gai Local Environmental Plan 2015* ('LEP').
- 'Seniors housing' is an innominate prohibited use in the C4 (cf E4) zone.
- Although the LEP does not define 'retirement villages' or 'aged care facilities', 'seniors housing' is defined as follows:

"seniors housing means a building or place that is—

- a residential care facility, or*
- a hostel within the meaning of State Environmental Planning Policy (Housing) 2021, Chapter 3, Part 5, or*
- a group of independent living units, or*

- (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c), and that is, or is intended to be, used permanently for—
- (e) seniors or people who have a disability, or
- (f) people who live in the same household with seniors or people who have a disability, or
- (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place, but does not include a hospital.

Note— Seniors housing is a type of residential accommodation—see the definition of that term in this Dictionary.”

- From our review of the disclosed material and Council’s DA Register, we understand that the Site has been the subject of numerous development applications over the years. We summarise the key approvals as follows and provide further details at **Annexure A** of this advice:
 - On 10 March 1998, Development Consent No. 4843/96 was granted which approved the erection of a retirement village comprising 313 dwellings and community facilities at the Site (**‘1998 Consent’**).
 - On 21 May 2002, the 2002 Consent (DA807/01) was granted which approved the construction of 220 dwellings, car parking for 286 vehicles, community facilities and associated landscaping. We understand that the 2002 Consent sought to supersede the 1998 Consent.
 - On 12 June 2009, Development Consent No. 0725/08 was granted which approved (additional) seniors living development comprising 46 dwellings at the Site (**‘2009 Consent’**). This consent was subsequently modified by applications no. MOD0116/11 and MOD0142/11 which were granted on 20 and 21 October 2011 and which approved changes to footpath levels and relocation of a pedestrian footpath.
 - On 25 February 2021, Development Consent No. 0403/20 was granted which approved the alterations and additions to the existing community facilities at the Site (**‘2021 Consent’**). This consent was subsequently modified by application no. MOD0120/22 which was granted on 2 September 2022 and approved minor internal / external changes.
- On 4 September 2024, you attended a pre-DA meeting with Council to discuss the Proposed Modification. Council raised concerns in the pre-DA meeting report (**‘Council Report’**) as to the characterisation and permissibility of the Proposed Modification. Specifically, Council questions whether the Proposed Modification has been appropriately characterised as ‘seniors housing’:

*“Our view is that whilst a small percentage of the apartments are to be converted, ‘care and assistance’ to the ‘unwell’ residents may require **nursing care** and this aspect of the proposal **may be classified as a ‘residential care facility’**. This aspect of the development requires further clarification, and any application must address the legislative provisions of the Act, Regulations and relevant case law. It is recommended that legal advice be provided with the application to address permissibility.”*

(our **emphasis**).
- On 22 November 2024, modification application no. MOD0173/24 (**‘MOD Application’**) was lodged. We understand that the full description Proposed Modification works is as follows:

“Modification to Land and Environment Court Consent 10973 of 2001 (DA0807/01 – construction of 220 dwellings under the provisions of SEPP 5 – Housing for Older People or People with a Disability) for the conversion of five existing apartments into eight studios with communal living and dining spaces, plus conversion of garages into dementia day respite areas – Integrated Development – Rural Fires Act 1997.”

Please let us know if any of the above facts are incorrect, as this may change our advice.

Substantive Advice

1. Does the Site benefit from existing use rights?

1.1 ‘Existing use’ is defined in section 4.65 of the EP&A Act, as follows:

*“In this Division, **existing use means:***

- (a) *the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have **the effect of prohibiting that use**, and*
- (b) *the use of a building, work or land:*

*(i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of **prohibiting the use**, and
(ii) that **has been carried out**, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.”*

(our **emphasis**).

- 1.2 In other words, an ‘existing use’ can be established in one of two ways pursuant to section 4.65, being:
- a. in circumstances where the building, work or land was being used for a lawful purpose before the same became prohibited; or
 - b. in circumstances where the building, work or land was being used pursuant to a development consent which was granted before the use became prohibited.
- 1.3 Accordingly, the use of the Site constitutes an ‘existing use’ if it can be established that this use was being lawfully carried out (with or without consent) before the use later became prohibited. In order to determine this, it is necessary to establish:
- a. how that use came to exist on the Site in the first place (i.e. under what statutory scheme was the use permitted); and
 - b. if and when that same use was ultimately prohibited.

How did the existing use come about at the Site?

- 1.4 At the time the 2002 Consent was issued the Site was subject to the provisions in SEPP 5, and, ‘housing for older people or people with disabilities’ was defined in in this EPI as follows:
- “residential accommodation which is or is intended to be used permanently as housing for the accommodation of older people or **people with a disability** which **may consist of a residential care facility**, a hostel or a grouping of 2 or more self-contained dwellings, or a combination of these, but does not include a hospital.”*

(our **emphasis**).

- 1.5 Importantly, at that same time SEPP 5 also defined ‘people with a disability’ and a ‘residential care facility’ as follows:

*“**people with a disability** means people of any age who, as a result of having an intellectual, physical, psychiatric or sensory impairment, either permanently or for an extended period, have substantially limited opportunities to enjoy a full and active life.*

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

(a) meals and cleaning services, and

*(b) **personal care or nursing care**, or both, and*

(c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,

not being a dwelling, hospital or psychiatric facility.”

- 1.6 In light of the above, we are of the view that the use of the Site as ‘housing for older people or people with disabilities’, which may consist of a ‘residential care facility’ for the purpose of providing ‘nursing care’ was a use which was permissible with consent at the time the 2002 Consent was issued.
- 1.7 Consistent with our view above, the Court in *Ground Crew* accepted that the 2002 Consent was validly issued for a permissible use pursuant to SEPP 5.
- 1.8 For completeness we note that SEPP 5 does not define a ‘hospital’ use (which is a separate / expressly carved out use form the definition of ‘housing for older people or people with disabilities’).

When was the existing use prohibited?

- 1.9 On 18 December 2002, SEPP 5 was amended to include a new provision (cl 12(2A) which precluded the operation of SEPP 5 on ‘environmentally sensitive land’.

- 1.10 The Site is identified as being ‘bushfire prone land’¹, and as such, cl 12(2A) of SEPP 5 would have applied to the Site at the time this amendment took effect.
- 1.11 Notwithstanding this, Roseth SC in *Ground Crew* acknowledged that the Site benefits from existing use rights and is thus not impacted by this amendment from a permissibility perspective having regard to the principles of existing use rights:

*“The Ku-ring-gai Planning Scheme Ordinance zones the Landing site 5(a) Special Uses (Hospital). **The retirement village of 220 dwellings was granted consent under the then State Environmental Planning Policy 5 – Housing for Older People and People with a Disability (SEPP 5). Soon after the consent was issued, Amendment 5 to SEPP 5 came into force, excluding the North Turramurra “peninsula” from the operations of the Policy, thus making medium density housing under SEPP 5 (and, with the change of name to the SEPP, housing under the Seniors Living State Environmental Planning Policy (SLSEPP)) a prohibited use. It is common ground that the site has existing use rights and that the Court has power to grant consent, notwithstanding the proposed use now being prohibited.**”*

(our **emphasis**).

- 1.12 Based on the above, it is clear that the Site was approved for the use as ‘housing for older people or people with disabilities’ (which expressly includes a residential care facility) prior to amendment 5 of SEPP 5 coming into effect and prohibiting the same on 18 December 2002.
- 1.13 Reference is made throughout the *Ground Crew* decision to the “*nearly completed senior housing development*” (which was approved in the 2002 Consent). This suggests to us that the use of the Site as ‘housing for older people or people with disabilities’ was lawfully commenced **well prior** to it becoming prohibited on 18 December 2002.
- 1.14 Additionally, Council approved a number of subsequent development consents (see **Annexure A**) for the expansion and alteration of the existing facility at the Site – well after such uses became prohibited on 18 December 2002. In our view, these favourable determinations strongly suggest that Council have accepted that the Site benefits from existing use rights over the years.

2. Are the existing use rights current?

Did the existing use lawfully commence?

- 2.1 There are two ways to prove the existence of a development consent – either by way of adducing evidence of an express consent or by subsequent conduct of the consent authority.²
- 2.2 Although we have not sighted the 2002 Consent, we understand that your town planning consultants, Willowtree Planning, have.³ In any event, in circumstances where such consents could not be found, the ‘presumption of regularity’ can be relied upon to establish the existence of a development consent and the lawful commencement of the existing use.
- 2.3 Under the ‘presumption of regularity’, if an act is performed that can only be legally done after a prior act, proof of the latter implies a legal presumption that the prior act was duly performed. For example, in *Walfertan*, the Court of Appeal found that the presumption of regularity could be relied on in circumstances where the original approval for a tannery could not be located but subsequent consents were issued for the upgrade / changes to the tannery.
- 2.4 *Walfertan* is a clear example in which the ‘presumption of regularity’ applies. This principle essentially holds that an **approval may be inferred where there is sufficient evidence of other acts having been done in reliance on such an approval**, or conversely, a noticeable lack of enforcement action by a council.
- 2.5 At the time of preparing this advice we have not seen any material which contradicts the inferential existence of the development consent having been granted for the use of the Site as ‘housing for older people or people with disabilities’.

Abandonment

- 2.6 Once established, existing use rights run with the land and will generally continue in perpetuity unless that use is ‘abandoned’.
- 2.7 Abandonment of an existing use right is defined in section 4.66(3) of the EP&A Act, as follows:

¹ *Ground Crew*, [2].

² *Darley Australia Pty Ltd v Walfertan Processors Pty Ltd* [2012] NSWCA 48 (***Walfertan***) at [113]; *Manicaland Pty Ltd v Strathfield Council* (NSWLEC, 12 December 1997, unreported).

³ Statement of Environmental Effects prepared by Willowtree dated February 2020, Part 4.2.3.

“(3) ... a use is to be presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months.”

- 2.8 The onus of providing whether an existing use right has been abandoned generally falls on the consent authority or those alleging the abandonment.⁴
- 2.9 We are instructed that the Site has continued to be used for ‘housing for older people or people with disabilities’ since the 2002 Consent. As such, we do not consider any abandonment will be raised throughout the assessment of the MOD Application.
3. **Can existing use rights be relied upon for the purposes of obtaining consent for the Proposed Modification at the Site?**
 - 3.1 To answer this question, we must first consider whether the Proposed Modification is appropriately characterised as the existing (permissible) use.
Characterising the Proposed Development
 - 3.2 The MOD Application proposes the retention and continued use of the approved and existing aged care apartments and garages at the Site (by converting the same into studios and providing a respite day area for dementia residents). As such, it is readily apparent that the Applicant **is not proposing to change the use** of the Site from ‘housing for aged persons or persons with a disability.’
 - 3.3 Council however has questioned the characterisation and permissibility of the Proposed Modification in the Council Report. Specifically, Council seems to suggest that the proposed ‘dementia day respite’ and ‘assisted living’ elements of the proposal characterises the proposed land use as a use that may not be permissible on the Site.
 - 3.4 Furthermore, Council’s position in the Council Report in relation to permissibility is that:
Our view is that whilst a small percentage of the apartments are to be converted, ‘care and assistance’ to the ‘unwell’ residents may require nursing care and this aspect of the proposal may be classified as a ‘residential care facility’.
 - 3.5 Having regard to the relevant SEPP 5 definitions reproduced above, which set the parameters for the relevant existing use rights on the Site, we simply do **not** share the same concern that there is a potential permissibility issue because ‘residents may require nursing care’ or because ‘the proposal may be classified as a ‘residential care facility’’. In fact, **those elements and aspects of the proposed use are definitionally consistent with the Site’s existing use rights, commencing under SEPP 5**. That is, the relevant definition of a residential care facility expressly includes nursing care, which is permissible on the Site.
 - 3.6 As such, we are of the view that the Proposed Modification is permissible.
 - 3.7 In reaching this conclusion, we have considered the following legal principles relating to characterisation:
 - a. In planning law, a use of land must be for a purpose. The purpose of development is the ‘end which the land is seen to serve’. It describes the character which is imparted to the land at which the use is pursued.⁵
 - b. **The nature of the use must be distinguished from the purpose of the use. Uses of different natures can still be seen to serve the same purpose.**⁶
 - c. The characterisation of the purpose of development must be determined objectively⁷ and must be done in a common sense and practical way.⁸
 - d. **Characterisation of the purpose of the use of land should be done at a level of generality which is necessary and sufficient to cover the individual activities, transactions or processes carried on, not in terms of the detailed activities, transactions or processes.**⁹

⁴ *King v Lewis* (1995) 88 LGERA 183; *Meriton Apartments Pty Ltd v Fairfield Council* [2004] NSWLEC 423.

⁵ *Chamwell Pty Ltd v Strathfield Council* [2007] NSWLEC 114 151 LGERA 400 (**Chamwell**) at [27].

⁶ *Shire of Perth v O’Keefe* (1964) 110 CLR 529 at 534–535; *Warringah Shire Council v Raffles* (1978) 38 LGRA 306 at 308.

⁷ *Warriewood Properties Pty Ltd v Pittwater Council* [2010] NSWLEC 215 at [45].

⁸ *Chamwell* at [45].

⁹ *Royal Agricultural Society of NSW v Sydney City Council* (1987) 61 LGRA 305 at 310.

e. The question of whether a use for a particular purpose is subservient or incidental to another purpose, or whether it constitutes an independent use, is one of fact and degree.¹⁰

- 3.8 We do not consider that the proposed activities to be undertaken on the Site that are described as a ‘dementia day respite area’ or ‘assisted living’ to be incompatible with the dominant use of the Site, pursuant to its existing use rights, as ‘housing for older people or people with disabilities’ approved under SEPP 5.
- 3.9 On this basis, the end to which the Proposed Modification seeks to use the Site continues to be permissible.
- 3.10 Even if the dementia or assisted care element of the proposal were to be considered as ‘ancillary’ or ‘incidental’ to the dominant permissible use, the courts have widely accepted that if two or more uses are proposed, the subordinate use can be disregarded, and the primary / dominant use will characterise the development.¹¹

Changing an Existing Use Right

- 3.11 For completeness, once an existing use right is established, section 4.67 of the EP&A Act allows for changes (i.e. intensification, alterations, extensions, enlargement etc.) to be made to that existing use. This power is then qualified by ss 163 to 167 of the EP&A Regulation which say that any changes (to the existing use) must be limited to the existing use only, and must be erected / carried out only on the land to which the existing use was (or is) located.
- 3.12 We summarise some of the key case law principles that consider these ‘qualifications’ below:
- “...If the development application is merely an ‘enlargement or expansion or intensification’ of the existing use, then so long as it is ‘for the existing use and for no other use’ then the...[consent authority]...is empowered to grant consent to it”;¹²
 - “...If however the development application involves a change of use, then, because it amounts to [a use which is prohibited in the zone] the [consent authority] lacks the power to grant consent...”;¹³
 - “The terms “enlargement”, “expansion” and “intensification” are not defined in the EP&A Act and are therefore, to be given their ordinary meaning...”;¹⁴ and
 - “The question of whether an existing use has intensified must be done at a level of generality applying to the whole use and not the particular activities to which the Premises is put”.¹⁵

Savings and Transitional Provisions

- 3.13 We turn now to the question of which State EPI should be considered in the assessment of the Proposed Modification.
- 3.14 The Housing SEPP came into effect on 1 November 2021, and the savings and transition provisions at Schedule 7A, section 2(1)(d) apply to the MOD Application as the 2002 Consent was granted before this EPI came into effect:
- “...This Policy does not apply to ... a development consent granted on or before the commencement date.”
- 3.15 As the MOD Application seeks to vary the 2002 Consent, the Proposed Modification is captured under this savings provision, and the former EPI applies.
- 3.16 The HSPD SEPP was the applicable EPI in force immediately before the Housing SEPP, and the savings / transitional provision at Chapter 1, cl 6 of the HSPD SEPP would **generally** apply to the MOD Application as the 2002 Consent was granted before this EPI came into effect. This clause relevantly reads:
- “(1) Despite clause 5(1)... [SEPP 5] continues to apply to... any development application ...(b) whether made before or after the commencement of [HSPD SEPP]... that relates to development for which a development consent was granted under ...[SEPP 5].”

¹⁰ *Lizzio v Ryde Municipal Council* (1983) 155 CLR 211 at 216–217; *Peters v Manly Municipal Council* [2007] NSWCA 343 at [21].

¹¹ *Foodbarn Pty Ltd and Ors v Solicitor- General* (1975) 32 LGRA 157 at [161].

¹² *Jojeni Investments Pty Ltd v Mosman Municipal Council* [2015] NSWCA 147 (*Jojeni*), [18].

¹³ *Jojeni* at [18].

¹⁴ *Blues Point Hotel Property Pty Ltd and Another v North Sydney Council* [2021] NSWLEC 27 (*Blue Point Hotel*), [98].

¹⁵ *Blues Point Hotel*, [92].

*“(3) The provisions of [SEPP 5] ... as continued in force by subclause (1), **do not apply** so as to allow any enlargement or intensification of any development to which that subclause applies or any development.”*

(our **emphasis**).

- 3.17 It is our view that in circumstances where the MOD Application seeks an ‘enlargement or intensification’ of the 2002 Consent, subclause 6(3) of the HSPD SEPP is triggered, and as such, the transitional provisions in the former EPI (i.e. SEPP 5) **do not** apply.
- 3.18 In other words, the answer to Question 2.b. of this advice is yes. As the Proposed Modification seeks consent for the the enlargement / intensification of an existing use under the 2002 Consent, the HSPD SEPP applies by virtue of the of the transitional provisions at cl 6(3) of the HSDP SEPP and Sshedule 7A of the Housing SEPP

Conclusion

In our view, the Site has the benefit of existing use rights and the Proposed Modification is permissible with consent. As such, you can rely on the existing use rights to seek approval of the MOD Application at the Site.

If you have any questions or require further information in relation to this advice, please do not hesitate to contact Anthony Whealy at awhealy@millssoakley.com.au or James Oldknow at joldknow@millssoakley.com.au.

Yours sincerely




Anthony Whealy
Partner

Accredited Specialist — Local Government and Planning

Annexure A Summary of Development Consents and Refused / Withdrawn Applications

Reference	Details	
Development Consent No. DA4843/96	Description	Erection of a retirement village comprising 313 dwellings and community facilities.
	Applicant	RAAFA
	Authority	Not specified
	Dates	Approved in 1998
	MO Notes	We have not sighted this consent and rely on the details from Willowtree's planning letter of 1 August 2018. This consent is referred to on page 4 of the Council Report and is described as "a retirement village, hostel, clubhouse with on-site parking".
Development Consent No. DA807/01	Description	Construction of 220 dwellings, car parking for 286 vehicles, community facilities and associated landscaping
	Applicant	Not specified
	Authority	Land and Environment Court of NSW (Court)
	Dates	Lodged on 29 June 2001, Approved on 21 May 2002 by the Court.
	MO Notes	We have not sighted this consent and rely on the details from Willowtree's planning letter of 1 August 2018. Willowtree refer to this consent as superseding Development Consent No. DA484/96. This consent may be modified by MOD0142/11 (if approved).
Development Consent No. DA0725/08	Description	Seniors living development comprising 46 dwellings with a mix of units and villas
	Applicant	Not specified
	Authority	Court
	Dates	Lodged between 18 - 22 July 2008, Refused by Council on 20 October 2008, Approved by the Court on 12 June 2009
	MO Notes	Willowtree refer to this consent having been approved by the Court and as modifying Development Consent No. 807/01, however, as we have not sighted any determination / judgment for this consent, we are unable to verify the same.
DA1426/06	Description	SEPP Seniors Living for the construction of 58 units.
	Applicant	Ground Crew at Turramurra Pty Ltd
	Authority	Court
	Dates	Lodged 21 December 2006, Refused by the Court on 28 February 2008 (Proceedings No. 2007/10555).
	MO Notes	Ground Crew at Turramurra Pty Ltd v Ku-ring-gai Council and The Commissioner of the Rural Fire Service [2008] NSWLEC 86
MOD0141/11	Description	Seniors living policy development
	Applicant	Not specified
	Authority	Not specified
	Dates	Lodged and then subsequently cancelled /withdrawn on 2 August 2011
	MO Notes	Council's DA Register does not specify which consent this application seeks to modify.

Reference	Details	
MOD0064/18	Description	Modification to Land and Environment Court Proceedings No.10973 of 2001 (DA0725/08) proposing changes to Conditions 40 and 83 relating to support services
	Applicant	Tony Polvere
	Authority	Council
	Dates	Lodged on 2 May 2018, Withdrawn on 22 August 2018
	MO Notes	-
Development Consent No. DA0403/20 (as modified by MOD0120/22)	Description	Alterations and additions to the existing community facilities (Integrated development requiring approval of the Rural Fire Service pursuant to s100B of the Rural Fires Act 1997)
	Applicant	Willowtree Planning
	Authority	Council
	Dates	Lodged on 20 September 2020, Approved on 25 February 2021, Lapses on 26 February 2026
	MO Notes	This consent was subsequently modified by MOD0120/22 which was approved by Council on 2 September 2022. MOD0120/22 description from the Willowtree Planning Report “ <i>minor internal and external alterations to the approved built form of the Clubhouse, including an extension to the pergola, internal reconfigurations and enclosure of a balcony.</i> ”
MOD0173/24	Description	Modification to Land and Environment Court Consent 10973 of 2001 (DA0807/01 – construction of 220 dwellings under the provisions of SEPP 5 – Housing for Older People or People with a Disability) for the conversion of five existing apartments into eight studios with communal living and dining spaces, plus conversion of garages into dementia day respite areas – Integrated Development – Rural Fires Act 1997
	Applicant	Not specified
	Authority	Not specified
	Dates	Lodged: 22 November 2024
	MO Notes	If approved, this application will modify development consent no. DA807/01.